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Occupational Health and Safety Regulations
2007

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Version as at 1 July 2007

CHAPTER 1—PRELIMINARY

PART 1.1—INTRODUCTORY MATTERS

1.1.1 Objectives

The objectives of these Regulations are—

- (a) to further the objects of the **Occupational Health and Safety Act 2004** by—
 - (i) providing for health and safety in relation to workplaces and hazards, activities and things at workplaces; and
 - (ii) providing for the safe operation of major hazard facilities and mines in order to reduce the likelihood of a serious incident occurring; and
 - (iii) providing for the registration of certain people engaged in construction work at workplaces; and
 - (iv) providing for the licensing of certain people engaged in high risk work at workplaces; and
 - (v) providing procedures for the resolution of health and safety issues at workplaces; and

- (vi) specifying the information to be included in entry permits issued under Part 8 of the Act; and
 - (vii) providing for other matters that are required or permitted by the Act or that are necessary to give effect to the Act; and
- (b) to further the objects of the **Dangerous Goods Act 1985** by—
- (i) prohibiting the use of asbestos; and
 - (ii) providing for the protection of property from damage from the use of dangerous goods at major hazard facilities.

1.1.2 Authorising provisions

- (1) This Chapter, Division 1 of Part 4.3, Division 1 of Part 5.2 and Chapter 7 are made under section 158 of the **Occupational Health and Safety Act 2004** and section 52 of the **Dangerous Goods Act 1985**.
- (2) The remaining provisions of these Regulations (except Division 4 of Part 4.3 and Division 10 of Part 5.2 and Chapter 9) are made under section 158 of the **Occupational Health and Safety Act 2004**.
- (3) Division 4 of Part 4.3, Division 10 of Part 5.2 and Chapter 9 are made under section 52 of the **Dangerous Goods Act 1985**.

1.1.3 Commencement

- (1) These Regulations (except regulation 6.1.9(b)(i), Part 5.1 and Division 4 of Part 6.2) come into operation on 1 July 2007.
- (2) Division 4 of Part 6.2 (except regulations 6.2.18 and 6.2.21) comes into operation on 1 January 2008.

-
- (3) Part 5.1 and regulations 6.1.9(b)(i), 6.2.18 and 6.2.21 come into operation on 1 July 2008.

1.1.4 Revocation of existing Regulations

- (1) The Regulations set out in Schedule 1 are **revoked**.
- (2) The Regulations continued by sections 173(2) and 174(2) of the **Occupational Health and Safety Act 2004** are **revoked**.

1.1.5 Definitions

In these Regulations—

A-weighted means a measure using a filter designed to reflect the response of the human ear at low sound pressure levels;

abseiling equipment means equipment used to manually lower or raise a person in a harness or seat, supported by one or more fibre ropes and includes the equipment used to anchor or haul the rope or ropes while abseiling;

Act compliance provision means a provision of a kind referred to in regulation 1.1.7;

ADG Code has the same meaning as it has in the **Dangerous Goods Act 1985**;

administrative control means a system of work or a work procedure that is designed to eliminate or reduce a risk, but does not include—

- (a) a physical control; or
- (b) the use of personal protective equipment;

air-supplied respiratory protective equipment means a device that supplies air to the wearer from a source other than the ambient atmosphere;

alter, in relation to plant, means to change the design of, add to, or take away from the plant in such a way that may affect health or safety, but does not include routine maintenance, repairs or replacements;

amusement structure means powered equipment operated for hire or reward that provides entertainment or amusement through movement of the equipment, or part of the equipment, or when passengers travel on, around or along the equipment;

approved asbestos analyst means an analyst approved—

- (a) by NATA to perform asbestos fibre counting or to identify asbestos in samples, and to issue findings as endorsed reports under the authority of a NATA accredited laboratory; or
- (b) by some other scheme determined by the Authority under regulation 1.1.6;

Approved Criteria for Classifying Hazardous Substances means the Approved Criteria for Classifying Hazardous Substances (Third Edition) declared by the National Occupational Health and Safety Commission in 2004;

AS 2030—Gas Cylinders means—

- (a) AS 2030.1 The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases, Part 1: Cylinders for compressed gases other than acetylene; and

-
- (b) AS 2030.2 The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases, Part 2: Cylinders for dissolved acetylene; and
 - (c) AS 2030.4 The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases, Part 4: Welded cylinders—Insulated;

asbestos means—

- (a) the fibrous form of the mineral silicates belonging to any one or a combination of the serpentine and amphibole groups of rock-forming minerals, including actinolite, amosite (brown asbestos), anthophyllite, crocidolite (blue asbestos), chrysotile (white asbestos) or tremolite; or
- (b) any material or object, whether natural or manufactured, that contains one or more of the mineral silicates referred to in paragraph (a);

asbestos exposure standard means 0.1 f/ml of air measured in a person's breathing zone and expressed as a time weighted average fibre concentration of asbestos calculated over an 8 hour working day and measured over a minimum period of 4 hours in accordance with—

- (a) the Membrane Filter Method; or
- (b) a method determined by the Authority under regulation 1.1.6;

asbestos licence holder means an employer or self-employed person who is the holder of an asbestos removal licence issued under Part 6.1 (Licences);

asbestos occupational health and safety management system means an occupational health and safety management system that is—

- (a) related to asbestos removal work; and
- (b) accredited or approved by JAS-ANZ or determined by the Authority under regulation 1.1.6;

asbestos paraoccupational air monitoring means air sampling to estimate the airborne asbestos fibre concentration in the occupational environment, taken at fixed locations, usually between 1 and 2 metres above floor level, in accordance with—

- (a) the Membrane Filter Method; or
- (b) a method determined by the Authority under regulation 1.1.6;

asbestos register means the asbestos register kept under regulation 4.3.21 as revised in accordance with Part 4.3 (Asbestos);

asbestos removal licence means—

- (a) a Class A asbestos removal licence; or
- (b) a Class B asbestos removal licence;

asbestos removal supervisor means a person who is appointed by an asbestos licence holder to oversee asbestos removal work in accordance with regulation 4.3.62;

asbestos removal work, means the removal of asbestos that is fixed or installed in a building, structure, ship or plant so that the asbestos is no longer fixed or installed in that building, structure, ship or plant, up to the point of containment;

asbestos waste means asbestos removed and disposable items used during asbestos removal work or asbestos-related activities under Division 8 of Part 4.3 (Asbestos), including plastic sheeting and disposable personal protective clothing and disposable protective equipment including tools;

asbestos-containing material means any manufactured material or object that, as part of its design, contains one or more of the mineral silicates referred to in paragraph (a) of the definition of ***asbestos*** (other than plant in which asbestos is fixed or installed);

assessment of competency means an assessment under Division 3 of Part 3.6;

atmospheric monitoring means a procedure whereby air is sampled within the breathing zone of a person to evaluate the person's exposure to airborne contaminants;

audiological examination means the testing and examination of a person's ear and hearing threshold for the purpose of establishing the type and cause of any hearing disorder;

audiometric test means the measurement of a person's air conduction hearing threshold levels by means of an electro-acoustic instrument (audiometer), equipped with earphones, that provides pure tones of specified discrete frequencies at known hearing levels;

Australian Qualifications Framework has the same meaning as AQF has in the **Education and Training Reform Act 2006**;

Australian Safety and Compensation Council means the Australian Safety and Compensation Council as defined in section 3 of the Australian Workplace Safety Standards Act 2005 of the Commonwealth;

Note

The Australian Safety and Compensation Council succeeded the National Occupational Health and Safety Commission in February 2005.

biological monitoring means the measurement and evaluation of a substance, or its metabolites, in the body tissue, fluids or exhaled air of a person exposed to that substance;

blood lead level means the concentration of lead in the whole blood expressed in micromoles per litre ($\mu\text{mol/L}$);

boiler means a boiler as defined in AS/NZS 1200 Pressure equipment with a hazard level A, B, C or D as determined by AS 4343 Pressure equipment—Hazard levels;

boom-type elevating work platform means a telescoping device, hinged device, or articulated device or combination of those devices used to support, elevate and position personnel, equipment or materials by means of a platform, but does not include an industrial lift truck;

breathing zone means a hemisphere of 300 millimetres radius extending in front of a person's face measured from the mid-point of an imaginary straight line joining the ears;

bridge crane means a crane that—

- (a) consists of a bridge beam or beams, that are mounted to end carriages at each end; and
- (b) is capable of travelling along elevated runways; and
- (c) has one or more hoisting mechanisms;

building maintenance equipment means a suspended platform, including a building maintenance unit or a swing stage, that incorporates permanently installed overhead supports to provide access to the faces of a building for maintenance, but does not include a suspended scaffold;

building maintenance unit means a power operated appliance with a suspended platform, permanently installed or intended to be permanently installed on a building and specifically designed to provide access to the faces of the building for a person working from the platform;

C-weighted means a measure using a filter designed to reflect the response of the human ear at high sound pressure levels;

carcinogens licence means—

- (a) a licence to use a Schedule 1 carcinogenic substance at a laboratory; or
 - (b) a licence to use a Schedule 2 carcinogenic substance at a laboratory; or
 - (c) a licence to use a Schedule 2 carcinogenic substance at a workplace other than a laboratory;
-

chemical name, in relation to a substance, means its scientific or technical name;

chrysotile-containing material means asbestos-containing material that contains chrysotile asbestos;

Class A asbestos removal licence means a licence that permits the holder to remove asbestos of any kind as specified in the licence;

Class B asbestos removal licence means a licence that allows the holder to remove non-friable asbestos-containing material as specified in the licence;

competency standard means—

- (a) in respect of winder operations, a competency standard for winder operations determined by the Authority under regulation 1.1.6;
- (b) in any other case, a competency standard that is endorsed for the purposes of the National Standard for Licensing Persons Performing High Risk Work published by the Australian Safety and Compensation Council in April 2006;

concrete placing unit (truck-mounted with boom) means plant used to place concrete by way of pumping concrete through a pipeline attached to or forming part of a boom and capable of travelling over a supporting surface without the need for fixed runways;

confined space means a space in any vat, tank, pit, pipe, duct, flue, oven, chimney, silo, reaction vessel, container, receptacle, underground sewer or well, or any shaft, trench or tunnel or other similar enclosed or partially enclosed structure, if the space—

-
- (a) is, or is intended to be, or is likely to be, entered by any person; and
 - (b) has a limited or restricted means for entry or exit that makes it physically difficult for a person to enter or exit the space; and
 - (c) is, or is intended to be, at normal atmospheric pressure while any person is in the space; and
 - (d) contains, or is intended to contain, or is likely to contain—
 - (i) an atmosphere that has a harmful level of any contaminant; or
 - (ii) an atmosphere that does not have a safe oxygen level; or
 - (iii) any stored substance, except liquids, that could cause engulfment—

but does not include a shaft, trench or tunnel that is a mine or is part of the workings of a mine;

confined space entry permit means a confined space entry permit issued by an employer in accordance with regulation 3.4.14;

construction excavation, in Part 5.1 (Construction), means—

- (a) a trench if the excavated depth is more than 1.5 metres;
- (b) a shaft if the excavated depth is more than 2 metres;
- (c) a tunnel;

Construction Industry Basic Induction training course means the Construction Industry Basic Induction training course conducted under the auspices of the tripartite industry forum, Foundations for Safety Construction Industry Training Agreement commencing 1 February 2001;

construction induction training means a unit of competency of general occupational health and safety induction training to the construction industry endorsed or accredited under the Australian Qualifications Framework;

construction project means a project involving construction work and includes preparation and planning of the proposed construction work;

construction RTO means an RTO whose registration allows delivery of—

- (a) construction induction training; or
- (b) the Construction Industry Basic Induction training course;

construction statement of attainment means a certification issued by a construction RTO stating that the person to whom it is issued has completed—

- (a) construction induction training; or
- (b) the Construction Industry Basic Induction training course—

but does not include a certification issued by a construction RTO, or an RTO in a class of construction RTOs, determined by the Authority under regulation 1.1.6, if the certification is issued after the determination takes effect;

construction work has the meaning given by regulation 5.1.2;

consumer package means a package that is intended for retail display and sale;

container, in Part 4.1 (Hazardous Substances), means anything in or by which a hazardous substance is or has been wholly or partly encased, covered, enclosed, contained or packed (whether empty, partially full or full) but does not include—

- (a) the fuel tank of a vehicle; or
- (b) a tank or bulk container within the meaning of the ADG Code;

contaminant means any substance that may be harmful to health or safety;

conveyor means equipment by which loads are raised, lowered or transported or capable of being raised, lowered, transported, or continuously driven, by—

- (a) an endless belt, rope or chain or other similar means; or
- (b) buckets, trays or other containers or fittings moved by an endless belt, rope, chain or similar means; or
- (c) a rotating screw; or
- (d) a vibration or walking beam; or
- (e) a powered roller conveyor if the rollers are driven by an endless belt, rope or chain or other similar means—

and includes the super structure, gear and auxiliary equipment used in connection with that equipment;

Country Fire Authority has the same meaning as Authority has in the **Country Fire Authority Act 1958**;

crane means an appliance intended for raising or lowering a load and moving it horizontally and includes the supporting structure of the crane and its foundations, but does not include an industrial lift truck, earthmoving machinery, an amusement structure, a tractor, an industrial robot, a conveyor, building maintenance equipment, a suspended scaffold or a lift;

current MSDS, in relation to a hazardous substance, means the Material Safety Data Sheet prepared for that substance by the manufacturer or importing supplier of the substance under regulation 4.1.5(1) or equivalent legislation, and if the Material Safety Data Sheet has been revised by the manufacturer or importing supplier of the substance, the Material Safety Data Sheet as revised;

dangerous goods means dangerous goods within the meaning of the **Dangerous Goods Act 1985**;

decommissioning, in relation to plant, includes performing necessary adjustments, tests and inspections before the plant ceases operation and during the process of ceasing operation;

demolition, in Part 5.1 (Construction), means the complete or partial dismantling of a structure by planned and controlled methods or procedures;

domestic premises means domestic premises used solely for domestic purposes;

earthmoving machinery means plant used to excavate, load, transport, compact or spread earth, overburden, rubble, spoil, aggregate or similar material, but does not include a tractor or industrial lift truck or a vehicle designed to be used primarily as a means of transport on public roads;

emergency procedures, in Part 3.4 (Confined Spaces), means the procedures established by an employer under regulation 3.4.20;

emergency service means—

- (a) the Country Fire Authority; or
- (b) the Metropolitan Fire and Emergency Services Board; or
- (c) the Metropolitan Ambulance Service; or
- (d) Rural Ambulance Victoria; or
- (e) the Victoria State Emergency Service Authority; or
- (f) Victoria Police;

emergency service employee means—

- (a) an officer or member of a metropolitan fire brigade; or
 - (b) an officer or member of an urban fire brigade or rural fire brigade within the meaning of the **Country Fire Authority Act 1958**; or
 - (c) an employee of the Metropolitan Ambulance Service; or
 - (d) an employee of Rural Ambulance Victoria; or
 - (e) a member of the Victoria State Emergency Service; or
-

(f) an officer or other member of Victoria Police—

but does not include a volunteer;

Note

Section 23 of the Act requires the employer to ensure, so far as is reasonably practicable, that persons, other than employees of the employer, are not exposed to risks to their health or safety. This includes volunteers.

emergency work, in Part 5.1 (Construction), means work that is required to be immediately undertaken to rectify an unexpected breakdown of an essential service (including gas, water, sewerage, electricity and telecommunications) to enable continuance of that service;

employer's asbestos register means the employer's asbestos register kept under regulation 4.3.29 as revised in accordance with Part 4.3 (Asbestos);

engineering control means a physical control of any kind that is designed to eliminate or reduce a risk, but does not include—

- (a) a system of work or procedure; or
- (b) the use of personal protective equipment;

equivalent legislation means legislation of another State or Territory or the Commonwealth relating to the use of hazardous substances at a workplace;

evidence of licence document, in relation to a licence, means the document given to the licence holder by the Authority under regulation 6.1.7, and includes any replacement document issued under Part 6.1 (Licences);

explosive-powered tool means an implement used to drive fasteners (including nails, bolts and screws) against, into or through material by means of explosive charges, and includes every attachment to and accessory of that implement but does not include a firearm within the meaning of the **Firearms Act 1996**;

exposure standard means an airborne concentration of a particular substance in a person's breathing zone, as set out in the HSIS;

facility means any building or other structure on land—

- (a) that is a workplace; and
- (b) at which Schedule 9 materials are present or likely to be present for any purpose;

fall, in Part 3.3 (Prevention of Falls), means a person's involuntary fall of more than 2 metres;

fall arrest system means equipment or material or a combination of equipment and material that is designed to arrest the fall of a person;

Example

Industrial safety net, catch platform or safety harness system (other than a travel restraint system).

fatigue, in relation to an employee at a mine, means an acute or ongoing state of tiredness that exposes the employee or any other person at the mine to a risk to health or safety;

friable means, when dry—

- (a) may be crumbled, pulverised or reduced to powder by hand pressure; or

- (b) as a result of a work process becomes such that it may be crumbled, pulverised or reduced to powder by hand pressure;

f/ml means fibres per millilitre;

gantry crane means a crane that—

- (a) consists of a bridge beam or beams that are supported at one or both ends by legs mounted to end carriages; and
(b) is capable of travelling along runways; and
(c) has one or more hoisting mechanisms;

gas cylinder means a rigid vessel not exceeding 3000 litres water capacity and without openings or integral attachments on the shell other than at the ends, designed for the storage and transport of gas under pressure and to which AS 2030—Gas Cylinders applies;

Note

See the definition of *AS 2030—Gas Cylinders* which encompasses AS 2030.1, AS 2030.2 and AS 2030.4.

generic name, in relation to a substance, means a name that describes the category or group of chemicals to which the substance belongs;

glove bag means a single-use bag constructed from transparent, heavy duty polyethylene with built-in arms and access ports;

hazardous manual handling means—

- (a) manual handling having any of the following characteristics—
(i) repetitive or sustained application of force;

-
- (ii) repetitive or sustained awkward posture;
 - (iii) repetitive or sustained movement;
 - (iv) application of high force being an activity involving a single or repetitive use of force that it would be reasonable to expect that a person in the workforce may have difficulty undertaking;

Example

The force required to lift or otherwise handle heavy weights, to push or pull objects that are hard to move, to operate tools that require the use of 2 hands to exert sufficient force but that are designed for one hand or to operate tools that require squeezing of grips that are wide apart.

- (v) exposure to sustained vibration;
- (b) manual handling of live persons or animals;
- (c) manual handling of unstable or unbalanced loads or loads that are difficult to grasp or hold;

hazardous substance means a substance that—

- (a) is listed on the HSIS and the concentration of the substance or its ingredients equals or exceeds the concentration cut-off levels listed on the HSIS that relate to health effects; or
- (b) meets the criteria for a hazardous substance set out in the Approved Criteria for Classifying Hazardous Substances;

Hazchem Code has the same meaning as in the ADG Code;

health surveillance means health monitoring, which may include audiometric testing, medical examinations (including audiological examinations) and biological monitoring;

hearing protector means a device that is designed for the purpose of protecting a person's hearing and that—

- (a) is inserted into the ear canal; or
- (b) covers the ear canal entrance; or
- (c) covers the entire ear;

HEPA filter means a high efficiency particulate air filter that is a disposable, extended media, dry type filter, in a rigid frame, with a minimum filtration efficiency of 99.97% filtration for nominal 0.3 micrometres (μm) diameter thermally generated dioctylphthalata particles or an equivalent efficiency for a specified alternative aerosol and with an initial maximum resistance to airflow of 250 pascals when tested at its rated airflow capacity;

high risk construction work has the meaning given by regulation 5.1.3;

high risk work means any work set out in Schedule 3 as being within the scope of a high risk work licence;

high risk work licence means any of the licences listed in Schedule 3;

hire, in Part 3.5 (Plant), does not include hire under a hire-purchase agreement or hire-purchase contract;

hoist means an appliance intended for raising or lowering a load or people, and includes a mast climbing work platform, personnel and materials hoist, scaffolding hoist and serial hoist but does not include a lift or building maintenance equipment;

HSIS means the Hazardous Substances Information System published by the Australian Safety and Compensation Council on its Internet site;

importing supplier, in relation to a substance, means a person who first supplies or intends to first supply the substance in Victoria for use at a workplace but does not include—

- (a) a person who manufactures the substance in Victoria; or
- (b) a wholesaler or retailer who has been supplied with that substance by another supplier in Victoria; or
- (c) a retail warehouse operator;

independent person, in Part 4.3 (Asbestos), means a person who is independent from the asbestos licence holder and from the person who commissioned the work;

industrial lift truck means a powered appliance comprising a mast with an elevating carriage to which a pair of fork arms or other load holding attachment is attached and includes—

- (a) a truck on which the operator is raised with the attachment for order-picking; and

r. 1.1.5

- (b) a truck where the frame and lift unit straddle, raise, lower, move or stack the load—

but does not include a crane or earthmoving machinery;

industrial robot means plant that is a multifunctional manipulator and its controllers, capable of handling materials, parts or tools, or specialised devices, through variable programmed motions for the performance of a variety of tasks;

industrial rope access system means a system designed for the purpose of performing work on a building or structure by a person and consists of—

- (a) equipment that enables a person to manually raise or lower himself or herself in a harness or seat supported by one or more fibre ropes; and
- (b) equipment used to anchor the ropes;

ingredient means any component of a substance (including impurities);

JAS-ANZ means the Joint Accreditation System of Australia and New Zealand;

laboratory means a building, room or designated area where a scheduled carcinogenic substance is used for—

- (a) scientific analysis or investigation; or
- (b) research; or
- (c) practical teaching;

laser means plant that produces a beam of electromagnetic radiation in the wavelength range from 100 nanometres to 1 millimetre and that is used for cutting, alignment, scanning or measurement, but does not include plant that produces light beams at these wavelengths for the primary purpose of illumination;

lead means lead metal, lead alloys or inorganic lead compounds (including lead salts of organic acids);

lead exposure standard means the maximum airborne concentration of lead dust, lead mist or lead fumes referred to in regulation 4.4.10(1);

lead process has the meaning given by regulation 4.4.2;

lead-risk job has the meaning given by regulation 4.4.17;

licence means—

- (a) a high risk work licence; or
- (b) an asbestos removal licence; or
- (c) a carcinogens licence; or
- (d) a major hazard facility licence;

licence assessor means a person—

- (a) who is authorised under regulation 8.2.6 to carry out one or more types of assessment of competency; or
- (b) who is authorised by the Authority under regulation 3.6.11 to carry out assessments of competency in respect of one or more classes of high risk work;

licence holder, in relation to a major hazard facility licence, means—

- (a) the person who was granted the licence, unless that person has transferred the licence; or
- (b) if the licence has been transferred, the last person to whom the licence was transferred;

lift means permanent plant or plant intended to be permanently installed in or attached to a building or structure in which people, goods or materials may be raised or lowered within a car or cage, or on a platform and the movement of which is restricted by a guide or guides and includes an escalator, moving walk and stairway lift;

local community, in relation to a major hazard facility, means—

- (a) persons who reside in; and
- (b) persons who have the management or control of workplaces, or of places where persons gather for recreational, cultural or sporting purposes, located in—

the area surrounding the major hazard facility, as indicated on the map forming part of the emergency plan for the major hazard facility prepared in accordance with clause 1.2 of Schedule 11;

major hazard facility means—

- (a) a facility where Schedule 9 materials are present or likely to be present in a quantity exceeding their threshold quantity; or

-
- (b) a facility determined by the Authority to be a major hazard facility under regulation 5.2.29;

major hazard facility licence means a licence to operate a major hazard facility;

major incident means an uncontrolled incident, including an emission, loss of containment, escape, fire, explosion or release of energy, that—

- (a) involves Schedule 9 materials; and
(b) poses a serious and immediate risk to health and safety;

major incident hazard means any activity, procedure, plant, process, substance, situation or any other circumstance that could cause, or contribute to causing, a major incident;

major mining hazard means a mining hazard that has the potential to cause an incident that would cause, or pose a significant risk of causing, more than one death;

manual handling means any activity requiring the use of force exerted by a person to lift, lower, push, pull, carry or otherwise move, hold or restrain any object;

mast climbing work platform means plant with a working platform used to support and elevate personnel, equipment and materials by means of a drive system that moves along an extendable mast but does not include a lift or building maintenance equipment;

Membrane Filter Method means the method for estimating airborne asbestos fibres in accordance with the "Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres" prepared by the National Health and Safety Commission and published in 2005;

Metropolitan Ambulance Service has the same meaning as in the **Ambulance Services Act 1986**;

Metropolitan Fire and Emergency Services Board has the same meaning as Board has in the **Metropolitan Fire Brigades Act 1958**;

mine has the meaning given by regulation 5.3.1;

mine modification, in Part 5.3 (Mines), in relation to a mine, means a change to any workings, processes or plant, including the introduction of new workings, processes or plant, that has the effect of—

- (a) creating a mining hazard that has not previously been identified; or
- (b) increasing the risk associated with a mining hazard;

mining hazard has the meaning given by regulation 5.3.2;

mobile crane means a crane capable of travelling over a supporting surface without the need for fixed runways;

modification, in Part 5.2 (Major Hazard Facilities), in relation to a major hazard facility, includes—

- (a) a change to any plant, processes or substances used in processes, including the introduction of new plant, processes or substances;

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- (b) a change to the quantity of Schedule 9 materials present or likely to be present, including the introduction of any new Schedule 9 materials;
 - (c) a change in the safety role of employees;
 - (d) a change to the Safety Management System—

that has the effect of—

- (e) creating a major incident hazard that has not previously been identified; or
- (f) increasing the likelihood of a major incident occurring; or
- (g) in relation to any major incident that might occur, increasing—
 - (i) its magnitude; or
 - (ii) the severity of its consequences to persons both on-site and off-site;

MSDS, in relation to a hazardous substance, means a Material Safety Data Sheet required to be prepared for that substance under regulation 4.1.5 or prepared for that substance by the manufacturer or the importing supplier in accordance with equivalent legislation;

musculoskeletal disorder means an injury, illness or disease that arises in whole or in part from manual handling in the workplace, whether occurring suddenly or over a prolonged period of time, but does not include an injury, illness or disease that is caused by crushing, entrapment or cut resulting primarily from the mechanical operation of plant;

NATA means the National Association of Testing Authorities (Australia);

National Model Regulations for the Control of Scheduled Carcinogenic Substances means the National Model Regulations for the Control of Scheduled Carcinogenic Substances published by the National Occupational Health and Safety Commission in 1995;

National Model Regulations for the Control of Workplace Hazardous Substances means the National Model Regulations for the Control of Workplace Hazardous Substances published by the National Occupational Health and Safety Commission in 1994;

negative air enclosure means an enclosed asbestos removal area that is maintained under negative air pressure to approximately 12 pascals;

noise exposure standard means—

- (a) the 8 hour equivalent continuous sound pressure level of 85dB(A) measured in A-weighted-decibels referenced to 20 micropascals at an employee's ear position; or
- (b) the C-weighted peak hold sound pressure level reading of 140dB(C) measured in decibels referenced to 20 micropascals at an employee's ear position;

object, in Part 3.1 (Manual Handling) and the definition of **manual handling**, includes an inanimate or animate object, plant and any substance or material contained by an object;

occupational health and safety auditor means a person who has the knowledge, experience and skills required for an occupational health and safety auditor under JAS-ANZ Procedure No. 02 Issue No. 2 dated 14 December 2001 General Requirements for Bodies Operating Assessment and Certification of Occupational Health and Safety Management Systems;

operator means—

- (a) in Part 5.2 (Major Hazard Facilities), in relation to a facility, the employer who has management or control of the facility; and
- (b) in Part 5.3 (Mines), in relation to a mine (including a prescribed mine), the employer who has management or control of the mine;

operator protective device includes roll-over protective structure, falling object protective structure, operator restraining device and seat belt;

passive fall prevention device means material or equipment, or a combination of material and equipment, that is designed for the purpose of preventing a fall, and that, after initial installation, does not require any ongoing adjustment, alteration or operation by any person to ensure the integrity of the device to perform its function;

Example

Temporary work platform, roof safety mesh or guard railing.

perform, in relation to work, includes carry out;

person who commissioned the work means the person managing or controlling a workplace or the employer who arranged for asbestos removal work to be performed;

personal protective equipment includes respiratory protective equipment and personal protective clothing;

powered mobile plant means plant that is provided with some form of self propulsion that is ordinarily under the direct control of an operator;

presence-sensing safeguarding system includes—

- (a) a sensing system that—
 - (i) is an electro-sensitive or pressure sensitive system that employs optoelectronic or pressure sensitive devices to perform a sensing and control function; or
 - (ii) uses other technologies to perform a sensing and a control function; and
- (b) the interface between the final switching devices of the sensing system and the machine primary control elements; and
- (c) the machine stopping capabilities, by which the presence of a person or part of a person within the sensing field will cause the dangerous parts of a machine to be brought to a safe state;

prescribed mine has the meaning given by regulation 5.3.3;

pressure equipment means boilers, pressure vessels and pressure piping;

pressure piping means pressure piping as defined in AS/NZS 1200 Pressure equipment, with a hazard level A, B, C or D as determined by AS 4343 Pressure equipment—Hazard levels, but does not include pressure piping that is regulated under—

- (a) the **Gas Safety Act 1997**; or
- (b) the **Petroleum Act 1998**; or
- (c) the **Petroleum (Submerged Lands) Act 1982**; or
- (d) the **Water Industry Act 1994**; or
- (e) the **Pipelines Act 2005**; or
- (f) any other Act (other than the **Occupational Health and Safety Act 2004**) that imposes statutory controls over pressure piping comparable to those listed in paragraphs (a) to (e);

pressure vessel means—

- (a) a pressure vessel as defined in AS/NZS 1200 Pressure equipment, with a hazard level A, B, C or D as determined by AS 4343 Pressure equipment—Hazard levels; or
- (b) a fired heater; or
- (c) a gas cylinder—

but does not include a boiler or pressure piping;

principal contractor has the meaning given by regulation 5.1.14;

process review has the meaning given by regulation 6.3.2;

product name, in relation to a hazardous substance, means the brand name or trade name given to the substance by the manufacturer or supplier of the substance;

Note

A supplier includes an importing supplier.

published technical standard means a document that gives technical information, guidance or advice on plant, that is published by—

- (a) a corresponding Authority; or
- (b) Standards Australia; or
- (c) the British Standards Institute; or
- (d) the International Organisation for Standardisation (ISO)—

or another organisation with substantially equivalent objectives in relation to the publication of technical information, guidance or advice on plant as any of those organisations;

recognised evidence of construction induction training means evidence of general occupational health and safety training to the construction industry completed outside Victoria and recognised by the corresponding Authority where the training was completed but does not include evidence of a class determined by the Authority under regulation 1.1.6 if the training is completed after the determination takes effect;

registered major hazard facility means a major hazard facility registered under Part 6.2 (Registration);

registered medical practitioner means a registered medical practitioner within the meaning of the **Health Professions Registration Act 2005**;

relevant employee, in Part 3.4 (Confined Spaces), means—

- (a) any employee required to enter a confined space; or
- (b) any employee who has any function in relation to work in a confined space or the emergency procedures established under regulation 3.4.20, but who is not required to enter the space; or
- (c) any person supervising any employee referred to in paragraph (a) or (b);

relevant occupational health and safety legislation means—

- (a) the Act or any regulations made under the Act;
- (b) the **Occupational Health and Safety Act 1985** or any regulations made under that Act;
- (c) the **Dangerous Goods Act 1985** or any regulations made under that Act;
- (d) the **Equipment (Public Safety) Act 1994** or any regulations made under that Act;
- (e) any equivalent Act of another Australian jurisdiction or any regulations made under such an Act;

retail warehouse operator means a person who operates a warehouse where packaged goods intended for retail sale are held on the premises;

retailer, in relation to a substance, means a person who supplies that substance to another person otherwise than for re-supply;

reviewable decision has the meaning given by regulation 6.3.1;

risk phrase, in relation to a hazardous substance, means a phrase that describes the hazards of a substance—

- (a) as listed for the substance on the HSIS; or
- (b) as provided in Appendix III of the Approved Criteria for Classifying Hazardous Substances;

roll-over protection means a structure to protect the operator of a tractor against injury as a result of the tractor rolling over in any direction;

RTO means a training organisation registered on the State Register and National Register under Chapter 4 of the **Education and Training Reform Act 2006**;

Rural Ambulance Victoria means the ambulance service created as Rural Ambulance Victoria by Order in Council under section 23 of the **Ambulance Services Act 1986**, dated 2 February 1999 and published in the Government Gazette on 4 February 1999, pages 212 and 213;

safe oxygen level means an oxygen content in air under normal atmospheric pressure that—

- (a) is equal to or greater than 19.5% by volume (equivalent to a partial pressure of oxygen of 19.8 kilopascals); but

-
- (b) is equal to or less than 23.5% by volume (equivalent to a partial pressure of oxygen of 23.9 kilopascals);

safe work method statement has the meaning given by regulation 5.1.5;

Safety Assessment means—

- (a) in Part 5.2 (Major Hazard Facilities), a Safety Assessment conducted under regulation 5.2.7; or
- (b) in Part 5.3 (Mines), a Safety Assessment conducted under regulation 5.3.23;

Safety Case means a Safety Case prepared or revised under Division 4 of Part 5.2 (Major Hazard Facilities);

Safety Management System means—

- (a) in Part 5.2 (Major Hazard Facilities), a Safety Management System established under regulation 5.2.5; or
- (b) in Part 5.3 (Mines), a Safety Management System established under regulation 5.3.21;

safety phrase, in relation to a hazardous substance, means a phrase that describes the precautions to be taken for the safe use of the substance—

- (a) as listed for the substance on the HSIS; or
- (b) as provided in Appendix III of the Approved Criteria for Classifying Hazardous Substances;

scaffold, in Part 3.5 (Plant) and the definition of **suspended scaffold**, means a temporary structure specifically erected to support access or working platforms;

Schedule 1 carcinogenic substance means a substance (or any of its salts) listed in Schedule 1 to the National Model Regulations for the Control of Scheduled Carcinogenic Substances used—

- (a) as a pure substance; or
- (b) in a mixture containing 0.1% or more of that substance, determined as a weight/weight (w/w) concentration for solids or liquids and a volume/volume (v/v) concentration for gases—

but does not include amosite or crocidolite as listed in that Schedule;

Schedule 2 carcinogenic substance means—

- (a) benzene as listed in Schedule 2 to the National Model Regulations for the Control of Scheduled Carcinogenic Substances; and
- (b) any other substance (or any of its salts) listed in that Schedule used—
 - (i) as a pure substance; or
 - (ii) in a mixture containing 0.1% or more of that substance, determined as a weight/weight (w/w) concentration for solids or liquids and a volume/volume (v/v) concentration for gases—

but does not include chrysotile or cyclophosphamide as listed in that Schedule;

Schedule 9 material means a material mentioned in Table 1 of Schedule 9 or a material that belongs to one or more of the types, classes and categories mentioned in Table 2 of Schedule 9;

scheduled carcinogenic substance means a Schedule 1 carcinogenic substance or a Schedule 2 carcinogenic substance;

self-erecting tower crane means a tower crane where—

- (a) the tower structure and boom or jib elements are not disassembled into component sections; and
- (b) the crane can be transported between sites as a complete unit; and
- (c) erection and dismantling processes are an inherent part of the crane's function;

shaft means—

- (a) in Part 5.1 (Construction), a vertical or inclined way or opening from the surface downwards or from any underground working and the dimensions of which (excluding the perimeter) are less than its depth;
- (b) in Part 5.3 (Mines), any opening extending downwards from the surface or from a location underground that—
 - (i) has an inclination to the horizontal of more than 15 degrees; and
 - (ii) is used for the purposes of raising or lowering persons or materials or for the intake or outlet of ventilation;

shaft conveyance means a cage, skip, kibble or other contrivance in or on which people ride up or down a shaft, but does not include any attachments to that cage, skip, kibble or other contrivance;

signal words means words such as "dangerous poison", "poison", "warning", "danger" or "caution" that are clearly and prominently displayed on labels of substances to indicate the relative severity of the hazard;

sound power level means the total sound energy radiated per unit time, measured as decibels referenced to 1 picowatt using octave bands or an A-weighting;

sound pressure level expressed in decibels, means the pressure fluctuations in air calculated as 20 times the logarithm to the base 10 of the ratio of the root mean square sound pressure (in pascals) to the reference sound pressure of 20 micropascals;

statement of attainment means a certification issued by an RTO stating that the person to whom it is issued has achieved—

(a) part of a qualification; or

(b) one or more units of competency—

that meets or meet a competency standard, but does not include a certification issued by an RTO, or an RTO in a class of RTOs, determined by the Authority under regulation 1.1.6 if the certification is issued after the determination takes effect;

structure, in Part 4.3 (Asbestos), means any construction, including a bridge, tunnel, shaft, dam, pipe or access pit, or any part of a construction but does not include a building, ship or plant;

suspended scaffold means a scaffold incorporating a suspended platform that is capable of being raised or lowered when in use;

task, in Part 3.3 (Prevention of Falls), includes moving to and from a task;

temporary access equipment means—

- (a) abseiling equipment; or
- (b) a work box; or
- (c) an industrial safety net; or
- (d) equipment incorporating a harness that is used or intended to be used to arrest the fall of a person wearing the harness;

temporary work platform means—

- (a) a fixed, mobile or suspended scaffold; or
- (b) an elevating work platform; or
- (c) a mast climbing work platform; or
- (d) a work box supported and suspended by a crane, hoist, forklift truck or other form of mechanical plant; or
- (e) building maintenance equipment, including a building maintenance unit; or
- (f) a portable or mobile fabricated platform; or
- (g) any other temporary platform that provides a working area for the duration of work performed at height and that is designed to prevent a fall;

the Act means the **Occupational Health and Safety Act 2004**;

theatrical performance means acting, singing, playing a musical instrument, dancing, or otherwise performing literary or artistic works or expressions of folklore;

threshold quantity, in relation to Schedule 9 materials, means the threshold quantity for those materials determined in accordance with Schedule 9;

tower crane means a boom or jib crane mounted on a tower structure;

tractor means a powered vehicle primarily designed to haul and provide power for agricultural or horticultural machinery or implements by way of a power-takeoff rotating shaft or other mechanical means, but does not include earthmoving machinery or a passenger vehicle;

travel restraint system means equipment that is worn by or attached to a person and is designed for the purpose of physically restraining a person from reaching an edge or elevated surface from which he or she may fall;

Example

A system in which a harness or belt is attached to one or more lanyards, each attached in turn to a static line or anchorage point.

trench, in Part 5.1 (Construction), means a horizontal or inclined way or opening commencing at and extending below the surface of the ground and open to the surface along its length, the length of which is greater than its width and greater than or equal to its depth, and is used or to be used for the laying, removal or repair of a pipe or cable;

tunnel, in Part 5.1 (Construction), means an underground passage or opening in an approximate horizontal plane and which begins at the surface or from an excavation of any sort;

turbine means a rotary motor or engine driven by a flow of water, steam or gas primarily intended for the production of electricity;

Type I ingredient, in relation to a hazardous substance, means a Type I ingredient within the meaning of Schedule 1 to the National Model Regulations for the Control of Workplace Hazardous Substances;

Type II ingredient, in relation to a hazardous substance, means a Type II ingredient within the meaning of Schedule 1 to the National Model Regulations for the Control of Workplace Hazardous Substances;

Type III ingredient, in relation to a hazardous substance, means a Type III ingredient within the meaning of Schedule 1 to the National Model Regulations for the Control of Workplace Hazardous Substances;

type of asbestos-containing material means a description of asbestos-containing material;

Example

Asbestos-containing cement sheeting, cement pipes, vinyl tiles, sprayed insulation, telecommunications pits and pipes, pipe lagging, millboard and gaskets.

unprotected edge means the edge of a surface from which there is a horizontal gap, void or space of more than 300 millimetres and which is not provided with a barrier to prevent a fall;

Victoria Police has the same meaning as the force has in the **Police Regulation Act 1958**;

Victoria State Emergency Service means the Service continued by the **Victoria State Emergency Service Act 2005**;

Victoria State Emergency Service Authority means the Authority established under the **Victoria State Emergency Service Act 2005**;

wholesaler, in relation to a substance, means a person who supplies that substance for the purpose of re-supply;

winder means an electrical or compressed air or hydraulic or other power driven unit, single or multi drum, which by use of ropes, sheave wheels and a shaft conveyance, is used to raise or lower people or materials from level to level and includes a friction winder;

work box means a personnel carrying device, designed to be suspended from a crane, to provide a working area for a person elevated by and working from the device;

work in a confined space means work in a confined space by an employee and includes entry to and exit from a confined space by an employee;

workpiece means material, off-cut or scrap (in any form) on which an item of plant is doing work, or material, off-cut or scrap (in any form) produced by an item of plant but does not include a load being lifted or moved by the plant;

work positioning system means—

- (a) an industrial rope access system; or
- (b) a travel restraint system; or
- (c) any other equipment, other than a temporary work platform, that enables a person to be positioned and safely supported at a work location for the duration of the task being undertaken at height.

1.1.6 Determinations of Authority

The Authority may make the following determinations for the purposes of regulation 1.1.5—

- (a) a determination of a scheme for the approval of asbestos analysts for the purpose of the definition of *approved asbestos analyst*;
- (b) a determination of an exposure measurement method for the purpose of the definition of *asbestos exposure standard*;
- (c) a determination of an occupational health and safety management system for the purpose of the definition of *asbestos occupational health and safety management system*;
- (d) a determination of a method of air sampling for the purpose of the definition of *asbestos paraoccupational air monitoring*;
- (e) a determination of a competency standard for winder operations for the purpose of the definition of *competency standard*;
- (f) a determination of a specified construction RTO or a class of construction RTOs for the purpose of the definition of *construction statement of attainment*;

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- (g) a determination of evidence of a specified class for the purpose of the definition of *recognised evidence of construction induction training*;
 - (h) a determination of a specified RTO or a class of RTOs for the purpose of the definition of *statement of attainment*.

Note

See Division 2 of Part 7.1 (Administrative Matters).

1.1.7 Act compliance notes

If a note at the foot of a provision of these Regulations states "Act compliance" followed by a reference to a section number, the regulation provision sets out the way in which a person's duty or obligation under that section of the Act is to be performed in relation to the matters and to the extent set out in the regulation provision.

Note

A failure to comply with a duty or obligation under a section of the Act referred to in an "Act compliance" note is an offence to which a penalty applies.

1.1.8 Independent contractors

- (1) A provision of these Regulations that sets out a way that an employer complies with a duty under section 21 or 35 of the Act in relation to employees extends to the employer's duty under that section to an independent contractor engaged by the employer and any employees of the independent contractor.
- (2) If a provision of these Regulations (other than subregulation (1)) provides that an employer's duty under another provision of these Regulations extends to an independent contractor—

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- (a) that other provision applies as if a reference to an employee were a reference to an independent contractor engaged by the employer and any employees of the independent contractor; and
 - (b) the duty of the employer under that other provision extends to an independent contractor engaged by the employer, and any employees of the independent contractor, in relation to matters over which the employer has control or would have control if not for any agreement purporting to limit or remove that control.

1.1.9 Health and safety representatives

A reference in these Regulations to a health and safety representative includes a reference to a deputy health and safety representative if the health or safety representative has ceased to hold office or the health and safety representative is unable (because of absence or any other reason) to exercise the powers of a health and safety representative.

1.1.10 Designers, manufacturers and suppliers

Any reference in these Regulations to—

- (a) a *designer*, in relation to plant, is a reference to a person who designs the plant and who knows, or ought reasonably to know, that the plant is to be used at a workplace;
- (b) a *manufacturer*, in relation to plant or a substance, is a reference to a person who manufactures that plant or substance and who knows, or ought reasonably to know, that the plant or substance is to be used at a workplace;

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- (c) a *supplier*, in relation to plant or a substance, is a reference to a person who supplies that plant or substance and who knows, or ought reasonably to know, that the plant or substance is to be used at a workplace (whether by the person supplied or anyone else).

1.1.11 References to Parts

Unless the context otherwise requires, a reference in these Regulations to a Part by a number must be construed as a reference to the Part, designated by that number, of these Regulations.

PART 1.2—INCORPORATED DOCUMENTS

1.2.1 Documents incorporated as in force from time to time

- (1) A reference to any document applied, adopted or incorporated by, or referred to in, these Regulations is to be read as a reference to that document as in force from time to time.
- (2) If any document applied, adopted or incorporated by, or referred to in, these Regulations is amended, the amendment is only in force for the purposes of subregulation (1) if it has taken effect for the purposes of these Regulations.

Note

See regulation 1.2.3 in relation to the date of effect of amendments.

1.2.2 Publication date of amendments to certain incorporated documents

- (1) This regulation applies to any document that is applied, adopted or incorporated by, or referred to in, these Regulations, and either that is published, or that has notice of its making published, in the Commonwealth of Australia Gazette.
- (2) For the purposes of these Regulations, an amendment to the document is published either—
 - (a) on the date it is published in the Commonwealth of Australia Gazette; or
 - (b) on the date on which the notice of its making is published in the Commonwealth of Australia Gazette—

whichever occurs first.

1.2.3 Date of effect of amendments to incorporated documents

If the effect of an amendment to any document applied, adopted or incorporated by these Regulations is—

- (a) to prohibit an activity, process or thing, the amendment takes effect on the day after it is published, or on any later date specified in the document by which the amendment was made; and
- (b) to impose a new obligation or to alter an existing obligation under these Regulations, a person may choose to comply with these Regulations as if the amendment had not been made until the expiry of 6 months after the date the amendment takes effect.

1.2.4 Inconsistencies between provisions

If a provision of any document applied, adopted or incorporated by, or referred to in, these Regulations is inconsistent with any provision in these Regulations, the provision of these Regulations prevails.

CHAPTER 2—GENERAL DUTIES AND ISSUE RESOLUTION

PART 2.1—GENERAL DUTIES

2.1.1 Proper installation, use and maintenance of risk control measures

- (1) A person who is required by these Regulations to use any particular measure to control risk must ensure that the measure is properly installed (if applicable), used and maintained.

Note

Act compliance—sections 21, 22, 23, 24, 26, 29, 30 and 31 (see regulation 1.1.7).

- (2) This regulation does not apply to a measure required by Part 5.2 (Major Hazard Facilities) or Part 5.3 (Mines).

Note

Parts 5.2 and 5.3 are excluded from the operation of this regulation because they contain more specific requirements in relation to the installation, use and maintenance of risk control measures.

2.1.2 Provision of information, instruction and training

- (1) If these Regulations require an employer to control any particular risk, the employer must provide each employee of the employer who may be exposed to the risk with sufficient information, instruction and training in relation to the following matters as are necessary to enable the employee to perform his or her work in a manner that is safe and without risks to health—
 - (a) the nature of the hazard giving rise to the risk; and

- (b) the need for, and the proper use and maintenance of, measures to control the risk.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 Section 21 of the Act also places obligations on an employer in relation to supervision.
- (2) The obligation imposed by subregulation (1) is in addition to any other obligation imposed on the employer by these Regulations in relation to the provision of information, instruction and training.

2.1.3 Medical examinations and health surveillance

- (1) This regulation applies if, under these Regulations, an employer is required to ensure that an employee is medically examined or that any other form of health surveillance is conducted in relation to an employee.
- (2) The employer must provide the employee with information about the purpose, and the type or nature, of the medical examination or other health surveillance.

Note

Act compliance—sections 21 and 22 (see regulation 1.1.7).

- (3) The medical examination or other health surveillance is to be undertaken at the employer's expense.

2.1.4 Reports of health surveillance to be confidential

- (1) An employer must ensure that any report resulting from the medical examination or other health surveillance of an employee required under these Regulations, and any summary of the results of such a report, is kept confidential except in the circumstances set out in subregulation (2).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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- (2) An employer must provide a copy of a report or summary referred to in subregulation (1) to—
- (a) an employee to whom the report or summary relates as soon as is reasonably possible after the employer receives the report or summary;
 - (b) if an employee to whom the report or summary relates authorises in writing a third party to have access to the report or summary, that third party;
 - (c) if the Authority requests a copy of the report or summary, or if the employer is otherwise required by these Regulations to give the Authority a copy of the report or summary, the Authority.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

Section 69 of the Act provides that the health and safety representative of the members of a designated work group must be allowed access to information that an employer has relating to the health and safety of the members of the group. The section permits a health and safety representative to have access to relevant medical information relating to an employee's health and safety that does not identify individual employees and, with the consent of an employee, medical information that identifies that employee.

2.1.5 How to involve health and safety representatives in consultation

- (1) This regulation applies if an employer is required under the Act to consult with employees on a matter and the employees are represented by a health and safety representative.

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- (2) For the purposes of section 36(2) of the Act, the employer must involve the health and safety representative in the consultation by—
- (a) providing the health and safety representative with all of the information about the matter that the employer provides, or intends to provide, to the employees; and
 - (b) unless it is not reasonably practicable to do so, providing that information to the health and safety representative a reasonable time before providing the information to the employees; and
 - (c) inviting the health and safety representative to meet with the employer to consult about the matter; and
 - (d) if the invitation is accepted, or if otherwise requested by the health and safety representative, meeting with the health and safety representative to consult about the matter; and
 - (e) giving the health and safety representative a reasonable opportunity to express his or her views about the matter; and
 - (f) taking into account the health and safety representative's views about the matter.

Note

Act compliance—sections 35 and 36 (see regulation 1.1.7).

PART 2.2—ISSUE RESOLUTION PROCEDURES

2.2.1 Application of Part

For the purposes of section 73(1) of the Act, this Part sets out the procedure to facilitate the effective resolution of health and safety issues arising at a workplace or from the conduct of an employer's undertaking if there is no relevant agreed procedure for resolution of those issues.

2.2.2 Parties to the resolution of issues

- (1) For the purposes of section 73 of the Act, an employer must notify the employees, any health and safety representative and any health and safety committee in the appropriate manner and languages—
 - (a) as to whether the employer intends to participate in the resolution of an issue personally or to nominate an employer representative; and
 - (b) if an employer representative is to be nominated, of the name and position description of the employer representative.

Note

Employer representatives must meet the requirements set out in sections 73(2)(a) and 73(2)(b) of the Act.

- (2) If an issue arises before an employer representative has been notified in accordance with subregulation (1) and the employer is not available, the senior manager employed by the employer in that part of the workplace where the issue has arisen is to be the employer representative for the purpose of attempting to resolve the health and safety issue.

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- (3) Only a health and safety representative, or if there is no health and safety representative, an employee nominated under subregulation (4), can act on behalf of employees affected by an issue.

Note

Section 57 of the Act states that if a health and safety representative ceases to hold office or is unable to exercise his or her powers then those powers may be exercised by a deputy health and safety representative.

- (4) If there is no health and safety representative, the employees affected by an issue may nominate one or more employees to act on their behalf.
- (5) At any stage in the resolution of an issue, a party may seek the assistance of any relevant organisation of employees or of employers to assist the parties to resolve the issue.

2.2.3 Procedure for reporting issues

- (1) If a health or safety issue arises in a workplace or from the conduct of the undertaking of an employer where there is a health and safety representative and an employee wishes to raise the issue for resolution, the employee must report the issue to that representative.
- (2) If a health or safety issue arises in a workplace or from the conduct of the undertaking of an employer where there is no health and safety representative and an employee wishes to raise the issue for resolution, that employee must report it to the employer or employer representative.
- (3) An employee may take all steps to report an issue, including leaving the employee's part of the workplace, if the steps are reasonable in the circumstances.

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- (4) Nothing in this regulation prevents an employee from reporting the issue to the employer or any other person in addition to the health and safety representative.

2.2.4 Procedure for resolving issues

- (1) As soon as is reasonably possible after a health or safety issue has been reported the following persons must meet and try to resolve the issue—
- (a) the employer or employer representative; and
 - (b) the health and safety representative or any employee nominated under regulation 2.2.2(4) or the employees affected by the issue.
- (2) For the purpose of resolving the health and safety issue as quickly and effectively as possible the parties must have regard to—
- (a) the number and location of employees affected by the issue; and
 - (b) whether appropriate temporary measures are possible or desirable; and
 - (c) the time that may elapse before the issue is permanently resolved; and
 - (d) who, on behalf of the employer, is responsible for performing and overseeing any action agreed necessary to resolve the issue.

Note

Section 20 of the Act sets out the process to follow in ensuring health and safety.

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- (3) If, after the resolution of the health and safety issue, a party involved in the resolution of that issue requests the employer to set out in writing the details of the issue and matters relating to its resolution, the employer must do so, to the satisfaction of all parties.
 - (4) As soon as is reasonably possible after the resolution of an issue, the employer must ensure that details of any written or oral agreement between the parties are—
 - (a) brought to the attention of the employees affected by the issue; and
 - (b) forwarded to any health and safety committee.
 - (5) Any of the parties to the resolution may forward details of any agreement between the parties under subregulation (4) to any relevant organisation of employees or of employers.
 - (6) An agreement under subregulation (4) must be—
 - (a) in a form that is approved by all parties; and
 - (b) communicated in the manner and in any language that is agreed by the parties to be appropriate.

Note

Sections 35 and 36 of the Act set out the duty of the employer to consult with employees, including involving the health and safety representative (if any). (See also regulation 2.1.5).

CHAPTER 3—PHYSICAL HAZARDS

PART 3.1—MANUAL HANDLING

3.1.1 Hazard identification

- (1) An employer must, so far as is reasonably practicable, identify any task undertaken, or to be undertaken, by an employee involving hazardous manual handling.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 Hazardous manual handling is defined in regulation 1.1.5).
- (2) An employer may carry out a hazard identification under subregulation (1) for a class of tasks rather than for individual tasks if—
 - (a) all the tasks in the class are similar; and
 - (b) the identification carried out for the class of tasks does not result in any person being subject to any greater, additional or different risk to health and safety than if the identification were carried out for each individual task.

3.1.2 Control of risk

- (1) An employer must ensure that the risk of a musculoskeletal disorder associated with a hazardous manual handling task affecting an employee is eliminated so far as is reasonably practicable.

Note

Act compliance—section 21 (see regulation 1.1.7).

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- (2) If it is not reasonably practicable to eliminate the risk of a musculoskeletal disorder associated with a hazardous manual handling task affecting an employee, an employer must reduce that risk so far as is reasonably practicable by—
- (a) altering—
 - (i) the workplace layout; or
 - (ii) the workplace environment, including heat, cold and vibration, where the task involving manual handling is undertaken; or
 - (iii) the systems of work used to undertake the task; or
 - (b) changing the objects used in the task involving manual handling; or
 - (c) using mechanical aids; or
 - (d) any combination of paragraphs (a) to (c).

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 Under sections 27 to 30 of the Act, designers of plant, buildings or structures (or parts of buildings or structures) and manufacturers and suppliers of plant or substances must ensure, so far as is reasonably practicable, that the plant, substance, building or structure (or part) is designed, manufactured or supplied (as the case may be) to be safe and without risks to health, including the risk of musculoskeletal disorder.
- (3) If it is not reasonably practicable for an employer to reduce the risk of a musculoskeletal disorder associated with a hazardous manual handling task in accordance with subregulation (2), the employer may control that risk by the use of information, instruction or training.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 An employer may only rely solely or primarily on the use of information, instruction or training to control a risk if none of the measures set out in subregulation (2) is reasonably practicable.
- (4) Without affecting the generality of subregulations (1), (2) and (3), an employer, when determining any measure to control any risk of musculoskeletal disorder, must address the following factors—
- (a) postures; and
 - (b) movements; and
 - (c) forces; and
 - (d) duration and frequency of the task; and
 - (e) environmental conditions including heat, cold and vibration that act directly on a person undertaking the task.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
- 2 Sections 35 and 36 of the Act set out the duty of the employer to consult with employees, including involving the health and safety representative (if any). (See also regulation 2.1.5).

3.1.3 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks in relation to musculoskeletal disorders are reviewed and, if necessary, revised—
 - (a) before any alteration is made to objects used in a workplace or to systems of work that include a task involving hazardous manual handling, including a change in the place where that task is undertaken; or

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- (b) before an object is used for another purpose than that for which it was designed if that other purpose may result in an employee carrying out hazardous manual handling; or
 - (c) if new or additional information about hazardous manual handling being associated with a task becomes available to the employer; or
 - (d) if an occurrence of a musculoskeletal disorder in a workplace is reported by or on behalf of an employee; or
 - (e) after any incident occurs to which Part 5 of the Act applies that involves hazardous manual handling; or
 - (f) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (g) after receiving a request from a health and safety representative.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(g) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulations (1)(a) to (1)(f) exists; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or

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- (ii) to take account of any of the circumstances referred to in subregulations (1)(a) to (1)(f) in conducting a review of, or revising, the risk control measures.
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PART 3.2—NOISE

Division 1—Duties of designers, manufacturers and suppliers of plant

3.2.1 Designers

A designer of plant must ensure, by taking noise emission and exposure into account, that the plant is so designed that its sound power level is as low as is reasonably practicable.

Note

Act compliance—section 27 (see regulation 1.1.7).

3.2.2 Manufacturers

- (1) A manufacturer of plant must ensure, by taking noise emission and exposure into account, that the plant is so manufactured that its sound power level is as low as is reasonably practicable.

Note

Act compliance—section 29 (see regulation 1.1.7).

- (2) If plant, when used at a workplace for the purpose for which it is manufactured, may cause an employee's exposure to noise to exceed the noise exposure standard, the manufacturer of the plant must—
- (a) determine its sound power level; and
 - (b) when supplying the plant to another person, ensure that the plant is accompanied by a record that states the sound power level of the plant.

Note

Act compliance—section 29 (see regulation 1.1.7).

3.2.3 Suppliers

- (1) A supplier of plant must provide with the plant any record received from the person from whom the plant was acquired that states the sound power level of the plant.

Note

Act compliance—section 30 (see regulation 1.1.7).

- (2) A supplier of plant must take any action that is reasonably necessary in the circumstances to obtain the record that states the sound power level of the plant from the person from whom the plant was acquired.

Note

Act compliance—section 30 (see regulation 1.1.7).

Division 2—Duties of employers

3.2.4 Control of exposure to noise

- (1) An employer must ensure that no employee at the workplace is exposed to noise that exceeds the noise exposure standard by implementing the following risk control measures—
 - (a) the employer must eliminate the source of noise to which an employee is exposed, so far as is reasonably practicable;
 - (b) if it is not reasonably practicable to eliminate the source of the noise, the employer must reduce the exposure of the employee to noise, so far as is reasonably practicable, by—
 - (i) substituting quieter plant or processes;
or
 - (ii) using engineering controls;

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- (c) if an employee is still exposed to noise that exceeds the noise exposure standard after the employer has complied with paragraph (b), the employer must reduce the exposure of the employee to noise, so far as is reasonably practicable, by the use of administrative controls;
 - (d) if an employee is still exposed to noise that exceeds the noise exposure standard after the employer has complied with paragraphs (b) and (c), the employer must provide hearing protectors to reduce the exposure of the employee to noise, so that it does not exceed the noise exposure standard.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) An employer providing hearing protectors under subregulation (1)(d) must, when selecting the hearing protectors, consider—
 - (a) the nature of noise in the workplace; and
 - (b) noise levels in the workplace; and
 - (c) the duration of exposure to noise; and
 - (d) systems of work at the workplace.

Notes

1 Act compliance—section 21 (see regulation 1.1.7).

2 The nature of the noise in the workplace may involve consideration of the frequency component, impulse or other relevant matters.

- (3) If several employees are exposed to identical sources of noise at the workplace and their exposure to noise is likely to be the same, the employer may select hearing protectors for those employees by considering the factors in subregulation (2) in respect of one or more of those employees.

3.2.5 Written record of risk control measures

- (1) If an employer proposes to implement a risk control measure referred to in regulations 3.2.4(1)(a) or 3.2.4(1)(b) and it is not reasonably practicable to do so within 6 months of making the decision to implement the control measure, the employer must make a written record that describes the actions necessary to implement the risk control measure and when these actions will be carried out.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) Subregulation (1) does not reduce or limit an employer's obligation to comply with regulation 3.2.4(1).
- (3) An employer who makes a written record under subregulation (1) must ensure that the record is accessible to—
- (a) the health and safety representative of each designated work group affected by the proposed control measure; and
 - (b) any employee affected by the proposed control measure.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) For the purposes of section 35(1) of the Act, an employer must consult when making the decision to implement the risk control measure that is the subject of a written record under subregulation (1).

Note

Sections 35 and 36 of the Act set out the duty of the employer to consult with employees, including involving the health and safety representative (if any). (See also regulation 2.1.5).

3.2.6 Hearing protector signs and labels

If an employer is required under regulation 3.2.4(1)(d) to provide hearing protectors to an employee, the employer must clearly identify by signs, labelling of plant or other appropriate means, when and where the hearing protectors are to be worn.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

3.2.7 Determination of exposure to noise

- (1) An employer must ensure that a determination of an employee's exposure to noise in the workplace is carried out in accordance with this regulation if there is uncertainty (based on reasonable grounds) as to whether the noise exposure standard is or may be exceeded.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) In considering whether a noise exposure standard is or may be exceeded, an employer must not take into account the effect of any hearing protectors the employee may be using.
- (3) A determination under subregulation (1)—
 - (a) must take into account—
 - (i) the level of noise to which the employee is exposed; and
 - (ii) the duration of the exposure; and
 - (iii) plant and other sources of noise at the workplace; and
 - (iv) systems of work at the workplace; and
 - (v) any other relevant factors; and

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- (b) must not take into account the effect of any hearing protectors the employee may be using.
 - (4) If several employees are exposed to identical sources of noise at a workplace and their exposure to noise is likely to be the same, the employer may determine their exposure to noise by conducting a representative determination in relation to one or more of those employees.

3.2.8 Record of determinations

- (1) An employer who makes a determination under regulation 3.2.7(1) must make a written record that—
 - (a) describes how the matters referred to in regulation 3.2.7(3) have been taken into account; and
 - (b) contains the results of the determination.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (2) An employer who makes a written record under subregulation (1) must retain the record for as long as it is applicable.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (3) An employer who makes a written record under subregulation (1) must ensure that the record is accessible to—
 - (a) the health and safety representative of each designated work group to which the determination relates; and

- (b) any employee to whom the determination relates.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

3.2.9 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control an employee's exposure to noise are reviewed and, if necessary, revised—
- (a) before any alteration is made to plant used or a system of work that is likely to result in exposure to noise above the noise exposure standard; or
 - (b) if the report by the person who conducts an audiological examination under regulation 3.2.12 states that the employee has suffered hearing loss that is likely to be due to exposure to noise; or
 - (c) after any incident occurs to which Part 5 of the Act applies that involves exposure to noise above the noise exposure standard; or
 - (d) if, for any other reason, the risk control measures do not adequately control noise exposure to a level at or below the noise exposure standard; or
 - (e) after receiving a request from a health and safety representative.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(e) if the health and safety representative believes on reasonable grounds that—

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- (a) any of the circumstances referred to in subregulations (1)(a) to (1)(d) exists; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances in subregulations (1)(a) to (1)(d) in conducting a review of, or revising, the risk control measures.

3.2.10 Acquisition of plant

An employer who introduces new or additional plant for use in the workplace must have regard to the sound power level of the plant in order to ensure, so far as is reasonably practicable, that employees will not be exposed to noise that exceeds the noise exposure standard.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.2.11 Audiometric tests

If an employer is required under regulation 3.2.4(1)(d) to provide hearing protectors to an employee, the employer must provide for audiometric testing for that employee—

- (a) within 3 months after the employee commences the work in relation to which the hearing protectors are required; and
- (b) at any time when reasonably requested to do so by the health and safety representative of the designated work group of which the employee is a member; and
- (c) in any event, at least every 2 years.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

3.2.12 Audiological examinations

If the results of 2 consecutive audiometric tests of an employee under regulation 3.2.11 indicate a reduction in hearing levels equal to or greater than 15dB at 3000 Hz, 4000 Hz or 6000 Hz, the employer must provide for the employee to undergo an audiological examination as soon as is reasonably possible.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

3.2.13 Report of audiological examination

An employer must ensure that a person who conducts an audiological examination under regulation 3.2.12 provides the employer with a report that—

- (a) contains the results of the examination; and
- (b) states whether or not the employee has suffered hearing loss that is likely to be due to exposure to noise.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

3.2.14 Test results and examination reports

- (1) If an employee is tested under regulation 3.2.11, or examined under regulation 3.2.12, the employer must retain the test results or examination report for as long as they are applicable.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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- (2) Subject to subregulation (3), the employer must, on request, provide a health and safety representative with aggregate results of the most recent audiometric tests under regulation 3.2.11 in relation to the representative's designated work group.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) Aggregate results provided under subregulation (2) must not contain information that identifies the employees tested or from which the employee's identity could be reasonably obtained.
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PART 3.3—PREVENTION OF FALLS

Division 1—Introductory matters

3.3.1 Application of Part

- (1) This Part does not apply in relation to—
- (a) the following activities that are carried out under the control or management of an employer—
 - (i) the performance of stunt work; or
 - (ii) the performance of acrobatics; or
 - (iii) a theatrical performance; or
 - (iv) a sporting or athletic activity; or
 - (v) the riding of a bicycle, motorcycle or all-terrain vehicle; or
 - (vi) horse riding; or
 - (vii) rock climbing, abseiling or any other similar activities; or
 - (b) a task that is undertaken on those parts of a building or structure (including stairs, fixed ladders, ramps and balconies) that—
 - (i) comply with any applicable requirements of AS 1657—Fixed platforms, walkways, stairways and ladders—Design, construction and installation; and
 - (ii) comply with any applicable requirements of the Building Regulations 2006¹; and
 - (iii) are used for the purpose for which they were designed, including for access and egress; or
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- (c) any activity determined by the Authority in accordance with subregulation (2).
 - (2) The Authority may determine an activity to be excluded from the application of this Part if the Authority is satisfied that the activity is of a similar nature to an activity referred to in subregulation (1)(a).

3.3.2 Application to employers of emergency service employees

Without limiting the application of this Part (other than regulations 3.3.5, 3.3.6 and 3.3.7), regulations 3.3.5, 3.3.6 and 3.3.7 apply so far as is reasonably practicable to an employer of—

- (a) an emergency service employee when that employee is—
 - (i) undertaking the rescue of a person; or
 - (ii) providing first aid to a person; or
 - (iii) undertaking training to deal with emergency and rescue operations; or
 - (iv) carrying out an emergency response; or
 - (b) a law enforcement officer within the meaning of the **Surveillance Devices Act 1999** when that officer is—
 - (i) installing, using, maintaining or retrieving a surveillance device or a tracking device under an emergency authorisation or a warrant issued under that Act; or
 - (ii) engaged in any other surveillance operation authorised by a senior officer under that Act; or
 - (iii) undertaking training in relation to surveillance duties or operations required in the application of that Act.
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Division 2—Duties of employers

3.3.3 Hazard identification

An employer must, so far as is reasonably practicable, identify any task that an employee is required to undertake at a workplace that involves a fall hazard including—

- (a) on any plant or structure being constructed, demolished, inspected, tested, maintained, repaired or cleaned;
- (b) on a fragile, slippery or potentially unstable surface;
- (c) using equipment to gain access to an elevated level or to undertake the task at an elevated level;
- (d) on a sloping surface on which it is difficult to maintain balance;
- (e) in close proximity to an unprotected edge;
- (f) in close proximity to a hole, shaft or pit that is of sufficient dimensions to allow a person to fall into the hole, shaft or pit.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
- 2 A fall in this Part means an involuntary fall of over 2 metres (see the definition of *fall* in regulation 1.1.5).

3.3.4 Control of risk

- (1) An employer must ensure that if an employee is required to undertake a task at the workplace that involves a risk of a fall, the risk is controlled, so far as is reasonably practicable, by arranging for the task to be undertaken—

- (a) on the ground; or
- (b) on a solid construction.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 See subregulation (6) for the definition of *solid construction*.
- (2) If it is not reasonably practicable to comply with subregulation (1), or only part of a task may be undertaken in accordance with subregulation (1), and a risk of a fall remains, the employer must reduce the risk, so far as is reasonably practicable, by ensuring that a passive fall prevention device is used.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 Examples of a passive fall prevention device are given in the definition of that term in regulation 1.1.5.
- (3) If it is not reasonably practicable to comply with subregulations (1) and (2), or only part of a task may be undertaken in accordance with those subregulations, and a risk of a fall remains, the employer must reduce the risk, so far as is reasonably practicable, by using a work positioning system.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 Work positioning system is defined in regulation 1.1.5.
- (4) If it is not reasonably practicable to comply with subregulations (1), (2) and (3), or only part of a task may be undertaken in accordance with those subregulations, and a risk of a fall remains, the employer must reduce the risk, so far as is reasonably practicable, by putting in place a fall arrest system.

Note

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 Examples of a fall arrest system are given in the definition of that term in regulation 1.1.5.
- (5) If it is not reasonably practicable to comply with subregulations (1), (2), (3) and (4), or only part of a task may be undertaken in accordance with those subregulations, and a risk of a fall remains, the employer must reduce the risk, so far as is reasonably practicable, by ensuring that—
- (a) a fixed or portable ladder is used in accordance with regulation 3.3.5; or
 - (b) an administrative control is used.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (6) In this regulation, ***solid construction*** means an area that has—
- (a) a surface that is structurally capable of supporting people, material and any other loads intended to be applied to it; and
 - (b) barriers around its perimeter and any open penetrations to prevent a fall from the area; and
 - (c) an even and readily negotiable surface and gradient; and
 - (d) a safe means of access and egress.

3.3.5 Use of ladder as a control measure

An employer must ensure that a fixed or portable ladder used in accordance with regulation 3.3.4 to control the risk of a fall—

- (a) is fit for the purpose; and

-
- (b) is appropriate for the duration of the task;
and
 - (c) is set up in a correct manner.

3.3.6 Use of administrative control only

- (1) If an employer uses only an administrative control in accordance with regulation 3.3.4 to control the risk of a fall, the employer must, before the task is undertaken, record—
 - (a) a description of the administrative control used; and
 - (b) a description of the task to which the administrative control relates.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) In complying with subregulation (1), an employer may make a generic record in respect of a task to which an administrative control relates if the task will be undertaken in the same or similar circumstances at more than one workplace or at more than one work area within a workplace.
- (3) The employer must retain a record made under this regulation for the period during which the task to which the administrative control relates is being undertaken.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) The preparation of a safe work method statement in accordance with regulation 5.1.9 is to be taken to be compliance with subregulation (1).

3.3.7 Use of plant to control risk

- (1) An employer must ensure that any plant used to control a risk of a fall is—
 - (a) designed and constructed for the task or range of tasks to be undertaken; and
 - (b) designed and constructed in such a way as to enable its safe use in the physical surroundings in which it is to be used and the conditions during which it is to be used.

Examples

Examples of physical surroundings are the type and condition of supporting surface and proximity to powerlines and trees.

Examples of conditions are lighting and weather conditions.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) An employer must ensure that the installation, erection or dismantling of plant used to control the risk of a fall is carried out in such a manner as to reduce, so far as is reasonably practicable, any risk while that installation, erection or dismantling is being carried out.

Examples

Examples of the risks to be reduced are risks of a fall, electric shock, crushing and musculoskeletal disorder.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.3.8 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks in relation to falls are reviewed and, if necessary, revised—
 - (a) before any alteration is made to plant or systems of work that is likely to result in a fall; or
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- (b) after any incident occurs to which Part 5 of the Act applies that involves a fall or the risk of a fall; or
 - (c) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (d) after receiving a request from a health and safety representative.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulations (1)(a) to (1)(c) exists; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulations (1)(a) to (1)(c) in conducting a review of, or revising, the risk control measures.

3.3.9 Emergency procedures

- (1) If an employer uses a risk control measure in accordance with subregulation (2), (3), (4) or (5) of regulation 3.3.4 to control the risk of a fall, the employer must ensure that emergency procedures are established in accordance with this regulation before the task is undertaken.

Note

Act compliance—section 21 (see regulation 1.1.7).

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- (2) An employer must ensure that emergency procedures, so far as is reasonably practicable, enable—
 - (a) the rescue of an employee in the event of a fall; and
 - (b) the provision of first aid to an employee who has fallen.
 - (3) An employer must ensure that an emergency procedure can be carried out immediately after the fall.
 - (4) An employer must ensure that any risk associated with the carrying out of an emergency procedure—
 - (a) is eliminated so far as is reasonably practicable; and
 - (b) if it is not reasonably practicable to eliminate the risk, is reduced so far as is reasonably practicable.

Example

Examples of risks associated with the carrying out of emergency procedures are risks of a fall, electric shock, crushing and musculoskeletal disorder.

PART 3.4—CONFINED SPACES

Division 1—Introductory matters

3.4.1 Application to employers of emergency service employees

This Part does not apply to an employer of an emergency service employee if at the direction of the employer the employee is—

- (a) undertaking the rescue of a person from a confined space; or
- (b) providing first aid to a person in a confined space.

Division 2—Duties of designers, manufacturers and suppliers of plant

3.4.2 Designers

A designer of plant that includes, or is intended to include, a confined space must ensure that the plant is designed so that—

- (a) the need for any person to enter the space is eliminated so far as is reasonably practicable; or
- (b) if it is not reasonably practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is reasonably practicable; and

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- (ii) any risk associated with the means of entry to and exit from the space is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 27 (see regulation 1.1.7).

3.4.3 Manufacturers

A manufacturer of plant that includes, or is intended to include, a confined space must ensure that the plant is manufactured so that—

- (a) the need for any person to enter the space is eliminated so far as is reasonably practicable; or
- (b) if it is not reasonably practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is reasonably practicable; and
 - (ii) any risk associated with the means of entry to and exit from the space is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 29 (see regulation 1.1.7).

3.4.4 Suppliers

- (1) A supplier of plant that includes, or is intended to include, a confined space must ensure, so far as is reasonably practicable, that the plant has been designed and manufactured in accordance with regulations 3.4.2 and 3.4.3 before the plant is supplied.

Note

Act compliance—section 30 (see regulation 1.1.7).

- (2) If it is not reasonably practicable for a supplier to comply with subregulation (1), the supplier must ensure, before the plant is supplied, that—
- (a) the need for any person to enter the confined space is eliminated so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the need to enter the space—
 - (i) the need to enter is reduced so far as is reasonably practicable; and
 - (ii) any risk associated with the means of entry to and exit from the space is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 30 (see regulation 1.1.7).

Division 3—Duties of employers

3.4.5 Application of Division

In this Division a reference to a confined space in relation to an employer means a confined space under the management or control of the employer.

3.4.6 Hazard identification

- (1) An employer must, so far as is reasonably practicable, identify all hazards to health or safety associated with work in a confined space.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 See definition of *work in a confined space* in regulation 1.1.5.
- (2) An employer may carry out hazard identification under subregulation (1) for a class of confined space rather than for an individual confined space if—
- (a) all the confined spaces in the class are similar; and
 - (b) the identification carried out for the class of confined space does not result in any employee being subject to any greater, additional or different risk to health and safety than if the identification were carried out for each individual confined space.

3.4.7 Control of risk

- (1) An employer must ensure that any risk associated with work in a confined space is eliminated so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If it is not reasonably practicable for an employer to ensure that any risk associated with work in a confined space is eliminated, the employer must reduce that risk so far as is reasonably practicable taking into account the following matters—
- (a) the nature of the confined space; and

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- (b) if a hazard is associated with the level of oxygen or the level of any contaminant in the atmosphere of the confined space, any change that may occur in the level of oxygen or contaminant; and
 - (c) the work required to be performed in the confined space, the range of methods by which the work can be done and the selected method of working; and
 - (d) any work required to be performed outside the confined space that may be associated with a hazard; and
 - (e) the means of entry to and exit from the confined space; and
 - (f) the type of emergency procedures required.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.4.8 Isolation of plant and services

An employer must ensure that any risk associated with work in a confined space in relation to—

- (a) the introduction of any substance or condition from or by any plant or services connected to the space; or
- (b) the activation or energising in any way of any plant or services connected to the space—

is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, is reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.4.9 Atmosphere

- (1) An employer must ensure, in relation to work in a confined space, that—
 - (a) purging or ventilation of any contaminant in the atmosphere of the space is carried out, so far as is reasonably practicable; and
 - (b) pure oxygen or gas mixtures with oxygen in a concentration greater than 21% by volume are not used for purging or ventilation of any contaminant in the atmosphere of the space.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) An employer must ensure, during work in a confined space, that—
 - (a) the atmosphere of the space has a safe oxygen level; or
 - (b) if it is not reasonably practicable to comply with paragraph (a), the employee is provided with air-supplied respiratory protective equipment.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) An employer must ensure, during work in a confined space, that—
 - (a) an employee is not exposed to an atmospheric concentration of a contaminant in the atmosphere of the space above the exposure standard (if any) for that contaminant; or

-
- (b) if it is not reasonably practicable to comply with paragraph (a), the employee is provided with air-supplied respiratory protective equipment or other appropriate respiratory protective equipment.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (4) An employer must ensure that an employee uses the personal protective equipment provided under this regulation.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (5) In this regulation *purging* means the method by which any contaminant is displaced from a confined space.

3.4.10 Fire or explosion

If there is a likelihood of fire or explosion in a confined space, an employer must ensure that no source of ignition is introduced to the space, whether introduced from within or outside the space.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.4.11 Flammable gases or vapours

- (1) An employer must ensure during work in a confined space that—
- (a) so far as is reasonably practicable, the concentration of any flammable gas or vapour in the atmosphere of the space is below 5% of its LEL; or
 - (b) if it is not reasonably practicable to comply with paragraph (a) and the concentration of any flammable gas or vapour in the atmosphere of the space—

- (i) is equal to or greater than 5% but less than 10% of its LEL, any employee is removed immediately from the space unless a suitably-calibrated, continuous-monitoring, flammable gas detector is used in the space while the employee is in the space; or
- (ii) is equal to or greater than 10% of its LEL, any employee is removed immediately from the space.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) In this regulation **LEL** (lower explosive limit) of a flammable gas or vapour means the concentration of that gas or vapour in air below which the propagation of a flame does not occur on contact with an ignition source.

3.4.12 Signs

- (1) An employer must ensure that signs are erected that comply with subregulation (2) in the immediate vicinity of a confined space for any period that—
 - (a) work is performed in the confined space; or
 - (b) work is performed in preparation for, or completion of, work in the confined space.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) The signs must—
 - (a) identify the confined space; and
 - (b) notify employees that they must not enter the confined space unless they have a confined space entry permit; and

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- (c) be clear and prominently positioned next to each entry point to the confined space.

3.4.13 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks in relation to work in a confined space are reviewed and, if necessary, revised—
- (a) after any incident occurs to which Part 5 of the Act applies that involves work in a confined space; or
 - (b) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (c) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(c) if the health and safety representative believes on reasonable grounds that—
- (a) the circumstances referred to in subregulations (1)(a) and (1)(b) exist; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of the circumstances referred to in subregulations (1)(a) and (1)(b) in conducting a review of, or revising, the risk control measures.

3.4.14 Confined space entry permit

- (1) An employer must ensure that an employee does not enter a confined space unless the employer has issued a confined space entry permit in accordance with this regulation permitting the employee to enter the confined space.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) A confined space entry permit—
 - (a) must only apply to one confined space; and
 - (b) may permit one or more employees to enter that confined space.
- (3) A confined space entry permit must list—
 - (a) the confined space to which the permit applies; and
 - (b) the measures to control risk for the confined space; and
 - (c) the name of any employee permitted to enter the confined space; and
 - (d) if an employer assigns any person to perform any function in relation to regulation 3.4.16, the name of that person; and
 - (e) the period of time that the permit is in operation.

3.4.15 Employer to retain entry permits

An employer must retain each confined space entry permit issued by the employer for 30 days from the date on which the permit ceases to be in operation.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

3.4.16 Communication and initiation of emergency procedures

An employer must ensure that when an employee is working in a confined space—

- (a) there is continuous communication from outside the confined space between the employer, or a person assigned by the employer, and the employee in the confined space; and
- (b) the emergency procedures can be initiated from outside the confined space.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.4.17 Procedures to indicate entry into confined space

An employer must ensure that for the period of the operation of the confined space entry permit, a procedure is in place under which the employer, or a person assigned by the employer, knows when any employee is in the confined space.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.4.18 Procedures to ensure exit from confined space

An employer must ensure that all employees have exited a confined space on completion of work for which a confined space entry permit is in operation.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.4.19 Record of exit from confined space

An employer must ensure that there is a written record that all employees have exited a confined space on completion of work for which a confined space entry permit is in operation.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

3.4.20 Emergency procedures

- (1) An employer must ensure, in relation to work in a confined space, that emergency procedures are established, in accordance with this regulation, for the control and management of an emergency in the confined space, including procedures for—
 - (a) the rescue of any employee from the confined space; and
 - (b) first aid to be provided to any employee in the confined space and after rescue from the confined space.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) The emergency procedures must take into account—
 - (a) the matters referred to in regulations 3.4.7(2)(a) to 3.4.7(2)(e); and
 - (b) the matters referred to in regulations 3.4.16 and 3.4.17.
- (3) An employer must ensure that the emergency procedures are rehearsed by the relevant employees.

Note

Act compliance—section 21 (see regulation 1.1.7).

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- (4) An employer must ensure that the emergency procedures are carried out as soon as is reasonably possible after an emergency arises in a confined space.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (5) An employer must ensure that any risk associated with the carrying out of the emergency procedures is—
- (a) eliminated so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.4.21 Emergency procedures—personal protective equipment

- (1) An employer must provide an employee with air-supplied respiratory protective equipment if the employee enters, or carries out emergency procedures in, a confined space in an emergency—
- (a) arising from an atmosphere that does not have a safe oxygen level or has a harmful level of any contaminant; or
 - (b) if there is a likelihood of a condition under paragraph (a) arising while the employee is in the confined space.

Note

Act compliance—section 21 (see regulation 1.1.7).

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- (2) An employer must provide an employee with appropriate personal protective equipment if the employee enters or carries out emergency procedures in a confined space in an emergency—
- (a) arising from engulfment; or
 - (b) if there is a likelihood of a condition under paragraph (a) arising while the employee is in the confined space.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (3) An employer must ensure that an employee uses the personal protective equipment provided under this regulation.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.4.22 Emergency procedures—entry and exit for rescue

- (1) An employer must ensure that—
- (a) openings for the entry to and exit from a confined space are of adequate size to permit the rescue of any employee in the space and are not obstructed by fittings or plant that could impede rescue; or
 - (b) if it is not reasonably practicable to comply with paragraph (a), an alternative means of entry to and exit from the space for rescue purposes is provided.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) If an alternative means of entry to and exit from a confined space for rescue purposes is provided under subregulation (1)(b), the employer must ensure that any risk associated with the alternative means is—

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- (a) eliminated so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 21 (see regulation 1.1.7).

3.4.23 Emergency procedures—maintenance of plant

An employer must ensure that any plant provided for use in the emergency procedures is maintained so that it is fit for the purpose.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.4.24 Information, instruction and training

An employer must ensure, in relation to work in a confined space, that the relevant employees are provided with information, instruction and training in—

- (a) the nature of any hazard associated with the confined space; and
- (b) the need for, and proper use of, measures to control risk; and
- (c) the selection, use, fit, testing and storage of any personal protective equipment; and
- (d) the contents of any confined space entry permit relevant to the employees; and
- (e) the emergency procedures.

Note

Act compliance—section 21 (see regulation 1.1.7).

Division 4—Duties of self-employed persons

3.4.25 Self-employed person to have the same duties as an employer

- (1) A self-employed person must comply with the requirements of Division 3 as if that person were an employer.
- (2) If a provision of Division 3 is an Act compliance provision, compliance by a self-employed person with that provision in respect of a matter is the way that the self-employed person complies with the self-employed person's duty under section 24 of the Act in respect of that matter.
- (3) A self-employed person's duties under this regulation apply only so far as to ensure, so far as is reasonably practicable, that persons are not exposed to risks to their health and safety arising from the conduct of the undertaking of the self-employed person.

PART 3.5—PLANT

Division 1—Introductory matters

3.5.1 Application of Part

(1) This Part applies only to the following types of plant—

- (a) subject to subregulation (3), plant that processes material by way of a mechanical action that—
 - (i) cuts, drills, punches or grinds the material; or
 - (ii) presses, forms, hammers, joins or moulds the material; or
 - (iii) combines, mixes, sorts, packages, assembles, knits or weaves the material—

including plant where the functions set out in subparagraphs (i), (ii) and (iii) are incidental to the main purpose of the plant;

- (b) subject to subregulation (3), plant that lifts or moves people or materials (other than a ship, boat, aircraft or, except as provided in subregulation (4), a vehicle designed to be used primarily as a means of transport on a public road or rail);
- (c) pressure equipment;
- (d) tractors;
- (e) earthmoving machinery;
- (f) lasers;
- (g) scaffolds;

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- (h) temporary access equipment;
 - (i) explosive-powered tools;
 - (j) turbines;
 - (k) amusement structures.
- (2) Unless specified otherwise, this Part applies to all plant irrespective of the date on which the plant was manufactured.
- (3) Subregulations (1)(a) and (1)(b) do not include—
- (a) plant that relies exclusively on manual power for its operation; and
 - (b) plant that is designed to be primarily supported by hand.
- (4) Division 5 applies to a vehicle designed to be used primarily as a means of transport on public roads or rail, if that vehicle is being used in a workplace other than a public road or rail.

3.5.2 Hazard identification may be for classes of plant

- (1) This regulation applies to a person who—
- (a) has a duty under Part 3 of the Act to eliminate risks to health or safety in relation to plant so far as is reasonably practicable; and
 - (b) is required under this Part to identify the hazards to that health or safety.
- (2) A person referred to in subregulation (1) may carry out procedures to identify the hazards to health and safety for a class of plant rather than for an individual item of plant if—
- (a) all the plant in the class have similar functions and productive capacity; and
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- (b) the identification carried out for the class of plant does not result in any person being subject to a greater, additional or different risk to health and safety than if the identification were carried out for each individual item of plant.

Division 2—Duties of designers of plant

3.5.3 Hazard identification

A designer of plant must ensure, so far as is reasonably practicable, that all hazards associated with the use of plant are identified during the design of the plant.

Note

Act compliance—section 27 (see regulation 1.1.7).

3.5.4 Guarding

- (1) If a designer of plant uses guarding as a measure to control risk, the designer must, so far as is reasonably practicable, ensure that the guarding designed for that purpose will prevent access to the danger point or danger area of the plant.

Note

Act compliance—section 27 (see regulation 1.1.7).

- (2) If a designer of plant uses guarding as a measure to control risk, the designer must ensure that—
- (a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant, the guarding is a permanently fixed physical barrier; or

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- (b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant, the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or
 - (c) if it is not reasonably practicable to use guarding referred to in paragraph (a) or (b), the guarding used is a physical barrier that can only be altered or removed by the use of tools; or
 - (d) if it is not reasonably practicable to use guarding referred to in paragraph (a), (b) or (c), the design includes a presence-sensing safeguarding system that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Note

Act compliance—section 27 (see regulation 1.1.7).

- (3) If a designer of plant uses guarding as a measure to control risk the designer must ensure that the guarding is—
 - (a) designed to make by-passing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably possible; and
 - (b) designed so as not to cause a risk in itself.

Note

Act compliance—section 27 (see regulation 1.1.7).

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- (4) If a designer of plant—
- (a) uses guarding as a measure to control risk;
and
 - (b) the plant to be guarded contains moving parts and those parts may break or cause workpieces to be ejected from the plant—
- the designer must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.

Note

Act compliance—section 27 (see regulation 1.1.7).

- (5) Despite anything to the contrary in this regulation, any guarding a designer of plant uses as a measure to control risk in relation to plant may be of a kind that is able to be removed to allow convenient repair, servicing and maintenance of plant at any time that the plant is not in normal operation.

3.5.5 Operator's controls

- (1) A designer of plant must ensure that the design provides for any operator's controls for the plant to be—
- (a) suitably identified on the plant so as to indicate their nature and function; and
 - (b) located so as to be readily and conveniently operated by each person using the plant; and
 - (c) located or guarded to prevent unintentional activation; and
 - (d) able to be locked into the "off" position to enable the disconnection of all motive power.

Note

Act compliance—section 27 (see regulation 1.1.7).

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- (2) If the need for plant to be operated during maintenance or cleaning cannot be eliminated, the designer of the plant must ensure that the design provides for controls that—
- (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
 - (b) cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; and
 - (c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person who is carrying out the maintenance or cleaning—
 - (i) is eliminated so far as is reasonably practicable; or
 - (ii) if it is not reasonably practicable to eliminate the risk, is reduced so far as is reasonably practicable.

Note

Act compliance—section 27 (see regulation 1.1.7).

3.5.6 Operational stop controls and emergency stop devices

- (1) If plant is designed to be operated or attended by more than one person and more than one stop control is fitted, the designer of the plant must ensure that the design provides for the multiple stop controls to be of the "stop and lock-off" type so that the plant cannot be restarted after a stop control has been used unless each stop control is reset.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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- (2) If the design of the plant includes an emergency stop device for the plant, the designer of the plant must ensure that the design provides—
- (a) for the device to be prominent, clearly and durably marked and immediately accessible to each operator of the plant; and
 - (b) for any handle, bar or push button associated with the device to be coloured red; and
 - (c) that the device cannot be adversely affected by electrical or electronic circuit malfunction.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

3.5.7 Warning devices

- (1) If the design of the plant includes an emergency warning device for the plant, the designer of the plant must ensure that the design provides for the device to be positioned on the plant to ensure the device will work to best effect.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If there is a likelihood of powered mobile plant colliding with pedestrians or other powered mobile plant, the designer must ensure that the design of the plant incorporates a warning device that will warn people who may be at risk from the movement of the plant.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

3.5.8 Provision of information to manufacturer

A designer of plant must ensure, when the design of the plant is made available to the manufacturer, that the manufacturer of the plant is provided with information to enable the plant to be manufactured in accordance with the design specifications and, if applicable, with information relating to—

- (a) the installation, commissioning, decommissioning, use, transport, storage and, if the plant is capable of being dismantled, dismantling of the plant; and
- (b) the hazards and any risk associated with the use of the plant identified in accordance with this Division; and
- (c) testing or inspections to be carried out on the plant; and
- (d) the systems of work and competency of operators that are necessary for the safe use of the plant; and
- (e) the emergency procedures (if any) that are required to be implemented if there is a malfunction of the plant.

Note

Act compliance—section 27 (see regulation 1.1.7).

3.5.9 Hazard identified in design during manufacture

If a manufacturer of plant advises the designer of the plant under regulation 3.5.12(1)(c) that there is a hazard in the design of plant for which the designer has not provided a risk control, the designer must—

- (a) revise the information originally supplied to the manufacturer to ensure that—
 - (i) the risk is eliminated so far as is reasonably practicable; or

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- (ii) if it is not reasonably practicable to eliminate the risk, the risk is reduced so far as is reasonably practicable; or
 - (b) instruct the manufacturer, in writing, that the designer is of the opinion that it is not necessary to revise the information originally supplied to the manufacturer to ensure compliance with this Part.

Note

Act compliance—section 27 (see regulation 1.1.7).

3.5.10 Records and information

- (1) If the design of plant is required to be registered under Part 6.2 (Registration), the designer of that plant must make a record that contains—
 - (a) a record of the method used to determine the risk controls for the plant and the risk controls that result from that determination; and
 - (b) a copy of the information provided to a manufacturer under section 27(1)(c) of the Act in relation to that plant; and
 - (c) a copy of the information provided to a manufacturer under regulation 3.5.8 in relation to that plant; and
 - (d) if applicable, a copy of the information provided to a manufacturer under regulation 3.5.9 in relation to that plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

Regulation 3.5.47 provides for the requirement to be registered.

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- (2) A designer of plant must ensure that the record made under subregulation (1) is retained in a suitable state for inspection by the Authority for a period of 10 years after the date of registration of the design of the plant under Part 6.2 (Registration).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

If a person who designs plant is the person who registers the plant design under Part 6.2 (Registration), that person must also obtain a design verification statement in accordance with regulation 6.2.3.

3.5.11 Record of standards or engineering principles used

- (1) A designer of plant must record any published technical standard, including any part of a published technical standard, that was used to design the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) If a designer of plant does not use published technical standards to design the plant, the designer must record any engineering principles used to design the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) A designer of plant must ensure that the records made under subregulations (1) and (2) are retained in a suitable state for inspection by—

(a) the Authority; or

(b) the person who verified the design of that plant under regulation 6.2.3—

for a period of 10 years after the date on which the design or information about the design is made available to a manufacturer under regulation 3.5.8 or 3.5.9.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Duties of manufacturers of plant

3.5.12 Control of risk

- (1) A manufacturer of plant must—
 - (a) ensure that the plant is manufactured and inspected having regard to the information provided to the manufacturer by the designer of the plant under section 27(1)(c) of the Act and Division 2; and
 - (b) if the information provided to the manufacturer by the designer of the plant under section 27(1)(c) of the Act and Division 2 requires the plant to be tested, ensure that the plant is tested in accordance with that information; and
 - (c) ensure that if, during the manufacturing process, any hazard is identified in the design of the plant for which the designer has not provided a risk control—
 - (i) that hazard is not incorporated into the manufacture of the plant; and
 - (ii) the designer of the plant is advised in writing of the hazard as soon as is reasonably possible; and

- (iii) reasonable steps are taken to consult with the designer of the plant regarding the alteration of the design to rectify the hazard; and
- (d) if it is not possible to advise the designer of the hazard in accordance with paragraph (c)(ii), ensure that—
 - (i) the risk is eliminated, so far as is reasonably practicable; or
 - (ii) if it is not reasonably practicable to eliminate the risk, the risk is reduced so far as is reasonably practicable.

Note

Act compliance—section 29 (see regulation 1.1.7).

- (2) A manufacturer to whom subregulation (1)(c) applies must not manufacture the plant until—
 - (a) the designer gives the manufacturer the revised information or written instruction under regulation 3.5.9; or
 - (b) the manufacturer eliminates or reduces the risk in accordance with subregulation (1)(d).

Note

Act compliance—section 29 (see regulation 1.1.7).

- (3) If the designer instructs a manufacturer of plant in accordance with regulation 3.5.9(b), the manufacturer may proceed in accordance with the designer's original information.

3.5.13 Information must be obtained and provided

A manufacturer of plant must—

- (a) take all reasonable steps to obtain the information required to be provided to the manufacturer by the designer of the plant under section 27(1)(c) of the Act and regulation 3.5.8; and

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- (b) ensure that a person to whom the manufacturer supplies the plant is provided with the information provided to the manufacturer by the designer under sections 27(1)(c)(i) and 27(1)(c)(iii) of the Act and regulation 3.5.8 when the plant is supplied by the manufacturer; and
 - (c) if the manufacturer acts in accordance with regulation 3.5.12(1)(c), ensure that a person to whom the manufacturer supplies the plant is provided with the information, applicable to the plant, that is required to be provided by the designer under sections 27(1)(c)(i) and 27(1)(c)(iii) of the Act and regulation 3.5.9.

Note

Act compliance—section 29 (see regulation 1.1.7).

3.5.14 Records and information

- (1) A manufacturer of plant must keep—
 - (a) a record of any published technical standard, including any part of a published technical standard, used to manufacture the plant; and
 - (b) any information provided to the manufacturer by a designer under this Part or the Act in respect of the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A manufacturer of plant must ensure that the records and information referred to in subregulation (1) are retained in a suitable state for inspection by the Authority for a period of 10 years after the date of manufacture of the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 4—Duties of suppliers of plant

Subdivision 1—General

3.5.15 Application of Subdivision

This Subdivision does not apply to a person who sells plant as an agent of a supplier.

Note

In this Subdivision a supplier includes an importing supplier.

3.5.16 General duties

- (1) A supplier of plant must ensure that the hazard identification and control of risk measures set out in Divisions 2 and 3 have been carried out in relation to the design and manufacture of the plant before the plant is supplied.

Note

Act compliance—section 30 (see regulation 1.1.7).

- (2) This regulation does not apply to a requirement that may be placed on a supplier in relation to the fitting of roll-over protection on a tractor that conveys its power to the ground directly by wheels.

3.5.17 Information to be obtained and provided

- (1) A supplier of plant must—
 - (a) in the case of new plant—
 - (i) take all reasonable steps to obtain the information required to be provided to the supplier by a manufacturer under sections 29(1)(c)(i) and 29(1)(c)(iii) of the Act and regulation 3.5.13; and
 - (ii) ensure that the person to whom the plant is supplied is provided with information provided to the supplier

under sections 29(1)(c)(i) and 29(1)(c)(iii) of the Act and regulation 3.5.13 when the plant is supplied; and

- (b) in the case of used plant, ensure that the person to whom the plant is supplied is provided, at the time the plant is supplied, with—
- (i) any information referred to in paragraph (a) that is in the possession of the supplier relating to safe use of the plant; and
 - (ii) any record kept by the previous owner of the plant required under this Part that is in the possession of the supplier.

Note

Act compliance—section 30 (see regulation 1.1.7).

(2) If—

- (a) in the case of new plant, a supplier of plant is unable to obtain the information required under subregulation (1)(a) to be provided to the person to whom plant is supplied; or
- (b) in the case of used plant, a supplier of plant is not in possession of any information required under subregulation (1)(b) to be provided to the person to whom plant is supplied—

the supplier must advise the person to whom the plant is supplied, in writing, that the plant is being supplied without the information required by those provisions and that the plant should not be used as plant without that information.

Note

Act compliance—section 30 (see regulation 1.1.7).

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- (3) Subregulations (1) and (2) do not apply to a supplier of plant who supplies plant under a hire purchase agreement or hire purchase contract.
 - (4) A supplier of plant that is to be used as scrap material must, when supplying that plant to a person, advise the person in writing that the plant is intended for use as scrap material.

Note

Act compliance—section 30 (see regulation 1.1.7).

3.5.18 Roll-over protection on tractors

- (1) A supplier of plant must not supply a tractor manufactured in, or imported into, Victoria on or after 1 July 1981 unless it is fitted with roll-over protection.

Note

Act compliance—section 30 (see regulation 1.1.7).

- (2) This regulation applies only to a tractor that conveys its power directly to the ground by wheels.
 - (3) This regulation does not apply to—
 - (a) a tractor supplied for use at a workplace in circumstances in which there is no likelihood of the tractor overturning; or
 - (b) a tractor weighing less than 560 kilograms, the weight being taken in the lightest form in which the tractor is normally available for retail sale when new and without water, fuel or lubricating oil; or
 - (c) a tractor that the supplier intends to be used for parts or scrap material.
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Subdivision 2—Supplier who hires or leases plant

3.5.19 Inspection and maintenance

A supplier of plant who hires or leases plant must ensure that, between any hiring or leasing of the plant, the plant is inspected and maintained to ensure that the risk arising from the use of the plant is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—section 30 (see regulation 1.1.7).

3.5.20 Records

- (1) A supplier of plant who hires or leases plant must ensure that a record detailing any inspection or maintenance carried out on the plant under regulation 3.5.19 is made.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A supplier of plant who hires or leases plant must ensure that the record made under subregulation (1) is retained while the supplier has management or control of the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 3—Agents who sell plant

3.5.21 Information must be obtained and provided

A person who sells plant as an agent of a supplier must—

- (a) before conducting the sale, obtain the information, records or written advice (as the case may be) required under regulation 3.5.17 to be provided by a supplier to the person to whom the plant is supplied; and
- (b) ensure that the information, records or written advice (as the case may be) provided by the supplier to the agent under paragraph (a), are provided to the purchaser of the plant on completion of the sale.

Note

Act compliance—section 30 (see regulation 1.1.7).

Division 5—Duties of employers who use plant

Subdivision 1—Application of Division

3.5.22 Application of Division

In this Division a reference to plant or any class of plant in relation to an employer, means plant or a class of plant that is under the management or control of the employer.

Subdivision 2—Control of risk—generally

3.5.23 Hazard identification

- (1) Subject to subregulation (2), an employer must, so far as is reasonably practicable, identify all hazards to health and safety associated with the installation, commissioning, decommissioning,

dismantling, erection and use of plant and the systems of work associated with that plant.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) The employer's responsibilities under subregulation (1) only relate to the hazards associated with plant specifically applicable to the workplace where the plant is used or located.

3.5.24 Control of risk

- (1) An employer must ensure that any risk associated with plant is eliminated so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If it is not reasonably practicable to eliminate a risk associated with plant, an employer must reduce that risk so far as is reasonably practicable, by—
- (a) substituting the plant with plant that has a lower level of risk; or
 - (b) using engineering controls; or
 - (c) isolating the plant from people.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) If it is not reasonably practicable for an employer to reduce a risk associated with plant in accordance with subregulation (2), the employer may control that risk by the use of administrative controls or personal protective equipment.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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- (4) Nothing in this Division, except regulation 3.5.22, limits the operation of this regulation.

3.5.25 Guarding

- (1) If an employer uses guarding as a measure to control risk in relation to plant, the employer must, so far as is reasonably practicable, ensure that guarding designed for that purpose will prevent access to the danger point or area of the plant.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If an employer uses guarding as a measure to control risk in relation to plant, the employer must ensure that—
- (a) if access to the area of the plant requiring guarding is not necessary during operation, maintenance or cleaning of the plant, the guarding is a permanently fixed physical barrier; or
 - (b) if access to the area of the plant requiring guarding is necessary during operation, maintenance or cleaning of the plant, the guarding is an interlocked physical barrier that allows access to the area being guarded at times when that area does not present a risk and prevents access to that area at any other time; or
 - (c) if it is not reasonably practicable to use guarding referred to in paragraph (a) or (b), the guarding used is a physical barrier that can only be altered or removed by the use of tools; or

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- (d) if it is not reasonably practicable to use guarding referred to in paragraph (a), (b) or (c), a presence-sensing safeguarding system is used that eliminates any risk arising from the area of the plant requiring guarding while a person or any part of a person is in the area being guarded.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) An employer must ensure, so far as is reasonably practicable, that any pipe or other part of the plant associated with heat or cold, is adequately insulated or guarded in a manner that ensures that any risk to health or safety—
- (a) is eliminated, so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the risk, is reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (4) If an employer uses guarding as a measure to control risk in relation to plant the employer must ensure that the guarding—
- (a) makes by-passing or disabling of the guarding, whether deliberately or by accident, as difficult as is reasonably possible; and
 - (b) does not cause a risk in itself.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (5) If an employer—
- (a) uses guarding as a measure to control risk; and

- (b) the plant to be guarded contains moving parts and those parts may break or cause workpieces to be ejected from the plant—

the employer must ensure, so far as is reasonably practicable, that the guarding will control any risk from those broken or ejected parts and workpieces.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (6) Despite anything to the contrary in this regulation, any guarding an employer uses as a measure to control risk in relation to plant may be of a kind that is able to be removed to allow convenient repair, servicing and maintenance of plant at any time that the plant is not in normal operation.

3.5.26 Operator's controls

- (1) An employer must ensure that any operator's controls for plant are—
- (a) suitably identified on the plant so as to indicate their nature and function; and
 - (b) located so as to be readily and conveniently operated by each person using the plant; and
 - (c) located or guarded to prevent unintentional activation; and
 - (d) able to be locked into the "off" position to enable the disconnection of all motive power.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If the need for plant to be operated during maintenance or cleaning of the plant cannot be eliminated, the employer must ensure that the plant is provided with controls that—

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- (a) permit operation of the plant while a person is undertaking the maintenance or cleaning of the plant; and
 - (b) cannot be operated by any person other than the person who is carrying out the maintenance or cleaning of the plant; and
 - (c) will allow operation of the plant in such a way that any risk associated with the activities in relation to any person carrying out the maintenance or cleaning—
 - (i) is eliminated so far as is reasonably practicable; or
 - (ii) if it is not reasonably practicable to eliminate the risk, is reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.5.27 Operational stop controls and emergency stop devices

- (1) If plant is designed to be operated or attended by more than one person and more than one stop control is fitted, the employer must ensure that the multiple stop controls are of the "stop and lock-off" type so that the plant cannot be restarted after a stop control has been used unless each stop control is reset.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If the design of plant includes an emergency stop device for the plant, the employer must ensure that—
 - (a) the device is prominent, clearly and durably marked and immediately accessible to each operator of the plant; and

- (b) any handle, bar or push button associated with the device is coloured red; and
- (c) the device cannot be adversely affected by electrical or electronic circuit malfunction.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

3.5.28 Warning devices

If the design of plant includes an emergency warning device for the plant, the employer must ensure that the device is positioned on the plant to ensure the device will work to best effect.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

3.5.29 Installation, etc. of plant

An employer must ensure that—

- (a) plant is installed or erected to provide sufficient clear working area around the plant to allow the plant to be used in a manner that—
 - (i) eliminates the risk associated with the activity, so far as is reasonably practicable; or
 - (ii) if it is not reasonably practicable to eliminate the risk, reduces the risk so far as is reasonably practicable; and
- (b) so far as is reasonably practicable, the layout of plant in the workplace does not affect access and egress to and from the workplace to the extent that it presents a risk; and
- (c) the plant is not commissioned unless the employer has established, so far as is reasonably practicable, that it is safe to commission the plant; and

- (d) the plant is not decommissioned unless the employer has established, so far as is reasonably practicable, that it is safe to decommission the plant; and
- (e) the installation, erection, commissioning and decommissioning and dismantling processes include inspections that will ensure that the risk associated with these activities is monitored.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.5.30 Use of plant

An employer must ensure that—

- (a) plant is inspected to the extent necessary to ensure that the risk associated with the use of the plant is monitored; and
- (b) measures are provided to prevent—
 - (i) alterations to the plant that have not been permitted by the employer; or
 - (ii) interference with the plant.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.5.31 Record of inspections and maintenance

If plant is required to be registered under Part 6.2 (Registration), an employer must ensure that any record of inspections and maintenance carried out on the plant is retained for the period that the employer has management or control of the plant.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

See regulation 3.5.50.

3.5.32 Plant not in use

An employer must ensure that when plant is not in use it is left in a state that does not create a risk, so far as is reasonably practicable, for any person.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

Subdivision 3—Control of risk in relation to specific plant

3.5.33 Subdivision not to limit regulations 3.5.24 to 3.5.32

Nothing in this Subdivision limits the duties, requirements, obligations or liability of an employer under regulations 3.5.24 to 3.5.32.

3.5.34 Powered mobile plant

- (1) An employer must ensure that the risk of—
 - (a) powered mobile plant overturning; or
 - (b) objects falling on the operator of the plant; or
 - (c) the operator being ejected from the plant—is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) The employer must ensure that, so far as is reasonably practicable, an appropriate combination of operator protective devices is provided, maintained and used to reduce, so far as is reasonably practicable, the risks to the operator set out in subregulation (1).

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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- (3) Subregulation (2) does not apply in relation to the fitting of roll-over protection on a tractor that conveys its power to the ground directly by wheels.

Note

See regulation 3.5.36.

- (4) An employer must ensure that the risk of powered mobile plant colliding with pedestrians or other powered mobile plant is—
- (a) eliminated so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (5) An employer must ensure, so far as is reasonably practicable, that no person, other than the operator, rides on powered mobile plant unless the person is afforded a level of protection from exposure to a risk that is equivalent to that provided to the operator.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.5.35 Warning devices on powered mobile plant

If there is a likelihood of powered mobile plant colliding with pedestrians or other powered mobile plant, an employer must ensure that the plant has a warning device that will warn people who may be at risk from the movement of the plant.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

3.5.36 Roll-over protection on tractors

- (1) An employer must ensure that a tractor is not used at the employer's workplace unless it is fitted with roll-over protection.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) This regulation only applies to a tractor that conveys its power directly to the ground by wheels.
 - (3) This regulation does not apply to—
 - (a) a tractor manufactured in, or imported into, Victoria before 1 July 1981 if it is not reasonably practicable to fit roll-over protection to the tractor; or
 - (b) a tractor used at a workplace in circumstances in which there is no likelihood of the tractor overturning; or
 - (c) a tractor that is fitted with roll-over protection that has been temporarily removed or lowered for the period during which it is being used under a tree or other vegetation or in another place where there is insufficient space for the tractor to operate effectively while the roll-over protection is fitted; or
 - (d) a tractor weighing less than 560 kilograms, the weight being taken in the lightest form in which the tractor is normally available for retail sale when new and without water, fuel or lubricating oil.
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3.5.37 Industrial lift trucks

- (1) An employer must ensure that an industrial lift truck is—
 - (a) equipped with lifting attachments that are appropriate to the load to be lifted or moved; and
 - (b) used in a manner that ensures that the risk to the operator of the truck that arises from systems of work and the environment in which the truck is used is eliminated so far as is reasonably practicable or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) An employer must ensure that any person, other than the operator, who rides on an industrial lift truck, is seated in a seat that is—
 - (a) specifically designed for carrying a passenger; and
 - (b) fitted with appropriate seat restraints; and
 - (c) located within the zone of protection that is provided by the operator protective device required to be fitted to the industrial lift truck.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.5.38 Warning devices on industrial lift trucks

An employer must ensure that an industrial lift truck is fitted with warning devices that are appropriate to effectively warn people who may be at risk from the movement of the industrial lift truck.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

3.5.39 Electrical plant and electrical hazards

An employer must, in respect of electrical plant and plant exposed to an electrical hazard, ensure that—

- (a) if damage to plant presents an electrical hazard, the plant is disconnected from the power supply and is not used until the damaged part is repaired or replaced; and
- (b) electrical plant or plant that is exposed to an electrical hazard is not used under conditions that are likely to give rise to electrical hazards; and
- (c) appropriate permit to work systems are provided to avoid inadvertent energising of plant that has been isolated but not physically disconnected from the electrical supply.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.5.40 Plant used to lift or suspend loads

- (1) This regulation does not apply to plant used in connection with—
 - (a) the performance of stunt work; or
 - (b) the performance of acrobatics; or
 - (c) a theatrical performance.

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- (2) In respect of plant that is used to lift or suspend people, equipment or materials, an employer must ensure that—
- (a) so far as is reasonably practicable, the plant is specifically designed to lift or suspend those loads; and
 - (b) all lifting or suspending is carried out—
 - (i) with lifting attachments that are appropriate to the load to be lifted or suspended; and
 - (ii) within the safe working limits of the plant; and
 - (c) subject to subregulation (4), so far as is reasonably practicable, no loads are suspended over, or travel over, a person; and
 - (d) loads are lifted or suspended in a way that ensures that the load remains under control during the activity; and
 - (e) so far as is reasonably practicable, no load is lifted simultaneously by more than one piece of plant.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) If it is not reasonably practicable to use plant to lift or suspend loads that is specifically designed for the purpose, the employer must ensure that—
- (a) the plant used to lift or suspend the load does not cause a greater risk than if specifically designed plant were to be used; and
 - (b) if the plant is lifting or suspending people—
 - (i) the people are lifted or suspended in a work box that is securely attached to the plant; and

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- (ii) the people in the work box substantially remain within the confines of the work box while they are being lifted or suspended; and
- (iii) 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 to the person as a result of the fall; and
- (iv) means are provided by which the people being lifted or suspended can have safe egress from the plant in the event of a failure in the normal operation of the plant.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (4) Subregulation (2)(c) does not apply to plant that is an amusement structure.

3.5.41 Lifts

- (1) This regulation applies to a lift over which an employer has management or control, including a lift over which the employer has management or control of its maintenance.
- (2) An employer must ensure that—
 - (a) if there is a risk of a person falling down a lift well—
 - (i) secure barriers are provided to preclude access to openings into the lift well by someone other than a person who is performing work in the lift well; and

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- (ii) secure working platforms or equivalent arrangements are provided for a person who is working in the lift well to prevent a fall from height; and
 - (b) if there is a risk to a person working in a lift well as a result of objects falling on to that person, a secure barrier is provided to prevent, so far as is reasonably practicable, falling objects from striking the person or otherwise causing a risk; and
 - (c) if there is a risk to a person working in a lift well as a result of movement of a lift car, measures are taken to ensure the risk is eliminated or, if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) If a lift is required to be registered under Part 6.2 (Registration), an employer must ensure that any risk to people travelling in the lift, associated with the use of a lift, is—
 - (a) eliminated so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 1.1.7).
- 2 Regulation 3.5.50 for the requirement to be registered.

3.5.42 Notice of safe working load of lift

If regulation 3.5.41(3) applies to an employer in respect of a lift, the employer must ensure that there is fixed, in a conspicuous place in the lift, a legible notice that states the safe working load specified in the design of the lift.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

3.5.43 Scaffolds

An employer must ensure, in relation to scaffolds, that—

- (a) no work, other than the work of erecting or dismantling the scaffold, is performed from a scaffold unless the scaffold, or the relevant part of the scaffold, is complete; and
- (b) the scaffold is secure and capable of supporting the work to be performed on the scaffold; and
- (c) on becoming aware that the scaffold or its supporting structure is in an unsafe condition, appropriate repairs, alterations or additions are carried out before the relevant part of the scaffold is used; and
- (d) if a scaffold is left unattended, people who would not ordinarily be using the scaffold are prevented, so far as is reasonably practicable, from gaining access to the scaffold.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

Subdivision 4—Other duties

3.5.44 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks in relation to plant or its associated systems of work are reviewed and, if necessary, revised—
 - (a) before the plant is used for the first time in a workplace; or
 - (b) before any alteration is made to the plant or any change is made in the way the plant is used or in its associated systems of work, including a change in the location of the plant; or
 - (c) if new or additional information about hazards or risks relating to the plant or its associated systems of work becomes available to the employer; or
 - (d) after any incident occurs to which Part 5 of the Act applies that involves the plant or its associated systems of work; or
 - (e) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (f) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(f) if the health and safety representative believes on reasonable grounds that—

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- (a) any of the circumstances referred to in subregulations (1)(a) to (1)(e) exists; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulations (1)(a) to (1)(e) in conducting a review of, or revising, the risk control measures.

3.5.45 Information, instruction and training

- (1) This regulation applies in addition to the requirements of regulation 2.1.2.
- (2) This regulation applies if a hazard related to plant and its associated systems of work is identified under regulation 3.5.23.
- (3) The employer must ensure that employees likely to be exposed to the risk, and any person supervising the employees, are trained and provided with information and instruction in—
 - (a) the processes used for hazard identification and control of risk; and
 - (b) the safety procedures associated with the use of the plant at the workplace; and
 - (c) the use, fit, testing and storage of personal protective equipment, if personal protective equipment forms part of the risk control measures.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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- (4) The employer must ensure that any person involved in a plant activity is provided with information, which is available to the employer, on how the activity can be carried out so as to ensure the risk to the person while carrying out the activity is—
- (a) eliminated so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (5) The duties of an employer under subregulation (3) in respect of lifts do not apply to employees who travel in a lift, other than employees who perform work on the lift.
- (6) In this regulation *plant activity* means—
- (a) commissioning or installing plant; or
 - (b) testing of plant; or
 - (c) decommissioning, dismantling or disposal of plant; or
 - (d) inspection or maintenance of plant.

Division 6—Duties of self-employed persons

3.5.46 Self-employed person to have the same duties as employer

- (1) A self-employed person must comply with the requirements of Division 5 (except regulation 3.5.45) as if that person were an employer.

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- (2) If a provision of Division 5 is an Act compliance provision, compliance by a self-employed person with that provision in respect of a matter is the way that the self-employed person complies with the self-employed person's duty under section 24 of the Act in respect of that matter.
 - (3) A self-employed person's duties under this regulation apply only so far as to ensure, so far as is reasonably practicable, that persons are not exposed to risks to their health and safety arising from the conduct of the undertaking of the self-employed person.

Division 7—Plant designs and items of plant to be registered

Subdivision 1—Registration of plant designs

3.5.47 Plant designs to be registered

- (1) The design of an item of plant specified in Part 1 of Schedule 2, must be registered in accordance with Part 6.2 (Registration).

Notes

- 1 See section 40(2) of the Act.
 - 2 Part 6.2 (Registration) sets out the process for obtaining registration.
 - 3 See regulation 8.1.3 for the saving of existing registrations.
- (2) Subregulation (1) does not apply to a design that was started before 1 July 1995.

3.5.48 Altered plant designs to be registered

- (1) If the design of an item of plant specified in Part 1 of Schedule 2 that is registered under Part 6.2 (Registration) is altered to an extent that the plant is subject to new measures to control risk, the altered design must be registered in accordance with Part 6.2 (Registration).

Note

See section 40(2) of the Act.

- (2) An altered design of an item of plant must also be registered in accordance with Part 6.2 (Registration) if—
- (a) the design of the plant before it was altered was not required to be registered under Part 6.2 because of regulation 3.5.47(2) or 3.5.49; and
 - (b) the design is altered to an extent that the plant is subject to new measures to control risk; and
 - (c) in the case of an alteration to a design referred to in regulation 3.5.49, the altered design has not been registered by the corresponding Authority that registered the original plant design.

Note

See section 40(2) of the Act.

3.5.49 Recognition of interstate designs

- (1) A design of an item of plant is not required to be registered under Part 6.2 (Registration) if the design has been registered by a corresponding Authority under statutory requirements that are substantially equivalent to that Part.

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- (2) A design referred to in subregulation (1) that is altered is not required to be registered under Part 6.2 (Registration) if the altered design has been registered by the corresponding Authority that registered the original plant design.
- (3) Subregulations (1) and (2) do not apply to a registration by a corresponding Authority if the Victorian WorkCover Authority determines that this regulation is not to apply to that class of registration.

Note

The **Mutual Recognition (Victoria) Act 1998** may apply.

- (4) In this regulation *registration by a corresponding Authority* includes confirmation or approval by that corresponding Authority.

Subdivision 2—Registration of items of plant

3.5.50 Items of plant to be registered

An item of plant specified in Part 2 of Schedule 2 must be registered in accordance with Part 6.2 (Registration).

Notes

- 1 See section 40(2) of the Act.
- 2 Part 6.2 (Registration) sets out the process for obtaining registration.
- 3 See regulation 8.1.3 for the saving of existing registrations.

3.5.51 Recognition of interstate registration

- (1) An item of plant is not required to be registered under Part 6.2 (Registration) if the plant has been registered by a corresponding Authority under statutory requirements that are substantially equivalent to that Part.

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- (2) Subregulation (1) does not apply to a registration by a corresponding Authority if the Victorian WorkCover Authority determines that this regulation is not to apply to that class of registration.

Note

The **Mutual Recognition (Victoria) Act 1998** may also apply.

- (3) In this regulation *registration by a corresponding Authority* includes confirmation or approval by that corresponding Authority.
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PART 3.6—HIGH RISK WORK

Division 1—Requirement to be licensed

3.6.1 Requirement to hold a licence

- (1) Subject to regulation 3.6.3, a person must not do any high risk work unless he or she holds an appropriate high risk work licence in relation to the work.

Notes

- 1 See section 40(4) of the Act.
 - 2 Part 6.1 (Licences) sets out the process for obtaining a high risk work licence.
 - 3 Regulation 8.2.3 provides for existing certificates of competency to continue to have effect as if they were licences for a specified period.
- (2) A person who holds a high risk work licence for rigging work is not required to also hold a high risk work licence for crane or hoist operation for the purpose of setting up or dismantling a crane or hoist if the operation of the crane or hoist is integral to the setting up or dismantling of the crane or hoist.

3.6.2 Employer must not use unlicensed employees to do high risk work

An employer must not allow an employee to do any high risk work unless—

- (a) the employee holds an appropriate high risk work licence in relation to that work; or

(b) regulation 3.6.3(1)(a) or 3.6.3(1)(b) applies to the employee.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Note

Regulation 7.2.2 enables an employer to seek an exemption from this subregulation in relation to particular high risk work.

3.6.3 Exceptions

- (1) Regulation 3.6.1(1) does not apply to a person—
- (a) who is undertaking training for the purpose of obtaining a high risk work licence; or
 - (b) who is a person who is authorised to work under regulation 3.6.10; or
 - (c) who is performing work under the terms of an exemption granted to the person's employer under regulation 7.2.2.

Note

Regulation 7.2.2 enables an employer to seek an exemption in relation to particular high risk work.

- (2) Regulations 3.6.1 and 3.6.2 do not apply to prevent a person from operating, or employing another person to operate, any of the classes of pressure equipment listed in Schedule 4 if the conditions (if any) set out in Schedule 4 in relation to that equipment have been, or are being (as the case may be), complied with.

3.6.4 Recognition of interstate licences

- (1) In this Division, a reference to a high risk work licence includes a reference to an equivalent licence or certificate—
- (a) that was issued by a corresponding Authority; and

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- (b) that is being used in accordance with the terms and conditions under which it was granted.
- (2) Subregulation (1) does not apply to—
- (a) a licence or certificate that is presently suspended (either wholly or in relation to the work being performed) in Victoria or another Australian jurisdiction; or
 - (b) a licence or certificate if the Authority has determined that this regulation is not to apply to that class of licence or certificate.

Note

The **Mutual Recognition (Victoria) Act 1998** may also apply.

Division 2—Training

3.6.5 Person in training to be under direct supervision

- (1) An employer of a trainee performing high risk work at the workplace must ensure—
- (a) that the trainee receives the directions, demonstrations and monitoring appropriate to the tasks assigned to the trainee and the competence of the trainee so that the trainee can perform the work in a manner that is safe and without risks to health; and
 - (b) that should an emergency involving the trainee arise, action to immediately rectify any dangerous situation can be taken; and
 - (c) that the trainee is always under direct supervision unless the person who oversees the practical training of the trainee reasonably believes—
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- (i) that the circumstances of a particular task make such direct supervision impracticable or unnecessary; and
 - (ii) that the level of competence of the trainee is such that direct supervision in relation to that task is unnecessary; and
 - (iii) that the lesser degree of supervision will not place the trainee or any other person at risk.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) The employer must ensure that the direct supervisor of a trainee is authorised by the employer to oversee the trainee, and is a person who holds a relevant high risk work licence.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

3.6.6 Person conducting training must ensure supervision

If a person who is undertaking a training course or program carries out high risk work as part of the course or program, the person or body conducting the course or program must comply with all obligations placed on an employer by regulation 3.6.5 in respect of the person undertaking the training.

Note

Act compliance—sections 23 and 24 (see regulation 1.1.7).

Division 3—Assessments of competency

3.6.7 How to obtain an assessment of competency

- (1) A person may apply to a licence assessor for an assessment of the person's competency to safely perform particular high risk work to the standard set by the relevant competency standard.

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- (2) After carrying out the assessment of the applicant—
- (a) if the licence assessor is satisfied that the applicant can meet the performance criteria that apply to each element of competency in the relevant competency standard under workplace conditions, the licence assessor must give the applicant a written notice stating that the licence assessor is of that opinion; or
 - (b) if the licence assessor is not so satisfied, the licence assessor must give the applicant a written notice stating that opinion and the reasons why the licence assessor is of that opinion.
- (3) An applicant is entitled to be heard by the licence assessor in relation to any action taken under subregulation (2)(b).

3.6.8 Method of assessment

- (1) A licence assessor must carry out any assessment made for the purposes of regulation 3.6.7 in accordance with the assessment instruments and procedures for conducting assessments that the Authority issues from time to time and makes available to the licence assessor.
- Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (2) The Authority may include in the assessment instruments—
- (a) techniques for directly observing the applicant's performance of the work or skill under workplace conditions;
 - (b) simulated work-related tasks to be undertaken;
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- (c) checklists to be completed by the applicant;
 - (d) projects or assignments to be completed by the applicant;
 - (e) test questions;
 - (f) any other methods of assessment.

3.6.9 Process for re-assessment

An applicant who receives a notice of unsatisfactory assessment under regulation 3.6.7(2)(b) may apply to a licence assessor for a re-assessment.

3.6.10 Person may work while application is being processed

- (1) This regulation applies to a person who has been issued with—
 - (a) a statement of attainment; or
 - (b) a notice of a satisfactory assessment of competency under regulation 3.6.7(2)(a).
- (2) The person may perform any work to which the statement or notice applies—
 - (a) for 60 days after the date of issue of the statement or notice; and
 - (b) if the person applies for a licence within that 60 day period, until he or she is granted the licence or until 14 days after he or she is given written notice that the application has been refused.

3.6.11 Authorisation to carry out assessments of competency

- (1) The Authority may authorise a person to carry out assessments of competency in relation to a class or classes of high risk work for the purpose of these Regulations, for a specified period of time.

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- (2) The authorisation must be in writing and specify the class or classes of high risk work to which it applies.
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CHAPTER 4—HAZARDOUS SUBSTANCES AND MATERIALS

PART 4.1—HAZARDOUS SUBSTANCES

Division 1—Introductory matters

4.1.1 Application of Part

- (1) This Part does not apply to the following classes of substance if the use of the substance is not related to a work activity—
 - (a) food within the meaning of the **Food Act 1984**; or
 - (b) therapeutic goods within the meaning of the **Therapeutic Goods (Victoria) Act 1994**; or
 - (c) cosmetics; or
 - (d) tobacco or products made of tobacco; or
 - (e) toiletries and toilet products.
- (2) This Part does not apply to—
 - (a) any culture or preparation of pathogenic micro-organisms or other material capable of causing disease in humans in respect of which regulations may be made under section 146(1)(n) of the **Health Act 1958**; or
 - (b) radioactive materials within the meaning of the **Radiation Act 2005**; or
 - (c) asbestos.
- (3) This Part applies to scheduled carcinogenic substances.
- (4) This Part does not apply to the transport of hazardous substances.

Division 2—Duties of manufacturers and suppliers

Subdivision 1—Introductory matters

4.1.2 Application of Division

- (1) This Division applies to the manufacture and supply of hazardous substances, including hazardous substances containing lead.

Note

Supply includes supply of hazardous substances by an importing supplier.

- (2) In this Division, the duties of a manufacturer only apply to the manufacture of a substance at a workplace for sale or exchange to another workplace.
- (3) In this Division, the duties of a manufacturer or a supplier do not apply in relation to a substance that is produced as a waste—
- (a) during the process of manufacturing a substance; or
 - (b) when a substance is used at a workplace—
- unless the waste is produced for the purpose of sale or exchange to a workplace.

4.1.3 Certain regulations not to apply

Subdivision 2, and regulations 4.1.5 and 4.1.9 do not apply to a substance supplied to a workplace for the purpose of determining whether the substance is a hazardous substance.

Subdivision 2—Determination of substances

4.1.4 Determination of hazardous substances

- (1) A manufacturer or an importing supplier of a substance must determine whether a substance is a hazardous substance before the substance is first supplied to a workplace.

Notes

- 1 Act compliance—sections 29 and 30 (see regulation 1.1.7).
 - 2 A manufacturer or importing supplier must refer to the HSIS or the Approved Criteria for Classifying Hazardous Substances in making this determination: see the definition of *hazardous substance* in regulation 1.1.5.
- (2) Subregulation (1) does not apply to a substance if a determination in relation to that substance has already been made under equivalent legislation.

Subdivision 3—Material Safety Data Sheet

4.1.5 Preparation of an MSDS

- (1) A manufacturer or an importing supplier of a hazardous substance must ensure that a Material Safety Data Sheet is prepared in accordance with regulation 4.1.6 before the substance is first supplied to a workplace.

Note

- Act compliance—sections 29 and 30 (see regulation 1.1.7).
- (2) Subregulation (1) does not apply to a manufacturer or an importing supplier who has already prepared a Material Safety Data Sheet for the substance in accordance with equivalent legislation.

4.1.6 What must an MSDS contain?

- (1) The Material Safety Data Sheet for a hazardous substance must be in English and be legible and must contain—
 - (a) the product name of the substance; and
 - (b) the name, address and telephone number of—
 - (i) the manufacturer of the substance in Australia; or
 - (ii) the importing supplier in Australia of the substance; and
 - (c) an Australian telephone number where information about the substance can be obtained in an emergency; and
 - (d) the date of preparation or last review of the MSDS; and
 - (e) a statement that the substance is a hazardous substance; and
 - (f) the hazard classification of the substance determined in accordance with the HSIS or the Approved Criteria for Classifying Hazardous Substances; and
 - (g) the risk phrase and safety phrase for the substance; and
 - (h) the chemical name for each Type I ingredient; and
 - (i) for each Type II ingredient—
 - (i) its chemical name; or
 - (ii) if the identity of the ingredient is commercially confidential, its generic name; and

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- (j) for each Type III ingredient which has a known synergistic effect with another ingredient that makes up the hazardous substance—
 - (i) its chemical name; or
 - (ii) if the identity of the ingredient is commercially confidential, its generic name; and
 - (k) the proportion or proportion ranges for each ingredient identified in paragraphs (h), (i) and (j); and
 - (l) first aid measures to be taken in the event of an incident or exposure involving the substance; and
 - (m) emergency procedures to apply in the event of an incident or exposure involving the substance; and
 - (n) precautions for the safe use of the substance including engineering controls and personal protective equipment; and
 - (o) precautions for the safe storage and disposal of the substance; and
 - (p) the exposure standard (if any) for the substance or its ingredients; and
 - (q) the physical and chemical properties of the substance or its ingredients including any hazardous decomposition products likely to be generated during normal use; and
 - (r) information on the health effects of the substance or its ingredients.
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- (2) Nothing in subregulation (1) prevents a manufacturer or importing supplier from preparing an MSDS with the information required by that subregulation in appropriate languages in addition to English.

4.1.7 Review and revision of MSDS

A manufacturer or an importing supplier of a hazardous substance must ensure that the MSDS for a substance is reviewed—

- (a) as often as is necessary to ensure that the MSDS contains current and accurate information; and
- (b) at least every 5 years.

Note

Act compliance—sections 29 and 30 (see regulation 1.1.7).

4.1.8 Duty to provide current MSDS

- (1) A manufacturer or supplier of a hazardous substance must ensure that a copy of the current MSDS for the substance is provided—
- (a) to any person to whom the substance is supplied on or before the first occasion that the substance is supplied to that person; and
 - (b) if the MSDS is reviewed, to any person to whom the substance is supplied on or before the first occasion that the substance is supplied to that person after the review; and
 - (c) to any employer who intends to use that hazardous substance in a workplace, on request.

Notes

- 1 Act compliance—sections 29 and 30 (see regulation 1.1.7).
- 2 In subregulation (1) a reference to "supplier" includes importing supplier.

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- (2) Subregulation (1) does not apply—
- (a) to a retailer or a retail warehouse operator if the hazardous substance is supplied in a consumer package; or
 - (b) if the hazardous substance is supplied to the fuel tank of a vehicle as fuel for that vehicle.

Subdivision 4—Labels

4.1.9 Manufacturers and importing suppliers must label containers

- (1) A manufacturer or an importing supplier of a hazardous substance must label any container that contains a hazardous substance in accordance with subregulation (3) before the substance is supplied to a workplace.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) Subregulation (1) does not apply if a container of hazardous substance is supplied to a workplace for the purposes of affixing the label in order to comply with this regulation.
- (3) The label must be in English, be legible and be firmly secured, and must contain—
- (a) the product name of the hazardous substance; and
 - (b) the name, address and telephone number of—
 - (i) the manufacturer of the substance in Australia; or
 - (ii) the importing supplier of the substance in Australia; and
 - (c) the chemical name for each Type I ingredient; and

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- (d) for each Type II ingredient—
 - (i) its chemical name; or
 - (ii) if the identity of the ingredient is commercially confidential, its generic name; and
 - (e) any relevant health and safety information about the substance, including the substance's risk phrases and safety phrases, unless the container is so small that it is not practical to provide that information; and
 - (f) the word "hazardous" clearly and prominently displayed.
- (4) Nothing in subregulation (1) prevents a manufacturer or importing supplier from labelling a container with the information required by that subregulation in appropriate languages in addition to English.

4.1.10 Recognition of other labelling systems

- (1) A manufacturer or an importing supplier of a hazardous substance need not comply with regulation 4.1.9 (other than subregulation (3)(f)) if—
 - (a) the container is labelled in accordance with equivalent legislation; or
 - (b) the substance is an agricultural chemical product within the meaning of the AgVet Code of Victoria and the container is labelled in accordance with the Ag Labelling Code; or
 - (c) the substance is a veterinary chemical product within the meaning of the AgVet Code of Victoria and the container is labelled in accordance with the Vet Labelling Code; or

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- (d) the substance is "therapeutic goods" within the meaning of the **Therapeutic Goods (Victoria) Act 1994** and the container is labelled in accordance with an order in force under section 10 of the Therapeutic Goods Act 1989 of the Commonwealth; or
- (e) the substance is a poison or controlled substance within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981** and the container is labelled in accordance with the Poisons Standard within the meaning of Part 6-3 of the Therapeutic Goods Act 1989 of the Commonwealth.
- (2) A manufacturer or an importing supplier of a hazardous substance need not comply with regulation 4.1.9(3)(f) if the manufacturer or importing supplier complies with subregulation (1) and is required to provide signal words to be clearly and prominently displayed on the label for that compliance.
- (3) In this regulation—
- Ag Labelling Code** means the Ag Labelling Code published by the APVMA on its Internet site;
- AgVet Code of Victoria** has the same meaning as it has in the **Agricultural and Veterinary Chemicals (Victoria) Act 1994**;
- APVMA** means Australian Pesticides and Veterinary Medicines Authority continued in existence by the Agricultural and Veterinary Chemicals (Administration) Act 1992 of the Commonwealth;
- Vet Labelling Code** means the Vet Labelling Code published by the APVMA on its Internet site.
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4.1.11 Supplier must ensure container is labelled

A supplier (other than an importing supplier) of a hazardous substance must ensure that the container in which the substance is supplied to a workplace is labelled with the manufacturer's or the importing supplier's label.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.1.12 Disclosure of chemical name to registered medical practitioner

A manufacturer or an importing supplier of a hazardous substance must immediately disclose the chemical name of an ingredient of a hazardous substance to a registered medical practitioner if—

- (a) the MSDS for the substance, or the label on the container in which the substance is supplied, does not disclose the chemical name of the ingredient; and
- (b) the registered medical practitioner requests the chemical name of the ingredient to assist with the management of a patient.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Division 3—Duties of employers and self-employed persons

Subdivision 1—Prohibited hazardous substances

4.1.13 Prohibited hazardous substances

An employer or a self-employed person must ensure that any hazardous substance—

- (a) listed in Schedule 2 to the National Model Regulations for the Control of Workplace

Hazardous Substances as a prohibited substance; or

- (b) listed in Schedule 5 to these Regulations; or
- (c) determined by the Authority to be a prohibited substance—

is not used at the employer's or self-employed person's workplace for any purpose specified in those Schedules or that determination in respect of that substance.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

Subdivision 2—Duties of employer

4.1.14 Application of Subdivision

- (1) This Subdivision applies to—
 - (a) substances that have been determined under regulation 4.1.4 or under equivalent legislation to be hazardous substances and are supplied to a workplace; and
 - (b) substances listed on the HSIS that are produced or generated at a workplace from non-hazardous substances.

Example

Examples of substances produced or generated at a workplace from non-hazardous substances may include welding fumes, wood dust, silica from grinding or cutting silica-containing materials and lead from the hand sanding of lead paint.

Note

An employer is not required to comply with Division 2 in relation to a hazardous substance produced or generated at the employer's workplace unless it is produced for sale or exchange to another workplace. See regulation 4.1.2.

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- (2) Except as provided in subregulation (3) this Subdivision does not apply to lead metal, lead alloys or inorganic lead compounds (including lead salts of organic acids) in a prescribed lead process under Part 4.4 (Lead), at a workplace.

Note

The use of organic lead compounds, such as tetraethyl lead, is covered by this Part and not Part 4.4 (Lead).

- (3) Regulations 4.1.15 to 4.1.21 and 4.1.23—
- (a) apply to a hazardous substance containing lead; and
 - (b) do not apply to the substances referred to in subregulation (1)(b).
- (4) In this Subdivision, a reference to a risk associated with a hazardous substance at a workplace includes a risk associated with—
- (a) any consequential product, waste or intermediate product generated at a workplace from a supplied hazardous substance; and
 - (b) any hazardous substance listed on the HSIS that is produced or generated at a workplace from a non-hazardous substance.

4.1.15 MSDS to be obtained

An employer must ensure that a current MSDS is obtained on or before the first occasion that a hazardous substance is supplied to the employer's workplace.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.1.16 Currency of MSDS

An employer must make reasonable inquiries as to the currency of an MSDS obtained by the employer if it was prepared more than 5 years before the hazardous substance to which it relates was supplied to the employer and the MSDS had not been reviewed during that 5 year period.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.1.17 MSDS must be readily accessible

- (1) An employer must ensure that the current MSDS for a hazardous substance is readily accessible to any employee who may be exposed to the substance.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) Nothing in regulation 4.1.6 prevents an employer from making the current MSDS accessible to employees in appropriate languages in addition to English.

4.1.18 Information in MSDS must not be altered

An employer must ensure that the information in a current MSDS obtained under regulation 4.1.15 is not altered.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.1.19 Containers must be labelled

- (1) An employer must ensure that a container in which a hazardous substance is supplied to the employer's workplace is labelled with the manufacturer's or the importing supplier's label.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer must ensure that the label on a container in which a hazardous substance is supplied to the employer's workplace—

- (a) remains legible; and
- (b) is not removed, defaced or altered.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (3) An employer must ensure that if a hazardous substance is decanted into a container at the employer's workplace—

- (a) the container is clearly labelled with the product name of the substance; or
- (b) if it is not practical to label the container with the product name of the substance, the employer uses some other means of identifying the substance.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (4) An employer is not required to comply with subregulation (3) if a decanted substance is consumed immediately and the container is then immediately—

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- (a) cleaned to the extent that it is not a risk to health; or
 - (b) neutralised, cured or chemically deactivated to the extent that any residue is not a risk to health.

4.1.20 How long must a container be labelled?

If a container that contains a hazardous substance is required to be labelled under regulation 4.1.19, the employer must ensure that the container remains labelled until—

- (a) it has been cleaned to the extent that it is not a risk to health; or
- (b) its contents have been neutralised, cured or chemically deactivated to the extent that any residue is not a risk to health.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.1.21 Identification of hazardous substances in plant

An employer must ensure that a hazardous substance contained in a pipe, piping system, process vessel, reactor vessel or any plant that forms part of a manufacturing process is identified to employees who may be exposed to the substance.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.1.22 Identification of containers of waste

An employer must ensure that containers of waste produced or generated in a workplace from a hazardous substance are identified.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 1.1.7).
- 2 An employer is not required to comply with Division 2 in relation to the waste unless the waste is produced for sale or exchange for use at a workplace. See regulation 4.1.2.

4.1.23 Register of hazardous substances

- (1) An employer must ensure that a register is prepared and maintained in accordance with subregulation (2) of all hazardous substances supplied to the employer's workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The register must contain—
 - (a) a list of the product names of the hazardous substances supplied to the employer's workplace; and
 - (b) a copy of the MSDS for each of the hazardous substances supplied to the employer's workplace.

- (3) An employer must ensure that the register is readily accessible to any employee who may be exposed to a hazardous substance at the employer's workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) An employer is not required to comply with subregulation (1) if the employer is a retailer or a retail warehouse operator and—

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- (a) the hazardous substance is supplied in a consumer package; and
 - (b) the consumer package is intended for retail sale; and
 - (c) the consumer package is not intended to be opened on the premises of the retailer or retail warehouse operator.

Note

This regulation does not exempt an employer who is a retailer or retail warehouse operator from the duty under—

- (a) regulation 4.1.15 to obtain an MSDS for each hazardous substance used in his or her workplace or intended for retail sale; or
- (b) subregulation (1) to prepare and maintain a register in relation to each hazardous substance opened on the premises of his or her workplace.

4.1.24 Control of risk

- (1) An employer must eliminate so far as is reasonably practicable any risk associated with hazardous substances at the employer's workplace.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If it is not reasonably practicable to eliminate a risk associated with hazardous substances at the employer's workplace, the employer must reduce that risk, so far as is reasonably practicable, by—
 - (a) substituting the substance with—
 - (i) a substance that is less hazardous; or
 - (ii) a less hazardous form of the substance; or
 - (b) isolating employees from the source of exposure to the hazardous substance; or
 - (c) using engineering controls; or

- (d) combining any of the risk control measures in paragraphs (a), (b) and (c).

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) If an employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with a hazardous substance at the workplace remains, the employer must use administrative controls to reduce the risk, so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (4) If an employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with a hazardous substance at the workplace remains, the employer must control the risk by providing appropriate personal protective equipment to employees at risk.

Note

Act compliance—section 21 (see regulation 1.1.7).

4.1.25 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks in relation to hazardous substances in the workplace are reviewed and, if necessary, revised—
- (a) before any alteration is made to systems of work that is likely to result in changes to risks associated with hazardous substances in the workplace; or
 - (b) if the employer receives advice from a registered medical practitioner under regulation 4.1.30(3)(c)(i) that adverse health effects have been identified by the health surveillance; or

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- (c) after any incident occurs to which Part 5 of the Act applies that involves a hazardous substance in the workplace; or
 - (d) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (e) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(e) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulations (1)(a) to (1)(d) exist; or
 - (b) the employer has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulations (1)(a) to (1)(d) in conducting a review of or revising the risk control measures.

4.1.26 Exposure standard must not be exceeded

An employer must ensure that an employee is not exposed to an atmospheric concentration of a hazardous substance supplied to or generated at the workplace above the exposure standard (if any) for the substance or any of its ingredients.

Note

Act compliance—section 21 (see regulation 1.1.7).

4.1.27 Atmospheric monitoring

- (1) An employer must ensure that atmospheric monitoring is carried out in respect of a hazardous substance supplied to or generated at the employer's workplace if there is an exposure standard for the hazardous substance or any of its ingredients and—
 - (a) there is uncertainty (based on reasonable grounds) as to whether the exposure standard is or may be exceeded; or
 - (b) atmospheric monitoring is necessary to determine whether there is a risk to health.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (2) An employer is not required to comply with subregulation (1) in relation to a hazardous substance if health surveillance is required for that substance under regulation 4.1.30 and the health surveillance includes biological monitoring.

4.1.28 Provision of results of atmospheric monitoring

An employer must provide the results of any atmospheric monitoring at the employer's workplace as soon as is reasonably practicable to any employee who has been, or who may be, exposed to the hazardous substance that is the subject of the monitoring.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.1.29 Records of atmospheric monitoring

- (1) An employer must retain a record of the results of atmospheric monitoring for—
 - (a) a period (not exceeding 30 years) that is determined by the Authority; or
 - (b) 30 years, if no period has been determined by the Authority.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) In determining a period for the purposes of subregulation (1)(a), the Authority may specify different periods for different hazardous substances or different classes of hazardous substances.

- (3) An employer must ensure that the record of atmospheric monitoring is accessible to any employee who has been, or may be, exposed to the hazardous substance that is the subject of the monitoring.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.1.30 Health surveillance

- (1) An employer must ensure that health surveillance is provided for an employee if—
 - (a) the employee is exposed to any hazardous substance—
 - (i) listed in column 1 of Schedule 3 to the National Model Regulations for the Control of Workplace Hazardous Substances (except asbestos); or
 - (ii) determined by the Authority to be a hazardous substance for which health surveillance is required; and

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- (b) the exposure of the employee to the hazardous substance is such that an adverse effect on the employee's health is reasonably likely to occur under the particular conditions of work at the workplace.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (2) The purpose of the health surveillance is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to a hazardous substance.
- (3) The employer must ensure—
- (a) that the health surveillance is performed under the supervision of a registered medical practitioner; and
 - (b) that a report of the health surveillance is prepared by the registered medical practitioner and a copy of the report is given to the employer; and
 - (c) that the health surveillance report includes (if relevant)—
 - (i) any indications of adverse health effects identified by the registered medical practitioner that may be attributed to the hazardous substance; and
 - (ii) any recommendations relating to the need for the employer to take measures to ensure that the employee is not exposed to the substance for a specified period of time; and
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- (iii) an interpretation of the results of the health surveillance, including a statement by the registered medical practitioner as to whether, in his or her opinion, the employee should continue working with the hazardous substance.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

4.1.31 Copy of report to Authority

If an employer receives recommendations under regulation 4.1.30(3)(c)(ii), the employer must ensure that a copy of the health surveillance report is provided to the Authority.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.1.32 Records of health surveillance

- (1) An employer must retain any health surveillance report given to the employer under regulation 4.1.30(3) for—
- (a) a period (not exceeding 30 years) that is determined by the Authority; or
 - (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) In specifying a period for the purposes of subregulation (1)(a), the Authority may specify different periods for different hazardous substances or different classes of hazardous substances.

PART 4.2—SCHEDULED CARCINOGENIC SUBSTANCES

4.2.1 Application of Part

This Part applies to scheduled carcinogenic substances in addition to Part 4.1 (Hazardous Substances).

4.2.2 Supply of scheduled carcinogenic substances

- (1) A supplier of a scheduled carcinogenic substance must not supply that substance to an employer or a self-employed person unless the employer or self-employed person holds a carcinogens licence relating to that substance.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) A supplier of a scheduled carcinogenic substance must—
- (a) record the name and address of any person to whom a scheduled carcinogenic substance is supplied and the name and quantity of the substance supplied; and
 - (b) obtain a copy of the relevant carcinogens licence held by the person to whom a scheduled carcinogenic substance is supplied.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) The supplier must retain the record of supply and the copy of the carcinogens licence for at least 5 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.2.3 Requirement to hold carcinogens licence

- (1) A person must not perform work or carry out an activity involving a Schedule 1 carcinogenic substance at a workplace unless—
 - (a) the workplace is a laboratory; and
 - (b) the person—
 - (i) holds a licence to use a Schedule 1 carcinogenic substance at that laboratory issued under Part 6.1 (Licences); or
 - (ii) is an employee of the holder of such a licence.

Note

See section 40(4) of the Act.

- (2) A person must not perform work or carry out an activity involving a Schedule 2 carcinogenic substance at a workplace that is a laboratory unless the person—
 - (a) holds a licence to use a Schedule 2 carcinogenic substance at that laboratory issued under Part 6.1 (Licences); or
 - (b) is an employee of the holder of such a licence.

Note

See section 40(4) of the Act.

- (3) A person must not perform work or carry out an activity involving a Schedule 2 carcinogenic substance at a workplace other than a laboratory unless the person—
 - (a) holds a licence to use a Schedule 2 carcinogenic substance at that workplace issued under Part 6.1 (Licences); or

- (b) is an employee of the holder of such a licence.

Note

See section 40(4) of the Act.

- (4) Despite anything to the contrary in this regulation, a carcinogens licence is not required in respect of a scheduled carcinogenic substance that is supplied to the workplace of an employer or self-employed person in a sealed container, if the sealed container is not intended to be opened on the premises of the employer or self-employed person.

4.2.4 Records

- (1) An employer must make a record in accordance with subregulation (2) of each person who works with a scheduled carcinogenic substance at the employer's workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The record must contain—
- (a) the person's full name; and
 - (b) the person's date of birth; and
 - (c) the person's residential address during the period that the person worked with the scheduled carcinogenic substance; and
 - (d) the name of each scheduled carcinogenic substance that the person worked with at the employer's workplace; and
 - (e) the period of time over which the person worked with each of the scheduled carcinogenic substances.

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- (3) The employer must retain the record made under subregulation (1) in relation to a person for 30 years from the date that the person last worked with a scheduled carcinogenic substance at the employer's workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.2.5 Statement of work with scheduled carcinogenic substance

- (1) This regulation applies if a person has worked with a scheduled carcinogenic substance at an employer's workplace.
- (2) The employer must give the person a written statement in accordance with subregulation (3) at the time when the person ceases to work at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) The written statement must contain—
- (a) the name of any scheduled carcinogenic substance that the person worked with at the employer's workplace; and
 - (b) the period of time over which the person worked with the scheduled carcinogenic substance; and
 - (c) details of how and where records retained under regulation 4.2.4 may be obtained; and
 - (d) a statement advising the person to have periodical health assessments and details of the types of tests that are relevant.
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PART 4.3—ASBESTOS

Division 1—Introductory matters

4.3.1 Application of Part

This Part does not apply to construction or demolition material—

- (a) produced in accordance with an auditable process, determined by the Authority, to verify that asbestos-containing material has been removed from that material; and
- (b) of which less than 0.001% is asbestos-containing material measured using a method determined by the Authority.

Note

The processing of construction or demolition material to remove asbestos-containing material in accordance with the method determined under regulation 4.3.1(b) is covered in Division 8.

Division 2—General requirements

4.3.2 Control risk of exposure—person who manages or controls workplace

- (1) A person who manages or controls a workplace—
 - (a) must eliminate so far as is reasonably practicable the exposure of persons at the workplace to airborne asbestos fibres; or
 - (b) if it is not reasonably practicable to eliminate that exposure, must reduce that exposure so far as is reasonably practicable.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (2) Without limiting subregulation (1), a person who manages or controls a workplace must ensure that
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a person at the workplace is not exposed to an atmospheric concentration of asbestos fibres above the asbestos exposure standard.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (3) A person who manages or controls a workplace must ensure that a determination of an employee's exposure to airborne asbestos fibres in the workplace is carried out if there is uncertainty (based on reasonable grounds) as to whether the asbestos exposure standard has been exceeded.

Note

Act compliance—sections 21 and 26 (see regulation 1.1.7).

- (4) A person who manages or controls a workplace must ensure that copies of the results of atmospheric monitoring are accessible to an employer at the workplace.

Note

Act compliance—section 26 (see regulation 1.1.7)

4.3.3 Control risk of exposure—employer or self-employed person

- (1) An employer or self-employed person—
- (a) must eliminate so far as is reasonably practicable the exposure of persons at the workplace to airborne asbestos fibres, arising from the undertaking of the employer or self-employed person; or
 - (b) if it is not reasonably practicable to eliminate that exposure, must reduce that exposure, so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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- (2) Without limiting subregulation (1), an employer or self-employed person must ensure that a person is not exposed to an atmospheric concentration of asbestos fibres arising from the conduct of the undertaking of the employer or self-employed person above the asbestos exposure standard.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.4 Determination of employee's exposure

An employer must ensure that a determination of an employee's exposure to airborne asbestos fibres in the workplace is carried out if there is uncertainty (based on reasonable grounds) as to whether the asbestos exposure standard has been exceeded.

Note

Act compliance—section 21, 23 and 24 (see regulation 1.1.7).

4.3.5 Results of atmospheric monitoring to be available

An employer must ensure that copies of the results of atmospheric monitoring for airborne asbestos fibres at the workplace are accessible to the health and safety representative of any affected designated work group and to affected employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.6 Analysis by approved asbestos analyst

- (1) If an analysis of any sample is required under this Part the analysis must be undertaken by an approved asbestos analyst.
- (2) The analysis results must be reported in accordance with the requirements of NATA or the scheme under which the analyst was approved.

Division 3—Prohibitions under the Occupational Health and Safety Act 2004

4.3.7 Asbestos removal work

- (1) An employer, a self-employed person or a person who manages or controls a workplace must not perform asbestos removal work, or arrange for asbestos removal work to be performed, in respect of the workplace unless—
- (a) the person performing the asbestos removal work—
 - (i) holds an asbestos removal licence that permits the person to remove the asbestos; or
 - (ii) is employed by a person who holds such a licence; or
 - (b) the asbestos removal work is permitted under regulation 4.3.45.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) This prohibition does not apply if the work is for the purpose of sampling and identification.

4.3.8 Removal of contaminated protective clothing

- (1) An employer or self-employed person must not remove from a workplace protective clothing contaminated with asbestos unless the clothing is—
- (a) disposed of—
 - (i) as soon as is reasonably practicable; and
 - (ii) in an appropriate manner that eliminates the release of airborne asbestos fibres; and

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- (iii) at a waste disposal site licensed by the Environment Protection Authority; or
- (b) laundered at a commercial laundry and for that purpose the clothing is contained so as to eliminate the release of airborne asbestos fibres and the exterior of the container—
 - (i) is decontaminated before being removed from the work area; and
 - (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (2) Subregulation (1) does not apply if the contamination arises from asbestos removal work under Division 7 or the carrying out of asbestos related activities under Division 8.

Note

Divisions 7 and 8 have specific requirements relating to the disposal and laundering of asbestos contaminated clothing.

4.3.9 Use of certain tools or instruments

- (1) An employer or self-employed person must not use the following or cause the following to be used on asbestos unless the use is controlled—
 - (a) a broom; or
 - (b) a brush (except where the brush is used for sealing); or
 - (c) a high pressure water jet, power tool or other similar tool or instrument.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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- (2) For the purposes of subregulation (1), the use of the tool or instrument is controlled, if, while the tool or instrument is in use—
- (a) the tool or instrument is enclosed; or
 - (b) engineering controls are used; or
 - (c) a combination of the methods in paragraphs (a) and (b) is used—

so that the employer or self-employed person ensures that a person is not likely to be exposed to more than one half of the asbestos exposure standard.

- (3) An employer or self-employed person must not rely on respiratory protection devices to ensure that one half of the asbestos exposure standard is not exceeded.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (4) Subregulations (1) to (3) do not apply to the removal of asbestos undertaken within an enclosed removal area in accordance with Division 7.
- (5) An employer or self-employed person must not use or cause to be used compressed air or other gases—
- (a) on asbestos, except in areas enclosed to prevent the release of airborne asbestos fibres from the enclosed area; or

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- (b) within 6 metres of an activity involving asbestos unless the use of that air or gas does not result in airborne asbestos fibres that exceed one half of the asbestos exposure standard.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (6) An employer or self-employed person must not rely on respiratory protection devices to control a risk under subregulation (5)(b).

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

Division 4—Prohibitions under the Dangerous Goods Act 1985

Note

The Australian Government restricts the import and export of asbestos and goods containing asbestos under the Commonwealth Customs (Prohibited Imports) Regulations 1956 and the Commonwealth Customs (Prohibited Exports) Regulations 1958.

Subdivision 1—General

4.3.10 General exclusions

- (1) The prohibitions specified in regulations 4.3.12 to 4.3.16 and 4.3.17(3) do not apply for the purpose of—
- (a) scientific analysis or research;
 - (b) sampling and identification;
 - (c) retention of asbestos samples for demonstration, education or practical training purposes;
 - (d) non-asbestos mining or the extraction of stone if asbestos is encountered.

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- (2) The prohibitions specified in regulations 4.3.12 to 4.3.17(1) and 4.3.17(3) do not apply to soil from which visible asbestos-containing material has been removed, so far as is reasonably practicable, by the person proposing to supply, store, transport, sell, use or re-use the soil.

Note

Any person supplying, storing, transporting, selling, using or re-using soil must visually inspect the soil and remove any visible asbestos-containing material from the soil.

- (3) Regulations 4.3.12(2)(b), 4.3.13(2)(c), 4.3.14(2)(c) and 4.3.15(2)(b) expire on 1 February 2008.

Subdivision 2—Prohibitions

4.3.11 Manufacture of asbestos

- (1) A person must not manufacture asbestos-containing material.
- (2) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.12 Supply of asbestos

- (1) Subject to subregulation (2), a person must not supply asbestos to any person.
- (2) This prohibition does not apply to—
- (a) the supply of asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003;
 - (b) the supply of brake shoes lined with asbestos for the purpose of re-lining the brake shoes with material that does not contain asbestos.

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- (3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.13 Storage of asbestos

- (1) Subject to subregulation (2), a person must not store asbestos.
- (2) This prohibition does not apply to—
 - (a) the storage of asbestos waste or non-disposable personal protective clothing likely to be contaminated with asbestos that is—
 - (i) being stored for the purpose of disposal, or in the case of non-disposable personal protective clothing contaminated with asbestos, stored for the purpose of laundering; and
 - (ii) stored securely and identified to indicate the likely or actual presence of asbestos; and
 - (iii) contained so as to eliminate the release of airborne asbestos fibres; and
 - (iv) disposed of as soon as is reasonably practicable, or, in the case of non-disposable personal protective clothing contaminated with asbestos, laundered as soon as is reasonably practicable;
 - (b) asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003;

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- (c) the storage of brake shoes lined with asbestos if the brake shoes are—
- (i) being stored for the purpose of disposal of the asbestos or awaiting supply in accordance with regulation 4.3.12(2)(b) or transport in accordance with regulation 4.3.14(2)(c); and
 - (ii) stored securely and identified to indicate the likely or actual presence of asbestos; and
 - (iii) contained so as to eliminate the release of airborne asbestos fibres.
- (3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.14 Transport of asbestos

- (1) Subject to subregulation (2), a person must not transport asbestos.
- (2) This prohibition does not apply to—
- (a) the transport of asbestos and asbestos waste for the purpose of disposal or, in the case of non-disposable personal protective clothing contaminated with asbestos, for the purpose of laundering;

Note

The Environment Protection Authority controls the transportation of industrial-sourced asbestos waste. Owners of vehicles that transport industrial-sourced asbestos waste must hold a waste transport permit, unless the vehicle is exempt.

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- (b) the transport of asbestos fixed to or installed in a building, structure, vehicle, aircraft, ship or plant as at 31 December 2003;
 - (c) the transport of brake shoes lined with asbestos for the purpose of re-lining the brake shoes with material that does not contain asbestos.
- (3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.15 Sale of asbestos

- (1) Subject to subregulation (2), a person must not sell asbestos.
- (2) This prohibition does not apply to—
- (a) the sale of asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003;
 - (b) the sale of brake shoes lined with asbestos for the purpose of re-lining the brake shoes with material that does not contain asbestos.
- (3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.16 Use of asbestos

- (1) A person must not use asbestos.
- (2) This prohibition does not apply to asbestos fixed to or installed in a building, structure, ship, plant, aircraft or vehicle as at 31 December 2003.

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- (3) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.17 Re-use, installation and replacement of asbestos

- (1) A person must not fix asbestos-containing material to, or install asbestos-containing material in, any building, structure, ship, plant, aircraft or vehicle.
- (2) A person must not replace any part of a building, structure, ship, vehicle, aircraft or plant with asbestos-containing material.
- (3) A person must not re-use any asbestos.

Note

When fixed or installed asbestos needs to be replaced, a material that does not contain asbestos must be used.

- (4) A person who contravenes subregulation (1), (2) or (3) is liable to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

4.3.18 Exemptions for chrysotile

- (1) A person is not required to comply with regulations 4.3.16 and 4.3.17 in relation to asbestos-containing material until 1 January 2008 if—
- (a) the asbestos-containing material contains chrysotile asbestos (but not amphibole asbestos) and is of a type, and for a use, that falls within a category specified in Schedule 6; and

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- (b) the person has given a notice to the Authority in accordance with subregulation (2); and
 - (c) the person receives from the Authority a confirmation of receipt of the notice.
- (2) A notice referred to in subregulation (1)(b) must state—
- (a) the person's name and any registered business name; and
 - (b) the person's contact details; and
 - (c) the category specified in Schedule 6 within which the chrysotile asbestos falls; and
 - (d) the address of the premises where the person will use, fix, install or re-use chrysotile-containing material or will replace any material with chrysotile-containing material; and
 - (e) the quantity of chrysotile-containing material; and
 - (f) if different from paragraph (b), the contact details of the person immediately involved in the use, fixing, installation or reuse of chrysotile-containing material or in the replacement of any material with chrysotile-containing material; and
 - (g) the date of the notice; and
 - (h) the details of any consultation that occurred with the health and safety representative of an affected designated work group, or affected employees if there is no health and safety representative, in relation to the proposed use, fixing, installation or re-use of chrysotile-containing material or replacement of any material with chrysotile-containing material; and
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- (i) the name and contact details of persons who will supply, store, transport or sell the chrysotile-containing material.
- (3) Within 30 days after receiving a notice under subregulation (1)(b), the Authority must—
- (a) give the person who gave the notice a receipt in writing that states that the Authority confirms receipt of the notice; or
- (b) in writing inform the person who gave the notice—
- (i) that the Authority defers confirming receipt of the notice under paragraph (a) because the notice contains insufficient information; and
- (ii) of what further information is required by the Authority.
- (4) The person who receives a confirmation of receipt under subregulation (3)(a) must provide a copy of the confirmation of receipt to any other person who supplies, stores, transports or sells chrysotile-containing material on behalf of the first-mentioned person.
- (5) A person who is given a copy of a confirmation of receipt under subregulation (4) is not required to comply with regulation 4.3.12, 4.3.13, 4.3.14 or 4.3.15 when supplying, storing, transporting or selling the chrysotile-containing material specified in the confirmation of receipt.

Division 5—Asbestos in workplaces

Subdivision 1—Application of Division

4.3.19 Application of Division

- (1) This Division applies to a workplace where asbestos-containing material is fixed or installed in a building, structure, ship or plant.

Note

Plant would include plant that generally forms part of a structure such as a lift, boiler, air-conditioning plant or plant room.

- (2) This Division does not apply to a domestic premises that is a workplace only because of work being performed by an employer or self-employed person engaged to perform the work.

Subdivision 2—Duties of persons who manage or control workplaces

4.3.20 Identification of asbestos

- (1) A person who manages or controls a workplace must, so far as is reasonably practicable, identify all asbestos present that is under the person's management or control.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (2) If there is uncertainty (based on reasonable grounds) as to whether asbestos is present, or if there are inaccessible areas that are likely to contain asbestos, the person who manages or controls the workplace must—

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- (a) assume that asbestos is present; or
 - (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (3) If asbestos is assumed to be present under subregulation (2), it is taken to be identified for the purposes of this Part.
- (4) In relation to asbestos that is identified, the person who manages or controls the workplace must determine—
 - (a) the location of the asbestos; and
 - (b) the likely source of asbestos that is not fixed or installed; and
 - (c) in relation to asbestos-containing material—
 - (i) the type of asbestos-containing material; and
 - (ii) whether the asbestos-containing material is friable or non-friable; and
 - (iii) the condition of the asbestos-containing material; and
 - (iv) whether the asbestos-containing material is likely to sustain damage or deterioration; and
 - (d) so far as is possible, any activities likely to be carried out in the workplace that are, in view of their nature or design, likely to damage or disturb the asbestos.

Note

Act compliance—section 26 (see regulation 1.1.7).

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- (5) In relation to inaccessible areas that are likely to contain asbestos, the person who manages or controls the workplace must comply with subregulations (4)(a) and (4)(b) so far as is possible.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (6) In relation to asbestos that is identified, the person who manages or controls the workplace must ensure that—
- (a) the presence and location of the asbestos is clearly indicated; and
 - (b) if reasonably practicable, the indication is by labelling.

Note

Act compliance—section 26 (see regulation 1.1.7).

4.3.21 Asbestos register

- (1) A person who manages or controls a workplace must record in an asbestos register, in accordance with subregulation (2), the results of an identification of asbestos conducted by the person under regulation 4.3.20.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (2) The asbestos register must contain—
- (a) information in relation to the matters determined under regulation 4.3.20(4);
 - (b) details of inaccessible areas that are likely to contain asbestos;
 - (c) the date of each identification.

4.3.22 Asbestos register to be kept current

- (1) A person who manages or controls a workplace must revise the asbestos register to keep it current and include any changes of condition and any removal, enclosure or sealing of asbestos.

Note: Act compliance—section 26 (see regulation 1.1.7).

- (2) Without limiting subregulation (1), the person who manages or controls a workplace must ensure that the asbestos register is reviewed and, if necessary, revised at least every 5 years.

Notes

- 1 Act compliance—section 26 (see regulation 1.1.7).
- 2 See also the obligation to review and revise the asbestos register under regulation 4.3.35.

4.3.23 Access to asbestos register

- (1) A person who manages or controls a workplace must provide a copy of the asbestos register to—
- (a) any employer or self-employed person whose business is located at the workplace; and
 - (b) an asbestos licence holder engaged to do asbestos removal work; and
 - (c) a person who is required to obtain a copy under regulation 4.3.103, and who requests a copy from the person who manages or controls the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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- (2) A person who manages or controls a workplace must inform any person engaged to do work at that workplace that involves the risk of exposure to airborne asbestos fibres of the asbestos register and must provide access to that register.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) If access is requested, a person who manages or controls a workplace must provide access to the asbestos register to any other person engaged by that person to do work at that workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

This would include giving access to a "designer" under the Act.

- (4) If a copy is requested, a person who manages or controls a workplace must provide a copy of the asbestos register to an employer or self-employed person who proposes to occupy the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.24 Provision of register by person relinquishing management or control

If a person who manages or controls a workplace is intending to relinquish management or control, that person must provide a copy of the asbestos register to the person, if any, assuming management or control.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.25 Control of risk

- (1) A person who manages or controls a workplace must ensure that any risk associated with the presence of asbestos is eliminated, so far as is reasonably practicable, by removing the asbestos-containing material.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (2) If it is not reasonably practicable to remove the asbestos-containing material, a person who manages or controls a workplace must enclose the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (3) If a person who manages or controls a workplace has enclosed the asbestos-containing material so far as is reasonably practicable and a risk remains, the person who manages or controls the workplace must seal the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—section 26 (see regulation 1.1.7).

4.3.26 Review of risk control measures

A person who manages or controls a workplace must ensure that any measures implemented to control risks associated with the presence of asbestos are reviewed, and, if necessary revised—

- (a) before any change is made to the workplace or a building, structure, ship or plant at the workplace or a system of work that is likely to disturb or damage any asbestos; or

- (b) after any incident occurs to which Part 5 of the Act applies that is associated with the presence of asbestos; or
- (c) if, for any other reason, the risk control measures do not adequately control the risks.

Note

Act compliance—section 26 (see regulation 1.1.7).

Subdivision 3—Duties of employer

4.3.27 Identification of asbestos

- (1) An employer at any workplace to which this Division applies must—
 - (a) if another person manages or controls a workplace, obtain from that person a copy of the asbestos register; and
 - (b) so far as is reasonably practicable, identify all asbestos that is under the management or control of the employer, including asbestos-containing material that is fixed to or installed in any plant under the management or control of the employer.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) For the purpose of complying with subregulation (1)(b), if there is uncertainty (based on reasonable grounds) as to whether any material of which the employer has management or control is asbestos, or if there are inaccessible areas that are likely to contain asbestos, the employer must—
 - (a) assume that asbestos is present; or
 - (b) arrange for analysis of a sample to be undertaken.

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- (3) If asbestos is assumed to be present under subregulation (2), it is taken to be identified for the purposes of this Part.
- (4) In relation to asbestos that is identified, the employer must determine—
- (a) the location of the asbestos; and
 - (b) the likely source of asbestos that is not fixed or installed; and
 - (c) in relation to asbestos-containing material—
 - (i) the type of asbestos-containing material; and
 - (ii) whether the asbestos-containing material is friable or non-friable; and
 - (iii) the condition of the asbestos-containing material; and
 - (iv) whether the asbestos-containing material is likely to sustain damage or deterioration; and
 - (d) so far as is possible, any activities likely to be carried out in the workplace that are, in view of their nature or design, likely to damage or disturb any asbestos in the workplace.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (5) In relation to inaccessible areas that are likely to contain asbestos, the employer must comply with subregulations (4)(a) and (4)(b) so far as is possible.
- (6) In relation to asbestos that is identified under subregulation (1)(b), the employer must ensure that—

- (a) the presence and location of the asbestos are clearly indicated; and
- (b) if reasonably practicable, the indication is by labelling.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

4.3.28 Information about risks to be given to person who manages or controls workplace

If the employer identifies a risk associated with the presence of fixed or installed asbestos under the control or management of the person who manages or controls the workplace that may occur as a result of an activity carried out by the employer, the employer must inform the person who manages or controls the workplace of the risk.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.29 Employer's asbestos register

- (1) An employer must record in an employer's asbestos register, in accordance with subregulation (2), the results of any identification of asbestos conducted by the employer under regulation 4.3.27.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) The employer's asbestos register must contain—
 - (a) information in relation to the matters determined under regulation 4.3.27(4);
 - (b) details of inaccessible areas that are likely to contain asbestos;
 - (c) the date when the identification is made;

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- (d) a copy of any asbestos register obtained under regulation 4.3.27(1)(a);
 - (e) information in relation to any activity carried out by the employer that could give rise to a risk.

4.3.30 Employer's asbestos register to be kept current

- (1) An employer must revise the employer's asbestos register to keep it current and include any changes in the condition of the asbestos and any removal, enclosure or sealing of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If the health and safety representative for an affected designated work group so requests, on reasonable grounds, the employer must review and, if necessary, revise the employer's asbestos register.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) Without limiting subregulations (1) and (2), the employer must ensure that the employer's asbestos register is reviewed and, if necessary, revised at least every 5 years.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 1.1.7).
- 2 See also the obligation to review and revise the employer's asbestos register under regulation 4.3.36.

4.3.31 Access to employer's asbestos register

An employer must—

- (a) ensure that a copy of the employer's asbestos register is readily accessible to any employee of the employer; and

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- (b) provide a copy of the employer's asbestos register to—
- (i) the health and safety representative of an affected designated work group;
 - (ii) an asbestos licence holder who has been engaged to do asbestos removal work;
 - (iii) a person who is required to obtain a copy under regulation 4.3.103, and who requests a copy; and
- (c) inform any person engaged to do work at the employer's workplace that involves the risk of exposure to airborne asbestos fibres of the employer's asbestos register and provide access to that register; and
- (d) if requested, provide access to the employer's asbestos register to any other person engaged to do work by the employer.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

Paragraph (d) would include giving access to a designer engaged by the employer.

4.3.32 Control of risk

- (1) This regulation applies in respect of asbestos of which an employer has management and control.
- (2) The employer must ensure that any risk associated with the presence of asbestos is eliminated, so far as is reasonably practicable, by removing the asbestos-containing material.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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- (3) If it is not reasonably practicable to remove the asbestos-containing material, the employer must enclose the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (4) If the employer has enclosed the asbestos-containing material so far as is reasonably practicable and a risk remains, the employer must seal the material to reduce, so far as is reasonably practicable, any risk associated with the presence of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.33 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks associated with the presence of asbestos are reviewed and, if necessary, revised—
- (a) before any change is made to the workplace or a building, structure, ship or plant at the workplace or a system of work that is likely to disturb or damage any asbestos; or
 - (b) after any incident occurs to which Part 5 of the Act applies that is associated with the presence of asbestos; or
 - (c) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—
- (a) any of the circumstances referred to in subregulations (1)(a) to (1)(c) exists; or
 - (b) the employer has failed—
 - (i) to properly review risk control measures; or
 - (ii) to take account of any of the circumstances in subregulations (1)(a) to (1)(c) in conducting a review of, or revising, the risk control measures.

Division 6—Demolition and refurbishment where asbestos is present

4.3.34 Application of Division

- (1) This Division applies to the carrying out of demolition or refurbishment on a building, structure, ship or plant where asbestos is fixed or installed.
- (2) In this Division, demolition and refurbishment do not include minor or routine maintenance work or other work of a minor nature.
- (3) In this Division a reference to *plant* is a reference to plant that generally forms part of a structure.

Example

A lift, boiler, air-conditioning plant or plant room.

- (4) For the purposes of this Division, an *emergency* exists if a building or structure is structurally unsound or in danger of imminent collapse as determined—

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- (a) by an emergency order issued under the **Building Act 1993**; or
 - (b) in a report by a structural engineer.

4.3.35 Review of asbestos register

- (1) Before demolition or refurbishment work commences at a workplace, the person who manages or controls the workplace must—
 - (a) review the asbestos register; and
 - (b) revise the asbestos register if it is inadequate having regard to the proposed demolition or refurbishment work.

Example

The asbestos register may be inadequate if it identifies areas that are inaccessible that are likely to contain asbestos and those areas will be accessible as a result of demolition or refurbishment work.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (2) The person who manages or controls a workplace must provide the employer or self-employed person who is to perform demolition or refurbishment work at the workplace with a copy of the asbestos register, including any revisions made under this regulation.

Note

Act compliance—section 26 (see regulation 1.1.7).

4.3.36 Review of employer's asbestos register

- (1) Before demolition or refurbishment work commences on plant of which an employer has management or control, the employer must—
 - (a) review the employer's asbestos register; and

-
- (b) revise the employer's asbestos register if it is inadequate having regard to the proposed demolition or refurbishment work.

Example

The employer's asbestos register may be inadequate if it identifies areas that are inaccessible that are likely to contain asbestos and those areas will become accessible as a result of the demolition or refurbishment work.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) The employer must provide the employer or self-employed person who is to perform the demolition or refurbishment work with a copy of the employer's asbestos register, including any revisions made under this regulation.

Note

Act compliance—section 21 (see regulation 1.1.7).

4.3.37 Copies of asbestos registers to be obtained

- (1) This regulation applies if an employer or self-employed person is performing demolition or refurbishment work in relation to a building, structure, ship or plant in a workplace.
- (2) The employer or self-employed person must obtain from the person who has management or control of the workplace, a copy of the asbestos register, including any revisions made under regulation 4.3.35.

Note

Act compliance—sections 21 and 24 (see regulation 1.1.7).

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- (3) The employer or self-employed person must obtain from an employer who has management or control of plant in relation to which the demolition or refurbishment work is to be performed, a copy of the employer's asbestos register, including any revisions made under regulation 4.3.36.

Note

Act compliance—sections 21 and 24 (see regulation 1.1.7).

4.3.38 Determination of presence of asbestos

- (1) This regulation applies if there is no asbestos register or employer's asbestos register in respect of a workplace or plant in relation to which demolition or refurbishment work is to be performed.
- (2) The employer or self-employed person performing the demolition or refurbishment work must not commence that work until that employer or self-employed person has determined whether asbestos is fixed to or installed in the building, structure, ship or plant to be demolished or refurbished.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (3) If there is uncertainty (based on reasonable grounds) as to whether asbestos is fixed to or installed in a building, structure, ship or plant to be demolished or refurbished, or if there are inaccessible areas that are likely to contain asbestos that is fixed or installed, the employer or self-employed person performing the demolition or refurbishment work must—
- (a) assume that asbestos is present; or

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- (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (4) If asbestos is assumed to be present under subregulation (3), it is taken to be identified for the purposes of this Part.
- (5) If the employer or self-employed person performing demolition or refurbishment work has determined under subregulation (2) or subregulation (3) that asbestos is fixed to or installed in a building, structure, ship or plant to be demolished or refurbished, the employer or self-employed person must—
- (a) inform the person who has management or control of the workplace that asbestos is fixed to or installed in the building, structure ship or plant; and
- (b) in the case of plant under the management or control of an employer at the workplace, inform the employer that asbestos is fixed to or installed in the plant.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.39 Identification and removal of asbestos before demolition

- (1) A person who manages or controls a workplace or plant that forms part of a workplace must—
- (a) identify asbestos under that person's management or control that is likely to be disturbed by proposed demolition work; and

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- (b) ensure, so far as is reasonably practicable, that the asbestos is removed before the demolition work is commenced.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (2) Subregulation (1)(b) does not prevent the demolition of parts of a building, structure, ship or plant in order to gain access to the asbestos.

Example

Part of a wall may be demolished to gain access to asbestos in a riser shaft.

- (3) Subregulation (1) does not apply—
- (a) in an emergency; or
 - (b) to domestic premises.

Note

See regulation 4.3.34 for meaning of emergency.

- (4) An employer or self-employed person performing demolition work on domestic premises must—
- (a) identify asbestos under that person's management or control that is likely to be disturbed by proposed demolition work; and
 - (b) ensure, so far as is reasonably practicable, that the asbestos is removed before the demolition work is commenced.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (5) Subregulation (4)(b) does not prevent the demolition of part of domestic premises in order to gain access to the asbestos.

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4.3.40 Identification and removal of asbestos before refurbishment

- (1) A person who manages or controls a workplace or plant at a workplace must—
 - (a) identify asbestos under the person's management or control that is likely to be disturbed by the proposed refurbishment work; and
 - (b) ensure, so far as is reasonably practicable, that the asbestos is removed.

Note

Act compliance—section 26 (see regulation 1.1.7).

- (2) Subregulation (1) does not apply to domestic premises.
- (3) An employer or self-employed person performing refurbishment work on domestic premises must—
 - (a) identify asbestos that is likely to be disturbed by the proposed refurbishment work; and
 - (b) ensure, so far as is reasonably practicable, that the asbestos is removed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.41 Requirements for asbestos removal work

- (1) A person who manages or controls a workplace or plant at a workplace must ensure that asbestos removal work is performed—
 - (a) by an asbestos licence holder; or

(b) by a person who is permitted under regulation 4.3.45 to perform the asbestos removal work.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

(2) Subregulation (1) does not apply to domestic premises.

(3) An employer or self-employed person performing demolition or refurbishment work on domestic premises must ensure that asbestos removal work is performed—

(a) by an asbestos licence holder; or

(b) by a person who is permitted under regulation 4.3.45 to perform the asbestos removal work.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Note

An asbestos licence holder must perform asbestos removal work in accordance with Division 7. A person permitted under regulation 4.3.45 must perform asbestos removal work in accordance with Subdivision 2 of Division 7.

4.3.42 Emergency procedures

(1) If an emergency occurs at a workplace where there was fixed or installed asbestos in a building, structure, ship or plant immediately before the emergency occurred, the person who manages or controls the workplace must—

(a) consider the asbestos register; and

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- (b) before demolition occurs, document a procedure that will, so far as is reasonably practicable, reduce the risk of exposure of employees and persons in the vicinity of the demolition site to asbestos to below the asbestos exposure standard.

Notes

- 1 Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).
 - 2 See regulation 4.3.34 for meaning of emergency.
- (2) Subregulation (1) does not apply in the case of domestic premises.
- (3) A person engaged for the purpose of asbestos removal work as part of an emergency must comply, so far as is reasonably practicable, with Division 7.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).
 - 2 A person engaged under this subregulation must hold an asbestos removal licence that permits the person to remove the asbestos or be employed by a person who holds such a licence (see regulation 4.3.7) or be permitted to remove the asbestos under regulation 4.3.45.
- (4) If an emergency occurs at domestic premises, an employer or self-employed person performing demolition work must, before demolition, document a procedure that will, so far as is reasonably practicable, reduce the risk of exposure of employees and persons in the vicinity of the demolition site to asbestos to below the asbestos exposure standard.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.43 Notice to Authority

- (1) The person who manages or controls a workplace referred to in regulation 4.3.42(1) must notify the Authority, in writing, of the person's contact details and of the location of the emergency immediately after the emergency is known to that person and before the commencement of demolition.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) An employer or self-employed person performing demolition work on domestic premises must notify the Authority in writing of the person's contact details and of the location of the emergency immediately after the emergency is known to that person and before the commencement of demolition.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 7—Removal of asbestos

Subdivision 1—General

4.3.44 Application of Division

- (1) This Division applies to asbestos removal work.
- (2) This Division does not apply if Division 8 applies.
- (3) In relation to duties imposed on asbestos licence holders under this Division, a reference to an employee in such a provision applies only if the asbestos licence holder is an employer.

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- (4) This Division applies in relation to domestic premises that become a workplace due to asbestos removal work being performed.

Note

See regulation 4.3.42 for the application of this Division in an emergency under Division 6.

Subdivision 2—Limited asbestos removal work

4.3.45 Limited asbestos removal work without licence permitted

An employer or self-employed person may perform asbestos removal work in accordance with this Subdivision in relation to non-friable asbestos-containing material if—

- (a) the area of asbestos-containing material to be removed does not exceed 10 square metres in total; and
- (b) the total time over which asbestos removal work is performed in any period of 7 days does not exceed 1 hour.

4.3.46 Training record

An employer performing asbestos removal work must—

- (a) make a record of the training undertaken by each person engaged in the asbestos removal work; and
- (b) retain that record while that work is being performed.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.47 Self-employed persons performing asbestos removal work to have appropriate training

- (1) A self-employed person must not perform asbestos removal work unless he or she is informed, instructed and trained to perform his or her work in a manner that does not, so far as is reasonably practicable, expose other persons to risks to health and safety arising from that asbestos removal work.

Note

Act compliance—section 24 (see regulation 1.1.7).

- (2) A self-employed person performing asbestos removal work must make a record of his or her training referred to in subregulation (1) and retain that record while the person is engaged in asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.48 Asbestos register must be obtained

- (1) Before performing asbestos removal work under this Subdivision, an employer or self-employed person must obtain a copy of the asbestos register or the employer's asbestos register.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) This regulation does not apply if the asbestos removal work will be performed at domestic premises.

4.3.49 Provision of information about proposed asbestos removal work

(1) This regulation applies if an employer or self-employed person is commissioned to perform work for a person and plans to remove asbestos that is permitted under regulation 4.3.45 to be removed.

(2) The employer or self-employed person must inform the person who commissioned the work that asbestos removal work will be performed before the commissioned work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(3) A person who has been informed of the proposed asbestos removal work under subregulation (2) must notify employers in the immediate and adjacent areas to where the proposed removal work will take place of the proposed removal work before that removal work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(4) An employer who has been notified of the proposed asbestos removal work in accordance with subregulation (3) must inform employees in the immediate and adjacent areas of the proposed removal work before the removal work commences.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.50 Protective clothing and protective equipment

An employer must ensure that—

- (a) persons performing asbestos removal work are provided with—
 - (i) appropriate personal protective clothing that is suitable for the removal work being performed; and
 - (ii) appropriate respiratory protective equipment that is suitable for the removal work being performed; and
- (b) the clothing and equipment provided under paragraph (a) are correctly fitted.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.51 Signs

An employer or self-employed person performing asbestos removal work must ensure that appropriately placed signs are used to indicate the area where the removal work is being performed.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.52 Decontamination facilities and non removal of personal protective clothing or equipment

- (1) An employer or self-employed person performing asbestos removal work must provide such facilities for decontamination of the work area, tools and equipment and personal decontamination for the duration of the removal work as are suitable for the removal work being performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer or self-employed person performing asbestos removal work must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the area where the removal work is being performed unless the clothing or equipment is decontaminated or contained before the removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.53 Decontamination of equipment

An employer or self-employed person performing asbestos removal work must ensure that any equipment (other than personal protective equipment) that is used for removal work and that is likely to be contaminated is—

- (a) decontaminated before removal from the area where the removal work is performed;
or
- (b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the area where the removal work is performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.54 Elimination of airborne asbestos fibres

An employer or self-employed person performing asbestos removal work must ensure that removal work is performed in a manner that eliminates the release of airborne asbestos fibres so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.55 Waste containment

An employer or self-employed person who is performing asbestos removal work must ensure that—

- (a) the asbestos waste is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work is performed; and
 - (ii) indicates the presence of asbestos.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.56 Disposal of asbestos waste

An employer or self-employed person performing asbestos removal work must ensure that asbestos waste is—

- (a) disposed of as soon as is reasonably practicable; and
- (b) disposed of in an appropriate manner that eliminates the release of airborne asbestos fibres; and
- (c) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).
- 2 The Environment Protection Authority controls the transportation of asbestos waste of industrial origin. Owners of vehicles that transport industrial-sourced asbestos waste may need to hold a waste transport permit.

4.3.57 Laundering of clothing contaminated with asbestos

- (1) An employer or self-employed person performing asbestos removal work must provide for the laundering of personal protective clothing that is likely to be contaminated with asbestos and that is not contained and disposed of in accordance with regulations 4.3.55 and 4.3.56.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If an employer or self-employed person performing asbestos removal work arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered at a commercial laundry, the employer or person must ensure that—

- (a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work is performed; and
 - (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.58 Medical examinations

- (1) An employer performing asbestos removal work must arrange for appropriate medical examinations to be conducted by a registered medical practitioner for each employee engaged in ongoing asbestos removal work if there is a risk of exposure to airborne asbestos fibres above one half of the asbestos exposure standard.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (2) Respiratory protective equipment must not be considered in establishing whether there is a risk of exposure to airborne asbestos fibres above one half of the exposure standard.
- (3) The purpose of the medical examination is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to asbestos.
- (4) The employer must ensure that medical examinations are provided—
 - (a) before the employee commences asbestos removal work for the first time for that employer unless the employee has had an appropriate medical examination within the preceding 2 years; and
 - (b) at intervals of not more than 2 years; and
 - (c) within 30 days after the employee has ceased asbestos removal work unless the employee has had an appropriate medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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- (5) In this regulation the duties of an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.3.59 Notice of medical practitioner

An employer must notify the Authority in writing within 7 days of the name and contact details of the registered medical practitioner the employer has engaged to undertake medical examinations in accordance with regulation 4.3.58.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.60 Results of medical examinations

- (1) An employer must ensure that a summary of results of a medical examination of a person carried out as required by regulation 4.3.58 indicating whether an asbestos-related disease exists and the fitness of the person to engage in asbestos removal work is provided to the employer by the registered medical practitioner.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The employer must retain a copy of the summary of results obtained under this regulation for—
- (a) a period (not exceeding 30 years) determined by the Authority; or
 - (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 3—Licensed asbestos removal work

4.3.61 Person not to perform asbestos removal work unless licensed

- (1) A person must not perform asbestos removal work at a workplace, other than asbestos removal work permitted under Subdivision 2, unless that person—
- (a) is an asbestos licence holder; or
 - (b) is an employee of an asbestos licence holder.

Note

See section 40(4) of the Act.

- (2) A person must not perform asbestos removal work of friable asbestos or within a negative air enclosure at a workplace unless that person—
- (a) is the holder of a Class A asbestos removal licence; or
 - (b) is an employee of the holder of a Class A asbestos removal licence.

Note

See section 40(4) of the Act.

4.3.62 Appointment of asbestos removal supervisors

- (1) Subject to subregulation (2), an asbestos licence holder must appoint a person as an asbestos removal supervisor if the asbestos licence holder has nominated that person as a supervisor under regulation 6.1.13(1)(b).

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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- (2) An asbestos licence holder must not appoint a person as an asbestos removal supervisor if the Authority has not accepted the nomination of that supervisor under Part 6.1 (Licences).

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.63 Asbestos removal supervisor to be accessible

An asbestos licence holder must ensure that the asbestos removal supervisors appointed to supervise the removal of non-friable asbestos-containing material are readily accessible to the persons performing the asbestos removal work at all times when that work is being performed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.64 Information to job applicants

An asbestos licence holder must provide each applicant who applies for employment with the licence holder to perform asbestos removal work with information about—

- (a) the health effects and risks associated with exposure to airborne asbestos fibres; and
- (b) the need for, and details of, medical examinations required under this Subdivision.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.65 Persons performing asbestos removal work to be trained

An asbestos licence holder must ensure that a person does not perform asbestos removal work for the licence holder unless the person is informed, instructed and trained to perform that work in a manner that is safe and without risks to health and in particular in relation to—

- (a) the nature of the hazard, the risks and the health effects associated with exposure to airborne asbestos fibres; and
- (b) the need for, and proper use of, measures to control the risks including the maintenance, cleaning and storage of personal protective clothing and personal protective equipment.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.66 Training record to be made

An asbestos licence holder performing asbestos removal work must ensure that a record is made of the training undertaken by a person performing the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.67 Training record to be retained and made available

An asbestos licence holder performing asbestos work must ensure that the record of training made under regulation 4.3.66 is—

- (a) retained while the person performs asbestos removal work for the asbestos licence holder; and

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(b) readily available where the asbestos removal work is being performed.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.68 Asbestos register to be obtained

(1) An asbestos licence holder must ensure that a copy of the asbestos register or the employer's asbestos register is obtained from the person who commissioned the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

(2) This regulation does not apply if the asbestos removal work will be performed at domestic premises.

4.3.69 Asbestos control plan

(1) Before commencing asbestos removal work, an asbestos licence holder must prepare an asbestos control plan in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

(2) An asbestos control plan must—

(a) have regard to any asbestos register or any employer's asbestos register obtained under this Part; and

(b) include information on the items listed in Schedule 7.

(3) Subregulation (2)(a) does not apply if the asbestos removal work will be performed at a domestic premises.

4.3.70 Asbestos control plan to be made available and accessible

- (1) An asbestos licence holder must provide a copy of the asbestos control plan prepared under regulation 4.3.69 to the person who commissioned the asbestos removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The asbestos licence holder must ensure that a copy of the asbestos control plan is readily accessible for the duration of the asbestos removal work—

- (a) to employees at the workplace, including the health and safety representative of any affected designated work group;
- (b) to an employer at the workplace;
- (c) to any person engaged to do work at the workplace;
- (d) for inspection under the Act, if required.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

4.3.71 Elimination of airborne asbestos fibres

An asbestos licence holder performing asbestos removal work must ensure that the asbestos removal work is performed in a manner that, so far as is reasonably practicable—

- (a) eliminates the release of airborne asbestos fibres; and
- (b) prevents the contamination of areas adjacent to the asbestos removal area.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.72 Requirements in respect of airborne asbestos fibres

- (1) This regulation applies if—
 - (a) an asbestos licence holder is performing asbestos removal work; and
 - (b) asbestos paraoccupational air monitoring is being conducted to establish whether airborne asbestos fibres are being released from the area where the asbestos removal work is being performed.
- (2) The asbestos licence holder must comply with subregulation (4) if airborne asbestos fibre levels in excess of 0.01 f/ml but not in excess of 0.05 f/ml are recorded.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (3) If airborne asbestos fibre levels in excess of 0.05 f/ml are recorded, the asbestos licence holder must immediately—
 - (a) order the asbestos removal work to stop; and
 - (b) notify the Authority; and
 - (c) comply with subregulation (4).

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (4) The asbestos licence holder must immediately—
 - (a) investigate the cause of the high levels of airborne asbestos fibres; and
 - (b) implement controls to—
 - (i) prevent exposure of any person to airborne asbestos fibres; and
 - (ii) prevent further release of airborne asbestos fibres.

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- (5) If an asbestos licence holder has stopped the asbestos removal work due to airborne asbestos fibre levels in excess of 0.05 f/ml being recorded, the licence holder must ensure that the asbestos removal work does not recommence until asbestos paraoccupational air monitoring indicates the level of airborne asbestos fibres is at or below 0.01 f/ml.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

4.3.73 Protective clothing and protective equipment for employees

The asbestos licence holder must—

- (a) provide employees with—
- (i) appropriate personal protective clothing that is suitable for the asbestos removal work being performed; and
 - (ii) appropriate respiratory protective equipment that is suitable for the asbestos removal work being performed; and
- (b) ensure that the clothing and equipment provided under paragraph (a) are correctly fitted.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.74 Signs and barricades

An asbestos licence holder performing asbestos removal work must ensure that—

- (a) appropriately placed signs and barricades are used to indicate the area where the removal work is being performed; and

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- (b) access is denied to persons other than—
- (i) persons performing the asbestos removal work; and
 - (ii) persons engaged in work incidental to the asbestos removal work who require access during that work; and

Example

Occupational hygienist.

- (iii) officers or other members of Victoria Police or persons with a statutory right to be present.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.75 Decontamination facilities

- (1) An asbestos licence holder performing asbestos removal work must provide such facilities for decontamination of the work area, tools and equipment and personal decontamination for the duration of the removal work as are appropriate to the removal work being performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An asbestos licence holder performing asbestos removal work must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the area where the removal work is being performed unless the clothing or equipment is decontaminated or contained before removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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- (3) An asbestos licence holder performing asbestos removal work must ensure that any equipment (other than personal protective equipment) that is used for removal work and that is likely to be contaminated is—
- (a) decontaminated before removal from the area where the removal work is performed; or
 - (b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the area where the removal work is performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.76 Waste containment

An asbestos licence holder who is performing asbestos removal work must ensure that—

- (a) the asbestos waste is contained so as to eliminate the release of airborne asbestos fibres; and
- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the area where the removal work was performed; and
 - (ii) indicates the presence of asbestos.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.77 Disposal of asbestos waste

An asbestos licence holder performing asbestos removal work must ensure that asbestos waste is—

- (a) disposed of as soon as is reasonably practicable; and
- (b) disposed of in an appropriate manner that eliminates the release of airborne asbestos fibres; and
- (c) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Notes

- 1 Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).
- 2 The Environment Protection Authority controls the transportation of asbestos waste of industrial origin. Owners of vehicles that transport industrial-sourced asbestos waste must hold a waste transport permit.

4.3.78 Laundering of clothing contaminated with asbestos

- (1) An asbestos licence holder performing asbestos removal work must provide for the laundering of personal protective clothing that is likely to be contaminated with asbestos and that is not contained and disposed of in accordance with regulations 4.3.76 and 4.3.77.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) If an asbestos licence holder performing asbestos removal work arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered at a commercial laundry, the licence holder must ensure that—
 - (a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and

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- (b) the exterior of the container—
- (i) is decontaminated before being removed from the area where the removal work is performed; and
 - (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.79 Medical examinations

- (1) An asbestos licence holder must arrange for an appropriate medical examination for each employee engaged in asbestos removal work.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (2) The purpose of the medical examination is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to asbestos.
- (3) An asbestos licence holder must ensure that medical examinations are provided—
- (a) before the employee commences asbestos removal work for the first time for that licence holder unless the employee has had an appropriate medical examination within the preceding year; and
 - (b) at intervals of not more than 2 years; and
 - (c) within 30 days after the employee ceases asbestos removal work unless the employee has had an appropriate medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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- (4) In this regulation the duties of an asbestos licence holder who is an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.3.80 Notice of medical practitioner

The asbestos licence holder must notify the Authority in writing within 7 days of the name and contact details of the registered medical practitioner the licence holder has engaged to undertake medical examinations in accordance with regulation 4.3.79.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.81 Results of medical examinations

- (1) The asbestos licence holder must ensure that a summary of results of a medical examination of a person carried out as required by regulation 4.3.79, indicating whether an asbestos-related disease exists and the fitness of the person to engage in asbestos removal work, is provided to the asbestos licence holder by the registered medical practitioner.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The asbestos licence holder must retain a copy of the summary of results obtained under this regulation for—
- (a) a period (not exceeding 30 years) determined by the Authority; or

(b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 4—Additional duties—friable material

4.3.82 Application of Subdivision

This Subdivision applies to asbestos removal work involving friable asbestos-containing material.

Note

A Class A asbestos removal licence is required for this removal work.

4.3.83 Asbestos removal supervisor to be on-site

An asbestos licence holder must ensure that an asbestos removal supervisor appointed in accordance with regulation 4.3.62 to supervise the asbestos removal work is on-site at all times when asbestos removal work is being performed.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

4.3.84 Specific measures to control risk

- (1) An asbestos licence holder must ensure, so far as is reasonably practicable, that the area where the asbestos removal work is performed is enclosed so as to prevent the release of airborne asbestos fibres.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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- (2) For the purposes of subregulation (1), an asbestos licence holder must, so far as is reasonably practicable, ensure that the enclosure is smoke-tested by using a smoke generating device to detect any leaks or other deficiencies in the enclosure before asbestos removal work commences.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (3) An asbestos licence holder must ensure that the removal work of friable asbestos-containing material is performed, so far as is reasonably practicable, using a wet method.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

- (4) For the purposes of subregulation (3), *wet method* means the use of water or another wetting agent to soak or totally saturate the asbestos, or the spraying of water or another wetting agent on the asbestos, but does not include the use of a high pressure water jet.

Note

Regulation 4.3.9 prohibits the use of certain tools.

4.3.85 Air monitoring required before commencement of removal work

If asbestos paraoccupational air monitoring is required under regulation 4.3.91 the asbestos licence holder must not commence asbestos removal work until that monitoring has commenced.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

4.3.86 Results air monitoring to be readily accessible

The asbestos licence holder must ensure that results of asbestos paraoccupational air monitoring are readily accessible to employees at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.87 Use of glove bags

- (1) Regulations 4.3.84(2), 4.3.85 and 4.3.91 do not apply if glove bags are being used for removal work.
- (2) The asbestos licence holder must, in a proper and safe manner, dismantle and dispose of any glove bag used to enclose the area where the asbestos removal work was performed.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.88 Requirements at the end of removal work

- (1) The asbestos licence holder must not dismantle any structure used to enclose the area where the asbestos removal work was performed until results of any asbestos paraoccupational air monitoring received from the person who commissioned the work in accordance with regulation 4.3.94 show that the airborne asbestos fibre level does not exceed 0.01 f/ml.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

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- (2) The asbestos licence holder must dismantle any structure used to enclose the asbestos removal area in a manner that eliminates the release of airborne asbestos fibres so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 24 (see regulation 1.1.7).

Subdivision 5—Duties of person who commissioned asbestos removal work

4.3.89 Application of Subdivision

- (1) The duties in this Subdivision apply to a person who commissions asbestos removal work, other than work permitted under regulation 4.3.45.
- (2) In the case of domestic premises, the asbestos licence holder is the person who commissions asbestos removal work for the purposes of this Subdivision.

4.3.90 Employers in immediate and adjacent areas to be informed

A person who commissions asbestos removal work must, before the asbestos removal work commences, inform all employers in the immediate and adjacent areas of the proposed removal work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.91 Asbestos paraoccupational air monitoring

- (1) A person who commissions asbestos removal work with respect to friable asbestos-containing material must arrange for asbestos paraoccupational air monitoring to be conducted before the work commences and for the duration of the work if—
- (a) the asbestos removal work will be performed indoors; or
 - (b) the asbestos removal work will be performed outdoors and will constitute a risk to other persons.

Note

Act compliance—sections 22(1) and 26 (see regulation 1.1.7).

- (2) A person who commissions asbestos removal work must arrange for an asbestos paraoccupational air monitoring sample to be analysed as soon as is reasonably possible after it is taken.

Note

Act compliance—sections 22(1) and 26 (see regulation 1.1.7).

4.3.92 Results of monitoring to be made available

- (1) A person who commissions asbestos removal work must provide the results of asbestos paraoccupational air monitoring to the asbestos licence holder as soon as the results are received.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A person who commissions asbestos removal work must ensure that a copy of the results of asbestos paraoccupational air monitoring is accessible to the health and safety representative

of any affected designated work group and to any affected employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.93 Requirements at end of removal work

- (1) This regulation applies to asbestos removal work of—
 - (a) friable asbestos-containing material; or
 - (b) more than 10 square metres of non-friable fixed or installed asbestos-containing material.
- (2) On completion of the asbestos removal work, the person who commissioned the work must arrange for a visual inspection by an independent person to verify that there is no visible asbestos residue remaining as a result of the work in the area where the work was performed or in the area immediately surrounding the area where the work was performed.

Note

Act compliance—sections 21, 23, 24 and 26 (see regulation 1.1.7).

- (3) On completion of asbestos removal work for which asbestos paraoccupational air monitoring was required, the person who commissioned the work must arrange for asbestos paraoccupational air monitoring to be conducted within the enclosed area, to verify that the airborne asbestos fibre level is less than 0.01 f/ml.

Note

Act compliance—sections 22(1) and 26 (see regulation 1.1.7).

4.3.94 Results of monitoring to go to licence holder

The person who commissioned the asbestos removal work must ensure that the results of the inspection and monitoring under regulation 4.3.93 are provided to the asbestos licence holder.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.95 Independent person to be qualified

The person who commissioned the asbestos removal work must ensure that the independent person performing duties under regulation 4.3.93 or regulation 4.3.96 has the requisite knowledge, skills and experience to undertake those duties.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.96 Clearance certificates

- (1) This regulation applies to asbestos removal work of—
 - (a) friable asbestos-containing material; or
 - (b) more than 10 square metres of non-friable fixed or installed asbestos-containing material.
- (2) The person who commissioned the asbestos removal work must obtain a clearance certificate from an independent person before the area where the asbestos removal work was being performed is re-occupied.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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- (3) A clearance certificate must state that—
- (a) an inspection by an independent person has found that there is no visible asbestos residue remaining as a result of the asbestos removal work in the area where the asbestos removal work was performed or in the area immediately surrounding the area where the asbestos removal work was performed; and
 - (b) if applicable, asbestos paraoccupational air monitoring in the area where the asbestos removal work was performed indicates that the airborne asbestos fibre level is less than 0.01 f/ml.

Subdivision 6—Notification procedures

4.3.97 Notification of asbestos removal work

- (1) Subject to subregulation (5) and regulation 4.3.98(2), the asbestos licence holder must notify the Authority of asbestos removal work in accordance with subregulation (2)—
 - (a) if the work involves removal of a total area of 10 square metres or less of non-friable asbestos-containing material that is fixed or installed in a building, structure, ship or plant, at least 24 hours before the work commences; or
 - (b) in any other case, at least 5 days before the work commences.
- Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (2) A notification under subregulation (1) must be in writing and include the information in Schedule 8.

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- (3) Before commencing the asbestos removal work, the asbestos licence holder must give a copy of the notification under subregulation (1) to the person who commissioned the work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) An asbestos licence holder may proceed with the asbestos removal work despite notifying the Authority of a change under regulation 7.1.3.
- (5) The Authority may vary the notification requirements under this regulation by including a specific condition in a licence with respect to notification.

4.3.98 Notification in an unexpected situation

- (1) This regulation applies to the following situations (an *unexpected situation*)—
- (a) a sudden, unexpected event, including work required by non-routine failures of equipment, that may result in persons being exposed to airborne asbestos fibres; or
 - (b) an unexpected breakdown of an essential service (including gas, water, sewerage, electricity and telecommunications) that requires immediate rectification to enable continuance of that service.
- (2) In an unexpected situation, the asbestos licence holder must, not later than 24 hours after commencing asbestos removal work, notify the Authority of the removal work in accordance with subregulation (3).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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- (3) A notification under subregulation (2) must be in writing and include the information in Schedule 8.
 - (4) The Authority may vary the notification requirements under this regulation by including a specific condition in a licence with respect to the notification.

Subdivision 7—Duty of employer at a workplace to inform

4.3.99 Information to be provided to those in area

An employer at a workplace must, before asbestos removal work commences at the workplace, inform employees in the immediate and adjacent areas of the workplace of the proposed removal work.

Note

Act compliance—section 21 (see regulation 1.1.7).

Division 8—Activities involving asbestos

4.3.100 Application of Division

This Division applies to the following activities (*asbestos-related activities*) that are carried out at a workplace—

- (a) the handling, including for the purpose of removal or transport for disposal, of aircraft and automotive components that are asbestos-containing material or that have asbestos-containing material fixed to them or installed in them;
 - (b) the laundering of clothing contaminated with asbestos;
 - (c) research involving asbestos;
 - (d) sampling or analysis involving suspected asbestos;
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- (e) the transport of asbestos waste for disposal purposes;
 - (f) working at a site licensed by the Environment Protection Authority to accept asbestos waste;
 - (g) the enclosing or sealing of asbestos;
 - (h) hand drilling and cutting of asbestos-containing material;
 - (i) maintenance of dust extraction equipment, contaminated with asbestos;
 - (j) processing of construction and demolition material in accordance with the method determined by the Authority under regulation 4.3.1(b);
 - (k) any other activity (other than asbestos removal work to which Division 7 applies) that is likely to produce airborne asbestos fibres in excess of one half of the asbestos exposure standard;
 - (l) any other activity determined by the Authority for the purposes of this Division.

Note

The general requirements of Divisions 1 and 2, and the prohibitions in Divisions 3 and 4, also apply to the activities listed in this Division.

4.3.101 Identification of asbestos-related activities

An employer must identify whether an asbestos-related activity is being carried out at the employer's workplace.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.102 Uncertainty as to presence of asbestos

If there is uncertainty (based on reasonable grounds) as to whether an activity is an asbestos-related activity, the employer must—

- (a) assume that asbestos is present; or
- (b) arrange for analysis of a sample to be undertaken.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.103 Asbestos register must be obtained

- (1) If any asbestos-related activities set out in subregulation (2) are carried out at an employer's workplace, the employer must obtain—
 - (a) a copy of the asbestos register in relation to the activities; or
 - (b) if there are other employers at the workplace where the activities are carried out, a copy of the employer's asbestos register of each of those other employers.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) For the purposes of subregulation (1) the relevant asbestos-related activities are—
 - (a) activities specified in paragraphs (d), (g) and (h) of regulation 4.3.100;
 - (b) activities specified in paragraphs (c), (k) and (l) of regulation 4.3.100, if an asbestos register or employer's asbestos register is available.

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- (3) This regulation does not apply if the asbestos-related activity will be carried out at a domestic premises and the person who commissioned the activity is the occupier of those premises.

4.3.104 Elimination of airborne asbestos fibres

An employer must ensure that, when carrying out an asbestos-related activity, the activity is carried out in a manner that eliminates so far as is reasonably practicable the release of airborne asbestos fibres.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.105 Specific measures to control risk

- (1) An employer must ensure that any risk associated with an asbestos-related activity is eliminated so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If it is not reasonably practicable to eliminate a risk associated with an asbestos-related activity, an employer must ensure that the risk is reduced so far as is reasonably practicable by—
- (a) isolation; or
 - (b) using engineering controls; or
 - (c) combining the risk control measures in paragraphs (a) and (b).

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) If an employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with an asbestos-related activity remains, the employer must, so far as is

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reasonably practicable, use administrative controls to reduce the risk.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (4) If an employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with an asbestos-related activity remains, the employer must reduce the risk by providing personal protective equipment to employees at risk.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (5) If an employer provides personal protective equipment under subregulation (4), the employer must ensure that—
- (a) the person carrying out the asbestos-related activity is provided with—
 - (i) appropriate personal protective clothing that is suitable for the activity being carried out; and
 - (ii) appropriate respiratory protective equipment that is suitable for the activity being carried out; and
 - (b) the clothing and equipment provided under paragraph (a) are correctly fitted.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.106 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control a risk associated with an asbestos-related activity are reviewed and, if necessary, revised—

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- (a) before any alteration is made to systems of work related to the activity that is likely to result in any increased risk to health or safety; or
 - (b) after any incident occurs to which Part 5 of the Act applies that involves an asbestos-related activity; or
 - (c) if, for any other reason, the risk control measures do not adequately control the risks; or
 - (d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulations (1)(a) to (1)(c) exists; or
 - (b) the employer has failed—
 - (i) to properly review risk control measures; or
 - (ii) to take account of any of the circumstances in subregulations (1)(a) to (1)(c) in conducting a review of, or revising, the risk control measures.

4.3.107 Work area to be separate and signed

An employer must ensure that the work area used for an asbestos-related activity—

- (a) is kept separate from any other work area; and

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- (b) so far as is reasonably possible, has appropriately placed signs and barricades that indicate the area where the activity is being carried out.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.108 Work area to be kept clean

- (1) An employer must, so far as is reasonably practicable, ensure that the work area used for an asbestos-related activity is kept clean.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) An employer must ensure that the methods used to clean the work area—
- (a) do not create a risk to health; and
 - (b) do not have the potential to spread airborne asbestos fibres beyond the work area.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 1.1.7).
- 2 Regulation 4.3.9 prohibits the use of certain tools at a workplace.

4.3.109 Medical examinations

- (1) An employer must arrange for an appropriate medical examination to be conducted by a registered medical practitioner for each employee engaged in ongoing asbestos-related activities if there is a risk of exposure to airborne asbestos fibres above one half of the asbestos exposure standard.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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- (2) Respiratory protective equipment must not be considered in establishing whether there is a risk of exposure to airborne asbestos fibres above one half of the asbestos exposure standard.
 - (3) The purpose of the medical examination is to monitor the employee's health for the purpose of identifying changes in the employee's health status due to occupational exposure to asbestos.
 - (4) An employer must ensure that atmospheric monitoring at the workplace is provided if there is uncertainty (based on reasonable grounds) as to whether a medical examination may be required under this Division.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (5) An employer must ensure that medical examinations are provided to an employee—
 - (a) at intervals of not more than 2 years; and
 - (b) within 30 days after the employee has ceased an asbestos-related activity, unless the employee has had a medical examination within the preceding year.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (6) In this regulation the duties of an employer in relation to medical examinations extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.3.110 Results of atmospheric monitoring to be made available

An employer must ensure that copies of the results of atmospheric monitoring are accessible to the health and safety representative of any affected

designated work group and to the affected employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.111 Notice of medical practitioner

The employer must notify the Authority in writing within 7 days of the name and contact details of the registered medical practitioner the employer has engaged to undertake medical examinations in accordance with regulation 4.3.109.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.112 Results of medical examination

- (1) An employer must ensure that a summary of results of a medical examination indicating whether an asbestos-related disease exists and the employee's fitness for asbestos-related activities, is provided to the employer by the registered medical practitioner.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The employer must retain a copy of the summary of results obtained under subregulation (1) for—
 - (a) a period (not exceeding 30 years) determined by the Authority; or
 - (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.113 Decontamination facilities

- (1) An employer carrying out an asbestos-related activity must ensure that a person does not remove personal protective clothing or personal protective equipment that is likely to be contaminated with asbestos from the work area used for the asbestos-related activity unless the clothing or equipment is decontaminated or contained before its removal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer carrying out an asbestos-related activity must ensure that any equipment (other than personal protective equipment) that is used for the asbestos-related activity and that is likely to be contaminated with asbestos is—
- (a) decontaminated before removal from the work area used for the asbestos-related activity; or
 - (b) placed in a sealed container, the exterior of which is decontaminated before the container is removed from the work area used for the asbestos-related activity.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.114 Waste containment

An employer carrying out an asbestos-related activity must ensure that—

- (a) any asbestos derived from or associated with the activity, and that is no longer required in connection with the activity, is contained so as to eliminate the release of airborne asbestos fibres; and

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- (b) the exterior of the container—
 - (i) is decontaminated before being removed from the work area used for the activity; and
 - (ii) indicates the presence of asbestos.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.3.115 Disposal of asbestos waste

An employer carrying out an asbestos-related activity must ensure that asbestos waste is—

- (a) disposed of as soon as is reasonably practicable; and
- (b) disposed of in an appropriate manner that eliminates the release of airborne asbestos fibres; and
- (c) disposed of at a waste disposal site licensed by the Environment Protection Authority.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 1.1.7).
- 2 The Environment Protection Authority controls the transportation of asbestos waste of industrial origin. Owners of vehicles that transport industrial-sourced asbestos waste must hold a waste transport permit.

4.3.116 Laundering of clothing contaminated with asbestos

- (1) An employer carrying out an asbestos-related activity must provide for the laundering of personal protective clothing that is used for an asbestos-related activity and that is likely to be contaminated with asbestos and that is not contained and disposed of in accordance with regulations 4.3.114 and 4.3.115.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

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- (2) If the employer arranges for personal protective clothing that is likely to be contaminated with asbestos to be laundered at a commercial laundry, the employer must ensure that—
- (a) the clothing is contained so as to eliminate the release of airborne asbestos fibres; and
 - (b) the exterior of the container—
 - (i) is decontaminated before being removed from the work area; and
 - (ii) indicates the presence of asbestos before the clothing is transferred to the laundry.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.3.117 Provision of information to job applicants

An employer must provide each applicant who applies for employment with the employer to carry out an asbestos-related activity (other than activities specified in paragraphs (h) and (k) of regulation 4.3.100) with information about the nature of the hazard and the risks associated with exposure to airborne asbestos fibres.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.3.118 Training record

An employer must—

- (a) make a record of training provided in relation to carrying out asbestos-related activities in accordance with regulation 2.1.2; and

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(b) retain that record for so long as it is applicable.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

PART 4.4—LEAD

Division 1—Introductory matters

4.4.1 Application of Part

This Part applies to workplaces where a lead process is undertaken.

Note

Part 4.1 (Hazardous Substances) also imposes duties on employers in relation to labelling and Material Safety Data Sheets.

4.4.2 What is a lead process?

A lead process consists of one or more of the following—

- (a) work that exposes a person to lead dust or lead fumes arising from the manufacture or handling of dry lead compounds;
- (b) work in connection with the manufacture, assembly, handling or repair of, or parts of, batteries containing lead that involves the manipulation of dry lead compounds or the pasting or casting of lead;
- (c) breaking up or dismantling of batteries containing lead, or sorting, packing and handling of plates or other parts containing lead removed or recovered from those batteries;
- (d) spraying with molten lead metal or alloys containing greater than 5% by weight of lead metal;

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- (e) melting or casting of lead alloys containing greater than 5% by weight of lead metal in which the temperature of the molten material exceeds 450°C;
 - (f) recovery of lead from its ores, oxides or other compounds by a thermal reduction process;
 - (g) dry machine grinding, discing, buffing or cutting by power tools of lead containing greater than 5% by weight of lead metal;
 - (h) machine sanding or buffing of surfaces coated with paint containing greater than 1% by dry weight of lead metal;
 - (i) a process in which electric arc, oxy-acetylene, oxy gas, plasma arc or a flame is applied, for the purposes of welding, cutting or cleaning, to the surface of metal that is coated with lead or paint containing greater than 1% by dry weight of lead metal;
 - (j) radiator repairs if exposure to lead dust or lead fumes may occur;
 - (k) fire assays, if lead is used;
 - (l) hand grinding and finishing of lead or alloy containing greater than 50% by weight of lead metal;
 - (m) spray painting with lead paint containing greater than 1% by dry weight of elemental lead;
 - (n) melting of lead metal or alloy containing greater than 50% by weight of lead metal if the exposed surface area of the molten material is greater than 0.1 square metre and the temperature of the molten material does not exceed 450°C;
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- (o) use of a power tool, including abrasive blasting and high pressure water jets, to remove any surface coated with paint containing greater than 1% by dry weight of lead metal and the handling of waste containing lead resulting from that removal;
 - (p) a process that exposes a person to lead dust or lead fumes arising from the manufacture or testing of detonators or other explosives that contain lead;
 - (q) a process that exposes a person to lead dust or lead fumes arising from the firing of weapons at an indoor firing range;
 - (r) foundry processes involving—
 - (i) the melting or casting of lead alloys containing greater than 1% by weight of lead metal in which the temperature of the molten material exceeds 450°C; or
 - (ii) the dry machine grinding, discing, buffing or cutting by power tools of lead alloys containing greater than 1% by weight of lead metal;
 - (s) a process at a workplace determined by the Authority to be a lead process in accordance with regulation 4.4.4.

4.4.3 Females taken to be of reproductive capacity

For the purposes of this Part, a female employee working in a lead process is to be treated as being of reproductive capacity, unless she provides her employer with a written statement advising the contrary.

4.4.4 Authority may determine lead process

- (1) The Authority may determine a process to be a lead process.
- (2) The Authority must not determine a process to be a lead process unless the Authority believes the health of employees at a workplace where the process is to be carried out is at risk when blood lead levels of employees or airborne lead levels at the workplace are taken into account.

4.4.5 Medical examinations and biological monitoring

- (1) In this Part, a requirement for a medical examination of a person is a requirement for a medical examination of the person to be conducted by a registered medical practitioner to monitor the person's health for the purpose of identifying changes in the person's health status due to occupational exposure to lead.
- (2) In this Part, a requirement for biological monitoring of a person is a requirement for biological monitoring that consists of the testing of the venous blood of the person by a pathology service accredited by NATA under the supervision of a registered medical practitioner to determine the amount of lead in the blood corrected to a haematocrit of 0.45 (45%) for males and a haematocrit of 0.42 (42%) for females.

Division 2—Duties of employer

Subdivision 1—Provision of information

4.4.6 Information to job applicants

An employer must provide an applicant who applies for employment with the employer in a lead process with information about the health risks and toxic effects associated with lead

exposure and the need for, and content of, medical examinations and biological monitoring.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.4.7 Information to employees

Before an employee first starts work in a lead process over which an employer has control, the employer must provide the employee with information in relation to the need for, and details of, medical examinations and biological monitoring.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Subdivision 2—Control of risks associated with lead processes

4.4.8 Control of risk

- (1) An employer must eliminate, so far as is reasonably practicable, any risk associated with exposure to lead.
- (2) If it is not reasonably practicable for an employer to ensure that a risk associated with exposure to lead is eliminated, the employer must reduce that the risk so far as is reasonably practicable by—
 - (a) substituting lead with—
 - (i) a substance that is less hazardous; or
 - (ii) a less hazardous form of lead; or
 - (b) isolating employees from the source of exposure to lead; or
 - (c) using engineering controls to prevent or reduce employee exposure to lead; or

- (d) combining any of the risk control measures in paragraphs (a), (b) and (c).

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) If an employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk associated with exposure to lead remains, the employer must, so far as is reasonably practicable, use administrative controls to prevent or minimise exposure to lead.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (4) If an employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk associated with exposure to lead remains, the employer must reduce the risk by providing appropriate personal protective equipment that is suitable for the task to employees at risk.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.4.9 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks to health from exposure to lead are reviewed and, if necessary, revised—
- (a) before any significant change is made to the lead process or a system of work that is related to the lead process; or
 - (b) if an employee has been removed from a lead-risk job under regulation 4.4.23; or
 - (c) after any incident occurs to which Part 5 of the Act applies that involves exposure to lead; or

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- (d) if, for any other reason, the risk control measures do not adequately control the risks;
or
 - (e) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(e) if the health and safety representative believes on reasonable grounds that—
 - (a) any of the circumstances referred to in subregulations (1)(a) to (1)(d) exists; or
 - (b) the employer has failed—
 - (i) to properly review risk control measures; or
 - (ii) to take account of any of the circumstances in subregulations (1)(a) to (1)(d) in conducting a review of, or revising, the risk control measures.

4.4.10 Lead exposure standard not to be exceeded

- (1) An employer must ensure that an employee is not exposed to an airborne concentration of lead dust, lead mist or lead fumes in that person's breathing zone at a workplace that exceeds 0.15 milligrams per cubic metre calculated as a time weighted average of the atmospheric concentration of lead over an 8 hour working day and a 40 hour working week.

Note

Act compliance—section 21 (see regulation 1.1.7).

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- (2) An employer must ensure that monitoring of the airborne concentration of lead dust, lead mist or lead fumes at the employer's workplace is carried out if—
- (a) there is uncertainty (based on reasonable grounds) as to whether the lead exposure standard is or may be exceeded; or
 - (b) the monitoring is necessary to determine whether there is a risk to health.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

4.4.11 Provision of results of monitoring

An employer must provide the results of any monitoring of the airborne concentration of lead dust, lead mist or lead fumes at the employer's workplace as soon as is reasonably practicable to any employee who has been, or may be, exposed to the lead dust, lead mist or lead fumes.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.4.12 Containment of lead

An employer must ensure that any contamination by lead is confined, so far as is reasonably practicable, to an area where a lead process is carried out.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.4.13 Cleaning methods

- (1) An employer must, so far as is reasonably practicable, ensure that an area where a lead process is carried out is kept clean.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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- (2) An employer must, so far as is reasonably practicable, ensure that the methods used to clean in an area where a lead process is carried out—
- (a) do not create a risk to the health of people in the immediate vicinity of the area being cleaned; and
 - (b) do not have the potential to spread the contamination of lead.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

4.4.14 Prohibition on eating, drinking and smoking

- (1) An employer must ensure that a person does not eat, drink, chew gum, smoke or carry materials used for smoking in any area where a lead process is carried out.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

- (2) An employer must provide employees with an eating and drinking area that, so far as is reasonably practicable, cannot be contaminated with lead from any lead process.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.4.15 Provision of changing and washing facilities

An employer must, so far as is reasonably practicable, provide and maintain changing and washing facilities for employees so as to—

- (a) minimise secondary lead exposure from contaminated clothing; and
- (b) minimise ingestion of lead; and

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(c) avoid the spread of lead contamination.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

4.4.16 Laundering, disposal and removal of protective clothing

(1) An employer must provide for the laundering or disposal of protective clothing and work clothing if it is likely that the clothing is contaminated with lead dust.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

(2) The employer must ensure a person does not remove clothing required to be laundered or disposed of under subregulation (1) from the workplace, except to transfer the clothing to a commercial laundry or for disposal.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

(3) The employer must ensure that clothing to be laundered or disposed of under subregulation (1), is bagged and labelled to identify the contents.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Subdivision 3—Lead-risk jobs

4.4.17 What is a lead-risk job?

A lead-risk job means a job that involves work in a lead process in which the blood lead level of the employee is reasonably likely to exceed—

(a) 1.45 $\mu\text{mol/L}$; or

(b) 0.48 $\mu\text{mol/L}$ for female employees of reproductive capacity.

4.4.18 Identification of lead-risk jobs

- (1) An employer must identify a lead process as either—
 - (a) reasonably likely to lead to blood lead levels of employees greater than those set out in regulation 4.4.17; or
 - (b) not reasonably likely to lead to blood lead levels of employees greater than those set out in regulation 4.4.17.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) For the purposes of subregulation (1), the employer must take into account the following factors—
 - (a) past biological monitoring results of employees;
 - (b) whether the airborne lead level is greater than half the lead exposure standard;
 - (c) the form of lead to be used;
 - (d) the specific tasks or processes required to be undertaken with the lead;
 - (e) the likely frequency and duration of exposure to lead;
 - (f) possible routes of exposure to lead;
 - (g) any information regarding incidents, illnesses or diseases associated with the use of lead at the workplace.
- (3) For the purpose of identifying a lead process under subregulation (1), an employer must not have regard to the effect of the use of respiratory protection to control exposure to lead.

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- (4) If, an employer is unable to identify whether or not a lead process falls within subregulation (1)(a) or (1)(b), that process is to be treated as being likely to lead to blood lead levels of employees greater than those set out in regulation 4.4.17 until the employer establishes otherwise.

4.4.19 Notification and recording of a lead-risk job

- (1) If an employer identifies a lead process that is likely to lead to blood lead levels of employees greater than those set out in regulation 4.4.17, the employer must notify the Authority of the identification in writing within 7 days after making that identification.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) A notification under subregulation (1) must include a reference to the type of lead process being undertaken.
- (3) The employer must retain a copy of the notification under subregulation (1) for the period that the lead process is conducted at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (4) The employer must make a copy or record of the notification readily accessible to an employee who has the potential to be exposed to lead and the employee's relevant health and safety representative for the period that the lead process is conducted at the workplace.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.4.20 Health surveillance before first starting lead-risk job

- (1) An employer must arrange for a medical examination for an employee and biological monitoring of an employee before the employee first starts work in a lead-risk job.

Notes

- 1 Act compliance—section 22(1) (see regulation 1.1.7).
2 See regulation 4.4.5.

- (2) An employer must arrange for the biological monitoring of an employee within one month after the employee starts work in a lead-risk job.

Notes

- 1 Act compliance—section 22(1) (see regulation 1.1.7).
2 See regulation 4.4.5.

- (3) In this regulation the duties of an employer in relation to medical examination and biological monitoring extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.4.21 Health surveillance for jobs subsequently identified as lead-risk job

- (1) An employer must, as soon as reasonably possible after a job is identified as a lead-risk job, arrange for a registered medical practitioner to conduct a medical examination and biological monitoring of an employee in that job if—
- (a) the job was not identified as a lead-risk job at the time the employee started working in that job; and

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- (b) after the employee started working in that job, the job is identified as a lead-risk job; and
- (c) the employer had not, before the identification of the job as a lead-risk job, provided for a medical examination or biological monitoring of that employee.

Notes

- 1 Act compliance—section 22(1) (see regulation 1.1.7).
- 2 See regulation 4.4.5.

- (2) In this regulation the duties of an employer in relation to medical examination and biological monitoring extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.4.22 Frequency of biological monitoring

- (1) An employer must arrange for biological monitoring under the supervision of a registered medical practitioner of all employees in a lead-risk job at the following intervals—
 - (a) for females not of reproductive capacity and males—
 - (i) 6 months after the last biological monitoring if the result of that last monitoring shows a blood lead level result of less than 1.45 $\mu\text{mol/L}$; or
 - (ii) 3 months after the last biological monitoring if the result of that last monitoring shows a blood lead level of 1.45 $\mu\text{mol/L}$ or more but less than 1.93 $\mu\text{mol/L}$; or

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- (iii) 6 weeks after the last biological monitoring if the result of the last monitoring shows a blood lead level of $1.93 \mu\text{mol/L}$ or more;
 - (b) for females of reproductive capacity—
 - (i) 3 months after the last biological monitoring if the result of that last monitoring shows a blood lead level of less than $0.48 \mu\text{mol/L}$; or
 - (ii) 6 weeks after the last biological monitoring if the result of that last monitoring shows a blood lead level result of $0.48 \mu\text{mol/L}$ or more.

Notes

- 1 Act compliance—section 22(1) (see regulation 1.1.7).
- 2 See regulation 4.4.5.

- (2) An employer must increase the frequency of biological monitoring if the employee is carrying out an activity that is likely to significantly change the nature or increase the duration or frequency of the employee's lead exposure.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (3) The Authority may determine a different frequency for biological monitoring for a workplace or for a class of employees undertaking a lead-risk job, having regard to—
 - (a) the nature of the work and likely duration and frequency of exposure; and
 - (b) the likelihood that the blood lead level of employees will significantly increase.

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- (4) If the Authority makes a determination under subregulation (3), and the determination applies to an employer's workplace or employees, the employer must provide the biological monitoring required by subregulation (1) in relation to the workplace or employees at the frequency specified in the determination.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (5) In this regulation the duties of an employer in relation to biological monitoring extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.4.23 Removal from lead-risk job

- (1) An employer must immediately remove an employee from a lead-risk job if—
- (a) the results of biological monitoring reveal that the blood lead level of the employee is at or above—
 - (i) 2.41 $\mu\text{mol/L}$ —for females not of reproductive capacity and males;
 - (ii) 0.97 $\mu\text{mol/L}$ —for females of reproductive capacity;
 - (iii) 0.72 $\mu\text{mol/L}$ —for females who are pregnant or breast feeding; or
 - (b) following a medical examination by a registered medical practitioner, that practitioner is of the opinion that the employee must be removed from that job; or
 - (c) there is an indication that risk control measures in place have failed and as a result, it is likely that the blood lead level of the
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employee will reach or exceed the removal levels set out in paragraph (a).

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) In this regulation the duties of an employer in relation to removal of an employee from a lead-risk job extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.4.24 Medical examination if removed from lead-risk job

- (1) If a person has been removed from a lead-risk job as a result of regulation 4.4.23(1)(a) or 4.4.23(1)(c), the employer must provide for the person to have a medical examination by a registered medical practitioner within 7 days after that removal.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (2) If a medical examination of a person removed as a result of regulation 4.4.23(1)(c) reveals that the blood lead level of the employee is below the levels set out in regulation 4.4.23(1)(a), and the medical practitioner agrees, the employer may allow the person to return to the lead-risk job.

4.4.25 Return after medical removal

- (1) This regulation only applies if an employer expects that an employee will return to a lead-risk job after removal from that job.
- (2) An employer must arrange for an employee who has been removed from a lead-risk job in accordance with regulation 4.4.23(1)(a) or 4.4.23(1)(b) to be re-examined by a registered medical practitioner, at a frequency determined by the registered medical practitioner, to determine

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whether the employee is suitable to return to a lead-risk job.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

- (3) The employer must ensure that the employee does not return to a lead-risk job until—
- (a) the employee's blood lead level is less than—
 - (i) 1.93 $\mu\text{mol/L}$ —for females not of reproductive capacity and males;
 - (ii) 0.48 $\mu\text{mol/L}$ —for females of reproductive capacity; and
 - (b) a registered medical practitioner certifies that the employee is fit to return to the lead-risk job.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (4) In this regulation the duties of an employer in relation to an employee return to work after removal from a lead-risk job extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

4.4.26 Requirements for medical examinations

- (1) An employer must provide a registered medical practitioner who is to conduct a medical examination of a person required by this Part with details of—
- (a) the name and address of the employer;
 - (b) the name and date of birth of the person to be examined;

- (c) the lead process the person is engaged in;
- (d) the period the person has been engaged in that process.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The employer must ensure that the registered medical practitioner provides the employer with a report setting out details of—
- (a) the dates of examinations and blood sampling; and
 - (b) the results of the biological monitoring and any other tests; and
 - (c) the name of any pathology service used.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) The employer must ensure that the registered medical practitioner provides the employer with details of any opinion formed by the practitioner after the medical examination as to whether the person examined—
- (a) is suitable on medical grounds to work in a lead-risk job;
 - (b) has excessive lead absorption and must not work in a lead-risk job;
 - (c) shows symptoms or signs of clinical lead poisoning and is unfit to work;
 - (d) is fit to return to work in a lead-risk job;
 - (e) is fit to continue work in a lead-risk job.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.4.27 Information to go to Authority

- (1) If an employer has removed a person from a lead-risk job in accordance with regulation 4.4.23, the employer must ensure that a copy of the results of the biological monitoring referred to in that regulation is forwarded to the Authority within 48 hours after the employer receives it.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) If a person—

- (a) is removed from a lead-risk job under regulation 4.4.23; and
(b) is not allowed to return to that job under regulation 4.4.24(2)—

the employer must ensure that a copy of the report of the medical examination conducted under regulation 4.4.24 setting out the details required by regulation 4.4.26(2) is forwarded to the Authority within 48 hours after the employer receives it.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) An employer must notify the Authority in writing within 7 days of the name and contact details of the registered medical practitioner the employer has engaged to undertake medical examinations for the purposes of this Part.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

4.4.28 Records

An employer must retain the report of a medical examination returned to the employer by a registered medical practitioner under this Part, and all the results of biological monitoring of a person provided for by the employer under this Part, for—

- (a) a period (not exceeding 30 years) determined by the Authority; or
- (b) if no period has been determined by the Authority, 30 years.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Employee duties

4.4.29 Eating, drinking, smoking etc.

- (1) An employee must not eat, drink, chew gum, smoke or carry materials used for smoking in any area where a lead process is carried out.

Penalty: 100 penalty units.

- (2) An employee who has been in any area where a lead process is carried out must remove any lead contaminated clothing and equipment he or she has used before entering an area designated for eating and drinking.

Penalty: 100 penalty units.

- (3) An employee who has been in any area where a lead process is carried out must wash his or her hands and face after leaving the area and before eating, drinking or smoking.

Penalty: 100 penalty units.

CHAPTER 5—HAZARDOUS INDUSTRIES

PART 5.1—CONSTRUCTION

Division 1—Introductory matters

5.1.1 Application of Part

- (1) This Part applies to workplaces where construction work is performed.
- (2) To avoid doubt, this Part does not apply to the owner of domestic premises—
 - (a) personally performing construction work at those premises; or
 - (b) if those premises become a workplace due to construction work being performed, and the owner engages a person to manage or control the workplace under regulation 5.1.14(2).

5.1.2 What is construction work?

- (1) In these Regulations *construction work* means any work performed in connection with the construction, alteration, conversion, fitting out, commissioning, renovation, refurbishment, decommissioning, or demolition of any building or structure, or any similar activity.
- (2) Without limiting subregulation (1), work referred to in that subregulation includes—
 - (a) installation, testing, maintenance and repair work performed in connection with the construction work; and
 - (b) the removal from the workplace of any product or waste resulting from the demolition; and

-
- (c) the prefabrication or testing of elements at a place specifically established for the construction project; and

Example

An example of a prefabricated element of a structure is a concrete panel.

- (d) the assembly of prefabricated elements to form a building or structure or the disassembly of prefabricated elements, that, immediately before the disassembly, formed a building or structure; and
 - (e) the installation, testing and maintenance of gas, water, sewerage, electricity or telecommunications services in or of any building or structure; and
 - (f) any work in connection with any excavation, landscaping, preparatory work, or site preparation performed for the purpose of any work referred to in subregulation (1) or this subregulation; and
 - (g) any work referred to in subregulation (1) performed under water, including work on buoys, obstructions to navigation, rafts, ships and wrecks.
- (3) In these Regulations *construction work* does not include—
- (a) the assembly, disassembly, prefabrication or manufacture of fixed plant; or
 - (b) the prefabrication of elements as standard stock for sale; or
 - (c) routine or minor testing, maintenance or repair work performed in connection with a building or structure; or
 - (d) the exploration for, or extraction of, minerals or stone.
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5.1.3 What is high risk construction work?

In this Part *high risk construction work* means construction work—

- (a) where there is a risk of a person falling more than 2 metres;
- (b) on telecommunications towers;
- (c) involving demolition;
- (d) involving the removal or likely disturbance of asbestos;
- (e) involving structural alterations that require temporary support to prevent collapse;
- (f) involving a confined space;
- (g) involving a trench or shaft if the excavated depth is more than 1.5 metres;
- (h) involving a tunnel;
- (i) involving the use of explosives;
- (j) on or near pressurised gas distribution mains or piping;
- (k) on or near chemical, fuel or refrigerant lines;
- (l) on or near energised electrical installations or services;
- (m) in an area that may have a contaminated or flammable atmosphere;
- (n) involving tilt-up or precast concrete;
- (o) on or adjacent to roadways or railways used by road or rail traffic;
- (p) at workplaces where there is any movement of powered mobile plant;
- (q) in an area where there are artificial extremes of temperature;

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- (r) in, over or adjacent to water or other liquids where there is a risk of drowning;
 - (s) involving diving.

5.1.4 What is a structure?

In this Part *structure* includes—

- (a) any construction wall, mast, tower, pylon, or structural cable; and
- (b) any tunnel, shaft, underground tank, pipe or pipeline, sea defence works, river works, earthworks, earth retaining construction, or construction designed to preserve or alter any natural feature; and
- (c) any road, railway line or siding, tramway line, airfield, dock, harbour, inland navigation channel, bridge, viaduct, waterworks, reservoir, aqueduct, constructed lagoon, dam, sewer, sewerage or drainage works, electricity generation facility, electricity transmission facility, electricity distribution facility, gas generation facility, gasholder, gas transmission facility, gas distribution facility, or park or recreation ground facility; and
- (d) any ship or submarine; and
- (e) any fixed plant; and
- (f) any formwork, falsework, scaffold or other construction designed or used to provide support or access or containment during construction; and
- (g) any part of a thing set out in paragraphs (a) to (f).

5.1.5 What is a safe work method statement?

In this Part a *safe work method statement* means a document that—

- (a) identifies work that is high risk construction work; and
- (b) states the hazards and risks to health or safety of that work; and
- (c) sufficiently describes measures to control those risks; and
- (d) describes the manner in which the risk control measures are to be implemented.

5.1.6 Self-employed person to have the same duties as an employer

- (1) A self-employed person must comply with the requirements of this Part as if that person were an employer.
- (2) If a provision of this Part is an Act compliance provision, compliance by a self-employed person with that provision in respect of a matter is the way that the self-employed person complies with the self-employed person's duty under section 24 of the Act in respect of that matter.
- (3) A self-employed person's duties under this regulation apply only so far as to ensure, so far as is reasonably practicable, that persons are not exposed to risks to their health and safety arising from the conduct of the undertaking of the self-employed person.

Division 2—Control of risk

Subdivision 1—Duties of employers

5.1.7 Control of risk

- (1) An employer must eliminate any risk to health or safety associated with construction work, so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) If it is not reasonably practicable to eliminate a risk to health or safety associated with construction work, the employer must reduce that risk so far as is reasonably practicable by—
- (a) substituting, for the hazard giving rise to the risk to health or safety, a new activity, procedure, plant, process or substance that gives rise to a lesser risk to health or safety; or
 - (b) isolating persons from the hazard; or
 - (c) using engineering controls; or
 - (d) combining any of the risk control measures in paragraphs (a), (b) and (c).

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (3) If an employer has complied with subregulations (1) and (2) so far as is reasonably practicable and a risk to health or safety associated with the construction work remains, the employer must, so far as is reasonably practicable, use administrative controls to reduce that risk.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

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- (4) If an employer has complied with subregulations (1), (2) and (3) so far as is reasonably practicable and a risk to health or safety associated with the construction work remains, the employer must control that risk by providing appropriate personal protective equipment that is suitable to the task to persons at risk.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

5.1.8 Review of risk control measures

- (1) An employer must ensure that any measures implemented to control risks to health or safety in relation to construction work are reviewed and, if necessary, revised—
- (a) before any change is made to the way the construction work is performed or to the system of work associated with the construction work, including a change in the location of the construction work; or
 - (b) if new or additional information about hazards relating to the construction work becomes available to the employer; or
 - (c) if, for any other reason, the risk control measures do not adequately control the risks to health and safety associated with the construction work; or
 - (d) after receiving a request from a health and safety representative.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

- (2) A health and safety representative may make a request under subregulation (1)(d) if the health and safety representative believes on reasonable grounds that—

-
- (a) any of the circumstances referred to in subregulations (1)(a) to (1)(c) exists; or
 - (b) the employer has failed—
 - (i) to review properly the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulations (1)(a) to (1)(c) in conducting a review of, or revising, the risk control measures.

5.1.9 Safe work method statement required for high risk construction work

- (1) An employer must not perform high risk construction work if there is a risk to the health or safety of any person arising from the work, unless—
 - (a) a safe work method statement is prepared for the work before the work commences; and
 - (b) the work is performed in accordance with the statement.
- (2) If there is non-compliance with a safe work method statement prepared under subregulation (1) in relation to particular work, the employer must—
 - (a) stop that work immediately or as soon as it is safe to do so; and
 - (b) not resume the work until the statement is complied with or reviewed and, if necessary, revised in accordance with regulation 5.1.10.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

-
- (3) For high risk construction work involving the removal or likely disturbance of asbestos, if there is a risk to the health or safety of any person arising from the work—
- (a) preparation of an asbestos control plan in accordance with regulation 4.3.69 is taken to be preparation of a safe work method statement; and
 - (b) compliance with the asbestos control plan is taken to be compliance with a safe work method statement in relation to the risk to health or safety of exposure to airborne asbestos fibres.

5.1.10 Safe work method statement to be reviewed and revised

An employer performing high risk construction work for which a safe work method statement is required under regulation 5.1.9 must ensure that a safe work method statement is reviewed and if necessary, revised—

- (a) whenever the high risk construction work changes; or
- (b) if there is an indication that risk control measures (including risk control measures required under any other Part of these Regulations) are not controlling the risks to health or safety adequately, including after any incident that occurs during high risk construction work.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

5.1.11 Copy of safe work method statement to be retained

An employer must retain a copy of a safe work method statement for the duration of the high risk construction work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

5.1.12 Site-specific training

An employer must ensure that a person whom the employer employs to perform construction work is provided with occupational health and safety training that relates to the particular workplace at which the construction work is to be performed.

Note

Act compliance—section 21 (see regulation 1.1.7).

Subdivision 2—Duties of principal contractors

5.1.13 Application of Subdivision

- (1) This Subdivision applies to a construction project if the cost of the project is \$250 000 or more.
- (2) For the purposes of this Part, the cost of a construction project is to be valued in the same way that a construction contract is valued under section 11 of the **Building and Construction Industry Security of Payment Act 2002**.

5.1.14 Who is the principal contractor for a construction project?

- (1) The owner is the principal contractor of the workplace where the construction project is to be carried out unless the owner—
 - (a) appoints a principal contractor for the construction work performed for or on behalf of the owner; and

- (b) authorises the principal contractor to manage or control the workplace to the extent necessary to discharge the duties imposed on a principal contractor under this Subdivision.
- (2) If domestic premises become a workplace due to construction work being performed and the owner of those premises engages a person to manage or control the workplace, the person engaged is taken to be the principal contractor for the purposes of this Subdivision.

5.1.15 Signage of principal contractor

- (1) A principal contractor must ensure the placement of signs that are clearly visible from outside the workplace where the construction work is being performed, showing the name and contact telephone numbers of the principal contractor.
Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (2) Subregulation (1) does not apply if the details required under subregulation (1) are displayed in accordance with regulation 317 of the Building Regulations 2006.

5.1.16 Health and safety co-ordination plans

A principal contractor for a construction project must ensure that—

- (a) a health and safety co-ordination plan is prepared, in accordance with regulation 5.1.17, for construction work before that work commences; and
- (b) the plan is monitored, maintained and kept up to date during the course of the construction work.

Note

Act compliance—section 26 (see regulation 1.1.7).

5.1.17 Content of health and safety co-ordination plans

The principal contractor must ensure that the health and safety co-ordination plan includes—

- (a) a list of the names, positions and responsibilities of all persons who will have specific responsibilities for health and safety; and

Example

Persons who may have specific responsibilities for health and safety may include occupational health and safety managers, first aid officers, principal contractors or other persons who have responsibility for implementing the health and safety coordination plan.

- (b) the arrangements for the co-ordination of the health and safety of persons engaged to perform construction work; and
- (c) the arrangements for managing occupational health and safety incidents when they occur; and
- (d) any site safety rules, with the arrangements for ensuring that all persons at the workplace are informed of the rules.

5.1.18 Health and safety co-ordination plan available for inspection

- (1) The principal contractor must ensure that a copy of the health and safety co-ordination plan and of any revisions to that plan are retained for the duration of the construction project and are available for inspection throughout the course of the construction work by persons including—
 - (a) any person engaged to perform construction work at the workplace; and
 - (b) any person about to commence work at the workplace; and

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- (c) an employee member of a health and safety committee, a health and safety representative or a person nominated under regulation 2.2.2(4).

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) Before any person commences construction work at a workplace the principal contractor must ensure that the person—

- (a) is aware of the health and safety co-ordination plan for that workplace and any revisions of the plan; and
- (b) is provided with access to the plan and any revisions of the plan.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Induction training for construction work

5.1.19 Application of Division

This Division applies to all persons at a workplace at which construction work is performed, with the exception of—

- (a) visitors to the workplace who are accompanied at all times by a person who has received construction induction training; and
- (b) persons temporarily at the workplace to deliver plant, supplies or materials.

Note

A duty may still be owed under the Act to the persons referred to in paragraphs (a) and (b) to ensure they are not exposed to risks to their health or safety.

5.1.20 Construction induction training to be provided

- (1) Subject to regulation 5.1.23, an employer must ensure that construction induction training is provided in accordance with this regulation to a person who is employed to perform construction work and—
 - (a) who is neither registered, nor taken under these Regulations to be registered, under Part 6.2 (Registration) to perform construction work; or
 - (b) who has not performed construction work in the preceding 2 years.

Notes

- 1 Act compliance—sections 21 and 23 (see regulation 1.1.7).
 - 2 Regulation 6.2.21 provides that the registration of a person lapses if that person has not performed any construction work for any consecutive period of 2 years.
- (2) The construction induction training must be provided to the person before the person commences construction work.
 - (3) The construction induction training must be provided by a construction RTO.

Note

In addition to this specific duty, an employer has a general duty under section 21(2)(e) of the Act to provide such information, instruction, training or supervision to employees as is necessary to enable the employees to perform their work in a way that is safe and without risks to health.

5.1.21 Requirement to be registered

Subject to regulation 5.1.23, a person must not perform construction work at a workplace unless the person is registered, or taken under these Regulations to be registered, under Part 6.2 (Registration) to perform construction work.

Notes

- 1 See section 40(4) of the Act.
- 2 Part 6.2 (Registration) sets out the process for obtaining registration for construction work.

5.1.22 Employer must not allow unregistered employee to perform construction work

Subject to regulation 5.1.23, an employer must not knowingly allow a person (including a person placed with an employer under a work experience arrangement under the **Education and Training Reform Act 2006**) whom the employer employs to perform construction work unless the person is registered, or taken under these Regulations to be registered, under Part 6.2 (Registration) to perform construction work.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

5.1.23 Temporary exemption

- (1) If an employer employs a person to perform construction work, regulations 5.1.20, 5.1.21 and 5.1.22 do not apply for the first 28 consecutive days if—
 - (a) the person employed has not performed construction work in the preceding 2 years; and
 - (b) the employer ensures that an application for the person to undertake construction induction training is made and paid for by

the employer before or during that 28 day period.

- (2) The employer must ensure that the person employed receives—
- (a) direct supervision; and
 - (b) directions, demonstrations and monitoring—
- appropriate to the construction work performed by the person, for the 28 day period referred to in subregulation (1), so that, so far as is reasonably practicable, the person can perform the work in a manner that is safe and without risks to health.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7).

5.1.24 Offence to refuse to accept construction induction card

- (1) An employer must not knowingly refuse to accept a current construction induction card from a person as evidence of the registration of that person to perform construction work for the purposes of this Part.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) For the purposes of subregulation (1), **construction induction card** means—
- (a) a construction induction card issued by the Authority under Part 6.2 (Registration);
 - (b) recognised evidence of construction induction training;
 - (c) a construction statement of attainment issued to a person within the previous 60 day period;

- (d) a card evidencing completion before 1 July 2008 of the Construction Industry Basic Induction training course.

5.1.25 Record

An employer must make a record containing details of any construction induction card (within the meaning of regulation 5.1.24) in relation to each person employed to perform construction work and retain that record while that person is so employed.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 4—Notification of construction excavation work

5.1.26 Application of Division

- (1) This Division applies to a proposed construction excavation if—
- (a) the excavation will be of sufficient dimensions or depth to allow the entry of a person; or
 - (b) there will be a risk to the health or safety of any person from the excavation.
- (2) Despite subregulation (1), this Division does not apply to excavation of a shaft or trench made as part of building work for which a building permit has been issued and is in force under the **Building Act 1993**.
- (3) Despite subregulation (1), this Division does not apply to excavation of a shaft, trench or tunnel being—
- (a) a mine; or
 - (b) a bore to which the **Water Act 1989** applies; or

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- (c) a quarry within the meaning of the **Extractive Industries Development Act 1995**; or
 - (d) made for the purpose of undertaking emergency work; or
 - (e) made for the rescue of any person or the carrying out of an emergency response by an emergency service; or
 - (f) made for use as a place of burial or interment of the dead.

5.1.27 Requirement to notify intention to perform construction excavation work

- (1) An employer must notify the Authority in accordance with subregulation (2) of an intention to perform construction excavation work on a shaft, trench or tunnel at least 3 days before commencing that work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The notification must be in writing and must include the following information—
 - (a) the name of the employer who is making the notification;
 - (b) the name of the person directly supervising the proposed construction excavation work and that person's contact details;
 - (c) the date of notification;
 - (d) a description of the type of construction excavation proposed;
 - (e) whether explosives will be used in carrying out the proposed construction excavation;

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- (f) the date or dates on which construction excavation work is likely to commence and be completed;
- (g) the location or locations of the proposed construction excavation work.

Note

Paragraphs (f) and (g) allow the person notifying to make one notification for a construction excavation associated with a single project which may extend through several locations and be carried out over a period of time.

PART 5.2—MAJOR HAZARD FACILITIES

Division 1—Introductory matters

5.2.1 Application of Part

This Part does not apply to—

- (a) a building or other structure on land used for an activity to which section 157(2)(a) of the Act applies; or
- (b) a pipeline in respect of which a licence has been issued under the **Pipelines Act 2005**; or
- (c) a distribution pipeline within the meaning of the **Gas Industry Act 2001**.

5.2.2 Application of Divisions 3, 5 and 10

- (1) Subject to this regulation, Divisions 3, 5 and 10 do not apply to and in relation to a major hazard facility that is registered under Part 6.2 (Registration).
- (2) The operator of a registered major hazard facility must comply with Divisions 3, 5 and 10 so far as is reasonably practicable.

5.2.3 Schedule 9 materials

In this Part a reference to Schedule 9 materials likely to be present at a facility is a reference to the maximum quantity of the Schedule 9 materials that would meet the capacity of the facility, including—

- (a) the maximum capacity of process vessels and interconnecting piping systems to contain the materials;

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- (b) the maximum capacity of storage tanks and vessels used for the materials;
 - (c) the maximum storage capacity of other storage areas at the facility that could contain the materials;
 - (d) the maximum capacity of pipelines outside process areas to contain the materials;
 - (e) the maximum quantity of the materials that would, in the event of a failure, escape onto the premises of the facility from a pipeline that is situated off the premises but connected to the facility;
 - (f) the maximum quantity of the materials loaded into or onto, or unloaded from, vehicles, trailers, rolling stock and ships that are from time to time present at the facility in the course of the facility's operations.

Division 2—General provisions

5.2.4 Authority may require information

- (1) The Authority may by written notice require the operator of a facility or a person who intends to be the operator of a facility to provide such information concerning the operation of the facility as the Authority reasonably requires for the purposes of this Part.
- (2) A notice under subregulation (1) must specify—
 - (a) the information required; and
 - (b) the date by which the information must be provided.

-
- (3) A person who receives a notice under subregulation (1) must provide the information in accordance with the notice.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Note

Section 154 of the Act provides that a natural person may refuse or fail to give information required by the regulations if giving the information would tend to incriminate the person.

Division 3—Safety duties of operators

5.2.5 Safety Management System

- (1) The operator of a major hazard facility must establish and implement a Safety Management System for the major hazard facility, in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The operator must use the Safety Management System as the primary means of ensuring the safe operation of the major hazard facility.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (3) A Safety Management System must—
- (a) be documented; and
 - (b) provide a comprehensive and integrated management system for all aspects of risk control measures adopted under this Part; and

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- (c) be set out and expressed in a way that is readily accessible and comprehensible to persons who use it; and
 - (d) set out the operator's safety policy, including the operator's broad aims in relation to the safe operation of the major hazard facility; and
 - (e) set out the operator's specific safety objectives and describe the systems and procedures by which those objectives are to be achieved; and
 - (f) set out how the operator intends to comply with this Division and Division 5; and
 - (g) include all of the matters specified in Schedule 10.
- (4) The operator of a major hazard facility must review and, if necessary, revise the Safety Management System if—
- (a) a modification is made to the major hazard facility; or
 - (b) a major incident occurs at the major hazard facility—
- and in any event at least once every 5 years.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.2.6 Identification of major incidents and major incident hazards

- (1) The operator of a major hazard facility must identify—
- (a) all major incidents that could occur at the major hazard facility; and

- (b) all major incident hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The operator must document all aspects of any identification made under this regulation, including—
- (a) the methods and criteria used for identifying major incidents and major incident hazards; and
 - (b) any external conditions under which those major incident hazards might give rise to a major incident.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.2.7 Safety Assessment

- (1) The operator of a major hazard facility must conduct a comprehensive and systematic Safety Assessment, in accordance with this regulation, in relation to all potential major incidents and all major incident hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) A Safety Assessment must involve an investigation and analysis of the major incident hazards and major incidents so as to provide the operator with a detailed understanding of all aspects of risk to health and safety associated with major incidents, including—
- (a) the nature of each major incident hazard and major incident;

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- (b) the likelihood of each major incident hazard causing a major incident;
 - (c) in the event of a major incident occurring—
 - (i) its magnitude; and
 - (ii) the severity of its consequences to persons both on-site and off-site;
 - (d) the range of risk control measures considered.
- (3) In conducting a Safety Assessment, the operator must—
- (a) consider major incident hazards and major incidents cumulatively as well as individually; and
 - (b) use assessment methods (whether quantitative or qualitative, or both) that are appropriate to the major incident hazards being considered.
- (4) The operator must document all aspects of the Safety Assessment, and the documentation must—
- (a) describe the methods used in the investigation and analysis;
 - (b) state all the matters specified in subregulations (2)(a) to (2)(d);
 - (c) contain reasons for decisions as to the matters specified in subregulations (2)(b) and (2)(c);
 - (d) contain, in relation to the range of risk control measures considered—
 - (i) statements as to their viability and effectiveness; and
 - (ii) reasons for selecting certain risk control measures and rejecting others;
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- (e) be kept available for inspection on request under the Act.

5.2.8 Control of risk

- (1) The operator of a major hazard facility must adopt risk control measures that—
- (a) eliminate so far as is reasonably practicable the risk of a major incident occurring; or
 - (b) if it is not reasonably practicable to eliminate those risks, reduce that risk so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The operator of a major hazard facility must adopt risk control measures designed to reduce, in the event of a major incident occurring, its magnitude and the severity of its consequences to persons both on-site and off-site.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.2.9 Emergency plan

- (1) The operator of a major hazard facility must prepare an emergency plan for the major hazard facility in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The emergency plan prepared under this regulation must be included as a risk control measure adopted under regulation 5.2.8 for that major hazard facility.

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- (3) An emergency plan must—
- (a) address the potential on-site and off-site consequences of a major incident occurring; and
 - (b) include all matters specified in Schedule 11; and
 - (c) be prepared in conjunction with—
 - (i) the emergency services that have responsibility for the area in which the major hazard facility is located; and
 - (ii) in relation to the off-site consequences of a major incident occurring, the municipal councils in the area occupied by the local community.
- (4) After preparing an emergency plan, the operator must—
- (a) keep a copy of the emergency plan at the major hazard facility for use by the emergency services consulted under subregulation (3)(c)(i); and
 - (b) inform those emergency services of the location of the copy of the emergency plan; and
 - (c) forward a copy of the plan to those emergency services.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.2.10 Emergency plan must be tested

The operator of a major hazard facility must—

- (a) test the emergency plan for the facility at suitable intervals, not exceeding 3 years; and
- (b) take all necessary steps to arrange for the emergency services consulted under regulation 5.2.9(3)(c)(i) to participate in the test of the emergency plan.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.2.11 Emergency plan to be put into action in the event of a major incident

- (1) An operator who has prepared an emergency plan must put the emergency plan into effect without delay if—
 - (a) a major incident occurs; or
 - (b) an uncontrolled event or incident occurs that could reasonably be expected to lead to a major incident.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) Immediately after becoming aware that a major incident has occurred, the operator of a major hazard facility must notify the emergency services that have responsibility for the area in which the major hazard facility is located.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.2.12 Review by operator

- (1) The operator of a major hazard facility who has—
- (a) identified major incident hazards and possible major incidents under regulation 5.2.6; or
 - (b) conducted a Safety Assessment under regulation 5.2.7; or
 - (c) adopted risk control measures under regulation 5.2.8—

must review and, if necessary, revise those matters to ensure that the risk control measures adopted are such that the operator continues to comply with regulation 5.2.8.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) A review and revision under this regulation must be conducted—
- (a) at the direction of the Authority; or
 - (b) before a modification is made to the major hazard facility; or
 - (c) after a major incident occurs at the major hazard facility; or
 - (d) when an effectiveness test indicates a deficiency in a risk control measure; or
 - (e) if there has been any change to the circumstances that formed part of the initial Property Protection Assessment under regulation 5.2.36; or
 - (f) if a health and safety representative requests the operator to conduct a review—

and in any event at least once every 5 years.

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- (3) A health and safety representative may make a request under subregulation (2)(f) if the health and safety representative believes on reasonable grounds that—
- (a) any of the circumstances referred to in subregulations (2)(a) to (2)(e) exists; or
 - (b) the operator has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take into account any of the circumstances referred to in subregulations (2)(a) to (2)(e) in conducting a review of the risk control measures.
- (4) The operator must review and, if necessary, revise the emergency plan for the major hazard facility in conjunction with—
- (a) the emergency services that have responsibility for the area in which the major hazard facility is located; and
 - (b) in relation to the off-site consequences of a major incident occurring, the municipal councils within the area occupied by the local community.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.2.13 Safety role for employees

- (1) The operator of a major hazard facility must develop a role for the operator's employees, including the specific procedures employees are required to follow to assist the operator to—
- (a) identify major incident hazards and possible major incidents under regulation 5.2.6;

- (b) conduct or review a Safety Assessment under regulations 5.2.7 and 5.2.12;
- (c) adopt or review risk control measures under regulations 5.2.8 and 5.2.12;
- (d) establish and implement a Safety Management System under regulation 5.2.5.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
 - 2 Sections 35 and 36 of the Act set out the duty of the employer to consult, including involving the health and safety representative (if any). (See also regulation 2.1.5). See also the consultation requirements in Division 5 of this Part.
- (2) The operator must review the role for employees developed under this regulation if there is a change of circumstances, including a modification to a major hazard facility, that would require additional or different knowledge and skills on the part of the employees to perform the role.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
- 2 Sections 35 and 36 of the Act set out the duty of the employer to consult, including involving the health and safety representative (if any). (See also regulation 2.1.5). See also the consultation requirements in Division 5 of this Part.

Division 4—Safety Case

5.2.14 Operator to provide Safety Case

The operator of a major hazard facility must, in order to obtain a major hazard facility licence under Part 6.1 (Licences)—

- (a) prepare a Safety Case in accordance with this Part; and

- (b) provide the Safety Case to the Authority.

Note

An operator has an obligation, when applying for a major hazard facility licence under Part 6.1 (Licences) to provide the Safety Case to the Authority.

5.2.15 Content of Safety Case

- (1) A Safety Case prepared under this Part must—
- (a) contain a summary of the content of the Safety Management System; and
 - (b) contain a summary of the documentation prepared under regulations 5.2.6 and 5.2.7 including a complete list of major incidents that could occur at the major hazard facility; and
 - (c) include the information specified in Schedule 12.
- (2) The content of a Safety Case must—
- (a) demonstrate that the Safety Management System provides a comprehensive and integrated management system of risk control measures in relation to major incident hazards and major incidents; and
 - (b) demonstrate the adequacy of the risk control measures adopted or reviewed under regulations 5.2.8 and 5.2.12.
- (3) The operator of a major hazard facility must include in the Safety Case a signed statement by which the operator certifies that—
- (a) the information provided under subregulations (1)(a) and (1)(b) is accurate; and

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- (b) as a consequence of conducting a Safety Assessment, the operator has a detailed understanding of all aspects of risks to health and safety associated with major incidents; and
- (c) the risk control measures adopted in accordance with regulation 5.2.8 are such as—
- (i) to eliminate so far as is reasonably practicable or, if it is not reasonably practicable to eliminate, to reduce so far as is reasonably practicable the risk of a major incident occurring; and
 - (ii) in the event of a major incident occurring, to reduce so far as is reasonably practicable its magnitude and the severity of its consequences to persons both on-site and off-site; and
- (d) the persons who participate in the implementation of the Safety Management System have the necessary knowledge and skills to enable them to undertake their tasks and discharge their responsibilities in relation to the Safety Management System.
- (4) A written statement prepared under subregulation (3) must—
- (a) if the operator is a corporation and its chief executive resides in Victoria, be signed by the chief executive; or
 - (b) if the operator is a corporation and its chief executive does not reside in Victoria, be signed by the chief executive and by the most senior officer of the corporation resident in Victoria.
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5.2.16 Co-ordination of Safety Cases

- (1) The Authority may require the operators of 2 or more major hazard facilities to co-ordinate the preparation of their respective Safety Cases if it believes that the co-ordinated preparation of Safety Cases is necessary in the interests of the safe operation or the effective safety management of either or both major hazard facilities.
- (2) If the Authority requires operators of major hazard facilities to co-ordinate the preparation of their Safety Cases under subregulation (1), each operator must provide to the other operators information concerning any circumstances at the operator's major hazard facility that could constitute a major incident hazard in relation to the other major hazard facilities.
- (3) An operator of a major hazard facility who has co-ordinated the preparation of a Safety Case in accordance with this regulation, must include reference to the information provided under subregulation (2) in the Safety Case prepared by the operator.

5.2.17 Review of Safety Case

- (1) An operator of a major hazard facility must review and revise the Safety Case for the major hazard facility if—
 - (a) the risk control measures are revised under regulation 5.2.12; or
 - (b) the operator intends to apply for the renewal of the operator's major hazard facility licence under Part 6.1 (Licences); or
 - (c) a Property Protection Assessment is revised under regulation 5.2.37.

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- (2) A revised Safety Case must—
- (a) include all of the matters required under regulation 5.2.15; and
 - (b) specify the changes made to the Safety Case in relation to matters specified in regulation 5.2.15(1).
- (3) If a Safety Case is revised by the operator of a major hazard facility, the operator must provide a copy of the revised Safety Case to the Authority as soon as is reasonably possible after the revision is made.

Division 5—Consulting, informing, instructing and training

5.2.18 Consultation with employees and health and safety representatives

For the purposes of section 35(1) of the Act, the operator of a major hazard facility must consult in relation to—

- (a) identifying major incidents and major incident hazards under regulation 5.2.6;
- (b) conducting or reviewing a Safety Assessment under regulations 5.2.7 and 5.2.12;
- (c) adopting or reviewing risk control measures under regulations 5.2.8 and 5.2.12;
- (d) establishing and implementing a Safety Management System;
- (e) preparing or revising a Safety Case;

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- (f) developing or reviewing a safety role for employees under this Part.

Note

See section 35 of the Act. Sections 35 and 36 of the Act set out the duty of the employer to consult, including involving the health and safety representative (if any). (See also regulation 2.1.5).

5.2.19 Information, instruction and training

- (1) The operator of a major hazard facility must provide information, instruction and training to employees of the operator in relation to—
- (a) the kind of major incidents that could occur at the major hazard facility;
 - (b) all major incident hazards;
 - (c) the implementation of risk control measures adopted under regulation 5.2.8;
 - (d) the content and operation of the Safety Management System;
 - (e) the emergency plan prepared under regulation 5.2.9;
 - (f) the safety role developed for employees under regulation 5.2.13.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) The operator must ensure that the information, instruction and training provided under subregulation (1) is monitored, reviewed and, if necessary, revised in order to remain relevant and effective.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.2.20 Record of training

The operator of a major hazard facility must make a record of all training provided to an employee under regulation 5.2.19 and retain that record while the employee is employed at the facility.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

5.2.21 Further information and access to documents

For the purpose of complying with regulation 5.2.19 the operator of a major hazard facility must—

- (a) inform the operator's employees about the content of the Safety Case for the major hazard facility, including any revision of the Safety Case; and
- (b) ensure that the Safety Management System, the Safety Case and the emergency plan, or copies of these documents, are readily accessible to employees of the operator.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.2.22 Response to employee alert at major hazard facility

If an employee of an operator gives information under regulation 5.2.26(1)(c) to the operator, the operator must inform the employee of what, if any, investigative or other action has been taken in response to the information.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.2.23 Information and instruction to non-employees at the facility

The operator of a major hazard facility must ensure that any person other than an employee of the operator who enters the major hazard facility is, as soon as is reasonably possible after entering—

- (a) informed generally about the major incident hazards at the major hazard facility; and
- (b) instructed about the safety precautions the person should take while at the major hazard facility; and
- (c) instructed about the action the person should take in the event of an emergency plan being activated while the person is at the major hazard facility.

Note

Act compliance—sections 23 and 26 (see regulation 1.1.7).

5.2.24 Information to local community

- (1) The operator of a major hazard facility must provide the local community and municipal councils within the area occupied by the local community, with information, in accordance with this regulation, concerning the safety of the major hazard facility.

Note

Act compliance—sections 23 and 26 (see regulation 1.1.7).

- (2) Information provided under this regulation—
 - (a) must include—
 - (i) a summary of the Safety Case for the major hazard facility; and
 - (ii) a copy of the licence for the major hazard facility, including the terms and conditions of the licence;

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- (b) unless already included in the Safety Case summary, must include—
- (i) the name and location of the major hazard facility;
 - (ii) the name, position and telephone number of a contact person from whom further information can be obtained;
 - (iii) a general description of the operations at the major hazard facility, including a description of the Schedule 9 materials present or likely to be present at the major hazard facility;
 - (iv) a general description of major incident hazards identified at the major hazard facility and of the major incidents that have the potential to occur because of those hazards;
 - (v) a general description of the magnitude of major incidents that could occur at the major hazard facility and of the severity of the consequences to health and safety if such incidents were to occur;
 - (vi) the means by which the local community will be notified of a major incident in the event of one occurring;
 - (vii) the action that members of the local community should take (in accordance with the emergency plan for the major hazard facility) in the event of a major incident occurring.
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- (3) Information provided under this regulation must—
- (a) be presented and expressed in a way that can be readily understood by a person who is not familiar with the major hazard facility and its operations;
 - (b) be reviewed and, if necessary, revised in the event of any modification being made to the major hazard facility;
 - (c) be sent in writing to any community or public library serving the local community.
- (4) The operator of a major hazard facility preparing or revising a Safety Case under Division 4, must consult with the municipal councils within the area occupied by the local community in relation to all matters that could affect the health and safety of members of the local community in the event of a major incident occurring.

Note

Act compliance—sections 23 and 26 (see regulation 1.1.7).

5.2.25 Further information on request

The operator of a major hazard facility who receives a written request from a person who, on reasonable grounds, believes that the occurrence of a major incident at the major hazard facility might adversely affect his or her health must provide the person with a copy of the information provided to the local community under regulation 5.2.24.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 6—Duties of employees

5.2.26 General requirements

- (1) An employee at a major hazard facility must—
 - (a) follow the operator's procedures relating to the prevention and control of major incidents within the major hazard facility;
 - (b) follow the operator's emergency procedures in the event of a major incident occurring or in the event of the emergency procedures being activated;
 - (c) immediately inform the operator of any circumstance that he or she considers may be capable of leading to a major incident;
 - (d) without placing the employee or any other person at risk, take corrective action under those prevention and control and emergency procedures even if the corrective action could interrupt the operation of the major hazard facility;
 - (e) notify his or her supervisor of any corrective action taken.
- (2) Compliance by an employee with subregulation (1) in respect of a matter is the way that the employee complies with the employee's duty under section 25(1) of the Act in respect of that matter.

Division 7—Determination of major hazard facility

5.2.27 Operators of certain facilities to notify Authority

- (1) The operator of a facility at which Schedule 9 materials are present or likely to be present in a quantity exceeding 10% of their threshold quantity but less than their threshold quantity must
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notify the Authority of this circumstance in accordance with this regulation.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The notification must be given within 30 days after the operator becomes aware, or ought reasonably to have become aware, of the circumstance giving rise to the requirement to notify.

Note

Regulation 5.2.29(1) provides that the Authority may determine that a facility is a major hazard facility after receiving notification under this regulation.

5.2.28 Content of notification

If notification is given under regulation 5.2.27, the notification must contain—

- (a) the information specified in regulation 6.2.23 with all necessary adaptations to the circumstance described in regulation 5.2.27 that give rise to the requirement to notify; and
- (b) the date on which the facility or proposed facility is expected to operate as a major hazard facility.

5.2.29 Authority may determine facility to be a major hazard facility

- (1) If the Authority receives notification under regulation 5.2.27, the Authority may determine that the facility is a major hazard facility if the Authority forms the opinion that there is a potential for a major incident to occur at the facility, having regard to all or any of the following—

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- (a) the quantity or combination of Schedule 9 materials present or likely to be present at the facility;
 - (b) the type of activity within the facility that involves those materials;
 - (c) the land use and activities of occupancy in the area surrounding the facility.
- (2) The Authority, on its own initiative, may determine that a facility is a major hazard facility if—
- (a) the Authority becomes aware that Schedule 9 materials are present or likely to be present at the facility in a quantity exceeding 10% of their threshold quantity but less than their threshold quantity; and
 - (b) the Authority forms the opinion that there is a potential for a major incident to occur at the facility, having regard to all or any of the following—
 - (i) the quantity or combination of Schedule 9 materials present or likely to be present at the facility;
 - (ii) the type of activity within the facility that involves those materials;
 - (iii) the land use and activities of occupancy in the area surrounding the facility.

5.2.30 Inquiry before making determination

- (1) The Authority must not make a determination under regulation 5.2.29 unless the Authority has conducted an inquiry under this regulation.
 - (2) The Authority must give the operator of a facility that may be the subject of a determination under regulation 5.2.29 written notice of the Authority's intention to conduct an inquiry.
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- (3) A notice under subregulation (2) must—
- (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) invite the operator to make submissions in relation to the inquiry within 14 days of the date of the notice.
- (4) The Authority must consider any submissions made by the operator.

5.2.31 Written notice of determination

- (1) If the Authority makes a determination under regulation 5.2.29, the Authority must send to the operator of the relevant facility a written notice that—
- (a) sets out the determination; and
 - (b) states the reasons for the determination; and
 - (c) specifies the date on which the determination takes effect.
- (2) The date specified under subregulation (1)(c) must be not less than 30 days after the operator is sent the notice.

5.2.32 Effect of determination

If the Authority makes a determination under this Division in respect of a facility, the facility, is from the date on which the determination takes effect, to be taken to be registered as a major hazard facility under Part 6.2 (Registration).

Division 8—Duties of operator of registered major hazard facility

5.2.33 Outline of Safety Case

- (1) The operator of a registered major hazard facility must, within 90 days of the commencement of the registration of the facility, provide the Authority with an outline for the Safety Case the operator proposes to include with its major hazard facility licence application under Part 6.1 (Licences).

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The outline under subregulation (1) must include—
- (a) a detailed written program and time frame for the preparation of the Safety Case, with specific reference being made to each of the matters required by regulation 5.2.15 to be included in a Safety Case; and
 - (b) details of the scope of consultation that will be undertaken when preparing the Safety Case; and
 - (c) a draft of the emergency plan the operator proposes to include in the Safety Case.
- (3) If the Authority is of the opinion that the outline prepared under this regulation would not produce a Safety Case that meets the requirements of Division 4, the Authority may require an alteration to be made to the Safety Case outline.
- (4) The Authority must not require the operator to make any alterations to the outline prepared under this regulation unless the Authority has—

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- (a) informed the operator of the proposed alterations; and
 - (b) invited the operator to make written submissions within 14 days of the date of the notice; and
 - (c) considered any submissions that are made.
- (5) The operator must make any alterations to the outline required by the Authority under subregulation (3).

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (6) The operator must provide the Authority with a Safety Case outline altered under this regulation, or altered by the operator on the operator's own initiative, as soon as is reasonably possible after the alterations are made.
- (7) The operator of a registered major hazard facility must comply with the outline provided to the Authority under subregulation (1).

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (8) If the outline has been altered under this regulation, the operator must comply with the outline as so altered.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

Division 9—Requirement to be licensed or registered

5.2.34 Only licensed or registered major hazard facility to be operated

A person must not operate a major hazard facility unless—

- (a) a major hazard facility licence has been granted for the facility under Part 6.1 (Licences); or
- (b) the facility is registered under Part 6.2 (Registration).

Note

See section 40(1) of the Act.

**Division 10—Controls under Dangerous Goods Act 1985—
Protection of property**

5.2.35 Risk control measures

- (1) The operator of a major hazard facility must, in relation to Schedule 9 materials that are dangerous goods, adopt risk control measures to eliminate so far as is practicable or, if it is not practicable to eliminate, to reduce so far as is practicable, the extent of damage to property that would be caused in the event of a major incident.
- (2) A person who contravenes subregulation (1) is liable to a penalty not exceeding—
 - (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

5.2.36 Property Protection Assessment

- (1) For the purpose of complying with regulation 5.2.35, the operator of a major hazard facility must conduct a comprehensive and systematic Property Protection Assessment in accordance with this regulation for matters

relating to protection of property that have not previously been considered in Divisions 3 and 4.

- (2) A Property Protection Assessment must include all relevant procedures set out in regulation 5.2.7 for a Safety Assessment.
- (3) The operator may—
 - (a) conduct and document the Property Protection Assessment required by this regulation in conjunction with the Safety Assessment required by regulation 5.2.7; and
 - (b) incorporate the contents of the Property Protection Assessment into the Safety Assessment conducted under regulation 5.2.7.
- (4) A person who contravenes subregulation (1) is liable for that contravention to a penalty not exceeding—
 - (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.

5.2.37 Review of Property Protection Assessment

- (1) The operator of a major hazard facility must review, and if necessary, revise the existing Property Protection Assessment for that facility—
 - (a) if there has been a change to the circumstances—
 - (i) of a Safety Case under Division 4; or
 - (ii) that formed part of the initial Property Protection Assessment; or
 - (b) after receiving a request from a health and safety representative to review the Assessment.

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- (2) A health and safety representative may make a request under subregulation (1)(b) if the health and safety representative believes on reasonable grounds that—
- (a) a change to circumstances referred to in subregulation (1)(a) has occurred; or
 - (b) the operator has failed to take account of any change to the circumstances referred to in subregulation (1)(a) in conducting a review of, or revising, the Property Protection Assessment.
- (3) A person who contravenes subregulation (1) is liable for that contravention to a penalty not exceeding—
- (a) 100 penalty units for a natural person; or
 - (b) 400 penalty units for a body corporate.
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PART 5.3—MINES

Division 1—Introductory matters

5.3.1 What is a mine?

For the purposes of this Part, a *mine* is—

- (a) a workplace at which work is being done under a mining licence within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**; or
- (b) a workplace at which exploration, within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**, in the form of—
 - (i) underground work of any kind; or
 - (ii) drilling from the surface for coal-bed methane—

is being done under an exploration licence within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**; or

- (c) in relation to a tourist mine within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**, those parts of the mine that are underground and all infrastructure and plant associated with the underground workings; or
- (d) the leased area within the meaning of the **Mines (Aluminium Agreement) Act 1961**.

5.3.2 What is a mining hazard?

- (1) For the purposes of this Part, a *mining hazard* is any activity, procedure, plant, process, substance, situation or other circumstance that could pose a risk to health or safety in relation to—
- (a) ground control;
 - (b) slope stability;
 - (c) rock falls;
 - (d) rock bursts;
 - (e) susceptibility to seismic activity;
 - (f) inrush of water or semi-solids;
 - (g) shaft sinking or winding;
 - (h) mining plant, including mobile plant and remote control equipment;
 - (i) heavy transport equipment;
 - (j) mine fires or explosions;
 - (k) gas outbursts;
 - (l) loss of ventilation;
 - (m) airborne dust;
 - (n) radiation from rock strata or other sources;
 - (o) proximity to dangerous openings;
 - (p) tailings dams;
 - (q) exposure to sodium cyanide and its reaction products;
 - (r) any other matter determined by the Authority under subregulation (2)—
- but does not include a major incident hazard.

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- (2) The Authority may determine an activity, procedure, plant, process, substance, situation or other circumstance to be a mining hazard for the purposes of this Part.

5.3.3 What is a prescribed mine?

For the purposes of this Part a *prescribed mine* is—

- (a) an underground mine; or
- (b) a mine that is determined to be a prescribed mine by the Authority under regulation 5.3.4; or
- (c) a mine that is one of a class of mines that are determined to be prescribed mines by the Authority under regulation 5.3.4.

5.3.4 Determination that mine is a prescribed mine

The Authority may determine that a mine is a prescribed mine, or that a class of mines are prescribed mines, for the purposes of this Part.

5.3.5 Inquiry before making determination

- (1) The Authority must not make a determination under regulation 5.3.4 unless the Authority has conducted an inquiry under this regulation.
- (2) The Authority must give the operator of the mine that may be the subject of a determination under regulation 5.3.4 written notice of the Authority's intention to conduct an inquiry.
- (3) A notice under subregulation (2) must—
 - (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) invite the operator to make submissions in relation to the inquiry within 14 days of the date of the notice.

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- (4) The Authority must consider any submissions made by the operator.

5.3.6 Drugs and alcohol

In this Part, a person is *adversely affected* by alcohol or drugs if the person's judgment or capacity is impaired to the extent that the person may expose the person's or another person's health or safety to a risk.

Division 2—Safety duties of mine operators

Subdivision 1—Risk control in all mines

5.3.7 Identification of mining hazards and assessment of risk

- (1) The operator of a mine must so far as is reasonably practicable—
- (a) identify all mining hazards at the mine; and
 - (b) assess the risks to health or safety associated with all mining hazards at the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) In assessing the risks to health or safety associated with a mining hazard, the operator must have regard to—
- (a) the nature of the mining hazard; and
 - (b) the likelihood of the mining hazard causing, or contributing to, any harm to any person; and
 - (c) the severity of the harm that may be caused.

5.3.8 Control of risk

- (1) The operator of a mine must adopt risk control measures that—
 - (a) eliminate so far as is reasonably practicable risks to health or safety associated with any mining hazards at the mine; or
 - (b) if it is not reasonably practicable to eliminate those risks, reduce those risks so far as is reasonably practicable.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) For the purpose of complying with subregulation (1), the operator must, so far as is reasonably practicable, use one or any combination of the following risk control measures—
 - (a) the substitution of a new activity, procedure, plant, process or substance for that which is related to the relevant mining hazard;
 - (b) the isolation of persons from the mining hazard;
 - (c) engineering controls.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (3) If an operator has complied with subregulation (1) so far as is reasonably practicable and a risk to health or safety remains, the operator must, so far as is reasonably practicable, use administrative controls.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

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- (4) If an operator has complied with subregulations (2) and (3) so far as is reasonably practicable and a risk to health or safety remains, the operator must provide appropriate personal protective equipment to persons at risk.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.9 Review by operator

- (1) In order to ensure that an operator of a mine is complying with regulation 5.3.8(1) by adopting appropriate risk control measures, the operator must review and, if necessary, revise—
- (a) the identification of mining hazards; and
 - (b) the assessment of risks to health or safety associated with mining hazards; and
 - (c) the risk control measures adopted.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) A review under subregulation (1) must be conducted—
- (a) before any mine modification is made; or
 - (b) after any incident involving a mining hazard occurs at the mine; or
 - (c) if the operator has removed a person from the person's work or assigned the person to alternative work in the circumstances described in regulation 5.3.16(2); or

(d) after receiving a request from a health and safety representative—

and in any event at least once every 3 years.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (3) A health and safety representative may make a request under subregulation (2)(d) if the health and safety representative believes on reasonable grounds that—
- (a) any of the circumstances referred to in subregulations (2)(a) to (2)(c) exists; or
 - (b) the operator has failed—
 - (i) to properly review the risk control measures; or
 - (ii) to take account of any of the circumstances referred to in subregulations (2)(a) to (2)(c) in conducting a review of the risk control measures.

Subdivision 2—Specific safety duties in all mines

5.3.10 Application of this Subdivision

Nothing in this Subdivision limits the generality of the requirements imposed by Subdivision 1.

5.3.11 Who may enter mine

The operator of a mine must ensure that—

- (a) no person, other than an inspector, or a person authorised under section 87 of the Act, enters the mine without permission;

Note

Section 87 of the Act allows for entry at a workplace by an authorised representative of a registered

employee organisation if that representative reasonably suspects there has been a contravention of the Act.

- (b) no person under the age of 16 years is employed at the mine;
- (c) no employee under the age of 18 years works underground.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.12 Alcohol and drugs

- (1) The operator of a mine must develop and implement strategies to protect persons at the mine from any risk to their health or safety arising from the consumption of alcohol or the use of drugs by any person.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) Strategies under this regulation must include the introduction of risk control measures on the presence and use of alcohol and drugs at the mine during working hours.
- (3) Without limiting the generality of subregulations (1) and (2), the operator of a mine must ensure that—
 - (a) a person who, in the opinion of the operator, is adversely affected by alcohol or drugs does not enter or remain at the mine; and

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- (b) a person only uses drugs at the mine if a registered medical practitioner has prescribed the drugs and authorised their use at the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.13 Employee fatigue

- (1) The operator of a mine must develop and implement strategies for the control of any risks to health or safety associated with employee fatigue.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) Strategies under this regulation must include work arrangements that eliminate employee fatigue so far as is reasonably practicable.

5.3.14 Health surveillance

- (1) The operator of a mine must arrange for the ongoing health surveillance of an employee—
- (a) who, in view of the nature of the employee's work at the mine, is exposed to a mining hazard that may reasonably be expected to have a detrimental effect on the employee's health; or
 - (b) if the operator, in consultation with a registered medical practitioner, reasonably believes that, in view of the nature of the employee's work at the mine, the health of the employee exposes the employee or any other person at the mine to a risk to the employee's or other person's health or safety.

Note

Act compliance—section 22(1) (see regulation 1.1.7).

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- (2) The monitoring of an employee's health may include a medical examination which must be conducted—
- (a) only in relation to the employee's work at the mine;
 - (b) by, or under the supervision of, a registered medical practitioner;
 - (c) at a frequency determined by the operator in consultation with a registered medical practitioner.

Note

Sections 35 and 36 of the Act set out the duty of the employer to consult, including involving the health and safety representative (if any). (See also regulation 2.1.5).

- (3) The duties of an operator to employees under this regulation extend to an independent contractor.

Note

Act compliance—section 23 (see regulation 1.1.7).

5.3.15 Report of health surveillance

- (1) The operator of a mine must, in relation to health surveillance that is conducted in relation to a person under regulation 5.3.14, ensure that the person who conducted the monitoring prepares a report of the results of the monitoring, that includes—
- (a) an explanation of the results of the monitoring; and
 - (b) any indications of detrimental health effects identified by the registered medical practitioner who conducted or supervised the monitoring; and

- (c) any recommendations by the registered medical practitioner as to measures that the operator should take in relation to the person's work.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The operator of a mine must—
 - (a) obtain a copy of the health surveillance report under subregulation (1); and
 - (b) ensure that a copy of the report is provided to the employee to whom the report relates on the same day that it is obtained by the operator.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

5.3.16 Notice to Authority

- (1) The operator of a mine must notify the Authority in writing of the name of each registered medical practitioner involved in the conduct of health surveillance under regulation 5.3.14.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) If a report under regulation 5.3.15 provided to the operator of a mine indicates detrimental health effects in relation to a person and, as a result of the report, the operator removes the person from the person's work or assigns the person to alternative work, the operator must notify the Authority in writing as soon as is reasonably possible.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

5.3.17 Report provided on person ceasing work at mine

The operator of a mine must ensure that the original report prepared under regulation 5.3.15 in relation to a person is returned to the person if the person ceases to work at the mine.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

5.3.18 Communication in the event of an employee working alone

The operator of the mine must ensure, so far as is reasonably practicable, that there are available means for constant communication with an employee who is working alone at an isolated location at a mine.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.3.19 Communication in respect of shift change-over

The operator of a mine must ensure that there is a system by which—

- (a) the supervisor of each outgoing shift provides a written report to the supervisor of the incoming shift, in relation to the state of the mine workings and plant and any other matters that relate to health or safety; and
- (b) the supervisor of the incoming shift communicates the content of the report provided under paragraph (a) to the employees on the incoming shift.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

Subdivision 3—Additional duties in prescribed mines

5.3.20 Application of this Subdivision

Nothing in this Subdivision limits the requirements imposed by Subdivisions 1 and 2 on operators of prescribed mines.

5.3.21 Safety Management System

- (1) The operator of a prescribed mine must establish and implement a Safety Management System for the mine, in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The operator must use the Safety Management System as the primary means of ensuring the safe operation of the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (3) A Safety Management System must—
 - (a) be documented; and
 - (b) provide a comprehensive and integrated management system for all risk control measures adopted under regulation 5.3.8; and
 - (c) be set out and expressed in a way that is readily comprehensible to persons who use it; and
 - (d) contain a description of the Safety Assessment conducted under regulation 5.3.23; and
 - (e) contain a description of the operator's safety policy; and

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- (f) set out the systems, procedures and other risk control measures by means of which risks to health or safety associated with mining hazards are to be controlled; and
 - (g) set out the performance standards for measuring the effectiveness of the Safety Management System, that—
 - (i) relate to all aspects of the Safety Management System; and
 - (ii) are sufficiently detailed to enable the operator to ensure that the effectiveness of all aspects of the Safety Management System is apparent; and
 - (iii) include steps that are to be taken to continually improve the Safety Management System; and
 - (h) set out the way in which performance standards are to be met; and
 - (i) set out the process, including method and frequency, for the audit of the effectiveness of the Safety Management System against the performance standards; and
 - (j) be kept available for inspection on request under the Act.

5.3.22 Review of Safety Management System

The operator of a mine must review and, if necessary, revise the Safety Management System—

- (a) if a mine modification is to be made; or

(b) if an incident involving a mining hazard occurs—

and in any event at least once every 3 years.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.23 Safety Assessment of major mining hazards

(1) In order to assess the risks associated with major mining hazards, the operator of a prescribed mine must conduct a comprehensive and systematic Safety Assessment in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

(2) A Safety Assessment must involve an investigation and analysis of the major mining hazards in order to provide the operator with a detailed understanding of all aspects of risks to health or safety associated with major mining hazards.

(3) In conducting a Safety Assessment under this regulation, the operator must—

- (a) consider the major mining hazards cumulatively as well as individually; and
- (b) use assessment methods (whether quantitative or qualitative, or both) that are appropriate to the major mining hazards being considered.

(4) The operator must document all aspects of the Safety Assessment, and the documentation must—

- (a) describe the methods used in the investigation and analysis; and

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- (b) state—
- (i) the nature of each major mining hazard; and
 - (ii) the likelihood of the major mining hazard causing, or contributing to causing, any harm to any person; and
 - (iii) the severity of the harm that may be caused; and
- (c) contain reasons for the decisions reached about the matters referred to in paragraphs (b)(ii) and (b)(iii); and
- (d) describe all measures considered for the control of risks associated with major mining hazards; and
- (e) describe the reasons for adopting, or rejecting all risk control measures considered; and
- (f) be set out and expressed in a way that is readily comprehensible to all who use it; and
- (g) be kept available for inspection on request under the Act.

5.3.24 Testing risk control measures for major mining hazards

The operator of a prescribed mine must, in relation to the control of risk associated with major mining hazards, test all risk control measures documented under regulation 5.3.21(3)(f) as often as necessary to ensure compliance with regulation 5.3.8 in relation to those hazards.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.25 Safety role for employees

- (1) The operator of a prescribed mine must develop a role for the operator's employees, including the specific procedures employees are required to follow to assist the operator to—
 - (a) identify mining hazards at the mine under regulation 5.3.7;
 - (b) conduct a Safety Assessment under regulation 5.3.23;
 - (c) adopt, review and test risk control measures under regulations 5.3.8, 5.3.9 and 5.3.24;
 - (d) establish and implement a Safety Management System under regulation 5.3.21.

Notes

- 1 Act compliance—section 21 (see regulation 1.1.7).
- 2 Sections 35 and 36 of the Act set out the duty of the employer to consult, including involving the health and safety representative (if any). (See also regulation 2.1.5). See also the consultation requirements in Division 3 of this Part.

- (2) The operator of a prescribed mine must review the role of the employees developed under this regulation if there is any change of circumstances, including a mine modification, that would require additional or different knowledge or skills on the part of employees to perform the role.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.3.26 Shafts and winding

The operator of a prescribed mine must—

- (a) ensure that every winding system for a shaft at the mine includes—
 - (i) ropes that will enable the shaft conveyance to bear the weight that can reasonably be expected to be borne by the shaft conveyance; and
 - (ii) controls and limiting devices to prevent any shaft conveyance from being overwound or overrun or from travelling at an unsafe speed; and
 - (iii) devices that detect slack rope or drum slip conditions, or tail rope malfunctions; and
 - (iv) devices that cause the winder to stop when a condition or malfunction referred to in subparagraph (iii) is detected; and
 - (v) an appropriate means of communication to and from every entrance to the winder room that is in use; and
 - (b) ensure that the ropes in the winding system of any shaft are tested regularly to ensure the safe performance of the ropes; and
 - (c) if a shaft conveyance carrying persons and a shaft conveyance carrying material operate in the same shaft, ensure that the persons being carried are adequately protected from the shaft conveyance carrying material and from any material that might leave its shaft conveyance and cause injury; and
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- (d) if a shaft conveyance that combines a cage and skip is used, ensure that material is not carried in the skip while persons are being carried in the cage; and
 - (e) ensure that energy lockout devices are fitted to all mechanical and electrical plant associated with any shaft at the mine, including any mechanical and electrical plant associated with the operation, maintenance or use of the shaft; and
 - (f) ensure that material or plant being carried in shaft conveyances—
 - (i) does not protrude from the shaft conveyance while the shaft conveyance is moving; and
 - (ii) is so secured within the shaft conveyance that it cannot leave the shaft conveyance except by being removed deliberately; and
 - (g) ensure that, in relation to the automatic winding system for any shaft at the mine—
 - (i) the functions of the winder can be monitored from outside the winder house; and
 - (ii) warning systems are installed to alert persons at the mine of any emergency in the shaft; and
 - (iii) radio or other means of communication between the surface and any shaft conveyance carrying persons is provided and maintained; and
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- (h) ensure that facilities for loading material or plant onto or into a shaft conveyance are designed and operated so as to prevent spillage into the shaft.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.27 Progress of mine workings

The operator of a prescribed mine must—

- (a) if any underground mine workings are, or may be, near or approaching an area that contains water or flammable, toxic or noxious gases that may pose a risk to the health or safety of any person at the mine—
- (i) ensure that the person is at all times aware of the location of the faces being advanced; and
 - (ii) cause bore-holes to be drilled from the workings that will indicate the presence and location of the water or gas; and
- (b) if any underground workings are proposed to be connected to other workings (including disused workings), ensure that the other workings are inspected for water, gas, misfires, butts and any other circumstance that may pose a risk to the health or safety of any person at the mine; and
- (c) if two working faces are approaching each other, ensure that one of the workings is stopped, made safe and barricaded as soon as is reasonably practicable before the distance separating the faces is reduced to 10 metres.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.28 Emergency exit

The operator of a prescribed mine into which a shaft has been sunk or a decline or adit has been driven must, so far as is reasonably practicable—

- (a) provide for a means of exiting the mine workings in addition to the hoisting shaft or the exit normally used; and
- (b) ensure that the additional exit is—
 - (i) maintained so that it remains a functional exit; and
 - (ii) marked or signposted so that it can be readily located in the event of an incident.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.29 Filling

The operator of a prescribed mine must, so far as is reasonably practicable, ensure that the material used for the filling of mined out areas does not pose a risk to the health or safety of any person.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.30 Working environment

- (1) The operator of a prescribed mine must ensure that—
 - (a) the air throughout the mine is maintained at a safe level; and
 - (b) the atmosphere is subject to controls that prevent thermal stress; and

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- (c) the moisture content of the atmosphere is maintained at a level that enables work to be performed safely; and
- (d) lighting within the mine is sufficient to enable work to be performed safely.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) Without limiting subregulation (1)(a), the air is at a safe level if the air—
 - (a) contains a safe oxygen level; and
 - (b) does not contain a harmful level of any contaminant or impurity, including a concentration of any hazardous substance that is above the exposure standard (if any) for that hazardous substance or any or all of its ingredients.

5.3.31 Ventilation system

- (1) The operator of a prescribed mine must ensure that—
 - (a) ventilation circuits at the mine do not allow airflows to recirculate; and
 - (b) structures that regulate airflow are maintained in operating condition; and
 - (c) air does not pass through so many work areas that it becomes unfit to breathe; and
 - (d) dead-end openings are not worked unless adequate auxiliary ventilation is provided; and

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- (e) underground workings are not ventilated with contaminated air.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The operator of a prescribed mine must regularly monitor and test the operation of all aspects of the ventilation system at the mine to ensure that the system complies with subregulation (1).

Note

Act compliance—section 22(1) (see regulation 1.1.7).

5.3.32 Record of monitoring and testing

- (1) The operator of a prescribed mine must, in accordance with subregulation (2), make and retain a record of the monitoring and testing of the ventilation system under regulation 5.3.31.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) The record of the monitoring and testing of the ventilation system must be set out and expressed in a way that is readily comprehensible to all who use it.

- (3) The operator of a prescribed mine must keep the record made under this regulation available for inspection on request under the Act.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

5.3.33 Prohibitions

The operator of a prescribed mine must not allow the following to be used underground—

- (a) an internal combustion engine (other than a compression ignition engine); or
- (b) polyurethane foam.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.34 Emergency plan

- (1) The operator of a prescribed mine must prepare an emergency plan for the mine in accordance with this regulation.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) The operator must use the emergency plan as the primary means of responding to incidents involving a significant risk of serious injury or death.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (3) The emergency plan must—
 - (a) address all aspects of emergency response, including—
 - (i) ensuring that a system exists that enables all persons within the mine at any given time to be promptly located; and
 - (ii) the provision of adequate rescue equipment; and

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- (iii) ensuring that persons trained in the use of rescue equipment are available on site, or are on call, whenever any person is working at the mine; and
 - (b) be prepared in conjunction with—
 - (i) the emergency services that have responsibility for the area in which the mine is located; and
 - (ii) in relation to major mining hazards that could detrimentally affect the health or safety of people in the area surrounding the mine, the municipal council in that area; and
 - (c) be documented in a form that it is readily comprehensible to persons who use it; and
 - (d) be kept available for inspection on request under the Act.
- (4) After preparing the emergency plan, the operator of the prescribed mine must—
- (a) keep a copy of the emergency plan at the mine for use by the emergency services consulted under subregulation (3)(b)(i); and
 - (b) inform the emergency services of the location of the copy of the emergency plan; and
 - (c) forward a copy of the emergency plan to those emergency services.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

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- (5) The operator of a prescribed mine must at least once a year—
- (a) test the emergency plan in order to ensure its continued effectiveness; and
 - (b) take all necessary steps to arrange for the emergency services consulted under subregulation (3)(b)(i) to participate in those tests.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.35 Self-rescue

- (1) The operator of an underground mine must ensure that every person who goes underground—
- (a) is, so far as is reasonably practicable, provided with a self-contained self-rescuer or, if this is not reasonably practicable, is provided with a filter self-rescuer; and
 - (b) is trained in the operation and use of the self-rescuer provided.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

- (2) This regulation does not apply in relation to a person (including a guide, if any) participating in an organised tour of a tourist mine within the meaning of the **Mineral Resources (Sustainable Development) Act 1990**.

5.3.36 Plan of mine

- (1) The operator of a prescribed mine must ensure that a detailed plan of the mine is kept at the mine.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

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- (2) The plan must clearly show—
- (a) the workings, including disused workings of the mine;
 - (b) the ventilation system, including all ventilation fans;
 - (c) the location of switchboards, transformers and other fixed plant associated with the distribution of electricity;
 - (d) the location of telephones and other fixed plant associated with the radio and telecommunications systems;
 - (e) water dams and tailings dams;
 - (f) natural features surrounding the mine;
 - (g) places where hydrocarbons or explosives are stored;
 - (h) emergency exits.
- (3) The operator of the prescribed mine must revise the plan regularly so that it always accurately shows which mine workings are still in use and which are disused.

Note

Act compliance—sections 21, 23 and 26 (see regulation 1.1.7).

5.3.37 Plan of mine to be available for inspection

The operator of a prescribed mine must keep the plan of the mine, prepared and revised under regulation 5.3.36, available for inspection on request under the Act.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

Division 3—Consultation and information

5.3.38 Consultation with employees and health and safety representatives

For the purposes of section 35(1) of the Act, the operator of a mine must consult in relation to—

- (a) developing and implementing strategies under regulations 5.3.12 and 5.3.13; and
- (b) in the case of a prescribed mine—
 - (i) implementing a Safety Management System under regulation 5.3.21; and
 - (ii) conducting a Safety Assessment under regulation 5.3.23; and
 - (iii) developing, under regulation 5.3.25, a safety role for employees; and
 - (iv) preparing or reviewing and revising an emergency plan under regulation 5.3.34.

Note

See section 35 of the Act. Sections 35 and 36 of the Act set out the duty of the employer to consult, including involving the health and safety representative (if any). (See also regulation 2.1.5).

5.3.39 Information about adoption of control measure

If, after consulting pursuant to section 35 of the Act, the operator adopts a risk control measure in relation to a major mining hazard, the operator must inform the health and safety representative and, if there is no health and safety representative, the employees of—

- (a) the reasons for adopting the measure; and

- (b) the reasons for rejecting any alternative risk control measures that had been discussed during the consultation.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

5.3.40 Information, instruction and training

- (1) In addition to the matters set out in regulation 2.1.2, the operator of a mine must provide information, instruction and training to employees of the operator at the mine in relation to—
- (a) all mining hazards at the mine;
 - (b) the implementation of risk control measures adopted under regulation 5.3.8;
 - (c) the strategies developed, and implemented and maintained under regulation 5.3.12 or 5.3.13;
 - (d) in the case of prescribed mines—
 - (i) the content and implementation of the Safety Management System established under regulation 5.3.21;
 - (ii) the emergency plan prepared under regulation 5.3.34;
 - (iii) the safety role for employees developed under regulation 5.3.25.

Note

Act compliance—section 21 (see regulation 1.1.7).

- (2) The operator of a mine must ensure that the information, instruction and training provided is monitored, reviewed and, if necessary, revised in order to remain relevant and effective.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.3.41 Record of training

The operator of a mine must make a record of all training provided to an employee under regulation 5.3.40 and retain that record while that employee is employed at the mine.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

5.3.42 Further information and availability of documents in respect of prescribed mines

The operator of a prescribed mine must ensure that the following are readily accessible to employees of the operator—

- (a) the documented Safety Management System established under regulation 5.3.21; and
- (b) the emergency plan prepared under regulation 5.3.34; and
- (c) the plan of the mine prepared under regulation 5.3.36.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.3.43 Response to employee alert at prescribed mine

If an employee of an operator gives information about a major mining hazard under regulation 5.3.47(c) to the operator of a prescribed mine, the operator must inform the employee of what, if any, investigative or other action has been taken in response to the information.

Note

Act compliance—section 21 (see regulation 1.1.7).

5.3.44 Information to visitors

The operator of a mine must ensure that any person other than an employee of the operator who enters a mine is, as soon as is reasonably possible after entering—

- (a) informed about any mining hazards to which the person might be exposed while at the mine; and
- (b) instructed in the safety precautions the person should take while at the mine; and
- (c) in the case of a prescribed mine, instructed about the action the person should take in the event of the emergency plan being activated while the person is at the mine.

Note

Act compliance—sections 23 and 26 (see regulation 1.1.7).

5.3.45 Information to job applicants

If a person applies to work at a mine, the employer, before employing the person to work at the mine, must provide the person with information about the purpose, and the type or nature, of the medical examinations and other health surveillance that are required under this Part to be conducted in respect of employees.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 4—Duties of employees

5.3.46 General requirements

- (1) An employee of an operator at a mine must—
 - (a) wear or use appropriate personal protective equipment or rescue equipment provided by the operator under this Part in accordance with instructions given by the operator;
 - (b) follow all other instructions given by the operator in complying with any provision of this Part;
 - (c) alert immediate co-workers to any mining hazard of which he or she becomes aware;
 - (d) if the employee observes any person who appears to be in such a condition as to be a danger to himself or herself or to any other person at the mine, inform the operator of this;
 - (e) not enter or remain at the mine if adversely affected by alcohol or drugs;
 - (f) not, without the permission of the operator, take into the mine—
 - (i) any alcohol; or
 - (ii) any drugs that may adversely affect the employee (whether or not a registered medical practitioner has prescribed the drugs and authorised their use at work).
 - (2) An employee at a mine must, in the event of an incident occurring that involves a mining hazard, take appropriate corrective action in accordance with the instruction and training the employee has received under regulation 5.3.40.
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- (3) An employee taking corrective action under subregulation (2)—
- (a) must do so without placing the employee or any other person at risk;
 - (b) must do so even if that corrective action could interrupt the operation of the mine.
- (4) Compliance by an employee with subregulations (1), (2) and (3) in respect of a matter is the way that the employee complies with the employee's duty under section 25(1) of the Act in respect of that matter.

5.3.47 Major mining hazards in prescribed mines

An employee at a prescribed mine must—

- (a) participate in the testing, under regulation 5.3.34, of the emergency plan for the mine;
- (b) follow the emergency plan for the mine when it is activated;
- (c) immediately inform the operator of any circumstance of any kind that the employee considers might be a major mining hazard.

Note

Act compliance—section 25 (see regulation 1.1.7).

CHAPTER 6—LICENSING AND REGISTRATION

PART 6.1—LICENCES

Division 1—Applications

Subdivision 1—General provisions

6.1.1 Matters to be included in licence applications

An applicant for a licence must include the following in the application—

- (a) any evidence or proof of identity required by the Authority; and
- (b) if required by the Authority, a photograph of the applicant of the size, and in the form, specified by the Authority; and
- (c) a declaration as to whether or not the applicant (and in the case of a body corporate, any officer of the applicant body corporate) has ever been found guilty of any offence under any relevant occupational health and safety legislation; and
- (d) if the applicant (and in the case of a body corporate, any officer of the applicant body corporate) has had such a finding of guilt recorded, details of every such finding, including when and where it occurred, details of the offence in respect of which it occurred and a brief description of the circumstances of the offence; and
- (e) a declaration as to whether the applicant (and in the case of a body corporate, any officer of the applicant body corporate) has ever previously had a licence or approval suspended or cancelled under any relevant

- occupational health and safety legislation, and if so, details of the suspension or cancellation; and
- (f) a declaration to the effect that the information contained in the application is, to the best of the applicant's knowledge, true; and
 - (g) if the applicant seeks to have the licence granted in the name of a business, a copy of the business registration.

Note

Regulation 7.1.1 enables the Authority to specify the form of the application, how it is to be made and to specify other information and documents that must be included in or with applications. There are also additional requirements that must be complied with in relation to applications for particular types of licences—see Subdivision 2 (high risk work licences), Subdivision 3 (asbestos removal licences), Subdivision 4 (carcinogens licences) and Subdivision 5 (major hazard facility licences).

6.1.2 Application fees

- (1) An application for a licence must be accompanied by—
 - (a) in the case of a high risk work licence, a fee of \$60 in respect of each class of work for which a licence is sought;
 - (b) in the case of a Class A asbestos removal licence, a fee of \$507;
 - (c) in the case of a Class B asbestos removal licence, a fee of \$469.
- (2) Despite subregulation (1), if a person applies for a high risk work licence to perform a class or classes of work that he or she is authorised to perform under one or more certificates of competency (as defined in regulation 8.2.1), the fee for that application is \$45.

6.1.3 How licence applications are to be dealt with

- (1) The Authority must refuse to grant an application for a licence if—
- (a) the application has not been made in accordance with these Regulations; or
 - (b) it is not satisfied—
 - (i) in the case of an application for a licence other than a major hazard facility licence, that the applicant will be able to carry out safely and competently the activities that the licence would authorise the applicant to carry out if it was granted; or
 - (ii) in the case of an application for a major hazard facility licence, that the applicant will be able to safely and competently operate the major hazard facility that is the subject of the application; or
 - (c) it is not satisfied that the applicant is likely to comply with the terms and conditions that will apply to the licence; or
 - (d) it is not satisfied as to the identity of the applicant; or
 - (e) it is satisfied that the applicant—
 - (i) has provided false or misleading information in the application with respect to any significant detail (without advising the Authority in writing at the time that the information was provided that it was false or misleading); or

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- (ii) has failed to disclose to the Authority any significant information that should have been disclosed to the Authority.

Note

The Authority is also required to refuse an application for a licence if certain additional requirements in respect of particular licences are not met—see Subdivision 2 (high risk work licences), Subdivision 3 (asbestos removal licences), Subdivision 4 (carcinogens licences) and Subdivision 5 (major hazard facility licences).

- (2) If the Authority is not required to refuse to grant an application for a licence under subregulation (1) or any other provision of this Division, it must grant the application.

Note

Subdivision 4 (carcinogens licences) and Subdivision 5 (major hazard facility licences) require the payment of a fee before the Authority may grant a licence to a person who is otherwise eligible to be granted the licence.

- (3) For the purposes of subregulations (1)(b) and (1)(c), the Authority may have regard to any matter that it considers to be relevant, including, for example—
- (a) any findings of guilt of the applicant (and in the case of a body corporate, any officer of the applicant body corporate) under any relevant occupational health and safety legislation; and
 - (b) whether the applicant has previously had a licence or approval suspended or cancelled under any relevant occupational health and safety legislation; and
 - (c) if the applicant has previously held a licence of the type that is the subject of the application, the applicant's record of performance while performing work under that licence; and
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- (d) the applicant's record with respect to any matters arising under any relevant occupational health and safety legislation.

6.1.4 Time for processing the application

- (1) This regulation applies if the Authority receives an application for a licence that has been made in accordance with these Regulations.
- (2) The Authority must give the applicant a written notice stating the Authority's intention to grant, or to propose to refuse to grant, the licence—
 - (a) subject to regulation 6.1.22, in the case of an application for a major hazard facility licence, within 6 months after receiving the application; or
 - (b) in the case of any other application for a licence, within 60 days after receiving the application.

Note

Regulation 6.1.5 provides for the suspension of these periods in certain circumstances.

6.1.5 Authority may request additional information

- (1) If the Authority receives an application for a licence that does not contain sufficient information to enable the Authority to make a decision whether or not to grant the application, the Authority may request the applicant to provide additional information to enable it to make a decision.
- (2) A request for additional information under subregulation (1) must—
 - (a) be made in writing; and

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- (b) specify a period within which the information must be given to the Authority; and
- (c) advise the applicant that the time limit that applies to the processing of the application under regulation 6.1.4 will remain suspended—
- (i) until the additional information requested is provided; or
 - (ii) if that information is not provided, until the end of the period specified under paragraph (b).
- (3) In specifying a period under subregulation (2)(b), the Authority must not specify a period that is longer than—
- (a) in the case of a major hazard facility licence, 6 months;
 - (b) in the case of any other licence, 60 days.
- (4) If the Authority requests additional information from an applicant, any period—
- (a) between when the request is sent to the applicant and when the additional information is received by the Authority; or
 - (b) if the information is not provided, between when the request is sent to the applicant and the end of the period specified under subregulation (2)(b)—
- is not to be counted for the purposes of calculating the periods specified in regulation 6.1.4(2).
- (5) Nothing in this regulation restricts the number of requests for additional information that the Authority may make, however, if the Authority makes more than one request it must ensure that the cumulative total of the periods specified or
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used (whichever is the shorter) under subregulation (2)(b) in respect of the requests does not exceed the period listed in regulation 6.1.4(2) with respect to the relevant type of licence.

Example

A person applies for a high risk work licence. The Authority seeks additional information and gives the applicant a notice requesting the information within 60 days. The applicant provides the information 27 days after the notice is given. If the Authority seeks a second lot of additional information, under this subregulation it may specify a period of up to 33 days for the applicant to provide the second lot of information. This is because only 27 days were used of the 60 days specified for the provision of the first response, and the 27 day period actually used is shorter than the 60 day period originally specified.

6.1.6 Procedure if the Authority proposes to refuse to grant a licence

- (1) If the Authority proposes to refuse to grant a licence, the Authority must include in the notice required by regulation 6.1.4(2)—
 - (a) the reasons why it proposes to refuse to grant the licence; and
 - (b) an invitation to the applicant to make a submission to the Authority, within a specified period of not less than 14 days, in relation to the proposed refusal.
- (2) Within 30 days after the end of the period set for the purposes of subregulation (1)(b), the Authority must—
 - (a) consider any submission made by, or on behalf of, the applicant before the end of the period; and
 - (b) decide whether it will grant or refuse to grant the licence; and
 - (c) give the applicant written notice of that decision.

6.1.7 Form of evidence of licence document

After granting a licence, the Authority must give the licence holder a document that includes—

- (a) the name of the licence holder; and
- (b) the date on which the licence was granted and, if the licence specifies a date on which the licence takes effect, the date on which the licence takes effect; and
- (c) the date on which the licence expires; and
- (d) any terms and conditions to which the licence is subject; and
- (e) an identifying number; and
- (f) in the case of a high risk work licence—
 - (i) a photograph of the licence holder; and
 - (ii) the date of birth of the licence holder; and
 - (iii) either a copy of the signature of the licence holder or provision for the signature of the licence holder; and
 - (iv) the class or classes of work authorised by the licence; and
- (g) in the case of an asbestos removal licence—
 - (i) the class of activity authorised by the licence; and
 - (ii) the specific types of asbestos-containing material, if relevant, that can be removed under the licence; and
- (h) in the case of a carcinogens licence—
 - (i) the class or classes of activity authorised by the licence; and

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- (ii) the name of the scheduled carcinogenic substance that may be used under the licence; and
- (iii) the address of the workplace at which the substance may be used; and
- (iv) the purpose for which the substance may be used under the licence; and
- (i) in the case of a major hazard facility licence, the name of the major hazard facility, and the Schedule 9 materials that may be present at the facility.

6.1.8 When licences start and end

- (1) A licence takes effect on the day it is granted or on any later date specified in the evidence of licence document by the Authority.
- (2) A licence, unless cancelled, ends on the day specified by the Authority, which may be a period of up to 5 years after the day on which the licence was granted, or if the licence has been renewed, a period of up to 5 years after the day on which the last renewal took effect.

Subdivision 2—Additional provisions in relation to high risk work licences

6.1.9 Additional information to be included in licence applications

In addition to any other information required by these Regulations, a person applying for a high risk work licence must also include with the application—

- (a) if the person holds a certificate of competency (as defined in regulation 8.2.1) and seeks to be licensed to perform the type of work authorised by the certificate, a declaration by the person that he or she has

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- maintained the competencies required to do the work that the certificate authorises him or her to do; or
- (b) in any other case, in relation to the work in respect of which the licence is sought—
- (i) a statement of attainment in respect of the relevant competency standard for that work; or
 - (ii) a notice of satisfactory assessment of competency issued under Division 3 of Part 3.6 (High Risk Work) for that work.

6.1.10 Additional matters to be satisfied before a licence can be granted

- (1) In addition to the requirements specified in Subdivision 1, the Authority must refuse to grant an application for a high risk work licence if—
- (a) it is satisfied that the applicant, in respect of the class or classes of the high risk work in respect of which the licence is sought—
 - (i) holds an interstate licence that was suspended at the time the application was made; or
 - (ii) had an interstate licence cancelled in the 2 years immediately before the date the application was made; or
 - (b) it is not satisfied—
 - (i) that the applicant resides in Victoria; or
 - (ii) in the case of an applicant who does not reside in Victoria, that the applicant has reasonable grounds for applying for the licence in Victoria; or

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- (c) it is not satisfied that the applicant is at least 18 years of age; or
 - (d) in the case of a person who has applied to be licensed to perform a type of work that he or she is authorised to perform under a certificate of competency (as defined in regulation 8.2.1), it is not satisfied that the person has provided sufficient evidence that he or she has maintained the competencies required to do the work that the certificate authorises him or her to do; or
 - (e) it is satisfied that the applicant already holds a licence to do that work that has been granted or issued by a corresponding Authority; or
 - (f) any statement of attainment or notice of satisfactory assessment of competency on which the applicant relies was issued more than 60 days before the date on which the application was made.
- (2) The Authority must refuse to grant an application for a high risk work licence if it is satisfied that the statement of attainment or notice of satisfactory assessment of competency accompanying the application was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

Note

Any person or body would include the applicant, the RTO that issued the statement of attainment or the licence assessor who issued the notice of satisfactory assessment of competency.

Subdivision 3—Additional provisions in relation to asbestos removal licences

6.1.11 Restriction on who may apply for a licence

Only an employer or a self-employed person may apply for an asbestos removal licence.

6.1.12 Scope of licence

- (1) An asbestos removal licence may only be used to perform the asbestos removal work specified in the licence.
- (2) An asbestos removal licence does not extend to the transport of asbestos waste.

Note

The transport of industrial-sourced asbestos waste is licensed by the Environment Protection Authority.

6.1.13 Additional information to be included in licence application

- (1) In addition to any other information required by these Regulations, a person applying for an asbestos removal licence must also include with the application—
 - (a) details of the specific types of asbestos-containing material, if relevant, that is intended to be removed under the licence; and
 - (b) the name of any person who will supervise the asbestos removal work to be performed under the licence; and
 - (c) detailed information on the training and experience of each supervisor; and

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- (d) detailed information on the type of training undertaken by the employees who are to be engaged in the asbestos removal work; and
 - (e) detailed information on the personal protective equipment that the applicant intends to provide to persons engaged in the asbestos removal work; and
 - (f) if the applicant intends to use a vacuum cleaner with a HEPA filter, detailed information on the vacuum cleaner; and
 - (g) details of laundering arrangements proposed in relation to the asbestos removal work, including the name and address of any laundry intended to be used for the laundering of personal protective clothing; and
 - (h) whether the applicant (and if the applicant is a body corporate, any officer of the applicant body corporate) holds a licence or approval for asbestos removal work in any other Australian State or Territory; and
 - (i) information as to whether the applicant (and if the applicant is a body corporate, any officer of the applicant body corporate) has ever had a previous application for a licence as an asbestos removalist refused, suspended or cancelled by any Government or non-Government body in any Australian State or Territory.
- (2) In addition to any other information required by these Regulations, a person applying for a Class A asbestos removal licence must also include with the application—
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- (a) if the person has not been previously granted a Class A asbestos removal licence, evidence of a satisfactory review by an occupational health and safety auditor within the period of 6 months immediately preceding the receipt of the application of the person's asbestos occupational health and safety management system documents; or
 - (b) details of the current certification of the asbestos occupational health and safety management systems together with evidence of that current certification.

6.1.14 Additional matters to be satisfied before a licence can be granted

- (1) In addition to the requirements specified in Subdivision 1, the Authority must refuse to grant an application for an asbestos removal licence if it is not satisfied that the information provided with the application indicates that—
 - (a) the supervisor or supervisors nominated in the application is, or are, appropriately trained and experienced; and
 - (b) in relation to an application for a Class A asbestos removal licence—
 - (i) the applicant has current certification for an asbestos occupational health and safety management system; or
 - (ii) there has been a satisfactory review by an occupational health and safety auditor within the period of 6 months immediately preceding the receipt of the application of the applicant's asbestos occupational health and safety management system documents.

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- (2) A Class A asbestos removal licence granted to an applicant who does not have current certification for an asbestos occupational health and safety management system is granted on condition that the certification must be obtained by the date specified in the licence, or in any event no later than 12 months after the licence takes effect.

Subdivision 4—Additional provisions in relation to carcinogens licences

6.1.15 Restriction on who may apply for a licence

- (1) Only an employer or a self-employed person may apply for a carcinogens licence.
- (2) A carcinogens licence can only be granted in respect of the workplace of that employer or self-employed person.

6.1.16 Additional information to be included in licence applications

In addition to any other information required by these Regulations, a person applying for a carcinogens licence must also include with the application the following information in relation to the scheduled carcinogenic substance in respect of which the licence is sought—

- (a) the name of the substance; and
- (b) the workplace address at which the substance is intended to be used; and
- (c) the quantity of the substance that is intended to be used each year; and
- (d) the purposes for which the substance is intended to be used; and

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- (e) a statement, supported by reasons, that the elimination or substitution of the substance from the workplace is not reasonably practicable; and
 - (f) a description of the risk control measures intended to be put in place to eliminate risks so far as is reasonably practicable or to reduce risks so far as is reasonably practicable and a justification of those risk control measures; and
 - (g) the number of employees who might be exposed to the substance; and
 - (h) the name and address of the supplier from whom the person intends to obtain the substance.

6.1.17 Fee to be paid before a licence can be granted

- (1) Despite Subdivision 1, the Authority must not grant a carcinogens licence to a person unless the person has, after being told that the Authority intends to grant the licence, paid a fee of—
 - (a) in the case of a licence to use a Schedule 2 carcinogenic substance at a laboratory, \$76.50; and
 - (b) in any other case, \$67.50 for each hour the application took to be processed by the Authority.
- (2) The Authority must not seek a fee of more than \$761 under subregulation (1)(b).

Subdivision 5—Additional provisions in relation to major hazard facility licences

6.1.18 Restriction on who may apply for a licence

Only an operator who holds the registration for a major hazard facility under Part 6.2 (Registration) may apply for a major hazard facility licence in respect of the major hazard facility.

6.1.19 Time limit for applications in relation to a registered major hazard facility

If a licence is sought for a major hazard facility that is registered under Part 6.2 (Registration), the operator of the major hazard facility must apply to the Authority for a licence no later than 6 months before the registration expiry date for that registration.

Note

Registration expiry date has the meaning given by regulation 6.2.26.

6.1.20 Additional information to be included in licence applications

In addition to any other information required by these Regulations, a person applying for a major hazard facility licence must also include with the application—

- (a) sufficient details to enable the major hazard facility to be identified; and
- (b) the Safety Case prepared in accordance with Part 5.2 (Major Hazard Facilities).

6.1.21 Additional matters to be satisfied before a licence can be granted

In addition to the requirements specified in Subdivision 1, the Authority must refuse to grant a major hazard facility licence if it is not satisfied that—

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- (a) the Safety Case accompanying the application has been prepared in accordance with Division 4 of Part 5.2 (Major Hazard Facilities);
 - (b) the applicant has complied with the provisions of Divisions 3 and 5 of Part 5.2 (Major Hazard Facilities).

6.1.22 Additional time limits on notifying applicants

- (1) The time limits set out in regulations 6.1.4 and 6.1.5 do not apply to an application for a major hazard facility licence if—
 - (a) the Authority is of the opinion that it will not be able to satisfy itself of the matters referred to in this Subdivision and Subdivision 1 within 6 months; and
 - (b) the Authority gives the applicant written notice of that opinion within 6 months after the date the application was received, and that notice specifies the date by which the Authority will decide the application.
- (2) For the purposes of subregulation (1)(b), the Authority may only specify a date that is within 12 months after the date it received the application.
- (3) If subregulation (1) applies, the Authority must give the applicant a written notice stating the Authority's intention to grant, or to propose to refuse to grant, the licence on or before the date specified under subregulation (1)(b).
- (4) Despite Part 6.2 (Registration), if the decision period is extended under subregulation (1), the registration of the major hazard facility does not expire before the end of that extended period.

6.1.23 Fee to be paid before a licence can be granted

- (1) Despite Subdivision 1, the Authority must not grant a major hazard facility licence unless the applicant for the licence has, after being told that the Authority intends to grant the licence, paid a fee of \$80 for each hour the application took to be processed by the Authority.
- (2) The Authority must not seek a fee of more than \$56 560 under subregulation (1).
- (3) The activities involved in processing an application for a major hazard facility licence include—
 - (a) checking the completeness of the Safety Case and the other information and material accompanying the application; and
 - (b) determining that further information or material are required, and obtaining the information or material from the applicant; and
 - (c) verifying the information provided by the applicant by—
 - (i) examining the Safety Case and the other information and material provided; and
 - (ii) visiting and examining the site of the major hazard facility to which the application relates; and
 - (d) considering and deciding on the merits of the application; and
 - (e) taking all necessary administrative steps.

Division 2—Other provisions concerning licences

Subdivision 1—General

6.1.24 Authority may impose terms and conditions on licences

- (1) In granting or renewing a licence under this Part, the Authority may impose on the licence any terms or conditions that it considers to be appropriate to further the purposes for which the licence is granted or renewed.
- (2) Without limiting subregulation (1), the Authority may impose, in relation to any activity that may be carried out by the licence holder under the licence, terms or conditions—
 - (a) specifying risk control measures to be used or implemented;
 - (b) requiring—
 - (i) monitoring (such as atmospheric monitoring of the workplace);
 - (ii) the provision of health surveillance for anyone who may be at risk as a result of the carrying out of that activity;
 - (iii) the recording or keeping of information (including health and safety information);
 - (iv) the provision of information, instruction and training to specified people or classes of people;
 - (v) the use or implementation of systems of work or processes;
 - (c) requiring the reporting of information to the Authority, including health and safety information and the results of any required

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- monitoring, health surveillance, examinations or testing;
- (d) limiting the quantity to be used at the workplace of anything used while carrying out that activity;
 - (e) in the case of a licence held by a body corporate, limiting who may carry out activities under the licence;
 - (f) limiting the activities that may be carried out under the licence, or specifying that only certain activities may be carried out under the licence;
 - (g) requiring that notice be given that the licence has been granted, and of any conditions of the licence, to any specified person who may be affected by the granting of the licence;
 - (h) imposing time limits on when any action required to be taken under this regulation is to be taken.

6.1.25 Licence holder must comply with terms and conditions

A licence holder must comply with the terms and conditions of the licence imposed under this Division or under Division 3.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

6.1.26 Changes to information provided in a licence application

- (1) A licence holder must advise the Authority in writing of any change that occurs to any information given at any time by the licence holder to the Authority in relation to the licence as soon as is reasonably possible after the licence

holder becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (2) Subregulation (1) applies whether the information was given in the application for the licence, in an application for the renewal of the licence, under this regulation or in any other circumstance.
- (3) This regulation does not apply to revisions to the Safety Case of a major hazard facility.

Note

Part 5.2 (Major Hazard Facilities) contains provisions that specifically deal with Safety Case revisions.

6.1.27 Licence holder to keep evidence of licence available

- (1) A person who holds a high risk work licence must keep his or her evidence of licence document available for inspection on request under the Act.

Penalty: 5 penalty units.

- (2) A person who holds any other class of licence must keep the evidence of licence document available for inspection on request under the Act.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

6.1.28 Replacement of lost, stolen or destroyed licence documents

- (1) If an evidence of licence document is lost, stolen or destroyed, the licence holder may apply to the Authority for a replacement document.
- (2) The application must be accompanied by a fee of \$45.

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- (3) The Authority may issue a replacement document if the Authority is satisfied that the licence holder's evidence of licence document has been lost, stolen or destroyed.
- (4) If the Authority refuses to issue a replacement evidence of licence document, it must give the licence holder a written notice of refusal that sets out the reasons why it is not satisfied that the evidence of licence document has been lost, stolen or destroyed.

6.1.29 Nomination of additional asbestos removal supervisors

- (1) An asbestos removal licence holder may apply to the Authority to have a person recognised by the Authority as a supervisor who may supervise the asbestos removal work that can be performed under the licence.
- (2) The licence holder must include in the application—
 - (a) the name of the person; and
 - (b) detailed information on the person's training and experience.
- (3) The Authority must refuse to grant an application if it is not satisfied that the person has appropriate training or experience to supervise the removal work.

Subdivision 2—Additional provisions in relation to major hazard facility licences

6.1.30 Transfer

The Authority may transfer a major hazard facility licence to another person who is to become the operator of the major hazard facility if the Authority is satisfied that the person to whom the licence is to be transferred is capable of achieving

a level of health and safety for the operation of the major hazard facility that is at least equivalent to that achieved by the licence holder.

6.1.31 Notification of licence details in the Government Gazette

- (1) If the Authority grants, renews, amends, transfers, suspends or cancels a major hazard facility licence, it must cause notice of that event to be published in the Government Gazette as soon as is reasonably possible after the event occurs.
- (2) The notice must include details of any terms and conditions attached to the licence that have not previously been provided in a notice under this regulation in respect of the licence.

6.1.32 Additional requirements concerning availability of copy of licence

In addition to the requirements of Subdivision 1, a major hazard facility licence holder must ensure that a copy of the evidence of licence document is made available on request—

- (a) to any employee of the operator working at the major hazard facility; and
- (b) to the emergency services that have responsibility for the area in which the major hazard facility is located.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 3—Amendment of licences

6.1.33 Authority may amend a licence unilaterally

- (1) The Authority may determine on its own initiative to amend a licence.
- (2) Without limiting subregulation (1), the Authority may impose any terms or conditions on a licence that it may impose under Division 2 at any time, and it may amend or delete any existing terms or conditions of a licence.
- (3) If a proposed amendment merely corrects an obvious error in a licence, or is of a nature that is not likely to impose any significant burden on the licence holder, the Authority may make the amendment, and must then give the licence holder written notice that it has done so.
- (4) If subregulation (3) does not apply, before amending a licence under this regulation the Authority must give the licence holder written notice (the *first notice*) of the proposed amendment—
 - (a) setting out the proposed amendment and the reasons for it; and
 - (b) inviting the licence holder to make a submission to the Authority in relation to the proposed amendment within a specified period of not less than 14 days.
- (5) After considering any submission made by, or on behalf of, the licence holder in the time allowed, the Authority may amend the licence by giving a second written notice (the *second notice*) to the licence holder.

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- (6) A notice under subregulation (5) must—
- (a) set out the amendment; and
 - (b) if a submission was made by, or on behalf of the licence holder in relation to the amendment, set out the Authority's reasons for making the amendment in the light of the submission; and
 - (c) specify the date on which the amendment is to take effect.
- (7) In specifying the date that the amendment is to take effect, the Authority must not specify a date that is less than 30 days after the licence holder is given the second notice.
- (8) Despite subregulation (7), if in the opinion of the Authority there exists an immediate risk to health or safety, the Authority may specify that an amendment is to take effect on a date that is within that 30 day period.
- (9) The amendment set out in the second notice can be different from the amendment set out in the first notice if the difference is the result of taking into account, or of anything arising from, any submission made by, or on behalf of, the licence holder.

6.1.34 Authority may amend a licence at the request of the licence holder

- (1) The Authority may amend a licence on the application of the licence holder.
- (2) If the Authority proposes to refuse to amend a licence in accordance with the application, it must give the licence holder a written notice—
 - (a) that states that intention to refuse the application; and

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- (b) that sets out its reasons for refusing the application; and
 - (c) that invites the licence holder to make a submission to the Authority in relation to the proposed refusal within a specified period of not less than 14 days.
- (3) The Authority must consider any submission made by, or on behalf of, the licence holder in the time allowed before refusing the application.

6.1.35 Evidence of licence document to be returned on request if licence amended

- (1) If the Authority amends a licence, it must give the licence holder an evidence of licence document containing the amended details to replace the former document.
- (2) If asked to do so by the Authority, the holder of a licence that has been amended by the Authority must return the evidence of licence document to the Authority within 14 days after receiving the request in writing.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

Division 4—Renewal of licences

6.1.36 Application for the renewal of a licence (except a high risk work licence)

- (1) This regulation does not apply to a high risk work licence.
- (2) A licence holder may apply to the Authority to renew the licence, but may only do so—
 - (a) in the case of a major hazard facility licence, at least 6 months before the date the licence is due to expire; or

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- (b) in any other case, at least 60 days before the date the licence is due to expire.

Notes

- 1 Regulation 7.1.1 enables the Authority to specify the form of applications and to specify other information and documents that must be included in or with applications.
 - 2 If a licence holder fails to apply for a renewal of the licence within the time permitted by subregulation (2), it will be necessary for the licence holder to apply for a new licence.
- (3) The Authority must give a person who applies for the renewal of a licence a written notice stating the Authority's intention to renew, or to refuse to renew, the licence.
- (4) For the purposes of this regulation—
- (a) regulation 6.1.3 applies as if a reference in that regulation to an application for a licence were a reference to an application to renew a licence; and
 - (b) regulation 6.1.6 applies as if a reference in that regulation—
 - (i) to the refusal to grant a licence were a reference to the refusal to renew a licence; and
 - (ii) to a notice required by regulation 6.1.4(2) were a reference to the notice required by subregulation (3).
- (5) If a person applies to renew a licence under subregulation (2) and before the licence expires the Authority gives the person written notice that it intends to refuse to renew the licence, the licence continues to have effect, even if its expiry date passes, until the relevant time specified in regulation 6.1.37.

6.1.37 Time in which licence continues to have effect

- (1) If the Authority gives a licence holder written notice that it intends to refuse to renew the person's licence, the licence continues to have effect—
- (a) if the licence holder has applied for a process review of the decision and the Authority has confirmed the decision and the person applies to the Tribunal for a review of the decision—
 - (i) until the person withdraws the application for review; or
 - (ii) until the Tribunal makes its determination on the application for review—whichever occurs first; or
 - (b) if the licence holder applied for a process review of the decision and the Authority confirmed the decision and the person does not apply to the Tribunal for a review of the decision, until 14 days after the person received written notice of the process review decision.

Note

Part 6.3 (Review of Decisions) provides for a right of review by VCAT of certain reviewable decisions and *process review* has the meaning given in regulation 6.3.2.

- (2) Subject to subregulation (3), if the person applied for a process review of the decision and the Authority set aside the decision, the relevant time is until the new decision is made.
 - (3) If the new decision is to refuse to renew the licence and the person applies to the Tribunal for a review of the new decision in accordance with these Regulations the relevant time is—
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- (a) until the person withdraws the application for review; or
 - (b) until the Tribunal makes its determination on the application for review—

whichever occurs first.

- (4) If the new decision is to refuse to renew the licence and the person does not apply to the Tribunal for a review of the decision in accordance with these Regulations, the relevant time is until 14 days after the person received written notice of the new decision.

6.1.38 Application for the renewal of a high risk work licence

- (1) The holder of a high risk work licence may apply to the Authority to renew the licence.

Note

Regulation 7.1.1 enables the Authority to specify the form of applications and to specify other information and documents that must be included in or with applications.

- (2) The Authority must renew the licence if the application—
 - (a) contains a declaration by the licence holder that he or she has maintained the competencies required to do the work that the licence authorises him or her to do; and
 - (b) includes any photograph of the applicant required by the Authority, and is in the form, and contains the information, required by the Authority; and
 - (c) includes any other proof of identity required by the Authority; and
 - (d) is accompanied by the fee required by regulation 6.1.40.

6.1.39 Transfer of authorising jurisdiction on renewal of high risk work licence

- (1) This regulation applies if a person who resides in Victoria—
 - (a) holds a licence issued by the Authority to perform one or more types of high risk work; and
 - (b) also holds a licence issued by a corresponding Authority to perform one or more other types of high risk work; and
 - (c) all or part of any of the licences is due to expire within 60 days.
- (2) The person may apply to the Authority for a renewed licence that authorises him or her to perform all of the high risk work authorised by each of the licences referred to in subregulations (1)(a) and (1)(b).
- (3) The Authority must grant the person such a licence if—
 - (a) the Authority is satisfied that this regulation applies; and
 - (b) the application for the licence complies with regulation 6.1.38(2).
- (4) If the Authority grants a licence under this regulation, it must provide details of that fact to the corresponding Authority referred to in subregulation (1)(b).

6.1.40 Renewal fees for certain licences

- (1) An application for the renewal of a high risk work licence must be accompanied by a fee of \$45.
- (2) An application for the renewal of a Class A asbestos removal licence must be accompanied by a fee of \$507.

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- (3) An application for the renewal of a Class B asbestos removal licence must be accompanied by a fee of \$469.

6.1.41 Fee to be paid before carcinogens licence can be renewed

- (1) In addition to the other requirements specified in this Division, the Authority must not renew a carcinogens licence unless the licence holder has, after being told that the Authority intends to renew the licence, paid a fee of—
- (a) in the case of a licence to use a Schedule 2 carcinogenic substance at a laboratory, \$76.50; and
 - (b) in any other case, \$67.50 for each hour the application took to be processed by the Authority.
- (2) The Authority must not seek a fee of more than \$761 under subregulation (1)(b).

6.1.42 Additional information required for the renewal of a major hazard facility licence

In addition to any other information required under these Regulations, a person applying for the renewal of a major hazard facility licence must also include with the application a revised Safety Case prepared in accordance with Division 4 of Part 5.2 (Major Hazard Facilities).

6.1.43 Fee to be paid before a major hazard facility licence can be renewed

- (1) In addition to the other requirements specified in this Division, the Authority must not renew a major hazard facility licence unless the licence holder has, after being told that the Authority intends to renew the licence, paid a fee of \$80 for each hour the application took to be processed by the Authority.

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- (2) The Authority must not seek a fee of more than \$56 560 under subregulation (1).
 - (3) Regulation 6.1.23(3) applies to fees under this regulation.

Division 5—Suspension and cancellation of licences

6.1.44 Grounds of suspension or cancellation

The Authority may suspend or cancel a licence if it is satisfied—

- (a) that the licence holder is not complying, or has failed to comply, with any of the terms and conditions of the licence; or
- (b) that the licence holder—
 - (i) provided false or misleading information in the application for the licence or the renewal of the licence with respect to any significant detail (without advising the Authority in writing at the time that the information was provided that it was false or misleading); or
 - (ii) failed to disclose to the Authority any significant information that should have been disclosed to the Authority; or
- (c) that the licence was granted on the basis of a statement of attainment or notice of satisfactory assessment of competency that was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body; or

Note

Any person or body would include the licence holder, the RTO who issued the statement of attainment or the licence assessor who issued the notice of satisfactory assessment of competency.

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- (d) in the case of a licence other than a major hazard facility licence, that the licence holder is not, or has not been, safely and competently carrying out the activities that the licence authorises the licence holder to carry out; or
 - (e) in the case of a major hazard facility licence—
 - (i) that the licence holder is not, or has not been, safely and competently conducting the major hazard facility; or
 - (ii) that the Safety Management System for the major hazard facility no longer provides a comprehensive and integrated management system for all aspects of risk control measures adopted in relation to major incident hazards and major incidents; or
 - (iii) that risk control measures adopted by the licence holder under regulation 5.2.8 are seriously deficient; or
 - (iv) that the licence holder no longer understands the content of the Safety Assessment conducted under regulation 5.2.7; or
 - (v) that the licence holder no longer has the ability to safely and competently operate the major hazard facility; or
 - (f) in the case of the holder of a high risk work licence, that he or she is not competent to perform the work authorised by the licence without risk to the licence holder's health or safety or the health or safety of other people; or
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- (g) in the case of the holder of a Class A asbestos removal licence, that the licence holder has failed to maintain certification for an asbestos occupational health and safety management system; or
 - (h) in the case of the holder of a carcinogens licence—
 - (i) that the licence holder has ceased to carry on business at the address to which the licence relates; or
 - (ii) that the activities of the licence holder under the licence pose an immediate risk to health or safety.

6.1.45 Matters that may be taken into account

For the purposes of regulation 6.1.44, the Authority may have regard to any matter that it considers to be relevant, including, for example—

- (a) any findings of guilt, since the licence was granted or last renewed, of the licence holder (and in the case of a body corporate, any officer of the licence holder) under any relevant occupational health and safety legislation; and
 - (b) whether, since the licence was granted or last renewed, the licence holder has had any other licence or registration suspended or cancelled by the Authority under these Regulations; and
 - (c) the licence holder's record of performance while performing work under the licence (including the number and nature of any complaints made about that work); and
 - (d) the applicant's record with respect to any matters arising under occupational health and safety legislation, whether in Victoria or
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elsewhere, since the licence was granted or last renewed; and

- (e) the results of any inquiry conducted by the Authority under regulation 6.1.47.

6.1.46 Automatic suspension or cancellation of high risk work licences

- (1) The Authority must suspend a high risk work licence in relation to a particular class of work if it is satisfied that a corresponding Authority has recommended that the licence be suspended in relation to that class of work after that Authority has conducted an inquiry equivalent to the inquiry required by regulation 6.1.47.
- (2) The period of suspension must be the same period recommended by the corresponding Authority, or if that Authority recommended a termination date for the suspension, the suspension must end on that date.
- (3) The Authority must cancel a high risk work licence in relation to a particular class of work if it is satisfied that a corresponding Authority has recommended that the licence be cancelled in relation to that class of work after that Authority has conducted an inquiry equivalent to the inquiry required by regulation 6.1.47.
- (4) The cancellation must occur as soon as is reasonably possible after the date the Authority receives the recommendation, but not less than 14 days after that date.
- (5) If the Authority is required to suspend or cancel a licence, or a part of a licence, under this regulation, it must give the licence holder written notice of the suspension or cancellation, and must include in the notice a copy of the recommendation on which it based the suspension or cancellation.

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- (6) The 14 day minimum period specified in subregulation (4) does not apply if, in the opinion of the Authority, there are exceptional circumstances that pose an immediate significant risk to health or safety.

6.1.47 Process for suspending or cancelling a licence in all other cases

- (1) The Authority may, on its own initiative or after receiving a complaint, conduct an inquiry to determine whether grounds exist to suspend or cancel a licence.
- (2) The Authority must give the licence holder written notice of the inquiry.
- (3) The notice must—
- (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) set out an outline of all allegations, facts and circumstances known to the Authority that are relevant to the inquiry; and
 - (c) invite the licence holder to make a submission to the inquiry; and
 - (d) specify a period of not less than 14 days within which the licence holder may accept the invitation.
- (4) After considering any submission made by, or on behalf of, the licence holder in the time allowed, the Authority must decide—
- (a) whether or not grounds exist to suspend or cancel the licence; and
 - (b) if such grounds exist, whether or not to suspend or cancel the licence.
- (5) The Authority must give the licence holder written notice of its decision.
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- (6) If the Authority decides to suspend or cancel the licence, the Authority must include in the notice—
- (a) a statement of its reasons for the decision made under subregulation (4); and
 - (b) if it decides to suspend the licence, a statement of when the suspension is to begin and when it is to end; and
 - (c) if it decides to cancel the licence, a statement of when the cancellation is to take effect.
- (7) In specifying the date that the suspension or cancellation is to take effect, unless there exists an immediate risk to health or safety, the Authority must specify a date that is at least—
- (a) in the case of a major hazard facility licence, 30 days after the licence holder is given the notice; or
 - (b) in any other case, 14 days after the licence holder is given the notice.
- (8) The minimum period of time specified in subregulation (3)(d) does not apply if, in the opinion of the Authority, there are exceptional circumstances that pose an immediate significant risk to health and safety.
- (9) If the Authority intends to suspend a high risk work licence on the ground that the licence holder is not, or has not been, safely and competently performing relevant work, then, despite subregulation (6)(b), the Authority may suspend the licence until the licence holder provides it with satisfactory new evidence that he or she is competent to perform that work.
- (10) This regulation does not apply to a suspension or cancellation that is required by regulation 6.1.46.
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6.1.48 Extension of date of suspension or cancellation if review sought

- (1) Despite anything to the contrary in regulation 6.1.47, if the Authority decides to suspend or cancel a licence and the licence holder applies for a process review of the decision under Part 6.3 (Review of Decisions), the licence continues to have effect for the time specified in this regulation as if it had not been suspended or cancelled.
- (2) If the person applied for a process review of the decision and the Authority confirmed the decision and the person applies to the Tribunal for a review of the decision in accordance with these Regulations, the relevant time is—
 - (a) until the person withdraws the application for review; or
 - (b) until the Tribunal makes its determination on the application for review—whichever occurs first.
- (3) If the person applied for a process review of the decision and the Authority confirmed the decision and the person does not apply to the Tribunal for a review of the decision in accordance with these Regulations, the relevant time is until 14 days after the person received written notice of the process review decision.
- (4) Subject to subregulations (5) and (6), if the person applied for a process review of the decision and the Authority set aside the decision, the relevant time is until the new decision is made.
- (5) If the new decision is to cancel or suspend the licence and the person applies to the Tribunal for a review of the new decision in accordance with these Regulations the relevant time is—

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- (a) until the person withdraws the application for review; or
 - (b) until the Tribunal makes its determination on the application for review—

whichever occurs first.

- (6) If the new decision is to cancel or suspend the licence and the person does not apply to the Tribunal for a review of the decision in accordance with these Regulations, the relevant time is until 14 days after the person received written notice of the new decision.
- (7) This regulation does not apply in relation to a licence if the Authority specified a period of less than 14 days under regulation 6.1.47 in taking action under that regulation.

6.1.49 Partial suspension or cancellation of a high risk work licence

- (1) Subject to regulation 6.1.50(2), this regulation applies if—
 - (a) a person holds a high risk work licence that authorises the person to perform more than one type of work under the licence; and
 - (b) the Authority is satisfied that a ground of suspension or cancellation only exists in relation to one or some, but not to all, of those types of work.
 - (2) A reference in regulation 6.1.47 to the suspension or cancellation of the licence is to be read as a reference to the suspension or removal from the licence of those types of work in respect of which a ground of suspension or cancellation exists.
 - (3) The Authority must issue the licence holder with a replacement evidence of licence document that sets out the types of work that are still authorised under the licence.
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6.1.50 Flow on suspension or cancellation of some high risk work licences

- (1) This regulation applies if—
- (a) a person holds a high risk work licence that authorises the person to perform more than one type of work under the licence; and
 - (b) the Authority is satisfied that a ground of suspension or cancellation only exists in relation to one or some, but not to all, of those types of work; and
 - (c) the skills required to do the type of work in relation to which a ground of suspension or cancellation exists are also necessary to do another type of work under the licence.
- (2) Despite regulation 6.1.46, the Authority must also suspend or cancel the licence to the extent that it applies to the other type of work referred to in subregulation (1)(c).

Example

A person holds a high risk work licence that authorises the performance of dogging work and work involving the operation of non-slewing mobile cranes and slewing mobile cranes of up to 20 tonnes. The licence holder operates a non-slewing mobile crane unsafely, and the Authority decides that grounds exist to suspend the licence in relation to the authorisation to operate those cranes. This regulation requires that the Authority also suspend the licence holder's authorisation to operate slewing mobile cranes of up to 20 tonnes, because it is necessary to be able to operate non-slewing cranes in order to be licensed to operate slewing mobile cranes. However, regulation 6.1.46 ensures that the licence holder's ability to perform dogging work under the licence is not suspended.

6.1.51 Authority may grant alternative asbestos removal licence

- (1) This regulation applies if the Authority is satisfied that a ground of suspension or cancellation exists in relation to a Class A asbestos removal licence held by a person.
- (2) On suspending or cancelling the licence, the Authority may immediately grant a Class B asbestos removal licence to the person, despite anything to the contrary in Division 1.

6.1.52 Inquiry into interstate high risk work licences

- (1) This regulation applies if a person who holds a licence, certificate or similar authorisation granted or issued by a corresponding Authority that is equivalent to a high risk work licence does, or is alleged to have done, anything in Victoria while acting under the authority of the licence that might constitute a ground for the suspension or cancellation of the licence had it been granted in Victoria.
- (2) The Authority may conduct an inquiry to determine whether grounds exist to recommend to the corresponding Authority that granted or issued the licence that the licence be suspended or cancelled.
- (3) Regulations 6.1.47 and 6.1.49 apply for the purposes of this regulation as if a reference in those regulations to the suspension or cancellation of a licence were a reference to a recommendation to the corresponding Authority that granted or issued the licence that the licence be suspended or cancelled.

6.1.53 Request to suspend or cancel a licence

The Authority may suspend or cancel a licence on the written request of the licence holder.

6.1.54 Evidence of licence document of suspended or cancelled licence must be surrendered on demand

If the Authority suspends or cancels a licence, the licence holder must surrender the evidence of licence document to the Authority on demand, once the suspension or cancellation takes effect.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

PART 6.2—REGISTRATION

Division 1—Application

6.2.1 Application of this Part

This Part applies to—

- (a) the registration of a plant design required under Part 3.5 (Plant); and
- (b) the registration or renewal of registration of plant required under Part 3.5 (Plant); and
- (c) the registration of a person to perform construction work under Part 5.1 (Construction); and
- (d) the registration of a major hazard facility under Part 5.2 (Major Hazard Facilities).

Division 2—Registration of plant designs

6.2.2 Application for registration of plant design

An application for registration of a plant design must—

- (a) include the information required under regulation 6.2.3; and
- (b) include any evidence or proof of identity of the applicant required by the Authority; and
- (c) be accompanied by a fee of \$52.

6.2.3 Information to be included in application

- (1) Without limiting regulation 7.1.1, the Authority may require additional information relating to the design of plant to be included with an application for registration of the plant design.

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- (2) The information required under subregulation (1) may include—
- (a) the date of the commencement and completion of the design;
 - (b) whether the design is for an alteration to existing plant;
 - (c) whether the registration is the first registration of the design of the plant;
 - (d) the intended primary use and performance capacity of the plant;
 - (e) if known by the designer, the intended manufacturer's name and address;
 - (f) the type and model number (if applicable) of the plant;
 - (g) if known by the designer, the intended fixed location of plant in the workplace;
 - (h) a description of controls, safety devices, supporting system and communication system for the plant (if applicable);
 - (i) the hazard level of pressure equipment and the type of fluid to be used in the pressure equipment (if applicable).
- (3) The information required by the Authority under subregulation (1) may be information applicable generally to all plant designs, or a type of plant design, or it may be specific to an individual plant design.

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- (4) The application for registration of a plant design must include—
- (a) a design verification statement that states that the design was produced in accordance with the record of published technical standards or engineering principles (as the case may be) referred to in regulation 3.5.11; and
 - (b) the name, business address and qualifications of the person who produced the design verification statement, and if applicable, the name and business address of the organisation employing that design verifier; and
 - (c) a representational drawing of the plant design; and
 - (d) any information about the design that may be required by the Authority under subregulation (1).

6.2.4 Duties of various people associated with design verification

- (1) The person who applies for registration of a plant design must ensure that the design verification statement referred to in regulation 6.2.3 was made by a design verifier—
- (a) who did not participate in the design that is the subject of the statement; and
 - (b) who has an appropriate level of skill and knowledge to be able to verify the design; and

(c) who has checked the design to ensure that it has been designed according to the technical standards or engineering principles recorded by the designer in respect of the design of that plant in accordance with regulation 3.5.11.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

(2) A person who has participated in the design of particular plant, must not knowingly act as a design verifier for that plant.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

6.2.5 Authority to notify applicant of deferral

- (1) The Authority must notify the applicant for registration of a plant design in writing of the deferral of registration if—
 - (a) the Authority considers that the information provided with the application for registration is inadequate to comply with this Division or regulation 7.1.1; or
 - (b) the applicant has failed to pay the required fee.
- (2) If the Authority notifies a person who applied for registration of a plant design that the information provided is inadequate, the Authority must also specify what further information is required.
- (3) The Authority must treat any information and fee provided in response to any notice given under this regulation as if it were provided with the application for registration.
- (4) If the Authority fails to notify the person who applied for registration of that registration or its deferral within one month after receiving the

application, the plant design is taken to have been registered under this Part.

Note

Notice of the registration under subregulation (4) will be given under regulation 6.2.6.

6.2.6 Notice of registration

- (1) As soon as is reasonably possible after a plant design is registered under this Part, the Authority must give the person who applied for the registration written notice of the registration.
- (2) The notice must include—
 - (a) the type of registration; and
 - (b) details of what has been registered; and
 - (c) the name of the person who applied for the registration; and
 - (d) the date on which the registration took effect, or is to take effect; and
 - (e) an identifying number.

6.2.7 Registration to be of unlimited duration

Subject to Division 6, a registration of a plant design is of unlimited duration.

6.2.8 Proof of registration of plant design must be shown if requested

- (1) A person who has had a plant design registered under this Part must provide a copy of the registration to any person intending to register under this Part an item of plant manufactured to that design.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

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- (2) A person who has had a plant design registered by a corresponding Authority under statutory requirements substantially equivalent to the requirements of this Part, must provide a copy of the registration to any person intending to register under this Part an item of plant manufactured to that design.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

- (3) In subregulation (2), *registration* includes confirmation or approval.

Division 3—Registration of plant

6.2.9 Application for registration or renewal of registration of plant

An application for registration, or renewal of registration, of an item of plant must—

- (a) include the information required under regulation 6.2.10; and
- (b) include any evidence or proof of identity of the applicant required by the Authority; and
- (c) be accompanied by a fee of \$21.50.

6.2.10 Information to be included in application

- (1) Without limiting regulation 7.1.1, an application for registration or renewal of registration of an item of plant must include—
- (a) sufficient information to clearly identify the item of plant; and

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- (b) if the plant design was also required to be registered under this Part—
- (i) a copy of the plant design registration provided by the Authority; or
 - (ii) a copy of the registration provided by the corresponding Authority that registered the design.
- (2) Subregulation (1)(b) does not apply to an application for renewal of registration.
- (3) In subregulation (1)(b)(ii), *registration* includes confirmation or approval.

6.2.11 Authority to notify applicant of deferral

- (1) The Authority must notify the applicant for registration or renewal of registration of an item of plant in writing of the deferral of registration or renewal if—
- (a) the Authority considers that the information provided with the application is inadequate to comply with this Division or regulation 7.1.1; or
 - (b) the applicant has failed to pay the required fee.
- (2) If the Authority notifies a person who applied for registration or renewal of registration of an item of plant that the information provided is inadequate, the Authority must also specify what further information is required.
- (3) The Authority must treat any information and fee provided in response to any notice given under this regulation as if it were provided with the application for registration.

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- (4) If the Authority fails to notify the person who applied for registration or renewal of registration of that registration or renewal or its deferral within one month of receiving the application, the item of plant is taken to have been registered or had its registration renewed (as the case may be) under this Part.

Note

Notice of the registration or renewal of registration under subregulation (4) will be given under regulation 6.2.12.

6.2.12 Notice of registration

- (1) As soon as is reasonably possible after an item of plant is registered or registration is renewed under this Part, the Authority must give the person who applied for the registration or renewal written notice of the registration.
- (2) The notice must include—
- (a) the type of registration; and
 - (b) details of what has been registered; and
 - (c) the name of the person who applied for the registration; and
 - (d) the date on which the registration took effect, or is to take effect; and
 - (e) the date the registration expires; and
 - (f) an identifying number.

6.2.13 Registration of plant expires after 5 years

The registration of plant under this Part expires 5 years after the date on which the registration took or takes effect as specified in the notice given under regulation 6.2.12.

6.2.14 Notice if registered plant or its ownership alters

If there has been a change of ownership of registered plant or the plant is—

- (a) altered to an extent that requires the plant to be subject to new measures to control risk; or
- (b) in the case of normally fixed plant, relocated and requires commissioning and new measures to control risk as a result of the relocation—

the person who has management or control of the plant must advise the Authority of the change in ownership, alteration or relocation in a form determined by the Authority, within 21 days of the change in ownership, alteration or relocation.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

Division 4—Registration to perform construction work

6.2.15 Application for registration to perform construction work

Without limiting regulation 7.1.1, an application for registration of a person to perform construction work must—

- (a) include any evidence or proof of identity of the applicant required by the Authority; and
- (b) be accompanied by—
 - (i) a construction statement of attainment issued to the applicant; or
 - (ii) written evidence, satisfactory to the Authority, of the completion of construction induction training; or

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(iii) written evidence, satisfactory to the Authority, of the completion before 1 July 2008 of the Construction Industry Basic Induction training course; and

(c) be accompanied by a fee of \$27.

6.2.16 Authority may refuse to recognise or accept a construction statement of attainment obtained by fraud

The Authority may refuse to recognise or accept a construction statement of attainment if it is satisfied that the statement was obtained or provided on the basis of fraud or the provision of false or misleading information by any person or body.

Note

Any person or body would include the applicant for registration or the construction RTO.

6.2.17 Construction induction card

- (1) As soon as is reasonably possible after a person is registered under this Part to perform construction work, the Authority must give the person who applied for the registration a construction induction card.
- (2) A construction induction card must include—
 - (a) the type of registration; and
 - (b) the name of the person registered; and
 - (c) the date on which the registration took effect, or is to take effect; and
 - (d) an identifying number.

6.2.18 Persons taken to be registered

- (1) During the period of 60 days after a construction statement of attainment is issued to a person, the person to whom it is issued is taken to be registered to perform construction work for the purposes of Part 5.1 (Construction).
- (2) A person who has recognised evidence of construction induction training is taken to be registered to perform construction work for the purposes of Part 5.1 (Construction).
- (3) Subject to regulation 6.2.21, a person who, before 1 July 2008 completes the Construction Industry Basic Induction Training course and who holds a card evidencing that completion is taken to be registered to perform construction work for the purposes of Part 5.1 (Construction).

6.2.19 Registration to be of unlimited duration

Subject to regulation 6.2.21 and Division 6, a registration to perform construction work is of unlimited duration.

6.2.20 Destruction, loss and replacement of construction induction cards

- (1) A person, other than the Authority, must not intentionally or recklessly destroy, alter or deface a construction induction card.
Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (2) If the Authority is satisfied that a construction induction card has been lost, stolen or destroyed, the Authority may issue a duplicate construction induction card to a person on the evidence of a copy of a construction statement of attainment or other written evidence satisfactory to the Authority.

6.2.21 Lapse of registration and currency of construction induction cards

If a person who is registered or taken to be registered under this Part to perform construction work and holds—

- (a) a construction induction card issued by the Authority; or
- (b) a card evidencing completion before 1 July 2008 of the Construction Industry Basic Induction training course—

has not performed construction work for any consecutive period of 2 years, the person's registration to perform construction work and the person's construction induction card lapse at the end of that 2 year period.

Division 5—Registration of major hazard facilities

6.2.22 Eligibility to apply for registration to operate a major hazard facility

- (1) A person who has an intention to operate a major hazard facility may apply to the Authority for registration of the proposed major hazard facility under this Part.
- (2) An application for registration must—
 - (a) include the information required under regulation 6.2.23; and
 - (b) include any evidence or proof of identity of the applicant required by the Authority.
- (3) For the purposes of this regulation, a person has an intention to operate a major hazard facility if—
 - (a) the person is operating a facility and intends to make alterations to the facility so that Schedule 9 materials present or likely to be

present will be in a quantity that exceeds their threshold quantity; or

- (b) the person who intends to operate a facility, where Schedule 9 materials are present or likely to be present will be in a quantity that exceeds their threshold quantity, has received planning approval from the relevant planning authority for the proposed major hazard facility.

Note

In complying with this regulation, persons intending to make alterations should be aware of the duties of designers of buildings or structures under section 28 of the Act.

6.2.23 Information to be included in application

Without limiting regulation 7.1.1, an application for registration of a major hazard facility must include—

- (a) in relation to the facility itself—
- (i) if the operator is a corporation, the full corporate name, trading name, Australian Company Number, nature of business, registered address and principal place of business;
 - (ii) if the operator is a natural person, the person's full name, the nature of the person's business, residential address and business address;
 - (iii) the location (or proposed location) of the facility;
 - (iv) a brief description of the nature of the facility, including general site activities and production and auxiliary processes involving Schedule 9 materials;

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- (v) the number of employees present at or expected to be present at the facility;
 - (vi) a description of land use and activities of occupancy in the area surrounding the facility;
- (b) in relation to the Schedule 9 materials and other materials at the facility or likely to be at the facility—
- (i) the quantity of each Schedule 9 materials present or likely to be present at the facility;
 - (ii) in relation to each such material, the name of the Schedule 9 materials and any other information as is necessary to clearly identify it;
 - (iii) details of the information and method used by the person giving the notification to determine the percentage of the threshold quantity of the materials present or likely to be present;
 - (iv) the names and quantities of any dangerous goods, which are not Schedule 9 materials but which are present or likely to be present at the facility in quantities that could increase the likelihood of a major incident occurring or the severity of the consequences to health and safety in the event of a major incident occurring.

6.2.24 Registration of major hazard facilities

The Authority, within 90 days of receipt of an application for registration of a major hazard facility must register the facility as a major hazard facility.

6.2.25 Notice of registration

- (1) As soon as is reasonably practicable after a facility is registered or taken to be registered under this Part, the Authority must give the operator of the facility written notice of the registration.
- (2) The notice must include—
 - (a) the type of registration; and
 - (b) details of the facility that has been registered; and
 - (c) the name of the operator of the facility; and
 - (d) the date on which the registration took effect, or is to take effect; and
 - (e) the registration expiry date; and
 - (f) an identifying number.

6.2.26 Registration expiry date

- (1) For the purposes of this Chapter the *registration expiry date* for a major hazard facility means—
 - (a) subject to paragraph (b), a date no later than 30 months after the date of completion or alteration of the facility or proposed major hazard facility;
 - (b) if a major hazard facility has been determined under regulation 5.2.29, a date no later than 30 months after the date specified by the Authority in the notice under regulation 5.2.31 as the date on which the determination takes effect.

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- (2) For the purposes of subregulation (1) and regulation 6.2.27, **completion** means the earlier of—
- (a) the time at which Schedule 9 materials are able to be introduced in the quantities provided in the application; or
 - (b) the time at which quantities are able to be introduced at 100% of the threshold quantity.

6.2.27 Variation of registration expiry date

- (1) Within the period of registration of a major hazard facility, the operator may apply for a variation to the registration expiry date, for the purpose of—
- (a) extending the period of registration; or
 - (b) expiring the registration in the case of a facility that is no longer a major hazard facility.
- (2) The Authority may grant a variation extending the period of registration if—
- (a) it is satisfied that—
 - (i) in the case of a facility notified under regulation 5.2.27, there has been a change in the planned date of completion; and
 - (ii) the matters specified in paragraphs (a) and (b) of regulation 6.1.21 are likely to be achieved before the end of the extended period of registration; and
 - (b) the period is extended to a date no later than 36 months after—
 - (i) subject to subparagraph (ii), the original date of completion or alteration of the facility or proposed major hazard facility; or
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- (ii) if a major hazard facility has been determined under regulation 5.2.29, the date on which the determination took effect.
 - (3) The Authority may grant a variation expiring the registration if it is satisfied that the inventory has decreased below the threshold quantity of Schedule 9 materials, is not likely to exceed the threshold quantity of Schedule 9 materials and the facility would not be determined to be a major hazard facility under regulation 5.2.29.

6.2.28 Expiry of registration

Registration of a major hazard facility under this Part expires on the registration expiry date unless—

- (a) a major hazard facility licence is granted, in which case registration expires on the date specified by the licence as the date on which its grant is effective;
- (b) the Authority decides to refuse to grant a major hazard facility licence and no application is made to the Tribunal for a review of the decision, in which case registration expires on the date specified in the notification of the refusal;
- (c) the Authority decides to refuse to grant a major hazard facility licence and an application is made to the Tribunal for a review of the decision and that application is refused by the Tribunal, in which case registration expires 30 days after the day on which the decision that results from the review is made.

Division 6—Withdrawal of registration

6.2.29 Authority may withdraw registration based on false or misleading information

- (1) The Authority may withdraw a registration under this Part if it is satisfied that the person who applied for the registration provided false or misleading information in the application for the registration with respect to any significant detail, or failed to disclose to the Authority any significant information that should have been disclosed to the Authority.
- (2) Before withdrawing registration the Authority must conduct an inquiry to determine whether there are grounds for taking action under subregulation (1).
- (3) The Authority must give the person who holds the registration written notice of the inquiry.
- (4) The notice must—
 - (a) state the subject of the inquiry and the reasons for conducting it; and
 - (b) set out an outline of all allegations, facts and circumstances known to the Authority that are relevant to the inquiry; and
 - (c) invite the person to make a submission to the inquiry; and
 - (d) specify a period of not less than 14 days within which the person may accept the invitation.
- (5) After considering any submissions made by, or on behalf of, the person in the time allowed, the Authority must decide whether or not grounds exist to withdraw the registration.

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- (6) If, in the opinion of the Authority grounds do exist—
- (a) it must withdraw the registration; and
 - (b) it must give the person written notice of its decision, of the reasons for its decision and of the date the withdrawal is to take effect.
- (7) In specifying the date that the withdrawal is to take effect, the Authority must not specify a date that is less than 14 days after the person is given the notice.

6.2.30 Authority may withdraw registrations on request

The Authority may withdraw the registration of a person or thing under these Regulations at the request of the person who holds the registration.

Division 7—General

6.2.31 Evidence of registration to be kept available

- (1) A person who holds a construction induction card must keep that card available for inspection on request under the Act.

Penalty: 5 penalty units.

- (2) A person who holds any other registration under this Part must keep the notice of registration available for inspection on request under the Act.

Penalty: 5 penalty units for a natural person;
25 penalty units for a body corporate.

6.2.32 Changes to registration information provided

If, in relation to a registration under these Regulations, a change occurs to any information provided at any time by the person who holds that registration (whether in applying for the registration, under this regulation or in any other circumstance), the person must advise the

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Authority in writing of that change as soon as is reasonably possible after the person becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.

PART 6.3—REVIEW OF DECISIONS

6.3.1 What is a reviewable decision?

For the purposes of this Part, a reviewable decision is a decision of the Authority—

- (a) to refuse to grant a licence under Division 1 of Part 6.1 (Licences);
- (b) to refuse to license the holder of a high risk work licence to perform one or more additional classes of high risk work under Division 1 of Part 6.1 (Licences);
- (c) to impose any particular term or condition on a proposed licence under regulation 6.1.24;
- (d) to amend a licence, or to refuse to amend a licence, under Division 3 of Part 6.1 (Licences);
- (e) to refuse to renew a licence under Division 4 of Part 6.1 (Licences);
- (f) to suspend, cancel or amend a licence, or part of a licence, under Division 5 of Part 6.1 (Licences);
- (g) to recommend to a corresponding Authority that a licence, or a part of a licence, be suspended or cancelled under regulation 6.1.52;
- (h) to refuse to issue a replacement evidence of licence document under regulation 6.1.28;
- (i) to withdraw a registration under regulation 6.2.29.

6.3.2 What is a process review?

In these Regulations, a *process review* of a decision is a review to determine whether the decision was made in accordance with all of the processes that apply under the Act and these Regulations in relation to the making of such a decision, but it does not involve any consideration of the merits of the decision.

6.3.3 Application for process review

- (1) A person who applied for a licence may apply to the Authority for a process review of a reviewable decision of a type listed in paragraph (a), (b) or (c) of regulation 6.3.1.
- (2) A licence holder may apply to the Authority for a process review of a reviewable decision of a type listed in paragraph (d), (e), (f), (g) or (h) of regulation 6.3.1.
- (3) A person who has had a registration withdrawn by the Authority under regulation 6.2.29 may apply for a process review of the decision to withdraw the registration.
- (4) An application for a review must be made within—
 - (a) 14 days after the day on which the decision first came to the applicant's notice; or
 - (b) such longer period as the Authority allows.
- (5) If an application is made to the Authority in accordance with this regulation, the Authority must make a decision—
 - (a) to confirm the reviewable decision either on the basis—
 - (i) that it was made in accordance with the Act and these Regulations; or

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- (ii) that even though it was not made in accordance with the Act or these Regulations, the process failure was not reasonably likely to have affected the outcome of the decision; or
- (b) to set aside the reviewable decision.
- (6) The Authority must give a written notice to the applicant setting out—
- (a) the Authority's decision under subregulation (5) and the reasons for the decision; and
- (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based.
- (7) The Authority must comply with subregulation (6)—
- (a) within 14 days after the application is made; or
- (b) with the consent of the applicant, within a further period of up to 14 days.
- (8) If the Authority does not notify an applicant of a decision in accordance with subregulations (6) and (7), the Authority is taken to have made a decision to confirm that the reviewable decision was made in accordance with the Act and these Regulations.
- (9) Subject to regulations 6.1.36(5) and 6.1.48, an application under this regulation does not affect the operation of the reviewable decision or prevent the taking of any action to implement it.

6.3.4 Process for new decisions to be started within 7 days

If the Authority sets a decision aside under regulation 6.3.3(5)(b), it must start the process to remake the decision within 7 days after it sets the decision aside.

6.3.5 Right of Tribunal review

For the purposes of these Regulations, section 129 of the Act applies as if—

- (a) a reference in section 129(1)(a) to a reviewable decision were a reference to—
 - (i) a reviewable decision that a person was entitled to have reviewed under regulation 6.3.3 and that has been confirmed by the Authority after it has conducted a process review of the decision under that regulation; or
 - (ii) a reviewable decision that was a new decision made after an earlier decision was set aside following a process review by the Authority; and
- (b) section 129(1)(b) were omitted; and
- (c) a reference in section 129(1) to an eligible person were a reference to a person who was entitled to seek a review of the decision under regulation 6.3.3; and
- (d) for section 129(2) there were substituted the following provision—

"(2) The application must be made—

 - (a) within 14 days after the person received notice of the process review decision or the new decision (as the case requires); or

(b) if the Authority is required by the **Victorian Civil and Administrative Tribunal Act 1998** to give the person a statement of reasons, within 14 days after the day on which the person is given the statement—
whichever period ends last."

Note

This regulation has the effect of enabling a person who was entitled to seek a review of a decision under regulation 6.3.3 to apply to VCAT for a review of the decision, but only after the person has applied under that regulation for a process review of the decision and had the decision confirmed by the Authority or a new decision is made.

6.3.6 Notices of decisions must contain a copy of review rights

The Authority must ensure that any written notice it gives to an applicant for a licence, or a licence holder, of any reviewable decision it makes includes a copy of this Part (other than this regulation).

CHAPTER 7—ADMINISTRATIVE MATTERS AND EXEMPTIONS

PART 7.1—ADMINISTRATIVE MATTERS

Division 1—Applications and notifications

7.1.1 Form and information to be supplied

- (1) An application made, or notification required to be given, to the Authority under these Regulations—
 - (a) must be made or given in the form and manner required by the Authority; and
 - (b) must include, or be accompanied by, any information or document required by the Authority.
- (2) The Authority may only require, under subregulation (1), information or documents that will provide assistance in ensuring that the application or notification is dealt with in accordance with these Regulations.

7.1.2 Return of incomplete applications or notifications

- (1) The Authority may return an incomplete application or notification to the person who made or gave it without processing it.
- (2) If the Authority returns an application or notification—
 - (a) it must advise the person of the reasons for returning the application or notification; and
 - (b) it must return or refund any fee that accompanied the application or notification.

7.1.3 Specific notifications

- (1) This regulation applies to a notification to the Authority required by—
 - (a) regulation 4.3.97, in relation to asbestos removal work;
 - (b) regulation 4.3.98, of an unexpected situation;
 - (c) regulation 5.2.27 (presence of specified quantities of certain substances at a facility).
- (2) If any change occurs to any information provided at any time by the person to the Authority in relation to the notification of a matter that is ongoing (whether in notifying the matter, under this regulation or in any other circumstance), the person must advise the Authority in writing of that change as soon as is reasonably possible after the person becomes aware that the change has occurred.

Penalty: 60 penalty units for a natural person;
300 penalty units for a body corporate.
- (3) Subregulation (2) does not apply in relation to a change of supervisor in relation to a matter for which notification is required by regulation 4.3.97.

Division 2—Determinations

7.1.4 Authority must publish notice of determinations

- (1) If the Authority makes a determination under these Regulations, it must publish a notice in the Government Gazette that—
 - (a) must state that the determination has been made; and
 - (b) must identify to whom and to what the determination applies; and

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- (c) must identify the provision or provisions of these Regulations to which the determination relates; and
 - (d) may include any other details that the Authority considers to be appropriate.
- (2) A determination takes effect on the day on which the notice is published in the Government Gazette, or on any later day specified in the notice.
- (3) The Authority must also cause a similar notice to be published in a newspaper circulating generally throughout Victoria as soon as is reasonably possible after it has complied with subregulation (1).
- (4) Nothing in subregulation (1) is intended to require the Authority to include in the notice confidential personal information about an individual or information relating to manufacturing or commercial secrets or working processes.

7.1.5 Determination to be made available

The Authority must make a determination available for inspection by any person affected by the determination.

Division 3—Notices

7.1.6 Means of giving written notice

A written notice under these Regulations may be given to a person by—

- (a) delivering it personally to that person; or
- (b) sending it to that person by a method agreed by that person; or

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- (c) sending it by pre-paid post addressed to that person at the place that the sender of the notice has reasonable grounds to believe is the person's usual place of residence or business or is the person's last known place of residence or business.

Division 4—Submissions

7.1.7 Form of submissions to the Authority

- (1) In inviting a person to make a submission to it under these Regulations, the Authority may specify the form and manner in which the submission is to be made.
- (2) Despite anything to the contrary in these Regulations, the Authority may refuse to consider any submission that is not made in a form or manner that it has specified.

Division 5—Entry permits for authorised representatives

7.1.8 Information to be included on entry permits

For the purposes of Part 8 of the Act, an entry permit must include the following information—

- (a) the name of the authorised representative;
- (b) the name of the registered employee organisation, or the relevant branch of the organisation, of which the authorised representative is a permanent employee or officer;
- (c) the address of the registered employee organisation or relevant branch of the organisation;

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- (d) a photograph of the authorised representative that is of the size used in Australian passports and that was taken not more than 6 months before it is attached to the permit;
 - (e) the date of issue of the permit;
 - (f) a unique number that identifies the permit;
 - (g) a statement to the effect of the statement set out in Schedule 13.
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PART 7.2—EXEMPTIONS

7.2.1 Authority may grant exemptions from these Regulations

- (1) The Authority may exempt any person, or any class of person, from complying with any provision of—
- (a) Part 3.2 (Noise);
 - (b) Part 3.5 (Plant);
 - (c) Part 4.1 (Hazardous Substances);
 - (d) Part 4.2 (Scheduled Carcinogenic Substances);
 - (e) Part 4.3 (Asbestos);
 - (f) Part 4.4 (Lead);
 - (g) Part 5.1 (Construction);
 - (h) Part 5.2 (Major Hazard Facilities);
 - (i) Part 5.3 (Mines).

Note

Regulation 7.2.2 also authorises the Authority to grant a limited exemption under Part 3.6 (High Risk Work).

- (2) If these Regulations impose an obligation under any Part listed in subregulation (1) in relation to a process, activity, substance or thing, the Authority may exempt the process, substance, activity or thing or any class of process, substance, activity or thing from complying with that obligation.
- (3) Despite subregulations (1) and (2), the Authority may not exempt a person from—
- (a) the requirement to hold a licence under Part 4.3 (Asbestos) or under Part 5.2 (Major Hazard Facilities); or

- (b) a requirement under Division 10 of Part 5.2 (Major Hazard Facilities).

7.2.2 Exemptions in relation to high risk work

The Authority may exempt an employer, or a class of employer, from complying with regulation 3.6.2 in relation to specified high risk work that the employer seeks to have performed by a person, or class of person, who does not hold a high risk work licence (including persons who are under 18 years of age).

7.2.3 Who may apply for an exemption

- (1) The Authority may grant an exemption under regulation 7.2.1 on its own initiative, or on the written application of any person.
- (2) The Authority may grant an exemption under regulation 7.2.2—
 - (a) in the case of an exemption applying to a class of employer, on its own initiative, or on the written application of an employer who seeks the exemption;
 - (b) in the case of an exemption that is to apply to only one employer, on the written application of the employer.

7.2.4 Grounds on which an exemption (other than in relation to high risk work) may be granted

- (1) The Authority must not grant an exemption under regulation 7.2.1 unless it is satisfied—
 - (a) that the granting of the exemption will result in a level of health and safety at the relevant workplace, or with respect to the relevant undertaking, that is at least equivalent to that which would be achieved by observance of the relevant provision or provisions; or

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- (b) that the provision that is to be the subject of the exemption is an administrative requirement under these Regulations—
- (i) that is not directly associated with a risk control measure; and
 - (ii) that is inappropriate or unnecessary in the circumstances.
- (2) The Authority may also grant an exemption if—
- (a) it is satisfied that the requirements of subregulation (1)(a) will be met if it imposes certain conditions in granting the exemption and those conditions are observed; and
 - (b) it imposes those conditions in granting the exemption.
- (3) The Authority may also grant an exemption in relation to plant if it is satisfied that the risk associated with the plant is not significant if the exemption is granted.
- (4) The Authority must not grant an exemption under regulation 7.2.1 except in the circumstances permitted under subregulation (1), (2) or (3).
- (5) Subject to subregulations (1) and (2), the Authority may grant part only of an application for an exemption under regulation 7.2.1 or it may grant an exemption so that the exemption applies in a more limited way than was sought in the application for the exemption.
- (6) If a person applies for an exemption in relation to Divisions 3 to 7 of Part 5.2 (Major Hazard Facilities), the Authority must not refuse to grant the exemption unless it has—
- (a) invited the person to make a written submission; and
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- (b) specified a date, not less than 14 days after the date of the invitation, by which the person may make the submission; and
- (c) considered any submission that is made by the person by the specified date.

7.2.5 Grounds on which an exemption in relation to high risk work may be granted

- (1) The Authority may only grant an exemption under regulation 7.2.2—
 - (a) if it is satisfied that the work that is the subject of the application can be performed as safely by a person who does not hold a relevant high risk work licence as it could be performed by a person who holds such a licence; or
 - (b) if—
 - (i) it is satisfied that the requirements of paragraph (a) will be met if it imposes certain conditions in granting the exemption and those conditions are observed; and
 - (ii) it imposes those conditions in granting the exemption.
- (2) In the case of an application by an employer for an exemption under regulation 7.2.2 in relation to a particular employee, the Authority may require the employer to satisfy it as to the competence of the employee in relation to any relevant skill or knowledge by providing it with either an assessment of that competence by a licence assessor or a statement of attainment in relation to that skill or knowledge.

Note

Subregulation (2) also applies to employees who are under 18 years of age.

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- (3) The Authority may provide for an exemption under regulation 7.2.2 to apply to all of the work, or part of the work, that would normally be required to be performed by a person with a relevant high risk work licence.

7.2.6 Applications

- (1) An application for an exemption must—
- (a) if applicable, identify the workplace or undertaking in respect of which the exemption is sought; and
 - (b) identify the provision or provisions from which exemption is sought; and
 - (c) explain why the exemption is sought; and
 - (d) provide sufficient information to enable the Authority to decide whether it is able to grant the exemption under regulation 7.2.1 or 7.2.2.
- (2) An application for an exemption may be made in respect of more than one provision, process, activity or thing.

7.2.7 Consultation

For the purposes of section 35(1) of the Act, an employer must consult when making the decision to apply for an exemption under this Part.

Note

Sections 35 and 36 of the Act set out the duty of the employer to consult, including involving the health and safety representative (if any). (See also regulation 2.1.5).

7.2.8 Conditions

- (1) The Authority may impose on an exemption any conditions that it considers to be appropriate.
- (2) Without limiting subregulation (1), the Authority may impose, in relation to anything that is permitted, or that may be affected, by the exemption, conditions—
 - (a) specifying risk control measures to be used or implemented;
 - (b) requiring—
 - (i) monitoring (such as atmospheric monitoring of the workplace);
 - (ii) the provision of health surveillance for anyone at a workplace to which the exemption applies;
 - (iii) the recording or keeping of information (including health and safety information);
 - (iv) the provision of information, instruction and training to specified people or classes of people;
 - (v) the use or implementation of systems of work or processes;
 - (c) requiring the reporting of information to the Authority, including health and safety information and the results of any required monitoring, health surveillance or testing;
 - (d) imposing limits on the quantity to be used at the workplace of anything used under the exemption;
 - (e) limiting who may carry out activities under the exemption;

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- (f) limiting the activities that may be carried out under the exemption, or specifying that only certain activities may be carried out under the exemption;
 - (g) requiring that notice be given that the exemption has been granted, and of any conditions of the exemption, to any specified person who may be affected by the granting of the exemption;
 - (h) imposing time limits on when any action required to be taken in relation to the exemption is to be taken.
- (3) A person to whom an exemption is granted must comply with the terms and conditions to which the exemption is subject.

Penalty: 100 penalty units for a natural person;
500 penalty units for a body corporate.

7.2.9 Form and contents of exemptions

- (1) An exemption—
 - (a) must be in writing; and
 - (b) must specify—
 - (i) in the case of an exemption granted under regulation 7.2.2, the name of the employer or class of employer and the work that may be performed for the employer by employees who do not hold the relevant high risk work licence; and
 - (ii) in any other case, who or what is exempted; and
 - (iii) if applicable, the workplace or workplaces or undertaking or undertakings to which the exemption applies; and

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- (iv) the provision or provisions of these Regulations to which the exemption relates; and
 - (v) when the exemption is to start; and
 - (vi) any conditions to which the exemption is subject.
- (2) The Authority may specify how long an exemption is to last.

7.2.10 Notice of exemptions to be given to individual applicants

If the Authority grants an exemption in response to an application, the Authority must give a copy of the exemption to the person who applied for the exemption.

7.2.11 Notice of exemptions to be published

- (1) If the Authority decides to grant an exemption, it must publish a notice in the Government Gazette that—
- (a) must state that the exemption has been granted; and
 - (b) must identify to whom and to what the exemption applies; and
 - (c) must identify the provision or provisions of these Regulations to which the exemption relates; and
 - (d) must state when the exemption is to start; and
 - (e) may include any other details that the Authority considers to be appropriate.
- (2) An exemption takes effect on the day on which the notice is published in the Government Gazette, or on any later day specified in the notice.

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- (3) The Authority must also cause a similar notice to be published in a newspaper circulating generally throughout Victoria as soon as is reasonably practicable after it has complied with subregulation (1).
 - (4) Nothing in subregulation (1) is intended to require the Authority to include in the notice confidential personal information about an individual or information relating to manufacturing or commercial secrets or working processes.

7.2.12 Additional obligation on the operator of a mine

The operator of a mine in relation to which an exemption is granted must, within 30 days after the exemption is granted, inform the health and safety representatives at the mine that the exemption has been granted.

7.2.13 Notice of refusal

If the Authority refuses to grant an exemption, the Authority must notify the person who applied for the exemption of the reasons for the refusal in writing.

7.2.14 Variation or revocation of exemption

- (1) The Authority may vary or revoke an exemption at any time—
 - (a) in the case of an exemption applying to a class of person, process, substance, activity or thing, by placing a notice in the Government Gazette setting out the variation, or stating that the exemption has been revoked; or
 - (b) in any other case, by giving a written notice of the variation or revocation to the person to whom the exemption applies.
 - (2) The notice must include the Authority's reasons for varying or revoking the exemption.
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- (3) A revocation, or variation, of an exemption takes effect—
- (a) if subregulation (1)(a) applies, on the day on which the notice required by that subregulation is published in the Government Gazette or on any later day specified in the notice; or
 - (b) if subregulation (1)(b) applies, on the day on which the person is given the written notice of the revocation or variation, or on any later day specified in the notice.

7.2.15 Exemptions and variations not to have retrospective effect

Nothing in this Part authorises the Authority to specify—

- (a) that an exemption takes effect before it is granted; or
- (b) that a variation to an exemption takes effect before notice of it is given in accordance with this Part.

7.2.16 Terms and conditions to be made available

The Authority must make the current terms and conditions of an exemption available for inspection by any person affected by the exemption.

7.2.17 Fee for considering exemption application

- (1) A person who applies for an exemption is liable to pay to the Authority a fee for the consideration of the application.
 - (2) The fee is to be calculated at a rate of \$74 for each hour, or part of an hour, that is taken to assess the application.
 - (3) The Authority must not seek a fee of more than \$445 under subregulation (2).
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- (4) The Authority must not grant an exemption to a person unless the person has paid the fee payable in respect of the Authority's consideration of the application.
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CHAPTER 8—SAVING AND TRANSITIONAL PROVISIONS

PART 8.1—GENERAL TRANSITIONAL PROVISIONS

8.1.1 Commencement day

In this Chapter *commencement day* means 1 July 2007.

8.1.2 General transitional provisions

This Chapter does not affect or take away from the **Interpretation of Legislation Act 1984**.

8.1.3 Plant

- (1) In this regulation *former Regulations* means the Occupational Health and Safety (Plant) Regulations 1995².
- (2) A notification of a design of plant under regulation 1002 of the former Regulations that was not confirmed by the Authority before the commencement day is on and from the commencement day to be taken to be an application for registration of the plant design under Part 6.2 (Registration) of these Regulations.
- (3) A confirmation of a notification of a design of plant under regulation 1002(5) of the former Regulations is on and from the commencement day to be taken to be a registration of the plant design under Part 6.2 (Registration) of these Regulations.
- (4) If an application for registration or renewal of registration of plant under regulation 1008 of the former Regulations was made but the plant was not registered before the commencement day, the application is on and from the commencement day to be taken to be an application for registration or

renewal of registration (as the case may be) of the plant under Part 6.2 (Registration) of these Regulations.

- (5) A registration, or renewal of registration, of plant under regulation 1008 of the former Regulations is on and from the commencement day to be taken to be a registration, or renewal of the registration (as the case may be), of the plant under Part 6.2 (Registration) of these Regulations.
- (6) Regulation 3.5.50 of these Regulations does not apply for 12 months after the commencement day to any plant listed in Part 2 of Schedule 2 to these Regulations that did not require registration under Part 10 of the former Regulations immediately before the commencement day.

8.1.4 Hazardous substances—MSDS

If on the commencement day, a manufacturer or importing supplier has a current MSDS that complies with regulation 204(1) of the Occupational Health and Safety (Hazardous Substances) Regulations 1999³, that person may continue to provide that current MSDS until 30 June 2008.

8.1.5 Carcinogens licences and notifications

- (1) In this regulation *former Regulations* means Occupational Health and Safety (Hazardous Substances) Regulations 1999.
- (2) If on the commencement day, a person holds a licence granted by the Authority under regulation 405 of the former Regulations, that person may continue to use Schedule 1 carcinogenic substances in a laboratory or Schedule 2 carcinogenic substances in a workplace, in accordance with any conditions attached to the licence, until the licence expires.

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- (3) If on the commencement day, a person holds a confirmation of notification issued by the Authority under regulation 417 of the former Regulations, that person may continue to use Schedule 2 carcinogenic substances in a laboratory until the date on which the Authority would have required re-notification of an intention to use the substance by the holder of the notification.
 - (4) On and from the commencement day, a person who has made a valid application for a notification to the Authority under regulation 416 of the former Regulations and who has not yet received a confirmation of notification by the Authority under regulation 417 of the former Regulations is to be taken to have made an application for a licence to use a Schedule 2 carcinogenic substance under Part 6.1 (Licences) of these Regulations.

8.1.6 Asbestos

- (1) In this regulation *former Regulations* means the Occupational Health and Safety (Asbestos) Regulations 2003⁴.
- (2) A Class A licence issued under the former Regulations and in force immediately before the commencement day is to be taken on and from the commencement day to be a Class A asbestos removal licence granted under Part 6.1 (Licences) of these Regulations.
- (3) A Class B licence issued under the former Regulations and in force immediately before the commencement day is to be taken on and from the commencement day to be a Class B asbestos removal licence granted under Part 6.1 (Licences) of these Regulations.

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- (4) An application for a Class A licence under the former Regulations made but not determined by the Authority before the commencement day is on and from the commencement day to be taken to be an application for a Class A asbestos removal licence under Part 6.1 (Licences) of these Regulations.
 - (5) An application for a Class B licence under the former Regulations made but not determined by the Authority before the commencement day is on and from the commencement day to be taken to be an application for a Class B asbestos removal licence under Part 6.1 (Licences) of these Regulations.
 - (6) A current record of results kept by an occupier of a workplace under the former Regulations and existing immediately before the commencement day is to be taken on and from the commencement day to be the asbestos register of the person in management or control of that workplace for the purposes of Part 4.3 (Asbestos) of these Regulations.
 - (7) A current record of results kept by an employer under the former Regulations and existing immediately before the commencement day is to be taken on and from the commencement day to be the employer's asbestos register for the purposes of Part 4.3 (Asbestos) of these Regulations.

8.1.7 Transitional provision relating to principal contractors

Subdivision 2 of Division 2 of Part 5.1 (Construction) does not apply to a construction project if the contract to perform the construction work was entered into before the commencement of that Subdivision.

8.1.8 Major hazard facilities

- (1) In these Regulations *former Regulations* means the Occupational Health and Safety (Major Hazard Facilities) Regulations 2000⁵.
- (2) A licence issued under the former Regulations and in force immediately before the commencement day is to be taken on and from the commencement day to be a major hazard facility licence granted under Part 6.1 (Licences) of these Regulations.
- (3) A registration of a facility under the former Regulations that is in force immediately before the commencement day is to be taken on and from the commencement day to be a registration of that facility under Part 6.2 (Registration) of these Regulations.
- (4) A notification of a facility under regulation 702 of the former Regulations that was not determined by the Authority before the commencement day is to be taken on and from the commencement day to be an application for registration of that facility under Part 6.2 (Registration) of these Regulations.
- (5) A notification of a facility made under regulation 703 of the former Regulations that was not determined by the Authority before the commencement day is to be taken on and from the commencement day to be a notification under regulation 5.2.27 of these Regulations.
- (6) An application for a licence under the former Regulations made but not determined by the Authority before the commencement day is to be taken on and from the commencement day to be an application for a major hazard facility licence under Part 6.1 (Licences) of these Regulations.

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- (7) Clause 6 of Schedule 12 of these Regulations in respect of unauthorised persons and control of access does not apply to a Safety Case existing under the former Regulations before the commencement day.

8.1.9 Exemptions

- (1) In this regulation, *former Regulations* means the regulations made under the Act or the **Occupational Health and Safety Act 1985**, other than the Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994⁶.
- (2) Any exemption granted under the former Regulations before the commencement day that was in force immediately before the commencement day continues in force as if it had been granted under Part 7.2 (Exemptions) in respect of the corresponding provision of these Regulations until it expires or otherwise ceases to operate according to its terms, or until it is revoked by the Authority, whichever occurs first.

8.1.10 Determinations

- (1) In this regulation *former Regulations* means the regulations made under the Act or the **Occupational Health and Safety Act 1985**.
- (2) Any determination made by the Authority under the former Regulations before the commencement day that was in force immediately before the commencement day continues in force as if it had been made under the corresponding provision of these Regulations until it is revoked by the Authority.

8.1.11 References to Acts

- (1) Until the commencement of section 6.1.1((l) of the **Education and Training Reform Act 2006**, a reference to that Act in the definition of *AQF* in regulation 1.1.5 is to be taken to be a reference to the **Victorian Qualifications Authority Act 2000**.
 - (2) Until the commencement of section 6.1.1((l) of the **Education and Training Reform Act 2006**, a reference to Chapter 4 of that Act in the definition of *RTO* in regulation 1.1.5 is to be taken to be a reference to the **Victorian Qualifications Authority Act 2000**.
 - (3) Until the commencement of section 6.1.1((e) of the **Education and Training Reform Act 2006**, a reference to that Act in regulation 5.1.22 is to be taken to be a reference to the **Education Act 1958**.
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PART 8.2—HIGH RISK WORK

8.2.1 Definitions

In this Part—

certificate of competency means—

- (a) a certificate of competency granted or issued under the former Regulations; or
- (b) a certificate of competency that was issued under the **Lifts and Cranes Act 1967**, the **Boilers and Pressure Vessels Act 1970** or the **Scaffolding Act 1971** or regulations made under those Acts, and that was in force immediately before the former Regulations came into operation, and that has not subsequently been cancelled or surrendered; or
- (c) a certificate that is equivalent to a certificate of competency referred to in paragraph (a) or (b) that was issued under the **Lifts and Cranes Act 1967**, the **Boilers and Pressure Vessels Act 1970** or the **Scaffolding Act 1971** or regulations made under those Acts, and that was in force immediately before the day the former Regulations came into operation, and that has not subsequently been cancelled or surrendered;

former Regulations means the Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994.

8.2.2 Previous exemptions cease to have effect

- (1) All exemptions granted under the former Regulations cease to have effect.
- (2) A person who was exempted by regulation 8(4) of the former Regulations from the need to comply with regulation 7(1) of the former Regulations is not required to comply with regulation 3.6.1 of these Regulations at any time before 1 July 2008.
- (3) A person who was exempted by regulation 8(4) of the former Regulations from the need to comply with regulation 7(2) of the former Regulations is not required to comply with regulation 3.6.2 of these Regulations in respect of an employee who is exempted under subregulation (2) of this regulation.

8.2.3 Certificates to continue to have effect

- (1) If a person holds a certificate of competency immediately before the commencement day, the following provisions apply until the certificate expires or is cancelled under this Part—
 - (a) the person is to be treated as if he or she were licensed under these Regulations to perform the work authorised by the certificate of competency; and
 - (b) the certificate held by the person is to be treated as if it were an evidence of licence document issued under these Regulations.
- (2) Without limiting subregulation (1), the Authority may amend, suspend or cancel the certificate of competency as if it were a licence.

8.2.4 Phased expiry of certificates of competency

- (1) For the purposes of this regulation, the *relevant date* of a certificate of competency is—
 - (a) if the certificate has not been endorsed, the date on which it was granted or issued; or
 - (b) in any other case, the date on which it was last endorsed.
- (2) A certificate of competency that was not granted or issued under the former Regulations and that has a relevant date that falls within a period set out in column 1 of Table 1 expires on the date set out next to that period in column 2 of Table 1.
- (3) A certificate of competency that was granted or issued under the former Regulations and that has a relevant date that falls within a period set out in column 1 of Table 2 expires on the date set out next to that period in column 2 of Table 2.

Table 1—Expiry dates for certificates not granted or issued under the former Regulations

<i>Column 1</i> <i>Relevant date</i>	<i>Column 2</i> <i>Expiry date</i>
Pre 1 August 1978	31 January 2008
1 August 1978–30 April 1981	29 February 2008
1 May 1981–31 October 1982	31 March 2008
1 November 1982–31 May 1984	30 April 2008
1 June 1984–31 October 1985	31 May 2008
1 November 1985–30 November 1986	30 June 2008
1 December 1986–31 December 1987	31 July 2008
1 January 1988–31 May 1989	31 August 2008
1 June 1989–30 November 1989	30 September 2008
1 December 1989–30 June 1990	31 October 2008

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<i>Column 1</i> <i>Relevant date</i>	<i>Column 2</i> <i>Expiry date</i>
1 July 1990–30 November 1990	30 November 2008
1 December 1990–30 June 1991	31 December 2008
1 July 1991–31 January 1992	31 January 2009
1 February 1992–31 August 1992	28 February 2009
1 September 1992–28 February 1993	31 March 2009
1 March 1993–31 July 1993	30 April 2009
1 August 1993–31 December 1993	31 May 2009
1 January 1994–30 June 1994	30 June 2009
1 July 1994–31 October 1994	31 July 2009
1 November 1994–31 March 1995	31 August 2009
1 April 1995–30 November 1999	30 September 2009

Table 2—Expiry dates for certificates granted or issued under the former Regulations

<i>Column 1</i> <i>Relevant date</i>	<i>Column 2</i> <i>Expiry date</i>
Pre 1 August 1995	31 January 2008
1 August 1995–31 August 1995	29 February 2008
1 September 1995–30 September 1995	31 March 2008
1 October 1995–31 October 1995	30 April 2008
1 November 1995–30 November 1995	31 May 2008
1 December 1995–31 December 1995	30 June 2008
1 January 1996–30 April 1996	31 July 2008
1 May 1996–31 July 1996	31 August 2008
1 August 1996–30 September 1996	30 September 2008

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<i>Column 1</i> <i>Relevant date</i>	<i>Column 2</i> <i>Expiry date</i>
1 October 1996–31 December 1996	31 October 2008
1 January 1997–30 April 1997	30 November 2008
1 May 1997–31 July 1997	31 December 2008
1 August 1997–31 October 1997	31 January 2009
1 November 1997–31 January 1998	28 February 2009
1 February 1998–30 April 1998	31 March 2009
1 May 1998—31 July 1998	30 April 2009
1 August 1998–31 October 1998	31 May 2009
1 November 1998–31 December 1998	30 June 2009
1 January 1999–30 April 1999	31 July 2009
1 May 1999–31 July 1999	31 August 2009
1 August 1999–30 September 1999	30 September 2009
1 October 1999–31 December 1999	31 October 2009
1 January 2000–30 April 2000	30 November 2009
1 May 2000–31 July 2000	31 December 2009
1 August 2000–31 October 2000	31 January 2010
1 November 2000–31 January 2001	28 February 2010
1 February 2001–30 April 2001	31 March 2010
1 May 2001–31 July 2001	30 April 2010
1 August 2001–30 September 2001	31 May 2010
1 October 2001–31 December 2001	30 June 2010
1 January 2002–30 April 2002	31 July 2010
1 May 2002–31 July 2002	31 August 2010

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<i>Column 1</i> <i>Relevant date</i>	<i>Column 2</i> <i>Expiry date</i>
1 August 2002–31 October 2002	30 September 2010
1 November 2002–28 February 2003	31 October 2010
1 March 2003–31 May 2003	30 November 2010
1 June 2003–31 August 2003	31 December 2010
1 September 2003–30 November 2003	31 January 2011
1 December 2003–29 February 2004	28 February 2011
1 March 2004–31 May 2004	31 March 2011
1 June 2004–31 July 2004	30 April 2011
1 August 2004–31 October 2004	31 May 2011
1 November 2004–31 December 2004	30 June 2011
1 January 2005–31 March 2005	31 July 2011
1 April 2005–30 June 2005	31 August 2011
1 July 2005–30 September 2005	30 September 2011
1 October 2005–31 December 2005	31 October 2011
1 January 2006–31 March 2006	30 November 2011
1 April 2006–30 June 2006	31 December 2011
1 July 2006–31 August 2006	31 January 2012
1 September 2006–31 October 2006	29 February 2012
1 November 2006–31 December 2006	31 March 2012
1 January 2007–28 February 2007	30 April 2012
1 March 2007–30 April 2007	31 May 2012
1 May 2007–30 June 2007	30 June 2012

8.2.5 Certain certificates continue to have effect until licence decision finally made

- (1) This regulation applies if—
- (a) a person applies for a high risk work licence to perform a type of work that he or she is authorised to perform under a certificate of competency; and
 - (b) the licence is not granted on or before that date.
- (2) The certificate continues to have effect as if it had not expired—
- (a) until the licence is granted; or
 - (b) if the licence is not granted, and the person does not apply to the Tribunal for a review of the decision in accordance with these Regulations, until 14 days after the date that the person is given written notice of the final decision of the Authority; or
 - (c) if the licence is not granted, and the person applies to the Tribunal for a review of the decision in accordance with these Regulations—
 - (i) until the person withdraws the application for review; or
 - (ii) until the person is given a document setting out the terms of the decision of the Tribunal on the application for review—
- whichever occurs first.

8.2.6 Assessor authorisations to continue to have effect

- (1) If a person holds a certificate authorising him or her to act as a certificate assessor under the former Regulations immediately before the commencement day, the following provisions
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apply until the certificate is cancelled under Part 6.1 (Licences) or expires—

- (a) the person is authorised to carry out the types of assessment of competency authorised by the certificate for the purpose of assessing the competency of applicants for the related classes of high risk work licences; and
 - (b) the person must comply with Part 6.1 (Licences) as if the person were licensed; and
 - (c) the certificate held by the person is to be taken to be an evidence of licence document issued under these Regulations.
- (2) Without limiting subregulation (1), the Authority may amend, suspend or cancel the certificate as if it were a licence.
- (3) If not sooner cancelled, a certificate expires on 30 June 2009.
- (4) Subregulation (3) applies even if an earlier expiry date is set out on the certificate.

8.2.7 Only licences may be endorsed on or after 1 July 2007

Despite regulation 8.2.3, a certificate of competency cannot be endorsed on or after the commencement day.

Note

A person who holds a certificate of competency and who seeks on or after 1 July 2007 to be licensed to perform an additional type of high risk work will only be able to do so by applying for the endorsement either in conjunction with an application for a licence covering the existing type or types of high risk work that the person is authorised to perform, or after such a licence has been granted.

8.2.8 Operation of self-erecting tower cranes

A certificate of competency that authorises a person to operate a tower crane ceases to authorise a person to operate a self-erecting tower crane on 1 July 2009.

CHAPTER 9—CONSEQUENTIAL AMENDMENTS

PART 9.1—AMENDMENTS TO THE DANGEROUS GOODS (EXPLOSIVES) REGULATIONS 2000

9.1.1 Definitions

In regulation 106 of the Dangerous Goods
(Explosives) Regulations 2000⁷—

- (a) in the definition of *plant*, for "1985"
substitute "2004";
- (b) for the definition of *practicable*,
substitute—

"practicable means practicable having regard
to—

- (a) the severity of the hazard or risk
in question; and
- (b) the state of knowledge about that
hazard or risk and any ways of
removing or mitigating that hazard
or risk; and
- (c) the availability and suitability of
ways to remove or mitigate that
hazard or risk; and
- (d) the cost of removing or mitigating
that hazard or risk;"

9.1.2 Holders of major hazard facilities licences

In regulations 120(1) and 120(4) of the Dangerous
Goods (Explosives) Regulations 2000, for
"Occupational Health and Safety (Major Hazard
Facilities) Regulations 2000" **substitute**
"Occupational Health and Safety Regulations
2007".

9.1.3 Injury or property damage to be reported

In regulation 131(5) of the Dangerous Goods
(Explosives) Regulations 2000—

- (a) for "the Occupational Health and Safety
(Incident Notification) Regulations 1997"
substitute "Part 5 of the **Occupational
Health and Safety Act 2004**"; and
 - (b) for "according to those Regulations"
substitute "in accordance with that Part".
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**PART 9.2—AMENDMENTS TO THE DANGEROUS GOODS
(STORAGE AND HANDLING) REGULATIONS 2000**

9.2.1 Definitions

In regulation 105 of the Dangerous Goods (Storage and Handling) Regulations 2000⁸—

- (a) in the definition of *employer*, for "1985" **substitute "2004"**;
- (b) in the definition of *hazardous substance*, for "the Occupational Health and Safety (Hazardous Substances) Regulations 1999" **substitute "Part 4.1 (Hazardous Substances) of the Occupational Health and Safety Regulations 2007"**;
- (c) in the definition of *health and safety representative*, for "section 30 of the **Occupational Health and Safety Act 1985**" **substitute "Part 7 of the Occupational Health and Safety Act 2004"**.

9.2.2 Exemptions—Major hazard facilities

In regulation 203(a) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "Occupational Health and Safety (Major Hazard Facilities) Regulations 2000" **substitute** "Occupational Health and Safety Regulations 2007".

9.2.3 Compliance with Occupational Health and Safety Regulations

- (1) **Insert** the following heading to regulation 205 of the Dangerous Goods (Storage and Handling) Regulations 2000—

"Compliance with Occupational Health and Safety Regulations".

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- (2) In regulation 205(1) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "the Occupational Health and Safety (Hazardous Substances) Regulations 1999" **substitute** "Part 4.1 (Hazardous Substances) of the Occupational Health and Safety Regulations 2007".

9.2.4 Major hazard facilities to be licensed

In regulation 501(4) of the Dangerous Goods (Storage and Handling) Regulations 2000, for "Occupational Health and Safety (Major Hazard Facilities) Regulations 2000" (where twice occurring) **substitute** "Occupational Health and Safety Regulations 2007".

SCHEDULES

SCHEDULE 1

Regulation 1.1.4(1)

REVOCATION OF REGULATIONS

<i>S.R. No.</i>	<i>Title</i>
108/1994	Occupational Health and Safety (Certification of Plant Users and Operators) Regulations 1994;
81/1995	Occupational Health and Safety (Plant) Regulations 1995;
148/1996	Occupational Health and Safety (Confined Spaces) Regulations 1996 ⁹ ;
5/1998	Occupational Health and Safety (General Amendment) Regulations 1998 ¹⁰ ;
138/1998	Occupational Health and Safety (Plant) (Amendment) Regulations 1998 ¹¹ ;
143/1999	Occupational Health and Safety (Hazardous Substances) Regulations 1999;
94/1999	Occupational Health and Safety (Issue Resolution) Regulations 1999 ¹² ;
84/1999	Occupational Health and Safety (Manual Handling) Regulations 1999 ¹³ ;
62/2000	Occupational Health and Safety (Lead) Regulations 2000 ¹⁴ ;
50/2000	Occupational Health and Safety (Major Hazard Facilities) Regulations 2000;
53/2001	Occupational Health and Safety (Plant) (Amendment) Regulations 2001 ¹⁵ ;
20/2002	Occupational Health and Safety (Major Hazard Facilities) (Amendment) Regulations 2002 ¹⁶ ;
104/2002	Occupational Health and Safety (Mines) Regulations 2002 ¹⁷ ;
16/2003	Occupational Health and Safety (Asbestos) Regulations 2003;
121/2003	Occupational Health and Safety (Prevention of Falls) Regulations 2003 ¹⁸ ;

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<i>S.R. No.</i>	<i>Title</i>
157/2003	Occupational Health and Safety (Asbestos) (Amendment) Regulations 2003 ¹⁹ ;
10/2004	Occupational Health and Safety (Noise) Regulations 2004 ²⁰ ;
105/2004	Occupational Health and Safety (Mines) (Amendment) Regulations 2004 ²¹ ;
64/2005	Occupational Health and Safety (Entry Permits) Regulations 2005 ²² .

SCHEDULE 2

PLANT

Regulations 3.5.47, 3.5.48 and 3.5.50

PLANT DESIGNS AND ITEMS OF PLANT TO BE REGISTERED

PART 1—PLANT REQUIRING REGISTRATION OF DESIGN

- 1.1 Pressure equipment, other than pressure piping.
- 1.2 Tower cranes.
- 1.3 Self-erecting tower cranes.
- 1.4 Lifts.
- 1.5 Building maintenance units.
- 1.6 Hoists, with a platform movement in excess of 2·4 metres, designed to lift people.
- 1.7 Work boxes suspended from cranes.
- 1.8 Amusement structures to which AS 3533.1—Amusement rides and devices—Part 1: Design and construction applies, other than amusement structures referred to in the Standard as class 1 structures.
- 1.9 Prefabricated scaffolding, being an integrated system of prefabricated components manufactured in such a way that the possible geometry of assembled scaffolds is pre-determined by the designer.
- 1.10 Boom-type elevating work platforms.
- 1.11 Gantry cranes with a safe working load greater than 5 tonnes or bridge cranes with a safe working load greater than 10 tonnes, and a gantry crane or a bridge crane which is designed to handle molten metal or dangerous goods.

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- 1.12 Vehicle hoists, being hoists that are permanently installed or intended to be permanently installed in a workplace to elevate a vehicle to allow work to be performed on the vehicle.
 - 1.13 Mast climbing work platforms.
 - 1.14 Mobile cranes with a safe working load greater than 10 tonnes.

PART 2—ITEMS OF PLANT REQUIRING REGISTRATION

- 2.1 Boilers categorised as hazard level A, B or C according to the criteria identified in AS 4343 Pressure equipment—Hazard levels.
 - 2.2 Pressure vessels categorised as hazard level A, B or C according to the criteria identified in AS 4343 Pressure equipment—Hazard levels, other than—
 - (a) gas cylinders to which AS 2030—Gas Cylinders applies; and

Note

See the definition of *AS 2030—Gas Cylinders* which encompasses AS 2030.1, AS 2030.2 and AS 2030.4.

 - (b) liquefied petroleum gas fuel vessels for automotive use to which AS/NZS 3509—LP Gas fuel vessels for automotive use applies; and
 - (c) serially produced vessels to which AS 2971—Serially produced pressure vessels applies.
 - 2.3 Tower cranes.
 - 2.4 Self-erecting tower cranes.
 - 2.5 Lifts.
 - 2.6 Building maintenance units.
 - 2.7 Amusement structures to which AS 3533.1—Amusement rides and devices—Part 1: Design and construction applies, other than amusement structures referred to in the standard as class 1 structures.
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- 2.8 Concrete placing units (truck-mounted with boom).
 - 2.9 Mobile cranes with a safe working load greater than 10 tonnes.
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SCHEDULE 3

HIGH RISK WORK

Regulation 1.1.5

LICENCE CLASSES

**PART 1—LICENCE CLASSES FOR SCAFFOLDING AND
RIGGING**

1 Definitions

In this Part—

crane means an appliance intended for raising and lowering a load and moving it horizontally but does not include industrial lift-trucks, earthmoving machinery, amusement structures, tractors, industrial robots or lifts;

dogging means the application of slinging techniques, including the selection or inspection of lifting gear, or the directing of a crane or hoist operator in the movement of a load when the load is out of the operator's view;

rigging means the use of mechanical loadshifting equipment and associated gear to move, place or secure a load including plant, equipment or members of a building or structure and to ensure the stability of those members and for the setting up and dismantling of cranes and hoists, but does not include the setting up of a crane or hoist which only requires the positioning of integral outriggers or stabilisers;

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scaffolding means the erection, alteration or dismantling of a temporary structure, specifically erected to support platforms, if the structure is such that a person or object could fall more than 4 metres from the structure;

slinging techniques in relation to dogging means those slinging techniques that require judgment to be exercised in relation to the suitability and condition of lifting gear, and the method of slinging, by consideration of the nature of the load, its mass and its centre of gravity.

2 Basic scaffolding licence

The scope of work for this licence is scaffolding work associated with—

- (a) prefabricated scaffolds;
- (b) cantilevered hoists with a maximum working load limit of 500 kilograms (materials only);
- (c) ropes;
- (d) gin wheels;
- (e) safety nets and static lines;
- (f) bracket scaffolds (tank and formwork)—

but does not include work involving—

- (g) cantilevered crane loading platforms;
 - (h) cantilevered and spurred scaffolds;
 - (i) barrow ramps and sloping platforms;
 - (j) scaffolding associated with perimeter safety screens and shutters;
 - (k) mast climbers;
 - (l) tube and coupler scaffolds (including tube and coupler covered ways and gantries);
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-
- (m) hung scaffolds, including scaffolds hanging from tubes, wire ropes and chains;
 - (n) suspended scaffolds.

3 Intermediate scaffolding licence

The scope of work for this licence is scaffolding work associated with—

- (a) prefabricated scaffolds;
- (b) cantilevered hoists with a maximum working load of 500 kilograms (materials);
- (c) ropes;
- (d) gin wheels;
- (e) safety nets and static lines;
- (f) bracket scaffolds (tank and formwork);
- (g) cantilevered crane loading platforms;
- (h) cantilevered and spurred scaffolds;
- (i) barrow ramps and sloping platforms;
- (j) scaffolding associated with perimeter safety screens and shutters;
- (k) mast climbers;
- (l) tube and coupler scaffolds including tube and coupler covered ways and gantries—

but does not include work involving—

- (m) hung scaffolds, including scaffolds hanging from tubes, wire ropes and chains;
- (n) suspended scaffolds.

The scope of the work in this licence includes the scope of the work for the basic scaffolding licence.

4 Advanced scaffolding licence

The scope of work for this licence is all scaffolding work, including—

- (a) prefabricated scaffolds;
- (b) cantilevered hoists;
- (c) ropes;
- (d) gin wheels;
- (e) safety nets and static lines;
- (f) bracket scaffolds (tank and formwork);
- (g) cantilevered crane loading platforms;
- (h) cantilevered and spurred scaffolds;
- (i) barrow ramps and sloping platforms;
- (j) scaffolding associated with perimeter safety screens and shutters;
- (k) mast climbers;
- (l) tube and coupler scaffolds including tube and coupler covered ways and gantries;
- (m) hung scaffolds, including scaffolds hanging from tubes, wire ropes and chains;
- (n) suspended scaffolds.

The scope of the work in this licence includes the scope of the work for the intermediate scaffolding licence.

5 Dogging licence

The scope of work for this licence is the application of slinging techniques including the selection and inspection of lifting gear and the directing of the crane or hoist operator in the movement of the load including when the load is out of view of the operator.

6 Basic rigging licence

The scope of work for this licence is dogging and rigging work associated with—

- (a) movement of plant and equipment;
- (b) steel erection;
- (c) hoists (other than hoists with jibs and self-climbing hoists);
- (d) placement of pre-cast concrete;
- (e) safety nets and static lines;
- (f) mast climbers;
- (g) perimeter safety screens and shutters;
- (h) cantilevered crane loading platforms—

but does not include work involving—

- (i) use of load equalising gear;
- (j) rigging of cranes, conveyors, dredges and excavators;
- (k) tilt slabs;
- (l) hoists with jibs and self-climbing hoists;
- (m) demolition;
- (n) dual lifts;
- (o) rigging of gin poles and shear legs;
- (p) flying foxes and cable ways;
- (q) guyed derricks and structures;
- (r) suspended scaffolds and fabricated hung scaffolds.

The scope of the work in this licence includes the scope of the work for the dogging licence.

7 Intermediate rigging licence

The scope of work for this licence is dogging and rigging work associated with—

- (a) movement of plant and equipment;
- (b) steel erection;
- (c) all hoists;
- (d) placement of pre-cast concrete;
- (e) safety nets and static lines;
- (f) mast climbers;
- (g) perimeter safety screens and shutters;
- (h) cantilevered crane loading platforms;
- (i) rigging of cranes, conveyors, dredges and excavators;
- (j) tilt slabs;
- (k) demolition;
- (l) dual lifts—

but does not include work involving—

- (m) rigging of gin poles and shear legs;
- (n) flying foxes and cable ways;
- (o) guyed derricks and structures;
- (p) suspended scaffolds and fabricated hung scaffolds.

The scope of the work for this licence includes the scope of the work for the basic rigging licence.

8 Advanced rigging licence

The scope of work for this licence is dogging and all rigging work, including rigging work associated with—

- (a) movement of plant and equipment;

-
- (b) steel erection;
 - (c) all hoists;
 - (d) placement of pre-cast concrete;
 - (e) safety nets and static lines;
 - (f) mast climbers;
 - (g) perimeter safety screens and shutters;
 - (h) cantilevered crane loading platforms;
 - (i) rigging of cranes, hoists, conveyors, dredges and excavators;
 - (j) tilt slabs;
 - (k) demolition;
 - (l) dual lifts;
 - (m) rigging of gin poles and shear legs;
 - (n) flying foxes and cable ways;
 - (o) guyed derricks and structures;
 - (p) suspended scaffolds and fabricated hung scaffolds.

The scope of the work for this licence includes the scope of the work for the intermediate rigging licence.

PART 2—LICENCE CLASSES FOR CRANE, HOIST AND FORK LIFT TRUCK OPERATION

9 Definitions

In this Part—

boom-type elevating work platform means a powered telescoping device, hinged device or articulated device or any combination of those devices used to support a platform on which personnel, equipment and materials

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may be elevated to perform work and which has a boom length of 11 metres or more;

bridge crane means a powered crane that—

- (a) consists of one or more bridge beams mounted at each end to an end carriage; and
- (b) is capable of travelling along elevated runways; and
- (c) has one or more hoisting mechanisms that are able to travel across the bridge beam or beam—

but does not include a crane that has 3 or less powered operations and that is controlled from a location remote to a permanent cabin or control station on the crane;

concrete placing boom means a powered mobile truck-mounted plant incorporating a knuckle boom that is capable of power-operated slewing and luffing to place concrete by way of pumping concrete through a pipeline attached to, or forming part of, the boom of the plant;

crane means an appliance intended for raising and lowering a load and moving it horizontally but does not include industrial lift-truck, earthmoving machinery, amusement structure, tractor, industrial robot or lift;

derrick crane means a powered slewing strut-boom crane with its boom pivoted at the base of a mast which is either guyed or held by backstays and which is capable of luffing under load;

fork-lift truck means a powered industrial truck equipped with a mast and an elevating load carriage to which is attached a pair of fork arms or other loadholding attachment, including a truck on which the operator is raised with the attachment for order-picking, but does not include a pedestrian operated industrial truck;

gantry crane means a powered crane that—

- (a) consists of one or more bridge beams supported at each end by legs mounted on end carriages; and
- (b) is capable of travelling on supporting surfaces or deck levels, whether fixed or not; and
- (c) has a crab with one or more hoisting units that are able to travel across the bridge beam or beam—

but does not include a crane that has 3 or less powered operations and that is controlled from a location remote to a permanent cabin or control station on the crane;

hoist means an appliance intended for raising or lowering a load or people and includes a mast climbing work platform, a personnel and materials hoist, a slip form or jump form, but does not include a lift;

materials platform hoist means a powered builder's hoist by which only goods or materials and not people may be hoisted and where the car, bucket or platform is cantilevered from, and travels up and down externally to, a face of the support structure;

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mechanical loadshifting equipment includes cranes, hoists, cableways, flying foxes, winches, blocks and purchases which incorporate sheaves, jacks and air bags;

non-slewing mobile crane means a powered mobile crane with a capacity of more than 3 tonnes and which incorporates a boom or jib that is not capable of being slewed, including an articulated type mobile crane and a locomotive crane, but does not include a crane engaged in vehicle tow truck operations;

order-picking fork-lift truck means a powered industrial truck of the type where the operator's control arrangement is incorporated with the load carriage or lifting media, and elevates with it;

personnel and materials hoist means a powered builder's hoist by which people, goods or materials may be hoisted, and which comprises a car, structure, machinery or other equipment associated with the hoist, and which may be either a cantilever hoist, a tower hoist or a multiple winch operation;

portal boom crane means a powered jib or boom crane mounted on a portal frame that is supported on runways along which the crane may travel;

slewing mobile crane means a powered mobile crane incorporating a boom or jib that is capable of being slewed, but does not include a front-end loader, a backhoe, an excavator or similar equipment when configured for crane operation;

tower crane means a powered jib or boom crane mounted on a tower structure that is demountable or permanent, and includes both horizontal and luffing jib types;

vehicle loading crane means a powered slewing crane mounted on a vehicle for the principal purpose of loading and unloading the vehicle and that has a capacity of 10 metre tonnes or more.

10 Tower crane operation licence

The scope of the work for this licence covers the operation of tower cranes.

11 Self-erecting tower crane operation licence

The scope of the work for this licence covers the operation of self-erecting tower cranes.

12 Derrick crane operation licence

The scope of the work for this licence covers the operation of derrick cranes.

13 Portal boom crane operation licence

The scope of the work for this licence covers the operation of portal boom cranes.

14 Bridge and gantry crane operation licence

The scope of the work for this licence covers the operation of bridge and gantry cranes.

15 Vehicle loading crane operation licence

The scope of the work for this licence covers the operation of vehicle loading cranes.

16 Non-slewing mobile crane operation licence

The scope of the work for this licence covers the operation of non-slewing mobile cranes.

17 Slewing mobile crane operation licence (up to 20 tonnes)

The scope of the work for this licence covers the operation of slewing mobile cranes with a capacity of 20 tonnes or less.

The scope of the work for this licence includes the scope of the work for the non-slewing mobile crane licence and the vehicle loading crane licence.

18 Slewing mobile crane operation licence (up to 60 tonnes)

The scope of the work for this licence covers the operation of slewing mobile cranes with a capacity of 60 tonnes or less.

The scope of the work for this licence includes the scope of the work for the non-slewing mobile crane licence and the vehicle loading crane licence.

19 Slewing mobile crane operation licence (up to 100 tonnes)

The scope of the work for this licence covers the operation of slewing mobile cranes with a capacity of 100 tonnes or less.

The scope of the work for this licence includes the scope of the work for the non-slewing mobile crane licence and the vehicle loading crane licence.

20 Slewing mobile crane operation licence (open/over 100 tonnes)

The scope of the work for this licence covers the operation of slewing mobile cranes with any capacity.

The scope of the work for this licence includes the scope of the work for the non-slewing mobile crane licence and the vehicle loading crane licence.

21 Boom-type elevating work platform operation licence

The scope of the work for this licence covers the operation of boom-type elevating work platforms.

22 Materials hoist (cantilever platform) operation licence

The scope of the work for this licence covers the operation of materials platform hoists.

23 Hoist (personnel and materials) operation licence

The scope of the work for this licence covers the operation of personnel and materials hoists.

The scope of the work for this licence includes the scope of the work for the materials hoist (cantilever platform) licence.

24 Winder operation licence

The scope of the work for this licence covers the operation of winders for the lowering and raising of personnel and materials in mines.

25 Concrete placing boom operation licence

The scope of the work for this licence covers the operation of concrete placing booms.

26 Fork-lift truck operation licence

The scope of the work for this licence covers the operation of fork-lift trucks.

27 Order-picking fork-lift truck operation licence

The scope of the work for this licence covers the operation of order-picking fork-lift trucks.

**PART 3—LICENCE CLASSES FOR PRESSURE EQUIPMENT
OPERATION**

28 Definitions

In this Part—

boiler means a vessel, or an arrangement of vessels, and interconnecting parts in which steam or other vapour is generated, or water or another liquid is heated at a pressure above that of the atmosphere by the application of fire, the products of combustion or similar means (other than electrical power), and includes any boiler setting and directly associated equipment and all valves, gauges, fittings and controls up to, and including, the first connection point after the first valve or valve assembly, but does not include—

- (a) a fully flooded or pressurised system in which water or other liquid is heated to a temperature lower than the normal atmospheric boiling temperature of the liquid; or
- (b) any vessel if the design of the vessel enables the vessel to operate deprived of all liquid or vapour that is intended to be heated, without affecting the structure or operation of the vessel; or
- (c) a direct-fired process heater;

direct-fired process heater means an arrangement of tubes comprising one or more coils located in the radiant zone or convection zone or both of a combustion chamber, whose prime purpose is to raise the temperature of a process fluid that is

circulated through the coils, to allow distillation or fractionation or reaction or other petrochemical process of that process fluid, which may be entirely liquid, entirely gas or in a phase between liquid and gas;

pressure equipment means a boiler, a turbine or a reciprocating steam engine;

reciprocating steam engine means any steam plant where the steam acts on a piston under pressure where this action of the steam causes the piston to move, but does not include an expanding (steam) reciprocating engine with any piston diameter of 250 millimetres or less;

turbine means any plant where steam acts on a turbine or rotor to cause a rotary motion, but does not include steam turbines and expansion turbines with a power output of less than 500 kilowatts.

29 Basic boiler operation licence

The scope of the work for this licence covers the operation of boilers with the following features—

- (a) single fixed combustion air supply; and
- (b) non-modulating single heat source; and
- (c) fixed firing rate.

30 Intermediate boiler operation licence

The scope of the work for this licence covers the operation of boilers with any or all of the following features—

- (a) modulating combustion air supply;
- (b) modulating heat source;
- (c) superheaters;

(d) economisers.

The scope of the work for this licence includes the scope of the work for the basic boiler operation licence.

31 Advanced boiler operation licence

The scope of the work for this licence covers the operation of boilers with the same features as intermediate boiler operation and with multiple fuel type which may be fired simultaneously during normal operation. This does not include boilers which change fuel type during their start sequence.

The scope of the work for this licence includes the scope of the work for the intermediate boiler operation licence.

32 Turbine operation licence

The scope of the work for this licence covers the operation of turbines with any or all of the following features—

- (a) attached condensers;
- (b) multi-wheeled;
- (c) a multi-stage heat extraction process;
- (d) a speed of greater than 3600 rpm.

33 Reciprocating steam engine operation licence

The scope of the work for this licence covers the operation of reciprocating steam engines.

SCHEDULE 4

HIGH RISK WORK

Regulation 3.6.3

**PRESSURE EQUIPMENT FOR WHICH LICENCE IS NOT
REQUIRED**

1 Definitions

In this Schedule—

AMBSC Code means Australian Miniature Boiler Safety Committee Code Parts 1 or 2 published by the Australian Miniature Boiler Safety Committee;

AS 2593 means Australian Standard AS 2593—Boilers—Safety management and supervision systems, sections 1, 2 and 3;

boiler has the same meaning as it has in Part 3 of Schedule 3.

2 Pressure equipment for which high risk work licence is not required

- 2.1 Boilers having not more than 4.6 square metres of heating surface used in dairying, agriculture, horticulture, viticulture, apiculture or pastoral enterprises.
- 2.2 Boilers that are hot drink dispensers having an internal volume not larger than 0.014 cubic metres and having a heat input of not more than 5 kilowatts and a maximum working pressure of not more than 210 kilopascals.
- 2.3 Steam locomotive boilers used for public rail transport.

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- 2.4 Boilers that are liquid heating units where the liquid is intended to be heated under a pressure above atmospheric and to a temperature not greater than 1 degree below the normal atmospheric boiling point of the liquid.
- 2.5 Boilers that satisfy the requirements specified in AS 2593 as having—
- (a) an attendance category of unattended operation; or
 - (b) an attendance category of limited attendance except to the extent that AS 2593 specifies that certain checks must be undertaken by a licensed operator.
- 2.6 Boilers known as small low hazard boilers as specified in AS 2593.
- 2.7 Boilers of the Hobby Miniature Locomotive type manufactured from copper having an internal volume not larger than 25 litres and a maximum working pressure not greater than 700 kilopascals provided that—
- (a) during the construction of the locomotive the boiler has been inspected in the manner described in the AMBSC Code (appropriate to the material of construction) by a person registered with the Australian Miniature Boiler Safety Committee; and
 - (b) the locomotive containing the boiler is not in the charge of a person under the age of 18 years when that locomotive is being operated in a public place.
- 2.8 Boilers of the Hobby Miniature Locomotive type manufactured from steel having an internal volume not larger than 50 litres and a maximum working pressure not greater than 700 kilopascals if—
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- (a) during the construction of the locomotive the boiler has been inspected in the manner described in the AMBSC Code (appropriate to the material of construction) by a person registered with the Australian Miniature Boiler Safety Committee; and
 - (b) the locomotive containing the boiler is not in the charge of a person under the age of 18 years when that locomotive is being operated in a public place.
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SCHEDULE 5

HAZARDOUS SUBSTANCES

Regulation 4.1.13

SUBSTANCES PROHIBITED FOR SPECIFIED USES

Use of materials containing more than 1% crystalline silica for
abrasive blasting.

SCHEDULE 6

ASBESTOS

Regulation 4.3.18

**CATEGORIES OF ASBESTOS-CONTAINING MATERIAL
CONTAINING CHRYSOTILE ASBESTOS AND THEIR USES**

Category 1

Products consisting of a mixture of asbestos and phenol formaldehyde resin or asbestos and cresylic formaldehyde resin that are used in—

- (a) vanes for rotary vacuum pumps; or
- (b) vanes for rotary compressors; or
- (c) split face seals of at least 150 millimetres in diameter used to prevent leakage of water from cooling water pumps in fossil fuel electricity generating stations.

Category 2

Chrysotile-containing parts and components in relation to which an exemption under the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 of the Commonwealth has been granted to the Commonwealth Department of Defence or the Australian Defence Force.

SCHEDULE 7

ASBESTOS

Regulation 4.3.69

**INFORMATION REQUIRED TO BE INCLUDED IN AN
ASBESTOS CONTROL PLAN**

- 1 A record to indicate that the notification requirements have been met and that required documentation is kept at the workplace where the asbestos removal work is performed.
- 2 In relation to asbestos—
 - (a) its location;
 - (b) in relation to asbestos-containing material—
 - (i) whether the asbestos-containing material is friable or non-friable;
 - (ii) the type of asbestos-containing material;
 - (iii) the condition of the asbestos-containing material;
 - (iv) the quantity of asbestos-containing material proposed to be removed.
- 3 The type of personal protective clothing and personal protective equipment to be used, including respiratory protective equipment.
- 4 Proposed risk control measures to be used to prevent release of airborne asbestos fibres from the area where the asbestos removal work is being performed.
- 5 If the area where the asbestos removal work is being performed in a negative air enclosure, details regarding—
 - (a) smoke testing;
 - (b) negative air units.

-
- 6 Details of decontamination procedures for—
 - (a) persons performing the asbestos removal work;
 - (b) tools and equipment used for the asbestos removal work;
 - (c) non-disposable personal protective clothing and personal protective equipment.
 - 7 Method of disposal of—
 - (a) asbestos waste;
 - (b) disposable personal protective clothing and personal protective equipment;
 - (c) the structure used to enclose the area where the asbestos removal work is being performed.
 - 8 Administrative controls to be implemented, including—
 - (a) security;
 - (b) work practices.
 - 9 Methods of cleaning following asbestos removal work.
 - 10 Names of persons engaged by the licence holder or person who commissioned the work (as applicable) to conduct asbestos paraoccupational air monitoring (if any) and to conduct the clearance inspection.
-

SCHEDULE 8

ASBESTOS

Regulations 4.3.97 and 4.3.98

**INFORMATION REQUIRED TO BE INCLUDED IN A
NOTIFICATION OF ASBESTOS REMOVAL WORK**

- 1 The name, registered business name, Australian Business Number, licence number and contact details of the licence holder.
- 2 The name of the supervisor who will oversee the asbestos removal work and the supervisor's contact details.
- 3 The client name and contact details.
- 4 The name, including registered business or corporate name, and address of the workplace and type of workplace where the asbestos removal work will be performed including the specific location if it is a large workplace.
- 5 The date of notification.
- 6 The commencement date and estimated duration of the asbestos removal work.
- 7 Whether the asbestos is friable asbestos-containing material or non-friable asbestos-containing material.
- 8 If friable asbestos-containing material is to be removed, details of the way that the area where the asbestos removal work is to be performed will be enclosed.
- 9 The type of asbestos-containing material.
- 10 The estimated quantity of asbestos to be removed.
- 11 The number of employees who will perform the asbestos removal work.
- 12 Details of training and experience of those individual employees, if different to the information notified previously.

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- 13 The date of any asbestos register or employer's asbestos register used to prepare the asbestos control plan.
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SCHEDULE 9

MAJOR HAZARD FACILITIES

Regulation 1.1.5

MATERIALS AT MAJOR HAZARD FACILITIES (AND THEIR THRESHOLD QUANTITY)

1 Definitions

In this Schedule—

class has the same meaning as in the ADG Code;

Packing Group has the same meaning as in the ADG Code;

2 Relevant materials

The materials that characterise a workplace as a facility for the purposes of these Regulations are the materials specifically mentioned in Table 1 and materials that belong to the types, classes and categories mentioned in Table 2.

3 Threshold quantity of one material

- 3.1 In relation to each material referred to in clause 2, the third column of each Table provides a quantity that is described as the *threshold quantity* of that material.
 - 3.2 If a material is mentioned in Table 1, the threshold quantity of the material is that described in Table 1, whether or not the material also belongs to a type, class or category mentioned in Table 2.
 - 3.3 If a material is not mentioned in Table 1, and the material belongs to a type, class or category mentioned in Table 2, the threshold quantity of that material is that of the type, class or category to which it belongs.
-

3.4 If a material is not mentioned in Table 1, and the material appears to belong to more than one of the types, classes or categories mentioned in Table 2, the threshold quantity of that material is that of the relevant type, class or category which has the lower or lowest threshold quantity.

4 Threshold quantity of more than one material

If there is more than one material, a *threshold quantity* of materials exists where, if a number of materials are present, the result of the following aggregation formula exceeds 1—

$$\frac{q_x}{Q_x} + \frac{q_y}{Q_y} + \dots + \frac{q_n}{Q_n}$$

Where—

- x, y, ... and n are the materials present or likely to be present;
- q_x , q_y and q_n is the quantity of materials x, y, ... and n present or likely to be present, other than—
 - (i) material that is present or likely to be present in an isolated quantity less than 2% of its individual threshold quantity;
 - (ii) materials that are solely the subject of intermediate temporary storage, while in transit by road or rail;
- Q_x , Q_y Q_n is the individual threshold quantity for each material x, y ... and n;
- a material is present or likely to be present in an "isolated quantity", if its location at the facility is such that it cannot, on its own, act as an initiator of a major incident.

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TABLE 1

The UN number listed against the named material is given for information only. It does not restrict the meaning of the name, which also applies to materials that fall outside the UN number, for example, because they are too dangerous to transport or are part of mixtures covered by another UN number. However, any materials that are covered by the listed UN numbers must be included in the quantity of the material named.

MATERIAL	UN Nos INCLUDED UNDER NAME	THRESHOLD QUANTITY (tonnes)
ACETONE CYANOHYDRIN	1541	20
ACETYLENE	1001	50
ACROLEIN	1092	200
ACRYLONITRILE	1093	200
ALLYL ALCOHOL	1098	20
ALLYLAMINE	2334	200
AMMONIA, ANHYDROUS, LIQUEFIED or AMMONIA SOLUTIONS, relative density less than 0.880 at 15 degrees C in water, with more than 50% ammonia	1005	200
AMMONIUM NITRATE FERTILISERS	2067 2068 2069 2070	5000
AMMONIUM NITRATE, with not more than 0.2% combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance	1942	2500
ARSENIC PENTOXIDE, Arsenic (V) Acid and other salts	1559	10
ARSENIC TRIOXIDE, Arsenious (III) Acid and other salts	1561	0.1
ARSINE	2188	0.01

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MATERIAL	UN Nos INCLUDED UNDER NAME	THRESHOLD QUANTITY (tonnes)
BROMINE or BROMINE SOLUTIONS	1744	100
CARBON DISULFIDE	1131	200
CHLORINE	1017	25
DIOXINS	—	0.1
ETHYL NITRATE	—	50
ETHYLENE DIBROMIDE	1605	50
ETHYLENE OXIDE	1040	50
ETHYLENEIMINE	1185	50
FLUORINE	1045	25
FORMALDEHYDE	1198 2209	50
HYDROFLUORIC ACID SOLUTION (greater than 50%)	1790	50
HYDROGEN	1049	50
HYDROGEN CHLORIDE		
— Anhydrous	1050	250
— Refrigerated Liquid	2186	250
HYDROGEN CYANIDE	1051 1614	20
HYDROGEN FLUORIDE	1052	50
HYDROGEN SULFIDE	1053	50
LP GASES	1011 1012 1075 1077 1978	200
METHYL BROMIDE	1062	200
METHANE or NATURAL GAS	1971 1972	200
METHYL ISOCYANATE	2480	0.15

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MATERIAL	UN Nos INCLUDED UNDER NAME	THRESHOLD QUANTITY (tonnes)
OXIDES OF NITROGEN, including nitrous oxide, nitrogen dioxide and nitrogen trioxide	1067 1070 1660 1975 2201 2421	50
OXYGEN	1072 1073	2000
PHOSGENE	1076	0.75
PROPYLENEIMINE	1921	200
PROPYLENE OXIDE	1280	50
SODIUM CHLORATE, solid	1495	200
SULFURIC ANHYDRIDE (Alt. SULFUR TRIOXIDE)	1829	75
SULFUR DICHLORIDE	1828	1
SULFUR DIOXIDE, LIQUEFIED	1079	200
TITANIUM TETRACHLORIDE		500
TOLUENE DIISOCYANATE	2078	200

TABLE 2

Note

- 1 The quantities specified for explosives relate to the weight of explosive exclusive of packing, casings and non-explosive components.
- 2 If explosives of different Hazard Divisions are present in the same area or storage, all of the explosives must be classified in accordance with the following table—

Div	1.1	1.2	1.3	1.4	1.5	1.6
1.1A	1.1A	1.1A	1.1A	1.1A	1.1A	
1.1	1.1	1.1	1.1	1.1	1.1	1.1
1.2	1.1	1.2	1.1	1.2	1.1	1.2
1.3	1.1	1.1	1.3	1.3	1.1	1.3

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Div	1.1	1.2	1.3	1.4	1.5	1.6
1.4	1.1	1.2	1.3	1.4	1.5	1.6
1.5	1.1	1.1	1.1	1.5	1.5	1.5
1.6	1.1	1.2	1.3	1.6	1.5	1.6

MATERIAL	DESCRIPTION	THRESHOLD QUANTITY (tonnes)
Explosive materials	Explosive of Class 1.1A	10
	All other Explosives of Class 1.1	50
	Explosive of Class 1.2	200
	Explosive of Class 1.3	200
Compressed and liquefied gases	Compressed or liquefied gases of Class 2.1 or Subsidiary Risk 2.1	200
	Liquefied gases of Subsidiary Risk 5	200
	Compressed or liquefied gases that meet the criteria for Very Toxic in Table 3	20
	Compressed or liquefied gases that meet the criteria for Toxic in Table 3	200
Flammable materials	Liquids that meet the criteria for Class 3 Packing Group I Materials (except for crude oil in remote locations)	200
	Crude oil in remote locations that meet the criteria for Class 3 Packing Group I	2000
	Liquids that meet the criteria for Class 3 Packing Group II or III	50000

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MATERIAL	DESCRIPTION	THRESHOLD QUANTITY (tonnes)
	Liquids with flashpoints <61°C kept above their boiling points at ambient conditions	200
	Materials that meet the criteria for Class 4.1 Packing Group I	200
	Spontaneously combustible materials that meet the criteria for Class 4.2 Packing Group I or II	200
	Materials that liberate flammable gases or react violently on contact with water which meet the criteria for Class 4.3 Packing Group I or II	200
	Materials that belong to Classes 3 or 8 Packing Group I or II which have Hazchem codes of 4WE (materials that react violently with water)	500
Oxidising Materials	Oxidising material listed in Appendix 5 of the ADG Code	50
	Oxidising materials that meet the criteria for Class 5.1 Packing Group I or II	200
Peroxides	Peroxides that are listed in Appendix 5 to the ADG Code	50
	Organic Peroxides that meet the criteria for Class 5.2	200
Toxic Solids and liquids	Materials that meet the criteria for Very Toxic in Table 3 except materials that are classified as Infectious Substances (Class 6.2) or as Radioactive (Class 7);	20

MATERIAL	DESCRIPTION	THRESHOLD QUANTITY (tonnes)
	Materials that meet the criteria for Toxic in Table 3 except, in relation to mines, sodium cyanide	200

TABLE 3
CRITERIA FOR TOXICITY

Note

These criteria are in accordance with the ADG Code

Description	Oral Toxicity ¹ LD ₅₀ (mg/kg)	Dermal Toxicity ² LD ₅₀ (mg/kg)	Inhalation Toxicity ³ LC ₅₀ (mg/L)
Very Toxic	LD ₅₀ <5	LD ₅₀ <40	LC ₅₀ <0.5
Toxic	5<LD ₅₀ <50	40<LD ₅₀ <200	0.5<LC ₅₀ <2

- 1 In rats
- 2 In rats or rabbits
- 3 Four hours in rats

SCHEDULE 10

MAJOR HAZARD FACILITIES

Regulation 5.2.5

ADDITIONAL MATTERS TO BE INCLUDED IN SAFETY MANAGEMENT SYSTEM

1 Safety policy and safety objectives

- 1.1 A description of the means by which the operator's safety policy and specific safety objectives are to be communicated to all persons who are to participate in the implementation of the Safety Management System.
- 1.2 The safety policy must include an express commitment to ongoing improvement of all aspects of the Safety Management System.

2 Organisation and personnel

- 2.1 The identification (according to position description and location) of the persons who are to participate in the implementation of the Safety Management System, and a description of the command structure in which these persons work and of the specific tasks and responsibilities allocated to them.
- 2.2 The means of ensuring that these persons have the knowledge and skills necessary to enable them to undertake their allocated tasks and discharge their allocated responsibilities, and that they retain such knowledge and skills.

3 Operational controls

- 3.1 A description of the procedures and instructions for—
 - (a) the safe operation of plant (including as to inspection and maintenance);
 - (b) the mechanical integrity of plant;
 - (c) plant processes;
 - (d) the control of abnormal operations and emergency shut down or decommissioning.
- 3.2 Provision of adequate means of achieving isolation of the major hazard facility or any part of the major hazard facility in the event of an emergency.
- 3.3 Provision of adequate means of gaining access for servicing and maintenance of the major hazard facility or any part of the major hazard facility.
- 3.4 A description of the roles of persons and of the interfaces between persons and plant.
- 3.5 Provision for alarm systems.

4 Duties of operators

- 4.1 In relation to each part of the documented Safety Management System that describes the means of compliance with Division 3 of Part 5.2 (Major Hazard Facilities), an annotation or cross-reference identifying the specific provision of that Division being complied with.
- 4.2 A description of the means by which the operator proposes to comply with Division 5 of Part 5.2 (Major Hazard Facilities).

5 Management of change

A description of the procedures for planning modifications to major hazard facilities.

6 Principles and standards

- 6.1 A statement of the principles, especially the design principles and engineering standards, being used to ensure the safe operation of the major hazard facility.
- 6.2 A description of any technical standards, whether published or proprietary, being relied on in relation to such principles and standards.

7 Performance monitoring

- 7.1 Performance standards for measuring the effectiveness of the Safety Management System, which—
 - (a) relate to all aspects of the Safety Management System;
 - (b) are sufficiently detailed to ensure that the ability of the operator to ensure the effectiveness of all aspects of the Safety Management System is apparent from the documentation;
 - (c) include steps to be taken to continually improve all aspects of the Safety Management System.
 - 7.2 A description of the way in which these performance standards are to be met.
 - 7.3 Performance indicators for the effectiveness of risk control measures adopted, including—
 - (a) tests of the effectiveness of the risk control measures;
 - (b) indicators of the failure of any risk control measure;
 - (c) actions to be taken in reporting any such failure;
-

(d) other corrective actions to be taken in the event of any such failure.

8 Audit

Provision for the auditing of performance against the performance standards, including the methods, frequency and results of the audit process.

SCHEDULE 11

MAJOR HAZARD FACILITIES

Regulation 5.2.9

MATTERS TO BE INCLUDED IN EMERGENCY PLAN

1 Site and hazard detail

- 1.1 The name, location, postal address and nature of the operations of the major hazard facility.
- 1.2 A detailed map of—
 - (a) the site of the major hazard facility;
 - (b) the area surrounding the site showing details of residents, the built and natural environment, closely located major hazard facilities and all other neighbours whose health or safety could be adversely affected by a major incident.

The map should also identify all potentially hazardous inventories in the area that are known to the operator and the location of all staging points for emergency services.

- 1.3 Inventory of Schedule 9 materials present or likely to be present at the major hazard facility.
- 1.4 Minimum and maximum number of employees expected to be on-site at any one time and their likely or normal location within the major hazard facility.
- 1.5 Infrastructure likely to be affected by a major incident, including any utilities, road, rail, airport or shipping infrastructure.

1.6 Emergency planning assumptions, including emergency measures planned for identified major incidents, the area likely to be affected, the likely duration of events, protection of the local community, including other nearby facilities, and the built and natural environment.

1.7 For each major incident hazard and major incident, a description of the measures taken and to be taken to control or limit the consequences of a major incident, including a description of all protective resources available and all emergency response procedures.

2 Command structure and site personnel

2.1 The operator's command philosophy and structure to be activated in case of an emergency, including relevant positions within the organisational structure, the duties attached to them and the names of the persons assigned to them.

2.2 The name, title and telephone number of the contact person with whom details of the content of the plan can be clarified.

2.3 The position, location and means of contacting the persons at the facility who are responsible for liaising with emergency services and who have knowledge of the major incident hazards, their likely consequences and the content of the emergency plan and, in the case of nominated persons who are not on-site, a list of 24 hour emergency contact names and telephone numbers.

2.4 The allocation of personnel and the responsibilities of those personnel for implementing the plan including establishing communication with emergency services and coordinating the operator's employees and resources with those of the emergency services.

- 2.5 Arrangements for providing assistance to emergency services with off-site mitigatory action, and nearby facilities which might require mutual aid in the event of a major incident.

3 Notifications

- 3.1 Procedures in place for providing early warning of a major incident to emergency services, the type of information to be initially provided, and for providing more detailed information as it becomes available.
- 3.2 On-site and off-site warning systems.
- 3.3 Contact details for emergency services and other support services that can assist in procuring resources, implementing evacuation plans and securing the major hazard facility in the event of a major incident.
- 3.4 Communication systems on-site.

4 Resources

- 4.1 Emergency resources on-site, for example, personnel, emergency equipment, gas detectors and wind velocity detectors.
- 4.2 Arrangements for obtaining additional external resources to assist the control and mitigation of major incident hazards and major incidents.

5 Procedures

- 5.1 Procedures for the safe evacuation of, and accounting for, all people on site.
- 5.2 Control points and procedures for utilities, including gas, water and electricity.
- 5.3 Containment procedures for any incident, whether or not a major incident, involving Schedule 9 materials.
-

5.4 Resources and procedures necessary for
decontamination following a major incident.

SCHEDULE 12

MAJOR HAZARD FACILITIES

Regulations 5.2.15(1)(c) and 8.1.8(7)

**ADDITIONAL MATTERS TO BE INCLUDED IN SAFETY
CASE**

A FACILITY DESCRIPTION

1 The facility

- 1.1 A description of the main activities and products of the major hazard facility, particularly those activities associated with Schedule 9 materials.
- 1.2 A description of the Schedule 9 materials and any other dangerous goods present or likely to be present at the facility, including—
 - (a) their identification by name and by any other means necessary for a clear identification;
 - (b) the quantity present or likely to be present at the major hazard facility;
 - (c) their physical, chemical and toxicological characteristics, and any other hazardous characteristics, both immediate and delayed;
 - (d) their physical and chemical behaviour under normal conditions of use or under foreseeable abnormal conditions.
- 1.3 A description of the chemical and physical processes associated with any Schedule 9 materials, including—
 - (a) the main units of process equipment used in those processes;
 - (b) a process flow drawing, or set of flow drawings, describing the processes.

1.4 A drawing of the major hazard facility's general layout, containing the location of—

- (a) the main process units; and
- (b) the main storage areas; and
- (c) major incident hazards and major incident initiators.

1.5 In relation to proposed changes at the major hazard facility, for which no new risk control measures are adopted—

- (a) a description of any proposed changes to the major hazard facility that would—
 - (i) alter the production capacity or profile of the major hazard facility; or
 - (ii) involve the deletion, addition or modification of any processes; and
- (b) a statement as to how existing risk control measures and Safety Management Systems are capable of maintaining the safe operation of the major hazard facility.

2 The surrounding area

2.1 A plan to scale of the facility and its surrounding area showing—

- (a) the location of the facility within the surrounding area;
- (b) topographical information;
- (c) surrounding land uses;
- (d) the location of any identified external threats (including other major hazard facilities or other facilities that could affect the safety of the major hazard facility).

- 2.2 Graphically presented demographic information for the local community, including surrounding land uses permitted by the local planning authority.
- 2.3 Meteorological data relevant to the estimation of the effects of any major incident.

B SAFETY INFORMATION

3 Risk control measures to limit the consequences of major incidents

- 3.1 A detailed description of—
 - (a) the instrumentation and other equipment installed in the facility and the procedures in place that constitute the risk control measures for preventing or limiting the consequences of major incidents;
 - (b) the critical operating parameters for those risk control measures;
 - (c) key personnel and resources (internal and external) available to intervene in the event of any failure of a control measure, whether or not that failure results in a major incident;
 - (d) the emergency plan, including specific information about how these plans can be expected to limit the consequences of a major incident;
 - (e) the means of ensuring that there is at all times in place a command structure for the major hazard facility that applies in the event of an emergency, and that this command structure has been communicated throughout the major hazard facility.
-

3.2 In item 3.1—

critical operating parameters means the upper or lower performance limits of any equipment, process or procedure, compliance with which is necessary to avoid a major incident;

failure of a control measure means—

- (a) if the risk control measure is a positive action or event, the non-occurrence or the defective occurrence of that action or event; or
- (b) if the risk control measure consists of a limitation on an operational activity, process or procedure, the breach of that limitation.

4 Performance Monitoring

A detailed description of the performance standards and performance indicators required by clause 7 of Schedule 10 to be included in the documented Safety Management System.

5 Safety Management System

- 5.1 At all points in the Safety Case where the matter addressed is covered by the Safety Management System, a clear reference to the relevant part of the documented Safety Management System.
- 5.2 A description of those parts of the documented Safety Management System that address the maintenance of the Safety Management System (that is, its ongoing effective implementation and its ongoing improvement).

6 Unauthorised persons and control of access

A detailed description in the Safety Case of how the operator ensures security of the facility specifically relating to the precautions taken to control unauthorised entry of persons and the means of controlling authorised entry of persons to the facility.

7 Safety and reliability of plant

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, whether the operator is directly engaged in the design and construction or has engaged another person to carry out the design and construction.

8 Major incident history

A summary of the major incidents that have occurred at the major hazard facility over the previous 5 years.

SCHEDULE 13

Regulation 7.1.8

ENTRY PERMIT STATEMENT

While this entry permit is in force, Part 8 of the **Occupational Health and Safety Act 2004** entitles the person named in the permit to enter a workplace during working hours to enquire into a suspected contravention of that Act or any regulations made under it. On entry, the person named in this permit may exercise all of the powers given to an authorised representative by Part 8 of the **Occupational Health and Safety Act 2004**, including powers to inspect any thing at the workplace, to observe work and to consult with certain employees and the employer.

The entry permit remains in force for 3 years from the date of this entry permit unless, before the end of that period, it is revoked or the person named in the entry permit ceases to be a permanent employee or officer of the registered employee organisation named in the entry permit or the organisation ceases to be a registered employee organisation, whichever occurs first.

An entry permit which expires or is revoked must be returned to a registrar or deputy registrar of the Magistrates' Court within 14 days.

Offences relating to authorised representatives

Under the **Occupational Health and Safety Act 2004**, it is an offence for the person named on this permit to—

- (a) intentionally and unreasonably hinder or obstruct any employer or employee; or
- (b) intentionally intimidate or threaten any employer or employee; or

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- (c) intentionally use or disclose, for a purpose not reasonably connected with the exercise of a power under Part 8 of the **Occupational Health and Safety Act 2004**, information that was acquired from any employer or employee; or
- (d) intentionally exercise or purport to exercise a power under Part 8 of the **Occupational Health and Safety Act 2004** other than for the purpose of enquiring into a suspected contravention of that Act or the regulations.

It is also an offence to refuse the person named on this permit entry to a workplace, or to intentionally hinder, obstruct, intimidate or threaten that person in the exercise of his or her powers under Part 8 of the **Occupational Health and Safety Act 2004**, or to induce or attempt to induce any other person to do so.

ENDNOTES

1. General Information

The Occupational Health and Safety Regulations 2007, S.R. No. 54/2007 were made on 19 June 2007 by the Lieutenant-Governor as the Governor's Deputy with the advice of the Executive Council under section 158 of the **Occupational Health and Safety Act 2004**, No. 107/2004 and section 52 of the **Dangerous Goods Act 1985** No. 10189/1985 and came into operation as follows:

Regulations 1.1.1–4.4.29, 5.2.1–6.1.8, 6.1.9(a)(b)(ii), 6.1.10–6.2.14, 6.2.22–9.2.4, Schedules 1–13 on 1 July 2007: regulation 1.1.3(1); regulations 6.2.15–6.2.17, 6.2.19, 6.2.20 on 1 January 2008: regulation 1.1.3(2); regulations 5.1.1–5.1.27, 6.1.9(b)(i), 6.2.18, 6.2.21 on 1 July 2008: regulation 1.1.3(3).

The Occupational Health and Safety Regulations 2007 will sunset 10 years after the day of making on 19 June 2017 (see section 5 of the **Subordinate Legislation Act 1994**).

Endnotes

2. Table of Amendments

There are no amendments made to the Occupational Health and Safety Regulations 2007 by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

- ¹ Reg. 3.3.1: S.R. No. 68/2006.
- ² Reg. 8.1.3: S.R. No. 81/1995 as amended by S.R. Nos 5/1998, 138/1998 and 53/2001.
- ³ Reg. 8.1.4: S.R. No. 143/1999 as amended by S.R. Nos 143/1999 and 16/2003.
- ⁴ Reg. 8.1.6: S.R. No. 16/2003 as amended by S.R. No. 157/2003.
- ⁵ Reg. 8.1.8: S.R. No. 50/2000 as amended by S.R. Nos 20/2002, 104/2002 and 105/2004.
- ⁶ Reg. 8.1.9: S.R. No. 108/1994 as amended by S.R. Nos 83/1995, 5/1998 and 104/2002.
- ⁷ Reg. 9.1.1: S.R. No. 61/2000. Reprint No. 1 as at 16 March 2006. Reprinted to S.R. No. 96/2005.
- ⁸ Reg. 9.2.1: S.R. No. 127/2000 as amended by S.R. No. 96/2005.
- ⁹ Reg. 1.1.4 (Sch. 1): S.R. No. 148/1996 as amended by S.R. No. 104/2002.
- ¹⁰ Reg. 1.1.4 (Sch. 1): S.R. No. 5/1998.
- ¹¹ Reg. 1.1.4 (Sch. 1): S.R. No. 138/1998.
- ¹² Reg. 1.1.4 (Sch. 1): S.R. No. 94/1999.
- ¹³ Reg. 1.1.4 (Sch. 1): S.R. No. 84/1999.
- ¹⁴ Reg. 1.1.4 (Sch. 1): S.R. No. 62/2000.
- ¹⁵ Reg. 1.1.4 (Sch. 1): S.R. No. 53/2001.
- ¹⁶ Reg. 1.1.4 (Sch. 1): S.R. No. 20/2002.
- ¹⁷ Reg. 1.1.4 (Sch. 1): S.R. No. 104/2002 as amended by S.R. No. 105/2004.
- ¹⁸ Reg. 1.1.4 (Sch. 1): S.R. No. 121/2003.
- ¹⁹ Reg. 1.1.4 (Sch. 1): S.R. No. 157/2003.
- ²⁰ Reg. 1.1.4 (Sch. 1): S.R. No. 10/2004.
- ²¹ Reg. 1.1.4 (Sch. 1): S.R. No. 105/2004.
- ²² Reg. 1.1.4 (Sch. 1): S.R. No. 64/2005.
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**Table of Applied, Adopted or Incorporated Matter Required by the
Subordinate Legislation Regulations 2004**

Note that the following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 1.1.5, definitions of <i>Approved Criteria for Classifying Hazardous Substances</i> , <i>hazardous substance</i> , <i>risk phrase</i> and <i>safety phrase</i> and regulation 4.1.6(1)(f)	Approved Criteria for Classifying Hazardous Substances, 3rd edition, declared by the National Occupational Health and Safety Commission in October 2004.	The whole
Regulation 1.1.5, definitions of <i>AS 2030—Gas Cylinders</i> , <i>gas cylinder</i> and <i>pressure vessel</i> , and Schedule 2, Part 2, item 2.2	AS 2030.1, The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases, Part 1: Cylinders for compressed gases other than acetylene	The whole
Regulation 1.1.5, definitions of <i>AS 2030—Gas Cylinders</i> , <i>gas cylinder</i> and <i>pressure vessel</i> , and Schedule 2, Part 2, item 2.2	AS 2030.2, The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases, Part 2: Cylinders for dissolved acetylene	The whole

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Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 1.1.5, definitions of <i>AS 2030—Gas Cylinders, gas cylinder</i> and <i>pressure vessel</i> and Schedule 2, Part 2, item 2.2	AS 2030.4, The verification, filling, inspection, testing and maintenance of cylinders for storage and transport of compressed gases, Part 4: Welded cylinders—Insulated	The whole
Regulation 1.1.5, definitions of <i>boiler, pressure piping</i> and <i>pressure vessel</i>	AS/NZS 1200, Pressure equipment	Appendix E
Regulation 1.1.5, definitions of <i>boiler, pressure piping</i> and <i>pressure vessel</i>	AS 4343, Pressure equipment—Hazard levels	Section 2
Regulation 1.1.5, the definition of <i>competency standard</i>	National Standard for Licensing Persons Performing High Risk Work published by the Australian Safety and Compensation Council in April 2006.	The whole
Regulation 1.1.5, definition of <i>Construction Industry Basic Induction training course</i>	Foundations for Safety Construction Industry Induction Training Agreement, with a commencement date of 1 February 2001	The whole
Regulation 1.1.5, definition of <i>exposure standard</i>	Adopted National Exposure Standards for Atmospheric Contaminants in the Occupational Environment, published by National Occupational Health and Safety Commission in 1995	The whole

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Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 1.1.5, definitions of <i>hazardous substance</i> , <i>HSIS</i> , <i>risk phrase</i> and <i>safety phrase</i> and regulations 4.1.6(1)(f), 4.1.14(1)(b) and 4.1.14(4)(b)	Hazardous Substances Information System, published by the Office of the Australian Safety and Compensation Council on its Internet site.	The whole
Regulation 1.1.5, definition of <i>Membrane Filter Method</i>	Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres, 2nd Edition, prepared for the National Occupational Health and Safety Commission and published in April 2005	The whole
Regulation 1.1.5, definitions of <i>National Model Regulations for the Control of Scheduled Carcinogenic Substances</i> , <i>Schedule 1 carcinogenic substance</i> and <i>Schedule 2 carcinogenic substance</i>	National Model Regulations for the Control of Scheduled Carcinogenic Substances, published by the National Occupational Health and Safety Commission in 1995	Schedules 1 and 2

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Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulation 1.1.5, definitions of <i>National Model Regulations for the Control of Workplace Hazardous Substances, Type I ingredient, Type II ingredient</i> and <i>Type III ingredient</i> and regulations 4.1.13, 4.1.30(1)(a)(i)	National Model Regulations for the Control of Workplace Hazardous Substances, published by the National Occupational Health and Safety Commission in 1994	Schedules 1, 2, 3 and 5
Regulation 1.1.5, definition of <i>occupational health and safety auditor</i>	Procedure No. 02, Issue No. 2 dated 14 December 2001, General Requirements for Bodies Operating Assessment and Certification of Occupational Health and Safety Management Systems, published by the Joint Accreditation System of Australia and New Zealand	The whole
Regulation 1.1.5, definition of <i>Rural Ambulance Victoria</i>	Order in Council made under section 23 of the Ambulance Services Act 1986, dated 2 February 1999 and published in the Victoria Government Gazette of 4 February 1999, General Gazette G5, pages 212 to 213	The whole
Regulation 3.3.1(1)(b)(i)	AS 1657—Fixed platforms, walkways, stairways and ladders—Design, construction and installation	The whole

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Statutory rule provision	Title of applied, adopted or incorporated document	Matter in applied, adopted or incorporated document
Regulations 4.1.10(1)(b) and 4.1.10(3)	Ag Labelling Code of the Australian Pesticide and Veterinary Medicines Authority, 3rd edition	The whole
Regulations 4.1.10(1)(c) and 4.1.10(3)	Vet Labelling Code of the Australian Pesticide and Veterinary Medicines Authority	The whole
Schedule 2, Part 1, item 1.8 and Part 2, item 2.7	AS 3533.1—Amusement rides and devices—Part 1: Design and construction	The whole
Schedule 2, Part 2, item 2.2.(b)	AS/NZS 3509, LP Gas fuel vessels for automotive use	The whole
Schedule 2, Part 2, item 2.2(c)	AS 2971, Serially produced pressure vessels	The whole
Schedule 4, item 1, definition of AS 2593 , items 2.5 and 2.6	AS 2593—Boilers—Safety management and supervision systems	Sections 1, 2 and 3
Schedule 4, item 1, definition of AMBSC Code and items 2.7(a) and 2.8(a)	AMBSC Code Part 1, Issue 7, Copper Boilers, published by the Australian Miniature Boiler Safety Committee, 2001	The whole
Schedule 4, item 1, definition of AMBSC Code and items 2.7(a) and 2.8(a)	AMBSC Code Part 2, Issue 4, Steel Boilers, published by the Australian Miniature Boiler Safety Committee, 2	The whole