



Australian Capital Territory

# Work Health and Safety Amendment Regulation 2018 (No 1)

Subordinate Law SL2018-2

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The Australian Capital Territory Executive makes the following regulation under the *Work Health and Safety Act 2011*.

Dated 23 March 2018.

RACHEL STEPHEN-SMITH  
Minister

GORDON RAMSAY  
Minister

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# Work Health and Safety Amendment Regulation 2018 (No 1)

Subordinate Law SL2018-2

made under the

[Work Health and Safety Act 2011](#)

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**1 Name of regulation**

This regulation is the *Work Health and Safety Amendment Regulation 2018 (No 1)*.

**2 Commencement**

This regulation commences on the commencement of the *Work Health and Safety Legislation Amendment Act 2018*, section 3.

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

**3 Legislation amended**

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

**4 New section 10A**

*insert*

**10A Application of the Act to dangerous goods—  
Act, sch 1, s 6, definition of *dangerous goods***

Dangerous goods under the ADG Code listed in table 328, column 2, are prescribed as dangerous goods if the quantity of the goods at the premises at or in which the goods are stored or handled is more than the relevant threshold for the goods mentioned in table 328, column 3.

**5 Section 15**

*substitute*

**15 Disapplication of Legislation Act, s 47 (5) and (6)**

- (1) The [Legislation Act](#), section 47 (5) does not apply in relation to an instrument applied, adopted or incorporated as in force at a particular time under this regulation unless the instrument is expressed to be a notifiable instrument.

**Examples—instruments to which s 47 (5) does not apply**

- 1 an Australian Standard
- 2 the *Globally Harmonised System of Classification and Labelling of Chemicals* (GHS)
- 3 the Australian Miniature Boiler Safety Committee Code (AMBSC)

*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 [Legislation Act](#), section 47 (6) does not apply in relation to an instrument applied, adopted or incorporated as in force from time to time under this regulation unless the instrument is expressed to be a notifiable instrument.

**Examples—instruments to which s 47 (6) does not apply**

- 1 the *Australian Code for the Transport of Dangerous Goods by Road and Rail* (ADG Code)
- 2 the Standard for the Uniform Scheduling of Medicines and Poisons



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**6 New chapter 7***insert***Chapter 7 Hazardous chemicals****Part 7.1 Hazardous chemicals**

*Note* Most of the obligations in this part apply to persons conducting businesses or undertakings at a workplace. However, some obligations apply to persons in different capacities, for example importers and suppliers of hazardous chemicals.

**Division 7.1.1 Application—pt 7.1****328 Application—pt 7.1**

- (1) This part applies to—
  - (a) the use, handling and storage of hazardous chemicals at a workplace and the generation of hazardous substances at a workplace; and
  - (b) a pipeline used to convey a hazardous chemical.
- (1A) This part applies to the handling or storage of dangerous goods mentioned in table 328, column 2, other than at a workplace, only if the quantity of the dangerous goods is more than the threshold quantity mentioned in table 328, column 3 for the dangerous good.

*Note* The [Act](#), sch 1, applies the Act to the storage and handling of prescribed dangerous goods even if they are not at a workplace or for use in carrying out work (see also s 10 and s 10A).

**Table 328**

<b>column 1 item</b>	<b>column 2 dangerous goods</b>	<b>column 3 threshold quantities</b>
1	liquefied petroleum gas (LP gas) (dangerous goods class 2.1)	if the LP gas is stored in packages outside a building, and connected by piping to appliances within the building that contain the gas—500L (water capacity)
2	compressed gas of class 2.1 (excluding LP gas), class 2.2 or compressed oxygen	(a) if the dangerous goods as a whole form part of a welding set or are used or intended to be used with a portable flame torch and each dangerous good is in 1 or more containers—50L (aggregate capacity of the containers); or (b) if the compressed oxygen or gas is used or intended to be used for medical purposes—nil
3	dangerous goods class 3	250L
4	pool chlorine and spa sanitising agents	100kg or L
5	sodium hypochlorite designated by UN number 1791	100L
6	dangerous goods class 9	100kg or L
7	dangerous goods packing group 1	5kg or L
8	C1 combustible liquids	1 000L
9	dangerous goods class 2.3	nil
10	any dangerous goods other than those stated above	100kg or L

- (2) This part does not apply to a pipeline that is regulated under the *Gas Safety Act 2000* or the *Utilities (Technical Regulation) Act 2014*.

(3) This part does not apply to hazardous chemicals and explosives being transported by road, rail, sea or air if the transport is regulated under the following:

(a) the *Dangerous Goods (Road Transport) Act 2009*;

*Note* The *Technical Instructions for the Safe Transport of Dangerous Goods by Air* does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Instructions are available at [www.icao.int](http://www.icao.int).

(b) The *Technical Instructions for the Safe Transport of Dangerous Goods by Air*, published by the International Civil Aviation Organisation;

*Note* The *Technical Instructions for the Safe Transport of Dangerous Goods by Air* do not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Instructions are available at [www.icao.int](http://www.icao.int).

(c) the *Dangerous Goods Regulations*, published by the International Air Transport Association.

*Note* The *Dangerous Goods Regulations* do not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Regulations are available at [www.iata.org](http://www.iata.org).

(4) This part does not apply to the following hazardous chemicals in the circumstances described:

- (a) hazardous chemicals in batteries when incorporated in plant;
- (b) fuel, oils or coolants in a container fitted to a vehicle, vessel, aircraft, mobile plant, appliance or other device, if the fuel, oil or coolant is intended for use in the operation of the device;
- (c) fuel in the fuel container of a domestic or portable fuel burning appliance, if the quantity of fuel does not exceed 25kg or 25L;
- (d) hazardous chemicals in portable firefighting or medical equipment for use in a workplace;

- (e) hazardous chemicals that form part of the integrated refrigeration system of refrigerated freight containers;
  - (f) potable liquids that are consumer products at retail premises.
- (5) This part, other than the following sections and schedule 7 (Safety data sheets), does not apply to substances, mixtures or articles categorised only as explosives under the GHS:
- (a) section 329 (Classification of hazardous chemicals);
  - (b) section 330 (Manufacturer or importer to prepare and provide safety data sheets);
  - (c) section 339 (Supplier to provide safety data sheets);
  - (d) section 344 (Person conducting business or undertaking to obtain and give access to safety data sheets);
  - (e) section 345 (Changes to safety data sheets).

*Note* Explosives are regulated under the *Dangerous Substances (Explosives) Regulation 2004*.

- (6) This part does not apply to the following:
- (a) food and beverages within the meaning of the *Australia New Zealand Food Standards Code* that are in a package and form intended for human consumption;

*Note* The *Australia New Zealand Food Standards Code* does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Code is available at [www.legislation.gov.au](http://www.legislation.gov.au).

- (b) tobacco, or products made of tobacco;

- (c) therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Cwlth) at the point of intentional intake by or administration to humans;

*Note* The *Therapeutic Goods Act 1989* (Cwlth) does not need to be notified under the *Legislation Act* because s 47 (5) does not apply (see s 15 and *Legislation Act*, s 47 (7)). The Act is available at [www.legislation.gov.au](http://www.legislation.gov.au).

- (d) veterinary chemical products within the meaning of the *Agvet Code* at the point of intentional administration to animals.

- (7) In this section:

*Australia New Zealand Food Standards Code*—see the *Food Standards Australia New Zealand Act 1991* (Cwlth), section 4.

## **Division 7.1.2 Obligations relating to safety data sheets and other matters**

### **Subdivision 7.1.2.1 Obligations of manufacturers and importers**

*Note 1* A manufacturer or importer of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.

*Note 2* A manufacturer or importer is defined in the *Act*, s 23 or s 24 as a person conducting a business or undertaking of manufacturing or importing.

## **329 Classification of hazardous chemicals**

The manufacturer or importer of a substance, mixture or article must, before first supplying it to a workplace—

- (a) determine whether the substance, mixture or article is a hazardous chemical; and

- (b) if the substance, mixture or article is a hazardous chemical—ensure that the hazardous chemical is correctly classified in accordance with schedule 9, part 9.1 (Correct classification).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**330 Manufacturer or importer to prepare and provide safety data sheets**

- (1) A manufacturer or importer of a hazardous chemical must prepare a safety data sheet for the hazardous chemical—
  - (a) before first manufacturing or importing the hazardous chemical; or
  - (b) if that is not practicable—as soon as practicable after first manufacturing or importing the hazardous chemical and before first supplying it to a workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The safety data sheet must comply with schedule 7, section 7.1 (Safety data sheets—content) unless section 331 applies.
- (3) The manufacturer or importer of the hazardous chemical must—
  - (a) review the safety data sheet at least once every 5 years; and

- (b) amend the safety data sheet whenever necessary to ensure that it contains correct, current information.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) The manufacturer or importer of the hazardous chemical must provide the current safety data sheet for the hazardous chemical to any person, if the person—
  - (a) is likely to be affected by the hazardous chemical; and
  - (b) asks for the safety data sheet.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (5) Subsections (3) and (4) do not apply to a manufacturer or importer of a hazardous chemical who has not manufactured or imported the hazardous chemical in the past 5 years.

### **331 Safety data sheets—research chemical, waste product or sample for analysis**

- (1) This section applies if—
  - (a) a hazardous chemical is a research chemical, waste product or sample for analysis; and
  - (b) it is not reasonably practicable for a manufacturer or importer of the hazardous chemical to comply with schedule 7, section 7.1 (Safety data sheets—content).

- (2) The manufacturer or importer must prepare a safety data sheet for the hazardous chemical that complies with schedule 7, section 7.2 (Safety data sheets—research chemical, waste product or sample for analysis).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**332 Emergency disclosure of chemical identities to registered medical practitioner**

- (1) This section applies if a registered medical practitioner—
- (a) reasonably believes that knowing the chemical identity of an ingredient of a hazardous chemical may help to treat a patient; and
- (b) requests the manufacturer or importer of the hazardous chemical to give the registered medical practitioner the chemical identity of the ingredient; and
- (c) gives an undertaking to the manufacturer or importer that the chemical identity of the ingredient will be used only to help treat the patient; and
- (d) gives an undertaking to the manufacturer or importer to give the manufacturer or importer as soon as practicable a written statement about the need to obtain the chemical identity of the ingredient.



- (2) The manufacturer or importer of a hazardous chemical must give the registered medical practitioner the chemical identity of an ingredient of the hazardous chemical as soon as practicable.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **333 Emergency disclosure of chemical identities to emergency service worker**

The manufacturer or importer of a hazardous chemical must give an emergency service worker the chemical identity of an ingredient of the hazardous chemical as soon as practicable after the worker requests it.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **334 Packing hazardous chemicals**

The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly packed, in accordance with schedule 9, part 9.2 (Correctly packing hazardous chemicals) as soon as practicable after manufacturing or importing the hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### 335 Labelling hazardous chemicals

- (1) The manufacturer or importer of a hazardous chemical must ensure that the hazardous chemical is correctly labelled as soon as practicable after manufacturing or importing the hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A hazardous chemical is *correctly labelled* if—
  - (a) the selection and use of label elements is in accordance with the GHS and it complies with schedule 9, part 9.3 (Correct labelling); or
  - (b) the label includes content that complies with another labelling requirement imposed by this regulation, any other territory law or Commonwealth law and the content is the same, or substantially the same, as the content that is required by schedule 9, part 9.3.

- (3) This section does not apply to a hazardous chemical if—
- (a) the hazardous chemical is a consumer product that is labelled in accordance with the Standard for the Uniform Scheduling of Medicines and Poisons, as in force or remade from time to time; and
- Note* The Standard for the Uniform Scheduling of Medicines and Poisons does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Standard is available at [www.legislation.gov.au](http://www.legislation.gov.au).
- (b) the container for the hazardous chemical has its original label; and
  - (c) it is reasonably foreseeable that the hazardous chemical will be used in a workplace only in—
    - (i) a quantity that is consistent with household use; and
    - (ii) a way that is consistent with household use; and
    - (iii) a way that is incidental to the nature of the work carried out by a worker using the hazardous chemical.
- (4) This section does not apply to hazardous chemicals in transit.

- (5) This section does not apply to a hazardous chemical that is—
- (a) therapeutic goods within the meaning of the *Therapeutic Goods Act 1989* (Cwlth); and
- Note* The *Therapeutic Goods Act 1989* (Cwlth) does not need to be notified under the *Legislation Act* because s 47 (5) does not apply (see s 15 and *Legislation Act*, s 47 (7)). The Act is available at [www.legislation.gov.au](http://www.legislation.gov.au).
- (b) in a form intended for human consumption, for administration to or by a person or use by a person for therapeutic purposes; and
  - (c) labelled in accordance with that Act or an order made under that Act.
- (6) This section does not apply to cosmetics and toiletries.
- (7) This section does not apply to a hazardous chemical that is—
- (a) a veterinary chemical product within the meaning of the *Agvet Code*; and
  - (b) listed in—
    - (i) the Standard for the Uniform Scheduling of Medicines and Poisons, part 4, schedule 4, if the chemical product is packaged and supplied in a form intended for direct administration to an animal for therapeutic purposes; or
    - (ii) the Standard for the Uniform Scheduling of Medicines and Poisons, part 4, schedule 8.
- (8) This section does not apply to a substance seized by a police officer under the *Drugs of Dependence Act 1989*.

### **Subdivision 7.1.2.2 Obligations of suppliers**

*Note 1* A supplier of hazardous chemicals may also be a person conducting a business or undertaking at a workplace.

*Note 2* A supplier is defined in the [Act](#), s 25 as a person who conducts a business or undertaking of supplying.

*Note 3* An operator of a major hazard facility is required to notify certain quantities of hazardous chemicals under pt 9.2.

### **336 Restriction on age of person who can supply hazardous chemicals**

A person conducting a business or undertaking must not direct or allow a worker to supply a hazardous chemical that is a flammable gas or flammable liquid to another person into any container or vehicle provided by that other person unless the worker is at least 16 years of age.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **Examples**

- 1 decanting fuel into a fuel container
- 2 refuelling a car

*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).

**337 Retailer or supplier packing hazardous chemicals**

- (1) The supplier of a hazardous chemical must not supply the hazardous chemical for use at another workplace if the supplier knows or ought reasonably to know that the hazardous chemical is not correctly packed.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or  
(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A retailer who supplies a hazardous chemical in a container provided by the person supplied with the chemical must ensure that the hazardous chemical is correctly packed.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or  
(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**338 Supplier labelling hazardous chemicals**

The supplier of a hazardous chemical must not supply the hazardous chemical to another workplace if the supplier knows or ought reasonably to know that the hazardous chemical is not correctly labelled in accordance with section 335 (Labelling hazardous chemicals).

Maximum penalty:

- (a) in the case of an individual—\$3 600; or  
(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**339 Supplier to provide safety data sheets**

- (1) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided with the hazardous chemical—
  - (a) when the hazardous chemical is first supplied to the workplace; and
  - (b) if the safety data sheet for the hazardous chemical is amended—when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A hazardous chemical is taken to be ***first supplied*** to a workplace if the supply is the first supply of the hazardous chemical to the workplace within 5 years.
- (3) The supplier of a hazardous chemical to a workplace must ensure that the current safety data sheet for the hazardous chemical is provided to a person at the workplace if the person asks for the safety data sheet.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(4) This section does not apply to a supplier of a hazardous chemical if—

- (a) the hazardous chemical is a consumer product; or
- (b) the supplier is a retailer.

*Note* A manufacturer or importer is required to prepare a safety data sheet under s 330.

### **340 Supply of prohibited and restricted carcinogens**

(1) The supplier of a prohibited carcinogen referred to in an item in schedule 10, table 10.1 (Prohibited carcinogens) must not supply the substance unless the person to be supplied with the substance gives the supplier evidence that—

- (a) the substance is to be used, handled or stored for genuine research or analysis; and
- (b) either—
  - (i) the regulator has authorised the person to use, handle or store the substance under section 384 (Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens); or
  - (ii) the regulator has granted an exemption under part 11.2 (Exemptions) to the person to use, handle or store the substance.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).



- (2) The supplier of a restricted carcinogen referred to in an item in schedule 10, table 10.2 (Restricted carcinogens), column 2 must not supply the substance for a use referred to in column 3 for the item unless the person to be supplied with the substance gives the supplier evidence that—
- (a) the regulator has authorised the person to use, handle or store the substance under section 384; or
  - (b) the regulator has granted an exemption to the person under part 11.2 to use, handle or store the substance.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) A supplier under subsection (1) or (2) must keep a record of—
- (a) the name of the person supplied; and
  - (b) the name and quantity of the substance supplied.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) The supplier must keep the record for 5 years after the substance was last supplied to the person.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or  
(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **Subdivision 7.1.2.3 Obligations of persons conducting businesses or undertakings**

#### **341 Labelling hazardous chemicals—general requirement**

- (1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical used, handled or stored at the workplace is correctly labelled in accordance with section 335 (Labelling hazardous chemicals).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* **Handling**—see the [Act](#), dictionary.

- (2) Subsection (1) does not apply to a hazardous chemical if the chemical—  
(a) was supplied before 29 March 2018; and

- (b) was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time.

*Note 1* Section 338 applies if the chemical is being supplied to another workplace.

*Note 2* The *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The National Code of Practice is available at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

### **342 Labelling hazardous chemicals—containers**

- (1) A person conducting a business or undertaking at a workplace must ensure that a hazardous chemical is correctly labelled in accordance with section 335 (Labelling hazardous chemicals) if the hazardous chemical is—
- (a) manufactured at the workplace; or
  - (b) transferred or decanted from its original container at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(1A) Subsection (1) does not apply to a hazardous chemical if the chemical—

- (a) was manufactured, or transferred or decanted from its original container at the workplace, before 29 March 2018; and
- (b) was, at the time it was manufactured, or transferred or decanted from its original container at the workplace, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time.

*Note 1* Section 338 applies if the chemical is being supplied to another workplace.

*Note 2* The *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The National Code of Practice is available at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

(2) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a container that stores a hazardous chemical is correctly labelled in accordance with section 335 while the container contains the hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(2A) Subsection (2) does not apply to a container if the container—

- (a) was supplied before 29 March 2018; and

- (b) was, at the time it was supplied, labelled in accordance with the *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* as in force at that time.

*Note 1* Section 338 applies if the chemical in the container is being supplied to another workplace.

*Note 2* The *National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)]* does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The National Code of Practice is available at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

- (3) A person conducting a business or undertaking at a workplace must ensure that a container labelled for a hazardous chemical is used only for the use, handling or storage of the hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) This section does not apply to a container if—
- (a) the hazardous chemical in the container is used immediately after it is put in the container; and
- (b) the container is thoroughly cleaned immediately after the hazardous chemical is used, handled or stored so that the container is in the condition it would be in if it had never contained the hazardous chemical.

**343 Labelling hazardous chemicals—pipe work**

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical in pipe work is identified by a label, sign or another way on, or near, the pipe work.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**344 Person conducting business or undertaking to obtain and give access to safety data sheets**

- (1) A person conducting a business or undertaking at a workplace must obtain the current safety data sheet for a hazardous chemical prepared in accordance with this regulation from the manufacturer, importer or supplier of the hazardous chemical in the following circumstances:
  - (a) either—
    - (i) not later than when the hazardous chemical is first supplied for use at the workplace; or
    - (ii) if the person is not able to obtain the safety data sheet under subparagraph (i)—as soon as practicable after the hazardous chemical is first supplied to the workplace but before the hazardous chemical is used at the workplace;
  - (b) if the safety data sheet for the hazardous chemical is amended—either—
    - (i) not later than when the hazardous chemical is first supplied to the workplace after the safety data sheet is amended; or

- (ii) if the person is not able to obtain the amended safety data sheet under subparagraph (i)—as soon as practicable after the hazardous chemical is first supplied to the workplace after the safety data sheet is amended and before the hazardous chemical supplied is used at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The hazardous chemical is taken to be ***first supplied*** to a workplace if the supply is the first supply of the hazardous chemical to the workplace within 5 years.
- (3) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to—
  - (a) a worker who is involved in using, handling or storing the hazardous chemical at the workplace; and
  - (b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

**Example—readily accessible**

available in electronic form at the workplace

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*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).

- (4) Subsections (1) and (3) do not apply to a hazardous chemical that—
- (a) is in transit; or
  - (b) if the person conducting the business or undertaking at the workplace is a retailer, is—
    - (i) a consumer product; and
    - (ii) intended for supply to other premises; or
  - (c) is a consumer product and it is reasonably foreseeable that the hazardous chemical will be used at the workplace only in—
    - (i) quantities that are consistent with household use; and
    - (ii) a way that is consistent with household use; and
    - (iii) a way that is incidental to the nature of the work carried out by a worker using the hazardous chemical.
- (5) In the circumstances referred to in subsection (4), the person must ensure that sufficient information about the safe use, handling and storage of the hazardous chemical is readily accessible to—
- (a) a worker at the workplace; and
  - (b) an emergency service worker, or anyone else, who is likely to be exposed to the hazardous chemical at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (6) The person must ensure that the current safety data sheet for the hazardous chemical is readily accessible to a person at the workplace if the person—
- (a) is likely to be affected by the hazardous chemical; and



(b) asks for the safety data sheet.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **345 Changes to safety data sheets**

A person conducting a business or undertaking at a workplace may change a safety data sheet for a hazardous chemical only if—

- (a) the person—
  - (i) is an importer or manufacturer of the hazardous chemical; and
  - (ii) changes the safety data sheet in a way that is consistent with the duties of the importer or manufacturer under section 330 (Manufacturer or importer to prepare and provide safety data sheets); or
- (b) the change is only the attachment of a translation of the safety data sheet, and clearly states that the translation is not part of the original safety data sheet.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* The manufacturer or importer of a hazardous chemical must amend a safety data sheet as necessary to ensure the information is correct and current (see s 330 (3) (b)).

## **Division 7.1.3 Register and manifest of hazardous chemicals**

### **Subdivision 7.1.3.1 Hazardous chemicals register**

#### **346 Hazardous chemicals register**

- (1) A person conducting a business or undertaking at a workplace must ensure that—
- (a) a register of hazardous chemicals used, handled or stored at the workplace is prepared and kept at the workplace; and
  - (b) the register is maintained to ensure the information in the register is up to date.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The register must include—
- (a) a list of hazardous chemicals used, handled or stored; and
  - (b) the current safety data sheet for each hazardous chemical listed.
- (3) The person must ensure that the register is readily accessible to—
- (a) a worker involved in using, handling or storing a hazardous chemical; and
  - (b) anyone else who is likely to be affected by a hazardous chemical at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or

(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) This section does not apply to a hazardous chemical if—
- (a) the hazardous chemical is in transit, unless there is a significant or frequent presence of the hazardous chemical in transit at the workplace; or
  - (b) the hazardous chemical is a consumer product and the person is not required to obtain a safety data sheet for the hazardous chemical under section 344 (Person conducting business or undertaking to obtain and give access to safety data sheets).

### **Subdivision 7.1.3.2 Manifest of Schedule 11 hazardous chemicals**

*Note* Section 361 requires an emergency plan to be prepared if the quantity of hazardous chemicals used, handled or stored at a workplace exceeds the manifest quantity for that hazardous chemical.

#### **347 Manifest of hazardous chemicals**

- (1) A person conducting a business or undertaking at a workplace must, if the quantity of a Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals used, handled or stored at the workplace exceeds the manifest quantity for the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals—
- (a) prepare a manifest of Schedule 11 hazardous chemicals; and
  - (b) amend the manifest as soon as practicable if—
    - (i) the type or quantity of Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals that must be listed in the manifest changes; or

- (ii) there is a significant change in the information required to be recorded in the manifest.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A manifest of Schedule 11 hazardous chemicals must comply with schedule 12 (Manifest requirements).
- (3) The person must keep the manifest—
  - (a) in a place determined in agreement with the primary emergency service organisation; and
  - (b) available for inspection under the Act; and
  - (c) readily accessible to the emergency service organisation.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**348 Regulator must be notified if manifest quantities to be exceeded**

- (1) A person conducting a business or undertaking at a workplace must ensure that the regulator is given written notice if a quantity of a Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals that exceeds the manifest quantity is used, handled or stored, or is to be used, handled or stored, at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The notice under subsection (1) must be given—
- (a) immediately after the person knows that the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals is to be first used, handled or stored at the workplace or at least 14 days before that first use handling or storage (whichever is earlier); and
  - (b) immediately after the person knows that there will be a significant change in the risk of using, handling or storing the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals at the workplace or at least 14 days before that change (whichever is earlier).
- (3) The notice under subsection (1) must include the following:
- (a) the name and ABN of the person conducting the business or undertaking;
  - (b) the type of business or undertaking conducted;
  - (c) if the workplace was previously occupied by someone else—the name of the most recent previous occupier, if known;
  - (d) the activities of the business or undertaking that involve using, handling or storing Schedule 11 hazardous chemicals;
  - (e) the manifest prepared by the person conducting the business or undertaking under section 347;
  - (f) in the case of a notice under subsection (2) (b)—details of the changes to the manifest.

- (4) A person conducting a business or undertaking at a workplace must ensure that the regulator is given written notice as soon as practicable after the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals ceases to be used, handled or stored at the workplace if it is not likely to be used, handled or stored at the workplace in the future.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (5) The notice under subsection (4) must include the information referred to in subsection (3) (a), (b) and (d).
- (6) If the regulator asks for any further information about the manifest quantity of a Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals, the person must ensure that the information is given to the regulator.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* A fee may be determined under the [Act](#), s 278 for this provision.

*Note 3* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see [Legislation Act](#), s 177).

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## Division 7.1.4 Placards

### 349 Outer warning placards—requirement to display

- (1) A person conducting a business or undertaking at a workplace must ensure that an outer warning placard is prominently displayed at the workplace if the total quantity of a Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals used, handled or stored at the workplace exceeds the placard quantity for the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) An outer warning placard must comply with schedule 13 (Placard requirements).
- (3) This section does not apply to a workplace if—
  - (a) the workplace is a retail outlet; and
  - (b) the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals is used to refuel a vehicle, and is either—
    - (i) a flammable gas; or
    - (ii) a flammable liquid.

**350 Placard—requirement to display**

- (1) A person conducting a business or undertaking at a workplace must ensure that a placard is prominently displayed at the workplace if the total quantity of a Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals stored at the workplace exceeds the placard quantity for the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A placard must comply with schedule 13 (Placard requirements).
- (3) This section does not apply to a Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals if—
- (a) the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals is in bulk in a container, including an IBC, that is intended for transport and a placard is displayed on the container in accordance with the ADG Code; or
- (b) the Schedule 11 hazardous chemical or group of Schedule 11 hazardous chemicals is a flammable liquid stored in an underground tank at a retail outlet and used to refuel a vehicle.

*Note* **IBC**—see the dictionary.



**Division 7.1.5            Control of risk—obligations of  
persons conducting businesses or  
undertakings**

**Subdivision 7.1.5.1 General obligations relating to  
management of risk**

**351            Management of risks to health or safety—Act, s 19**

- (1) A person conducting a business or undertaking must manage, in accordance with part 3.1 (Managing risks to health and safety), risks to health and safety associated with using, handling, generating or storing a hazardous chemical at a workplace.

*Note*        [WHS Act](#)—s 19 (see s 9).

- (2) In managing risks, the person must have regard to the following:
- (a) the hazardous properties of the hazardous chemical;
  - (b) any potentially hazardous chemical or physical reaction between the hazardous chemical and another substance or mixture, including a substance that may be generated by the reaction;
  - (c) the nature of the work to be carried out with the hazardous chemical;
  - (d) any structure, plant or system of work—
    - (i) that is used in the use, handling, generation or storage of the hazardous chemical; or
    - (ii) that could interact with the hazardous chemical at the workplace.

### **352 Review of control measures**

In addition to the circumstances in section 38 (Review of control measures), a person conducting a business or undertaking at a workplace must ensure that any measures implemented to control risks in relation to a hazardous chemical at the workplace are reviewed and, as necessary, revised in any of the following circumstances:

- (a) after any change to the safety data sheet for the hazardous chemical or the register of hazardous chemicals;
- (b) if the person obtains a health monitoring report for a worker under division 7.1.6 (Health monitoring) that contains—
  - (i) test results that indicate that the worker has been exposed to the hazardous chemical and has an elevated level of metabolites in their body for that hazardous chemical; or
  - (ii) 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 using, handling, generating or storing the hazardous chemical that triggered the requirement for health monitoring; or
  - (iii) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work using, handling, generating or storing the hazardous chemical that triggered the requirement for health monitoring;
- (c) if monitoring carried out under section 50 (Monitoring airborne contaminant levels) determines that the airborne concentration of the hazardous chemical at the workplace exceeds the relevant exposure standard;

(d) at least once every 5 years.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### 353 Safety signs

- (1) This section applies if a safety sign is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.
- (2) A person conducting a business or undertaking at the workplace must display a safety sign at the workplace to—
  - (a) warn of a particular hazard associated with the hazardous chemicals; or
  - (b) state the responsibilities of a particular person in relation to the hazardous chemicals.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The person must ensure that the safety sign is—
  - (a) located next to the hazard; and
  - (b) clearly visible to a person approaching the hazard.
- (4) In this section:  
*safety sign* does not include a placard.

**354 Identification of risk of physical or chemical reaction**

- (1) A person conducting a business or undertaking at a workplace must identify any risk of a physical or chemical reaction in relation to a hazardous chemical used, handled, generated or stored at a workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) Subsection (1) does not apply if the hazardous chemical undergoes the physical or chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

- (3) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a hazardous chemical is used, handled, generated or stored so as not to contaminate food, food packaging or personal use products.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**Examples—personal use products**

- 1 cosmetics  
2 face washer

*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).

- (4) Subsection (3) does not apply to the use of a hazardous chemical for agricultural purposes when used in accordance with the *Environment Protection Regulation 2005*.

### **355 Specific control—fire and explosion**

A person conducting a business or undertaking at a workplace must, if there is a possibility of fire or explosion in a hazardous area being caused by an ignition source being introduced into the area, ensure that the ignition source is not introduced into the area (from outside or within the space).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **356 Keeping hazardous chemicals stable**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a hazardous chemical used, handled or stored at the workplace does not become unstable, decompose or change so as to—
- (a) create a hazard that is different from the hazard originally created by the hazardous chemical; or
  - (b) significantly increase the risk associated with any hazard in relation to the hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A person conducting a business or undertaking at a workplace must ensure that—
- (a) if the stability of a hazardous chemical used, handled or stored at the workplace is dependent on the maintenance of the proportions of the ingredients of the hazardous chemical—the proportions are maintained as stated in the safety data sheet for the chemical or by the manufacturer of the hazardous chemical; and
  - (b) if a hazardous chemical used, handled or stored at the workplace is known to be unstable above a particular temperature—the hazardous chemical is used, handled or stored at or below that temperature.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) This section does not apply if—
- (a) the hazardous chemical is changed or allowed to become unstable, without risk to health or safety, as part of a deliberate process or activity at the workplace; or
  - (b) the hazardous chemical undergoes a chemical reaction in a manufacturing process or as part of a deliberate process or activity at the workplace.

## Subdivision 7.1.5.2 Spills and damage

### 357 Containing and managing spills

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that where there is a risk from a spill or leak of a hazardous chemical in a solid or liquid form, provision is made in each part of the workplace where the hazardous chemical is used, handled, generated or stored for a spill containment system that contains within the workplace any part of the hazardous chemical that spills or leaks, and any resulting effluent.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must ensure that the spill containment system does not create a hazard by bringing together different hazardous chemicals that are not compatible.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The person must ensure that the spill containment system provides for the cleanup and disposal of a hazardous chemical that spills or leaks, and any resulting effluent.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) In this section:

***compatible***, for 2 or more substances, mixtures or items, means that the substances, mixtures or items do not react together to cause a fire, explosion, harmful reaction or evolution of flammable, toxic or corrosive vapour.

### **358 Protecting hazardous chemicals from damage**

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that containers of hazardous chemicals and any associated pipe work or attachments are protected against damage caused by an impact or excessive loads.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).



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### Subdivision 7.1.5.3 Emergency plans and safety equipment

#### 359 Fire protection and firefighting equipment

- (1) A person conducting a business or undertaking at a workplace must ensure the following:
- (a) the workplace is provided with fire protection and firefighting equipment that is designed and built for the types of hazardous chemicals at the workplace in the quantities in which they are used, handled, generated or stored at the workplace, and the conditions under which they are used, handled, generated or stored, having regard to—
    - (i) the fire load of the hazardous chemicals; and
    - (ii) the fire load from other sources; and
    - (iii) the compatibility of the hazardous chemicals with other substances and mixtures at the workplace;
  - (b) the fire protection and firefighting equipment is compatible with firefighting equipment used by the primary emergency service organisation;
  - (c) the fire protection and firefighting equipment is properly installed, tested and maintained;
  - (d) a dated record is kept of the latest testing results and maintenance until the next test is conducted.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) If a part of the fire protection and firefighting equipment provided at the workplace becomes unserviceable or inoperative, the person must ensure that—
- (a) the implications of the equipment being unserviceable or inoperative are assessed; and
  - (b) for risks that were controlled by the equipment when functioning fully, alternative measures are taken to manage the risks.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The person must ensure that the fire protection and firefighting equipment is returned to full operation as soon as practicable.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **360 Emergency equipment**

A person conducting a business or undertaking at a workplace that uses, handles, generates or stores hazardous chemicals must ensure that equipment is always available at the workplace for use in an emergency.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* A person conducting a business or undertaking must comply with div 3.2.4.

### **361 Emergency plans**

(1) This section applies if the quantity of a Schedule 11 hazardous chemical used, handled, generated or stored at a workplace exceeds the manifest quantity for that hazardous chemical.

(2) A person conducting a business or undertaking at the workplace must give a copy of the emergency plan prepared under division 3.2.4 (Emergency plans) for the workplace to the primary emergency service organisation.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(3) If the primary emergency service organisation gives the person a written recommendation about the content or effectiveness of the emergency plan, the person must revise the plan in accordance with the recommendation.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **362 Safety equipment**

- (1) This section applies if safety equipment is required to control an identified risk in relation to using, handling, generating or storing hazardous chemicals at a workplace.
- (2) A person conducting a business or undertaking at the workplace must ensure that the safety equipment is provided, maintained and readily accessible to persons at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

## **Subdivision 7.1.5.4 Storage and handling systems**

### **363 Control of risks from storage or handling systems**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a system used at the workplace for the use, handling or storage of hazardous chemicals—
  - (a) is used only for a purpose for which it was designed, manufactured, modified, supplied or installed; and
  - (b) is operated, tested, maintained, installed, repaired and decommissioned having regard to the health and safety of workers and other persons at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must ensure that sufficient information, training and instruction is given to a person who operates, tests, maintains or decommissions a system used at a workplace for the use, handling or storage of hazardous chemicals for the activity to be carried out safely.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**Example**

information provided at a training course

*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).

**364 Containers for hazardous chemicals used, handled or stored in bulk**

A person conducting a business or undertaking at a workplace must ensure that a container in which a hazardous chemical is used, handled or stored in bulk and any associated pipe work or attachments—

- (a) have stable foundations and supports; and  
(b) are secured to the foundations and supports to prevent any movement between the container and the associated pipe work or attachments to prevent—  
(i) damage to the container, the associated pipe work or attachments; and

- (ii) a notifiable incident.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **365 Stopping use and disposing of handling systems**

- (1) This section applies to a system used at a workplace for the use, handling or storage of hazardous chemicals if a person conducting a business or undertaking at the workplace intends that the system no longer be used for the use, handling or storage of the hazardous chemicals or be disposed of.
- (2) The person must ensure, so far as is reasonably practicable, that the system is free of the hazardous chemicals when the system stops being used for the use, handling or storage of the hazardous chemicals, or is disposed of.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) If it is not reasonably practicable to remove the hazardous chemicals from the system, the person must correctly label the system.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* For correctly labelling hazardous chemicals, see subdiv 7.1.2.3.

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**366 Stopping use of underground storage and handling systems**

- (1) This section applies in relation to a system used at a workplace for the use, handling or storage of hazardous chemicals underground if a person conducting a business or undertaking at the workplace intends that the system no longer be used for the use, handling or storage of the hazardous chemicals or be disposed of.
- (2) The person must ensure, so far as is reasonably practicable, that the system is removed.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) If it is not reasonably practicable to remove the system, the person must ensure, so far as is reasonably practicable, that the system is without risks to health and safety.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**367 Notification of abandoned tank**

- (1) This section applies to a person conducting a business or undertaking at a workplace if—
  - (a) the person controls or manages a tank at the workplace that is underground, partially underground or fully mounded; and
  - (b) the tank was used to store flammable gases or flammable liquids.
- (2) The tank is taken to be abandoned if—
  - (a) the tank has not been used to store flammable gases or flammable liquids for 2 years; or
  - (b) the person does not intend to use the tank to store flammable gases or flammable liquids again.
- (3) The person must notify the regulator of the abandonment of the tank as soon as practicable after the tank is abandoned.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) In this section:

***tank*** means a container, other than an IBC, designed to use, handle or store hazardous chemicals in bulk and includes fittings, closures and other equipment attached to the container.



## Division 7.1.6 Health monitoring

### 368 Duty to provide health monitoring

A person conducting a business or undertaking must ensure that health monitoring is provided to a worker carrying out work for the business or undertaking if—

- (a) the worker is carrying out ongoing work at a workplace using, handling, generating or storing hazardous chemicals and there is a significant risk to the worker's health because of exposure to a hazardous chemical referred to in schedule 14, table 14.1, column 2; or
- (b) the person identifies that because of ongoing work carried out by a worker using, handling, generating or storing hazardous chemicals there is a significant risk that the worker will be exposed to a hazardous chemical (other than a hazardous chemical referred to in schedule 14, table 14.1, column 2) and either—
  - (i) valid techniques are available to detect the effect on the worker's health; or
  - (ii) a valid way of determining biological exposure to the hazardous chemical is available and it is uncertain, on reasonable grounds, whether the exposure to the hazardous chemical has resulted in the biological exposure standard being exceeded.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* **Exposure standard**—see the dictionary.

**369 Duty to inform of health monitoring**

A person conducting a business or undertaking who is required to provide health monitoring to a worker must give information about the health monitoring requirements to—

- (a) a person who is likely to be engaged to carry out work using, handling, generating or storing a hazardous chemical; and
- (b) a worker for the business or undertaking, before the worker commences work using, handling, generating or storing a hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**370 Duty to ensure that appropriate health monitoring is provided**

A person conducting a business or undertaking must ensure that health monitoring of a worker referred to in section 368 (Duty to provide health monitoring) includes health monitoring of a type referred to in an item in schedule 14, table 14.1, column 3 in relation to a hazardous chemical referred to in column 2 for the item, unless—

- (a) an equal or better type of health monitoring is available; and
- (b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**371 Duty to ensure health monitoring is supervised by registered medical practitioner with experience**

- (1) A person conducting a business or undertaking must ensure that the health monitoring of a worker referred to in section 368 (Duty to provide health monitoring) is carried out by or under the supervision of a registered medical practitioner with experience in health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or  
(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**372 Duty to pay costs of health monitoring**

- (1) A person conducting a business or undertaking must pay all expenses relating to health monitoring referred to in section 368 (Duty to provide health monitoring).

Maximum penalty:

- (a) in the case of an individual—\$3 600; or

(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for 1 of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

**373 Information that must be provided to registered medical practitioner**

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring:

- (a) the name and address of the person conducting the business or undertaking;
- (b) the name and date of birth of the worker;
- (c) the work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;
- (d) if the worker has started that work—how long the worker has been carrying out that work.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**374 Duty to obtain health monitoring report**

- (1) A person conducting a business or undertaking who commissions health monitoring referred to in section 368 (Duty to provide health monitoring) must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The health monitoring report must include the following:
  - (a) the name and date of birth of the worker;
  - (b) the name and registration number of the registered medical practitioner;
  - (c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;
  - (d) the date of the health monitoring;
  - (e) any test results that indicate whether or not the worker has been exposed to a hazardous chemical;
  - (f) 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;
  - (g) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;

- (h) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

**375 Duty to give health monitoring report to worker**

The person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**376 Duty to give health monitoring report to regulator**

A person conducting a business or undertaking for whom a worker is carrying out work for which health monitoring is required must give a copy of the health monitoring report relating to a worker to the regulator as soon as practicable after obtaining the report if the report contains—

- (a) 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 using, handling, generating or storing hazardous chemicals that triggered the requirement for health monitoring; or

- (b) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work using, handling, generating or storing hazardous chemicals that triggered the requirement for health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **377 Duty to give health monitoring report to relevant persons conducting businesses or undertakings**

The person who commissioned health monitoring for a worker under section 368 (Duty to provide health monitoring) must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **378 Health monitoring records**

- (1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record—
  - (a) identified as a record in relation to the worker; and

(b) for at least 30 years after the record is made.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) Subsection (2) does not apply if the record is disclosed under section 376 (Duty to give health monitoring report to regulator) or section 377 (Duty to give health monitoring report to relevant persons conducting businesses or undertakings) or to a person who must keep the record confidential under a duty of professional confidentiality.

## **Division 7.1.7 Induction, information, training and supervision**

### **379 Duty to provide supervision**

- (1) A person conducting a business or undertaking at a workplace must provide any supervision to a worker that is necessary to protect the worker from risks to the worker's health and safety arising from the work if, at the workplace, the worker—
  - (a) uses, handles, generates or stores a hazardous chemical; or



- (b) operates, tests, maintains, repairs or decommissions a storage or handling system for a hazardous chemical; or
- (c) is likely to be exposed to a hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must ensure that the supervision of the worker is suitable and adequate having regard to—
  - (a) the nature of the risks associated with the hazardous chemical; and
  - (b) the information, training and instruction required under section 39 (Provision of information, training and instruction—Act, s 19).

*Note* In addition, the [Act](#), s 19 (3) (f) requires the provision of information, training, instruction and supervision.

## **Division 7.1.8 Prohibition, authorisation and restricted use**

### **380 Using, handling and storing prohibited carcinogens**

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a prohibited carcinogen referred to in schedule 10, table 10.1, column 2 unless—

- (a) the prohibited carcinogen is used, handled or stored for genuine research or analysis; and

- (b) the regulator has authorised the use, handling or storage of the prohibited carcinogen under section 384 (Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens).

*Note* See the [Act](#), s 43 (Requirements for authorisation of work).

### **381 Using, handling and storing restricted carcinogens**

A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted carcinogen referred to in an item in schedule 10, table 10.2, column 2 for a purpose referred to in column 3 for the item unless the regulator has authorised the use, handling or storage of the restricted carcinogen under section 384 (Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens).

*Note* See the [Act](#), s 43 (Requirements for authorisation of work).

### **382 Using, handling and storing restricted hazardous chemicals**

- (1) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, a restricted hazardous chemical referred to in an item in schedule 10, table 10.3, column 2 for a purpose referred to in column 3 for the item.

*Note* See the [Act](#), s 43 (Requirements for authorisation of work).

- (2) A person conducting a business or undertaking at a workplace must not use, handle or store, or direct or allow a worker at the workplace to use, handle or store, polychlorinated biphenyls (*PCBs*) unless the use, handling or storage is—
  - (a) in relation to existing electrical equipment or construction material; or

- (b) for disposal purposes; or
- (c) for genuine research and analysis.

*Note* See the [Act](#), s 43 (Requirements for authorisation of work).

**383 Application for authorisation to use, handle or store prohibited and restricted carcinogens**

- (1) A person conducting a business or undertaking at a workplace may apply in writing to the regulator for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen referred to in schedule 10 (Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals) at the workplace.
- (2) The application must include the following information:
  - (a) the applicant's name and business address;
  - (b) if the applicant conducts the business or undertaking under a business name—that business name;
  - (c) the name and address of the supplier of the carcinogen;
  - (d) the address where the carcinogen will be used, handled or stored;
  - (e) the name of the carcinogen;
  - (f) the quantity of the carcinogen to be used, handled or stored at the workplace each year;
  - (g) the purpose and activity for which the carcinogen will be used, handled or stored;
  - (h) the number of workers that may be exposed to the carcinogen;

- (i) information about how the person will manage risks to health and safety, including a summary of the steps taken, or to be taken, by the person in relation to the following:
  - (i) hazard identification;
  - (ii) control measures;
  - (iii) if elimination or substitution of the carcinogen is not reasonably practicable—why the elimination or substitution is not reasonably practicable;
- (j) any other information requested by the regulator.

**384 Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens**

- (1) If a person applies under section 383, the regulator may grant an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen under this section.
- (2) The regulator may authorise the person to use, handle or store a prohibited carcinogen referred to in an item in schedule 10, table 10.1 at the workplace only if the carcinogen will be used, handled or stored only for genuine research or analysis.
- (3) The regulator may authorise the person to use, handle or store a restricted carcinogen referred to in an item in schedule 10, table 10.2 at the workplace only if the carcinogen will be used, handled or stored only for a use referred to in column 3 for the item.
- (4) The regulator may impose any conditions on the authorisation that the regulator considers necessary to achieve the objectives of the Act or this regulation.
- (5) The regulator must refuse to authorise the use, handling or storage of the carcinogen for a use not referred to in this section.

*Note* A decision to refuse an authorisation is a reviewable decision (see s 676).

**385 Changes to information in application to be reported**

A person who applies under section 383 for authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen must give the regulator written notice of any change in the information given in the application before the change or as soon as practicable after the person becomes aware of the change.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**386 Regulator may cancel authorisation**

The regulator may cancel an authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen given under section 384 if satisfied that—

- (a) the person granted the authorisation has not complied with a condition on the authorisation; or
- (b) the risk to the health or safety of a worker that may be affected by using, handling or storing the carcinogen has changed since the authorisation was granted.

*Note* A decision to cancel an authorisation is a reviewable decision (see s 676).

**387 Statement of exposure to be given to workers**

- (1) This section applies if—
  - (a) a person conducting a business or undertaking at a workplace is authorised under section 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace; and
  - (b) a worker uses, handles or stores the prohibited carcinogen or restricted carcinogen at the workplace.
- (2) The person must give to the worker, at the end of the worker's engagement by the person, a written statement of the following:
  - (a) the name of the prohibited or restricted carcinogen to which the worker may have been exposed during the engagement;
  - (b) the time the worker may have been exposed;
  - (c) how and where the worker may obtain records of the possible exposure;
  - (d) whether the worker should undertake regular health assessments, and the relevant tests to undertake.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**388 Records to be kept**

- (1) This section applies if a person conducting a business or undertaking at a workplace is authorised under section 384 to use, handle or store a prohibited carcinogen or restricted carcinogen at the workplace.

- (2) The person must—
- (a) record the full name, date of birth and address of each worker likely to be exposed to the prohibited carcinogen or restricted carcinogen during the period of authorisation; and
  - (b) keep a copy of each authorisation given to the person including any conditions imposed on the authorisation.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The person must keep the records for 30 years after the authorisation ends.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

## **Division 7.1.9 Pipelines**

### **389 Management of risk by pipeline owner**

- (1) The owner of a pipeline used to transfer hazardous chemicals must manage risks associated with the transfer of the hazardous chemicals through that pipeline.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**Example**

risks associated with the testing, installation, commissioning, operation, maintenance and decommissioning of the pipeline

*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 owner of a pipeline used to transfer hazardous chemicals must ensure, so far as is reasonably practicable, that an activity, structure, equipment or substance that is not part of the pipeline does not affect the hazardous chemicals or the pipeline in a way that increases risk.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**390 Pipeline builder's duties**

- (1) This section applies to a person who intends to build a pipeline that will—
- (a) cross into a public place; and  
(b) be used to transfer a Schedule 11 hazardous chemical.
- (2) The person must ensure that, before the building of the pipeline commences, the regulator is given the following information:
- (a) the name of the pipeline's intended owner and operator;  
(b) the pipeline's specifications;



- (c) the intended procedures for the operation, maintenance, renewal and relaying of the pipeline;
- (d) any public place that the pipeline will cross;
- (e) the intended emergency response procedures.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The person must ensure that the regulator is given the information in the following circumstances:
  - (a) before the pipeline is commissioned;
  - (b) before the pipeline is likely to contain a hazardous chemical;
  - (c) if there is any change in the information given under subsection (2)—when the information changes;
  - (d) if part of the pipeline is to be repaired—before the pipeline is repaired;
  - (e) if part of the pipeline is removed, decommissioned, closed or abandoned—when the removal, decommissioning, closure or abandonment occurs.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**391 Management of risks to health and safety by pipeline operator—Act, s 19**

- (1) A person conducting a business or undertaking at a workplace who is the operator of a pipeline (the *operator*) used to transfer hazardous chemicals must manage, in accordance with part 3.1 (Managing risks to health and safety), risks to health and safety associated with the transfer of the hazardous chemicals through the pipeline.

*Note* [WHS Act](#)—s 19 (see s 9).

- (2) The operator of a pipeline used to transfer a hazardous chemical must ensure, so far as is reasonably practicable, that the hazardous chemical transferred is identified by a label, sign or another way on or near the pipeline.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The operator of a pipeline that transfers a Schedule 11 hazardous chemical into a public place must ensure that the regulator is notified of—
- (a) the supplier of the hazardous chemical; and  
(b) the receiver of the hazardous chemical; and  
(c) the correct classification of the hazardous chemical.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or  
(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

## Part 7.2                      Lead

*Note*        In workplaces where lead processes are carried out, this part applies in addition to pt 7.1.

### Division 7.2.1              Lead process

#### 392            **Meaning of *lead process*—pt 7.2**

In this part, a *lead process* consists of any of the following carried out at a workplace:

- (a) work that exposes a person to lead dust or lead fumes arising from the manufacture or handling of dry lead compounds;
- (b) work in connection with the manufacture, assembly, handling or repair of, or parts of, batteries containing lead that involves the manipulation of dry lead compounds, or pasting or casting lead;
- (c) breaking up or dismantling batteries containing lead, or sorting, packing and handling plates or other parts containing lead that are removed or recovered from the batteries;
- (d) spraying molten lead metal or alloys containing more than 5% by weight of lead metal;
- (e) melting or casting lead alloys containing more than 5% by weight of lead metal in which the temperature of the molten material exceeds 450°C;
- (f) recovering lead from its ores, oxides or other compounds by thermal reduction process;
- (g) dry machine grinding, discing, buffing or cutting by power tools alloys containing more than 5% by weight of lead metal;
- (h) machine sanding or buffing surfaces coated with paint containing more than 1% by dry weight of lead;

- (i) a process by which electric arc, oxyacetylene, oxy gas, plasma arc or a flame is applied for welding, cutting or cleaning, to the surface of metal coated with lead or paint containing more than 1% by dry weight of lead metal;
- (j) radiator repairs that may cause exposure to lead dust or lead fumes;
- (k) fire assays if lead, lead compounds or lead alloys are used;
- (l) hand grinding and finishing lead or alloys containing more than 50% by dry weight of lead;
- (m) spray painting with lead paint containing more than 1% by dry weight of lead;
- (n) melting lead metal or alloys containing more than 50% by weight of lead metal if the exposed surface area of the molten material exceeds 0.1 square metre and the temperature of the molten material does not exceed 450°C;
- (o) using a power tool, including abrasive blasting and high pressure water jets, to remove a surface coated with paint containing more than 1% by dry weight of lead and handling waste containing lead resulting from the removal;
- (p) a process that exposes a person to lead dust or lead fumes arising from manufacturing or testing detonators or other explosives that contain lead;
- (q) a process that exposes a person to lead dust or lead fumes arising from firing weapons at an indoor firing range;

- (r) foundry processes involving—
  - (i) melting or casting lead alloys containing more than 1% by weight of lead metal in which the temperature of the molten material exceeds 450°C; or
  - (ii) dry machine grinding, discing, buffing or cutting by power tools lead alloys containing more than 1% by weight of lead metal;
- (s) a process decided by the regulator to be a lead process under section 393.

### **393 Regulator may decide lead process**

- (1) The regulator may decide that a process to be carried out at a workplace is a lead process.
- (2) The regulator must not decide that the process is a lead process unless the regulator is satisfied on reasonable grounds that the process creates a risk to the health of a worker at the workplace having regard to blood lead levels of workers, or airborne lead levels, at the workplace.

*Note* A decision that a process is a lead process is a reviewable decision (see s 676).

- (3) The regulator must, within 14 days after the day a decision is made under subsection (1), give written notice of the decision to the person conducting a business or undertaking at the workplace.

**394 Meaning of *lead risk work*—pt 7.2**

In this part:

*lead risk work* means work carried out in a lead process that is likely to cause the blood lead level of a worker carrying out the work to exceed—

- (a) for a female of reproductive capacity—10µg/dL (0.48µmol/L);  
or
- (b) in any other case—30µg/dL (1.45µmol/L).

**395 Duty to give information about health risks of lead process**

- (1) A person conducting a business or undertaking that carries out a lead process must give information about the lead process to—
  - (a) a person who is likely to be engaged to carry out the lead process—before the person is engaged; and
  - (b) a worker for the business or undertaking—before the worker commences the lead process.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

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- (2) If work is identified as lead risk work after a worker commences the work, the person conducting a business or undertaking must give information about the lead process to the worker as soon as practicable after it is identified as lead risk work and before health monitoring of the worker is provided under division 7.2.4 (Health monitoring).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The information that must be given is—
- (a) information about the health risks and toxic effects associated with exposure to lead; and
- (b) if the lead process involves lead risk work—the need for, and details of, health monitoring under division 7.2.4.

## **Division 7.2.2 Control of risk**

### **396 Containment of lead contamination**

A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that contamination by lead is confined to a lead process area at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**397      Cleaning methods**

- (1) A person conducting a business or undertaking at a workplace must ensure, so far as is reasonably practicable, that a lead process area at the workplace is kept clean.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note*      Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must ensure that the methods used to clean a lead process area—

- (a) do not create a risk to the health of persons in the immediate vicinity of the area; and  
(b) do not have the potential to spread the contamination of lead.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note*      Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**398      Prohibition on eating, drinking and smoking**

- (1) A person conducting a business or undertaking at a workplace must take all reasonable steps to ensure that a person does not eat, drink, chew gum, smoke or carry materials used for smoking in a lead process area at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or



(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A person conducting a business or undertaking at a workplace must provide workers with an eating and drinking area that, so far as is reasonably practicable, cannot be contaminated with lead from a lead process.

Maximum penalty:

(a) in the case of an individual—\$3 600; or

(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **399 Provision of changing and washing facilities**

- (1) A person conducting a business or undertaking at a workplace must provide and maintain in good working order changing rooms and washing, showering and toilet facilities at the workplace so as to—
- (a) minimise secondary lead exposure from contaminated clothing; and
  - (b) minimise ingestion of lead; and
  - (c) avoid the spread of lead contamination.

Maximum penalty:

(a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must ensure, so far as is reasonably practicable, that workers at the workplace remove clothing and equipment that is or is likely to be contaminated with lead, and wash their hands and faces, before entering an eating or drinking area at the workplace.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **400 Laundering, disposal and removal of personal protective equipment**

- (1) A person conducting a business or undertaking at a workplace must ensure that personal protective equipment that is likely to be contaminated with lead dust—
- (a) is sealed in a container before being removed from the lead process area; and
  - (b) so far as is reasonably practicable, is disposed of on the completion of the lead process work at a site equipped to accept lead-contaminated equipment; and
  - (c) if it is not reasonably practicable to dispose of the personal protective equipment that is clothing—
    - (i) is laundered at a laundry, whether on-site or off-site, equipped to launder lead-contaminated clothing; or
    - (ii) if it is not practicable to launder the clothing—is kept in the sealed container until it is re-used for lead process work; and

- (d) if it is not reasonably practicable to dispose of the personal protective equipment that is not clothing—
  - (i) is decontaminated before it is removed from the lead process area; or
  - (ii) if it is not practicable to decontaminate the equipment in the lead process area—is kept in the sealed container until it is re-used for lead process work.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**Example—personal protective equipment**

work boots

*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 must ensure that a sealed container referred to in subsection (1) is decontaminated before being removed from the lead process area.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* Section 335 also requires the container to be labelled to indicate the presence of lead.

- (3) The person must take all reasonable steps to ensure that clothing contaminated with lead dust is not removed from the workplace unless it is to be—
- (a) laundered in accordance with this section; or
  - (b) disposed of.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **401 Review of control measures**

- (1) A person conducting a business or undertaking at a workplace must ensure that any measures implemented to control health risks from exposure to lead at the workplace are reviewed and as necessary revised in the following circumstances:
- (a) a worker is removed from carrying out lead risk work at the workplace under section 415 (Removal of worker from lead risk work);
  - (b) the person obtains a health monitoring report for a worker under division 7.2.4 (Health monitoring) that contains—
    - (i) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under section 415; or
    - (ii) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring; or

- (iii) any recommendation that the person conducting the business or undertaking take remedial measures, including a recommendation that the worker be removed from carrying out lead risk work at the workplace;
- (c) the control measure does not control the risk it was implemented to control so far as is reasonably practicable;

**Examples**

- 1 results of any monitoring
- 2 a notifiable incident occurs because of the risk

*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).

- (d) before a change at the workplace that is likely to give rise to a new or different risk to health or safety that the measure may not effectively control;
- (e) a new relevant hazard or risk is identified;
- (f) the results of consultation by the person under the Act or this regulation indicate that a review is necessary;
- (g) a health and safety representative requests a review under subsection (3);
- (h) the regulator requires the review;
- (i) at least once every 5 years.

**Maximum penalty:**

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) Without limiting subsection (1) (d), a change at the workplace includes—
  - (a) a change to the workplace itself or any aspect of the work environment; or
  - (b) a change to a system of work, a process or a procedure.
- (3) A health and safety representative for workers at a workplace may request a review of a control measure if the representative reasonably believes that—
  - (a) a circumstance referred to in subsection (1) (a) to (f) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
  - (b) the duty holder has not adequately reviewed the control measure in response to the circumstance.

### **Division 7.2.3      Lead risk work**

#### **402      Identifying lead risk work**

- (1) A person conducting a business or undertaking at a workplace must assess each lead process carried out by the business or undertaking at the workplace to determine if lead risk work is carried out in the process.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note*      Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) In assessing a lead process, the person must have regard to the following:
  - (a) past biological monitoring results of workers;

- (b) airborne lead levels;
  - (c) the form of lead used;
  - (d) the tasks and processes required to be undertaken with lead;
  - (e) the likely duration and frequency of exposure to lead;
  - (f) possible routes of exposure to lead;
  - (g) any information about incidents, illnesses or diseases in relation to the use of lead at the workplace.
- (3) In assessing a lead process, the person must not have regard to the effect of using personal protective equipment on the health and safety of workers at the workplace.
- (4) If a person conducting a business or undertaking at a workplace is unable to determine whether lead risk work is carried out in a lead process at the workplace, the process is taken to include lead risk work until the person determines that lead risk work is not carried out in the process.

#### **403 Notification of lead risk work**

- (1) Subject to subsection (5), if a person conducting a business or undertaking at a workplace determines that work at the workplace is lead risk work, the person must give the regulator written notice within 7 days after the determination is made that the work is lead risk work.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A notice under this section must state the kind of lead process being carried out that includes the lead risk work.

- (3) The person must—
- (a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and
  - (b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) Subsection (5) applies to an emergency service organisation in relation to work carried out by an emergency service worker who, at the direction of the emergency service organisation, is—
- (a) rescuing a person; or
  - (b) providing first aid to a person.
- (5) The emergency service organisation must give notice under subsection (1) as soon as practicable after determining that the work is lead risk work.

#### **404 Changes to information in notification of lead risk work**

- (1) A person conducting a business or undertaking at a workplace must give the regulator written notice of any change in the information given in a notice under section 403 before the change or as soon as practicable after the person becomes aware of the change.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or



(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(2) The person must—

(a) keep a copy of the notice given to the regulator while the lead risk work is carried out at the workplace; and

(b) ensure that a copy of the notice is readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Maximum penalty:

(a) in the case of an individual—\$1 250; or

(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

## **Division 7.2.4 Health monitoring**

### **405 Duty to provide health monitoring before first commencing lead risk work**

(1) A person conducting a business or undertaking at a workplace must ensure that health monitoring is provided to a worker—

(a) before the worker first commences lead risk work for the person; and

(b) 1 month after the worker first commences lead risk work for the person.

Maximum penalty:

(a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(2) If work is identified as lead risk work after a worker commences the work, the person conducting the business or undertaking must ensure that health monitoring of the worker is provided—

(a) as soon as practicable after the lead risk work is identified; and

(b) 1 month after the first monitoring of the worker under paragraph (a).

Maximum penalty:

(a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **406 Duty to ensure that appropriate health monitoring is provided**

Subject to section 407, a person conducting a business or undertaking must ensure that health monitoring of a worker referred to in section 405 includes health monitoring of a type referred to in an item in schedule 14, table 14.2 (Lead requiring health monitoring) unless—

(a) an equal or better type of health monitoring is available; and

(b) the use of that other type of monitoring is recommended by a registered medical practitioner with experience in health monitoring.

Maximum penalty:

(a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **407 Frequency of biological monitoring**

- (1) A person conducting a business or undertaking at a workplace must arrange for biological monitoring of each worker who carries out lead risk work for the person to be carried out at the following times:
- (a) for females not of reproductive capacity and males—
    - (i) if the last monitoring shows a blood lead level of less than 30µg/dL (1.45µmol/L)—6 months after the last biological monitoring of the worker; or
    - (ii) if the last monitoring shows a blood lead level of 30µg/dL (1.45µmol/L) or more but less than 40µg/dL (1.93µmol/L)—3 months after the last biological monitoring of the worker; or
    - (iii) if the last monitoring shows a blood lead level of 40µg/dL (1.93µmol/L) or more—6 weeks after the last biological monitoring of the worker;
  - (b) for females of reproductive capacity—
    - (i) if the last monitoring shows a blood lead level of less than 10µg/dL (0.48µmol/L)—3 months after the last biological monitoring of the worker; or
    - (ii) if the last monitoring shows a blood lead level of 10µg/dL (0.48µmol/L) or more—6 weeks after the last biological monitoring of the worker.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must increase the frequency of biological monitoring of a worker who carries out lead risk work if the worker carries out an activity that is likely to significantly change the nature or increase the duration or frequency of the worker's lead exposure.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The regulator may determine a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work having regard to—
- (a) the nature of the work and the likely duration and frequency of the workers' lead exposure; and
- (b) the likelihood that the blood lead level of the workers will significantly increase.
- (4) The regulator must give a person conducting a business or undertaking written notice of a determination under subsection (3) within 14 days after making the determination.
- (5) The person conducting a business or undertaking at the workplace must arrange for biological monitoring to be carried out at the frequency stated in a determination notified to the person under subsection (4).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* A determination of a different frequency for biological monitoring is a reviewable decision (see s 676).

*Note 3* **Biological monitoring, blood lead level, lead risk work** (see dict).

**408 Duty to ensure health monitoring is supervised by registered medical practitioner with relevant experience**

- (1) A person conducting a business or undertaking must ensure that the health monitoring of a worker referred to in this division is carried out by, or under the supervision of, a registered medical practitioner with experience in health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must consult the worker in relation to the selection of the registered medical practitioner.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**409 Duty to pay costs of health monitoring**

- (1) A person conducting a business or undertaking must pay all expenses relating to health monitoring referred to in this division.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or  
(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) If 2 or more persons conducting businesses or undertakings have a duty to provide health monitoring for a worker and have arranged for 1 of them to commission the health monitoring, the costs of the health monitoring for which any of those persons is liable must be apportioned equally between each of those persons unless they agree otherwise.

**410 Information that must be provided to registered medical practitioner**

A person conducting a business or undertaking who commissions health monitoring for a worker must provide the following information to the registered medical practitioner carrying out or supervising the health monitoring:

- (a) the name and address of the person conducting the business or undertaking;  
(b) the name and date of birth of the worker;  
(c) the lead risk work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring;

- (d) if the worker has started that work, how long the worker has been carrying out that work.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **411 Duty to obtain health monitoring report**

- (1) A person conducting a business or undertaking who commissioned health monitoring referred to in this division must take all reasonable steps to obtain a health monitoring report from the registered medical practitioner who carried out or supervised the monitoring as soon as practicable after the monitoring is carried out in relation to a worker.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The health monitoring report must include the following:
  - (a) the name and date of birth of the worker;
  - (b) the name and registration number of the registered medical practitioner;
  - (c) the name and address of the person conducting the business or undertaking who commissioned the health monitoring;
  - (d) the date of health monitoring;
  - (e) if a blood sample is taken—the date the blood sample is taken;

- (f) the results of biological monitoring that indicate blood lead levels in the worker's body;
  - (g) the name of the pathology service used to carry out tests;
  - (h) any test results that indicate that the worker has reached or exceeded the relevant blood lead level for that worker under section 415 (Removal of worker from lead risk work);
  - (i) any advice that test results indicate that the worker may have contracted a disease, injury or illness as a result of carrying out the lead risk work that triggered the requirement for health monitoring;
  - (j) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the type of work that triggered the requirement for health monitoring;
- Note* The duty under s 415 to remove a worker from carrying out lead risk work applies even if there is no recommendation of a registered medical practitioner to do so.
- (k) whether medical counselling is required for the worker in relation to the work that triggered the requirement for health monitoring.

#### **412 Duty to give health monitoring report to worker**

A person conducting a business or undertaking who commissioned health monitoring for a worker must give a copy of the health monitoring report to the worker as soon as practicable after the person obtains the report.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).



**413 Duty to give health monitoring report to regulator**

A person conducting a business or undertaking for which a worker is carrying out work for which health monitoring is required must give a copy of the health monitoring report relating to the worker to the regulator as soon as practicable after obtaining the report if the report contains—

- (a) test results that indicate that the worker has reached or exceeded the relevant blood lead level for that person under section 415 (Removal of worker from lead risk work); or
- (b) 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; or
- (c) any recommendation that the person conducting the business or undertaking take remedial measures, including whether the worker can continue to carry out the work that triggered the requirement for health monitoring.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**414 Duty to give health monitoring report to relevant persons conducting businesses or undertakings**

A person conducting a business or undertaking who commissioned health monitoring for a worker under this division must give a copy of the health monitoring report to all other persons conducting businesses or undertakings who have a duty to provide health monitoring for the worker as soon as practicable after obtaining the report.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**415 Removal of worker from lead risk work**

- (1) A person conducting a business or undertaking for which a worker is carrying out work must immediately remove the worker from carrying out lead risk work if following health monitoring—
  - (a) biological monitoring of the worker shows that the worker's blood lead level is, or is more than—
    - (i) for females not of reproductive capacity and males—50µg/dL (2.42µmol/L); or
    - (ii) for females of reproductive capacity—20µg/dL (0.97µmol/L); or
    - (iii) for females who are pregnant or breastfeeding—15µg/dL (0.72µmol/L); or
  - (b) the registered medical practitioner who supervised the health monitoring recommends that the worker be removed from carrying out the lead risk work; or

- (c) there is an indication that a risk control measure has failed and, as a result, the worker's blood lead level is likely to reach the relevant level for the worker referred to in paragraph (a).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must notify the regulator as soon as practicable if a worker is removed from carrying out lead risk work under subsection (1).

Maximum penalty:

- (a) in the case of an individual—\$3 600; or  
(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **416 Duty to ensure medical examination if worker removed from lead risk work**

- (1) This section applies if a worker is removed from carrying out lead risk work under section 415.
- (2) The person conducting the business or undertaking who removes the worker from carrying out lead risk work must arrange for the worker to be medically examined by a registered medical practitioner with experience in health monitoring within 7 days after the day the worker is removed.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(3) The person must consult the worker in the selection of the registered medical practitioner.

Maximum penalty:

(a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **417 Return to lead risk work after removal**

(1) This section applies if—

(a) a worker is removed from carrying out lead risk work under section 415 (Removal of worker from lead risk work); and

(b) the person conducting a business or undertaking at the workplace who removed the worker expects the worker to return to carrying out lead risk work at the workplace.

(2) The person conducting the business or undertaking must arrange for health monitoring under the supervision of a registered medical practitioner with experience in health monitoring at a frequency decided by the practitioner to determine whether the worker's blood lead level is low enough for the worker to return to carrying out lead risk work.

Maximum penalty:

(a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- 
- (3) The person conducting the business or undertaking must ensure that the worker does not return to carrying out lead risk work until—
- (a) the worker's blood lead level is less than—
    - (i) for females not of reproductive capacity and males— $40\mu\text{g/dL}$  ( $1.93\mu\text{mol/L}$ ); or
    - (ii) for females of reproductive capacity— $10\mu\text{g/dL}$  ( $0.48\mu\text{mol/L}$ ); and
  - (b) a registered medical practitioner with experience in health monitoring is satisfied that the worker is fit to return to carrying out lead risk work.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **418 Health monitoring records**

- (1) A person conducting a business or undertaking must ensure that health monitoring reports in relation to a worker carrying out work for the business or undertaking are kept as a confidential record—
- (a) identified as a record in relation to the worker; and
  - (b) for at least 30 years after the record is made.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The person must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or  
(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) Subsection (2) does not apply if the record is disclosed under section 412 (Duty to give health monitoring report to worker), section 413 (Duty to give health monitoring report to regulator) or section 414 (Duty to give health monitoring report to relevant persons conducting businesses or undertakings) or to a person who must keep the record confidential under a duty of professional confidentiality.

## **7 Section 445 (1)**

*omit*

the VET course *Asbestos Awareness*

*substitute*

a course in asbestos awareness declared under subsection (1A) (a).

## **8 Section 445 (1) (b)**

*omit*

subsection (1A)

*substitute*

subsection (1A) (b)

**9 Section 445 (1A)**

*substitute*

- (1A) The Minister may declare—
- (a) a course in asbestos awareness; and
  - (b) an occupation for which training in a course in asbestos awareness is required.

**10 New chapter 9**

*insert*

## **Chapter 9 Major hazard facilities**

### **Part 9.1 Preliminary**

#### **Division 9.1.1 Application and interpretation**

**530 This chapter does not apply to certain facilities**

- (1) This chapter does not apply in relation to a facility that is regulated by the National Offshore Petroleum Safety and Environmental Management Authority under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cwlth).
- (2) This chapter does not apply in relation to a pipeline that is regulated under the *Gas Safety Act 2000* or the *Utilities (Technical Regulation) Act 2014*.

**531 Meaning of *major incident*—ch 9**

- (1) In this chapter, a *major incident* at a major hazard facility is an occurrence that—
  - (a) results from an uncontrolled event at the major hazard facility involving, or potentially involving, Schedule 15 chemicals; and
  - (b) exposes a person to a serious risk to health or safety emanating from an immediate or imminent exposure to the occurrence.
- (2) Without limiting subsection (1), an *occurrence* includes any of the following:
  - (a) escape, spillage or leakage;
  - (b) implosion, explosion or fire.

**532 Meaning of hazardous chemicals that are *present or likely to be present***

- (1) In this regulation, a reference to hazardous chemicals, including Schedule 15 chemicals, being *present or likely to be present* at a facility is a reference to the quantity of hazardous chemicals that would, if present, meet the maximum capacity of the facility, including—
  - (a) the maximum capacity of process vessels and interconnecting pipe systems that contain the hazardous chemicals; and
  - (b) the maximum capacity of storage tanks and vessels used for the hazardous chemicals; and
  - (c) the maximum capacity of other storage areas at the facility that could contain the hazardous chemicals; and
  - (d) the maximum capacity of pipe work outside process areas to contain the hazardous chemicals; and



- (e) the maximum quantity of hazardous chemicals that would, in the event of failure, escape into the facility from pipe work that is situated off the premises but is connected to the facility; and
  - (f) the maximum quantity of hazardous chemicals loaded into or onto, or unloaded from, vehicles, trailers, rolling stock and ships that are from time to time present at the facility in the course of the facility's operations.
- (2) Subsection (1) applies with any necessary changes to hazardous chemicals that are *likely to be present* at a proposed facility.
  - (3) Schedule 15 chemicals present or likely to be present in the tailings dam of a mine are not to be considered in determining whether a mine is a facility or a major hazard facility.

**533      *Meaning of operator of a facility or proposed facility—***  
**ch 9**

- (1) In this chapter, the *operator* of a facility is the person conducting the business or undertaking of operating the facility who has—
  - (a) management or control of the facility; and
  - (b) the power to direct that the whole facility be shut down.
- (2) In this chapter, *operator of a proposed facility* means—
  - (a) the operator of a proposed facility that is an existing workplace; or
  - (b) the person who is to be the operator of a proposed facility that is being designed or constructed.
- (3) If more than 1 person is an operator of the facility within the meaning of subsection (1)—
  - (a) 1 of those persons must be selected as the operator of the facility for the purposes of this chapter; and
  - (b) that person's details must be given to the regulator.

- (4) The person selected—
  - (a) must notify the regulator of the nomination; and
  - (b) may do so by including the nomination in a notification under section 536 (Operators of certain facilities must notify regulator).
- (5) The person selected under subsection (3) is the *operator* of the facility for the purposes of this chapter.
- (6) If a selection is not made, each of the following persons is taken to be an *operator* of the facility for the purposes of this chapter:
  - (a) each operator within the meaning of subsection (1) who is an individual;
  - (b) for each operator within the meaning of subsection (1) that is a body corporate—each officer of the body corporate.

**534 Meaning of *modification* of a major hazard facility**

- (1) In this regulation, a reference to a *modification* of a major hazard facility is a reference to a change or proposed change at the major hazard facility that has or would have the effect of—
  - (a) creating a major incident hazard that has not previously been identified; or
  - (b) significantly increasing the likelihood of a major incident occurring; or
  - (c) in relation to a major incident that may occur—significantly increasing—
    - (i) its magnitude; or
    - (ii) the severity of its health and safety consequences.

- (2) For the purposes of subsection (1), a ***change or proposed change*** at a major hazard facility means a change or proposed change of any kind, including any of the following:
- (a) a change to any plant, structure, process or chemical or other substance used in a process, including the introduction of new plant, a new structure, a new process or a new chemical;
  - (b) a change to the quantity of Schedule 15 chemicals present or likely to be present at the major hazard facility;
  - (c) a change to the operation, or the nature of the operation, of the major hazard facility;
  - (d) a change in the workers' safety role;
  - (e) a change to the major hazard facility's safety management system;
  - (f) an organisational change at the major hazard facility, including a change in its senior management.

### **Division 9.1.2 Requirement to be licensed**

#### **535 A major hazard facility must be licensed—Act, s 41**

- (1) A facility at which Schedule 15 chemicals are present or likely to be present in a quantity that exceeds their threshold quantity must be licensed under part 9.7 (Licensing of major hazard facilities).

*Note* See the [Act](#), s 41 (Requirements for authorisation of workplaces).

- (2) A facility that is determined to be a major hazard facility under section 541 (Determination in relation to facility, on inquiry) must be licensed under part 9.7 (Licensing of major hazard facilities).

*Note* See the [Act](#), s 41 (Requirements for authorisation of workplaces).

- (3) Despite subsection (1) or (2), a determined major hazard facility is exempt from the requirement to be licensed during the exemption period if the operator of the major hazard facility is taken to be a suitable person to operate the facility for the purposes of part 9.2 (Determinations about major hazard facilities).
- (4) The operator of a licensed major hazard facility must hold the licence for the major hazard facility.
- (5) In this section:

***exemption period***, in relation to a determined major hazard facility, means the period beginning on the determination of the facility and ending on the first of the following to occur:

- (a) the revocation of the determination of the facility under section 546 (When regulator may revoke a determination);
- (b) the end of the period for applying for a licence given under section 549 (Time in which major hazard facility licence must be applied for), unless an application for a licence for the facility is made within that period;
- (c) the grant of a licence for the facility under part 9.7 (Licensing of major hazard facilities);
- (d) if the regulator decides to refuse to grant a licence for the facility—
  - (i) the end of the period for applying for an external review of that decision, unless an application for external review is made within that period; or

(ii) the making of the decision on the external review.

*Note 1* The licensing process is provided for in pt 9.7.

*Note 2* Under pt 9.2, an operator of a determined major hazard facility is taken to be a suitable operator if no determination is made under s 543.

*Note 3* Under pt 9.3, the operator of a determined major hazard facility is given a limited time to prepare the major hazard facility to be licensed, including by preparing a safety case.

*Note 4* Pt 9.2 provides for the notification and determination of facilities and operators of facilities. The purpose of notification is to enable the regulator to determine whether—

- (a) a facility or proposed facility is a major hazard facility; and
- (b) the operator of a determined major hazard facility is a suitable person to—
  - (i) operate the facility while the determination under paragraph (a) is in force; and
  - (ii) apply for a licence for the facility.

## Part 9.2 Determinations about major hazard facilities

### 536 Operators of certain facilities must notify regulator

- (1) The operator of a facility at which Schedule 15 chemicals are present or likely to be present in a quantity that exceeds 10% of their threshold quantity must notify the regulator of this circumstance in accordance with this part.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) Notification must be given—
- (a) as soon as practicable (but not more than 3 months) after the operator becomes aware, or ought reasonably to have become aware, of the circumstance giving rise to the requirement to notify; or
- (b) within any longer period that the regulator determines if satisfied on application by the operator that there is a reasonable excuse for the delayed notification.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

**537 Notification—proposed facilities**

- (1) The operator of a proposed facility at which Schedule 15 chemicals are likely to be present in a quantity that exceeds 10% of their threshold quantity may notify the regulator of this circumstance.

*Note 1* **Proposed facility**—see the dictionary.

*Note 2* **Likely to be present**—see s 532.

- (2) Any notification under this section must include the information required by section 538 (with any necessary changes).

**538 Content of notification**

- (1) This section applies to a notification under section 536 (Operators of certain facilities must notify regulator).
- (2) The notification must include the following:
  - (a) information about the facility, including the nature of its operations;
  - (b) information about the operator, including the matters specified in subsection (3);
  - (c) information about the Schedule 15 chemicals present or likely to be present at the facility;
  - (d) the nomination of a contact person with whom the regulator can communicate for the purposes of—
    - (i) this part; and
    - (ii) the licensing process;

(e) any additional information required by the regulator.

*Note 1* If a form is approved under the [Act](#), s 277 for this provision, the form must be used.

*Note 2* A fee may be determined under the [Act](#), s 278 for this provision.

*Note 3* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

(3) The information given under subsection (2) (b) must include the following:

- (a) the operator's name;
- (b) whether or not the operator is a body corporate;
- (c) any other evidence of the operator's identity required by the regulator;
- (d) if the operator is an individual—
  - (i) a declaration as to whether or not the operator has ever been convicted or found guilty of any offence under the Act or this regulation or under any corresponding WHS law; and

*Note 1* **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

*Note 2* A conviction does not include a spent conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i)).

- (ii) details of any conviction or finding of guilt declared under subparagraph (i); and
- (iii) a declaration as to whether or not the operator has ever entered into an enforceable undertaking under the Act or under any corresponding WHS law; and

*Note* **Corresponding WHS law**—see s 9A.

- (iv) details of any enforceable undertaking declared under subparagraph (iii); and



- (v) if the operator has previously been refused a major hazard facility licence under a corresponding WHS law, a declaration giving details of that refusal; and
- (vi) if the operator has previously held a major hazard facility licence under a corresponding WHS law, a declaration—
  - (A) describing any condition imposed on that licence; and
  - (B) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the operator had been disqualified from applying for a major hazard facility licence; and
  - (C) giving details of any suspension, cancellation or disqualification;
- (e) if the operator is a body corporate, the information specified in paragraph (d) in relation to—
  - (i) the operator; and
  - (ii) each officer of the operator.

*Note* A fee may be determined under the [Act](#), s 278 for this provision.

### **539 When regulator may conduct inquiry**

The regulator may conduct an inquiry under this division if a notification under section 536 (Operators of certain facilities must notify regulator) or section 537 (Notification—proposed facilities) discloses, or if for some other reason the regulator reasonably suspects, that—

- (a) the quantity of Schedule 15 chemicals present or likely to be present at a facility (or proposed facility) exceeds 10% of their threshold quantity but does not exceed their threshold quantity; or

- (b) the operator of the facility (or proposed facility) may not be a suitable person to operate the facility (or proposed facility).

**540 Inquiry procedure**

- (1) This section sets out the procedure for an inquiry.
- (2) The regulator must give a written notice to the person referred to in subsection (3)—
  - (a) informing the person of the reasons for the inquiry; and
  - (b) advising the person that the person may, by a specified date (being not less than 28 days after the notice is given), make a submission to the regulator in relation to the inquiry.
- (3) Notice under subsection (2) must be given—
  - (a) for an inquiry about a facility in relation to which a notification has been given under section 536 (Operators of certain facilities must notify regulator) or section 537 (Notification—proposed facilities)—to the contact person identified in the notification; and
  - (b) in any other case—to the operator of the facility.
- (4) The regulator must—
  - (a) if the recipient of the notice has made a submission in relation to the inquiry—consider that submission; and
  - (b) consult with interested persons including—
    - (i) health and safety representatives at the facility; and
    - (ii) the emergency service organisations that have responsibility for the area in which the facility is located; and

- (iii) any Commonwealth government department or agency, or territory authority or administrative unit, with a regulatory role in relation to major hazard facilities; and
- (c) decide whether or not to make a determination under section 541 or section 542 (Determination in relation to over-threshold facility); and
- (d) if it decides to make a determination under section 541 or section 542—decide whether or not to make a determination in relation to the operator under section 543 (Suitability of facility operator).

**541 Determination in relation to facility, on inquiry**

- (1) This section applies if an inquiry discloses that the quantity of Schedule 15 chemicals present or likely to be present at a facility or proposed facility exceeds 10% of their threshold quantity, but does not exceed their threshold quantity.
- (2) The regulator may determine the facility or proposed facility to be a major hazard facility if the regulator considers that there is a potential for a major incident to occur at the facility or proposed facility having regard to all relevant matters, including—
  - (a) the quantity and combination of Schedule 15 chemicals present or likely to be present at the facility; and
  - (b) the type of activity at the facility that involves the Schedule 15 chemicals; and

(c) land use and other activities in the surrounding area.

*Note 1* If an inquiry discloses that the quantity of Schedule 15 chemicals present or likely to be present at a facility exceeds their threshold quantity, the facility is a major hazard facility (see dict, def **major hazard facility**).

*Note 2* A determination that a facility is a major hazard facility, or that a proposed facility is not a major hazard facility, is a reviewable decision (see s 676).

#### **542 Determination in relation to over-threshold facility**

- (1) This section applies if a notification under section 536 (Operators of certain facilities must notify regulator) or section 537 (Notification—proposed facilities) discloses that the quantity of Schedule 15 chemicals present or likely to be present at a facility (or proposed facility) exceeds their threshold quantity.
- (2) The regulator must make a determination confirming the facility (or proposed facility) to be a major hazard facility.

*Note* A determination that a facility is a major hazard facility is a reviewable decision (see s 676).

#### **543 Suitability of facility operator**

- (1) This section applies if the regulator determines a facility or a proposed facility to be a major hazard facility under section 541 (Determination in relation to facility, on inquiry) or section 542.
- (2) The regulator may determine that the operator of the major hazard facility or proposed major hazard facility is not a suitable person to operate the major hazard facility if the regulator—
  - (a) has conducted an inquiry under section 540 (Inquiry procedure) into the suitability of the operator; and

- (b) is satisfied on reasonable grounds that the operator is not a suitable person to operate the major hazard facility or proposed major hazard facility.
- (3) If no determination is made under this section, the operator of the major hazard facility or proposed major hazard facility is taken to be a suitable person to operate the major hazard facility and to apply for a major hazard facility licence.

*Note* A determination that a person is not a suitable operator is a reviewable decision (see s 676).

#### **544 Conditions on determination of major hazard facility**

- (1) The regulator may impose any conditions it considers appropriate on a determination made under section 541 (Determination in relation to facility, on inquiry) or section 542 (Determination in relation to over-threshold facility).
- (2) Without limiting subsection (1), the regulator may impose conditions in relation to 1 or more of the following:
  - (a) additional control measures that must be implemented in relation to the carrying out of work or activities at the determined major hazard facility;
  - (b) the recording or keeping of additional information;
  - (c) the provision of additional information, training and instruction or the provision of specified information, training and instruction to additional persons or classes of persons;
  - (d) the provision of additional information to the regulator;

- (e) if the operator is a person conducting a business or undertaking, the additional class of persons who may carry out work or activities on the operator's behalf.

*Note 1* A condition may include the payment of a fee determined under the [Act](#), s 278, for this provision.

*Note 2* **Person** includes a body corporate—see the [Legislation Act](#), s 160.

- (3) The operator of a determined major hazard facility, in relation to which conditions are imposed under this section, must ensure that the conditions are complied with.

*Note* A decision to impose a condition on a determination is a reviewable decision (see s 676).

#### **545 Notice and effect of determinations**

- (1) If the regulator makes a determination under this part, the regulator must give the operator of the determined major hazard facility a written notice of the determination, stating—
  - (a) the reasons for the determination; and
  - (b) the date on which the determination takes effect, which must be at least 28 days after the date of the notice; and
  - (c) any conditions imposed on the determination under section 544.
- (2) The notice must be given within 14 days of the making of the determination.
- (3) The effect of a determination under section 543 (Suitability of facility operator) is that—
  - (a) the operator is not taken to be a suitable person to operate the determined major hazard facility; and

- (b) the exemption provided by section 535 (3) (A major hazard facility must be licensed—Act, s 41) does not apply to the determined major hazard facility.

*Note* For the effect of a determination under s 541 or s 542, see the dictionary, definition of *determined major hazard facility*.

- (4) A determination takes effect on the date specified in the notice.
- (5) A determination is of unlimited duration unless it is revoked.

#### **546 When regulator may revoke a determination**

The regulator may revoke a determination under this part if, after consultation with the major hazard facility's contact person or operator (as applicable), the regulator is satisfied that the reasons for the determination no longer apply.

#### **547 Re-notification if quantity of Schedule 15 chemicals increases**

- (1) This section applies to a facility or proposed facility—
- (a) at which the quantity of Schedule 15 chemicals present or likely to be present exceeds 10% of their threshold quantity but does not exceed their threshold quantity; and
- (b) in relation to which notification was given under section 536 (Operators of certain facilities must notify regulator) or section 537 (Notification—proposed facilities); and
- (c) in relation to which the regulator—
- (i) has not conducted an inquiry under this division; or
- (ii) on conducting an inquiry, has not determined the facility or proposed facility to be a major hazard facility under section 541 (Determination in relation to facility, on inquiry).

- (2) The operator of the facility or proposed facility must re-notify the regulator in accordance with this part if the quantity of Schedule 15 chemicals present or likely to be present at the facility or proposed facility increases, or is likely to increase, to a level that exceeds the level previously notified to the regulator.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or  
(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The provisions of this part apply, to the extent that they relate to a re-notification under this section, as if the re-notification were a notification under section 536 (Operators of certain facilities must notify regulator).

#### **548 Notification by new operator**

- (1) This section applies—
- (a) in relation to a determined major hazard facility that is proposed to be operated by a new operator; and
- (b) whether or not a determination under section 543 (Suitability of facility operator) was made in relation to the current operator.
- (2) A proposed new operator of the determined major hazard facility must give the regulator a notification that contains the information specified in section 538 (2) (Content of notification) in relation to the proposed new operator.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or



(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The provisions of this part apply, to the extent that they relate to the suitability of an operator, as if the notification under subsection (2) were a notification under section 536 (Operators of certain facilities must notify regulator).

**549 Time in which major hazard facility licence must be applied for**

- (1) Subject to this section, the operator of a determined major hazard facility must apply for a major hazard facility licence within 24 months after the determination of the facility.
- (2) The regulator may extend the time in which the operator of a determined major hazard facility must apply for a licence if satisfied, on application by the operator, that there has not been sufficient time to comply with part 9.3 (Duties of operators of determined major hazard facilities).

*Note* The exemption from the requirement to be licensed is conditional on an application for a licence being made within the time specified in this section (see s 535 (3) and (5)).

## **Part 9.3**                      **Duties of operators of determined major hazard facilities**

*Note 1*    The operator of a determined major hazard facility is required to comply with this part for a specified period and to prepare a safety case in order to apply for a major hazard facility licence.

*Note 2*    The Act and ch 7 continue to apply to a determined major hazard facility.

### **Division 9.3.1**              **Application—pt 9.3**

#### **550**              **Application—pt 9.3**

This part ceases to apply to a determined major hazard facility at the end of the exemption period applying to that facility under section 535 (A major hazard facility must be licensed—Act, s 41).

### **Division 9.3.2**              **Determined major hazard facility— safety case outline**

#### **551**              **Safety case outline must be provided**

The operator of a determined major hazard facility must provide the regulator with a safety case outline for the major hazard facility within 3 months after the facility is determined to be a major hazard facility.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note*        Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**552 Safety case outline—content**

A safety case outline provided under section 551 must include the following:

- (a) a written plan for the preparation of the safety case, including key steps and timelines, with reference being made to each element of the safety case;
- (b) a description of the methods to be used in preparing the safety case, including methods for ensuring that all the information contained in the safety case is accurate and up to date when the safety case is provided to the regulator;
- (c) details of the resources that will be applied to the preparation of the safety case, including the number of persons involved, their relevant knowledge and experience and sources of technical information;
- (d) a description of the consultation with workers that—
  - (i) occurred in the preparation of the safety case outline; and
  - (ii) will occur in the preparation of the safety case;
- (e) a draft of the emergency plan prepared or to be prepared under section 557 (Determined major hazard facility—emergency plan);
- (f) a summary of any arrangements that are to be made in relation to the security of the major hazard facility.

**Example**

arrangements for preventing unauthorised access to the major hazard 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).

**553 Safety case outline—alteration**

- (1) If the regulator is not satisfied that a safety case outline provided by the operator of a determined major hazard facility will lead to the development of a safety case that complies with section 561 (Safety case—content), the regulator may require the operator to alter the outline.
- (2) If the regulator proposes to require an operator to alter a safety case outline, the regulator must give the operator a written notice—
  - (a) informing the operator of the proposed requirement and the reasons for it; and
  - (b) advising the operator that the operator may make a submission to the regulator in relation to the proposed requirement; and
  - (c) specifying the date (being not less than 28 days) by which the submission must be made.
- (3) The regulator must—
  - (a) if the operator has made a submission in relation to the proposed requirement to alter a safety case outline—consider that submission; and
  - (b) whether or not the operator has made a submission—decide whether or not to require the operator to alter the outline; and
  - (c) within 14 days after deciding, give the operator written notice of the decision, including details of the alteration required and the reasons why it is required.
- (4) The operator must alter the outline as required.

Maximum penalty:

  - (a) in the case of an individual—\$3 600; or

(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(5) The operator must give the regulator a copy of a safety case outline that has been altered—

(a) under this section; or

(b) by the operator on the operator's initiative.

Maximum penalty:

(a) in the case of an individual—\$3 600; or

(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(6) The safety case outline as altered becomes the safety case outline for the major hazard facility.

### **Division 9.3.3 Determined major hazard facility— management of risk**

#### **554 Determined major hazard facility—identification of major incidents and major incident hazards**

(1) The operator of a determined major hazard facility must identify—

(a) all major incidents that could occur in the course of the operation of the major hazard facility; and

(b) all major incident hazards for the major hazard facility, including major incident hazards relating to the security of the major hazard facility.

Maximum penalty:

(a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) In complying with subsection (1), the operator must have regard to any advice and recommendations given by—
- (a) the emergency service organisations with responsibility for the area in which the major hazard facility is located; and
  - (b) any Commonwealth government department or agency, or territory authority or administrative unit, with a regulatory role in relation to major hazard facilities.
- (3) The operator must document—
- (a) all identified major incidents and major incident hazards; and
  - (b) the criteria and methods used in identifying the major incidents and major incident hazards; and
  - (c) any external conditions under which the major incident hazards, including those relating to the security of the major hazard facility, might give rise to the major incidents.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **555 Determined major hazard facility—safety assessment**

- (1) The operator of a determined major hazard facility must conduct a safety assessment in relation to the operation of the major hazard facility.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) In order to provide the operator with a detailed understanding of all aspects of risks to health and safety associated with major incidents, a safety assessment must involve a comprehensive and systematic investigation and analysis of all aspects of risks to health and safety associated with all major incidents that could occur in the course of the operation of the major hazard facility, including the following:
- (a) the nature of each major incident and major incident hazard;
  - (b) the likelihood of each major incident hazard causing a major incident;
  - (c) in the event of a major incident occurring, its potential magnitude and the severity of its potential health and safety consequences;
  - (d) the range of control measures considered;
  - (e) the control measures the operator decides to implement.
- (3) In conducting a safety assessment, the operator must—
- (a) consider major incidents and major incident hazards cumulatively as well as individually; and
  - (b) use assessment methods (whether quantitative or qualitative, or both), that are suitable for the major incidents and major incident hazards being considered.
- (4) The operator must document all aspects of the safety assessment, including—
- (a) the methods used in the investigation and analysis; and

- (b) the reasons for deciding which control measures to implement.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (5) The operator must keep a copy of the safety assessment at the major hazard facility.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**556 Determined major hazard facility—control of risk—  
Act, s 20**

- (1) The operator of a determined major hazard facility must implement control measures that—
  - (a) eliminate, so far as is reasonably practicable, the risk of a major incident occurring; or
  - (b) if it is not reasonably practicable to eliminate that risk—minimise that risk so far as is reasonably practicable.

*Note* [WHS Act](#)—s 20 (see s 9).

- (2) The operator of a determined major hazard facility must implement risk control measures designed to minimise, in the event of a major incident occurring, its magnitude and the severity of its consequences to a person both on-site and off-site.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or



- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **557 Determined major hazard facility—emergency plan**

- (1) The operator of a determined major hazard facility must prepare an emergency plan for the major hazard facility that—
- (a) addresses all health and safety consequences of a major incident occurring; and
  - (b) includes all matters specified in schedule 16 (Matters to be included in emergency plan for major hazard facility); and
  - (c) provides for testing of emergency procedures, including the frequency of testing.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) In preparing an emergency plan, the operator must consult with—
- (a) the emergency service organisations with responsibility for the area in which the major hazard facility is located; and
  - (b) the chief health officer; and
  - (c) in relation to the off-site health and safety consequences of a major incident occurring—SEMSOG.

*Note 1* **Chief health officer**—see the [Legislation Act](#), dictionary, pt 1.

*Note 2* **SEMSOG**—see the dictionary.

- (3) The operator must ensure that the emergency plan addresses any recommendation made by an entity consulted under subsection (2) in relation to—
  - (a) the testing of the emergency plan, including the manner in which it will be tested, the frequency of testing and whether or not emergency service organisations will participate in the testing; and
  - (b) what incidents or events at the major hazard facility should be notified to emergency service organisations.
- (4) The operator must have regard to any other recommendation or advice given by an entity consulted under subsection (2).
- (5) The operator must—
  - (a) keep a copy of the plan at the major hazard facility; and
  - (b) give a copy of the plan to—
    - (i) the entities consulted under subsection (2); and
    - (ii) any other relevant emergency service organisations.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (6) The operator must test the emergency plan in accordance with the recommendations made by the entities consulted under subsection (2) before applying for a licence for the major hazard facility.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (7) The operator must immediately implement the emergency plan if—
- (a) a major incident occurs in the course of the operation of the major hazard facility; or
  - (b) an event occurs that could reasonably be expected to lead to a major incident.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (8) The operator must notify the entities consulted under subsection (2) of the occurrence of an incident or event referred to in subsection (3) (b).

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* This section applies in addition to s 43.

**558 Determined major hazard facility—safety management system**

- (1) The operator of a determined major hazard facility must establish a safety management system for the operation of the major hazard facility, in accordance with this section.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The operator of a determined major hazard facility must implement the safety management system for the major hazard facility, so far as is reasonably practicable.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The safety management system must—
- (a) provide a comprehensive and integrated system for the management of all aspects of risk control in relation to the occurrence and potential occurrence of major incidents at the major hazard facility; and
- (b) be designed to be used by the operator as the primary means of ensuring the safe operation of the major hazard facility.
- (4) The safety management system must—
- (a) be documented; and

- (b) state the operator's safety policy, including the operator's broad aims in relation to the safe operation of the major hazard facility; and
- (c) state the operator's specific safety objectives and describe the systems and procedures that will be used to achieve those objectives; and
- (d) include the matters specified in schedule 17 (Additional matters to be included in safety management system of major hazard facility); and
- (e) be readily accessible to persons who use it.

**559 Determined major hazard facility—review of risk management**

- (1) The operator of a determined major hazard facility must review and, as necessary, revise the following in accordance with this section:
  - (a) the safety assessment conducted under section 555 (Determined major hazard facility—safety assessment—Act, s 20) in order to ensure the adequacy of the control measures to be implemented by the operator;
  - (b) the major hazard facility's emergency plan;
  - (c) the major hazard facility's safety management system.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) Without limiting subsection (1), the operator must conduct a review and revision in the following circumstances:
  - (a) a modification to the major hazard facility is proposed;

- (b) a control measure implemented under section 556 (Determined major hazard facility—control of risk—Act, s 20) does not minimise the relevant risk so far as is reasonably practicable;

**Example**

an effectiveness test indicates a deficiency in the control measure

*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).

- (c) a new major hazard risk is identified;
  - (d) the results of consultation by the operator under part 9.5 (Consultation and workers' safety role) indicate that a review is necessary;
  - (e) a health and safety representative requests a review under subsection (4);
  - (f) the regulator requires the review.
- (3) In reviewing and revising the emergency plan, the operator must consult with the emergency service organisations referred to in section 557 (2) (Determined major hazard facility—emergency plan).
  - (4) A health and safety representative for workers at a major hazard facility may request a review if the representative reasonably believes that—
    - (a) a circumstance referred to in subsection (2) (a), (b), (c) or (d) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
    - (b) the operator has not adequately conducted a review in response to the circumstance.

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## **Division 9.3.4      Determined major hazard facility— safety case**

### **560      Safety case must be provided**

The operator of a determined major hazard facility must provide the regulator with a completed safety case for the major hazard facility, that has been prepared in accordance with section 561, within 24 months after the facility was determined to be a major hazard facility.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note*      Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **561      Safety case—content**

- (1) The operator must prepare the safety case in accordance with the safety case outline prepared or altered under this division.
- (2) A safety case must contain the following:
  - (a) a summary of the identification conducted under section 554 (Determined major hazard facility—identification of major incidents and major incident hazards), including a list of all major incidents identified;
  - (b) a summary of the safety assessment conducted under section 555 (Determined major hazard facility—safety assessment);
  - (c) a summary of the major hazard facility’s emergency plan;
  - (d) a summary of the major hazard facility’s safety management system;

- (e) a description of any arrangements made in relation to the security of the major hazard facility;
  - (f) a description of the consultation with workers that took place under section 575 (Operator of major hazard facility must consult with workers—Act, s 49 (f)) in the preparation of the safety case;
  - (g) the additional matters specified in schedule 18 (Additional matters to be included in safety case for a major hazard facility).
- (3) The safety case must include any further information that is necessary to ensure that all information contained in the safety case is accurate and up to date.
- (4) A safety case must demonstrate—
- (a) that the major hazard facility’s safety management system will, once implemented, control risks arising from major incidents and major incident hazards; and
  - (b) the adequacy of the measures to be implemented by the operator to control risks associated with the occurrence and potential occurrence of major incidents.
- (5) The operator must include in the safety case a signed statement that—
- (a) the information provided under subsections (1) and (2) is accurate and up to date; and
  - (b) as a consequence of conducting the safety assessment, the operator has a detailed understanding of all aspects of risk to health and safety associated with major incidents that may occur; and



- 
- (c) the control measures to be implemented by the operator—
    - (i) will eliminate the risk of a major incident occurring, so far as is reasonably practicable; and
    - (ii) if it is not reasonably practicable to eliminate the risk of a major incident occurring—will minimise the risk so far as is reasonably practicable; and
    - (iii) in the event of a major incident occurring—will minimise its magnitude and the severity of its health and safety consequences so far as is reasonably practicable; and
  - (d) all persons to be involved in the implementation of the safety management system have the knowledge and skills necessary to enable them to carry out their role safely and competently.
- (6) If the operator is a body corporate, the safety case must be signed by the most senior executive officer of the body corporate who resides in the ACT.

## **562 Coordination for multiple facilities**

- (1) The regulator may require the operators of 2 or more major hazard facilities to coordinate the preparation of the safety cases for their major hazard facilities if the regulator is satisfied on reasonable grounds that such coordination is necessary in the interests of the safe operation and effective safety management of any or all of those major hazard facilities.
- (2) If the regulator requires the coordinated preparation of safety cases, each operator must provide the other operators with information concerning any circumstances at the operator's facility that could constitute a major incident hazard in relation to any of the other major hazard facilities.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or

(b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

(3) In complying with this section, the operator is not required to disclose information that may expose the major hazard facility to a major incident hazard in relation to the security of the major hazard facility.

### **563 Review**

The operator of a determined major hazard facility must review and as necessary revise the major hazard facility's safety case after any review is conducted under section 559 (Determined major hazard facility—review of risk management).

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* The operator of a licensed major hazard facility is required to notify the regulator of any change in relation to certain information about the licence (see s 588).

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## Part 9.4 Licensed major hazard facilities—risk management

*Note* This part applies to a major hazard facility that is licensed under pt 9.7.

### 564 Licensed major hazard facility—identification of major incidents and major incident hazards

- (1) The operator of a licensed major hazard facility must identify—
  - (a) all major incidents that could occur in the course of the operation of the major hazard facility; and
  - (b) all major incident hazards for the major hazard facility, including major incident hazards relating to the security of the major hazard facility.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) In complying with subsection (1), the operator must have regard to any advice and recommendations given by—
  - (a) the emergency service organisations with responsibility for the area in which the major hazard facility is located; and
  - (b) any Commonwealth government department or agency, or territory authority or administrative unit, with a regulatory role in relation to major hazard facilities.
- (3) The operator must document—
  - (a) all identified major incidents and major incident hazards; and
  - (b) the criteria and methods used in identifying the major incidents and major incident hazards; and

- (c) any external conditions under which the major incident hazards, including those relating to the security of the major hazard facility, might give rise to the major incidents.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) All major incidents and major incident hazards identified and documented under section 554 (Determined major hazard facility—identification of major incidents and major incident hazards) in relation to the major hazard facility are taken to have been identified and documented under this section.

#### **565 Licensed major hazard facility—safety assessment**

The operator of a licensed major hazard facility must keep a copy of the safety assessment documented under section 555 (Determined major hazard facility—safety assessment) as revised under part 9.3 (Duties of operators of determined major hazard facilities) and this part at the facility.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

#### **566 Licensed major hazard facility—control of risk—Act, s 20**

- (1) The operator of a licensed major hazard facility must implement risk control measures that—
  - (a) eliminate, so far as is reasonably practicable, the risk of a major incident occurring; or

- (b) if it is not reasonably practicable to eliminate that risk—  
minimise that risk so far as is reasonably practicable.

*Note* [WHS Act](#)—s 20 (see s 9).

- (2) The operator of a licensed major hazard facility must implement risk control measures designed to minimise, in the event of a major incident occurring, its magnitude and the severity of its consequences to persons both on-site and off-site.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **567 Licensed major hazard facility—emergency plan**

- (1) The operator of a licensed major hazard facility must keep a copy of the major hazard facility's emergency plan prepared under section 557 (Determined major hazard facility—emergency plan) as revised under part 9.3 (Duties of operators of determined major hazard facilities) and this part at the facility.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The operator must test the emergency plan in accordance with the recommendations made by the emergency service organisations referred to in section 557 (2) (Determined major hazard facility—emergency plan).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (3) The operator must immediately implement the emergency plan if—
  - (a) a major incident occurs in the course of the operation of the major hazard facility; or
  - (b) an event occurs that could reasonably be expected to lead to a major incident.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (4) The operator must notify the regulator and the emergency service organisations referred to in section 557 (2) (Determined major hazard facility—emergency plan) of the occurrence of an incident or event referred to in section 557 (3) as soon as practicable after the incident or event occurs.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

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**568 Licensed major hazard facility—safety management system**

- (1) The operator of a licensed major hazard facility must implement the major hazard facility's safety management system established under section 558 (Determined major hazard facility—safety management system) as revised under part 9.3 (Duties of operators of determined major hazard facilities) and this part.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The operator must use the safety management system as the primary means of—
- (a) ensuring the health and safety of workers engaged or caused to be engaged by the operator and workers whose activities in carrying out work are influenced or directed by the operator while the workers are at work in the operation of the major hazard facility; and
- (b) ensuring that the health and safety of other persons is not put at risk from work carried out as part of the operation of the major hazard facility.

*Note* The operator of a licensed major hazard facility is required to notify the regulator of any change in relation to certain information about the licence (see s 588).

**569 Licensed major hazard facility—review of risk management**

- (1) The operator of a licensed major hazard facility must review and, as necessary, revise the following in accordance with this section:
- (a) the safety assessment for the facility in order to ensure the adequacy of the control measures to be implemented by the operator;
  - (b) the major hazard facility's emergency plan;
  - (c) the major hazard facility's safety management system.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) Without limiting subsection (1), the operator must conduct a review and revision in the following circumstances:
- (a) a modification to the major hazard facility is proposed;
  - (b) a control measure implemented under section 566 (Licensed major hazard facility—control of risk—Act, s 20) does not minimise the relevant risk so far as is reasonably practicable;

**Example**

an effectiveness test indicates a deficiency in the control measure

*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).

- (c) a new major hazard risk is identified;
- (d) the results of consultation by the operator under part 9.5 (Consultation and workers' safety role) indicate that a review is necessary;



- (e) a health and safety representative requests a review under subsection (5);
  - (f) the regulator requires the review;
  - (g) at least once every 5 years.
- (3) In reviewing and revising the safety assessment, the operator must comply with the requirements set out in section 555 (2), (3) and (4) (Determined major hazard facility—safety assessment).
- (4) In reviewing and revising the emergency plan, the operator must consult with the emergency service organisations referred to in section 557 (2) (Determined major hazard facility—emergency plan).
- (5) A health and safety representative for workers at a major hazard facility may request a review if the representative reasonably believes that—
- (a) a circumstance referred to in subsection (2) (a), (b), (c) or (d) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
  - (b) the operator has not adequately conducted a review in response to the circumstance.

### **570 Safety case—review**

The operator of a licensed major hazard facility must review and as necessary revise the safety case after any review is conducted under section 569 (Licensed major hazard facility—review of risk management).

Maximum penalty:

- (a) in the case of an individual—\$3 600; or

- (b) in the case of a body corporate—\$18 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* The operator of a licensed major hazard facility is required to notify the regulator of any change in relation to certain information about the licence (see s 588).

### **571 Information for visitors**

The operator of a licensed major hazard facility must ensure that a person other than a worker who enters the major hazard facility is as soon as practicable—

- (a) informed about hazards at the major hazard facility that may affect that person; and
- (b) instructed in safety precautions the person should take; and
- (c) instructed in the actions the person should take if the emergency plan is implemented while the person is on-site.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **572 Information for local community—general**

- (1) The operator of a licensed major hazard facility must ensure the provision of the following information to the local community and SEMSOG:
  - (a) the name and location of the major hazard facility;
  - (b) the name, position and contact details of a contact person from whom information may be obtained;
  - (c) a general description of the major hazard facility's operations;

- (d) the means by which the local community will be informed of a major incident occurring;
- (e) the actions, as specified in the major hazard facility's emergency plan, that members of the local community should take if a major incident occurs;
- (f) a summary of the safety case for the major hazard facility.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* **SEMSOG**—see the dictionary.

- (2) The operator must ensure that the information provided under subsection (1) is—
  - (a) set out and expressed in a way that is readily accessible and understandable to persons who are not familiar with the major hazard facility and its operations; and
  - (b) reviewed and as necessary revised if a modification is made to the major hazard facility; and
  - (c) sent in writing to any community or public library serving the local community.
- (3) In complying with subsection (1), the operator is not required to disclose information that may expose the major hazard facility to a major incident hazard in relation to the security of the major hazard facility.

- (4) The operator of a licensed major hazard facility who receives a written request from a person who reasonably believes that the occurrence of a major incident at the major hazard facility may adversely affect the person's health or safety must give that person a copy of the information provided to the local community under this section.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or  
(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

### **573 Information for local community—major incident**

- (1) As soon as practicable after a major incident occurs, the operator of the major hazard facility must take all reasonable steps to provide the persons specified in subsection (2) with information about the major incident, including—
- (a) a general description of the major incident; and  
(b) a description of the actions the operator has taken and proposes to take to prevent any recurrence of the major incident or the occurrence of a similar major incident; and  
(c) recommended actions that SEMSOG and members of the local community should take to eliminate or minimise risks to health and safety.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or  
(b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The persons to whom information about a major incident must be given are—
- (a) the local community, if a member of the local community was affected by the major incident; and
  - (b) SEMSOG; and
  - (c) any Commonwealth government department or agency, or territory authority or administrative unit, with a regulatory role in relation to major hazard facilities.

*Note*     **SEMSOG**—see the dictionary.

## **Part 9.5                      Consultation and workers' safety role**

### **574                      Safety role for workers**

- (1) The operator of a determined major hazard facility must, within the time specified in the safety case outline for the major hazard facility, implement a safety role for the workers at the major hazard facility that enables them to contribute to—
  - (a) the identification of major incidents and major incident hazards under section 554 (Determined major hazard facility—identification of major incidents and major incident hazards); and
  - (b) the consideration of control measures in the conduct of the safety assessment under section 555 (Determined major hazard facility—safety assessment); and
  - (c) the conduct of a review under section 559 (Determined major hazard facility—review of risk management).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note*        Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The operator of a licensed major hazard facility must implement a safety role for workers at the facility so as to enable them to contribute to the conduct of a review under section 569 (Licensed major hazard facility—review of risk management).

Maximum penalty:

- (a) in the case of an individual—\$6 000; or

- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**575 Operator of major hazard facility must consult with workers—Act, s 49 (f)**

- (1) The operator of a determined major hazard facility must consult with workers at the major hazard facility in relation to the following:
- (a) the preparation of the safety case outline for the major hazard facility;
  - (b) the preparation, testing and implementation of the major hazard facility's emergency plan;
  - (c) the establishment and implementation of the major hazard facility's safety management system;
  - (d) the conduct of a review under section 559 (Determined major hazard facility—review of risk management);
  - (e) the implementation of the workers' safety role under section 574 (1) (Safety role for workers);
  - (f) the preparation and review of the major hazard facility's safety case.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) The operator of a licensed major hazard facility must consult with workers at the major hazard facility in relation to the following:
- (a) the testing and implementation of the major hazard facility's emergency plan;

- (b) the implementation of the major hazard facility's safety management system;
- (c) the conduct of a review under section 569 (Licensed major hazard facility—review of risk management);
- (d) the implementation of the workers' safety role under section 574 (2) (Safety role for workers);
- (e) a review of the major hazard facility's safety case.

Maximum penalty:

- (a) in the case of an individual—\$6 000; or
- (b) in the case of a body corporate—\$30 000.

*Note 1* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

*Note 2* See the [Act](#), s 49 for other consultation duties of a person conducting a business or undertaking.



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## Part 9.6 Duties of workers at licensed major hazard facilities

### 576 Licensed major hazard facility—duties of workers

- (1) While at work, a worker at a licensed major hazard facility must—
  - (a) comply with any procedure imposed by the operator as a control measure in relation to major incidents, including the taking of corrective action under the procedure; and
  - (b) comply with any procedure in the emergency plan, including the taking of corrective action under the plan; and
  - (c) immediately inform the operator about any circumstance that the worker believes may cause a major incident; and
  - (d) inform their supervisor about any corrective action taken by the worker.

Maximum penalty:

- (a) in the case of an individual—\$3 600; or
- (b) in the case of a body corporate—\$18 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) A worker is not required to comply with subsection (1) if to do so would risk the health or safety of the worker or of another worker or other person.

## **Part 9.7                      Licensing of major hazard facilities**

### **Division 9.7.1              Licensing process**

#### **577                      Who may apply for a licence**

Only an operator of a determined major hazard facility who is taken to be a suitable operator under section 543 (Suitability of facility operator) may apply for a major hazard facility licence for that facility.

#### **578                      Application for major hazard facility licence**

- (1) This section applies to an application for a major hazard facility licence.
- (2) The application must include the following information:
  - (a) the operator's name;
  - (b) whether or not the operator is a body corporate;
  - (c) if the operator conducts the business or undertaking under a business name—that business name and a certificate or other written evidence of the registration of the business name;
  - (d) any other evidence of the operator's identity required by the regulator;
  - (e) the safety case prepared under division 9.3.4 (Determined major hazard facility—safety case);

- 
- (f) if the operator is an individual—
- (i) a declaration as to whether or not the operator has ever been convicted or found guilty of any offence under the Act or this regulation or under any corresponding WHS law; and

*Note 1* **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

*Note 2* A conviction does not include a spent conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i)).

- (ii) details of any conviction or finding of guilt declared under subparagraph (i); and
- (iii) a declaration as to whether or not the operator has ever entered into an enforceable undertaking under the Act or under any corresponding WHS law; and
- (iv) details of any enforceable undertaking declared under subparagraph (iii); and
- (v) if the operator has previously been refused a major hazard facility licence under a corresponding WHS law, a declaration giving details of that refusal; and
- (vi) if the operator has previously held a major hazard facility licence under the Act or this regulation or under a corresponding WHS law, a declaration—
  - (A) describing any condition imposed on that licence; and
  - (B) stating whether or not that licence had been suspended or cancelled and, if so, whether or not the operator had been disqualified from applying for a major hazard facility licence; and
  - (C) giving details of any suspension, cancellation or disqualification;

(g) if the operator is a body corporate, the information referred to in paragraph (f) in relation to—

- (i) the operator; and
- (ii) each officer of the operator.

*Note 1* A fee may be determined under the [Act](#), s 278 for this provision.

*Note 2* If a form is approved under the [Act](#), s 277 for this provision, the form must be used.

*Note 3* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

## **579 Additional information**

- (1) If an application for a major hazard facility licence does not contain sufficient information to enable the regulator to make a decision whether or not to grant the licence, the regulator may ask the operator to provide additional information.
- (2) A request for additional information must—
  - (a) specify the date (being not less than 28 days after the request) by which the additional information is to be given; and
  - (b) be confirmed in writing.
- (3) If an operator does not provide the additional information by the date specified, the application is to be taken to have been withdrawn.
- (4) The regulator may make more than 1 request for additional information under this section.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

**580 Decision on application**

- (1) Subject to this section, the regulator must grant a major hazard facility licence if satisfied about the matters referred to in subsection (2).
- (2) The regulator must be satisfied about the following:
  - (a) the application has been made in accordance with this regulation;
  - (b) the safety case for the facility has been prepared in accordance with division 9.3.4 (Determined major hazard facility—safety case);
  - (c) the operator is able to operate the major hazard facility safely and competently;
  - (d) the operator is able to comply with any conditions that will apply to the licence.
- (3) The regulator may refuse to grant a major hazard facility licence if it becomes aware of circumstances that satisfy it that the following persons are not suitable persons to exercise management or control over the major hazard facility:
  - (a) if the operator is an individual—the operator;
  - (b) if the operator is a body corporate—any officer of the body corporate.
- (4) The regulator must refuse to grant a major hazard facility licence if satisfied that the operator, in making the application, has—
  - (a) given information that is false or misleading in a material particular; or
  - (b) failed to give any material information that should have been given.

- (5) If the regulator decides to grant the licence, the regulator must notify the operator within 14 days after making the decision.
- (6) If the regulator does not make a decision within 6 months after receiving the application or the additional information requested under section 579 (Additional information), the regulator is taken to have refused to grant the licence applied for.

*Note* A refusal to grant a major hazard facility licence (including under s (6)) is a reviewable decision (see s 676).

### **581 Matters to be taken into account**

- (1) For the purposes of section 580 (3) (Decision on application), if the operator is an individual, the regulator must have regard to all relevant matters, including the following:
  - (a) any offence under the Act or this regulation or under a corresponding WHS law of which the operator has been convicted or found guilty;

*Note 1* **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

*Note 2* A conviction does not include a spent conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i)).
  - (b) any enforceable undertaking the operator has entered into under the Act or under a corresponding WHS law;
  - (c) in relation to a major hazard facility licence applied for or held by the operator under the Act or this regulation or under a corresponding WHS law—
    - (i) any refusal to grant the licence; and
    - (ii) any condition imposed on the licence, if granted, and the reason the condition was imposed; and
    - (iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence;

- (d) the operator's record in relation to any matters arising under the Act or this regulation or under a corresponding WHS law;
  - (e) any advice or recommendations received from any territory or Commonwealth agency with responsibility in relation to national security.
- (2) For the purposes of section 580 (3) (Decision on application), if the operator is a body corporate, the regulator must have regard to all relevant matters, including the matters referred to in subsection (1), in relation to—
- (a) the body corporate; and
  - (b) each officer of the body corporate.

**582 When decision is to be made**

The regulator must make a decision in relation to an application for a major hazard facility licence within 6 months after receiving the application or the additional information requested under section 579 (Additional information).

**583 Refusal to grant major hazard facility licence—process**

- (1) If the regulator proposes to refuse to grant a major hazard facility licence, the regulator must give a written notice to the operator—
- (a) informing the operator of the reasons for the proposed refusal; and
  - (b) advising the operator that the operator may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

- (2) After the date specified in a notice under subsection (1), the regulator must—
  - (a) if the operator has made a submission in relation to the proposed refusal to grant the licence—consider that submission; and
  - (b) whether or not the operator has made a submission—decide whether to grant or refuse to grant the licence; and
  - (c) within 14 days after making the decision, give the operator written notice of the decision, including the reasons for the decision.

**584 Conditions of licence**

- (1) The regulator may impose any conditions the regulator considers appropriate on a major hazard facility licence.
- (2) Without limiting subsection (1), the regulator may impose conditions in relation to 1 or more of the following:
  - (a) additional control measures which must be implemented in relation to the carrying out of work or activities under the licence;
  - (b) the recording or keeping of additional information;
  - (c) the provision of additional information, training and instruction or the giving of specified information, training and instruction to additional persons or classes of persons;
  - (d) the provision of additional information to the regulator;



- (e) if the operator is a person conducting a business or undertaking—the additional class of persons who may carry out work or activities on the operator’s behalf.

*Note 1* A person must comply with the conditions of a licence (see Act, s 45).

*Note 2* A decision to impose a condition on a licence is a reviewable decision (see s 676).

**585 Duration of licence**

Subject to this part, a major hazard facility licence takes effect on the day it is granted and, unless cancelled earlier, expires on the day determined by the regulator, which must be not more than 5 years after the day the licence was granted.

**586 Licence document**

- (1) If the regulator grants a major hazard facility licence, the regulator must issue to the operator a licence document in the form determined by the regulator.
- (2) The licence document must include the following:
  - (a) the name of the operator;
  - (b) if the operator conducts the business or undertaking under a business name—that business name;
  - (c) the location of the major hazard facility;
  - (d) any conditions imposed on the licence by the regulator;
  - (e) the date on which the licence was granted;
  - (f) the expiry date of the licence.

**587 Licence document to be available**

- (1) The operator of the major hazard facility must keep the licence document available for inspection under the Act.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or  
(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) Subsection (1) does not apply if the licence document is not in the operator's possession because—
- (a) it has been returned to the regulator under section 593 (Operator to return licence); and
- (b) the operator has applied for, but has not received, a replacement licence under section 594 (Replacement licence document).

**Division 9.7.2 Amendment of licence and licence document**

**588 Changes to information**

- (1) The operator of a licensed major hazard facility must give the regulator written notice of any change to any material particular in any information given at any time by the operator to the regulator in relation to the licence within 14 days after the operator becomes aware of the change.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or

(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**Example**

a change to the quantity of the hazardous chemicals present or likely to be present at the 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).

- (2) Subsection (1) applies whether the information was given in the application for grant or renewal of the licence or in any other circumstance.

**589 Amendment imposed by regulator**

- (1) The regulator may, on its own initiative, amend a major hazard facility licence, including by amending the licence to—
- (a) vary or delete a condition of the licence; or
  - (b) impose a new condition on the licence.
- (2) If the regulator proposes to amend a licence, the regulator must give the operator a written notice—
- (a) setting out the proposed amendment and the reasons for it; and
  - (b) advising the operator that the operator may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed amendment.
- (3) After the date specified in a notice under subsection (2), the regulator must—
- (a) if the operator has made a submission in relation to the proposed amendment—consider that submission; and

- (b) whether or not the operator has made a submission—decide—
  - (i) to make the proposed amendment; or
  - (ii) not to make any amendment; or
  - (iii) to make a different amendment that results from consideration of any submission made by the operator; and
- (c) within 14 days after making that decision, give the operator written notice that—
  - (i) sets out the amendment, if any; and
  - (ii) if a submission was made in relation to the proposed amendment—sets out the regulator’s reasons for making the amendment; and
  - (iii) specifies the date (being not less than 28 days after the operator is given the notice) on which the amendment, if any, takes effect.

*Note* A decision to amend a licence is a reviewable decision (see s 676).

## **590 Amendment on application by operator**

- (1) The regulator, on application by the operator of a licensed major hazard facility, may amend the major hazard facility licence, including by amending the licence to vary or delete a condition of the licence.
- (2) If the regulator proposes to refuse to amend the licence, the regulator must give the operator a written notice—
  - (a) informing the operator of the proposed refusal to amend the licence and the reasons for the proposed refusal; and
  - (b) advising the operator that the operator may, by a specified date (being not less than 28 days after giving the notice), make a submission to the regulator in relation to the proposed refusal.

- (3) After the date specified in a notice under subsection (2), the regulator must—
- (a) if the operator has made a submission in relation to the proposed refusal—consider that submission; and
  - (b) whether or not the operator has made a submission—decide—
    - (i) to make the amendment applied for; or
    - (ii) not to make any amendment; or
    - (iii) to make a different amendment that results from consideration of any submission made by the operator; and
  - (c) within 14 days after making that decision, give the operator written notice of the decision in accordance with this section.
- (4) If the regulator makes the amendment applied for, the notice under subsection (3) (c) must specify the date (being not less than 28 days after the operator is given the decision notice) on which the amendment takes effect.
- (5) If the regulator refuses to make the amendment applied for or makes a different amendment, the notice under subsection (3) (c) must—
- (a) if a submission was made in relation to the proposed refusal of the amendment applied for—set out the reasons for the regulator’s decision; and
  - (b) if the regulator makes a different amendment—
    - (i) set out the amendment; and
    - (ii) specify the date (being not less than 28 days after the operator is given the decision notice) on which the amendment takes effect.

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

**591 Minor corrections to major hazard facility licence**

The regulator may make minor amendments to a major hazard facility licence, including an amendment—

- (a) to correct an obvious error; or
- (b) to change an address; or
- (c) that does not impose a significant burden on the operator.

**592 Regulator to give amended licence document to operator**

If the regulator amends a major hazard facility licence and considers that the licence document requires amendment, the regulator must give the operator an amended licence document within 14 days after making the decision to amend the licence.

**593 Operator to return licence**

If a major hazard facility licence is amended, the operator of the licensed major hazard facility must return the licence document to the regulator for amendment at the written request of the regulator and within the time specified in the request.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**594 Replacement licence document**

- (1) The operator of a licensed major hazard facility must give written notice to the regulator as soon as practicable if the licence document is lost, stolen or destroyed.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or

(b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

- (2) If a licence document for a licensed major hazard facility is lost, stolen or destroyed, the operator may apply to the regulator for a replacement document.

*Note 1* An operator is required to keep the licence document available for inspection (see s 587).

*Note 2* A fee may be determined under the [Act](#), s 278 for this provision.

*Note 3* If a form is approved under the [Act](#), s 277 for this provision, the form must be used.

- (3) The application must include a declaration describing the circumstances in which the original document was lost, stolen or destroyed.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (4) The regulator must issue a replacement licence document if satisfied that the original document was lost, stolen or destroyed.

- (5) If the regulator refuses to issue a replacement licence document, the regulator must give the operator written notice of this decision, including the reasons for the decision, within 14 days after making the decision.

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

### **Division 9.7.3      Renewal of major hazard facility licence**

#### **595      Regulator may renew licence**

The regulator may renew a major hazard facility licence on application by the operator.

#### **596      Application for renewal**

- (1) This section applies to an application for renewal of a major hazard facility licence.

*Note 1* If a form is approved under the [Act](#), s 277 for this provision, the form must be used.

*Note 2* A fee may be determined under the [Act](#), s 278 for this provision.

*Note 3* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (2) The application must include a copy of the safety case for the major hazard facility as revised under section 570 (Safety case—review).
- (3) The application must be made not less than 6 months before the licence to be renewed expires.

#### **597      Licence continues in force until application is decided**

If the operator of a licensed major hazard facility applies under section 596 (Application for renewal) for the renewal of a major hazard facility licence, the licence is taken to continue in force from the day it would, apart from this section, have expired until the operator is given notice of the decision on the application.



**598 Provisions relating to renewal of licence**

For the purposes of this division—

- (a) section 579 (Additional information) applies as if a reference in that section to an application for a licence were a reference to an application to renew a licence; and
- (b) section 580 (Decision on application) (except subsection (6)), section 581 (Matters to be taken into account), section 584 (Conditions of licence) and section 585 (Duration of licence) apply as if a reference in those sections to the grant of a licence were a reference to the renewal of a licence; and
- (c) section 583 (Refusal to grant major hazard facility licence—process) applies as if a reference in that section to a refusal to grant a licence were a reference to a refusal to renew a licence.

*Note* A refusal to renew a licence is a reviewable decision (see s 676).

**599 Status of major hazard facility licence during review**

- (1) This section applies if the regulator gives the operator written notice of the regulator's decision to refuse to renew the licence.
- (2) If the operator does not apply for an external review, the licence continues to have effect until the last of the following events:
  - (a) the expiry of the licence;
  - (b) the end of the period for applying for an external review.
- (3) If the operator applies for an external review, the licence continues to have effect until the earlier of the following events:
  - (a) the operator withdraws the application for review;
  - (b) ACAT makes a decision on the review.
- (4) The licence continues to have effect under this section even if its expiry date passes.

## **Division 9.7.4      Transfer of major hazard facility licence**

### **600      Transfer of major hazard facility licence**

- (1) The regulator, on the application of the operator of a major hazard facility, may transfer a major hazard facility licence to another person who is to become the operator of the major hazard facility, if satisfied that the proposed operator will achieve a standard of health and safety in the operation of the facility that is at least equivalent to the standard that the current operator has achieved.

*Note 1* If a form is approved under the [Act](#), s 277 for this provision, the form must be used.

*Note 2* A fee may be determined under the [Act](#), s 278 for this provision.

*Note 3* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (2) The regulator may transfer the licence subject to any conditions that the regulator considers necessary and appropriate to ensure that the new operator will be able to achieve a standard of health and safety in the operation of the facility that is at least equivalent to the standard achieved by the existing operator.
- (3) On the completion of the transfer, the person to whom the licence is transferred becomes the operator of the major hazard facility for the purposes of this chapter.

*Note* A decision to refuse to transfer a major hazard facility licence is a reviewable decision (see s 676).

## **Division 9.7.5            Suspension and cancellation of major hazard facility licence**

### **601            Cancellation of major hazard facility licence—on operator's application**

- (1) The operator of a licensed major hazard facility may apply to the regulator to cancel the licence.

*Note 1*    If a form is approved under the [Act](#), s 277 for this provision, the form must be used.

*Note 2*    A fee may be determined under the [Act](#), s 278 for this provision.

*Note 3*    It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

- (2) The regulator must conduct an inquiry into the inventory and operations of the facility before deciding on an application to cancel a licence.

- (3) The regulator must cancel a major hazard facility licence if—
- (a) the quantity of Schedule 15 chemicals present or likely to be present at the facility does not exceed their threshold quantity; and
  - (b) it is unlikely that a major incident will occur at the facility.

- (4) If the regulator, under this section, cancels the licence of a facility that was determined to be a major hazard facility under part 9.2 (Determinations about major hazard facilities), the regulator must revoke the determination.

*Note*      A decision to refuse to cancel a licence is a reviewable decision (see s 676).

**602 Suspension or cancellation of licence—on regulator's initiative**

- (1) The regulator, on their own initiative, may suspend or cancel a major hazard facility licence if satisfied about 1 or more of the following:
  - (a) the operator has failed to ensure that the facility is operated safely and competently;
  - (b) the operator has failed to ensure compliance with a condition of the licence;
  - (c) the operator, in the application for the grant or renewal of the licence or on request by the regulator for additional information—
    - (i) gave information that was false or misleading in a material particular; or
    - (ii) failed to give any material information that should have been given in that application or on that request.
- (2) If the regulator suspends or cancels a major hazard facility licence, the regulator may disqualify the operator from applying for a further major hazard facility licence.

*Note* A decision to suspend a licence, to cancel a licence or to disqualify the operator from applying for a further licence is a reviewable decision (see s 676).

**603 Matters to be taken into account**

- (1) In making a decision under section 602 (Suspension or cancellation of licence—on regulator's initiative), the regulator must have regard to the following:
  - (a) any submissions made by the operator under section 604 (Notice to and submissions by operator);
  - (b) any advice received from a corresponding regulator;

- (c) any advice or recommendations received from any territory or Commonwealth agency with responsibility in relation to national security.
- (2) For the purposes of section 602 (1) (a) and (b) (Suspension or cancellation of licence—on regulator’s initiative), if the operator is an individual, the regulator must have regard to all relevant matters, including the following:
  - (a) any offence under the Act or this regulation or under a corresponding WHS law, of which the operator has been convicted or found guilty;

*Note 1* **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

*Note 2* A conviction does not include a spent conviction (see [Spent Convictions Act 2000](#), s 16 (c) (i)).

- (b) any enforceable undertaking the operator has entered into under the Act or a corresponding WHS law;
- (c) in relation to a major hazard facility licence applied for or held by the operator under the Act or this regulation or under a corresponding WHS law—
  - (i) any refusal to grant the licence; and
  - (ii) any condition imposed on the licence, if granted, and the reason the condition was imposed; and
  - (iii) any suspension or cancellation of the licence, if granted, including any disqualification from applying for any licence;
- (d) the operator’s record in relation to any matters arising under the Act or this regulation or under a corresponding WHS law.

- (3) For the purposes of section 602 (1) (a) and (b) (Suspension or cancellation of licence—on regulator’s initiative), if the operator is a body corporate, the regulator must have regard to all relevant matters, including the matters referred to in subsection (2), in relation to—
  - (a) the body corporate; and
  - (b) each officer of the body corporate.

**604 Notice to and submissions by operator**

Before suspending or cancelling a major hazard facility licence, the regulator must give the operator a written notice of the proposed suspension or cancellation and any proposed disqualification—

- (a) outlining all relevant allegations, facts and circumstances known to the regulator; and
- (b) advising the operator that the operator may, by a specified date (being not less than 28 days after giving the notice), make a submission in relation to the proposed suspension or cancellation and any proposed disqualification.

**605 Notice of decision**

- (1) The regulator must give the operator of a major hazard facility written notice of a decision under section 602 (Suspension or cancellation of licence—on regulator’s initiative) to suspend or cancel the major hazard facility licence within 14 days after making the decision.
- (2) The notice must—
  - (a) state that the licence is to be suspended or cancelled; and
  - (b) if the licence is to be suspended, state—
    - (i) when the suspension begins and ends; and

- (ii) the reasons for the suspension; and
  - (iii) whether or not the operator is required to take any action before the suspension ends; and
  - (iv) whether or not the operator is disqualified from applying for a further major hazard facility licence during the suspension; and
- (c) if the licence is to be cancelled, state—
- (i) when the cancellation takes effect; and
  - (ii) the reasons for the cancellation; and
  - (iii) whether or not the operator is disqualified from applying for a further major hazard facility licence; and
- (d) if the operator is disqualified from applying for a further major hazard facility licence, state—
- (i) when the disqualification begins and ends; and
  - (ii) the reasons for the disqualification; and
  - (iii) whether or not the operator is required to take any action before the disqualification ends; and
- (e) state when the licence document must be returned to the regulator.

**606 Immediate suspension**

- (1) The regulator may suspend a major hazard facility licence on a ground referred to in section 602 (Suspension or cancellation of licence—on regulator’s initiative) without giving notice under section 604 (Notice to and submissions by operator) if satisfied that—
  - (a) a person may be exposed to an imminent serious risk to their health or safety if the work carried out under the major hazard facility licence were not suspended; or
  - (b) a corresponding regulator has suspended a major hazard facility licence held by the operator under this section as applying in the corresponding jurisdiction.
- (2) If the regulator decides to suspend a licence under this section—
  - (a) the regulator must give the operator of the major hazard facility written notice of the suspension and the reasons for the suspension; and
  - (b) the suspension of the licence takes effect on the giving of the notice.
- (3) The regulator must then—
  - (a) give notice under section 604 within 14 days after giving the notice under subsection (2); and
  - (b) make its decision under section 602.
- (4) If the regulator does not give notice under subsection (3), the suspension ends at the end of the 14 day period.
- (5) If the regulator gives notice under subsection (3), the licence remains suspended until the decision is made under section 602.



**607 Operator to return licence document**

An operator, on receiving a notice under section 605 (Notice of decision), must return the licence document to the regulator in accordance with the notice.

Maximum penalty:

- (a) in the case of an individual—\$1 250; or
- (b) in the case of a body corporate—\$6 000.

*Note* Strict liability applies to each physical element of each offence under this regulation, unless otherwise stated (see s 6A).

**608 Regulator to return licence document after suspension**

The regulator must return the licence document to the operator within 14 days after the suspension ends.

**11 Section 676, table, new items 31 to 34**

*insert*

<b>Hazardous chemicals and lead</b>		
31	384—refusal to grant authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen	applicant
32	386—cancellation of authorisation to use, handle or store a prohibited carcinogen or restricted carcinogen	authorisation holder
33	393—deciding a process to be a lead process	<ul style="list-style-type: none"> <li>• a person conducting a business or undertaking that carries out the lead process</li> <li>• a worker whose interests are affected by the decision</li> </ul>

34	407—determining a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work	<ul style="list-style-type: none"> <li>• a person conducting a business or undertaking that carries out lead risk work</li> <li>• a worker whose interests are affected by the decision</li> </ul>
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## 12 Section 676, table, new items 46 to 69

*insert*

<b>Major hazard facilities</b>		
<i>Determination of facility to be a major hazard facility</i>		
46	541—determination of facility to be a major hazard facility, on making inquiry	• operator of facility
47	541—decision not to determine proposed facility to be a major hazard facility	• operator of facility
48	542—determination of major hazard facility	• operator of facility
49	543—determination of suitability of operator	• operator of facility
50	544—imposition of a condition on a determination of a major hazard facility	• operator of facility
<i>Licensing of major hazard facility</i>		
51	580—refusal to grant licence	• operator of facility
52	584—imposition of a condition when granting licence	• operator of facility
53	584—imposition of a condition when renewing licence	• operator of facility
54	589—amendment of licence, on regulator's initiative	• operator of facility
55	590—refusal to amend licence, on application (or a decision to make a different amendment)	• operator of facility

56	594—refusal to issue replacement licence document	<ul style="list-style-type: none"> <li>operator of facility</li> </ul>
57	598—refusal to renew licence	<ul style="list-style-type: none"> <li>operator of facility</li> </ul>
58	600—refusal to transfer licence, on application	<ul style="list-style-type: none"> <li>operator of facility</li> <li>proposed operator of facility</li> </ul>
59	601—refusal to cancel licence, on application	<ul style="list-style-type: none"> <li>operator of facility</li> </ul>
60	602—suspension of licence	<ul style="list-style-type: none"> <li>operator of facility</li> </ul>
61	602—cancellation of licence	<ul style="list-style-type: none"> <li>operator of facility</li> </ul>
62	602—disqualification of operator from applying for another licence	<ul style="list-style-type: none"> <li>operator of facility</li> </ul>
<b>Exemptions</b>		
63	684—Refusal to exempt person (or a class of persons) from compliance with any provision of this regulation	<ul style="list-style-type: none"> <li>applicant</li> </ul>
64	686—refusal to exempt person from requirement to hold a high risk work licence	<ul style="list-style-type: none"> <li>applicant</li> </ul>
65	688—refusal to exempt operator of major hazard facility from compliance with any provision of this regulation, on application	<ul style="list-style-type: none"> <li>operator of facility</li> </ul>
66	691—imposing condition on an exemption granted on application under pt 11.2	<ul style="list-style-type: none"> <li>applicant</li> </ul>
67	696—refusal to grant exemption	<ul style="list-style-type: none"> <li>applicant</li> </ul>
68	697—amendment of an exemption granted under pt 11.2	<ul style="list-style-type: none"> <li>applicant</li> </ul>
69	697—cancellation of an exemption granted on application under pt 11.2	<ul style="list-style-type: none"> <li>applicant</li> </ul>

**13 Section 677**

*substitute*

**677 Application**

This division does not apply to a reviewable decision made under—

- (a) chapter 9 (Major hazard facilities); or
- (b) part 11.2 (Exemptions).

**14 Section 678 (2)**

*substitute*

- (2) An eligible person in relation to a reviewable decision under section 89 (5) (Decision on application), section 256 (5) (Decision on application), section 269 (5) (Decision on application) or section 497 (5) (Decision on application) may apply to the regulator for review (an *internal review*) of the decision within—
  - (a) 28 days after the day on which the 120-day period mentioned in that provision; or
  - (b) any longer time the regulator allows.

*Note* If a form is approved under the [Act](#), s 277 for this provision, the form must be used.

**15 Section 683 (1) (a)**

*substitute*

- (a) a reviewable decision made by the regulator under—
  - (i) chapter 9 (Major hazard facilities); or
  - (ii) part 11.2 (Exemptions).

**16 Section 684 (4)**

*substitute*

- (4) This section does not apply to an exemption from—
- (a) a provision requiring a person to hold a high risk work licence; or
  - (b) a provision of chapter 9 (Major hazard facilities) relating to a major hazard facility or proposed major hazard facility.

**17 New division 11.2.3**

*insert*

**Division 11.2.3 Major hazard facilities****688 Major hazard facility—exemption**

- (1) The regulator may exempt the operator of a major hazard facility or proposed major hazard facility from compliance with any provision of this regulation relating to that facility.
- (2) The exemption may be granted on the written application of the operator of the major hazard facility or proposed major hazard facility.

*Note* A decision to refuse to grant an exemption is a reviewable decision (see s 676).

**689 Major hazard facility—regulator to be satisfied about certain matters**

- (1) The regulator must not grant an exemption under section 688 unless satisfied that—
  - (a) 1 or more Schedule 15 chemicals are present or likely to be present at the facility; and

- (b) the quantity of the Schedule 15 chemicals exceeds the threshold quantity of the Schedule 15 chemicals periodically because they are solely the subject of intermediate temporary storage; and
  - (c) the Schedule 15 chemicals are in 1 or more containers with the capacity of each container being not more than a total of 500kg; and
  - (d) granting the exemption will result in a standard of health and safety in relation to the operation of the facility that is at least equivalent to the standard that would be achieved by compliance with the relevant provision or provisions.
- (2) For the purposes of subsection (1) (d), the regulator must have regard to all relevant matters, including whether or not—
- (a) the applicant is complying with the Act and this regulation; and
  - (b) the applicant has processes and procedures in place which will keep the quantity of the Schedule 15 chemical or chemicals present or likely to be present at or below the threshold quantity for the Schedule 15 chemical or chemicals as often as practicable; and
  - (c) the applicant has implemented adequate control measures to minimise the risk of a major incident occurring.

**18 New section 690**

*in division 11.2.4, insert*

**690 Application for exemption**

An application for an exemption must be made in the manner and form required by the regulator.

*Note 1* The application must be in writing (see s 684 (2)).

*Note 2* The regulator may grant an exemption on its own initiative (see s 684 (2)).

*Note 3* See the [Act](#), s 268 for offences relating to the giving of false or misleading information under the Act or this regulation.

**19 Schedule 5, section 5.1.12**

*omit*

a dangerous substance mentioned in the *Dangerous Substances (General) Regulation 2004*, schedule 1, table 1.1

*substitute*

Schedule 11 hazardous chemicals

**20 New schedules 6 to 18***insert***Schedule 6 Classification of mixtures**(see dictionary, def of *GHS*)**1 Purpose of this schedule**

The tables in this schedule replace some of the tables in the GHS.

*Note* *GHS*—see the dictionary.

**Table 6.1 Classification of mixtures containing respiratory or skin sensitisers**

Cut-off values/concentration limits of ingredients of a mixture classified as either a respiratory sensitiser or a skin sensitiser that would trigger classification of the mixture.

column 1 item	column 2 ingredient classification	column 3 mixture classification		
		skin sensitiser category 1	respiratory sensitiser category 1	
		all physical states	solid	gas
1	skin sensitiser category 1	≥ 1.0%		
2	skin sensitiser subcategory 1A	≥ 0.1%		
3	skin sensitiser subcategory 1B	≥ 1.0%		
4	respiratory sensitiser category 1		≥ 1.0%	≥ 0.2%
5	respiratory sensitiser subcategory 1A		≥ 0.1%	≥ 0.1%



column 1 item	column 2 ingredient classification	column 3 mixture classification		
6	respiratory sensitiser subcategory 1B		≥ 1.0%	≥ 0.2%

*Note* Table 6.1 replaces table 3.4.5 in the GHS, p 151.

### Table 6.2 Classification of mixtures containing carcinogens

Cut-off values/concentration limits of ingredients of a mixture classified as a carcinogen that would trigger classification of the mixture.

column 1 item	column 2 ingredient classification	column 3 mixture classification	
		category 1 carcinogen	category 2 carcinogen
1	category 1 carcinogen	≥ 0.1%	
2	category 2 carcinogen		≥ 1.0%

*Note 1* The concentration limits in table 6.2 apply to solids and liquids (w/w units) and gases (v/v units).

*Note 2* Table 6.2 replaces table 3.6.1 in the GHS, p 166.

### Table 6.3 Classification of mixtures containing reproductive toxicants

Cut-off values/concentration limits of ingredients of a mixture classified as a reproductive toxicant or for effects on or via lactation that would trigger classification of the mixture.

column 1 item	column 2 ingredient classification	column 3 mixture classification		
		category 1 reproductive toxicant	category 2 reproductive toxicant	additional category for effects on or via lactation
1	category 1 reproductive toxicant	≥ 0.3%		

column 1 item	column 2 ingredient classification	column 3 mixture classification		
2	category 2 reproductive toxicant		≥ 3.0%	
3	additional category for effects on or via lactation			≥ 0.3%

*Note 1* The concentration limits in table 6.3 apply to solids and liquids (w/w units) and gases (v/v units).

*Note 2* Table 6.3 replaces table 3.7.1 in the GHS, p 180.

**Table 6.4 Classification of mixtures containing specific target organ toxicants (single exposure)**

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

column 1 item	column 2 ingredient classification	column 3 mixture classification	
		category 1	category 2
1	category 1 specific target organ toxicant	concentration ≥ 10%	1.0% ≤ concentration < 10%
2	category 2 specific target organ toxicant		concentration ≥ 10%

*Note 1* The concentration limits in table 6.4 apply to solids and liquids (w/w units) and gases (v/v units).

*Note 2* Table 6.4 replaces table 3.8.2 in the GHS, p 192.

**Table 6.5 Classification of mixtures containing specific target organ toxicants (repeated exposure)**

Cut-off values/concentration limits of ingredients of a mixture classified as a specific target organ toxicant that would trigger classification of the mixture.

column 1 item	column 2 ingredient classification	column 3 mixture classification	
		category 1	category 2
1	category 1 specific target organ toxicant	concentration $\geq$ 10%	$1.0\% \leq$ concentration $<$ 10%
2	category 2 specific target organ toxicant		concentration $\geq$ 10%

*Note 1* The concentration limits in table 6.5 apply to solids and liquids (w/w units) and gases (v/v units).

*Note 2* Table 6.5 replaces table 3.9.3 in the GHS, p 203.

## Schedule 7 Safety data sheets

(see s 330 and s 331)

### 7.1 Safety data sheets—content

- (1) A safety data sheet for a hazardous chemical must—
  - (a) contain unit measures expressed in Australian legal units of measurement under the *National Measurement Act 1960* (Cwlth); and

*Note* The *National Measurement Act 1960* (Cwlth) does not need to be notified under the *Legislation Act* because s 47 (5) does not apply (see s 15 and *Legislation Act*, s 47 (7)). The Act is available at [www.legislation.gov.au](http://www.legislation.gov.au).
  - (b) state the date it was last reviewed or, if it has not been reviewed, the date it was prepared; and
  - (c) state the name, and the Australian address and business telephone number of—
    - (i) the manufacturer; or
    - (ii) the importer; and
  - (d) state an Australian business telephone number from which information about the chemical can be obtained in an emergency; and
  - (e) be in English.
- (2) A safety data sheet for a hazardous chemical must state the following information about the chemical:
  - (a) Section 1: Identification: Product identifier and chemical identity;
  - (b) Section 2: Hazard(s) identification;

- (c) Section 3: Composition and information on ingredients, in accordance with schedule 8 (Disclosure of ingredients in safety data sheet);
  - (d) Section 4: First aid measures;
  - (e) Section 5: Firefighting measures;
  - (f) Section 6: Accidental release measures;
  - (g) Section 7: Handling and storage, including how the chemical may be safely used;
  - (h) Section 8: Exposure controls and personal protection;
  - (i) Section 9: Physical and chemical properties;
  - (j) Section 10: Stability and reactivity;
  - (k) Section 11: Toxicological information;
  - (l) Section 12: Ecological information;
  - (m) Section 13: Disposal considerations;
  - (n) Section 14: Transport information;
  - (o) Section 15: Regulatory information;
  - (p) Section 16: Any other relevant information.
- (3) The safety data sheet must use the headings and be set out in the order set out in subsection (2).

*Note* Section 330 and s 331 provide that s 7.2 will apply instead of s 7.1 in certain cases.

## **7.2 Safety data sheets—research chemical, waste product or sample for analysis**

For the purposes of section 331 (Safety data sheets—research chemical, waste product or sample for analysis), a safety data sheet for a hazardous chemical that is a research chemical, waste product or sample for analysis must—

- (a) be in English; and
- (b) state the name, Australian address and business telephone number of—
  - (i) the manufacturer; or
  - (ii) the importer; and
- (c) state that full identification or hazard information is not available for the chemical, and in the absence of full identification or hazard information, a precautionary approach must be taken by a person using, handling or storing the chemical; and
- (d) state the chemical identity or structure of the chemical or chemical composition, as far as is reasonably practicable; and
- (e) state any known or suspected hazards; and
- (f) state any precautions that a person using, handling or storing the chemical must take to the extent that the precautions have been identified.

## Schedule 8 Disclosure of ingredients in safety data sheet

(see sch 7, s 7.1 (2) (c))

### 8.1 Purpose of this schedule

This schedule sets out the way in which the ingredients of a hazardous chemical must be disclosed in section 3 of a safety data sheet prepared under this regulation.

*Note* See sch 7, s 7.1 (2) (c).

### 8.2 Identity of ingredients to be disclosed

- (1) This section applies if an ingredient in a hazardous chemical causes the correct classification of the chemical to include a GHS hazard class and GHS hazard category referred to in table 8.2.
- (2) The identity of the ingredient must be disclosed in English on the label and safety data sheet of the hazardous chemical.

**Table 8.2**

<b>column 1 item</b>	<b>column 2 GHS hazard class</b>	<b>column 3 GHS hazard category</b>
1	acute toxicity—oral	category 1 category 2 category 3 category 4
2	acute toxicity—dermal	category 1 category 2 category 3 category 4

<b>column 1 item</b>	<b>column 2 GHS hazard class</b>	<b>column 3 GHS hazard category</b>
3	acute toxicity— inhalation	category 1 category 2 category 3 category 4
4	respiratory sensitiser	category 1
5	skin sensitiser	category 1
6	mutagenicity	category 1A category 1B category 2
7	carcinogenicity	category 1A category 1B category 2
8	toxic to reproduction	category 1A category 1B category 2 additional category for effects on or via lactation
9	target organ toxicity— single exposure	category 1 category 2 category 3
10	target organ toxicity— single exposure	category 1 category 2
11	aspiration hazards	category 1
12	skin corrosion or irritation	category 1A category 1B category 1C category 2
13	serious eye damage or eye irritation	category 1 category 2A



### 8.3 Generic names used to disclose identity of ingredients

- (1) This section applies if an ingredient of a hazardous chemical must be disclosed under section 8.2.
- (2) The ingredient—
  - (a) may be disclosed by its generic name if—
    - (i) the ingredient causes the correct classification of the hazardous chemical to include a hazard class and hazard category referred to in table 8.3; and
    - (ii) the ingredient does not cause the correct classification of the hazardous chemical to include any other hazard class and hazard category in table 8.2; and
    - (iii) the identity of the ingredient is commercially confidential; and
    - (iv) an exposure standard for the ingredient has not been established; or
  - (b) in any other case—must be disclosed by its chemical identity.

**Table 8.3**

<b>column 1 item</b>	<b>column 2 hazard class and hazard category</b>
1	acute toxicity (category 4)
2	aspiration hazard (category 1)
3	serious eye damage or eye irritation (category 2A)
4	skin corrosion or irritation (category 2)
5	specific target organ toxicity (single exposure) (category 3)

#### **8.4 Disclosing proportions of ingredients**

- (1) This section applies if an ingredient of a hazardous chemical must be disclosed under section 8.2.
- (2) The proportion of the ingredient to the hazardous chemical must be disclosed—
  - (a) if the exact proportion of the ingredient is not commercially confidential—as the exact proportion of the chemical, expressed as a percentage by weight or volume; or
  - (b) if the exact proportion of the ingredient is commercially confidential—as 1 of the following ranges within which the exact proportion fits, expressed as a percentage by weight or volume:
    - (i) <10%;
    - (ii) 10 – 30%;
    - (iii) 30 – 60%;
    - (iv) > 60%;
    - (v) a range that is narrower than the range set out in subparagraph (i), (ii), (iii) or (iv).

## Schedule 9            Classification, packaging and labelling requirements

(see s 329, s 334 and s 335)

### Part 9.1            Correct classification

#### 9.1            Correct classification of a substance, mixture or article

- (1) A substance or mixture (other than a research chemical, sample for analysis or waste product) is *correctly classified* if a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS including a mixture classification referred to in schedule 6 (Classification of mixtures).

*Note*            The sch 6 tables replace some tables in the GHS.

- (2) A substance or mixture that is a research chemical, sample for analysis or waste product is *correctly classified* if, so far as is reasonably practicable having regard to the known or suspected properties of the substance or mixture—
- (a) a determination is made about the identity of the substance or mixture; and
  - (b) a determination is made about whether the substance or mixture can be classified into a hazard class under the GHS.
- (3) An article that contains a substance or mixture that may be released during the use, handling or storage of the article is *correctly classified* if the substance or mixture is correctly classified.

## Part 9.2 Correct packing

### 9.2 Correctly packing hazardous chemicals

- (1) A hazardous chemical is *correctly packed* if the chemical is packed in a container that—
  - (a) is in sound condition; and
  - (b) will safely contain the chemical for the time the chemical is likely to be packed; and
  - (c) is made of material that is compatible with, and will not be adversely affected by, the chemical; and
  - (d) does not usually contain food or beverages and cannot be mistakenly identified as containing food or beverages.
- (2) Despite subsection (1), a hazardous chemical supplied by a retailer to a person, in a container provided by the person, is only *correctly packed* if—
  - (a) for a hazardous chemical with a classification that includes flammable gases or gases under pressure—the container—
    - (i) has a capacity less than the capacity stated for a hazardous chemical stored in bulk; and
    - (ii) complies with the ADG Code; and
  - (b) in any other case—the container—
    - (i) has a capacity that does not exceed the capacity stated for a hazardous chemical stored in bulk; and
    - (ii) is clearly marked with the product identifier or chemical identity; and
    - (iii) complies with subsection (1) (a) to (d).

## Part 9.3 Correct labelling

*Note* More than 1 section of this part may apply to a hazardous chemical depending on the nature of the hazardous chemical, its container and other matters.

### 9.3 Labelling hazardous chemicals—general

- (1) A hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English including the following:
  - (a) the product identifier;
  - (b) the name, and the Australian address and business telephone number of—
    - (i) the manufacturer; or
    - (ii) the importer;
  - (c) for each ingredient of the chemical—the identity and proportion disclosed in accordance with schedule 8 (Disclosure of ingredients in safety data sheet);
  - (d) any hazard pictogram consistent with the correct classification of the chemical;
  - (e) any hazard statement, signal word and precautionary statement consistent with the correct classification of the chemical;
  - (f) any information about the hazards, first aid and emergency procedures relevant to the chemical, not otherwise included in the hazard statement or precautionary statement referred to in paragraph (e);
  - (g) if the chemical has an expiry date—the expiry date.
- (2) The label may include any other information that does not contradict or cast doubt on the matters referred to in subsection (1).
- (3) This section is subject to section 9.4 to section 9.10.

#### **9.4 Labelling hazardous chemicals—small container**

- (1) This section applies if a hazardous chemical is packed in a container that is too small for a label attached to it to include all the information referred to in section 9.3 (1).
- (2) The hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English including the following:
  - (a) the product identifier;
  - (b) the name, and the Australian address and business telephone number of—
    - (i) the manufacturer; or
    - (ii) the importer;
  - (c) a hazard pictogram or hazard statement consistent with the correct classification of the chemical;
  - (d) any other information referred to in section 9.3 (1) that it is reasonably practicable to include.

#### **9.5 Labelling hazardous chemicals—research chemicals or samples for analysis**

- (1) This section applies to a hazardous chemical that is a research chemical or sample for analysis.
- (2) The hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English including the following:
  - (a) the product identifier;
  - (b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

## 9.6 Labelling hazardous chemicals—decanted or transferred chemicals

- (1) This section applies if—
  - (a) a hazardous chemical is decanted or transferred from the container in which it is packed; and
  - (b) either—
    - (i) will not be used immediately; or
    - (ii) is supplied to someone else.
- (2) The hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English including the following:
  - (a) the product identifier;
  - (b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

## 9.7 Labelling hazardous chemicals—known hazards

- (1) This section applies to a hazardous chemical if—
  - (a) the chemical is not being supplied to another workplace; and
  - (b) the hazards relating to the chemical are known to the workers involved in using, handling or storing the chemical.
- (2) The hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English including the following:
  - (a) the product identifier;
  - (b) a hazard pictogram or hazard statement consistent with the correct classification of the chemical.

### **9.8 Labelling hazardous chemicals—waste products**

- (1) This section applies to a waste product if it is reasonably likely that the waste product is a hazardous chemical.
- (2) The waste product is *correctly labelled* if it is packed in a container that has a label in English including the following for the hazardous chemical:
  - (a) the product identifier;
  - (b) the name, and the Australian address and business telephone number of—
    - (i) the manufacturer; or
    - (ii) the importer;
  - (c) a hazard pictogram and hazard statement consistent with the correct classification of the chemical.

### **9.9 Labelling hazardous chemicals—explosives**

- (1) This section applies to a hazardous chemical that may be classified in the explosives hazard class.
- (2) The hazardous chemical is *correctly labelled* if the chemical is packed in a container that has a label in English that—
  - (a) complies with the Australian Explosives Code; and
  - (b) includes the following:
    - (i) the proper shipping name and UN number;
    - (ii) any hazard pictogram consistent with the correct classification of the chemical in relation to health hazards;
    - (iii) any hazard statement consistent with the correct classification of the chemical in relation to health hazards;



- (iv) any precautionary statement consistent with the correct classification of the chemical in relation to health hazards.
- (3) In this section:

***Australian Explosives Code*** means the *Australian Code for the Transport of Explosives by Road and Rail*, 3rd edition, published by the Commonwealth, as in force from time to time.

*Note* The *Australian Code for the Transport of Explosives by Road and Rail*, 3rd edition does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Code is available at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

### 9.10 Labelling hazardous chemicals—agricultural and veterinary chemicals

- (1) A hazardous chemical that is an agricultural or veterinary chemical is ***correctly labelled*** if—
- (a) the chemical is labelled in accordance with the requirements of the Australian Pesticides and Veterinary Medicines Authority; and
  - (b) the label is in English and includes the following:
    - (i) any hazard statement consistent with the correct classification of the chemical;
    - (ii) any precautionary statement consistent with the correct classification of the chemical.
- (2) In this section:

***agricultural or veterinary chemical*** means an agricultural chemical product or veterinary chemical product under the Agvet Code.

## Schedule 10 Prohibited carcinogens, restricted carcinogens and restricted hazardous chemicals

(see s 340 and s 380 to s 384)

*Note* The prohibition of the use of carcinogens listed in table 10.1, column 2 and the restriction of the use of carcinogens listed in table 10.2, column 2 apply to the pure substance and where the substance is present in a mixture at a concentration greater than 0.1%, unless otherwise specified.

**Table 10.1 Prohibited carcinogens**

column 1 item	column 2 prohibited carcinogen [CAS number]
1	2-Acetylaminofluorene [53-96-3]
2	Aflatoxins
3	4-Aminodiphenyl [92-67-1]
4	Benzidine [92-87-5] and its salts (including benzidine dihydrochloride [531-85-1])
5	bis(Chloromethyl) ether [542-88-1]
6	Chloromethyl methyl ether [107-30-2] (technical grade which contains bis(Chloromethyl) ether)
7	4-Dimethylaminoazobenzene [60-11-7] (Dimethyl Yellow)
8	2-Naphthylamine [91-59-8] and its salts
9	4-Nitrodiphenyl [92-93-3]

**Table 10.2 Restricted carcinogens**

<b>column 1 item</b>	<b>column 2 restricted carcinogen [CAS number]</b>	<b>column 3 restricted use</b>
1	acrylonitrile [107-13-1]	all
2	benzene [71-43-2]	all uses involving benzene as a feedstock containing more than 50% of benzene by volume genuine research or analysis
3	cyclophosphamide [50-18-0]	when used in preparation for therapeutic use in hospitals and oncological treatment facilities, and in manufacturing operations genuine research or analysis
4	3,3'-Dichlorobenzidine [91-94-1] and its salts (including 3,3'-Dichlorobenzidine dihydrochloride [612-83-9])	all
5	diethyl sulfate [64-67-5]	all
6	dimethyl sulfate [77-78-1]	all
7	ethylene dibromide [106-93-4]	when used as a fumigant genuine research or analysis
8	4,4'-Methylene bis(2-chloroaniline) [101-14-4] MOCA	all
9	3-Propiolactone [57-57-8] (Beta-propiolactone)	all
10	o-Toluidine [95-53-4] and o-Toluidine hydrochloride [636-21-5]	all
11	vinyl chloride monomer [75-01-4]	all

**Table 10.3 Restricted hazardous chemicals**

<b>column 1 item</b>	<b>column 2 restricted hazardous chemical</b>	<b>column 3 restricted use</b>
1	antimony and its compounds	for abrasive blasting at a concentration of greater than 0.1% as antimony
2	arsenic and its compounds	for abrasive blasting at a concentration of greater than 0.1% as arsenic for spray painting
3	benzene (benzol), if the substance contains more than 1% by volume	for spray painting
4	beryllium and its compounds	for abrasive blasting at a concentration of greater than 0.1% as beryllium
5	cadmium and its compounds	for abrasive blasting at a concentration of greater than 0.1% as cadmium
6	carbon disulphide (carbon bisulphide)	for spray painting
7	chromate	for wet abrasive blasting
8	chromium and its compounds	for abrasive blasting at a concentration of greater than 0.5% (except as specified for wet blasting) as chromium
9	cobalt and its compounds	for abrasive blasting at a concentration of greater than 0.1% as cobalt
10	free silica (crystalline silicon dioxide)	for abrasive blasting at a concentration of greater than 1%
11	lead and compounds	for abrasive blasting at a concentration of greater than 0.1% as lead or which would expose the operator to levels in excess of those set in the sections covering lead
12	lead carbonate	for spray painting

column 1 item	column 2 restricted hazardous chemical	column 3 restricted use
13	methanol (methyl alcohol), if the substance contains more than 1% by volume	for spray painting
14	nickel and its compounds	for abrasive blasting at a concentration of greater than 0.1% as nickel
15	nitrates	for wet abrasive blasting
16	nitrites	for wet abrasive blasting
17	radioactive substance of any kind where the level of radiation exceeds 1 Bq/g	for abrasive blasting, so far as is reasonably practicable
18	tetrachloroethane	for spray painting
19	tetrachloromethane (carbon tetrachloride)	for spray painting
20	tin and its compounds	for abrasive blasting at a concentration of greater than 0.1% as tin
21	tributyl tin	for spray painting

*Note* Section 382 deals with polychlorinated biphenyls (*PCBs*).

## Schedule 11 Placard and manifest quantities

(see s 347 to s 350, s 361, s 390 and s 391)

**Table 11.1**

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
1	flammable gases	category 1	200L	5 000L
2	gases under pressure	with acute toxicity, categories 1, 2, 3 or 4	50L	500L
3		with skin corrosion categories 1A, 1B or 1C	50L	500L
4		aerosols	5 000L	10 000L
5		not specified elsewhere in this table	1 000L	10 000L
6		flammable liquids	category 1	50L
7	category 2		250L	2 500L
8	category 3		1 000L	10 000L
9	any combination of chemicals from items 6 to 8 where none of the items exceeds the quantities in columns 4 or 5 on their own		1 000L	10 000L
10	category 4		10 000L	100 000L

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
11	self-reactive substances	type A	5kg or 5L	50kg or 50L
12		type B	50kg or 50L	500kg or 500L
13		type C to F	250kg or 250L	2 500kg or 2 500L
14	flammable solids	category 1	250kg	2 500kg
15		category 2	1 000kg	10 000kg
16		any combination of chemicals from items 12 to 15 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
17	pyrophoric liquids and pyrophoric solids	category 1	50kg or 50L	500kg or 500L
18	self-heating substances and mixtures	category 1	250kg or 250L	2 500kg or 2 500L
19		category 2	1 000kg or 1 000L	10 000kg or 10 000L
20		any combination of chemicals from items 17 to 19 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L

Section 20

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column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
21	substances which in contact with water emit flammable gas	category 1	50kg or 50L	500kg or 500L
22		category 2	250kg or 250L	2 500kg or 2 500L
23		category 3	1 000kg or 1 000L	10 000kg or 10 000L
24		any combination of chemicals from items 21 to 23 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
25	oxidising liquids and oxidising solids	category 1	50kg or 50L	500kg or 500L
26		category 2	250kg or 250L	2 500kg or 2 500L
27		category 3	1 000kg or 1 000L	10 000kg or 10 000L
28		any combination of chemicals from items 25 to 27 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L



column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
29	organic peroxides	type A	5kg or 5L	50kg or 50L
30		type B	50kg or 50L	500kg or 500L
31		type C to F	250kg or 250L	2 500kg or 2 500L
32		any combination of chemicals from items 30 and 31 where none of the items exceeds the quantities in columns 4 or 5 on their own	250kg or 250L	2 500kg or 2 500L
33	acute toxicity	category 1	50kg or 50L	500kg or 500L
34		category 2	250kg or 250L	2 500kg or 2 500L
35		category 3	1 000kg or 1 000L	10 000kg or 10 000L
36		any combination of chemicals from items 33 to 35 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
37	skin corrosion	category 1A	50kg or 50L	500kg or 500L
38		category 1B	250kg or 250L	2 500kg or 2 500L
39		category 1C	1 000kg or 1 000L	10 000kg or 10 000L
40	corrosive to metals	category 1	1 000kg or 1 000L	10 000kg or 10 000L

column 1	column 2	column 3	column 4	column 5
item	description of hazardous chemical		placard quantity	manifest quantity
41		any combination of chemicals from items 37 to 40 where none of the items exceeds the quantities in columns 4 or 5 on their own	1 000kg or 1 000L	10 000kg or 10 000L
42	unstable explosives		5kg or 5L	50kg or 50L
43	unstable chemicals	any combination of chemicals from item 11, item 29 and item 42 where none of the items exceeds the quantities in column 4 or column 5 on their own	5kg or 5L	50kg or 50L

*Note 1* In item 2, gases under pressure with acute toxicity, category 4 only applies up to a LC50 of 5 000 ppmV. This is equivalent to dangerous goods assigned as class 2, div 2.3 (Toxic gases) in the ADG Code.

*Note 2* Item 4 includes flammable aerosols.

### 11.1 Determination of classification of flammable liquids

For the purposes of this table, if a flammable liquid category 4 is used, handled or stored in the same spill compound as 1 or more flammable liquids of categories 1, 2 or 3, the total quantity of flammable liquids categories 1, 2 or 3 must be determined as if the flammable liquid category 4 had the same classification as the flammable liquid in the spill compound with the lowest flash point.

#### **Example**

For placarding and manifest purposes, a spill compound containing 1 000L of flammable liquid category 1 and 1 000L of flammable liquid category 4 is considered to contain 2 000L of flammable liquid category 1.

*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).

## Schedule 12 Manifest requirements

(see s 347 (2))

### 12.1 Manifest—general information

The manifest of hazardous chemicals must include—

- (a) the name of the person conducting the business or undertaking; and
- (b) the address of the workplace; and
- (c) the date the manifest was last amended or, if it has not been amended, the date it was prepared; and
- (d) business hours and after hours telephone numbers for at least 2 persons who may be contacted if there is a notifiable incident at the workplace.

### 12.2 Manifest—bulk storage and containers

- (1) This section applies if a hazardous chemical is stored at a workplace in bulk or in a container.
- (2) For each hazardous chemical stored in bulk other than in a container, the manifest of hazardous chemicals must include—
  - (a) the name of the chemical; and
  - (b) the quantity of the chemical stored.
- (3) For each container storing the hazardous chemical, the manifest of hazardous chemicals must include—
  - (a) the identification number or code of the container; and
  - (b) the type and capacity of the container; and
  - (c) for a fixed vertical tank used to store fire risk hazardous chemicals—the diameter of the tank.

*Note* **Fire risk hazardous chemical**—see the dictionary.

### **12.3 Manifest—identification of hazardous chemical**

The manifest of hazardous chemicals must include—

- (a) for a hazardous chemical, other than a flammable liquid category 4, unstable explosive, organic peroxide type A or self-reactive substance type A—
  - (i) the proper shipping name as stated in the ADG Code, table 3.2.3 for the chemical; and
  - (ii) the UN number as stated in the ADG Code, table 3.2.3 for the hazardous chemical; and
  - (iii) the class and division of the hazardous chemical as stated in the ADG Code, table 3.2.3; and
- (b) for a flammable liquid category 4—
  - (i) the product identifier; and
  - (ii) the words ‘combustible liquid’; and
- (c) for an unstable explosive, organic peroxide type A or self-reactive substance type A—
  - (i) the name of the hazardous chemical stated in the ADG Code, Appendix A; and
  - (ii) the words ‘goods too dangerous to be transported’.

### **12.4 Manifest—storage area for packaged hazardous chemicals**

- (1) This section applies if—
  - (a) a storage area—
    - (i) contains, or is likely to contain, a packaged hazardous chemical, or a hazardous chemical in an IBC; and
    - (ii) is required under this regulation to have a placard; and

- (b) the hazardous chemicals are dangerous goods under the ADG Code.
- (2) The manifest of hazardous chemicals must include—
  - (a) the identification number or code for the storage area; and
  - (b) for hazardous chemicals with an assigned class specified in the ADG Code, table 3.2.3—the largest quantity of each class of hazardous chemicals likely to be kept in the storage area; and
  - (c) for the specified hazardous chemicals that are likely to be kept in the storage area—
    - (i) the proper shipping name of the hazardous chemical as specified in the ADG Code, table 3.2.3; and
    - (ii) the class to which the hazardous chemical is assigned as specified in the ADG Code, table 3.2.3; and
    - (iii) the largest quantity of the hazardous chemical likely to be kept in the storage area; and
  - (d) for an unstable explosive, organic peroxide type A or self-reactive substance type A that is likely to be kept in the storage area—
    - (i) the name of the hazardous chemical; and
    - (ii) the words ‘goods too dangerous to be transported’; and
    - (iii) the largest quantity of the hazardous chemical likely to be kept in the storage area; and
  - (e) for hazardous chemicals with an assigned class specified in the ADG Code, table 3.2.3—the class to which the hazardous chemical is assigned; and
  - (f) for flammable liquids category 4—the words ‘combustible liquid’.

(3) In this section:

*specified hazardous chemicals* means any of the following:

- (a) flammable liquid category 1;
- (b) self-reactive substances type B;
- (c) substances which in contact with water emit flammable gas category 1;
- (d) pyrophoric liquids category 1;
- (e) pyrophoric solids category 1;
- (f) organic peroxides type B;
- (g) acute toxicity category 1;
- (h) oxidising solids category 1;
- (i) oxidising liquids category 1;
- (j) skin corrosion category 1A;
- (k) gases under pressure with acute toxicity categories 1, 2 or 3 or skin corrosion categories 1A, 1B or 1C.

### **12.5 Manifest—hazardous chemicals being manufactured**

For each area in which hazardous chemicals are manufactured, the manifest must include—

- (a) the identification number or code of the area; and
- (b) a description of the hazardous chemicals manufactured in the area; and
- (c) the average and largest quantity of each hazardous chemical likely to be manufactured in the area.

## **12.6 Manifest—hazardous chemicals in transit**

- (1) This section applies to hazardous chemicals at a workplace if the hazardous chemicals are—
  - (a) dangerous goods under the ADG Code in transit at the workplace; and
  - (b) accompanied by dangerous goods transport documents (the *transport documents*) in relation to the hazardous chemicals that comply with the ADG Code.
- (2) The person conducting a business or undertaking at the workplace is taken to comply with section 12.4 (Manifest—storage area for packaged hazardous chemicals) and section 12.5 in relation to the hazardous chemicals if the manifest includes a compilation of the transport documents.

## **12.7 Manifest—plan of workplace**

The manifest of hazardous chemicals at a workplace must include a scale plan of the workplace that—

- (a) shows the location of—
  - (i) containers and other storage of hazardous chemicals in bulk; and
  - (ii) storage areas for packaged hazardous chemicals and IBCs; and
  - (iii) each area where hazardous chemicals are manufactured or generated; and
- (b) includes a description in words of the location of—
  - (i) the things referred to in paragraph (a); and
  - (ii) hazardous chemicals in transit; and



- (c) provides the identification number or code, and a legend for the identification numbers and codes, for the things referred to in paragraph (a); and
- (d) shows the location of—
  - (i) the main entrance and other places of entry to and exit from the workplace; and
  - (ii) essential site services, including fire services and isolation points for fuel and power; and
  - (iii) all drains on the site; and
  - (iv) the manifest; and
- (e) includes the direction of true north; and
- (f) describes the nature of the occupancy of adjoining sites or premises.

## **Schedule 13 Placard requirements**

(see s 349 (2) and s 350 (2))

### **13.1 Displaying placards**

- (1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to a hazardous chemical.
- (2) The person must ensure that the placard is—
  - (a) clearly legible by a person approaching the placard; and
  - (b) separate from any other sign or writing that contradicts, qualifies or distracts attention from the placard; and
  - (c) if a placard quantity of the hazardous chemical is contained in a building—
    - (i) located as close as is reasonably practicable to the main entrance of the building; and
    - (ii) located at the entrance to each room or walled section of the building in which the hazardous chemical is used, handled or stored; and
  - (d) if the hazardous chemical is contained in a container or outside storage area—located next to the container or outside storage area; and
  - (e) for a placard to which section 13.3 (Outer warning placards—requirements) applies—located at each entrance to the workplace where an emergency service organisation may enter the workplace; and
  - (f) for a placard to which section 13.4 (Placards for particular hazardous chemicals stored in bulk) applies—located on or next to each container or storage area in which the hazardous chemicals are stored; and

- (g) for a placard to which section 13.6 (Placards for packaged Schedule 11 hazardous chemicals (other than flammable liquids category 4) and IBCs) applies—located at each entrance to a storage area in which the hazardous chemicals are stored.

### **13.2 Maintaining placards**

A person who is required to display a placard must—

- (a) amend the placard as soon as practicable if—
  - (i) the type or quantity of hazardous chemical used, handled or stored at the workplace changes; and
  - (ii) the change requires the information displayed on the placard to be amended; and
- (b) ensure that the placard is—
  - (i) kept clean; and
  - (ii) maintained in good repair; and
  - (iii) not covered or obscured.

### **13.3 Outer warning placards—requirements**

- (1) This section applies if a person conducting a business or undertaking at a workplace must display an outer warning placard at the workplace in relation to a hazardous chemical.

*Note* Section 349 sets out when an outer warning placard is required to be displayed, and states that it is not required for retail fuel outlets.

- (2) The outer warning placard must—
  - (a) comply with the form shown in figure 13.1; and
  - (b) display the word ‘HAZCHEM’ in red letters on a white or silver background.



**Figure 13.1 Form and dimensions of outer warning placard**

- (3) In this section:

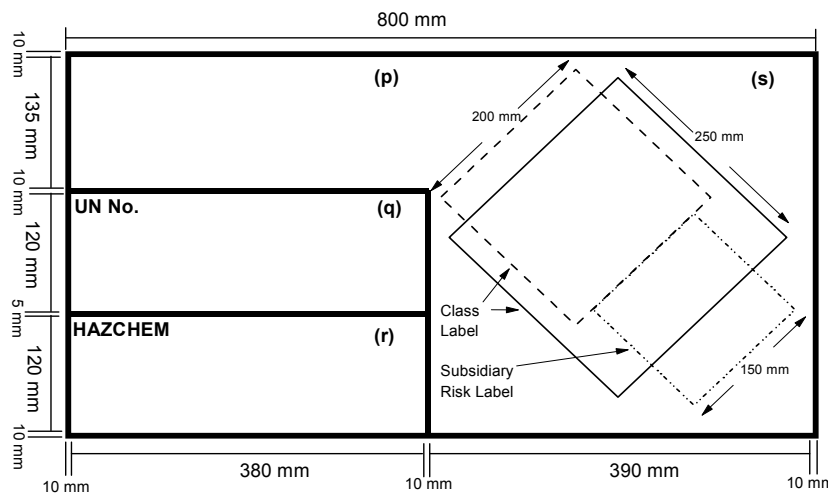
*red* means the colour ‘signal red’ in accordance with AS 2700S-1996 (R13) (Colour standards for general purposes—signal red).

*Note* AS 2700S-1996 (R13) does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The standard may be purchased at [www.standards.org.au](http://www.standards.org.au).

#### **13.4 Placards for particular hazardous chemicals stored in bulk**

- (1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to the storage in bulk of any of the following hazardous chemicals:
  - (a) gases under pressure, including flammable gases and flammable aerosols;
  - (b) flammable liquids category 1, 2 or 3;

- (c) flammable solids category 1 or 2, self-reactive substances types B to F, self-heating substances category 1 or 2 or substances that, in contact with water, emit flammable gases;
  - (d) organic peroxides types B to F, oxidising solids and oxidising liquids category 1, 2 or 3;
  - (e) acute toxicity category 1, 2 or 3;
  - (f) skin corrosion category 1A, 1B or 1C and corrosive to metals category 1.
- (2) The placard must—
- (a) comply with the template in figure 13.2; and
  - (b) subject to subsection (4) (b) and (c), have dimensions not less than those shown in figure 13.2.
- (3) The placard must include the following in figure 13.2 for the hazardous chemical:
- (a) in space (p)—the proper shipping name for the hazardous chemical as specified in the ADG Code, Table 3.2.3;
  - (b) in space (q)—the UN Number for the hazardous chemical as specified in the ADG Code, Table 3.2.3;
  - (c) in space (r)—the Hazchem Code for the hazardous chemical as specified in the ADG Code, Table 3.2.3;
  - (d) in space (s)—the class label and subsidiary risk label for the hazardous chemical as specified in the ADG Code, Table 3.2.3.



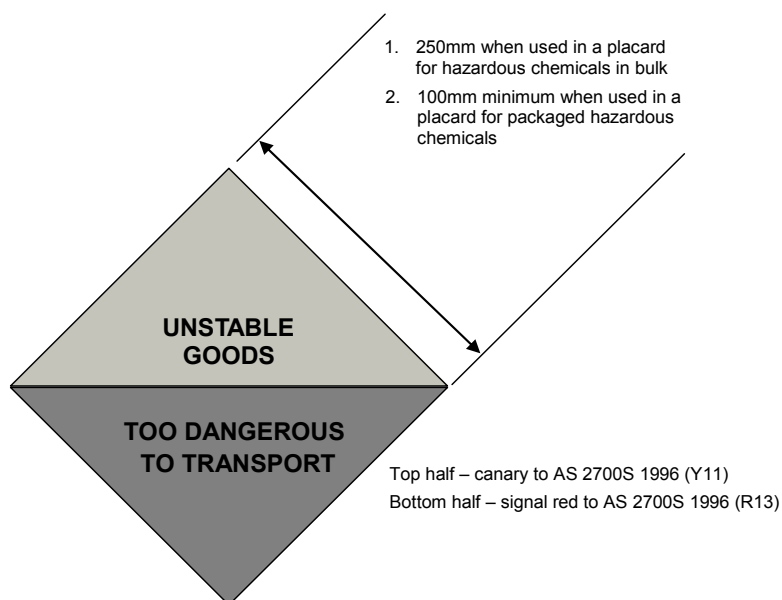
**Figure 13.2 Template for a placard for a hazardous chemical stored in bulk**

- (4) For subsection (3) (a) to (c), the numerals and letters used for showing the proper shipping name, UN number and Hazchem Code must be—
- (a) black on a white background, unless a letter of the Hazchem Code is white on a black background; and
  - (b) if the proper shipping name requires a single line only—at least 100mm high; and
  - (c) if the proper shipping name requires 2 lines—at least 50mm high.
- (5) For subsection (3) (d)—
- (a) the class label and subsidiary risk label (if any) must have the form and colouring stated in the ADG Code for the hazardous chemical; and

- (b) the class label must have—
  - (i) if there is a subsidiary risk label—sides of not less than 200mm; or
  - (ii) in any other case—sides of not less than 250mm; and
- (c) if there is a subsidiary risk label—the subsidiary risk label must have sides of not less than 150mm; and
- (d) if there are 2 or more subsidiary risk labels—the width of the right hand part of the placard may be extended.

**13.5 Placards for unstable explosives, organic peroxides type A or self-reactive substances type A stored in bulk**

- (1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to unstable explosives, organic peroxides type A or self-reactive substances type A that are stored in bulk.
- (2) The placard must—
  - (a) comply with the form in figure 13.2; and
  - (b) have dimensions not less than those shown in figure 13.2.
- (3) The placard must include the following, as indicated in figure 13.2, for the hazardous chemical:
  - (a) in space (p)—the name stated in the ADG Code for the hazardous chemical;
  - (b) in space (q)—the space left blank;
  - (c) in space (r)—the space left blank;
  - (d) in space (s)—the label in figure 13.3.



**Figure 13.3 Label for unstable explosive, organic peroxide type A or self-reactive substance type A**

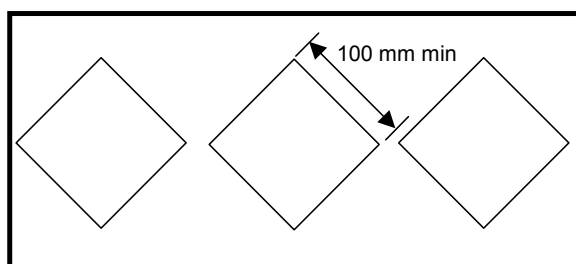
- (4) For subsection (3) (a), the letters used for showing the name must be—
- (a) black on a white background; and
  - (b) if the name requires a single line only—at least 100mm high; and
  - (c) if the name requires 2 lines—at least 50mm high.
- (5) For subsection (3) (d), the label must have sides of not less than 250mm.



**13.6 Placards for packaged Schedule 11 hazardous chemicals (other than flammable liquids category 4) and IBCs**

- (1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to the storage of—
  - (a) packaged Schedule 11 hazardous chemicals (other than flammable liquids category 4); or
  - (b) a Schedule 11 hazardous chemical in an IBC.
- (2) The placard must—
  - (a) be in the form shown in figure 13.4; and
  - (b) be of sufficient size to accommodate the labels to be included on the placard; and
  - (c) have a white or silver background; and
  - (d) include each required class label—
    - (i) in the form and colouring stated in the ADG Code for the hazardous chemical; and
    - (ii) with sides not less than 100mm.
- (3) The placard must include—
  - (a) for a Schedule 11 hazardous chemical (other than unstable explosive, organic peroxide type A or self-reactive substance type A) present in a storage area at the workplace—the class label as stated in the ADG Code for each category of hazardous chemicals present in at least the placard quantity; or

- (b) for a flammable liquid category 4 stored with flammable liquids in a storage area at the workplace—a class 3 class label as stated in the ADG Code; or
- (c) for an unstable explosive, organic peroxide type A or self-reactive substance type A—the label in figure 13.3.



**Figure 13.4** General form of placard for packaged Schedule 11 hazardous chemicals

- (4) If hazardous chemicals in an IBC at the workplace are Schedule 11 hazardous chemicals intended for transport, and not intended for use at the workplace—
  - (a) the IBC must display a placard in accordance with the ADG Code; and
  - (b) the storage area at the workplace must display a placard in accordance with this section.

### **13.7 Placards for flammable liquids category 4 packaged or in bulk**

- (1) This section applies if a person conducting a business or undertaking at a workplace must display a placard at the workplace in relation to the storage of—
  - (a) a packaged flammable liquid category 4; or
  - (b) a flammable liquid category 4 in bulk.

- (2) The placard must—
- (a) be in the form shown in figure 13.5; and
  - (b) have dimensions not less than those shown in figure 13.5; and
  - (c) have black letters on a white or silver background.



**Figure 13.5 Placard for flammable liquid category 4**

## Schedule 14 Requirements for health monitoring

(see s 368, s 370 and s 406)

**Table 14.1 Hazardous chemicals (other than lead) requiring health monitoring**

column 1 item	column 2 hazardous chemical	column 3 type of health monitoring
1	acrylonitrile	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>records of personal exposure</li> <li>physical examination</li> </ul>
2	arsenic (inorganic)	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>records of personal exposure</li> <li>physical examination with emphasis on the peripheral nervous system and skin</li> <li>urinary inorganic arsenic</li> </ul>
3	benzene	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>records of personal exposure</li> <li>physical examination</li> <li>baseline blood sample for haematological profile</li> </ul>
4	cadmium	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>records of personal exposure</li> <li>physical examination with emphasis on respiratory system</li> <li>standard respiratory questionnaire to be completed</li> <li>standardised respiratory function tests including for example, FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC</li> <li>urinary cadmium and <math>\beta_2</math>-microglobulin</li> <li>health advice, including counselling on the effect of smoking on cadmium exposure</li> </ul>

<b>column 1 item</b>	<b>column 2 hazardous chemical</b>	<b>column 3 type of health monitoring</b>
5	chromium (inorganic)	<ul style="list-style-type: none"> <li>• demographic, medical and occupational history</li> <li>• physical examination with emphasis on the respiratory system and skin</li> <li>• weekly skin inspection of hands and forearms by a competent person</li> </ul>
6	creosote	<ul style="list-style-type: none"> <li>• demographic, medical and occupational history</li> <li>• health advice, including recognition of photosensitivity and skin changes</li> <li>• physical examination with emphasis on the neurological system and skin, noting any abnormal lesions and evidence of skin sensitisation</li> <li>• records of personal exposure, including photosensitivity</li> </ul>
7	crystalline silica	<ul style="list-style-type: none"> <li>• demographic, medical and occupational history</li> <li>• records of personal exposure</li> <li>• standardised respiratory questionnaire to be completed</li> <li>• standardised respiratory function test, for example, FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC</li> <li>• chest X-ray full size PA view</li> </ul>
8	isocyanates	<ul style="list-style-type: none"> <li>• demographic, medical and occupational history</li> <li>• completion of a standardised respiratory questionnaire</li> <li>• physical examination of the respiratory system and skin</li> <li>• standardised respiratory function tests, for example, FEV<sub>1</sub>, FVC and FEV<sub>1</sub>/FVC</li> </ul>

<b>column 1 item</b>	<b>column 2 hazardous chemical</b>	<b>column 3 type of health monitoring</b>
9	mercury (inorganic)	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>physical examination with emphasis on dermatological, gastrointestinal, neurological and renal systems</li> <li>urinary inorganic mercury</li> </ul>
10	4,4'-Methylene bis (2-chloroaniline) (MOCA)	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>physical examination</li> <li>urinary total MOCA</li> <li>dipstick analysis of urine for haematuria</li> <li>urine cytology</li> </ul>
11	organophosphate pesticides	<ul style="list-style-type: none"> <li>demographic, medical and occupational history including pattern of use</li> <li>physical examination</li> <li>baseline estimation of red cell and plasma cholinesterase activity levels by the Ellman or equivalent method</li> <li>estimation of red cell and plasma cholinesterase activity towards the end of the working day on which organophosphate pesticides have been used</li> </ul>
12	pentachlorophenol (PCP)	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>records of personal exposure</li> <li>physical examination with emphasis on the skin, noting any abnormal lesions or effects of irritancy</li> <li>urinary total pentachlorophenol</li> <li>dipstick urinalysis for haematuria and proteinuria</li> </ul>
13	polycyclic aromatic hydrocarbons (PAH)	<ul style="list-style-type: none"> <li>demographic, medical and occupational history</li> <li>physical examination</li> <li>records of personal exposure, including photosensitivity</li> <li>health advice, including recognition of photosensitivity and skin changes</li> </ul>

<b>column 1 item</b>	<b>column 2 hazardous chemical</b>	<b>column 3 type of health monitoring</b>
14	thallium	<ul style="list-style-type: none"> <li>• demographic, medical and occupational history</li> <li>• physical examination</li> <li>• urinary thallium</li> </ul>
15	vinyl chloride	<ul style="list-style-type: none"> <li>• demographic, medical and occupational history</li> <li>• physical examination</li> <li>• records of personal exposure</li> </ul>

**Table 14.2 Lead requiring health monitoring**

<b>column 1 item</b>	<b>column 2</b>	<b>column 3</b>
1	lead (inorganic)	<ul style="list-style-type: none"> <li>• demographic, medical and occupational history</li> <li>• physical examination</li> <li>• biological monitoring</li> </ul>

## **Schedule 15 Hazardous chemicals at major hazard facilities (and their threshold quantity)**

(see dict, def *Schedule 15 chemical* and *threshold quantity*)

### **15.1 Definitions—sch 15**

In this schedule:

*class*—see the ADG Code.

*division*—see the ADG Code.

*packing group*—see the ADG Code.

*subsidiary risk*—see the ADG Code.

### **15.2 Relevant hazardous chemicals**

The hazardous chemicals that characterise a workplace as a facility for the purposes of this regulation are the chemicals specifically referred to in table 15.6.2 and chemicals that belong to the types, classes and categories referred to in table 15.6.3.

### **15.3 Threshold quantity of one hazardous chemical**

- (1) In relation to each hazardous chemical referred to in section 15.2, table 15.6.2, column 4 and table 15.6.3, column 4 provide a quantity that is described as the *threshold quantity* of that chemical.
- (2) If a hazardous chemical is referred to in table 15.6.2, the *threshold quantity* of the chemical is that described in table 15.6.2, whether or not the chemical also belongs to a type, class or category referred to in table 15.6.3.



- (3) If a hazardous chemical is not referred to in table 15.6.2, and the chemical belongs to a type, class or category referred to in table 15.6.3, the **threshold quantity** of that chemical is that of the type, class or category to which it belongs.
- (4) If a hazardous chemical is not referred to in table 15.6.2, and the chemical appears to belong to more than 1 of the types, classes or categories referred to in table 15.6.3, the **threshold quantity** of that chemical is that of the relevant type, class or category which has the lower or lowest threshold quantity.

#### 15.4 Threshold quantity of more than 1 hazardous chemical

If there is more than 1 hazardous chemical, a threshold quantity of chemicals exists where, if a number of chemicals are present, the result of the following aggregation formula exceeds 1:

$$\frac{q_x}{Q_x} + \frac{q_y}{Q_y} + [\dots] + \frac{q_n}{Q_n}$$

Where—

- (a)  $x$ ,  $y$ , [...] and  $n$  are the hazardous chemicals present or likely to be present;
- (b)  $qx$ ,  $qy$ , [...] and  $qn$  is the total quantity of hazardous chemicals  $x$ ,  $y$ , [...] and  $n$  present or likely to be present, other than—
- (i) a hazardous chemical that is present or likely to be present in an isolated quantity of less than 2% of its threshold quantity; or
  - (ii) hazardous chemicals that are solely the subject of intermediate temporary storage, while in transit by road or rail (unless it is reasonably foreseeable that, despite the transitory nature of the storage, hazardous chemicals are, or are likely to be present frequently or in significant quantities);

- (c)  $Q_x$ ,  $Q_y$ , [...] and  $Q_n$  is the individual threshold quantity for each hazardous chemical x, y, [...] and n;
- (d) a hazardous chemical is present or likely to be present in an *isolated quantity*, for the purposes of paragraph (b) (i), if its location at the facility is such that it cannot, on its own, act as an initiator of a major incident.

### 15.5 How table 15.6.2 must be used

- (1) The UN number listed in table 15.6.2 against the named hazardous chemical does not restrict the meaning of the name, which also applies to hazardous chemicals that fall outside the UN number.

#### Examples

- 1 The hazardous chemicals are too dangerous to be transported.
- 2 The hazardous chemicals are part of mixtures covered by a different UN number.

*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) Any hazardous chemicals that are covered by the listed UN numbers must be included in the quantity of the chemical named.

### 15.6 How table 15.6.3 must be used

- (1) The quantities specified for explosives in table 15.6.3 relate to the weight of explosive exclusive of packagings, casings and other non-explosive components.
- (2) If explosives of different hazard divisions are present in the same area or storage, all of the explosives must, before table 15.6.3 is applied, be classified in accordance with table 15.6.1.

**Table 15.6.1**

<b>column 1 Div.</b>	<b>column 2 1.1</b>	<b>column 3 1.2</b>	<b>column 4 1.3</b>	<b>column 5 1.4</b>	<b>column 6 1.5</b>	<b>column 7 1.6</b>
1.1	1.1	1.1	1.1	1.1	1.1	1.1
1.2	1.1	1.2	1.1	1.2	1.1	1.2
1.3	1.1	1.1	1.3	1.3	1.1	1.3
1.4	1.1	1.2	1.3	1.4	1.5	1.6
1.5	1.1	1.1	1.1	1.5	1.5	1.5
1.6	1.1	1.2	1.3	1.6	1.5	1.6

**Table 15.6.2**

<b>column 1 item</b>	<b>column 2 hazardous chemical</b>	<b>column 3 UN Nos included under name</b>	<b>column 4 threshold quantity (t)</b>
1	acetone cyanohydrin	1541	20
2	acetylene	1001	50
3	acrolein	1092	200
4	acrylonitrile	1093	200
5	allyl alcohol	1098	20
6	allylamine	2334	200
7	ammonia, anhydrous, liquefied or ammonia solutions, relative density less than 0.880 at 15°C in water, with more than 50% ammonia	1005	200
8	ammonium nitrate fertilisers	2067 2068 2069 2070	5000

<b>column 1 item</b>	<b>column 2 hazardous chemical</b>	<b>column 3 UN Nos included under name</b>	<b>column 4 threshold quantity (t)</b>
9	ammonium nitrate, with not more than 0.2% combustible substances, including any organic substance calculated as carbon, to the exclusion of any other added substance	1942	2500
10	arsenic pentoxide, arsenic (V) acid and other salts	1559	10
11	arsenic trioxide, arsenious (III) acid and other salts	1561	0.1
12	arsine	2188	1.0
13	bromine or bromine solutions	1744	100
14	carbon disulfide	1131	200
15	chlorine	1017	25
16	dioxins	—	0.1
17	ethyl nitrate	—	50
18	ethylene dibromide	1605	50
19	ethylene oxide	1040	50
20	ethyleneimine	1185	50
21	fluorine	1045	25
22	formaldehyde (greater than 90%)	—	50
23	hydrofluoric acid solution (greater than 50%)	1790	50
24	hydrogen	1049	50

column 1 item	column 2 hazardous chemical	column 3 UN Nos included under name	column 4 threshold quantity (t)
25	hydrogen chloride —anhydrous —refrigerated liquid	1050 2186	250 250
26	hydrogen cyanide	1051 1614	20
27	hydrogen fluoride	1052	50
28	hydrogen sulfide	1053	50
29	LP gases	1011 1012 1075 1077 1978	200
30	methane or natural gas	1971 1972	200
31	methyl bromide	1062	200
32	methyl isocyanate	2480	0.15
33	oxides of nitrogen, including nitrous oxide, nitrogen dioxide and nitrogen trioxide	1067 1070 1660 1975 2201 2421	50
34	oxygen	1072 1073	2000
35	phosgene	1076	0.75
36	propylene oxide	1280	50
37	propyleneimine	1921	200
38	sodium chlorate, solid	1495	200
39	sulfur dichloride	1828	1

column 1 item	column 2 hazardous chemical	column 3 UN Nos included under name	column 4 threshold quantity (t)
40	sulfur dioxide, liquefied	1079	200
41	sulfuric anhydride (alt. sulfur trioxide)	1829	75
42	titanium tetrachloride	1838	500
43	toluene diisocyanate	2078	200

**Table 15.6.3**

column 1 item	column 2 hazardous chemical	column 3 description	column 4 threshold quantity (t)
1	explosive materials	explosive of division 1.1a	10
		all other explosives of division 1.1	50
		explosive of division 1.2	200
		explosive of division 1.3	200
2	compressed and liquefied gases	compressed or liquefied gases of division 2.1 or subsidiary risk 2.1	200
		liquefied gases of subsidiary risk 5	200
		compressed or liquefied gases that meet the criteria for very toxic in table 15.6.4	20

column 1 item	column 2 hazardous chemical	column 3 description	column 4 threshold quantity (t)
		compressed or liquefied gases that meet the criteria for toxic in table 15.6.4	200
3	flammable materials	liquids that meet the criteria for class 3 packing group I materials (except for crude oil in remote locations)	200
		crude oil in remote locations that meet the criteria for class 3 packing group I	2 000
		liquids that meet the criteria for class 3 packing group II or III	50 000
		liquids with flash points <61°C kept above their boiling points at ambient conditions	200
		materials that meet the criteria for division 4.1 packing group I	200
		spontaneously combustible materials that meet the criteria for division 4.2 packing group I or II	200

column 1 item	column 2 hazardous chemical	column 3 description	column 4 threshold quantity (t)
		materials that liberate flammable gases or react violently on contact with water which meet the criteria for division 4.3 packing group I or II	200
		materials that belong to classes 3 or 8 packing group I or II which have Hazchem codes of 4WE (materials that react violently with water)	500
4	oxidising materials	oxidising material listed in appendix a to the ADG Code	50
		oxidising materials that meet the criteria for division 5.1 packing group I or II	200
5	peroxides	peroxides that are listed in Appendix A to the ADG Code	50
		organic peroxides that meet the criteria for division 5.2	200
6	toxic solids and liquids	materials that meet the criteria for very toxic in table 15.6.4 except materials that are classified as infectious substances (division 6.2) or as radioactive (class 7)	20



column 1 item	column 2 hazardous chemical	column 3 description	column 4 threshold quantity (t)
		materials that meet the criteria for toxic in table 15.6.4	200

**Table 15.6.4**

column 1 description	column 2 oral toxicity <sup>1</sup> LD <sub>50</sub> (mg/kg)	column 3 dermal toxicity <sup>2</sup> LD <sub>50</sub> (mg/kg)	column 4 inhalation toxicity <sup>3</sup> LC <sub>50</sub> (mg/L)
very toxic	LD <sub>50</sub> ≤ 5	LD <sub>50</sub> ≤ 40	LC <sub>50</sub> ≤ 0.5
toxic	5 < LD <sub>50</sub> ≤ 50	40 < LD <sub>50</sub> ≤ 200	0.5 < LC <sub>50</sub> ≤ 2

**Key**

- 1 in rats
- 2 in rats or rabbits
- 3 4 hours in rats

## **Schedule 16      Matters to be included in emergency plan for major hazard facility**

(see s 557 (1) (b))

### **16.1      Site and hazard detail**

16.1.1 The location of the facility, including its street address and the nearest intersection (if any).

*Note*      Sufficient detail must be provided to enable a person not familiar with the site to find it.

16.1.2 A map—

- (a) showing the site of the major hazard facility; and
- (b) showing land use and occupancy in the surrounding area, and any other closely located major hazard facilities and hazardous chemical storage sites; and
- (c) identifying all potentially hazardous inventories in the area that are known to the operator and the location of all staging points for emergency service organisations.

16.1.3 An inventory of all hazardous chemicals present or likely to be present at the facility, and their location.

16.1.4 A brief description of the nature of the facility and its operation.

16.1.5 The maximum number of persons, including workers, likely to be present at the facility on a normal working day.

16.1.6 The emergency planning assumptions, including emergency measures planned for identified incidents and likely areas affected.

16.1.7 The protective resources available to control an incident.

16.1.8 The emergency response procedures.

- 16.1.9 The infrastructure (on-site and off-site) likely to be affected by a major incident.

## **16.2 Command structure and site personnel**

- 16.2.1 The command philosophy and structure to be activated in an emergency, so that it is clear what actions will be taken, who will take these actions and how, when and where they will be taken.
- 16.2.2 Details of the person who can clarify the content of the emergency plan if necessary.
- 16.2.3 The contact details of, and the means of contacting, the persons at the facility responsible for liaising with emergency service organisations.
- 16.2.4 A list of 24 hour emergency contacts.
- 16.2.5 Arrangements for assisting emergency service organisations and nearby facilities with control actions taken in the surrounding area.

## **16.3 Notifications**

- 16.3.1 In the event of the occurrence of a major incident or an event that could reasonably be expected to lead to a major incident, procedures for notifying the emergency service organisations with which the emergency plan was prepared under section 557 (Determined major hazard facility—emergency plan).
- 16.3.2 After a major incident has occurred, procedures for providing the local community and SEMSOG with information about the major incident under section 573 (Information for local community—major incident).
- 16.3.3 On-site and off-site warning systems.
- 16.3.4 Contact details for emergency service organisations and other support services that can assist in providing resources and implementing evacuation plans in the event of a major incident.

16.3.5 On-site communication systems.

**16.4 Resources and equipment**

16.4.1 On-site emergency resources, including emergency equipment, personnel, gas detectors, wind velocity detectors, sand, lime, neutralising agents, absorbents, spill bins and decontamination equipment.

16.4.2 Off-site emergency resources, including arrangements for obtaining additional external resources (specific to the likely major incidents) to assist the control of major incidents and major incident hazards.

**16.5 Procedures**

16.5.1 Procedures for the safe evacuation of, and accounting for, all persons on site.

16.5.2 Procedures and control points for utilities, including gas, water and electricity.

16.5.3 Procedures for the control of any incident involving Schedule 15 chemicals.

16.5.4 Procedures for decontamination following an incident involving Schedule 15 chemicals.

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## **Schedule 17      Additional matters to be included in safety management system of major hazard facility**

(see s 558)

### **17.1      Safety policy and safety objectives**

- 17.1.1 A description of the means by which the operator's safety policy and specific safety objectives are to be communicated to all persons who are to participate in the implementation of the safety management system.
- 17.1.2 The safety policy must include an express commitment to ongoing improvement of all aspects of the safety management system.

### **17.2      Organisation and personnel**

- 17.2.1 The identification (according to position description and location) of the persons who are to participate in the implementation of the safety management system, and a description of the command structure in which these persons work and of the specific tasks and responsibilities allocated to them.
- 17.2.2 A description of the means of ensuring that these persons have the knowledge and skills necessary to enable them to undertake their allocated tasks and discharge their allocated responsibilities, and that they retain such knowledge and skills.

### **17.3      Operational controls**

- 17.3.1 A description of the procedures and instructions for—
  - (a) the safe operation of plant (including as to inspection and maintenance); and
  - (b) the mechanical integrity of plant; and
  - (c) plant processes; and

(d) the control of abnormal operations and emergency shut down or decommissioning.

17.3.2 Provision of adequate means of achieving isolation of the major hazard facility or any part of the major hazard facility in the event of an emergency.

17.3.3 Provision of adequate means of gaining access for service and maintenance of the major hazard facility or any part of the major hazard facility.

17.3.4 A description of the roles of persons and of the interfaces between persons and plant.

17.3.5 Provision for alarm systems.

#### **17.4 Duties of operators**

17.4.1 A description of the means by which the operator proposes to comply with the Act and with division 9.3.3 (Determined major hazard facility—management of risk), part 9.4 (Licensed major hazard facilities—risk management) and part 9.5 (Consultation and workers' safety role).

17.4.2 In relation to each part of the documented safety management system that describes the means of compliance with a provision of chapter 9 (Major hazard facilities), an annotation or cross-reference identifying the specific provision being complied with.

#### **17.5 Management of change**

A description of the procedures for planning modifications to major hazard facilities.

#### **17.6 Principles and standards**

17.6.1 A statement of the principles, especially the design principles and engineering standards, being used to ensure the safe operation of the major hazard facility.

- 17.6.2 A description of any technical standards, whether published or proprietary, being relied on in relation to such principles and standards.

## **17.7 Performance monitoring**

- 17.7.1 Performance standards for measuring the effectiveness of the safety management system, that—
- (a) relate to all aspects of the safety management system; and
  - (b) are sufficiently detailed to ensure that the ability of the operator to ensure the effectiveness of all aspects of the safety management system is apparent from the documentation; and
  - (c) include steps to be taken to continually improve all aspects of the safety management system.
- 17.7.2 A description of the way in which these performance standards are to be met.
- 17.7.3 Performance indicators for the effectiveness of control measures implemented, including—
- (a) tests of the effectiveness of the control measures; and
  - (b) indicators of the failure of any control measure; and
  - (c) actions to be taken in reporting any such failure; and
  - (d) other corrective actions to be taken in the event of any such failure.

## **17.8 Audit**

Provision for the auditing of performance against the performance standards, including the methods, frequency and results of the audit process.

## **Schedule 18      Additional matters to be included in safety case for a major hazard facility**

(see s 561)

### **Part 18.1            Facility description**

#### **18.1            The facility**

- 18.1.1 A brief description of the nature of the facility and its operation, including a description of on-site activities and processes that involve or will involve Schedule 15 chemicals.
- 18.1.2 A description of the Schedule 15 chemicals and any other hazardous chemicals present or likely to be present at the facility, including—
- (a) their identification by name and by any other means necessary for a clear identification; and
  - (b) the quantity present or likely to be present at the major hazard facility; and
  - (c) their physical, chemical and toxicological characteristics, and any other hazardous characteristics, both immediate and delayed; and
  - (d) their physical and chemical behaviour under normal conditions of use or under foreseeable abnormal conditions.
- 18.1.3 A description of the chemical and physical processes associated with any Schedule 15 chemicals present or likely to be present at the facility, including—
- (a) the main units of plant used in those processes; and
  - (b) a process flow drawing, or set of flow drawings, describing the processes.



- 18.1.4 A drawing of the major hazard facility's general layout, containing the location of—
- (a) the main process units; and
  - (b) the main storage areas; and
  - (c) major incident hazards and major incident initiators.
- 18.1.5 In relation to proposed changes at the major hazard facility for which no new control measures are implemented—
- (a) a description of any proposed changes to the major hazard facility that would—
    - (i) alter the production capacity or profile of the major hazard facility; or
    - (ii) involve the deletion, addition or modification of any processes; and
  - (b) a statement as to how existing control measures and work health and safety management systems are capable of maintaining the safe operation of the major hazard facility.

## **18.2 The surrounding area**

- 18.2.1 A detailed scale plan of the facility and its surrounding area showing—
- (a) the location of the facility within the surrounding area; and
  - (b) topographical information; and
  - (c) land use, occupancy and activities in the surrounding area and any other closely located major hazard facilities and hazardous chemical storage sites; and
  - (d) the location of any identified external conditions (including other major hazard facilities or other facilities that could affect the safety of the major hazard facility).

18.2.2 Graphically presented demographic information for the local community, including surrounding land uses permitted by the planning and land authority.

*Note* **Planning and land authority**—see the [Legislation Act](#), dictionary, pt 1.

18.2.3 Meteorological data relevant to the estimation of the effects of any major incident.

## Part 18.2 Safety information

### 18.3 Control measures to limit the consequences of major incidents

18.3.1 A detailed description of—

- (a) the instrumentation and other equipment installed in the facility and the processes and procedures in place that are the control measures to be implemented by the operator; and
- (b) the critical operating parameters for those control measures; and
- (c) key personnel and resources (internal and external) available to intervene in the event of any failure of a control measure, whether or not that failure results in a major incident; and
- (d) a summary of the emergency plan, including specific information about how the plan can be expected to limit the consequences of a major incident; and
- (e) the means of ensuring that there is at all times a command structure in place for the major hazard facility that applies in the event of an emergency, and that this command structure has been communicated to workers throughout the major hazard facility.

18.3.2 In this section:

*critical operating parameters* means the upper or lower performance limits of any equipment, process or procedure, compliance with which is necessary to avoid a major incident.

*failure of a control measure* means—

- (a) if the control measure is a positive action or event—the non-occurrence or the defective occurrence of that action or event; or
- (b) if the control measure consists of a limitation on an operational activity, process or procedure—the breach of that limitation.

#### **18.4 Performance monitoring**

A detailed description of the performance standards and performance indicators required by schedule 17, section 17.7 (Performance monitoring) to be included in the safety management system.

#### **18.5 Safety management system**

- 18.5.1 At all points in the safety case where the matter addressed is covered by the safety management system, a clear reference to the relevant part of the documented safety management system.
- 18.5.2 A description of those parts of the documented safety management system that address the ongoing effective implementation and ongoing review and revision of the safety management system.

#### **18.6 Safety and reliability of facility structures and plant**

A description of the steps taken to ensure that safety and reliability are incorporated into the design and construction of all aspects of the major hazard facility itself, whether the operator is directly engaged in the design and construction or has engaged another person to carry out the design and construction.

#### **18.7 Major incident history**

A summary of the major incidents that have occurred at the major hazard facility over the previous 5 years.

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**21 Dictionary, note 2**

*insert*

- chief health officer
- found guilty
- person
- planning and land authority

**22 Dictionary, new definitions**

*insert*

***abrasive blasting*** means propelling a stream of abrasive material at high speed against a surface using compressed air, liquid, steam, centrifugal wheels or paddles to clean, abrade, etch or otherwise change the original appearance or condition of the surface.

***ADG Code*** means the *Australian Code for the Transport of Dangerous Goods by Road and Rail*, approved by the Transport and Infrastructure Council, as in force from time to time.

*Note* The *Australian Code for the Transport of Dangerous Goods by Road and Rail*, 7th edition does not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Code is available at [www.ntc.gov.au](http://www.ntc.gov.au).

***Agvet Code*** means the Agricultural and Veterinary Chemicals Code set out in the schedule to the [Agricultural and Veterinary Chemicals Code Act 1994](#) (Cwlth).

***article*** means a manufactured item, other than a fluid or particle, that—

- (a) is formed into a particular shape or design during manufacture; and
- (b) has hazard properties and a function that is wholly or partly dependent on the shape or design.

**biological monitoring** means—

- (a) the measurement and evaluation of a substance, or its metabolites, in the body tissue, fluids or exhaled air of a person exposed to the substance; or
- (b) blood lead level monitoring.

**blood lead level** means the concentration of lead in whole blood expressed in micromoles per litre ( $\mu\text{mol/L}$ ) or micrograms per decilitre ( $\mu\text{g/dL}$ ).

**blood lead level monitoring** means the testing of the venous or capillary blood of a person by a laboratory accredited by NATA, under the supervision of a registered medical practitioner, to determine the blood lead level.

## 23 Dictionary, definition of *boiler*, paragraph (b) (ii), notes

*substitute*

*Note* The AMBSC does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The AMBSC may be purchased at [www.aals.asn.au](http://www.aals.asn.au).

## 24 Dictionary, new definitions

*insert*

**bulk**, in relation to a hazardous chemical, means any quantity of a hazardous chemical that is—

- (a) in a container with a capacity exceeding 500L or net mass of more than 500kg; or
- (b) if the hazardous chemical is a solid—an undivided quantity exceeding 500kg.

**capacity**, of a container for chapter 7 (Hazardous chemicals), means the internal volume of the container at a temperature of 15°C expressed in litres.

**chemical identity** means a name, in accordance with the nomenclature systems of the International Union of Pure and Applied Chemistry or the Chemical Abstracts Service, or a technical name, that gives a chemical a unique identity.

*Note* Nomenclature systems of the International Union of Pure and Applied Chemistry are available at [www.iupac.org](http://www.iupac.org). Nomenclature systems of the Chemical Abstracts Service are available at [www.cas.org](http://www.cas.org).

## 25 Dictionary, definition of *class*, new paragraph (c)

*insert*

(c) for schedule 15—see schedule 15, section 15.1.

## 26 Dictionary, new definitions

*insert*

**class label** means a pictogram described in the ADG Code for a class, or division of a class, of dangerous goods.

**consumer product** means a thing that—

- (a) is packed or repacked primarily for use by a household consumer or for use in an office; and
- (b) if the thing is packed or repacked primarily for use by a household consumer—is packed in the way and quantity in which it is intended to be used by a household consumer; and
- (c) if the thing is packed or repacked primarily for use in an office—is packed in the way and quantity in which it is intended to be used for office work.

**container**, in relation to a hazardous chemical, means anything in or by which a hazardous chemical is, or has been, wholly or partly covered, enclosed or packed, including anything necessary for the container to perform its function as a container.

**correct classification** means the set of hazard classes and hazard categories assigned to a hazardous chemical when it is correctly classified.

*Note* Sch 9, pt 9.1 sets out when a hazardous chemical is correctly classified.

**determined major hazard facility** means a facility that has been determined under section 541 (Determination in relation to facility, on inquiry) or section 542 (Determination in relation to over-threshold facility) to be a major hazard facility.

**division**, for schedule 15—see schedule 15, section 15.1.

## 27 Dictionary, definition of *exposure standard*, notes

*substitute*

*Note* The Workplace Exposure Standard for Airborne Contaminants does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The Standard is available at [www.safeworkaustralia.gov.au](http://www.safeworkaustralia.gov.au).

## 28 Dictionary, new definitions

*insert*

**facility**, for chapter 9 (Major hazard facilities), means a workplace at which Schedule 15 chemicals are present or likely to be present.

**female of reproductive capacity**, in part 7.2 (Lead), means a female other than a female who provides information stating that she is not of reproductive capacity.



***fire risk hazardous chemical*** means a hazardous chemical that—

- (a) is any of the following:
  - (i) a flammable gas;
  - (ii) a flammable liquid (hazard category 1 to 3);
  - (iii) a flammable solid;
  - (iv) a substance liable to spontaneous combustion;
  - (v) a substance which, in contact with water, emits flammable gases;
  - (vi) an oxidizing substance;
  - (vii) an organic peroxide; and
- (b) burns readily or supports combustion.

**29 Dictionary, definition of *flammable gas***

*substitute*

***flammable gas***—see the GHS.

**30 Dictionary, new definition of *flammable liquid***

*insert*

***flammable liquid*** means a flammable liquid within the meaning of the GHS that has a flash point of less than 93°C.

### 31 Dictionary, definition of *GHS*

*substitute*

***GHS*** means the *Globally Harmonized System of Classification and Labelling of Chemicals*, 3rd revised edition, published by the United Nations, as modified under schedule 6 (Classification of mixtures).

*Note 1* The *Globally Harmonized System of Classification and Labelling of Chemicals*, 3rd revised edition does not need to be notified under the [Legislation Act](#) because s 47 (5) does not apply (see s 15 and [Legislation Act](#), s 47 (7)). The System is available at [www.unece.org](http://www.unece.org).

*Note 2* The sch 6 tables replace some tables in the GHS.

### 32 Dictionary, new definitions

*insert*

***hazard category*** means a division of criteria within a hazard class in the GHS.

***hazard class*** means the nature of a physical, health or environmental hazard under the GHS.

***hazard pictogram*** means a graphical composition, including a symbol plus other graphical elements, that is assigned in the GHS to a hazard class or hazard category.

***hazard statement*** means a statement assigned in the GHS to a hazard class or hazard category describing the nature of the hazards of a hazardous chemical including, if appropriate, the degree of hazard.

***hazardous chemical*** means a substance, mixture or article that satisfies the criteria for a hazard class in the GHS (including a classification referred to in schedule 6 (Classification of mixtures)), but does not include a substance, mixture or article that satisfies the criteria solely for 1 of the following hazard classes:

- (a) acute toxicity—oral—category 5;
- (b) acute toxicity—dermal—category 5;
- (c) acute toxicity—inhalation—category 5;
- (d) skin corrosion/irritation—category 3;
- (e) serious eye damage/eye irritation—category 2B;
- (f) aspiration hazard—category 2;
- (g) flammable gas—category 2;
- (h) acute hazard to the aquatic environment—category 1, 2 or 3;
- (i) chronic hazard to the aquatic environment—category 1, 2, 3 or 4;
- (j) hazardous to the ozone layer.

*Note* The sch 6 tables replace some tables in the GHS.

***Hazchem Code*** means a Hazchem Code under the ADG Code, also known as an Emergency Action Code.

***IBC***—see *intermediate bulk container*.

***intermediate bulk container*** (or ***IBC***)—see the ADG Code.

***in transit***, in relation to a thing, means that the thing is—

- (a) supplied to, or stored at, a workplace in containers that are not opened at the workplace; and
- (b) not used at the workplace; and
- (c) kept at the workplace for not more than 5 consecutive days.

*lead* means lead metal, lead alloys, inorganic lead compounds and lead salts of organic acids.

*lead process*, for part 7.2 (Lead)—see section 392.

*lead process area* means a workplace or part of a workplace where a lead process is carried out.

*lead risk work*, for part 7.2 (Lead)—see section 394.

### **33 Dictionary, definition of *licence-holder*, new paragraph (d)**

*insert*

- (d) in the case of a major hazard facility licence—the operator of the major hazard facility to whom the licence is granted or transferred.

### **34 Dictionary, new definitions**

*insert*

*licensed major hazard facility* means a major hazard facility that is licensed under part 9.7 (Licensing of major hazard facilities).

*local community*, in relation to a major hazard facility, means the community in the surrounding area.

*major hazard facility* means a facility—

- (a) at which Schedule 15 chemicals are present or likely to be present in a quantity that exceeds their threshold quantity; or
- (b) that is determined by the regulator under part 9.2 (Determinations about major hazard facilities) to be a major hazard facility.

*major hazard facility licence* means a licence granted under part 9.7 (Licensing of major hazard facilities) in relation to a major hazard facility.

**major incident**, for chapter 9 (Major hazard facilities)—see section 531.

**major incident hazard** means a hazard that could cause, or contribute to causing, a major incident.

**manifest** means a written summary of the hazardous chemicals used, handled or stored at a workplace.

*Note* See sch 12 (Manifest requirements) for what a manifest must contain.

**manifest quantity**, in relation to a Schedule 11 hazardous chemical, means the manifest quantity referred to in Schedule 11, table 11.1, column 5 for that hazardous chemical.

**mixture**, for part 7.1 (Hazardous chemicals), means a combination of, or a solution composed of, 2 or more substances that do not react with each other.

**modification**, of a facility—see section 534.

**operator**, of a facility or a proposed facility—see section 533.

**packaged hazardous chemicals** means Schedule 11 hazardous chemicals in a container with—

- (a) a capacity not exceeding 500L; or
- (b) a net mass not exceeding 500kg.

**packing group**, for schedule 15—see schedule 15, section 15.1.

**pipe work** means a pipe or assembly of pipes, pipe fittings, valves and pipe accessories used to convey a hazardous chemical.

**placard** means a sign or notice—

- (a) displayed or intended for display in a prominent place, or next to a container or storage area for hazardous chemicals at a workplace; and
- (b) that contains information about the hazardous chemical stored in the container or storage area.

**placard quantity**, in relation to a Schedule 11 hazardous chemical, means the placard quantity referred to in Schedule 11, table 11.1 column 4 for the Schedule 11 hazardous chemical.

**precautionary statement** means a phrase prescribed by the GHS that describes measures that are recommended to be taken to prevent or minimise—

- (a) the adverse effects of exposure to a hazardous chemical; or
- (b) improper handling of a hazardous chemical.

**present or likely to be present**, in relation to hazardous chemicals, including Schedule 15 chemicals, at a facility or proposed facility—see section 532.

**primary emergency service organisation** means fire and rescue service.

*Note* **Fire and rescue service**—see the [Legislation Act](#), dictionary, pt 1.

**product identifier** means the name or number used to identify a product on a label or in a safety data sheet.

***prohibited carcinogen*** means a substance—

- (a) listed in schedule 10, table 10.1, column 2; and
- (b) present in a concentration of—
  - (i) for a solid or liquid—0.1% or more, determined as a weight/weight (w/w) concentration; and
  - (ii) for a gas—0.1% or more, determined as a volume/volume (v/v) concentration.

***proposed facility*** means—

- (a) an existing workplace that is to become a facility due to the introduction of Schedule 15 chemicals; or
- (b) a facility that is being designed or constructed.

***proposed major hazard facility*** means—

- (a) an existing facility or other workplace that is to become a major hazard facility due to the introduction of Schedule 15 chemicals or the addition of further Schedule 15 chemicals; or
- (b) a major hazard facility that is being designed or constructed.

***quantity***, for chapter 7 (Hazardous chemicals), means—

- (a) for a hazardous chemical that is not a liquid or a gas or a gas under pressure and is in a container or storage or handling system—the mass in kilograms of the hazardous chemical in the container or storage or handling system; and
- (b) for a hazardous chemical that is a liquid and is not a gas under pressure and is in a container or storage or handling system—the net capacity in litres of the container or storage or handling system; and
- (c) for a hazardous chemical that is a gas or gas under pressure in a container or storage or handling system—the water capacity in litres of the container or storage or handling system; and

- (d) for a hazardous chemical that is not a liquid and is in bulk and not in a container—the undivided mass in kilograms; and
- (e) for a hazardous chemical that is a thing and is not a gas—the net capacity of the part of the thing that comprises a hazardous chemical.

**35 Dictionary, definition of *registered training organisation (RTO)*, new note**

*insert*

*Note* The *National Vocational Education and Training Regulator Act 2011* (Cwlth) does not need to be notified under the *Legislation Act* because s 47 (5) does not apply (see s 15 and *Legislation Act*, s 47 (7)). The Act is available at [www.legislation.gov.au](http://www.legislation.gov.au).

**36 Dictionary, new definitions**

*insert*

***research chemical*** means a substance or mixture that—

- (a) is manufactured in a laboratory for genuine research; and
- (b) is not for use or supply for a purpose other than analysis or genuine research.

***restricted carcinogen*** means a substance—

- (a) listed in Schedule 10, table 10.2, column 2 for a use listed in column 3; and
- (b) present in a concentration of—
  - (i) for a solid or liquid—0.1% or more, determined as a weight/weight (w/w) concentration; and
  - (ii) for a gas—0.1% or more, determined as a volume/volume (v/v) concentration.



**retailer** means a person whose principal business is supplying consumer products to members of the public who are not engaged in the further supply of those products.

**safety data sheet** means a safety data sheet prepared under section 330 (Manufacturer or importer to prepare and provide safety data sheets) or section 331 (Safety data sheets—research chemical, waste product or sample for analysis).

### 37 Dictionary, definition of *Safe Work Australia*, new note

*insert*

*Note* The *Safe Work Australia Act 2008* (Cwlth) does not need to be notified under the *Legislation Act* because s 47 (5) does not apply (see s 15 and *Legislation Act*, s 47 (7)). The Act is available at [www.legislation.gov.au](http://www.legislation.gov.au).

### 38 Dictionary, new definitions

*insert*

**Schedule 11 hazardous chemical** means a hazardous chemical or combination of hazardous chemicals specified in schedule 11, table 11.1.

**Schedule 15 chemical** means a hazardous chemical that—

- (a) is specified in schedule 15, table 15.6.2; or
- (b) belongs to a class, type or category of hazardous chemicals specified in schedule 15, table 15.6.3.

**SEMSOG**—see the *Emergencies Act 2004*, section 141 (Security and Emergency Management Senior Officials Group).

**signal word** means the word ‘danger’ or ‘warning’ used on a label to indicate to a label reader the relative severity level of a hazard, and to alert the reader to a potential hazard, under the GHS.

**subsidiary risk**, for schedule 15—see schedule 15, section 15.1.

**Standard for the Uniform Scheduling of Medicines and Poisons** means the current Poisons Standard under the *Therapeutic Goods Act 1989* (Cwlth).

**substance**, in part 7.1 (Hazardous chemicals), means a chemical element or compound in its natural state or obtained or generated by a process—

- (a) including any additive necessary to preserve the stability of the element or compound and any impurities deriving from the process; but
- (b) excluding any solvent that may be separated without affecting the stability of the element or compound, or changing its composition.

**surrounding area**, in relation to a facility, means the area surrounding the facility in which the health and safety of persons could potentially be adversely affected by a major incident occurring.

**technical name**, in the definition of **chemical identity**, means a name that is—

- (a) ordinarily used in commerce, regulations and codes to identify a substance or mixture, other than an International Union of Pure and Applied Chemistry or Chemical Abstracts Service name; and
- (b) recognised by the scientific community.

**threshold quantity**, in relation to a Schedule 15 chemical, means—

- (a) the threshold quantity of a specific hazardous chemical as determined under schedule 15, section 15.3; or
- (b) the aggregate threshold quantity of 2 or more hazardous chemicals as determined under schedule 15, section 15.4.

**UN number**—see the ADG Code, Attachment 2.

**39 Dictionary, definition of *VET course*, new note**

*insert*

*Note* The *National Vocational Education and Training Regulator Act 2011* (Cwlth) does not need to be notified under the *Legislation Act* because s 47 (5) does not apply (see s 15 and *Legislation Act*, s 47 (7)). The Act is available at [www.legislation.gov.au](http://www.legislation.gov.au).

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## Endnotes

**1 Notification**

Notified under the [Legislation Act](#) on 28 March 2018.

**2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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