

Contents (2012 - 144)

Work Health and Safety (Transitional) Regulations 2012

Long Title

Part 1 - Preliminary

1. Short title
2. Commencement
3. Interpretation

Part 2 - Upstream Duties

4. Duties of designers of plant or structure
5. Duties of manufacturers of plant or structure
6. Duties of importers of plant or structure
7. Duties of suppliers of plant or structure
8. Duties of installers or constructors of plant or structure
9. Duties of persons conducting businesses or undertakings that install, construct or commission plant
10. Duties of person who commissions construction work

Part 3 - Health and Safety Representatives

11. Gap training of health and safety representatives

Part 4 - Notification

12. Failure to notify
13. Action on reports of hazardous situations
14. Reporting of incidents

Part 5 - Construction Industry

15. Construction induction training cards

Part 6 - High Risk Work

16. Interpretation
17. Existing high risk work licences
18. Pending applications for high risk work licences
19. Accredited assessors

Part 7 - Asbestos

20. Interpretation
21. Transitional asbestos licences
22. Conditions of transitional asbestos licences
23. Information required by regulator for transitional class A licence
24. Information required by regulator for transitional class B licence
25. Cancellation of transitional asbestos licences
26. Application of new regulations to transitional asbestos licences
27. Transitional licensed asbestos assessor

Part 8 - Major Hazard Facilities

28. Interpretation

29. Hazard facility notification
30. Existing notification awaiting decision
31. Obligation to give information about possible major hazard facility
32. Existing major hazard facility
33. Facility declared not to be a major hazard facility
34. Recognition of documentation
35. Waiver of requirement to provide safety case
36. Licensing of converted major hazard facility that has lodged a safety report
37. Licensing of converted major hazard facility that has not lodged a safety report
38. Application fee for converted major hazard facilities

Part 9 - Hazardous Chemicals

39. Interpretation
40. Manifests
41. Existing notification of possible large dangerous substances location
42. Notification of existing abandoned tank
43. Introductory period for GHS

Part 10 - Diving

44. Competence of worker general diving work

Part 11 - Plant and Structures

45. Tree lopping
46. Recognition of plant design registration under former regulations
47. Registration of plant designs not registered under former regulations
48. Recognition of plant registration under former regulations
49. Registration of plant not registered under former regulations
50. Repealed
51. Pending applications for registration

Part 12 - Miscellaneous

52. Lapsing of pending applications
53. Continuation of pending applications
54. Fees for pending applications
55. Records
56. Health surveillance reports
57. Representation at review
58. Recurrence to be prevented
59. Obligation of occupier to record dangerous situations
60. Codes of practice

Work Health and Safety (Transitional) Regulations 2012

Version current from 24 December 2014 to date (accessed 26 September 2018 at 16:08)



Work Health and Safety (Transitional) Regulations 2012

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the Work Health and Safety (Transitional and Consequential Provisions) Act 2012 .

17 December 2012

PETER G. UNDERWOOD

Governor

By His Excellency's Command,

D. J. O'BYRNE

Minister for Workplace Relations

PART 1 - Preliminary

1. Short title

These regulations may be cited as the Work Health and Safety (Transitional) Regulations 2012 .

2. Commencement

These regulations take effect on 1 January 2013.

3. Interpretation

In these regulations –

accountable person, in relation to a workplace, means a person who was, before the commencement day, an accountable person for that workplace under the former regulations;

Act means the Work Health and Safety (Transitional and Consequential Provisions) Act 2012 ;

DSL has the same meaning as in the Dangerous Substances (Safe Handling) Act 2005 ;

health and safety committee means a health and safety committee established under section 75 of the new Act;

health and safety representative has the same meaning as in the new Act;

MHF has the same meaning as in the Dangerous Substances (Safe Handling) Act 2005 ;

new regulations means the Work Health and Safety Regulations 2012 ;

occupier has the same meaning as in the Dangerous Substances (Safe Handling) Act 2005 ;

operator, of a facility or a proposed facility, has the same meaning as in the new regulations;

pending, in relation to an application, means an application under the former regulations that has not been granted or refused by the commencement day;

person conducting a business or undertaking has the same meaning as in the new Act;

PMHF has the same meaning as in the Dangerous Substances (Safe Handling) Act 2005 ;

regulator has the same meaning as in the new Act.

PART 2 - Upstream Duties

4. Duties of designers of plant or structure

(1) Subject to subregulation (2), the duties imposed on a designer under regulations 59, 61, 64, 187, 188, 189, 190, 191, 192, 228, 229, 230 and 295 of the new regulations do not apply in relation to any plant or structure if the designer commenced, or commenced and completed, designing the plant or structure before the commencement day.

(2) If a designer commenced designing any plant or structure before the commencement day but has not completed the design by the second anniversary of the commencement day, subregulation (1) ceases to apply in relation to the design of the plant or structure and the designer must comply with the requirements under regulations 59, 61, 64, 187, 188, 189, 190, 191, 192, 228, 229, 230 and 295 of the new regulations in relation to the duties of a designer.

5. Duties of manufacturers of plant or structure

(1) Subject to subregulation (2), the duties imposed on a manufacturer under regulations 59, 61, 64, 193, 194 and 195 of the new regulations do not apply in relation to the manufacture by the manufacturer of any plant or structure if the manufacturer commenced, or commenced and completed, any process associated with the manufacturing of the plant or structure before the commencement day.

(2) If a manufacturer commenced any process associated with the manufacturing of any plant or structure before the commencement day but has not completed the manufacturing by the first anniversary of the commencement day, subregulation (1) ceases to apply in relation to the manufacture of the plant or structure and the manufacturer must comply with the requirements under regulations 59, 61, 64, 193, 194 and 195 of the new regulations in relation to the duties of a manufacturer.

6. Duties of importers of plant or structure

(1) Subject to subregulation (2), the duties imposed on an importer under regulations 59, 61, 64, 196 and 197 of the new regulations do not apply in relation to the importing by the importer of any plant or structure if the importer commenced, or commenced and completed, any steps constituting the importation of the plant or structure before the commencement day.

(2) If an importer commenced any process associated with the importing of any plant or structure before the commencement day but has not completed the importing of the plant or structure by the first anniversary of the commencement day, then subregulation (1) ceases to apply in relation to the importation of the plant or structure and the importer must comply with the requirements under regulations 59, 61, 64, 196 and 197 in relation to the duties of an importer.

7. Duties of suppliers of plant or structure

(1) Subject to subregulation (2), the duties imposed on a supplier under regulations 59, 61, 64, 198, 199 and 200 of the new regulations do not apply in relation to the supply by the supplier of any plant or structure if the supplier commenced, or commenced and completed, any process associated with the supply of the plant or structure before the commencement day.

(2) If a supplier of any plant or structure commenced any process associated with the supply of any plant or structure before the commencement day but has not completed the supplying of the plant or structure by the first anniversary of the commencement day, then subregulation (1) ceases to apply in relation to the supply of the plant or structure and the supplier must comply with the requirements under regulation 59, 61, 64, 198, 199 and 200 in relation to the duties of a supplier.

8. Duties of installers or constructors of plant or structure

(1) In this regulation –

designated person means a person who is an installer or constructor of any plant or structure.

(2) Subject to subregulation (3) , the duties imposed on a designated person under regulation 64 of the new regulations do not apply to or in relation to the installation or construction of any plant or structure if the designated person completed any process associated with the installation or construction of the plant or structure before the commencement day.

(3) If a designated person commenced any process associated with the installation or construction of any plant or structure before the commencement day but has not completed the installation or construction by the second anniversary of the commencement day, subregulation (2) ceases to apply in relation to the installation or construction of the plant or structure and the designated person must comply with the requirements under regulation 64 .

9. Duties of persons conducting businesses or undertakings that install, construct or commission plant

(1) In this regulation –

designated person means a person who conducts a business or undertaking that installs, constructs or commissions plant.

(2) Subject to subregulation (3) , the duties imposed on a designated person under regulations 201 and 202 of the new regulations do not apply to or in relation to the installation, construction or commissioning of any plant if the designated person commenced, or commenced and completed, any process associated with the installation, construction or commissioning of the plant before the commencement day.

(3) If a designated person commenced any process associated with the installation, construction or commissioning of any plant before the commencement day but has not completed the installation, construction or commissioning of the plant by the second anniversary of the commencement day, then subregulation (2) ceases to apply in relation to the installation, construction or commissioning of the plant and the designated person must comply with the requirements under regulations 201 and 202 in relation to the duties of a designated person.

10. Duties of person who commissions construction work

(1) Subject to subregulation (2) , the duties imposed on a person conducting a business or undertaking that commissions construction work in relation to a structure under regulation 294 of the new regulations do not apply in relation to the structure if the designer of the structure commenced, or commenced and completed, designing the structure before the commencement day.

(2) If a designer commenced designing any structure before the commencement day but has not completed the design by the second anniversary of the commencement day, subregulation (1) ceases to apply and the person conducting a business or undertaking that commissions construction work in relation to the structure must comply with the requirements under regulation 294 .

PART 3 - Health and Safety Representatives

11. Gap training of health and safety representatives

(1) In this regulation –

approved course of training means a course of training, provided in accordance with regulation 9 of the former regulations, for the purposes of regulation 33 of those regulations;

deemed health and safety representative means a person who is taken under section 10 of the Act to have been elected as a health and safety representative under Part 5 of the new Act;

gap course means a course of training in work health and safety approved by the regulator for the purpose of qualifying a deemed health and safety representative in accordance with this regulation to give directions to cease work under section 85 of the new Act and to issue provisional improvement notices under section 90 of that Act.

(2) If a deemed health and safety representative completed an approved course of training of 5 days duration between 20 April 2012 and the commencement day (both days exclusive), he or she is –

(a) taken to have completed an initial course of training under regulation 21(1)(a) of the new regulations; and

(b) entitled, after the end of one year after he or she completed the approved course of training, to attend the refresher training referred to in regulation 21(1)(b) of the new regulations.

(3) If a deemed health and safety representative, before the commencement day, completed an approved course of training of less than 5 days duration, he or she is entitled for the purposes of section 72(1) of the new Act to attend a gap course.

(4) If a deemed health and safety representative completed a gap course that he or she was, in accordance with subregulation (3), entitled to attend, after the commencement day, he or she is –

(a) taken to have completed an initial course of training under regulation 21(1)(a) of the new regulations; and

(b) entitled, after the end of one year after he or she completes the gap course, to attend the refresher training referred to in regulation 21(1)(b) of the new regulations.

PART 4 - Notification

12. Failure to notify

(1) A person who has not, immediately before the commencement day, given an inspector a notification that he or she was required to give under a provision of the former Act or former regulations must, after the commencement day, give that notification, within the period and in the manner that was specified in the provision, to an inspector appointed under the new Act.

Penalty: Fine not exceeding 20 penalty units.

(2) A person who has not, immediately before the commencement day, given the Director a notification that he or she was required to give under a provision of the former Act or former regulations must, after the commencement day, give that notification, within the period and in the manner that was specified in the provision, to the regulator.

Penalty: Fine not exceeding 20 penalty units.

(3) The occupier of an MHF or PMHF who has not, immediately before the commencement day, given the Secretary a notification or advice that he or she was required to give under a provision of the Dangerous Substances (Safe Handling) Act 2005 must, after the commencement day, give that notification or advice, within the period and in the manner that was specified in the provision, to the regulator.

Penalty: Fine not exceeding 20 penalty units.

(4) The occupier of a DSL who has not, immediately before the commencement day, given the Secretary a notification or advice that he or she was required to give under a provision of the Dangerous Substances (Safe Handling) Act 2005 must, after the commencement day, give that notification or advice, within the period and in the manner that was specified in the provision, to the regulator.

Penalty: Fine not exceeding 20 penalty units.

13. Action on reports of hazardous situations

If an accountable person in charge of a workplace has received a notification of a hazardous situation under regulation 23 of the former regulations and that person has not, immediately before the commencement day, complied with that regulation, that person must ensure that action is taken as soon as is reasonably practicable after the commencement day to minimise any risk associated with that hazardous situation.

Penalty: Fine not exceeding 20 penalty units.

14. Reporting of incidents

(1) This regulation applies if, before the commencement day, an accountable person at a workplace was required, under regulation 64(2) of the former regulations, to send to the Director the reports specified in regulation 64(1) of those regulations and, immediately before the commencement day, the accountable person had not complied with that requirement.

(2) Before the end of 7 January 2013, the person conducting a business or undertaking at the workplace referred to in subregulation (1) must send to the regulator the following reports:

(a) a report describing all accidents that occurred in or about the workplace during October, November and December of 2012 as a result of which a person was absent from work for at least one day or shift;

(b) a report detailing the number of employees and employees of sub-contractors employed or engaged at the workplace and the number of hours they worked during October, November and December of 2012.

Penalty: Fine not exceeding 20 penalty units.

PART 5 - Construction Industry

15. Construction induction training cards

(1) In this regulation –

occupational health and safety construction induction card means a card of that name issued, by Workplace Standards Tasmania after 19 August 2009, to provide evidence that a person has undertaken general construction induction training in accordance with the Tasmanian *Code of Practice for Induction for Construction Work* which was approved by the Minister pursuant to section 22 of the former Act;

Workplace Standards means the division of the Department of Justice known as Workplace Standards Tasmania.

(2) If a person, immediately before the commencement day, held an occupational health and safety construction induction card –

(a) that person is taken to have successfully completed general construction induction training for the purposes of Part 6.5 of the new regulations; and

(b) that card is taken to be a general construction induction training card issued by the regulator under regulation 319 of the new regulations.

(3) A pending application for an occupational health and safety construction induction card is to be dealt with and determined as an application for a general construction induction training card under regulation 319 of the new regulations.

PART 6 - High Risk Work

16. Interpretation

In this Part –

existing high risk work licence means a licence to perform high risk work issued under Division 3A of Part 3 of the former regulations;

intermediate boiler class licence means an existing high risk work licence of the class boiler operation - intermediate;

new high risk work licence means a high risk work licence granted by the regulator under Part 4.5 of the new regulations;

standard boiler operation licence means a new high risk work licence for a standard boiler operation class of high risk work;

translated high risk work licence means an existing high risk work licence that is taken by this Part to be a new high risk work licence.

17. Existing high risk work licences

(1) If, immediately before the commencement day, a person held an existing high risk work licence of a class specified in Column 2 of the table to subregulation (2), that person is taken to hold a new high risk work licence of a class specified, opposite that class of existing high risk work licence, in Column 3 of the table.

(2) For the purposes of the new Act, an existing high risk work licence of a class specified in Column 2 of the following table is taken to be a new high risk work licence of a class specified, opposite that class of existing high risk work licence, in Column 3 of the table.

Column 1	Column 2 Class of existing high risk work licence	Column 3 Class of new high risk work licence
1.	Basic scaffolding	Basic scaffolding
2.	Intermediate scaffolding	Intermediate scaffolding
3.	Advanced scaffolding	Advanced scaffolding
4.	Dogging	Dogging
5.	Basic rigging	Basic rigging
6.	Intermediate rigging	Intermediate rigging
7.	Advanced rigging	Advanced rigging
8.	Tower cranes	Tower crane
9.	Self-erecting tower cranes	Self-erecting tower crane
10.	Derrick cranes	Derrick crane
11.	Portal boom cranes	Portal boom crane
12.	Bridge or gantry cranes	Bridge and gantry crane
13.	Vehicle-loading cranes	Vehicle loading crane
14.	Non-slewing mobile cranes	Non-slewing mobile crane
15.	Slewing mobile cranes (up to 20 tonnes)	Slewing mobile crane – with a capacity up to 20 tonnes
16.	Slewing mobile cranes (up to 60 tonnes)	Slewing mobile crane – with a capacity up to 60 tonnes
17.	Slewing mobile cranes (up to 100 tonnes)	Slewing mobile crane – with a capacity up to 100 tonnes
18.	Slewing mobile cranes (over 100 tonnes)	Slewing mobile crane – with a capacity over 100 tonnes
19.	Materials hoists (cantilever	Materials hoist

	platform)	
20.	Hoists (personnel and materials)	Personnel and materials hoist
21.	Boom-type elevating work platforms	Boom-type elevating work platform
22.	Concrete placing booms	Concrete placing boom
23.	Fork-lift truck operation, excluding pedestrian walk-behind or pallet trucks	Forklift truck
24.	Order-picking fork-lift truck operation	Order-picking forklift truck
25.	Boiler operation – basic	Standard boiler operation
26.	Boiler operation –intermediate	Standard boiler operation
27.	Boiler operation – advanced	Advanced boiler operation
28.	Turbine operation	Turbine operation
29.	Reciprocating steam engine operation	Reciprocating steam engine operation

(3) A person who holds a translated high risk work licence holds that licence –

- (a) subject to the same terms and conditions as those that applied to the existing high risk work licence that the person held immediately before the commencement day; and
- (b) subject to any suspension that applied, immediately before the commencement day, to the existing high risk work licence.

(4) If, immediately before the commencement day, a person held an intermediate boiler class licence, that person may, for a period of 12 months from the commencement day, operate boilers with the following features in addition to those types of boilers permitted under a standard boiler operation licence:

- (a) modulating combustion air supply;
- (b) modulating heat source;
- (c) superheaters;
- (d) economisers.

18. Pending applications for high risk work licences

(1) A pending application under regulation 44C of the former regulations, for an existing high risk work licence of a class specified in Column 2 of the table to regulation 17(2) , is to be dealt with and determined under Part 4.5 of the new regulations as an application for a new high risk work licence of a class specified, opposite that class of existing high risk work licence, in Column 3 of the table to regulation 17(2) .

(2) A pending application under regulation 44J of the former regulations, for an existing high risk work licence of a class specified in Column 2 of the table to regulation 17(2) , is to be dealt with and determined under Part 4.5 of the new regulations as an application for the renewal of a new high risk work licence of a class specified, opposite that class of existing high risk work licence, in Column 3 of the table to regulation 17(2) .

(3) Subregulation (1) does not apply to a pending application for an intermediate boiler class licence.

19. Accredited assessors

(1) In this regulation –

former assessor means a person who was, immediately before the commencement day, registered as an assessor under Division 4 of Part 3 of the former regulations.

(2) A former assessor is taken to have been appointed as an accredited assessor under Part 4.5 of the new regulations –

(a) in respect of the remainder of the term for which he or she was registered as an assessor under the former regulations; and

(b) subject to the same terms and conditions as those to which he or she was subject as a former assessor immediately before the commencement day; and

(c) subject to any suspension that applied, immediately before the commencement day, to the former assessor's registration as an assessor.

(3) If the former assessor was registered under the former regulations to conduct a competency assessment in relation to an existing high risk work licence of a class specified in Column 2 of the table to regulation 17(2), that former assessor is taken to be accredited under the new regulations to conduct a competency assessment in relation to a new high risk work licence of a class specified, opposite the class of existing high risk work licence, in Column 3 of that table.

(4) For the purposes of Part 4.5 of the new regulations, a registration issued to a former assessor under regulation 46 of the former regulations is taken to be an accreditation document issued under regulation 123 of the new regulations.

(5) A pending application for registration as an assessor under regulation 45 of the former regulations is to be dealt with and determined as an application for accreditation under regulation 116 of the new regulations.

(6) A pending application for renewal of registration as an assessor under regulation 51 of the former regulations is to be dealt with and determined as an application for renewal of accreditation under regulation 130 of the new regulations.

PART 7 - Asbestos

20. Interpretation

In this Part –

Asbestos Removal Licence Class A means an Asbestos Removal Licence Class A issued under Division 9 of Part 4 of the former regulations;

Asbestos Removal Licence Class B means an Asbestos Removal Licence Class B issued under Division 9 of Part 4 of the former regulations;

certified safety management system has the same meaning as in Chapter 8 of the new regulations;

Class A asbestos removal licence has the same meaning as in the new regulations;

Class B asbestos removal licence has the same meaning as in the new regulations;

competent person has the same meaning as in the new regulations;

transitional asbestos licence means a transitional class A licence or a transitional class B licence;

transitional class A licence means an Asbestos Removal Licence Class A which is taken to be a Class A asbestos removal licence under regulation 21(1) ;

transitional class B licence means an Asbestos Removal Licence Class B which is taken to be a Class B asbestos removal licence under regulation 21(2) ;

VET course has the same meaning as in the *National Vocational Education and Training Regulator Act 2011* of the Commonwealth.

21. Transitional asbestos licences

(1) Subject to this regulation, if a person, immediately before the commencement day, held an Asbestos Removal Licence Class A, that licence –

(a) is taken to be a Class A asbestos removal licence for the purposes of Chapter 8 of the new regulations; and

(b) continues in force subject to the same terms and conditions as those that applied to the Asbestos Removal Licence Class A.

(2) Subject to this regulation, if a person, immediately before the commencement day, held an Asbestos Removal Licence Class B, that licence –

(a) is taken to be a Class B asbestos removal licence for the purposes of Chapter 8 of the new regulations; and

(b) continues in force subject to the same terms and conditions as those that applied to the Asbestos Removal Licence Class B.

(3) Subject to regulation 22 , unless sooner cancelled or surrendered, a transitional asbestos licence that continues in force under subregulation (1) or (2) expires –

(a) at the end of the term for which the licence was granted or last renewed; or

(b) on 31 December 2013 –

whichever is the later.

(4) Divisions 3 and 5 of Part 8.10 of the new regulations do not apply to transitional asbestos licences.

(5) For the avoidance of doubt, a transitional asbestos licence may not be renewed.

22. Conditions of transitional asbestos licences

(1) If a transitional asbestos licence expires after 31 December 2013, it is a condition of the licence that –

(a) in the case of a transitional class A licence –

(i) the regulator has received the information required in relation to that licence under regulation 23 by 31 December 2013; and

(ii) the licence holder has a certified safety management system in place by 31 December 2013; and

(b) in the case of a transitional class B licence, the regulator has received, by 31 December 2013, the information required in relation to that licence under regulation 24 .

(2) If the regulator does not receive the information referred to in subregulation (1)(a)(i) or subregulation (1)(b) by the day specified under the relevant subregulation, the transitional asbestos licence expires.

(3) If the licence holder does not comply with subregulation (1)(a)(ii) , the regulator may cancel the transitional asbestos licence.

(4) A decision by the regulator to cancel a transitional asbestos licence under subregulation (3) is taken to be a reviewable decision under regulation 676 of the new regulations.

(5) For the purposes of subregulation (4) , the transitional licence holder is eligible to apply for review of the reviewable decision (the *eligible person*).

23. Information required by regulator for transitional class A licence

(1) For the purposes of regulation 22(1)(a) , the following information is required:

(a) the names of one or more competent persons who have been engaged by the licence holder to supervise the asbestos removal work authorised by the licence;

(b) evidence, as required by the regulator, that each named supervisor is at least 18 years of age;

(c) a copy of certification issued to each named supervisor for the following VET courses:

(i) Remove non-friable asbestos;

(ii) Remove friable asbestos;

(iii) Supervise asbestos removal;

(d) evidence that each named supervisor has at least 3 years of relevant industry experience.

(2) If the licence holder referred to in subregulation (1) is an individual who proposes to supervise the carrying out of the Class A asbestos removal work, the statement and information referred to in subregulation (1)(b) , (c) and (d) must relate to the licence holder.

24. Information required by regulator for transitional class B licence

(1) For the purposes of regulation 22(1)(b) , the following information is required:

(a) the names of 1 or more competent persons who have been engaged by the licence holder to supervise the asbestos removal work authorised by the licence;

(b) evidence, as required by the regulator, that each named supervisor is at least 18 years of age;

(c) a copy of certification issued to each named supervisor for the following VET courses:

(i) Remove non-friable asbestos;

(ii) Supervise asbestos removal;

(d) evidence that each named supervisor has at least one year of relevant industry experience.

(2) If the licence holder referred to in subregulation (1) is an individual who proposes to supervise the carrying out of the Class B asbestos removal work, the statement and information referred to in subregulation (1)(b) , (c) and (d) must relate to the licence holder.

25. Cancellation of transitional asbestos licences

- (1) The regulator may cancel a transitional asbestos licence if, on or after 1 January 2014, the regulator is not satisfied in relation to the matters, referred to in regulation 498 or 499 of the new regulations, in relation to that licence.
- (2) A decision by the regulator to cancel a transitional asbestos licence under subregulation (1) is taken to be a reviewable decision under regulation 676 of the new regulations.
- (3) For the purposes of subregulation (2) , the transitional asbestos licence holder is eligible to apply for review of the reviewable decision (the *eligible person*).

26. Application of new regulations to transitional asbestos licences

- (1) Regulation 507 of the new regulations does not apply to the holder of a transitional asbestos licence until after the licence holder has submitted to the regulator –
 - (a) in the case of a transitional class A licence, the information required under regulation 23 ; or
 - (b) in the case of a transitional class B licence, the information required under regulation 24 .
- (2) Regulations 520(1)(e) , 520(2) and 527(b) of the new regulations do not apply in relation to a transitional asbestos licence until 1 January 2014.

27. Transitional licensed asbestos assessor

- (1) In this regulation –

competent person means a person who has acquired, through training or experience, the knowledge and skills of relevant asbestos removal industry practice and who holds –

 - (a) a certification in relation to the specified VET course for asbestos assessor work; or
 - (b) a tertiary qualification in occupational health and safety, occupational hygiene, science, building, construction or environmental health.
- (2) Until the end of 31 December 2013, a reference in Chapter 8 of the new regulations to a licensed asbestos assessor is taken to include a person who is not licensed under regulation 497 of the new regulations but who is a competent person.

PART 8 - Major Hazard Facilities

28. Interpretation

In this Part –

converted major hazard facility means a facility that is taken under regulation 32 to be a determined major hazard facility.

29. Hazard facility notification

(1) A notification to the Secretary under section 33 , 34 or 35 of the Dangerous Substances (Safe Handling) Act 2005 is taken to be –

(a) in the case of a proposed facility, within the meaning of the new regulations, a notification to the regulator under regulation 537 of the new regulations; and

(b) in all other cases, a notification to the regulator under regulation 536 of the new regulations.

(2) A determination that a facility or proposed facility is not an MHF under section 30 of the Dangerous Substances (Safe Handling) Act 2005 is taken to be a determination that the facility or proposed facility is not a major hazard facility under regulation 541 of the new regulations.

30. Existing notification awaiting decision

(1) This regulation applies if a notification was given before the commencement day to the Secretary under section 33 , 34 or 35 of the Dangerous Substances (Safe Handling) Act 2005 in relation to a facility and, immediately before the commencement day, the Secretary had not decided whether to classify the facility as a major hazard facility.

(2) The notification referred to in subregulation (1) is –

(a) taken to be –

(i) in the case of a proposed facility within the meaning of the new regulations, a notification to the regulator under regulation 537 of the new regulations; and

(ii) in all other cases, a notification to the regulator under regulation 536 of the new regulations; and

(b) to be dealt with and determined by the regulator under Part 9.2 of the new regulations.

(3) The regulator may require the operator of a facility or a proposed facility to provide information to the regulator in addition to the information included in the notification referred to in subregulation (1) .

(4) An operator required under subregulation (3) to provide information to the regulator must, within the period determined by the regulator, provide the information to the regulator.

Penalty: Fine not exceeding 20 penalty units.

31. Obligation to give information about possible major hazard facility

If, immediately before the commencement day, a notice requiring information under section 37(2) of the Dangerous Substances (Safe Handling) Act 2005 was in force and effect, the operator of the facility to which the notice relates must give the information specified in the notice to the regulator within the time specified in the notice.

Penalty: Fine not exceeding 20 penalty units.

32. Existing major hazard facility

(1) If, immediately before the commencement day, a facility is a major hazard facility under the Dangerous Substances (Safe Handling) Act 2005 and that facility was classified as a major hazard facility as a consequence

of the operation of section 30(1) of that Act –

- (a) that facility is taken to be a determined major hazard facility under the new regulations; and
- (b) the classification is taken to be a determination under regulation 542 of the new regulations; and
- (c) the date of the determination is taken to be the day on which the classification takes effect under section 31 of that Act.

(2) If, immediately before the commencement day, a facility is a major hazard facility under the Dangerous Substances (Safe Handling) Act 2005 and that facility was classified as a major hazard facility as a consequence of the operation of section 30(2) of that Act –

- (a) that facility is taken to be a determined major hazard facility under the new regulations; and
- (b) the classification is taken to be a determination under regulation 541 of the new regulations; and
- (c) the date of the determination is taken to be the day on which the classification takes effect under section 31 of that Act.

33. Facility declared not to be a major hazard facility

(1) In this regulation –

declaration means a declaration by the Secretary under section 31(6) of the Dangerous Substances (Safe Handling) Act 2005 that a facility is not a major hazard facility.

(2) If, immediately before the commencement day, a declaration in relation to a facility was in force and effect –

- (a) that declaration is taken to be a determination, under regulation 541 of the new regulations, that the facility is not a major hazard facility; and
- (b) the date of the determination is taken to be the date on which the declaration was made.

34. Recognition of documentation

(1) This regulation applies if the occupier of a converted major hazard facility has –

- (a) given the Secretary, before the commencement day, a safety report in accordance with section 44 of the Dangerous Substances (Safe Handling) Act 2005 ; and
- (b) before the commencement day, complied with section 44 of that Act in relation to any update to that safety report.

(2) Subject to subregulation (3) , on the commencement day –

- (a) the systematic risk assessment for the converted major hazard facility carried out for the purposes of section 38 of the Dangerous Substances (Safe Handling) Act 2005 is taken to be the safety assessment conducted for the facility under regulation 555 of the new regulations; and
- (b) the emergency plans and procedures for the converted major hazard facility established for the purposes of section 39 of the Dangerous Substances (Safe Handling) Act 2005 are taken to be the emergency plan prepared for the facility under regulation 557 of the new regulations; and
- (c) the safety management system for the converted major hazard facility developed for the purposes of section 42 of the Dangerous Substances (Safe Handling) Act 2005 is taken to be the safety management system established for the facility under regulation 558 of the new regulations; and
- (d) the safety report for the converted major hazard facility given to the Secretary under section 44 of the Dangerous Substances (Safe Handling) Act 2005 is taken to be the safety case for the facility as if it had been prepared and provided to the regulator under Division 4 of Part 9.3 of the new regulations.

(3) If a provision of the new regulations requires a document referred to in subregulation (2) to have been prepared in a particular way or to contain particular information and that requirement did not exist under the

Dangerous Substances (Safe Handling) Act 2005 , that provision is not required to be complied with until the operator of the facility is next required under regulation 569 of the new regulations to conduct a review.

35. Waiver of requirement to provide safety case

The operator of a facility that is a converted major hazard facility is not required to provide a safety case with an application under regulation 578(2)(e) of the new regulations if –

- (a) the occupier of the facility has –
 - (i) given the Secretary, before the commencement day, a safety report in accordance with section 44 of the Dangerous Substances (Safe Handling) Act 2005 ; and
 - (ii) before the commencement day, complied with section 44 of that Act in relation to any update to that safety report; and
- (b) the operator has provided a copy to the regulator of any revision to the safety report under regulation 570 of the new regulations.

36. Licensing of converted major hazard facility that has lodged a safety report

- (1) This regulation applies if the occupier of a converted major hazard facility has given, before the commencement day, the Secretary a safety report in relation to the facility in accordance with section 44 of the Dangerous Substances (Safe Handling) Act 2005 .
- (2) A reference in regulation 549 of the new regulations to "within 24 months after the determination of the facility" is taken to be, in relation to a facility to which this regulation applies, a reference to within –
 - (a) 3 months of the commencement day; or
 - (b) a further period, if any, that the regulator determines under subregulation (3) in relation to the facility.
- (3) The regulator may, if satisfied, on application by the operator, that the operator of a facility is not able to comply with Part 9.3 of the new regulations within 3 months of the commencement day, determine a further period, for the purposes of subregulation (2)(b) in relation to the facility.
- (4) The exemption period for a converted major hazard facility under regulation 535 of the new regulations ends on the day 3 months after the commencement day unless –
 - (a) an application for a licence for the facility has been made before the end of the exemption period under that regulation; or
 - (b) the exemption period has already ended under that regulation.
- (5) Subregulation (4)(a) does not apply if the application for the licence is withdrawn before a decision is made by the regulator under Part 9.7 of the new regulations to grant or refuse to grant a licence for the facility.
- (6) Regulation 557(6) of the new regulations does not apply to the operator of a converted major hazard facility.
- (7) Before applying for a major hazard facility licence under Part 9.7 of the new regulations, the operator of a converted major hazard facility must test the emergency plans and procedures which were established and documented for the facility under section 21 of the Dangerous Substances (Safe Handling) Act 2005 , in accordance with any recommendations that were made by the emergency services when consulted by the occupier of the facility under section 40(a) of that Act.

Penalty: Fine not exceeding 20 penalty units.

37. Licensing of converted major hazard facility that has not lodged a safety report

- (1) This regulation applies if the occupier of a converted major hazard facility has not given the Secretary, before the commencement day, a safety report in relation to the facility in accordance with section 44 of the Dangerous Substances (Safe Handling) Act 2005 .
- (2) A reference in regulation 551 of the new regulations to "3 months after the facility is determined to be a major hazard facility" is taken to be, in relation to a facility to which this regulation applies, a reference to 3

months after the commencement day.

38. Application fee for converted major hazard facilities

Regulation 578(3) of the new regulations does not apply in relation to a converted major hazard facility.

PART 9 - Hazardous Chemicals

39. Interpretation

In this Part –

LDSL has the same meaning as in the Dangerous Substances (Safe Handling) Act 2005 .

40. Manifests

(1) If, immediately before the commencement day, the occupier of an MHF or LDSL was keeping a manifest, in accordance with regulation 23 of the Dangerous Substances (Safe Handling) Regulations 2009 , that manifest is taken to be a manifest prepared by the person conducting a business or undertaking at that workplace under regulation 347 of the new regulations.

(2) Until the manifest referred to in subregulation (1) is required to be amended under regulation 347(1)(b) of the new regulations, regulation 347(2) of the new regulations does not apply in relation to that manifest.

41. Existing notification of possible large dangerous substances location

If, before the commencement day, the occupier of a place has given notice to the Secretary under section 48 of the Dangerous Substances (Safe Handling) Act 2005 , that notice is taken –

(a) to be a notice given to the regulator under regulation 348 of the new regulations by the person conducting a business or undertaking at that place; and

(b) to have included the information specified in regulation 348(3) of the new regulations.

42. Notification of existing abandoned tank

Until 1 January 2014, regulation 367 of the new regulations does not apply in relation to a tank that was an abandoned tank immediately before the commencement day.

43. Introductory period for GHS

(1) In this regulation –

GHS has the same meaning as in the new regulations.

(2) If a person is required under the new regulations to comply with the GHS, it is sufficient compliance with that regulation if that person complies with the relevant requirements of the following standards:

(a) the Australian Code for the Transport of Dangerous Goods by Road and Rail, approved by the Ministerial Council for Road Transport and published by the Australian Government from time to time;

(b) Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008 (2004)];

(c) National Code of Practice for the Labelling of Workplace Substances [NOHSC: 2012 (1994)];

(d) Code of Practice for Labelling Agricultural Chemical Products, made under the *Agricultural and Veterinary Chemicals Act 1994* of the Commonwealth;

(e) Code of Practice for Labelling Veterinary Chemical Products, made under the *Agricultural and Veterinary Chemicals Act 1994* of the Commonwealth.

(3) This regulation ceases to apply on 31 December 2016.

PART 10 - Diving

44. Competence of worker – general diving work

(1) In this regulation –

general diving work has the same meaning as in the new regulations;

harvesting or scientific diving work means general diving work (other than incidental diving work and limited scientific diving work) that is carried out for the purposes of –

(a) taking fish, shellfish or other marine or aquatic life (whether for food or for other purposes);

or

(b) professional scientific research, natural resource management or scientific research as an educational activity;

incidental diving work has the same meaning as in the new regulations;

limited scientific diving work has the same meaning as in the new regulations.

(2) A person is taken to have a qualification under regulation 171 of the new regulations in relation to general diving work if the person has –

(a) undertaken harvesting or scientific diving work during 2012; and

(b) completed at least 60 hours of harvesting or scientific diving work between 1 January 2011 and 31 December 2012 (both days inclusive).

(3)

(4)

(5)

PART 11 - Plant and Structures

45. Tree lopping

(1) In this regulation –

approved code of practice means a code of practice that has been approved under section 274 of the new Act;

crane-based tree lopping means tree lopping using a method where a person is placed in a tree by a crane.

(2) Regulation 221 of the new regulations does not apply until an approved code of practice, detailing safety practices in relation to crane-based tree lopping, takes effect.

46. Recognition of plant design registration under former regulations

(1) This regulation applies in relation to the design of an item of plant if –

(a) before the commencement day, the plant design was registered under regulation 99 of the former regulations; and

(b) immediately before the commencement day, the registration was in force; and

(c) on the commencement day, the plant design is required to be registered under Part 5.3 of the new regulations.

(2) The design of an item of plant is taken to be registered under Division 3 of Part 5.3 of the new regulations subject to the same conditions as those which applied, immediately before the commencement day, to the registration of that plant design under the former regulations.

(3) The design registration number issued under regulation 99 of the former regulations for a plant design is taken to be the plant design registration number issued under regulation 260 of the new regulations for that design.

(4) If, before the commencement day, the Director has given a person written notice advising the person that the person's application to register a plant design under regulation 97 of the former regulations has been granted, that notice is taken to be the registration document issued by the regulator under regulation 261 of the new regulations for that design.

47. Registration of plant designs not registered under former regulations

(1) This regulation applies to the design of an item of plant if –

(a) the item of plant is specified in Part 1 of Schedule 5 to the new regulations; and

(b) immediately before the commencement day, the design was not required to be registered under Subdivision 2 of Division 3 of Part 4 of the former regulations.

(2) Regulation 243 of the new regulations does not apply to the design of an item of plant if the item of plant is manufactured before 1 January 2014.

(3) Regulations 231, 232 and 233 of the new regulations do not apply to the manufacturer, importer or supplier of plant if that plant was manufactured before 1 January 2014.

48. Recognition of plant registration under former regulations

(1) This regulation applies to an item of plant if –

(a) before the commencement day, that item of plant was registered under Subdivision 2 of Division 3 of Part 4 of the former regulations; and

(b) immediately before the commencement day, that registration was in force; and

(c) on the commencement day, the item of plant is required to be registered under Part 5.3 of the new regulations.

(2) Subject to subregulation (3) , the item of plant is taken to have been registered under Division 4 of Part 5.3 of the new regulations subject to the same conditions as those which applied, immediately before the commencement day, to the registration of that item of plant under the former regulations.

(3) Despite regulation 272 of the new regulations, the registration of the item of plant expires in the year calculated in accordance with subregulation (4) , on the anniversary of the day on which that item of plant was registered under the former regulations.

(4) If an item of plant is registered under Subdivision 2 of Division 3 of Part 4 of the former regulations within a period specified in Column 2 of the following table, the year in which the registration of that item of plant expires is the year specified opposite that period in Column 3 of that table.

Column 1	Column 2 Date of registration under the former regulations	Column 3 Year registration expires
1.	9 June 1999 to 31 December 2001 (both days inclusive)	2014
2.	1 January 2002 to 31 December 2004 (both days inclusive)	2015
3.	1 January 2005 to 31 December 2008 (both days inclusive)	2016
4.	1 January 2009 to 31 December 2012 (both days inclusive)	2017

(5) If the Director issued a registration number for an item of plant under the former regulations, that registration number is taken to be the plant registration number issued by the regulator under regulation 273(2) of the new regulations for that item of plant.

(6) If, before the commencement day, the Director has given a person written notice advising the person that the person's application to register an item of plant under regulation 103 of the former regulations has been granted, that notice is taken to be the registration document issued by the regulator under regulation 274 of the new regulations for that item of plant.

49. Registration of plant not registered under former regulations

(1) Until 1 January 2014, regulation 246 of the new regulations does not apply to an item of plant if that item of plant was not, immediately before the commencement day, required to be registered under Subdivision 2 of Division 3 of Part 4 of the former regulations.

(2) Until 1 January 2014, the duties imposed under regulation 234 of the new regulations on a person who conducts a business or undertaking that commissions plant do not apply to or in relation to the commission of an item of plant if that item of plant was not, immediately before the commencement day, required to be registered under Subdivision 2 of Division 3 of Part 4 of the former regulations.

50.

.....

51. Pending applications for registration

(1) If, on the commencement day, the design of an item of plant requires registration under Part 5.3 of the new regulations and there is a pending application for the registration of that design under regulation 97 of the former regulations, the pending application is to be dealt with and determined as an application for registration of the design of an item of plant under regulation 250 of the new regulations.

(2) If, on the commencement day, an item of plant requires registration under Part 5.3 of the new regulations and there is a pending application for the registration of that item of plant under regulation 103 of the former

regulations, the pending application is to be dealt with and determined as an application for registration of an item of plant under regulation 266 of the new regulations.

PART 12 - Miscellaneous

52. Lapsing of pending applications

On the commencement day, any pending applications under the former regulations other than those referred to in regulations 15(3), 18(1) and (2), 19(5) and (6) and 51(1) and (2) lapse.

53. Continuation of pending applications

(1) This regulation applies in respect of a pending application referred to in regulation 15(3), 18(1) or (2), 19(5) or (6) or 51(1) or (2).

(2) Subject to any directions of the regulator –

(a) the pending application is deemed to have been made in accordance with the relevant corresponding provisions of the new regulations; and

(b) the pending application is to be dealt with and determined on the basis of any document, information or other material provided in connection with the pending application under the former regulations.

54. Fees for pending applications

The regulator, at its discretion, may refund the whole or any part of a fee paid for a pending application under the former regulations –

(a) if the pending application lapses on the commencement day; or

(b) if the pending application is withdrawn by the applicant after the commencement day; or

(c) if the regulator refuses to grant the pending application after the commencement day; or

(d) in any other circumstances the regulator considers appropriate.

55. Records

(1) If, immediately before the commencement day, the accountable person for a workplace was required to keep information or documents under a provision of the former Act or former regulations, then, on and after the commencement day, the person conducting a business or undertaking at the workplace must –

(a) keep the information and the documents referred to in subregulation (1) for the period of time and in the manner that was specified in the provision; and

(b) provide access to the information or the documents that was required by the former regulations to be given.

Penalty: Fine not exceeding 20 penalty units.

(2) Subregulation (1) does not apply to a record of health surveillance results that was required to be kept under regulation 22(6) of the former regulations.

(3) A person required under subregulation (1) to keep a record after the commencement day must make the record available to the relevant health and safety committee or health and safety representative for inspection if so requested, unless the record relates to the physical or mental condition or the personal affairs of a person.

Penalty: Fine not exceeding 20 penalty units.

(4) A person required to keep information under subregulation (1) after the commencement day must not disclose that information to another person if the information relates to –

(a) commercial or trading operations; or

(b) the physical or mental condition, or the personal circumstances or affairs, of an employee or other person at a workplace.

Penalty: Fine not exceeding 20 penalty units.

(5) The disclosure of information referred to in subregulation (4) is permitted if it is –

- (a) made in the course of the performance of the person's functions under the new legislative scheme or under the Act or these regulations; or
- (b) a disclosure of statistical information; or
- (c) required by law; or
- (d) made with the consent of the person to whom the information relates.

(6) If, immediately before the commencement day, the occupier of an MHF or PMHF was required to keep information or documents under a provision of the Dangerous Substances (Safe Handling) Act 2005, then, on and after the commencement day, the operator of the facility must keep the information and the documents for the period of time and in the manner that was specified in the provision.

Penalty: Fine not exceeding 20 penalty units.

(7) If, immediately before the commencement day, the occupier of a DSL was required to keep information or documents under a provision of the Dangerous Substances (Safe Handling) Act 2005, then, on and after the commencement day, the person conducting a business or undertaking at that location must keep the information and the documents for the period of time and in the manner that was specified in the provision.

Penalty: Fine not exceeding 20 penalty units.

(8) This regulation ceases to apply on 31 December 2015.

56. Health surveillance reports

(1) In this regulation –

current employee means a person who, immediately before the commencement day, was an employee of a business or undertaking;

health surveillance record means a record of health surveillance results that was, immediately before the commencement day, required to be kept in accordance with regulation 22(6) of the former regulations.

(2) A health surveillance record is taken to be a health monitoring report for the purposes of regulation 378 of the new regulations.

(3) A person conducting a business or undertaking must provide, to any current employees of that business or undertaking who are the subject of a health surveillance record, a copy of that record before the first occurring of the following events:

- (a) the first anniversary of the commencement day;
- (b) the termination of the employee's employment.

Penalty: Fine not exceeding 20 penalty units.

57. Representation at review

(1) This regulation applies to an applicant for a review relating to a decision made under the former Act or former regulations.

(2) A party to an application for a review may, with the consent of the Magistrates Court (Administrative Appeals Division) and the other party, be represented by a legal practitioner, an employer organisation, an employee organisation or an interpreter.

58. Recurrence to be prevented

- (1) This regulation applies in relation to an accident or incident that occurred before the commencement day and which caused, or had the potential to cause, serious injury or damage at a workplace.
- (2) If, immediately before the commencement day, regulation 63 of the former regulations had not been complied with in relation to an accident or incident, the person conducting a business or undertaking at the workplace at which the accident or incident occurred must as soon as reasonably practicable –
 - (a) investigate the accident or incident to attempt to discover its cause; and
 - (b) identify and implement measures to prevent the accident or incident occurring again.

Penalty: Fine not exceeding 20 penalty units.

59. Obligation of occupier to record dangerous situations

- (1) In this regulation –

dangerous situation has the same meaning as in the Dangerous Substances (Safe Handling) Act 2005 .

- (2) If, immediately before the commencement day, section 46 of the Dangerous Substances (Safe Handling) Act 2005 had not been complied with in relation to a dangerous situation which had occurred at an MHF or PMHF, the person conducting a business or undertaking at the facility at which the dangerous situation occurred must, as soon as practicable, on or after the commencement day –
 - (a) record the occurrence of the dangerous situation; and
 - (b) investigate the dangerous situation and record the findings of the investigation; and
 - (c) consult with the relevant employees about ways of avoiding dangerous situations in the future.

Penalty: Fine not exceeding 20 penalty units.

- (3) The person conducting a business or undertaking at a facility referred to in subsection (2) must keep a record created under that subsection for a period of 3 years after the commencement day.

Penalty: Fine not exceeding 20 penalty units.

- (4) If, immediately before the commencement day, section 53 of the Dangerous Substances (Safe Handling) Act 2005 had not been complied with in relation to a dangerous situation which had occurred at a DSL, the person conducting a business or undertaking at the location at which the dangerous situation occurred must, as soon as practicable, on or after the commencement day –
 - (a) record the occurrence of the dangerous situation; and
 - (b) investigate the dangerous situation and record the findings of the investigation; and
 - (c) consult with the relevant employees about ways of avoiding dangerous situations in the future.

Penalty: Fine not exceeding 20 penalty units.

- (5) The person conducting a business or undertaking at a location referred to in subsection (4) must keep a record created under that subsection for a period of 3 years after the commencement day.

Penalty: Fine not exceeding 20 penalty units.

60. Codes of practice

The following codes of practice are prescribed for the purposes of section 15 of the Act:

- (a) the Code of Practice for the Safe Use of Reinforced Plastics published by Workplace Standards Tasmania;
- (b) the Code of Practice for Risk Management of Agricultural Shows and Carnivals published by Workplace Standards Tasmania;

(c) the Forest Safety Code (Tasmania) 2007, produced by the Safety Standards Committee, Tasmanian Forest Industries Training Board Inc;

(d) the Code of Practice for the Tasmanian Abalone Industry developed by the Tasmanian Abalone Council Ltd.

Displayed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 26 December 2012

These regulations are administered in the Department of Justice.