

Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations (Amendment) 1996 No. 129

EXPLANATORY STATEMENT

Statutory Rules 1996 No. 129

Issued by the Authority of the Minister for Industrial Relations

Occupational Health and Safety (Commonwealth Employment) Act 1991

Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations (Amendment)

Subsection 82(1) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) provides that the Governor-General may make regulations for the purposes of the Act.

The Act provides for the health and safety of Commonwealth employees and others at work and establishes a framework within which Commonwealth employers, employees and involved unions, may co-operate to address health and safety issues.

Subsection 23(1) of the Act provides that the regulations may make provisions relating to any matter affecting, or likely to affect the occupational health and safety of employees or contractors.

Under agreement with the States and Territories, regulatory occupational health and safety schemes are being established which are uniform across the Commonwealth and the States and Territories.

The regulatory schemes are based on national standards and codes of practice developed by the National Occupational Health and Safety Commission (the Commission). Subsection 38(1) of the *National Occupational Health and Safety Commission Act 1985* (the NOHSC Act) provides that the Commission may declare national standards and codes of practice relating to occupational health and safety matters.

National codes and standards declared under subsection 38(2) of the NOHSC Act are given legislative force by adoption in the States and the Commonwealth in respective Occupational Health and Safety legislation. The national "Plant" standard is incorporated in the Occupational Health and Safety (Commonwealth Employees) (National Standards) Regulations (the Regulations).

The Regulations (Part 4) are the seventh Part to be gazetted under the Occupational Health and Safety (Commonwealth Employees) (National Standards) Regulations. The Regulations implement, for the Commonwealth public sector, a National Standard for "Plant" prepared by the Commission. Plant includes any machinery, equipment or tool, and any component thereof

The Plant Regulations aim to protect the health and safety of persons from hazards arising from plant and systems of work associated with plant. The main features of the Regulations are the provision of licencing, design registration, risk assessment and control and employer, manufacturer, supplier and erector duties.

Details of the Regulations are attached.

The Regulations commence on 1 July 1996.

ATTACHMENT

Details of the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations

PART 4 - PLANT

Division 1 - Introduction

Regulation 4.01 defines the object of Part 4 which is to protect the health and safety of employees, contractors and other persons from hazards arising from plant and systems of work associated with plant.

Regulation 4.02 defines the application of Part 4.

Regulation 4.03 provides a definition for "relevant Person" under this Part. "Relevant Person" includes an employee, contractor and any other person at or near a workplace under an employers control.

Division 2 - Duties of a manufacturer of plant

Regulation 4.04 describes the requirement that manufacturers identify, assess and control, hazards arising from the design and manufacture of plant that win be used by employees at work.

Penalties are prescribed for contraventions of regulation 4.04.

Regulation 4.05 describes the requirement that manufacturers take steps to eliminate or if elimination is not practicable, minimise any identified risks.

Penalties are prescribed for contraventions of regulation 4.05.

Regulation 4.06 requires that the manufacturer of plant provide to the employer information concerning systems of work for the safe use of plant, required operator skills and training and relevant emergency procedures applicable to the item of plant.

Division 3 - Duties of a supplier of plant

Regulation 4.07 describes the requirement that if a supplier of plant identifies a risk arising from the use of plant, such risks are to be eliminated or if elimination is not practicable, minimised. This regulation also requires suppliers who supply plant for spare parts or scrap must advise the employer of the purpose for which the plant may be safely used and that the plant must not be used in the form supplied.

Penalties are prescribed for contraventions of regulation 4.07.

Regulation 4.08 requires that the supplier is to provide to the employer any records kept by a previous owner of the plant.

Penalties are prescribed for contraventions of regulation 4.08.

Division 4 - Duties of an erector or installer of plant

Regulation 4.09 defines the requirement that creators and installers of plant identify hazards with the plant and where any hazards are identified, conduct a risk assessment on the plant that is erected or installed.

Penalties are prescribed for contraventions of regulation 4.09

Regulation 4.10 defines the requirement that erectors and installers of plant that identify hazards with the plant following a risk assessment, must take steps to eliminate or if elimination is not practicable, minimise any identified risks. This includes risks associated with electrical installations and unintentional movement of the plant.

Penalties are prescribed for contraventions of regulation 4.10.

Division 5 - Duties of an employer

Subdivision A-General duties

Regulation 4.11 defines a requirement that employers identify hazards relating to the use of plant and to conduct a risk assessment of any hazards that are identified.

Penalties are prescribed for contraventions of regulation 4.11.

Regulation 4.12 defines the requirement that employers take all practicable steps to eliminate or if elimination is not practicable, minimise any identified risks associated with the use of plant. This requires the employer to implement appropriate control measures and safe systems of work and to provide appropriate personal protective equipment.

Penalties are prescribed for contraventions of regulation 4.12.

Regulation 4.13 requires an employer who engages a person to design plant for use by employees to provide to the designer, relevant information about matters relating to the plant that may affect the health and safety of the employees.

Penalties are prescribed for contraventions of regulation 4.13.

Regulation 4.14 requires the employer to eliminate or if elimination is not practicable, minimise any identified risks associated with the installation, erection or commissioning of plant. The employer must also ensure that the installation, erection or commissioning of plant is only undertaken by competent persons who are provided with the necessary information to ensure the work is undertaken in a way that minimises the risks to relevant persons.

Penalties are prescribed for contraventions of regulation 4.14.

Regulation 4.15 defines the requirement that employer take reasonable steps to ensure that risks arising from the use of plant are eliminated or if elimination is not practicable, minimised. This regulation also defines some of the activities the employer must perform in order to control the risks associated with the use of plant.

Penalties are prescribed for contraventions of regulation 4.15.

Regulation 4.16 requires that if plant is impaired or damaged resulting in increased risks, the employer must ensure that the plant is assessed and repaired by competent persons and that any repair are within design limits of the plant.

Penalties are prescribed for contraventions of regulation 4.16.

Regulation 4.17 defines the requirement that the employer ensures that when plant is stored or disposed of, this activity is undertaken by a competent person.

Penalties are prescribed for contraventions of regulation 4.17.

Regulation 4.18 requires that the employer provide appropriate training, information, instruction and supervision to relevant persons when a risk arising from the use of plant is identified and has to be controlled.

Penalties are prescribed for contraventions of regulation 4.18.

Regulation 4.19 defines a requirement that the employer maintain appropriate records relating to the testing, maintenance, inspection and commissioning of plant. The regulation also defines the length of time the employer must keep the records and the types of plant the design of which must be notified to the Safety, Rehabilitation and Compensation Commission.

Penalties are prescribed for contraventions of regulation 4.19.

Subdivision B - Specific duties for control of risk

Regulation 4.20 defines a requirement that in respect of pressurised plant the employer must have inspected, tested and if applicable, refilled in accordance with the relevant standard.

Penalties are prescribed for contraventions of regulation 4.20.

Regulation 4.21 defines the requirement that the employer must, in relation to plant with moving parts, restrict any cleaning, maintenance and repair while the plant is operating and control risks of entanglement where guarding of the plant does not completely eliminate the risk.

Penalties are prescribed for contraventions of regulation 4.21.

Regulation 4.22 requires that the employer take reasonable steps to minimise and control the risks associated with the use of powered mobile plant and specifies the standard to which specific items of plant must comply to ensure its safe use.

Penalties are prescribed for contraventions of regulation 4.22.

Regulation 4.23 requires that the employer take reasonable steps to ensure that any exposure of a person to hot or cold parts of plant be monitored and managed to minimise the risks.

Penalties are prescribed for contraventions of regulation 4.23.

Regulation 4.24 defines the obligation of the employer in relation to minimising and controlling risks associated with electrical plant and plant that is exposed to electrical hazards.

Penalties are prescribed for contraventions of regulation 4.24.

Regulation 4.25 defines the requirement that the employer minimise the risks associated with plant that is designed to lift or move people, equipment or materials and describes the specific duties aimed at minimising the risks.

Penalties are prescribed for contraventions of regulation 4.25.

Regulation 4.26 requires the employer to restrict the work of an employee in the immediate vicinity of an industrial robot or other similar automatically energised equipment, unless appropriate control measures such as access control, interlocked guarding and permit to work systems are in place.

Penalties are prescribed for contraventions of regulation 4.26.

Regulation 4.27 defines the requirement that the employer take reasonable steps to ensure that a laser or laser product is correctly classified and labelled in accordance with the relevant standard, before being used. This regulation also restricts certain classes of lasers from being used in building or construction operations.

Penalties are prescribed for contraventions of regulation 4.27.

Regulation 4.28 requires an employer to take reasonable steps to ensure that no work is carried out on specified types of scaffolding until the employer has written confirmation from a competent person that the scaffolding or relevant part of the scaffold is complete, has been inspected and is safe for use.

Penalties are prescribed for contraventions of regulation 4.28.

Regulation 4.29 defines the requirement for employers in relation to amusement devices used at work, to ensure that risk associated with the operation of the devices is minimised and that records relating to the rides are maintained.

Penalties are prescribed for contraventions of regulation 4.29.

Division 6 - Duties of an employee

Regulation 4.30 specifies that duties imposed on employees under these regulations are to comply with any requirement relating to the implementation of plant under this Part and to advise the employer of any defect, of which the employee is aware, affecting plant

Penalties are prescribed for contraventions of regulation 4.30.

Division 7 - General requirements for hazard identification, risk assessment and risk control

Regulation 4.31 requires persons who are required to identify hazards associated with plant to identify all reasonably foreseeable hazards in relation to the design, manufacture, erection, installation, commissioning or use of plant.

Penalties are prescribed for contraventions of regulation 4.31.

Regulation 4.32 requires persons who are required to assess risks arising from a hazard to determine the appropriate method of assessment.

Penalties are prescribed for contraventions of regulation 4.32.

Regulation 4.33 requires persons who are required to control a risk that has been assessed, to take reasonable steps to eliminate or minimise the risk.

Penalties are prescribed for contraventions of regulation 4.33.

Regulation 4.34 requires that persons who are required to control a risk relating to plant must take reasonable steps to ensure that there is sufficient access and egress to parts of plant for cleaning and maintenance and to the workstation of the operator of the plant.

Penalties are prescribed for contraventions of regulation 4.34.

Regulation 4.35 requires that persons who are required to control a risk relating to exposure to a dangerous part of plant during the operation, maintenance, adjustment, lubrication or examination of plant, must take reasonable steps to ensure that the risk is eliminated or minimised.

Regulation 4.36 defines the guarding requirements applicable to plant and the responsibility for controlling risks in relation to plant, if guarding is used as a control measure.

Penalties are prescribed for contraventions of regulation 4.36.

Regulation 4.37 defines the responsibilities of persons required to control a risk relating to plant operational controls and defines specific operational control requirement such as guarding to prevent unintentional activation, lockable "of" mechanism, clearly identified controls and 'stop and lock-off devices.

Penalties are prescribed for contraventions of regulation 4.37.

Regulation 4.38 defines specific requirements for 'emergency stop devices', including the requirement that these devices be installed in a position that enable ease and effectiveness of use.

Division 8 - licence to operate plant

Regulation 4.39 for the purposes of this Division, provides a definition of 'employing authority' in relation to an employer.

Regulation 4.40 establishes a requirement that if plant is of a specified type, or requires that the design of the plant be registered, the employer must not use the plant or allow the plant to be used unless the employer is licensed to operate the plant.

Penalties are prescribed for contraventions of regulation 4.40.

Regulation 4.41 specifies that if the employer wishes to operate specified plant, the employer must apply in writing for a licence. The employer is required to provide sufficient information clearly identifying the plant, together with a statement from a competent person that the plant is safe to use. If the plant is of a type that requires design registration, notification of the design registration number is also required.

Regulation 4.42 requires employers to apply to renew licences for licensed plant prior to the expiry of the current licence.

Regulation 4.43 allows the Safety, Rehabilitation and Compensation Commission to either grant or refuse to grant the plant licence. This regulation also stipulates the information that the licence is to contain and defines the basis for the calculation of the licence fee that is payable.

Regulation 4.44 states when a licence granted under subregulation 4.42, comes into force.

Regulation 4.45 defines the conditions to which a plant licence will be subject and establishes a mechanism by which the Safety, Rehabilitation and Compensation Commission may cancel, suspend or vary the conditions of a licence.

Regulation 4.46 requires an employer to apply in writing to the Safety, Rehabilitation and Compensation Commission, within a specified period, for a variation of the licence if licensed plant is altered, relocated or if there is a change in ownership of the plant or if the name of the employer is changed. Under this subregulation the Safety, Rehabilitation and Compensation Commission may vary the licence or refuse to alter the licence.

Penalties are prescribed for contraventions of regulation 4.46.

Regulation 4.47 establishes periodic maintenance inspection requirements for specific types of plant.

Regulation 4.48 requires an employer to give the Safety, Rehabilitation and Compensation Commission specific information about the maintenance conducted in accordance with regulation 4.47 including the licence number and a statement that the plant is safe to operate.

Regulation 4.49 requires that employers must not use or allow to be used specified plant unless the plant's design has been registered by the Safety, Rehabilitation and Compensation Commission. This subregulation will commence on 1 January 1997.

Penalties are prescribed for contraventions of regulation 4.49.

Regulation 4.50 requires an employer to notify the Safety, Rehabilitation and Compensation Commission if the plant has been registered with another authority administering a law of a state or territory that corresponds to the Act or these regulations.

Penalties are prescribed for contraventions of regulation 4.50

Regulation 4.51 allows an employer to apply to the Safety, Rehabilitation and Compensation Commission in writing for the registration of design of specified items of plant and specifies the information that is required in support of the application.

Regulation 4.52 allows the Safety, Rehabilitation and Compensation Commission to either register or refuse to register the design of the plant. This regulation also defines specific conditions for the registration of plant design. If the employer contravenes a condition to which the registration is subject, under this regulation, the Safety, Rehabilitation and Compensation Commission may by notice in writing, vary the conditions of the design registration.

Regulation 4.53 establishes the conditions to which the registration of a plant design will be subject. These conditions include compliance with the requirements of Division 8.

Regulation 4.54 requires an employer that has had the plant design registered, not to use or allow to be used, plant that has been subsequently altered unless the design of the plant, as altered, has been notified to the Safety, Rehabilitation and Compensation Commission. This regulation does not apply if the alteration has been registered with another authority administering a law of a state or territory that corresponds to the Act or these regulations.

Penalties are prescribed for contraventions of regulation 4.54.

Regulation 4.55 states that if the Department of Defence and the Defence Force are granted a 'special' plant licence, regulations relating to a 'normal' plant licence do not apply to the Department or the Defence Force.

Regulation 4.56 allows the Department of Defence and the Force to each apply in writing for a 'special' licence following appropriate consultation with involved unions and their employees. The application must list the type of plant and the number of plant items to be licensed.

Regulation 4.57 requires the joint licence holders to apply for the renewal of the 'special' licence prior to the original licence expiring, if the joint licence holders wish to continue to operate plant under the 'special' licence arrangement.

Regulation 4.58 allows the Commission to grant a 'special' licence to the Department of Defence and the Defence Force jointly in the names of the Secretary of the Department of Defence and the Chief of the Defence Force. This regulation defines the information that is to be included on the licence, licence costs and how these costs are derived. Additionally, this regulation allows the Commission to refuse to grant a licence and to seek further information from the applicants in relation to the application.

Regulation 4.59 defines when a special licence is to commence.

Regulation 4.60 stipulates specific conditions that the joint licensees will be required to comply with which include plant maintenance requirements, design registration requirements, record keeping, and the payment of licence fees. This regulation also establishes a mechanism for a licence to be cancelled or suspended by the Commission if the conditions of the licence are not met.

Regulation 4.61 requires joint licensees of a special licence to apply for a 'normal' plant licence under regulation 4.40 if the Commission cancels or suspends the special licence and the licence holders wish to continue to operate plant.

Regulation 4.62 requires joint licensees of a special licence to apply for a variation of the licence if plant is altered, if there is a change of ownership or if the name of either of the joint licensees is changed. This regulation also allows the Commission to vary the licence, refuse to vary the licence or to seek additional information.

Division 9 - Review of decisions

Regulation 4.63 establishes a mechanism for the review of decisions of the Commission in relation to refusing to grant or vary a licence, the cancellation, suspension of a licence, refusal to register a plant design or vary a licence as a consequence of a breach of a condition of the licence.

Division 10 - Miscellaneous

Regulation 4.64 defines a requirement that the Commission include in its annual report, particulars of any licence granted during the financial year to which the report relates.

Regulation 4.65 requires that the Commission maintain records in relation to licence applications, licences granted, refused, cancelled or suspended, licence conditions and licence expiry details.

PART 10 - DEFINITIONS

Proposed Regulation 10.01 (Interpretation)

Regulation 10.01 which defines a number of words and terms used commonly in the Regulations, is expanded to include definitions of words and terms used throughout Pan 4.

NEW SCHEDULES

Schedule 5

Schedule 5 lists various Australian Standards that are referenced in these regulations.

Schedule 6

Schedule 6 (Part 1) lists various plant requiring registration or notification of design.

Schedule 6 (Part 2) lists plant requiring a licence.