

**2014**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**WORK HEALTH AND SAFETY (ASBESTOS)  
AMENDMENT REGULATION 2014 (NO 1)**

**SL2014-32**

**EXPLANATORY STATEMENT**

**DECEMBER 2014**

Presented by  
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# Work Health and Safety (Asbestos) Amendment Regulation 2014 (No 1)

## Overview

The purpose of this Section is to amend the *Work Health and Safety Regulation 2011* to adopt Chapter 8 of the national model Work Health and Safety Regulation (the model regulations), which governs the management, control and removal of asbestos in workplaces.

The importance of harmonisation of work safety legislation has long been recognised as a critical area of regulatory reform, and is a key priority of the Council of Australian Governments' national reform agenda.

In July 2008, the Commonwealth and each of the States and Territories signed the Inter-Governmental Agreement for Regulatory and Operational Reform in OHS (IGA), which commits jurisdictions to implement model laws which comprise a model Work Health and Safety Act, model regulations and model Codes of Practice.

On 29<sup>th</sup> September 2011, the Legislative Assembly passed the *Work Health and Safety Act 2011* (the Act), which gave effect to the Territory's commitment under the IGA. On 1<sup>st</sup> January 2012, the Act and the supporting *Work Health and Safety Regulation 2011* came into effect in the Territory.

At that time, the *Work Health and Safety Regulation 2011* did not adopt Chapter 7 (Hazardous Chemicals), Chapter 8 (Asbestos) or Chapter 9 (Major Hazard Facilities), and these matters continued to be regulated under the Territory's dangerous substances legislation.

This amendment will now harmonise the Territory's Asbestos management framework with that of other model jurisdictions, improving safety outcomes and reducing compliance costs for business.

## Chapter 8 - Asbestos

This Chapter prohibits a Person Conducting a Business or Undertaking (PCBU) from carrying out, or directing or allowing a worker to carry out, work involving asbestos, other than in circumstances permitted under the Regulation. It imposes:

- A general duty upon PCBUs at a workplace to eliminate or minimise exposure to airborne asbestos at the workplace so far as is reasonably practicable;
- Duties upon a person with management or control of a workplace to identify asbestos or asbestos containing material (ACM) at the workplace, to prepare and keep an asbestos register and an asbestos management plan and, prior to demolition or refurbishment of certain structures and plant, to identify and remove asbestos so far as is reasonably practicable; and
- Duties upon a PCBU about training workers and ensuring that health monitoring is provided to certain workers.

The Chapter also requires notification to the regulator about licensed asbestos removal work, and requires licensed asbestos removal work to be carried out by licensed asbestos removalists.

Duty-holders under this Chapter may have health and safety duties under clauses 19, 20, 21 or 29 of the Act, and duties under Part 5 Division 1 and Division 2 of the Act to consult with other duty-holders and workers about matters under this Chapter. This Chapter prescribes requirements for authorisation of work for clause 43 of the Act and required qualifications for section 44 of the Act. Section 27 of the Act applies to officers in respect of this Chapter.

There are additional sections in the *Work Health and Safety Regulation 2011* about management of risk in Part 3.1 – *Managing Risks to Health and Safety*, about general workplace management and provision of information in Part 3.2 – *General workplace management* and about construction work that involves or is likely to involve asbestos in Chapter 6 – *Construction Work*.

Defined terms in the Dictionary which are relevant to this Chapter include asbestos removalist, independent, licensed asbestos assessor, licensed asbestos removalist, asbestos containing material (ACM), asbestos contaminated dust or debris (ACD), asbestos-related work, asbestos waste, friable asbestos, non-friable asbestos, health monitoring, in-situ asbestos, licence holder, certified safety management system, Class A asbestos removal work and Class B asbestos removal work.

# Work Health and Safety (Asbestos) Amendment Regulation 2014 (No 1)

## Detail

### Clause 1 — Name of Regulation

This clause names the Regulation.

### Clause 2 — Commencement

This clause provides for the commencement of the Regulation.

The following provisions related to the requirement commence on 1 July 2015:

- section 460 (1)
- section 493 (1)(c)
- section 494 (1)(c)
- section 498 (a)(ii)
- section 499 (b)
- section 518 (a)(i)

The above provisions relate to the new requirement that workers and supervisors undertake a specified VET course. The commencement of these provisions has been delayed to provide assessors and removalists licensed under the *Construction Occupations (Licensing) Act 2004* reasonable time to comply with the new requirements.

Sections 493(1)(e), 498(b) and 520(1)(e) commence on 1 January 2016. These provisions relate to the new requirement that Class A asbestos removalists have certified safety management systems in place. These provisions have been delayed to provide reasonable time for Class A asbestos removalists to develop safety management systems that comply with AS 4801:2001 (Occupational health and safety management systems), or an equivalent system determined by the regulator.

All remaining provisions commence on 1 January 2015.

### Clause 3 — Legislation amended

This clause provides that the Regulation amends the *Work Health and Safety Regulation 2011* and the *Dangerous Substances (General) Regulation 2004*.

### Clause 4 — Section 291(2)

This clause removes a definition of asbestos, as this is now defined in the Dictionary.

## **Clause 5 — Section 292**

This clause amends the definition of construction project to include work that involves the demolition or refurbishment of a structure containing loose-fill asbestos insulation, regardless of the cost of the construction work.

The purpose of this is to ensure that the demolition of houses containing loose fill asbestos insulation engages the principal contractor obligation under section 293.

This clause inserts a definition of loose-fill asbestos insulation by reference to the *Dangerous Substances (General) Regulation 2004*, section 388.

## **Clause 6 — Chapter 8**

This clause replaces chapter 8 of the *Work Health and Safety Regulation 2011* with sections adapted from the Safe Work Australia Model Work Health and Safety Regulations 2011 (updated 9 January 2014).

### **Part 8.1 Prohibitions and authorised conduct**

This part gives effect to the national prohibition on the use of asbestos or asbestos containing material (ACM) unless it is provided for in one of the exceptions.

#### 419 Work involving asbestos or ACM—prohibitions and exceptions

Section 419 prescribes the prohibition on work involving asbestos and exceptions where the prohibition does not apply. PCBUs and their workers must not carry out work involving asbestos unless it is in circumstances permitted by one or more of the exceptions. These exceptions include genuine research and analysis, the transport and disposal of asbestos waste in accordance with relevant legislation, laundering asbestos contaminated clothing, and minor or routine maintenance work, or other minor work, in accordance with the Regulation.

The exemption for minor or routine maintenance work, or other minor work, is not provided for in the model regulations but has been inserted in this section. Inserting this exemption will allow PCBUs to disturb asbestos if it is minor or routine maintenance work, or other minor work, undertaken in accordance with these Regulations.

Minor maintenance work includes routine work that is small scale, often short in duration and may be unscheduled. Minor work includes small tasks that are of short duration, such as cutting a small hole or hand-drilling up to a few holes in an asbestos cement sheet. It is not routine or regular such as planned maintenance.

The term ‘competent person’, as used in the model regulations, has been replaced with the term ‘licensed asbestos assessor’ (except for sections 493(1)(a) and 494(1)(a)).

The maximum penalty for contravening section 419 is \$6 000 for an individual and \$30 000 for a body corporate.

## **Part 8.2 General duty**

This part provides a general duty to ensure the exposure standard for asbestos is not exceeded at a workplace.

### 420 Exposure to airborne asbestos at workplace

Section 420 provides that a PCBU must ensure that exposure of persons at a workplace to airborne asbestos is eliminated or minimised so far as is reasonably practicable. Section 420(2) requires the PCBU to ensure the exposure standard for asbestos is not exceeded at the workplace. The exposure standard is contained in the Workplace Exposure Standard for Airborne Contaminants.

Section 420(3) provides for the instances where the section does not apply in relation to an asbestos removal area.

The maximum penalty for contravening section 420 is \$6 000 for an individual and \$30 000 for a body corporate.

## **Part 8.3 Management of asbestos and associated risks**

This part sets out requirements for duty holders to manage the risk associated with any asbestos at a workplace other than naturally occurring asbestos. This part has requirements for identifying asbestos, indicating the presence of asbestos in the workplace, and maintaining asbestos registers and asbestos management plans for workplaces.

### 421 Application of Part 8.3

Section 421(1) specifies that part 8.3 does not apply to naturally occurring asbestos. Specific provisions dealing with naturally occurring asbestos are contained in Part 8.4.

Section 421(2) provides that sections 425, 426, 427, 428, 429 and 430 do not apply to residential premises.

### 422 Asbestos to be identified or assumed at workplace

Section 422 (1) requires a person with management or control of a workplace to ensure, so far as is reasonably practicable, that all asbestos or ACM at the workplace is identified by a licensed asbestos assessor.

Section 422(2) also provides that if the material cannot be identified but the licensed asbestos assessor reasonably believes the material is asbestos or ACM, the person with management or control of the workplace must assume the material is asbestos. Inaccessible parts of the workplace likely to contain asbestos or ACM must also be assumed to have asbestos present.

Section 422(2)(c) is not in the model regulations but has been added to the Territory's regulations in order to specify that if a workplace is a residential premises and an approved warning sign is displayed at the premises, the person with management or control of the workplace must assume asbestos is present. An approved warning sign

is unique to the Territory and relates to residential premises known to have contained loose fill asbestos.

Section 422(3) provides that the requirement to identify asbestos as prescribed in section 422(1) does not apply if the person with management or control of the workplace assumes that asbestos or ACM is present, or alternatively, has reasonable grounds to believe that asbestos or ACM is not present.

A 'person with management or control of a workplace' has the same meaning as section 20 of the *Work Health and Safety Act 2011*.

The maximum penalty for contravening section 422 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 422A Asbestos risk assessment

Section 422A has been inserted to retain the asbestos safety standards currently provided for in section 333 of the *Dangerous Substances (General) Regulation 2004*.

#### 422B Asbestos risk assessment – review

Section 422B has been inserted to retain the asbestos safety standards currently provided for in section 334 of the *Dangerous Substances (General) Regulation 2004*.

#### 423 Analysis of sample

Section 423 provides that asbestos may be identified by analysing a sample. Where a sample is analysed, this can only be performed by laboratories specified in section 423(2).

The maximum penalty for contravening section 423 is \$1 250 for an individual and \$6 000 for a body corporate.

#### 424 Presence and location of asbestos to be indicated

Section 424 sets out requirements for a PCBU to ensure the presence and location of asbestos at the workplace is clearly indicated, and if it is reasonably practicable, to indicate the presence and location of asbestos or ACM by a label.

The maximum penalty for contravening section 424 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 425 Asbestos register

Section 425 prescribes that a person with management or control of a workplace must ensure that an asbestos register is prepared and kept at the workplace.

Section 425(3) also specifies what must be recorded in the asbestos register including any asbestos or ACM that has been identified at the workplace or is likely to be present at the workplace, or that no asbestos or ACM is identified at the workplace if the person knows that no asbestos or ACM is present or likely to be present. Sections 425(3)(a)(ii) and 425(3)(a)(iii) have been inserted to ensure the asbestos register

requirements previously in place under the dangerous substances legislation are captured in the regulations - section 425(3)(a)(iv) has been re-ordered.<sup>1</sup>

Section 425(4) states that the duty holder is not required to prepare an asbestos register for a workplace if a register has already been prepared for that workplace.

Section 425(6) specifies that these requirements do not apply to a workplace if:

- the workplace is a building that was constructed after 31 December 2003; and
- no asbestos has been identified at the workplace; and
- no asbestos is likely to be present at the workplace from time to time.

The maximum penalty for contravening section 425 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 426 Review of asbestos register

Section 426(1) requires a person with management or control of a workplace where an asbestos register is kept to ensure the register is reviewed and revised in specified circumstances including if further asbestos is identified at the workplace or if asbestos is removed from, or disturbed, sealed or enclosed at the workplace.

Section 426(2) has been inserted to ensure the review of asbestos register requirements previously in place under the dangerous substances legislation are captured in the regulations.

The maximum penalty for contravening section 426 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 427 Access to asbestos register

Section 427 provides that a person with management or control of a workplace where an asbestos register is kept must ensure that the register is readily accessible to certain persons identified in section 427(1) such as workers who have carried out or intend to carry out work at the workplace or a person conducting a business or undertaking who has carried out or intends to carry out work at the workplace. Section 427(2) requires the person with management or control of the workplace to ensure that a person conducting a business or undertaking who carries out or intends to carry out work at a workplace that involves a risk of exposure to airborne asbestos is given a copy of the asbestos register.

The maximum penalty for contravening section 427 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 428 Transfer of asbestos register by person relinquishing management or control

Section 428 provides that if a person with management or control of a workplace plans to relinquish management or control of the workplace, the person must ensure,

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<sup>1</sup> Section 425(3)(a)(ii) in the model regulations.

so far as is reasonably practicable, that the asbestos register is given to any new person assuming management or control of the workplace.

The maximum penalty for contravening section 428 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 429 Asbestos management plan

Section 429 provides that a person with management or control of a workplace where asbestos or ACM is identified or likely to be present at a workplace must prepare and keep up to date an asbestos management plan for the workplace (section 429(2) and (3)). Section 429(4) stipulates that the plan must include specific information including the identification of asbestos ACM, decisions and reasons for decisions about the management of asbestos at the workplace, the procedures for detailing incidents or emergencies involving asbestos or ACM at the workplace, and workers carrying out work involving asbestos.

The maximum penalty for contravening section 429(2) and (3) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 429(5) prescribes that the person conducting business or undertaking must ensure access to the plan to specified persons.

The maximum penalty for contravening section 429(5) is \$3 600 for an individual and \$18 000 for a body corporate.

#### 430 Review of asbestos management plan

Section 430 requires a person with management or control of a workplace that has an asbestos management plan to ensure that the plan is reviewed and revised as necessary in specified circumstances including where there is a review of the asbestos register, asbestos is removed from, or disturbed, sealed or enclosed at the workplace, or where the plan is no longer adequate for managing asbestos or ACM at the workplace.

Section 430(2) stipulates that an HSR may request a review of an asbestos management plan if the HSR has reasonable beliefs that it is requires based on circumstances outlined in the section.

The maximum penalty for contravening section 430 is \$3 600 for an individual and \$18 000 for a body corporate.

### **Part 8.4 Management of naturally occurring asbestos**

This part sets out the requirements for duty holders at workplaces where naturally occurring asbestos is likely to be encountered. This part provides for asbestos management plans and training for workers in these circumstances.

#### 431 Naturally occurring asbestos

Section 431 requires a person with management or control of a workplace to manage, in accordance with part 3.1 of the Regulation, risks associated with naturally

occurring asbestos at the workplace. ‘Naturally occurring asbestos’ is defined in section 5.

#### 432 Asbestos management plan

Section 432 provides that an asbestos management plan must be prepared if naturally occurring asbestos is identified at a workplace or is likely to be present at a workplace. Section 432(3) requires the person with management or control of the workplace to ensure the asbestos management plan is maintained so to ensure the information in the plan is up to date. Section 432(4) requires the plan to contain relevant information including the identification of naturally occurring asbestos, the decisions and reasons for decisions about the management of naturally occurring asbestos, and the workers carrying out work involving naturally occurring asbestos.

The maximum penalty for contravening section 432(2) and (3) and is \$3 600 for an individual and \$18 000 for a body corporate.

Section 432(5) provides that the plan must be readily accessible to specific persons including a worker who has carried out, carries out or intends to carry out, work at the workplace and a person conducting a business or undertaking who has carried out or intends to carry out work at the workplace

The maximum penalty for contravening section 432(5) is \$6 000 for an individual and \$30 000 for a body corporate.

#### 433 Review of asbestos management plan

Section 433 requires a person with management or control of a workplace to have an asbestos management plan about naturally occurring asbestos and to ensure that the plan is reviewed and revised if the plan is no longer adequate for managing naturally occurring asbestos at the workplace.

The maximum penalty for contravening section 433 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 434 Training in relation to naturally occurring asbestos

Section 434 provides for a PCBU to ensure that training required under section 445 also includes training in the hazards and risks associated with naturally occurring asbestos for workers who carry out work where naturally occurring asbestos is likely to be found.

The maximum penalty for contravening section 434 is \$6 000 for an individual and \$30 000 for a body corporate.

### **Part 8.5 Asbestos at the workplace**

This part sets out requirements for duty holders in relation to health monitoring for certain workers. This part also provides for training for workers who are performing asbestos removal work or asbestos-related work not covered within training requirements for licensed asbestos removal work. This part also places prohibitions and limitations on use of certain equipment on asbestos or ACM.

#### 435 Duty to provide health monitoring

Section 435 prescribes the circumstances when a PCBU must ensure that health monitoring is provided to certain workers carrying out licensed asbestos removal work, other ongoing asbestos removal work or asbestos-related work and is at risk of exposure to asbestos when carrying out the work. The PCBU is required to provide the health monitoring before the worker carries out licensed asbestos removal work.

The maximum penalty for contravening section 435(1) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 435(3) requires the PCBU to ensure that the worker is informed of any health monitoring requirements before the worker carries out any work that may expose the worker to asbestos.

The maximum penalty for contravening section 436(3) is \$6 000 for an individual and \$30 000 for a body corporate.

#### 436 Duty to ensure that appropriate health monitoring is provided

Section 436 provides that health monitoring provided to workers includes a consideration of the workers demographic, medical and occupational history and records of the workers exposure, and involves a physical examination of the worker. However, an alternative type of health monitoring may be used if a registered medical practitioner recommends another type of health monitoring.

The maximum penalty for contravening section 436 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 437 Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience

Section 437 requires the PCBU to ensure the health monitoring referred to in section 435 is carried out under the supervision of a registered medical practitioner with experience in health monitoring.

The maximum penalty for contravening section 437(1) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 437(2) requires the PCBU to consult the worker in relation to selecting the registered medical practitioner.

The maximum penalty for contravening section 437(2) is \$6 000 for an individual and \$30 000 for a body corporate.

#### 438 Duty to pay costs of health monitoring

Section 438 provides that a PCBU must pay all expenses relating to health monitoring provided under section 435.

The maximum penalty for contravening section 438(1) is \$3 600 for an individual and \$18 000 for a body corporate.

Section 438(2) provides for an agreement to be made about sharing costs where more than one PCBU has a duty to provide health monitoring for a worker.

The maximum penalty for contravening section 438(2) is \$3 600 for an individual and \$18 000 for a body corporate.

#### 439 Information that must be provided to registered medical practitioner

Section 439 requires the PCBU commissioning health monitoring for a worker to provide certain information to the registered medical practitioner supervising the health monitoring including the name and date of birth of the worker, the work the worker is or will be carrying out that has triggered the requirement for health monitoring, and how long the worker has been carrying out the work if the work has already been commenced.

The maximum penalty for contravening section 439 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 440 Duty to obtain health monitoring report

Section 440 provides that the PCBU commissioning health monitoring for a worker must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner as soon as practicable after the monitoring is carried out.

Section 440(2) also specifies the information to be included in the health monitoring report including the name and registration number of the registered medical practitioner, any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of the work, and whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

#### 441 Duty to provide health monitoring report to worker

Section 441 requires the PCBU who commissioned the health monitoring for a worker to give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

The maximum penalty for contravening section 441 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 442 Duty to provide health monitoring report to Regulator

Section 442 sets out the circumstances in which a PCBU who commissioned health monitoring for a worker must give a copy of the health monitoring report to the regulator. This includes circumstances where the report contains any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the work that triggered the requirement for health monitoring.

The maximum penalty for contravening section 442 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 443 Duty to provide health monitoring report to relevant persons conducting business or undertakings

Section 443 requires the PCBU who commissioned health monitoring for a worker to give a copy of the health monitoring report to all other PCBUs who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

The maximum penalty for contravening section 443 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 444 Health monitoring records

Section 444 places requirements on the PCBU in relation to confidentiality of health monitoring reports and keeping records for at least 40 years after the record is made.

The maximum penalty for contravening section 444(1) is \$1 250 for an individual and \$6 000 for a body corporate.

Section 444(2) provides that the PCBU must ensure that health monitoring reports or results of a worker are not disclosed to another person without the worker's written consent.

The maximum penalty for contravening section 441(2) is \$1 250 for an individual and \$6 000 for a body corporate.

#### 445 Duty to train workers about asbestos

Section 445 places specific requirements on PCBUs regarding training for certain workers about identification, safe handling and suitable control measures for asbestos. This is the VET course *Asbestos Awareness* 10314 NAT. The training is required for workers who may be involved in asbestos removal work or carrying out asbestos-related work outside the scope of licensed asbestos assessor or removal work. Training requirements for workers carrying out licensed asbestos removal work are specified in section 460 (section 445(2)).

The maximum penalty for contravening section 445 (1) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 445(3) specifies record keeping requirements in relation to the training undertaken by the worker and that the PCBU must ensure that a record of the training

is kept while the workers is carrying out the work and for 5 years after the day the worker ceases working for the person.

The maximum penalty for contravening section 445(3) is \$1 250 for an individual and \$6 000 for a body corporate.

Section 445(4) provides that the PCBU must keep the records available for inspection under the Act.

The maximum penalty for contravening section 445 (5) is \$1 250 for an individual and \$6 000 for a body corporate.

#### 446 Duty to limit use of equipment

Section 446 prohibits PCBUs and their workers from using either high-pressure water spray or compressed air on asbestos or ACM. Section 446(3) also places limitations on the use of power tools, brooms and other implements that cause the release of airborne asbestos. A PCBU must not use, or direct or allow a worker to use this equipment on asbestos or ACM unless the equipment is controlled in a way specified in section 446(4).

The maximum penalty for contravening section 446 is \$3 600 for an individual and \$18 000 for a body corporate.

### **Part 8.6 Demolition and refurbishment**

This part sets out requirements for duty holders in relation to the demolition or refurbishment of structure or plant constructed or installed before 31 December 2003.

#### 447 Application—Part 8.6

Section 447 provides that this part applies to the demolition or refurbishment of a structure or plant constructed before 31 December 2003. Section 447(2) specifies that ‘demolition or refurbishment’ does not include minor or routine maintenance work, or other minor work.

#### 448 Review of asbestos register

Section 448 sets out the requirements for the person with management or control of a workplace to review and revise an asbestos register for the workplace before demolition or refurbishment is carried out.

The maximum penalty for contravening section 448 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 449 Duty to provide asbestos register

Section 449 requires the person with management or control of a workplace to ensure the PCBU who is carrying out demolition or refurbishment is given a copy of the asbestos register before demolition or refurbishment work starts.

The maximum penalty for contravening section 449 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 450 Duty to obtain asbestos register

Section 450 requires the PCBU who is carrying out demolition or refurbishment work at a workplace to obtain a copy of the asbestos register before the work starts.

The maximum penalty for contravening section 450 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 451 Determining presence of asbestos or ACM

Section 451 provides that where there is no asbestos register for a structure or plant to be demolished or refurbished at a workplace, or if part of the plant or structure is inaccessible, or if an approved warning sign is displayed, the demolition or refurbishment must not start until the structure or plant has been inspected by a licensed asbestos assessor to determine whether asbestos or ACM is fixed or installed in the structure or plant.

Section 451(4)(c) is not in the model regulations but has been added to the Territory's regulations in order to specify that if a structure or plant is a residential premises and an approved warning sign is displayed at the premises, the person conducting a business or undertaking must assume asbestos is present. An approved warning sign is unique to the Territory and relates to residential premises known to have contained loose fill asbestos.

The maximum penalty for contravening section 451(2) and (3) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 451(5) provides that if asbestos is determined or assumed to be fixed or installed in the structure or plant, the PCBU who is to carry out the demolition or refurbishment must inform the person with management or control of the workplace. If the workplace is domestic premises, the PCBU must inform the occupier and owner of the domestic premises.

The maximum penalty for contravening section 451(5) is \$3 600 for an individual and \$18 000 for a body corporate.

#### 452 Identification and removal of asbestos before demolition

Section 452 sets out the requirements for identifying and, as far as practicable, removing asbestos before demolition starts.

Section 452(2) provides that the provision does not apply to an emergency to which section 454 applies or demolition of domestic premises.

Section 452(3) requires a person with management or control of a workplace, or of the structure of plant must ensure that all asbestos is likely to be disturbed by the demolition is identified, and so far as is reasonably practicable, that the asbestos is removed before the demolition is commenced.

The maximum penalty for contravening section 452 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 453 Identification and removal of asbestos before demolition of domestic premises

Section 453 provides that a PCBU carrying out demolition of domestic premises must ensure that asbestos that is likely to be disturbed by the demolition is identified, and so far as is reasonably practicable, removed before demolition starts. Section 453(2) and (3) stipulates the instances in which the section does not apply.

The maximum penalty for contravening section 453 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 454 Emergency procedure

Section 454 prescribes what must happen where a structure or plant is structurally unsound and asbestos is fixed to or installed in the structure or plant. Section 454(2) specifies the responsibilities of the person with management or control of the workplace, which includes notifying the regulator before demolition starts. The provision does not apply to domestic premises as demolition of domestic premises in an emergency is dealt with in section 455.

The maximum penalty for contravening section 454 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 455 Emergency procedure—domestic premises

Section 455 specifies what must happen if a structure or plant at domestic premises must be demolished and asbestos is fixed to or installed in the structure or plant before the emergency.

Section 455(3) sets out the responsibilities of the PCBU who is to carry out the demolition, which includes notifying the regulator before demolition starts.

The maximum penalty for contravening section 455 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 456 Identification and removal of asbestos before refurbishment

Section 456 sets out the requirements for a person with management or control of a workplace, or structure or plant, if the structure or plant is to be refurbished.

Section 456(2) provides that section 456 does not apply to domestic premises, which are dealt with in section 457.

Section 456(3) provides that the person must ensure all asbestos likely to be disturbed by the refurbishment is identified, and so far as is reasonably practicable, removed before refurbishment starts.

The maximum penalty for contravening section 456 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 457 Refurbishment of domestic premises

Section 457 requires a PCBU who is to carry out refurbishment of domestic premises to ensure that all asbestos likely to be disturbed by the refurbishment is identified, and so far as is reasonably practicable, removed before refurbishment starts.

The maximum penalty for contravening section 457 is \$6 000 for an individual and \$30 000 for a body corporate.

### **Part 8.7 Asbestos removal work**

This part sets out requirements for duty holders in relation to carrying out asbestos removal work at a workplace.

#### 458 Duty to ensure asbestos removalist is licensed

Section 458 sets out the requirements for a PCBU commissioning the removal of asbestos to ensure that certain asbestos removal work is carried out by a licensed asbestos removalist.

The model regulations permit the removal of 10 square metres or less of non-friable asbestos or asbestos contaminated dust without an asbestos removal licence. The relevant sections have been omitted from these Regulations.

Section 419(3)(k) permits PCBU's to disturb asbestos if it is minor or routine maintenance work, or other minor work, in accordance with these Regulations.

The maximum penalty for contravening section 458 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 459 Asbestos removal supervisor must be present

Section 459 sets out the requirements for a licensed asbestos removalist to ensure asbestos removal work is supervised by a nominated asbestos removal supervisor.

The maximum penalty for contravening section 459 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 460 Asbestos removal worker must be trained

Section 460 specifies the requirements for licensed asbestos removalists to ensure workers do not carry out licensed asbestos removal work unless the worker holds a certification in relation to the specified VET course for asbestos removal relevant to the class of licensed asbestos removal work being carried out. In addition, this section requires a licensed asbestos removalist to provide appropriate training to a worker carrying out licensed asbestos removal work to ensure it is carried out in accordance with the asbestos removal control plan.

The maximum penalty for contravening section 460 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 461 Licensed asbestos removalist must keep training records

Section 461 requires a licensed asbestos removalist to keep records of a worker's training while the worker is carrying out the licensed asbestos removal work and for 5 years after the worker stopped carrying out licensed asbestos removal work for the removalist.

The maximum penalty for contravening section 461(1) is \$1 250 for an individual and \$ 6 000 for a body corporate.

Section 461(2) provides that the licensed asbestos removalist must ensure training records are readily accessible at the asbestos removal area. Section 461(3) defines appropriate training for the purpose of the section.

The maximum penalty for contravening section 461(2) is \$1 250 for an individual and \$6 000 for a body corporate.

#### 462 Duty to give information about health risks of licensed asbestos removal work

Section 462 provides that a licensed asbestos removalist must give information about health risks and health monitoring to a person before the person is engaged to carry out licensed asbestos removal work.

The maximum penalty for contravening section 462 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 463 Asbestos removalist must obtain register

Section 463 requires an asbestos removalist to obtain a copy of an asbestos register for a workplace before the removalist carries out asbestos removal work.

Section 463(2) provides that section 463 does not apply if the asbestos removal work is to be carried out at domestic premises.

The maximum penalty for contravening section 463 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 464 Asbestos removal control plan

Section 464 specifies the requirements for a licensed asbestos removalist to prepare an asbestos removal control plan for licensed asbestos removal work.

The maximum penalty for contravening section 464(1) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 464(2) prescribes what an asbestos control plan must include such as the details of how the asbestos removal will be carried out and the details of the asbestos to be removed including the location, type and condition of the asbestos.

Section 464(3) provides that the licensed asbestos removalist to give a copy of the plan to the person who commissioned the licensed asbestos removal work.

The maximum penalty for contravening section 464 (3) is \$3 600 for an individual and \$18 000 for a body corporate.

#### 465 Asbestos removal control plan to be kept and available

Section 465 sets out the requirements regarding keeping an asbestos removal control plan for two years and that it must be kept until the asbestos removal work to which it relates is completed, however, if there is a notifiable incident to whom a copy of the plan must be made readily accessible.

The maximum penalty for contravening section 465 is \$3 600 for an individual and \$18 000 for a body corporate.

#### 466 Regulator must be notified of asbestos removal

Section 466 specifies the requirements for licensed asbestos removalists to notify the regulator at least 5 days before starting licensed asbestos removal work.

The maximum penalty for contravening section 466(1) is \$3 600 for an individual and \$18 000 for a body corporate.

Section 466(2) provides that despite section 466(1), licensed asbestos removal work can start immediately if there is a sudden and unexpected event that may cause persons to be exposed to respirable asbestos fibres or an unexpected breakdown of an essential service that requires immediate rectification.

Section 466(3) provides that if asbestos must be removed in the circumstances prescribed in section 466(2), the licensed asbestos removalist must give notice to the regulator immediately by telephone and in writing within 24 hours after notification by telephone.

The maximum penalty for contravening section 466(3) is \$3 600 for an individual and \$18 000 for a body corporate.

Section 466(4) prescribes the information that the licensed asbestos removalist must provide when notifying the regulator of licensed asbestos removal work.

Section 466(4)(ca) has been inserted so that licensed asbestos removalists must also provide the regulator with the name of the licensed asbestos assessor engaged to undertake air monitoring under section 475.

#### 467 Licensed asbestos removalist must tell certain persons about intended asbestos removal work

Section 467 identifies the persons who must be informed about intended asbestos removal work by the licensed asbestos removalist and the information that must be provided including that licensed asbestos removal work is to be carried out at the workplace and when the work is to commence.

The maximum penalty for contravening section 467 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 468 Person with management or control of workplace must tell persons about asbestos removal work

Section 468 provides that if a person with management or control of a workplace has been informed about intended asbestos removal work, the person must advise certain persons about the asbestos removal work including workers or any other person at the workplace and the person who commissioned the asbestos removal work, and when it will start.

The maximum penalty for contravening section 468(2) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 468(3) provides that the person must take reasonable steps to ensure the same information is provided to anyone conducting a business or undertaking, at or in the immediate vicinity of the workplace or to anyone occupying premises in the immediate vicinity of the workplace.

The maximum penalty for contravening section 468(3) is \$6 000 for an individual and \$30 000 for a body corporate.

#### 469 Signage and barricades for asbestos removal work

Section 469 sets out the responsibilities of an asbestos removalist in relation to signs and barricades when asbestos removal work is being carried out.

The maximum penalty for contravening section 469 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 470 Limiting access to asbestos removal area

Section 470 places requirements on certain duty holders to ensure, so far as is reasonably practicable, that only certain persons have access to an asbestos removal area (section 470(2)).

Section 470(5) also requires persons who have access to an asbestos removal area to comply with directions by the licensed asbestos removalist carrying out the licensed asbestos removal work.

The maximum penalty for contravening section 470 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 471 Decontamination facilities

Section 471 places requirements on an asbestos removalist to ensure facilities are available to decontaminate the asbestos removal area, plant used in that area, workers carrying out asbestos removal work, and any other persons who have authorised access to the asbestos removal area.

The maximum penalty for contravening section 471(1) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 471(2) requires an asbestos removalist to ensure that anything which is likely to be contaminated with asbestos is not removed from the asbestos removal area unless it is decontaminated first or properly sealed in a container that has been decontaminated and labelled in accordance with the GHS.

The maximum penalty for contravening section 471(2) is \$6 000 for an individual and \$30 000 for a body corporate.

#### 472 Disposing of asbestos waste and contaminated personal protective equipment

Section 472 sets out requirements for an asbestos removalist to dispose of asbestos waste properly. It also specifies the requirements for an asbestos removalist in relation to the disposal of personal protective equipment, and in specified circumstances, the storage of personal protective equipment in sealed containers until it is re-used for asbestos removal work (section 472(2) and (3)).

The maximum penalty for contravening section 472 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 473 Clearance inspection

Section 473 sets out requirements for a clearance inspection of an asbestos removal area. For licensed asbestos removal work at a workplace, the person who commissioned the licensed asbestos removal work must ensure that a clearance inspection is carried out. However, for licensed asbestos removal work at domestic premises, the licensed asbestos removalist is required to ensure that a clearance inspection is carried out (section 473(2)).

The clearance inspection must be carried out by an independent licensed asbestos assessor. 'Independent' and 'licensed asbestos assessor' are defined terms. If it is not reasonably practicable for the licensed asbestos assessor or licensed asbestos assessor to be independent, the person or licensed asbestos removalist may apply to the regulator for an exemption from the requirement that the assessor or licensed asbestos assessor be independent.

The maximum penalty for contravening section 473 is \$6 000 for an individual and \$30 000 for a body corporate.

#### 474 Clearance certificates

Section 474 sets out requirements in relation to issuing a clearance certificate following a clearance inspection carried out under section 473 including that the licensed asbestos assessor must not issue a clearance certificate unless satisfied that the asbestos removal area and the area immediately surrounding it are free from visible asbestos contamination.

The maximum penalty for contravening section 474 is \$6 000 for an individual and \$30 000 for a body corporate.

## **Part 8.8 Asbestos removal requiring Class A licence**

This part has specific requirements for asbestos removal work requiring a Class A asbestos removal licence. These include air monitoring requirements and the action that duty holders must take if air monitoring shows specified levels are exceeded.

### 475 Air monitoring—asbestos removal requiring Class A licence

Section 475 specifies the air monitoring requirements associated with asbestos removal work requiring a Class A asbestos removal licence. This includes when air monitoring must be carried out and to whom results of air monitoring must be given to (section 475(3)).

Section 475(3)(a) of the model regulations provides an exemption relating to the use of glove bags – this has been omitted from these Regulations.

Section 475(6) provides that the independent licensed assessor must undertake air monitoring using the membrane filter method, which is defined in section 5.

The maximum penalty for contravening section 475 is \$6 000 for an individual and \$30 000 for a body corporate.

### 476 Action if respirable asbestos fibre level too high

Section 476 prescribes what the licensed asbestos removalist must do if respirable asbestos fibre levels exceed specified levels during asbestos removal work requiring a Class A asbestos removal licence.

Minor technical amendments have been made to these Regulations relating to the recorded respirable asbestos fibre level.

The maximum penalty for contravening section 476 is \$6 000 for an individual and \$30 000 for a body corporate.

### 477 Removing friable asbestos

Section 477 provides that a licensed asbestos removalist must take specific measures, so far as is reasonably practicable, when removing friable asbestos.

Section 477(2) requires a licensed asbestos removalist to test an enclosure used in removing friable asbestos for leaks.

Section 477(3) of the model regulations provides exemptions relating to the use of glove bags – this has been omitted from these Regulations.

Section 477(5) also sets out requirements regarding any enclosures used in removing friable asbestos.

The maximum penalty for contravening section 477 is \$6 000 for an individual and \$30 000 for a body corporate.

## **Part 8.9 Asbestos-related work**

This part sets out requirements for duty holders in relation to asbestos-related work carried out at a workplace.

### 478 Application of Part 8.9

Section 478 provides that this Part applies to asbestos-related work. Asbestos-related work is defined in section 5.

### 479 Uncertainty as to presence of asbestos

Section 479 provides that a PCBU who is unsure whether work to be carried out is asbestos-related work to either assume that asbestos is present or ensure a sample is analysed to determine if asbestos is present.

The maximum penalty for contravening section 479 is \$6 000 for an individual and \$30 000 for a body corporate.

### 480 Duty to give information about health risks of asbestos-related work

Section 480 places responsibilities on a PCBU to give information about health risks and health monitoring to a person before the person is engaged to carry out asbestos-related work for the business or undertaking.

The maximum penalty for contravening section 480 is \$6 000 for an individual and \$30 000 for a body corporate.

### 481 Asbestos-related work to be in separate area

Section 481 sets out requirements for the PCBU involved in carrying out asbestos-related work to ensure the asbestos-related work area is separated from other work areas, and that signs and barricades are used to indicate where the asbestos-related work is being carried out.

The maximum penalty for contravening section 481 is \$6 000 for an individual and \$30 000 for a body corporate.

### 482 Air monitoring

Section 482 prescribes the requirements for air monitoring of an asbestos-related work area if there is uncertainty as to whether the exposure standard is likely to be exceeded.

The maximum penalty for contravening section 482(1) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 482(2) requires the PCBU to take action in providing specific information to workers, and so far as is reasonably practicable, to other persons who were in the work area at the time if it is determined that the exposure standard has been exceeded.

The maximum penalty for contravening section 482(2) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 482(3) provides that the PCBU must ensure that information about exposure to respirable asbestos fibres is readily accessible to the workers and other persons referred to in section 482(2).

The maximum penalty for contravening section 482(3) is \$3 600 for an individual and \$18 000 for a body corporate.

#### 483 Decontamination facilities

Section 483 requires a PCBU carrying out asbestos-related work to ensure facilities are available to decontaminate the asbestos-related work area, the plant used in that area, and workers carrying out asbestos-related work.

Section 483(1)(d) has been expanded in these Regulations to capture other persons who have access to the asbestos removal area under section 470(2)(b) or (c).

The maximum penalty for contravening section 483(1) is \$6 000 for an individual and \$30 000 for a body corporate.

Section 483(2) requires the PCBU to ensure that anything likely to be contaminated with asbestos is not removed from the asbestos-related work area unless it is decontaminated first or properly sealed in a container that has been decontaminated and labelled in accordance with the GHS.

The maximum penalty for contravening section 483(2) is \$6 000 for an individual and \$30 000 for a body corporate.

#### 484 Disposing of asbestos waste and contaminated personal protective equipment

Section 484 sets out the requirements for a PCBU carrying out asbestos-related work to dispose of asbestos waste properly. Section 484(2) prescribes the requirements for the PCBU in relation to the disposal of personal protective equipment, and in specific circumstances, the storage of personal protective equipment in sealed containers until it is re-used for asbestos removal work (section 484(3)).

The maximum penalty for contravening section 484 is \$6 000 for an individual and \$30 000 for a body corporate.

### **Part 8.10 Licensing of asbestos removalists and asbestos assessors**

This part provides for licences for carrying out certain asbestos removal work. This part outlines how to apply for a licence and places certain requirements on the regulator in relation to granting or refusing an application. This part also contains provisions covering the replacement, surrender, renewal and suspension of licences. These are administrative procedures which provide clarity and transparency in the administration of asbestos removal and asbestos assessor licences.

#### 485 Requirement to hold Class A asbestos removal licence

Section 485 provides that a person must not carry out certain friable asbestos removal work at a workplace unless authorised by a Class A asbestos removal licence.

Section 485(2) provides that a PCBU must not direct or allow a worker to carry out certain friable asbestos removal work unless the PCBU holds a Class A asbestos removal licence.

#### 486 Exception to requirement to hold Class A asbestos removal licence

Section 486 provides an exception permitting removal of asbestos-contaminated dust or debris that is associated with the removal of non-friable asbestos.

Section 486(1)(b) of the model regulations has been omitted from these Regulations.

#### 487 Requirement to hold Class B asbestos removal licence

Section 487 provides that a person must not carry out certain non-friable asbestos removal work at a workplace unless authorised by either a Class A or Class B asbestos removal licence.

Section 487(2) provides that a PCBU must not direct or allow a worker to carry out certain non-friable asbestos removal work unless the PCBU holds a Class A or Class B asbestos removal licence.

The model regulations permit the removal of 10 square metres or less of non-friable asbestos or asbestos contaminated dust without an asbestos removal licence. The relevant sections have been omitted from these Regulations.

#### 488 Recognition of asbestos removal licences in other jurisdictions

Section 488 specifies that equivalent asbestos removal licences issued by corresponding regulators under a corresponding WHS law are recognised as asbestos removal licences under this section. Section 488(2) specifies that this section does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

488(1A) has been inserted to require an equivalent licensee to notify the regulator before undertaking asbestos removal work in the ACT. This notification is only required in relation to the licensee's first instance of work in the ACT after the commencement of this section. This notification is not required if the licensee holds an asbestos removal license granted under an ACT law, for example under the *Construction Occupations (Licensing) Act 2004*.

#### 489 Requirement to hold asbestos assessor licence

Section 489 provides that certain functions associated with Class A asbestos removal work can only be carried out by a person who holds an asbestos assessor licence. These functions are air monitoring, clearance inspections and clearance certificates in relation to Class A asbestos removal work.

Sections 489(d) to (g) have been inserted to reflect the tasks undertaken by a licensed asbestos assessor in the Territory.

#### 490 Recognition of asbestos assessor licences in other jurisdictions

Section 490 specifies that equivalent asbestos assessor licences issued by corresponding regulators under a corresponding WHS law are recognised as asbestos assessor licences under this section.

490(1A) has been inserted to require an equivalent licensee to notify the regulator before undertaking asbestos removal work in the ACT. This notification is only required in relation to the licensee's first instance of work in the ACT after the commencement of this section. This notification is not required if the licensee holds an asbestos assessor license granted under an ACT law, for example under the *Construction Occupations (Licensing) Act 2004*.

#### 491 Who may apply for a licence

Section 491 provides that only a PCBU may apply for an asbestos removal licence. Section 491(2) provides that only an individual who holds the prescribed qualifications set out in the Regulation may apply for an asbestos assessor licence.

#### 492 Application for asbestos removal licence or asbestos assessor licence

Section 492 sets out the requirements for a person to apply for an asbestos removal licence or an asbestos assessor licence. Section 492(2) specifies the information which the application must include.

#### 493 Content of application—Class A asbestos removal licence

Section 493 prescribes the information that must be contained in an application for a Class A asbestos removal licence. Section 493(2) requires that if the applicant is an individual who proposes to supervise the carrying out of the Class A asbestos removal work, the statement and information referred to in section 493(1) (b), (c), (d) and (e) must relate to the applicant. This includes:

- evidence, that each named supervisor is at least 18 years of age,
- a copy of a certification issued to each named supervisor for the specified VET course for the supervision of asbestos removal work,
- evidence that each named supervisor has at least 3 years relevant industry experience, and
- evidence that the applicant has a certified safety management system in place.

#### 494 Content of application—Class B asbestos removal licence

Section 494 specifies the information that must be contained in an application for a Class B asbestos removal licence.

#### 495 Content of application—asbestos assessor licence

Section 495 specifies the information that must be contained in an application for an asbestos assessor licence.

#### 496 Additional information

Section 496 enables the regulator to ask applicants to provide additional information so that the regulator is able to make a decision on whether or not to grant a licence.

Section 496(2) provides that if the applicant does not provide the additional information by the date specified, the application is taken to be withdrawn.

#### 497 Decision on application

Section 497 specifies the circumstances in which the regulator must grant or refuse an asbestos removal licence or asbestos assessor licence.

A decision to refuse to grant a licence is a reviewable decision under section 676.

#### 498 Class A asbestos removal licence—regulator to be satisfied about additional matters

Section 498 sets out the additional matters the regulator must be satisfied about in relation to an application for a Class A asbestos removal licence.

Section 498(a)(ii)(C) has been inserted to ensure that Class A removalists have also undertaken the specified VET course for the Class B asbestos removal work.

#### 499 Class B asbestos removal licence—regulator to be satisfied about additional matters

Section 499 sets out the additional matters the regulator must be satisfied about in relation to an application for a Class B asbestos removal licence.

#### 500 Matters to be taken into account

Section 500 specifies matters the regulator must take into account in determining if the applicant is able to ensure that work or other activities to which the licence relates are carried out safely and competently, and if the applicant is able to ensure compliance with any conditions that will apply to the licence. These include whether the applicant has been convicted or found guilty of any offence under the Act or a corresponding WHS law and whether any equivalent licence held under a corresponding WHS has been suspended or cancelled.

#### 501 Refusal to grant licence—process

Section 501 sets out what the regulator must do if an application for an asbestos removal licence or asbestos assessor licence is refused.

A decision to refuse to grant a licence is a reviewable decision under section 676.

### 502 Conditions of licence

Section 502 provides for the regulator to impose any conditions, including specifically listed conditions, on an asbestos removal licence or asbestos assessor licence when granting or renewing the licence.

A decision to impose conditions on a licence is a reviewable decision under section 676.

### 503 Duration of licence

Section 503 provides that an asbestos removal licence or asbestos assessor licence takes effect on the day it is granted and, unless cancelled earlier, expires 5 years after that day.

### 504 Licence document

Section 504 sets out requirements for the licence document to be issued by the regulator when granting an asbestos removal licence or asbestos assessor licence.

### 505 Licence document to be available

Section 505 requires a licence holder to keep the licence document available for inspection under the Act other than when the licence has been returned to the regulator in accordance with section 512 or if the licence holder has applied for, but not received a replacement licence document under section 513.

### 506 Changes to information

Section 506 requires a licence holder to notify the regulator in writing about a change to any information given by the licence holder to the regulator within 14 days of the licence holder becoming aware of the change.

The maximum penalty for contravening section 506 is \$1 250 for an individual and \$6 000 for a body corporate.

### 507 Change to nominated supervisor

Section 507 sets out the requirements for an asbestos removal licence holder to notify the regulator regarding a change in nominated supervisors.

Section 507(2) provides that a supervisor is not a nominated supervisor for the purposes of these sections until the regulator has approved the nomination.

The maximum penalty for contravening section 507 is \$1 250 for an individual and \$6 000 for a body corporate.

### 508 Amendment imposed by regulator

Section 508 enables the regulator, on its own initiative, to amend an asbestos removal licence or asbestos assessor licence, including varying, deleting or imposing a

condition on a licence. Section 508(2) and (3) also specifies the process to be followed by the regulator.

A decision to amend a licence is a reviewable decision under section 676.

#### 509 Amendment on application by licence holder

Section 509 provides for the regulator to amend an asbestos removal licence or asbestos assessor licence on request of the licence holder.

Section 509(2) and (3) specifies the process to be followed by the regulator when proposing to refuse to amend a licence.

A refusal to make the amendment applied for, or a decision to make a different amendment, is a reviewable decision (see s 676).

#### 510 Minor corrections to licence

Section 510 allows the regulator to make minor amendments to a licence, for example, correcting an obvious error or a change of address.

#### 511 Regulator to provide amended licence

Section 511 requires the regulator to give the licence holder an amended licence document if the regulator considers a change to a licence requires the licence document to be amended.

#### 512 Licence holder to return licence

Section 512 requires the licence holder of an asbestos removal or asbestos assessor licence that has been amended to return the licence document to the regulator for amendment when requested by the regulator in writing.

The maximum penalty for contravening section 512 is \$1 250 for an individual and \$6 000 for a body corporate.

#### 513 Replacement licence document

Section 513 sets out the requirements for notifying the regulator if an asbestos removal or asbestos assessor licence document is lost, stolen or destroyed.

Section 513(2) provides that if the licence is lost, stolen or destroyed the licence holder may apply to the regulator for a replacement document.

Section 513(5) and (6) also allows the regulator to issue or refuse to issue a replacement licence.

A refusal to issue a replacement licence document is a reviewable decision (see s 676).

The maximum penalty for contravening section 513 is \$1 250 for an individual and \$6 000 for a body corporate.

#### 514 Voluntary surrender of licence

Section 514 provides that a licence holder may voluntarily surrender the licence document to the regulator.

Section 514(2) stipulates that the licence expires on the surrender of the licence document.

#### 515 Regulator may renew licence

Section 515 enables the regulator to renew an asbestos removal licence or asbestos assessor licence on application by the licence holder.

#### 516 Application for renewal

Section 516 sets out the requirements for renewing an asbestos removal licence or asbestos assessor licence.

#### 517 Provisions relating to renewal of licence

Section 517 allows other sections in this part to apply to an application, renewal or refusal of an asbestos removal licence or asbestos assessor licence. Section 517(3) also enables the regulator to renew a licence granted to a person under a corresponding WHS law if the licence has not been renewed under that law.

#### 518 Renewal of asbestos removal licence—regulator to be satisfied about certain matters

Section 518 requires the regulator to be satisfied about certain matters before renewing an asbestos removal licence. These matters relate to the qualifications and experience of supervisors and whether authorised asbestos removal work has been carried out during the term of the licence.

#### 519 Status of licence during review

Section 519 provides for the status of an asbestos removal licence or asbestos assessor licence if the regulator notifies the licence holder that it proposes to refuse to renew the licence.

Sections 519(2) to (5) outlines the process for a licence holder to request internal or external review of the refusal of the licence by the regulator.

#### 520 Suspension or cancellation of licence

Section 520 sets out the requirements enabling the regulator to suspend or cancel an asbestos removal licence or asbestos assessor licence.

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

### 521 Matters taken into account

Section 521 specifies the matters a regulator must take into account, including when the licence holder is an individual and when it is a body corporate, when making a decision to suspend or cancel an asbestos removal licence or asbestos assessor licence.

### 522 Notice to and submissions by licence holder

Section 522 sets out the requirements for the regulator to give written notice to the licence holder before suspending or cancelling an asbestos removal licence or an asbestos assessor licence.

Section 522(b) requires the regulator to give the licence holder not less than 28 days to make submissions to the regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

### 523 Notice of decision

Section 523 sets out the requirements for the regulator to follow when giving notice of a decision to cancel or suspend an asbestos removal licence or an asbestos assessor licence.

### 524 Immediate suspension

Section 524 provides for circumstances when the regulator may suspend an asbestos removal licence or an asbestos assessor licence without giving the notice required under section 522. A process for the regulator to follow is also specified in section 524(2) to (5).

### 525 Licence holder to return licence document

Section 525 provides that a licence holder, when given notice under section 523, must return the licence to the regulator.

The maximum penalty for contravening section 525 is \$1 250 for an individual and \$6 000 for a body corporate.

### 526 Regulator to return licence document after suspension

Section 526 requires the regulator to return the licence document to the licence holder within 14 days after the suspension of a licence ends.

### 527 Asbestos removal licence register

Section 527 requires the regulator to keep a register of persons holding an asbestos removal licence and the supervisors named to the regulator for each asbestos removal licence.

### 528 Asbestos assessors register

Section 528 requires the regulator to keep a publicly available register of each person holding an asbestos assessor licence.

### 529 Work must be supervised by named supervisor

Section 529 requires a person who holds an asbestos removal licence to ensure that asbestos removal work permitted under the licence is supervised by a supervisor named to the regulator by the licence holder.

The maximum penalty for contravening section 529 is \$3 600 for an individual and \$18 000 for a body corporate.

### **Clause 7 — Section 676(1), table, new items 35 to 45**

This clause inserts new items 34 to 45 to the table in section 676(1). This creates new reviewable decisions under sections 497, 501, 502, 508, 509, 513, 517 and 520.

### **Clause 8 – new chapter 21**

This clause inserts a chapter containing new transitional provisions. This chapter expires 5 years after the commencement day.

The provisions continue asbestos assessor and removalist licences issued under the *Construction Occupations (Licensing) Act 2004* subject to certain conditions.

Asbestos registers and asbestos management plans under the old scheme are taken to be their equivalents under the new scheme.

An order of occupational discipline made by ACAT in relation to an existing license or licensee will apply to a license or licensee under the new regime.

### **Clause 9 – Dictionary, new definitions**

This clause inserts new definitions adapted from the model regulations.

### **Clause 10 – Dictionary, new definition of *certified safety management system***

This clause inserts new definitions adapted from the model regulations.

### **Clause 11 – Dictionary, definition of *class***

This clause inserts the definition of class from the model regulations.

### **Clause 12 – Dictionary, new definitions**

This clause inserts new definitions adapted from the model regulations.

### **Clause 13 – Dictionary, definition of *licence-holder***

This clause inserts new definitions adapted from the model regulations.

**Clause 14 – Dictionary, new definitions**

This clause inserts new definitions adapted from the model regulations.

**Clause 15 – Dictionary, new definitions**

This clause inserts new definitions adapted from the model regulations.

**Clause 16 – Dictionary, definition of *specified VET course***

This clause inserts the definition of specified VET course from the model regulations.

**Clause 17 – Dangerous Substances (General) Regulation 2004  
New part 3.3**

This clause inserts a new part which prescribes asbestos management practices for premises other than workplaces.

The part prohibits a person from removing asbestos or asbestos containing material from premises unless the person is an appropriately licensed asbestos removalist.

The part requires a licensed asbestos removalist to prepare an asbestos removal control plan for any licensed asbestos removal work they undertake.

The asbestos removal control plan prepared under this part must be kept and available for prescribed periods of time.