

Australian Capital Territory

Work Health and Safety Amendment Regulation 2021 (No 1)

Subordinate law SL2021–1

made under the

Work Health and Safety Act 2011, section 276 (Regulation-making powers)

EXPLANATORY STATEMENT

PURPOSE AND OUTLINE

The purpose of this amending Regulation is to correct two minor and technical errors in the *Work Health and Safety Amendment Regulation 2020 (No. 1)* relating to the establishment of the licensee register for the publishing of infringement notice information in accordance with guidelines issued under new section 698A as amended by the *Work Health and Safety Amendment Regulation 2020 (No. 1)*.

These corrections would:

- include reference to an “asbestos removalist licence” under section 698A(1) of the *Work Health and Safety Regulation 2011* as amended by the *Work Health and Safety Amendment Regulation 2020 (No. 1)*; and
- include licence number and type on the licence register.

This corrects a technical error by including an asbestos removalist licence in section 698A (1), consistent with the intention of the register applying to all licenses issued under part 8.10 of the WHS Regulation on which the new condition for publication of infringement notice information would apply.

The inclusion of licence type is consistent with the implied inclusion of this information in establishing a licence register covering various licence types and is simply being expressly provided for. The inclusion of licence number on the licence register created under section 698A of the WHS Regulation as amended by the *Work Health and Safety Amendment Regulation 2020 (No. 1)* is a technical correction consistent with the right to privacy discussed in the Explanatory Statement for the *Work Health and Safety Amendment Regulation 2020 (No. 1)*. Specifically, a licence number is also considered to be business information of the licensee, would not disclose personal information where a licence holder is an individual and is a reasonable inclusion to achieve the objective of ensuring worker and public health and safety from work activities.

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CLAUSE NOTES

Clause 1 Name of Regulation

This clause provides that the name of the regulation is the *Work Health and Safety Amendment Regulation 2021 (No 1)*.

Clause 2 Commencement

This clause provides for the commencement of this regulation on commencement of section 29 of the *Work Health and Safety Amendment Regulation 2020 (No 1)*, which relates to establishing a new licence register.

Clause 3 Legislation amended

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

Clause 4 New section 698A (1) (ba)

This clause inserts reference to an asbestos removal licence under section 698A of the WHS Regulation as amended by the *Work Health and Safety Amendment Regulation 2020 (No. 1)*.

Clause 5 Section 698A (2) (a) to (c)

This clause amends section 698A of the WHS Regulation as amended by the *Work Health and Safety Amendment Regulation 2020 (No. 1)* to include the licensee's licence number and type on the licence register.

The wording in section 698A (2)(a) to (c) has been amended by this clause as a consequence of adding licence type and number, acknowledging that not all licence holders may operate a business in relation to the licence. Where a business is operated by a licensee, the provision will ensure that information about an unrelated business of the individual licence holder is not published. For example, where a high risk tower crane licensee also operates a coffee shop business, information about the coffee shop business would not be included on a WHS licence register.