

2016

THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

WORK HEALTH AND SAFETY AMENDMENT REGULATION
2016 (No 1)

SL2016-29

EXPLANATORY STATEMENT

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Overview

The *Work Health and Safety Amendment Regulation 2016 (No 1)* amends the *Work Health and Safety Regulation 2011*. The amendments are of a technical nature and address inadvertent errors and clarify policy intent.

The work health and safety regulation forms part of a system of nationally harmonised work health and safety laws.

The importance of harmonisation of work safety legislation has long been recognised as a critical area of regulatory reform, with the objective of protecting the safety of workers, improving safety outcomes, reducing compliance costs for business and improving the efficiency of health and safety regulators.

In July 2008, the Territory, with the Commonwealth and each of the States and Territories signed the *Inter-Governmental Agreement for Regulatory and Operational Reform in OHS* (the IGA), committing to implement model laws by December 2011. The model laws comprise of a model Work Health and Safety Act, supported by model Regulation and model Codes of Practice.

The ACT implemented the *Work Health and Safety Act 2011* and the *Work Health and Safety Regulation 2011* as of 1 January 2012.

Notes on provisions

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

- representation and participation (Chapter 2);
- general risk and workplace management (Chapter 3);
- hazardous work involving noise, hazardous manual tasks, confined spaces, falls, work requiring a high risk work licence, demolition work, electrical safety and energised electrical work and diving work (Chapter 4);
- plant and structures (Chapter 5);
- construction work (Chapter 6);
- asbestos (Chapter 8); and
- general (Chapter 11).

OUTLINE

Clause 1 - Name of Regulation

This clause provides the title of the regulation amendments - *Work Health and Safety Amendment Regulation 2016 (No 1)*.

Clause 2 - Commencement

This clause provides the commencement date. This amendment regulation commences the day after notification.

Clause 3 - Legislation amended

This clause provides that the regulation amended is the *Work Health and Safety Regulation 2011*.

Clause 4 - Section 21 (1) Training for health and safety representatives

This clause inserts the words 'up to' to allow a health and safety representative to attend an initial health and safety representative course for up to five days and up to one day for refresher training each year.

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

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

Clause 6 - Section 96 Notice of change of address

This clause provides that notifications are no longer required to be in writing. The requirement to give notice within a required timeframe will now be read as 'must notify'.

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

Clause 7 - Section 98 (1) Replacement licence document

This clause provides that notifications are no longer required to be in writing. The requirement to give notice within a required timeframe will now be read as 'must notify'.

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

Clause 8 - Section 288 (1) Replacement registration document

This clause provides that notifications are no longer required to be in writing. The requirement to give notice within a required timeframe will now be read as ‘must notify’.

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

Clause 9 - Section 466 (4) (ca) Regulator must be notified of asbestos removal

This clause corrects references to the removal of asbestos to include asbestos removal as opposed to just a Class A licence.

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

Clause 10 - Part 8.8 Asbestos removal requiring Class A asbestos removal licence

This clause substitutes a new heading to include asbestos removal when identifying a licence class.

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.

Clause 11 - Section 475 Air monitoring—asbestos removal requiring Class A asbestos removal licence

This clause substitutes new heading to include asbestos removal when identifying a licence class.

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)).

Clause 12 - Section 513 (1) Replacement licence document

This clause provides that notifications are no longer required to be in writing. The requirement to give notice within a required timeframe will now be read as ‘must notify’.

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

Clause 13 - Schedule 3, Crane and hoist operation - table 3.1, item 20

This clause substitutes item 20 in this table to include the use of a personnel and materials hoist, and use of materials hoist.

Schedule 3 sets out the high risk work licences and the classes of high risk work that are within the scope of each licence.

Clause 14 - Schedule 3, Crane and hoist operation - table 3.1, item 28, columns 2 and 3

This clause substitutes item 28 in this table from the name turbine to steam turbine.

Schedule 3 sets out the high risk work licences and the classes of high risk work that are within the scope of each licence.

Clause 15 Schedule 4, High risk work licences—competency requirements - table 4.1, item 22

This clause substitutes item 22 in this table to a licence to operate a concrete placing boom.

Schedule 4 sets out the qualifications required for a high risk work licence. Item 22, column 3 describes the licence to conduct concrete boom delivery operations.

Clause 16 Schedule 4, High risk work licences—competency requirements - table 4.1, item 28

This clause substitutes item 28 description and licence requirements from turbine to steam turbine in both columns.

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

Clause 17 Schedule 5, Registration of plant and plant design - subsection 5.1.4

This clause substitutes lifts, including escalators and moving walkways by removing the word 'including'.

Schedule 5 lists the items of plant requiring registration of design under section 243. It also lists the items of plant that are required to be registered under section 246.

Clause 18 Schedule 5, Registration of plant and plant design - subsection 5.1.8

This clause removes the word 'covered' and substitutes the word 'classified' to reflect the correct terminology and content across legislation.

Schedule 5 lists the items of plant requiring registration of design under section 243. It also lists the items of plant that are required to be registered under section 246.

Clause 19 Schedule 5, Registration of plant and plant design - subsection 5.3.4

This clause substitutes lifts, including escalators and moving walkways by removing the word 'including'.

Schedule 5 lists the items of plant requiring registration of design under section 243. It also lists the items of plant that are required to be registered under section 246.

Clause 20 Schedule 5, Registration of plant and plant design - subsection 5.3.6

This clause removes the word 'covered' and substitutes the word 'classified' to reflect the correct terminology and content across legislation.

Schedule 5 lists the items of plant requiring registration of design under section 243. It also lists the items of plant that are required to be registered under section 246.

Clause 21 Dictionary, definition of *concrete placing boom*

This clause substitutes the current definition that reflects the boom type name as a 'knuckle boom' to an 'articulating boom'.

An articulating boom is a more common term used to describe the boom type. An articulating boom is sometimes referred to as a 'knuckle boom' or 'up and over boom'.

Clause 22 Dictionary, definition of *lift*, paragraph (b) (i)

This clause removes an escalator and moving walkway from the definition of a lift.

Clause 23 Dictionary, definition of *pressure piping*, paragraph (a)

This clause removes the word 'liquid' and replaces it with the word 'fluid' to define pressure piping.

Clause 24 Dictionary, new definition of *steam turbine*

This clause amends the defined term of a '*turbine*' to a '*steam turbine*'. The definition itself does not change.

Clause 25 Dictionary, definition of *tower crane*, paragraph (b) (i)

This clause amends this subsection to define 'jib crane' to mean that it may be a horizontal or luffing jib type.

Clause 26 Dictionary, definition of *turbine*

This clause removes the definition of turbine as it is replaced by steam turbine.