



Australian Capital Territory

Occupational Health and Safety (General) Regulation 2007

Subordinate Law SL2007-36

The Australian Capital Territory Executive makes the following regulation under the *Occupational Health and Safety Act 1989*.

Dated 21 November 2007.

ANDREW BARR
Minister

JOHN HARGREAVES
Minister



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Chapter 1 Preliminary

1 Name of regulation

This regulation is the *Occupational Health and Safety (General) Regulation 2007*.

2 Commencement

This regulation commences on the later of—

- (a) 6 months after its notification day; or
- (b) the commencement of the *Occupational Health and Safety (Regulatory Services) Legislation Amendment Act 2007*.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*dangerous substance*—see the *Dangerous Substances Act 2004*, section 10.' means that the term 'dangerous substance' is defined in that section and the term applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Chapter 2 Important concepts

6 Satisfying requirement to ensure something generally

- (1) This section applies if a provision of this regulation (other than a provision in chapter 3) requires a person to ensure that something is or is not done in relation to a workplace.

Note The Act requires people to ensure things, but this provision does not apply to the use of ensure in the Act.

- (2) The requirement is satisfied if the person takes all reasonably practicable steps—
- (a) to eliminate the risks that might result if the requirement were not met; or
 - (b) if it is not reasonably practicable to eliminate the risks—to minimise the risks.

Note For the meaning of *reasonably practicable steps*, see s 8. For minimising risk, see s 9.

- (3) Subsection (2) does not limit the ways in which the requirement may be satisfied.

Note *Risk* is defined in the Act, dictionary.

7 Meaning of *in control of workplace*

- (1) For this regulation, a person is *in control of* a workplace if, and to the extent that, the person has control of—
- (a) the workplace; or
 - (b) a means of entry to, or exit from, the workplace; or

- (c) plant or a substance at the workplace.

Examples

- 1 employer
- 2 site supervisor
- 3 building owner
- 4 plant owner

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) To remove any doubt, more than 1 person may be in control of a workplace under this regulation.

8 Meaning of *reasonably practicable steps*

- (1) For this regulation, each of the following must be considered to work out what are *reasonably practicable steps* to eliminate or minimise a risk:
 - (a) the seriousness of the risk;
 - (b) the current state of knowledge about—
 - (i) the hazard giving rise to the risk and the risk itself; and
 - (ii) ways of eliminating or minimising the risk;
 - (c) the availability and suitability of ways to eliminate or minimise the risk;
 - (d) the cost of eliminating or minimising the risk.

(2) In this section:

cost includes burdens and disadvantages.

Examples

- 1 time spent
- 2 inconvenience

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

9 Minimising risks

For this regulation, if someone is required to minimise a risk, the person must do each of the following that is available, in the following order, until the risk is reduced as far as reasonably practicable:

- (a) substitute the thing giving rise to the risk with something that gives rise to a lesser risk;
- (b) isolate the thing giving rise to the risk from anyone put at risk;
- (c) minimise the risk by engineering means;
- (d) minimise the risk by administrative means;
- (e) use personal protective and safety equipment.

Examples—par (d)

- 1 using safe working practices
- 2 providing training, instruction or information

Note 1 Someone may be required to minimise a risk if elimination of the risk is not reasonably practicable (see s 6 (2)).

Note 2 An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Chapter 3 Workplace requirements

Part 3.1 Important concept—ch 3

10 Satisfying requirement to ensure something—ch 3

- (1) This section applies if a provision of this chapter requires a person to ensure that something is done or is not done in relation to a workplace.

Note The Act requires people to ensure things, but this provision does not apply to the use of ensure in the Act.

- (2) The requirement is satisfied if the person takes all reasonably practicable steps to have the thing done or not done.
- (3) Subsection (2) does not limit the ways in which the requirement may be satisfied.

Part 3.2 Facilities

Division 3.2.1 Amenities

11 Employer to provide amenities

- (1) An employer must ensure that appropriate amenities are provided for employees while they are at the workplace.
- (2) What is appropriate must be decided having regard to the circumstances, including—
 - (a) the nature of the work undertaken at the workplace; and
 - (b) the size, nature and location of the workplace; and
 - (c) the number of men and women at the workplace.

Example

It may be appropriate to provide a bus driver with a place to store personal items while driving the bus, but it may not be appropriate to provide a toilet on the bus. Appropriate toilets would need to be provided at depots and interchanges.

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) In this section:

amenities means facilities for the welfare or personal hygiene needs of people.

Examples

- 1 toilets
- 2 seating
- 3 meal rooms
- 4 change rooms

- 5 drinking water
- 6 lockers for personal belongings
- 7 showers or washing facilities

12 Amenities and accommodation to be safe and hygienic

A person in control of a workplace must ensure that amenities provided under section 11, and any other accommodation for the welfare of employees because of the circumstances of their work, are kept safe and clean.

13 Facilities for personal belongings

An employer must provide employees with reasonable access to facilities for keeping clothes and personal belongings while at work.

14 Facilities for changing clothes

- (1) This section applies if—
 - (a) an employee needs to change clothes before, during or after work because of the nature of the work or the usual working conditions; and
 - (b) the work is usually performed at the same place; and
 - (c) the workplace is in or near a building where a changing facility can be provided.
- (2) The employer must provide separate changing facilities for men and women at or near the workplace.
- (3) However, the employer may provide a single changing facility at or near the workplace if the employer ensures privacy and security between male and female employees.

- (4) A changing facility must—
 - (a) have enough space and seating for the maximum number of people who may be changing at a particular time; and
 - (b) have a reasonable number of mirrors and shelves; and
 - (c) be hygienic; and
 - (d) give reasonable privacy.
- (5) This section is subject to section 17 (Combined facilities).

15 Facilities for changing clothes—temporary workplaces

- (1) This section applies if—
 - (a) an employee needs to change clothes before, during or after work because of the nature of the work or the usual working conditions; and
 - (b) either—
 - (i) the work is not usually performed at the same place; or
 - (ii) the workplace is not in or near a building where a changing facility can be provided.
- (2) The employer must provide separate changing facilities for men and women.
- (3) However, the employer may provide a single changing facility if the employer ensures privacy and security between male and female employees.

- (4) A changing facility must—
 - (a) be accessible from the workplace; and
 - (b) be hygienic; and
 - (c) give reasonable privacy.
- (5) This section is subject to section 17 (Combined facilities).

16 Meal facilities

- (1) This section applies if it is reasonable for meal facilities to be provided for employees because of the nature of the work or the usual working conditions.
- (2) The employer must provide employees with access to reasonable meal facilities.
- (3) The meal facilities must—
 - (a) be accessible from the workplace; and
 - (b) be hygienic; and
 - (c) be protected from the weather.
- (4) This section is subject to section 17.

17 Combined facilities

- (1) This section applies to workplaces with 15 or fewer employees.
- (2) The employer may combine 2 or more required facilities at the workplace.
- (3) Subsection (2) does not apply if—
 - (a) the combined facility is to include a facility required under section 16; and

(b) the health or welfare of anyone eating in the facility will be adversely affected because the facilities are combined.

(4) In this section:

required facility means a facility required under any of the following:

- (a) section 13 (Facilities for personal belongings);
- (b) section 14 (Facilities for changing clothes);
- (c) section 15 (Facilities for changing clothes—temporary workplaces);
- (d) section 16 (Meal facilities).

18 Toilet facilities

- (1) An employer must ensure that employees have reasonable access to toilet facilities.
- (2) The employer must provide employees with adequate and hygienic means for the disposal of sanitary items.
- (3) The toilet facilities must be—
 - (a) accessible from the workplace; and
 - (b) hygienic; and
 - (c) protected from the weather; and
 - (d) kept in a clean and hygienic working condition.
- (4) The employer must provide separate toilets for men and women.
- (5) However, the employer need not provide separate toilets if the employer ensures privacy and security between male and female employees.

- (6) This section does not apply to an employer in relation to a temporary workplace if—
- (a) not more than 5 people are working at the workplace; and
 - (b) premises with a clean and hygienic toilet are reasonably accessible to the workplace; and
 - (c) the owner of the premises gives permission for employees to use the toilet.

19 Washing facilities

- (1) An employer must ensure that employees have reasonable access to washing facilities.
- (2) The employer must ensure that—
- (a) each washing facility has running water; or
 - (b) if it is not reasonably practicable for a facility to have running water—employees have access to clean water near the facility.
- (3) In this section:
- washing facility* means a facility set aside for use to wash and dry the hands, arms, neck and face.

20 Shower facilities

- (1) This section applies if an employee needs to shower before, during or after work because of the nature of the work or the usual working conditions.
- (2) The employer must ensure that employees have reasonable access to shower facilities.
- (3) The employer must ensure privacy and security between male and female employees using shower facilities.

21 Drinking water

- (1) An employer commits an offence if drinking water is not provided for employees at the workplace.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

22 Seating

- (1) An employer must provide seating for an employee at the workplace if it is reasonable for the employee to work while seated.

- (2) An employer must make seating available for an employee to use from time to time at the workplace if it is reasonable for the employee to perform some tasks while seated.

- (3) Seating provided under this section must—

- (a) be ergonomically sound; and
- (b) provide suitable support; and
- (c) be appropriate for the type of work.

- (4) What is reasonable for subsection (1) or (2) must be decided having regard to the nature of the work undertaken by the employee.

23 Working space

An employer must ensure that sufficient working space is provided to allow employees to work safely.

Note For specific requirements for confined spaces, see div 3.3.8.

Division 3.2.2 First aid and sickness

24 First aid

- (1) An employer must provide appropriate first aid equipment at the employer's workplace so that each person at the workplace has reasonable access to the equipment.

Example

a first aid kit

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) An employer must ensure that an appropriate number of people trained in first aid are available to give first aid at the employer's workplace.
- (3) What is appropriate for subsection (1) or (2) must be decided having regard to—
- (a) the nature of the work undertaken at the workplace; and
 - (b) the size and location of the workplace; and
 - (c) the number of employees at the workplace.
- (4) In this section:
- first aid* means the immediate treatment or care of a person who is injured or who becomes sick.

25 Arrangements for sick employees

If a first aid room or health centre is not provided at a workplace, an employer must make appropriate arrangements to ensure the wellbeing of an employee who is injured, or becomes sick, at work.

Example

arrangements for transporting an employee home or to a health facility

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 3.3 Particular safety measures

Division 3.3.1 Entry and exit

26 Entry to and exit from workplaces

A person in control of a workplace must ensure that anyone coming into or leaving the workplace is able to—

- (a) enter, exit and move safely about the workplace; and
- (b) leave the workplace in an emergency.

27 Movement within workplaces

- (1) A person in control of a workplace must ensure that anyone allowed at the workplace has safe access to—

- (a) each place at the workplace where the person is allowed; and
- (b) any amenities at the workplace where the person is allowed.

- (2) A person in control of a workplace commits an offence if a passage or emergency exit at the workplace contains anything that could hinder or prevent the safe and quick exit of anyone in an emergency.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

Division 3.3.2 Personal protective and safety equipment

28 Employer to provide personal protective and safety equipment

- (1) If measures taken by an employer to minimise a risk include the use of personal protective and safety equipment, the employer must provide each person at risk with personal protective and safety equipment and ensure that—
 - (a) the equipment provided is appropriate for the person and minimises the risk for the person; and
 - (b) the person is told of any limitation of the equipment; and
 - (c) the person is given the instruction and training necessary to ensure that the equipment minimises the risk for the person; and
 - (d) the equipment is properly maintained and repaired or replaced as frequently as is necessary to minimise the risk for the person; and
 - (e) the equipment is kept in a clean and hygienic condition.

Note See also any relevant Australian Standards relating to the provision and use of personal protective and safety equipment.

- (2) An employer commits an offence if personal protective and safety equipment used to minimise risk at a workplace is not stored in an accessible place at the workplace.

Maximum penalty: 10 penalty units.

- (3) An employer commits an offence if—
 - (a) there are areas in the workplace where personal protective and safety equipment must be used; and

(b) the areas are not clearly identified.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

29 Responsibilities of users of personal protective and safety equipment

(1) This section applies if an employee has been provided with personal protective and safety equipment for use at a workplace.

(2) The employee must use personal protective and safety equipment in accordance with the instructions given under section 28 (1) (c).

(3) The employee must not misuse or damage the equipment.

(4) If the employee becomes aware of damage to, a defect in, or a need to clean or sterilise, the equipment, the employee must tell the employer as soon as possible.

30 Certain personal protective and safety equipment to be provided

(1) This section is in addition to any other requirement for measures to be taken by an employer to minimise a risk.

(2) A person in control of a workplace must ensure that appropriate personal protective and safety equipment is provided to anyone at the workplace if—

(a) it is reasonably foreseeable that the person could, while at the workplace—

(i) be struck by an object or other material capable of causing injury; or

(ii) be injured by coming into contact with a sharp object; or

- (iii) be subject to a risk to health or safety because of exposure to a substance, agent, contaminant, radiation or extreme of temperature; or
- (iv) be exposed to a risk of injury to eyesight or to hearing capacity; or
- (b) the person should be highly visible because of the nature of the workplace.

Examples—par (b)

- 1 poor lighting conditions
- 2 the proximity of the work to vehicles or other mobile plant

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) If the use of equipment may affect a person's ability to communicate with other people, appropriate steps must be taken to ensure that this does not create a risk to the health or safety of the person or anyone else.

31 Air supplied respiratory equipment

- (1) This section applies if air supplied respiratory equipment is used, or provided for use, at a workplace.
- (2) An employer commits an offence if air supplied respiratory equipment supplies air—
 - (a) at less than 170L/min; and
 - (b) that contains less than 19.5% or more than 22% oxygen.

Maximum penalty: 10 penalty units.

- (3) An employer must ensure that air supplied to a person using air supplied respiratory equipment passes through—
- (a) an efficient purifying device that ensures that—
 - (i) the air does not have an objectionable or nauseous odour; and
 - (ii) if measured at 15°C and 100kPa, the air would contain not more than 11mg/m³ of carbon monoxide, not more than 900mg/m³ of carbon dioxide and not more than 1mg/m³ of oil; and
 - (b) an efficient conditioner that ensures that—
 - (i) the air is supplied at a temperature not colder than 15°C and not warmer than 25°C; and
 - (ii) the humidity is not less than 20% and not more than 85%; and
 - (c) an efficient condensate trap that is fitted with a drain cock to remove any condensed liquid; and
 - (d) an efficient ring circuit or controlled leak-off system that eliminates stale air.
- (4) The equipment must—
- (a) be kept in efficient working order; and
 - (b) be kept in a place where it cannot be contaminated; and
 - (c) be maintained in a way that ensures that the air supply does not overheat; and
 - (d) incorporate fittings that cannot be connected to any other compressed air equipment at the workplace.

- (5) An employer commits an offence if air supplied respiratory equipment—
- (a) does not include an automatic warning device; and
 - (b) is used in circumstances in which—
 - (i) inadequate air supply might represent an immediate hazard to the user of the equipment; and
 - (ii) an auxiliary air supply is not provided.

Maximum penalty: 10 penalty units.

- (6) An offence against this section is a strict liability offence.

Division 3.3.3 Prevention of falls

32 Meaning of *anchorage*—div 3.3.3

In this division:

anchorage means a secure point for attaching a safety line or other component of a travel restraint system or fall arrest system.

33 Protection against falls

- (1) This section applies if—
- (a) because of the nature of the work, an employee must work in a place from which the employee could fall; and

- (b) if the employee fell—it is likely that the employee would be injured.

Examples of places—par (a)

- 1 an elevated workplace
- 2 near an opening

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The employer must provide reasonable protection against the employee falling from the place.
- (3) Without limiting subsection (2), the employer must—
- (a) provide a safe means of entry to and exit from the place; and
 - (b) as far as reasonably practicable, provide a protective barrier for the place; and
 - (c) if it is not reasonably practicable to provide a protective barrier—provide and maintain a safe system of work for the place.

Examples—par (b)

- 1 a fence
- 2 a guard rail
- 3 safety mesh
- 4 a cover for an opening

- (4) In addition to subsection (3), if the employee is carrying out maintenance work on a structure, the employer must ensure that the employee uses—
- (a) a properly installed building maintenance unit; or
 - (b) scaffolding or a working platform; or

- (c) if it is not reasonably practicable to use a building maintenance unit, scaffolding or a working platform—a safety harness attached to a safety line attached to an anchorage that is appropriate taking into account the situation of the work and the construction of the structure.
- (5) In providing and maintaining a safe system of work for subsection (3) (c), the employer must consider the following:
- (a) providing training in relation to risks associated with working in the place;
 - (b) providing supervision or assistance for people working in the place;
 - (c) whether it is practicable to use a fall-arresting device;
 - (d) if a safe working platform cannot reasonably be provided—whether it is practicable to use a safety harness or pole safety static-line system.
- (6) In this section:
- building maintenance unit*** means a power-operated suspended platform and related equipment that is—
- (a) designed to provide access to a face of a building for maintenance purposes; and
 - (b) permanently installed on the building.

34 Use of safety harness, safety line and anchorage

- (1) This section applies if a safety harness, a safety line or anchorage is used, or provided for use, at a workplace.

Note For maintenance work on a structure, a safety harness, safety line or anchorage may be used only if it is not reasonably practicable to provide a building maintenance unit, scaffolding or a working platform (see s 33 (4) (c)).

- (2) The employer must ensure that the safety harness, safety line or anchorage is—
 - (a) regularly inspected; and
 - (b) kept in efficient working order.
- (3) For subsection (2) (b), an anchorage that is permanently fixed to a structure is not kept in efficient working order if it is not inspected at least every 6 months.
- (4) A person must not use the safety harness or safety line unless it is—
 - (a) suitable for the use; and
 - (b) undamaged and effective; and
 - (c) maintained in a suitable condition for the use.
- (5) A person must not use the anchorage if the load-bearing capacity of the anchorage is impaired.
- (6) If the employer becomes aware that the load-bearing capacity of the anchorage may be impaired, the employer must ensure that the anchorage is not used until it is repaired or replaced.

35 Use of ladders

- (1) This section applies if a ladder is used, or provided for use, at a workplace.
- (2) An employer must ensure that the ladder is—
 - (a) of sound construction; and
 - (b) kept in a safe condition.

- (3) A person must not use the ladder in a way that creates a risk to the safety of anyone.

Examples—par (3)

- 1 placing a ladder in a doorway that is being used
- 2 going up or down a ladder without using hands for support

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

36 Use of particular types of ladders

- (1) A person commits an offence if a portable single ladder or extension ladder is used at a workplace in any of the following circumstances:
- (a) the horizontal distance between the ladder's top support point and its foot is more than $\frac{1}{4}$ of its supported length;
 - (b) the ladder is not placed on a firm footing;
 - (c) the ladder is not secured to prevent slipping and sideways movement.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—
- (a) a ladder is used at a workplace to support planks for a working platform; and
 - (b) the ladder is not a trestle ladder.

Maximum penalty: 10 penalty units.

- (3) A person commits an offence if—
- (a) a working platform is supported by trestle ladders at a workplace; and

(b) the working platform is used for work other than light duty work.

Maximum penalty: 10 penalty units.

(4) An offence against this section is a strict liability offence.

(5) In this section:

light duty work means work on a ladder if the total weight on the ladder is less than 2.2kN (224kg), including a single point limit of 1kN (102kg).

Note Australian Standard AS 1892 provides detailed standards for portable ladders and light duty work.

Division 3.3.4 Atmosphere and ventilation

37 Definitions—div 3.3.4

In this division:

inhalable dust means airborne particles of dust that can be taken in through the nose or mouth during breathing.

safe oxygen level means a minimum oxygen content in air of 19.5% by volume under normal atmospheric pressure and a maximum oxygen content in air of 23.5% by volume under normal atmospheric pressure.

safe unclassified inhalable dust level means a level of unclassified inhalable dust of 10mg/m³ (TWA) or less.

TWA or *time-weighted average* means—

(a) for employees working standard hours—the average airborne concentration of a particular substance when calculated over an 8-hour working day for a 5-day working week;

- (b) for employees working non-standard hours—the average airborne concentration of a particular substance taking into account any adjustment needed under the Australian Safety and Compensation Council *Guidance Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment*, NOHSC 3008 (1995) 3rd Edition, part 5A.

unclassified inhalable dust means inhalable dust of a type that is not classified in the national exposure standards.

Note ***National exposure standards***—see the dictionary.

unsafe oxygen level means an oxygen level other than a safe oxygen level.

unsafe unclassified inhalable dust level means a level of unclassified inhalable dust other than a safe unclassified inhalable dust level.

38 Ventilation

A person in control of a workplace must ensure that the workplace is reasonably ventilated.

39 Unsafe oxygen levels—particular measures

A person in control of a workplace must ensure that appropriate risk minimisation measures are taken if atmospheres in the workplace contain unsafe oxygen levels or are reasonably likely to develop unsafe oxygen levels.

40 Unsafe levels of unclassified inhalable dust—particular measures

A person in control of a workplace must ensure that the risk is minimised if atmospheres in the workplace contain, or are reasonably likely to develop, unsafe unclassified inhalable dust levels.

Note 1 For what someone is required to do to minimise risk, see s 9.

Note 2 Classified inhalable dust is a dangerous substance. Dangerous substances are dealt with under the *Dangerous Substances Act 2004*.

41 Unsafe levels of oxygen and unclassified inhalable dust—entry

- (1) This section applies if there is a risk of exposure at a workplace to—
 - (a) unsafe oxygen levels; or
 - (b) unsafe levels of unclassified inhalable dust.
- (2) The person in control of the workplace must ensure that—
 - (a) the place is isolated; and
 - (b) appropriate warning signs are displayed at entry points to the place.

42 Monitoring levels of oxygen and unclassified inhalable dust

- (1) This section applies if there is a risk of exposure at a workplace to—
 - (a) unsafe oxygen levels; or
 - (b) unsafe levels of unclassified inhalable dust.

- (2) A person in control of the workplace must ensure that—
- (a) appropriate monitoring is undertaken at the workplace in accordance with a suitable procedure; and
 - (b) the results of the monitoring are recorded; and
 - (c) the monitoring records are readily accessible to anyone who may be put at risk by an unsafe level of oxygen or unclassified inhalable dust; and
 - (d) safe oxygen levels and unclassified inhalable dust levels are maintained at the workplace.

Division 3.3.5 Heat and cold

43 Air temperature

- (1) The employer must ensure that work practices at the workplace are arranged so that employees are protected from extremes of heat and cold.
- (2) An employer who employs employees at a fixed workplace must ensure that heating and cooling are provided at the workplace to allow employees to work in a comfortable environment.

44 Heat—particular measures

- (1) This section applies if the workplace environment becomes, or could reasonably be expected to become, hot.
- (2) The employer must ensure that—
 - (a) adequate ventilation and air movement is provided; and
 - (b) adequate personal protective and safety equipment is provided to each employee exposed to heat; and

- (c) appropriate work and rest regimes are provided for each employee exposed to heat.

45 Cold—particular measures

- (1) This section applies if the workplace environment becomes, or could reasonably be expected to become, cold.
- (2) The employer must ensure that—
 - (a) employees exposed to cold have adequate access to—
 - (i) heated or sheltered work areas; and
 - (ii) warm clothing or other personal protective and safety equipment; and
 - (b) appropriate work and rest regimes are provided for each employee exposed to cold.

Division 3.3.6 Surfaces and floors

46 Floors—general

A person in control of a fixed workplace must ensure that floors and surfaces at the workplace are constructed and maintained to minimise the risk of slips, trips and falls.

47 Floors that become slippery

- (1) This section applies if a floor at a workplace becomes slippery, whether because of something on the surface of the floor or for any other reason.

- (2) A person in control of the workplace must—
- (a) take all reasonably practicable steps—
 - (i) to warn people of the risk; and
 - (ii) to remove the hazard; and
 - (b) take other appropriate steps to minimise the risk.

Example—par (b)

provide non-slip mats

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

48 Floors—hard surfaces

If an employee must stand for a significant proportion of a work shift in substantially the same position on a floor or work platform that is a hard surface, the employer must provide a covering for the surface that—

- (a) has low thermal conductivity; and
- (b) is designed to give reasonable relief from the hard surface.

Division 3.3.7 Electricity

49 Definitions—div 3.3.7

In this division:

electrical inspector means an inspector appointed under the *Electricity Safety Act 1971*, section 41.

electrical installation—see the *Electricity Safety Act 1971*, dictionary.

50 Electricity—measures for electrical installations

- (1) This section applies to a workplace if there is an electrical installation at the workplace.
- (2) A person in control of the workplace must ensure that—
 - (a) each electrical installation at the workplace is safe; or
 - (b) if an electrical installation at the workplace is not safe—
 - (i) the installation, or unsafe part of the installation, is disconnected from the electricity supply; and
 - (ii) if the installation, or part of the installation, has been found unsafe by an electrical inspector—the installation, or the part of the installation that is unsafe, is danger labelled and secured to prevent inadvertent reconnection.

Examples—electrical installations, and parts of installations, with possible electrical hazards

- 1 streetlight network
- 2 switchboard and related cables
- 3 mechanical services plant room
- 4 socket outlet
- 5 fixed wired electrical equipment

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) A person in control of a workplace commits an offence if—
 - (a) an electrical installation is not suitably enclosed; and
 - (b) someone can make inadvertent contact with parts supplied with electricity.

Maximum penalty: 10 penalty units.

- (4) A person in control of a workplace commits an offence if—
- (a) someone enters an electrical installation that has an electrical hazard; and
 - (b) the person entering the installation is not appropriately trained in safe entry, emergency procedures and the safe use of electrical plant and equipment.

Maximum penalty: 10 penalty units.

- (5) A person in control of a workplace commits an offence if—
- (a) wiring work is undertaken in relation to an electrical installation at the workplace; and
 - (b) the work is finished or left unfinished; and
 - (c) a copy of an installation test report from a licensed electrician certifying the safety and compliance of the wiring work—
 - (i) is not obtained; or
 - (ii) is obtained but not kept for a period of 5 years so that it is readily accessible to anyone undertaking further electrical wiring work in relation to the electrical installation.

Maximum penalty: 10 penalty units.

Note The *Electricity Safety Act 1971*, s 5 requires electrical installation work to be carried out in accordance with AS/NZS 3000:2000 (Electrical installations).

- (6) An offence against this section is a strict liability offence.

- (7) In this section:

licensed electrician means an electrician licenced under the *Construction Occupations (Licensing) Act 2004*.

51 Electricity—measures for articles of electrical equipment

- (1) This section applies if an article of electrical equipment is provided for use at, or in connection with an electrical installation at, a workplace.
- (2) The person in control of the workplace must ensure that—
 - (a) the article of electrical equipment is safe; or
 - (b) if the article of electrical equipment is not safe—
 - (i) the article is disconnected from the electricity supply; and
 - (ii) if found unsafe by an electrical inspector—the article, or the part of the article that is unsafe, is danger labelled and secured to prevent inadvertent reconnection.

Note See also the *Electricity Safety Act 1971*, s 26 and s 51.

- (3) In this section:

article of electrical equipment—see the *Electricity Safety Act 1971*, dictionary.

52 Electricity—measures for preventing contact

- (1) A person in control of a workplace must ensure that a person working in, or undertaking maintenance at, the workplace is prevented from making inadvertent contact with a live, conductive part of an electrical installation.
- (2) A person in control of a workplace must ensure that a person working in, or undertaking maintenance at, the workplace is prevented from going within an unsafe distance of overhead or underground electrical power lines or exposed cables.

- (3) Subsection (1) and subsection (2) do not apply in relation to a person undertaking electrical work if the person is licensed under the *Construction Occupations (Licensing) Act 2004* to undertake the work.
- (4) Subsection (2) does not apply if—
- (a) a written risk assessment is given to the electricity network operator; and
 - (b) the electricity network operator is satisfied—
 - (i) with the content of the risk assessment; and
 - (ii) that work to be done in accordance with the risk assessment will be safe.

- (5) In this section:

electricity distributor—see the *Utilities Act 2000*, dictionary.

electricity network operator means the person responsible for network operations for the relevant electricity distributor.

relevant electricity distributor, in relation to electrical power lines or exposed cables, means the electricity distributor of whose network the power lines or cables are a part.

Division 3.3.8 Confined spaces

53 Definitions—div 3.3.8

In this division:

atmospheric contaminant means—

- (a) a dangerous substance in the form of a fume, mist, gas, dust or vapour; or

- (b) an asphyxiant; or
- (c) nuisance dust.

confined space, for a workplace, means an enclosed, or partly enclosed, space in the workplace that—

- (a) is not designed as, or intended to be, a workplace; and
- (b) is at atmospheric pressure while people are in it; and
- (c) may have—
 - (i) an atmosphere with potentially harmful contaminants; or
 - (ii) an unsafe oxygen level; or
 - (iii) stored substances that may cause engulfment; and
- (d) may have restricted entry and exit.

Examples

- 1 storage tanks, tank cars, process vessels, boilers, pressure vessels, silos and other tank-like compartments
- 2 pits, degreasers and other open-topped spaces
- 3 pipes, sewers, shafts, ducts and similar structures

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

entry permit—see section 60.

safe oxygen level—see section 37.

unsafe oxygen level—see section 37.

54 Design etc—confined spaces

- (1) A person who designs, manufactures or supplies a confined space must ensure that—
 - (a) the space is designed so that there is ordinarily no need for anyone to enter it; and
 - (b) if entry is needed—the space has a safe means of entry and exit.
- (2) A person who modifies a confined space must ensure that the modification does not adversely affect the safe means of entry and exit.

55 Hazard identification and risk assessment—confined spaces

- (1) An employer must identify any confined space at the workplace and any reasonably foreseeable hazard associated with working in the space.
- (2) The employer must ensure that a risk assessment is undertaken by a suitably qualified person before any work involving entering a confined space is started for the first time.
- (3) The risk assessment must include at least an assessment of—
 - (a) the nature of the space and the work to be done; and
 - (b) whether work can be done without entering the space; and
 - (c) different ways that the work can be done; and
 - (d) the risks associated with the method of work, the plant to be used and any potential hazard in the space.

- (4) The employer must ensure that the risk assessment is reviewed if there is evidence that the risk assessment does not address, or no longer addresses, the risks posed by the confined space.

Examples

- 1 the confined space is modified
- 2 there is an injury associated with work in the confined space

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) In this section:

suitably qualified person, for a risk assessment, means someone who is suitably qualified by experience or training to carry out the risk assessment.

56 Entry to and work in confined spaces

- (1) A person in control of a workplace must ensure that no-one enters a confined space at the workplace, and that work is not performed in a confined space, if there is an uncontrolled risk—
- (a) to the health or safety of someone entering, occupying or working in the confined space; or
 - (b) of fire or explosion.
- (2) Without limiting subsection (1), a person in control of the workplace must ensure that, before anyone enters a confined space—
- (a) the space contains a safe oxygen level; and
 - (b) any atmospheric contaminant in the space is reduced to below the exposure standard under the national exposure standards for the contaminant; and

Note *National exposure standards*—see the dictionary.

- (c) the concentration of any flammable contaminant in the atmosphere of the space is below 5% of its LEL; and
 - (d) the space is not extremely hot or extremely cold; and
 - (e) steps are taken to minimise any risk associated with the presence of vermin in the space.
- (3) If the concentration of any flammable contaminant in the atmosphere of the confined space is 10% or more of its LEL, the person in control of the workplace must ensure that no-one enters or stays in the space.
- (4) In this section:
- LEL*, or *lower explosive limit*, of a flammable contaminant means the concentration of the contaminant in air below which the propagation of a flame does not occur on contact with an ignition source.

57 Isolation and control of potentially hazardous services—particular measures

- (1) This section applies if a service (the *potentially hazardous service*) that may present a hazard in a confined space is normally connected to a confined space.

Examples—potentially hazardous service

- 1 a gas supply line
- 2 electrical wiring or cabling

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) A person in control of a workplace must ensure that no-one enters a confined space unless the potentially hazardous service is isolated or controlled in a way that prevents—
- (a) the introduction of any material, contaminant, agent, or the creation of a condition, that may be harmful to someone in the confined space; or
 - (b) the activation or energising in any way of equipment or services that may pose a risk to the health or safety of someone in the confined space.

58 Particular measures for clearing before entry

- (1) This section applies if a confined space must be cleared of contaminants to comply with section 56 (Entry to and work in confined spaces).
- (2) A person in control of a workplace must ensure that, if appropriate, the confined space is cleared of all contaminants by using a suitable purging agent that displaces contaminants from the confined space.
- (3) A person in control of a workplace must ensure that pure oxygen or a gas mixture in a concentration of more than 21% of oxygen by volume is not used to purge or ventilate the confined space.

59 Unsafe level of oxygen and atmospheric contaminants

- (1) This section applies if—
- (a) a safe oxygen level cannot be provided in a confined space at a workplace; or
 - (b) an atmospheric contaminant in a confined space at a workplace cannot be reduced to below the exposure standard under the national exposure standards.

- (2) A person in control of the workplace commits an offence if—
- (a) someone enters the confined space; and
 - (b) the person entering is not equipped with suitable personal protective and safety equipment including air supplied respiratory protective equipment.

Maximum penalty: 10 penalty units.

Note For requirements if an employer provides air supplied respiratory equipment for use at a workplace, see s 31.

- (3) An offence against this section is a strict liability offence.

60 Entry permits—particular measures

- (1) A person in control of a workplace must give a written permit (an *entry permit*) to the person in direct control of work to be done in a confined space at the workplace.
- (2) An entry permit must—
- (a) identify the confined space; and
 - (b) clearly describe the work to be carried out in the confined space; and
 - (c) set out risk minimisation measures to be taken; and
 - (d) state the name of each person who may enter or work in the confined space; and
 - (e) state the date and time when each person may enter or be in the confined space to carry out the work.
- (3) A person in control of a workplace must ensure that each person who is to do the work is told about, and understands, the entry permit.

- (4) A person in control of a workplace commits an offence if—
- (a) someone enters or works in a confined space at the workplace; and
 - (b) the entry or work does not comply with an entry permit under this section.

Maximum penalty: 10 penalty units.

- (5) A person in control of a workplace commits an offence if—
- (a) a confined space at the workplace is returned to normal use; and
 - (b) the person in control does not have written confirmation from the person in direct control of the work, that—
 - (i) the work in the confined space has been completed; and
 - (ii) each person involved in the work has left the confined space.

Maximum penalty: 10 penalty units.

- (6) An offence against this section is a strict liability offence.

61 Standby people—particular measures

- (1) This section applies if—
- (a) there is a confined space at a workplace; and
 - (b) someone is in the confined space.
- (2) An employer must appoint 1 or more people as standby people for the workplace.
- (3) An employer commits an offence if—
- (a) the employer appoints a person as a standby person under subsection (2); and

- (b) the person appointed—
 - (i) has not undertaken training in accordance with section 65; and
 - (ii) cannot operate the monitoring equipment used to ensure safety during entry to, and work in, the confined space; and
 - (iii) cannot initiate emergency procedures (including rescue procedures).

Maximum penalty: 10 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) An employer must ensure that a standby person—
 - (a) remains outside and near the confined space while anyone is in the confined space; and
 - (b) is able to communicate continuously with anyone in the confined space; and
 - (c) if practicable, is able to see anyone in the confined space.

62 Emergencies—particular measures

- (1) A person in control of a workplace must, when someone is in a confined space at the workplace, ensure that appropriate emergency equipment is provided.

Examples

- 1 rescue equipment
- 2 first aid equipment
- 3 fire suppression equipment

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The person in control of the workplace must ensure that emergency procedures are established and rehearsed in relation to people in a confined space.
- (3) The person in control of the workplace must ensure that—
 - (a) the openings for entry to and exit from a confined space are large enough to allow the rescue of anyone in the space; and
 - (b) the openings are not obstructed by anything that could impede the rescue or, if this is not possible, that another suitable means of rescue is provided.

Example—things that could impede rescue
equipment or fittings that cannot be located elsewhere

63 Entry protection—particular measures

A person in control of a workplace must ensure that appropriate signs are displayed and protective barriers are erected to prevent the entry to a confined space of anyone who does not have an entry permit for the place.

64 Atmospheric testing and monitoring—particular measures

A person in control of a workplace must ensure that appropriate atmospheric testing and monitoring is carried out in a confined space at the workplace if the confined space—

- (a) is or may be contaminated with an atmospheric contaminant;
or
- (b) is or may be contaminated with a flammable contaminant; or
- (c) has or may have an unsafe oxygen level.

65 Training about confined spaces

- (1) An employer must provide training relating to entering and working in confined spaces to anyone who is —
 - (a) required to work in a confined space at the workplace; and
 - (b) to be appointed as a standby person for the workplace.
- (2) An employer may also provide the training to—
 - (a) anyone who does 1 or more of the following:
 - (i) assesses the safety of confined spaces;
 - (ii) issues entry permits for confined spaces;
 - (iii) designs and fixes the layout of workplaces;
 - (iv) supervises people working in or near confined spaces;
 - (v) maintains equipment used in confined spaces;
 - (vi) purchases, distributes, fits, wears or maintains personal protective and safety equipment used for work in confined spaces; and
 - (b) anyone who could be involved in rescue and first aid procedures involving a confined space.
- (3) The training mentioned in subsection (1) and subsection (2) must include instruction in the following:
 - (a) the hazards of confined spaces;
 - (b) risk assessment procedures;
 - (c) risk minimisation measures;
 - (d) emergency procedures;
 - (e) selection, use, fitting and maintenance of safety equipment.

- (4) An employer commits an offence if the employer fails to make a written record of—
- (a) the training given under this section; and
 - (b) the people to whom the training is given.

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.

- (6) In this section:

standby person means a person appointed as a standby person under section 61.

66 Record keeping

- (1) An employer at a workplace must keep—
- (a) entry permits for a confined space at the workplace for 1 month after the day the space is returned to normal use; and
 - (b) risk assessment reports for work in a confined space at the workplace for 5 years after the last entry in the report; and
 - (c) a record of training relating to work in a confined space at the workplace while the person to whom the training has been given is employed.

Note For reporting and records in relation to injuries and dangerous occurrences, see ch 5.

- (2) An employer commits an offence if—
- (a) an inspector requests access to a record made under subsection (1) in relation to a workplace; and

(b) the employer does not give access to the record.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) If a record made under subsection (1) contains information personal to an employee, the employer must give the employee access to the record on request.

Division 3.3.9 Lighting

67 Employer to provide lighting

- (1) An employer must provide adequate and appropriate lighting at a workplace.
- (2) What is adequate and appropriate for subsection (1) must be decided having regard to the nature of the tasks performed by each employee at the workplace.
- (3) Without limiting subsection (2), an employer must ensure that lighting is provided that—
- (a) allows employees to work safely; and
 - (b) does not create excessive glare or reflection; and
 - (c) allows people who are not employees to move safely within the workplace; and
 - (d) facilitates safe entry to, and exit from, the workplace.

Division 3.3.10 Noise management

68 Definitions—div 3.3.10

- (1) In this division:

exposure standard means—

- (a) an 8 hour equivalent continuous A-weighted sound pressure level, $L_{Aeq\ 8gh}$ of 85dB (A) referenced to 20 μ Pa; and
- (b) a C-weighted peak sound pressure level, $L_{C,peak}$ of 140 dB (C) referenced to 20 μ Pa.

- (2) In this section:

sound pressure level, in relation to a person, means the level of noise worked out, at the person's ear position, in accordance with AS 1269, without taking into account any protection that may be given by a personal hearing protector.

69 Working out L_{peak} value—div 3.3.10

For this division, the value of L_{peak} must be worked out by using sound-measuring equipment with a peak detector-indicator characteristic that complies with AS 1259.

70 Noise management—duties of designers etc

- (1) A designer, manufacturer, supplier or importer of plant that may emit an unsafe level of noise must ensure that the plant is designed and constructed so that the noise emitted by the plant, when installed and used in reasonably foreseeable circumstances, is as low as reasonably practicable.

- (2) A manufacturer, supplier or importer of plant commits an offence if—
- (a) plant that may emit an unsafe level of noise is supplied to a person; and
 - (b) the manufacturer, supplier or importer fails to provide the person with information about—
 - (i) the noise emitted by the plant; and
 - (ii) ways to keep the noise to the lowest level that is reasonably practicable to achieve.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

71 Noise management—duties of employers

- (1) An employer must —
- (a) properly maintain noise control measures at a workplace; and
 - (b) give an employee information and training about noise control measures; and
 - (c) ensure that any personal hearing protectors given to the employee are properly used and maintained.
- (2) If action is required to reduce the noise level to which an employee is exposed, the employer must—
- (a) as far as is reasonably practicable, implement engineering noise controls to reduce the noise level; and
 - (b) if action under paragraph (a) does not reduce the noise level to the exposure standard or less—as far as is reasonably practicable, implement administrative noise controls to reduce the noise to which the employee is exposed; and

- (c) if action under paragraph (a) and paragraph (b) does not reduce the noise level to the exposure standard or less—give the employee personal hearing protectors that—
- (i) meet the requirements of AS 1270; and
 - (ii) have been selected according to the procedures stated in AS 1269.

Example

provision of personal hearing protectors

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) An employer commits an offence if—
- (a) noise levels at a workplace exceed the exposure standards for an employee; and
 - (b) the employer does not take the action mentioned in subsection (2) to reduce the noise level to which the employee is exposed.

Maximum penalty: 10 penalty units.

- (4) An offence against this section is a strict liability offence.

72 Noise management—duties of employees

An employee must, as far as is practicable—

- (a) comply with noise control measures taken under this regulation; and
- (b) use any personal hearing protection given to the employee under this regulation.

Division 3.3.11 Isolated work

73 Isolated employees

- (1) This section applies if an employer employs a person (*the employee*) to work alone in—
- (a) an area that is remote from other people or is isolated from other people because of the time, location or nature of the work; or
 - (b) a situation that involves the operation or maintenance of hazardous plant or the handling of a dangerous substance; or
 - (c) work that is dangerous to perform alone.

Examples—work likely to be performed alone

- 1 tree felling
- 2 security patrolling at night
- 3 working in an interview room

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The employer commits an offence if the employer fails to ensure that—
- (a) the employee is able to call for help; and
 - (b) there is a procedure for regular contact with the employee; and
 - (c) the employee is trained in the procedure.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

Division 3.3.12 Fire and explosion

74 Fire and explosion—risk control

- (1) A person in control of a workplace must ensure that risks of fire or explosion at the workplace are minimised.
- (2) In particular, the person must—
 - (a) eliminate potential ignition sources from proximity to flammable substances, combustible dusts or waste materials; and
 - (b) regularly remove waste materials and accumulated dust.

Examples—potential ignition sources

- 1 naked flame
- 2 hot work
- 3 electrical equipment
- 4 static electricity caused by friction, welding or slipping belts

Example—waste material

paper-based waste

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) If there are flammable substances, combustible dusts or waste materials at a workplace, a person in control of the workplace must monitor the workplace regularly to ensure the continued effectiveness of control measures for fire or explosion at the workplace.

75 Fire and explosion—facilities

- (1) A person in control of a workplace must ensure that appropriate fire appliances are—
 - (a) available at the workplace; and
 - (b) maintained to a reasonable standard by a suitably qualified person.

- (2) A person in control of a workplace commits an offence if portable fire extinguishers are not installed at the workplace in accordance with AS 2444.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.
- (4) What is appropriate for subsection (1) must be decided having regard to the nature of the hazards at the workplace.
- (5) In this section:

fire appliance includes—

- (a) a vehicle, equipment, implement or thing used to prevent, extinguish or contain fire or smoke; and
- (b) a fire alarm; and
- (c) apparatus for alerting the occupants of a building to a fire or facilitating the evacuation of the building; and
- (d) equipment used to control smoke in, or remove smoke from, a building.

suitably qualified person, for maintaining an appliance, means someone who is suitably qualified by experience or training to maintain the appliance.

Division 3.3.13 Emergency procedures

76 Employer to provide for emergencies

- (1) An employer must ensure that, in an emergency at the workplace, appropriate systems are in place for—
 - (a) the safe and rapid evacuation of people from the workplace; and
 - (b) emergency communications; and
 - (c) the medical treatment of injured people.
- (2) An employer who employs employees at a workplace must ensure that—
 - (a) arrangements are made for shutting down and evacuating the workplace in an emergency; and
 - (b) details of the arrangements are displayed in appropriate places at the workplace; and
 - (c) an appropriate number of people are properly trained to oversee any evacuation and use any on-site fire appliances.
- (3) What is appropriate for subsection (1) and subsection (2) (b) and (c) must be decided having regard to—
 - (a) the nature of the hazards at the workplace; and
 - (b) the size and location of the workplace; and
 - (c) the number, mobility and capability of people at the workplace.

Chapter 4 Training—health and safety representatives

77 **Approval of health and safety representative training programs**

- (1) The council may approve a training program for the Act, section 61 (1) (f) or section 66 (4).

Note *Council*—see the Act, dictionary.

- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

78 **Training for authorisation as authorised representative—Act, s 75 (2) (b)**

A training program approved under section 77 is required for authorisation of a person under the Act, section 75 (1).

79 **Payment of training fees and expenses—health and safety representatives and deputies**

- (1) This section applies if—
 - (a) a health and safety representative undertakes a training program approved for the Act, section 61 (1) (f); or
 - (b) a deputy health and safety representative undertakes a training program approved for the Act, section 66 (4).

- (2) An employer commits an offence if—
- (a) a health and safety representative, or deputy health and safety representative, employed by the employer, undertakes a training program; and
 - (b) the employer fails to—
 - (i) pay the fees for the training program; or
 - (ii) reimburse the reasonable expenses incurred by the representative in undertaking the program.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

Chapter 5 Injury and dangerous occurrence reporting and records

80 What is a *dangerous occurrence*?

For the Act, dictionary, definition of *dangerous occurrence*, each of the following is declared to be a dangerous occurrence:

- (a) any occurrence involving imminent risk of—
 - (i) the death of, or serious personal injury to, anyone; or
 - (ii) an escape of gas, a dangerous substance or steam; or
 - (iii) fire or explosion; or
 - (iv) substantial damage to property;
- (b) damage to a boiler, pressure vessel, plant, equipment or other thing, that endangers or is likely to endanger the health or safety of people at a workplace;
- (c) damage to, or failure of, a load-bearing member or control device of a crane, hoist, conveyor, lift, escalator, moving walk, plant, scaffolding, gear, amusement device or public stand;
- (d) an uncontrolled fire, explosion, or escape, of gas, a dangerous substance or steam.

Examples—serious personal injury

- 1 injury resulting in amputation of a limb
- 2 extensive burns
- 3 injury resulting in injured person being placed on life support
- 4 loss of consciousness because of exposure to dangerous substance or electric shock

Examples—occurrences involving imminent risk of death or serious personal injury

- 1 major damage to plant, equipment, building or structure
- 2 uncontrolled explosion or fire, or imminent risk of explosion or fire
- 3 uncontrolled escape, or imminent risk of escape, of gas, dangerous substance or steam
- 4 entrapment of person in confined space
- 5 collapse of excavation

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

81 Prescribed period for incapacity for work—Act, s 204 (1) (c)

The prescribed period for which an employee is incapacitated for work is 7 days.

82 Prescribed period for notice of events—Act, s 204 (1)

- (1) The prescribed period for giving notice of the occurrence of an event to the chief executive is—
 - (a) if the event is a death or serious personal injury or the imminent risk of death or serious personal injury, and someone other than the employer was injured or at risk—
 - (i) as soon after the event as is reasonably practicable; and
 - (ii) in writing not later than 48 hours after the event; and
 - (b) for any other event—in writing not later than 7 days after the day the event occurs.
- (2) This section is subject to section 83.

83 Reporting under Dangerous Substances Act

- (1) This section applies if the occurrence of an event required to be reported under the Act, section 204 (Notice of events) is reported under the *Dangerous Substances Act 2004*.
- (2) The reporting under the *Dangerous Substances Act 2004* is taken to be adequate reporting of the occurrence of the event for the Act.

84 Method of reporting—Act, s 204

- (1) Unless another section provides otherwise, notice under the Act, section 204 (Notice of events) may be given in writing or by telephone, fax or other electronic means.

Note 1 Notice must be given of a death, an injury or a dangerous occurrence (see Act, s 204).

Note 2 Under s 82, notice must sometimes be given in writing.

Note 3 If a form is approved under the Act, s 226 for the notice, the form must be used.

- (2) If the chief executive receives notice other than in writing, the chief executive must send the employer—
 - (a) details of the information received; or
 - (b) an acknowledgment of receiving the notice.

85 Employer to protect site of occurrence of event

- (1) An employer commits an offence if the employer—
 - (a) is required to give the chief executive notice of the occurrence of an event under the Act, section 204 (1); and

- (b) fails to ensure that the site where the event occurred is not entered or otherwise disturbed until an inspector directs that the site may be used.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply to the disturbance of a site to—
 - (a) protect the health or safety of a person; or
 - (b) help an injured person; or
 - (c) take essential action to make the site safe or to prevent a further occurrence.

86 Keeping records of event notices

- (1) An employer commits an offence if the employer—
 - (a) gives notice of the occurrence of an event in accordance with the Act, section 204; and
 - (b) fails to keep a copy of the notice for 5 years after the day the notice is given.

Maximum penalty: 10 penalty units.

- (2) An offence under this section is a strict liability offence.

87 Keeping information given by chief executive

- (1) This section applies if an employer gives notice of the occurrence of an event other than in writing and the chief executive gives the employer—
 - (a) a copy of the information received; or
 - (b) an acknowledgment of receiving the notice.

- (2) An employer commits an offence if—
- (a) a copy or acknowledgement mentioned in subsection (1) is given to the employer; and
 - (b) the employer fails to keep the copy or acknowledgement for 5 years after the day it is given.

Maximum penalty: 10 penalty units.

- (3) An offence against this section is a strict liability offence.

88 Content of records

- (1) The chief executive may approve the content of a record required to be maintained under the Act, section 205.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

89 Keeping records of incapacity

- (1) This section applies to an employer if—
- (a) an employee is injured in an event at or near the employee's workplace; and
 - (b) the event is connected with the employment; and
 - (c) the injury results in the employee being incapacitated for work for more than 1 day, but less than 7 days.
- (2) This section does not apply to an employer if the employer has given notice of the event to the chief executive.
- (3) An employer must keep a record of an event mentioned in subsection (1) including—
- (a) details of the event; and

- (b) the nature and extent of the injury; and
 - (c) the reason for the employee's incapacity.
- (4) An employer commits an offence if the employer does not keep the record mentioned in subsection (3) for a period of 5 years after the day the event occurred.

Maximum penalty: 10 penalty units.

- (5) An offence against this section is a strict liability offence.

Chapter 6 Review

90 Time for decision on internal review—Act, s 186 (2)

- (1) The time for making a decision on an application for internal review of an inspector's decision is—
 - (a) 10 business days after the day the application is made under the Act, section 185; or
 - (b) if the chief executive tells the applicant in writing not later than the end of the 10 business day-period that the chief executive is satisfied that a longer period than the 10 business days is necessary to adequately review the decision—20 business days after the day the application for internal review is made under the Act, section 185; or
 - (c) if the chief executive asks the applicant in writing for further information in relation to the application—10 business days after the day the chief executive receives the further information.
- (2) The chief executive must tell the applicant in writing if the information given in response to a request mentioned in subsection (1) (c) is not the further information asked for, or not all the further information asked for.

Chapter 7 Miscellaneous

91 Meaning of *incorporated document*

In this regulation:

incorporated document means any of the following:

- (a) AS 1259 (Sound level meters, part 1, non-integrating);
- (b) AS 1269 (Occupational noise management—Measurement and assessment of noise emission and exposure);
- (c) AS 1270 (Acoustics—Hearing protectors);
- (d) AS/NZS 1891 (Industrial fall-arrest systems and devices—safety belts and harnesses);
- (e) AS 2444 (Portable fire extinguishers and fire blankets—Selection and location);
- (f) the national exposure standards;
- (g) a document approved in writing by the Minister to be an incorporated document;
- (h) any other document incorporated, applied or adopted by a document mentioned in paragraphs (a) to (g).

Note 1 The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

92 Inspection of incorporated documents

- (1) This section applies to an incorporated document, or an amendment or replacement of an incorporated document.

- (2) The chief executive must ensure that the document, amendment or replacement is made available for inspection free of charge to the public on business days at reasonable times.
- (3) In this section:
amendment, of an incorporated document—see section 93 (6).

93 Notification of certain incorporated documents

- (1) This section applies to—
 - (a) an incorporated document; or
 - (b) an amendment of, or replacement for, an incorporated document.

Example—replacement document

a new edition of the incorporated document

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The chief executive may prepare a written notice (an *incorporated document notice*) for the incorporated document, amendment or replacement that contains the following information:
 - (a) for an incorporated document—details of the document, including its title, author and date of publication;
 - (b) for a replacement of an incorporated document—details of the replacement, including its title, author and date of publication;
 - (c) for an amendment of an incorporated document—the date of publication of the amendment (or of the standard as amended) and a brief summary of the effect of the amendment;

- (d) for an incorporated document or any amendment or replacement—
- (i) a date of effect (not earlier than the day after the day of notification of the notice); and
 - (ii) details of how access to inspect the document, amendment or replacement may be obtained under section 92 (Inspection of incorporated documents); and
 - (iii) details of how copies may be obtained, including an indication of whether there is a cost involved.
- (3) An incorporated document notice is a notifiable instrument.
- Note* A notifiable instrument must be notified under the Legislation Act.
- (4) The incorporated document, amendment or replacement has no effect under this Act unless—
- (a) an incorporated document notice is notified in relation to the standard, amendment or replacement; or
 - (b) the document, amendment or replacement is notified under the Legislation Act, section 47 (6).
- (5) The Legislation Act, section 47 (7) does not apply in relation to the incorporated document, amendment or replacement.
- (6) In this section:
- amendment***, of an incorporated document, includes an amendment of a replacement for the incorporated document.
- replacement***, for an incorporated document, means—
- (a) a standard that replaces the incorporated document; or
 - (b) a document (an ***initial replacement***) that replaces a document mentioned in paragraph (a); or

- (c) a document (a *further replacement*) that replaces an initial replacement or any further replacement.

**94 **Repeal of Occupational Health and Safety Regulation
1991****

The *Occupational Health and Safety Regulation 1991* (SL1991-10) is repealed.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- Act
- working day
- year.

Note 3 Terms used in this regulation have the same meaning that they have in the *Occupational Health and Safety Act 1989* (see Legislation Act, s 148). For example, the following terms are defined in the *Occupational Health and Safety Act 1989*, dictionary:

- commissioner
- council
- dangerous occurrence
- employee
- employer
- hazard
- injury
- inspector
- plant
- premises
- risk
- substance
- work
- workplace.

anchorage, for division 3.3.3 (Prevention of falls)—see section 32.

atmospheric contaminant, for division 3.3.8 (Confined spaces)—see section 53.

confined space, for division 3.3.8 (Confined spaces)—see section 53.

dangerous substance—see the *Dangerous Substances Act 2004*, section 10.

electrical inspector, for division 3.3.7 (Electricity)—see section 49.

electrical installation, for division 3.3.7 (Electricity)—see section 49.

entry permit, for division 3.3.8 (Confined spaces)—see section 60.

exposure standard, for division 3.3.10 (Noise management)—see section 68.

fixed workplace means a workplace in a building or other permanent structure.

in control, of a workplace—see section 7.

incorporated document—see section 91.

inhalable dust, for division 3.3.4 (Atmosphere and ventilation)—see section 37.

national exposure standards means the *Exposure Standards for Atmospheric Contaminants in the Occupational Environment* (NOHSC 1003 (1995) and Guidance Note NOHSC 3008 (1995)) published by the National Occupational Health and Safety Commission.

personal protective and safety equipment includes anything used, or to be used, to protect a person's health, safety or welfare.

Examples

- 1 protective clothing
- 2 sunscreen

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

reasonably practicable steps—see section 8.

safe oxygen level, for division 3.3.4 (Atmosphere and ventilation) and division 3.3.8 (Confined spaces)—see section 37.

safety harness—see AS/NZS 1891.

safe unclassified inhalable dust level, for division 3.3.4 (Atmosphere and ventilation)—see section 37.

unclassified inhalable dust, for division 3.3.4 (Atmosphere and ventilation)—see section 37.

unsafe oxygen level, for division 3.3.4 (Atmosphere and ventilation) and division 3.3.8 (Confined spaces)—see section 37.

unsafe unclassified inhalable dust level, for division 3.3.4 (Atmosphere and ventilation)—see section 37.

Endnotes

1 Notification

Notified under the Legislation Act on 26 November 2007.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
