# Occupational Health and Safety Amendment Regulations 2014

## S.R. No. 54/2014

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**PART 8.3—OTHER TRANSITIONAL PROVISIONS**

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**SCHEDULE 3**—High Risk Work—Licence classes

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**SCHEDULE 4**—High Risk Work—Pressure Equipment for which Licence Is Not Required

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**NEW SCHEDULES 5A AND 5B** inserted

**ENDNOTES**

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The Governor in Council makes the following Regulations:

Dated: 17 June 2014

Responsible Minister:

GORDON RICH-PHILLIPS
Assistant Treasurer

YVETTE CARISBROOKE
Clerk of the Executive Council

1 Objective

The objective of these Regulations is to amend the Occupational Health and Safety Regulations 2007—

(a) to remove the requirement to register items of plant; and

(b) to add two items to the plant design registration Schedule; and

(c) to remove certain administrative requirements; and

(d) to permit duty holders to comply with a range of editions of the GHS; and

(e) to increase the threshold before certain principal contractors’ duties apply in relation to construction projects; and

(f) to make other minor amendments.
2 Authorising provision

These Regulations are made under section 158 of the Occupational Health and Safety Act 2004.

3 Commencement

These Regulations come into operation on 1 July 2014.

4 Principal Regulations

In these Regulations, the Occupational Health and Safety Regulations 2007¹ are called the Principal Regulations.

5 Definitions

(1) In regulation 1.1.5 of the Principal Regulations, in the definition of AS 2030—Gas Cylinders—

(a) for paragraph (a) substitute—

"(a) AS 2030.1 Gas cylinders, Part 1: General requirements; and";

(b) in paragraph (c), for "Insulated;" substitute "Insulated; and";

(c) after paragraph (c) insert—

"(d) AS 2030.5 Gas cylinders, Part 5: Filling, inspection and testing of refillable cylinders;".

(2) In regulation 1.1.5 of the Principal Regulations, in the Note at the foot of the definition of Australian Safety and Compensation Council, after "2005." insert "Safe Work Australia succeeded the Australian Safety and Compensation Council in April 2009.".

(3) In regulation 1.1.5 of the Principal Regulations, in the definition of carcinogens licence—

(a) for "Schedule 1" substitute "Schedule 5A";

Authorised by the Chief Parliamentary Counsel
(b) for "Schedule 2" (where twice occurring) substitute "Schedule 5B".

(4) In regulation 1.1.5 of the Principal Regulations, for the definition of competency standard substitute—

"competency standard means a competency standard that is endorsed for the purposes of the National Standard for Licensing Persons Performing High Risk Work published by the Australian Safety and Compensation Council in April 2006;".

(5) In regulation 1.1.5 of the Principal Regulations, at the foot of the definition of equivalent legislation insert—

"Example
Laws of another State or Territory or the Commonwealth relating to work health and safety.".

(6) In regulation 1.1.5 of the Principal Regulations, for the definition of GHS substitute—

"GHS means the Globally Harmonized System of Classification and Labelling of Chemicals, Third revised edition, Fourth revised edition or Fifth revised edition, published by the United Nations;".

(7) In regulation 1.1.5 of the Principal Regulations, in the definition of HSIS, for "the Australian Safety and Compensation Council" substitute "Safe Work Australia".

(8) In regulation 1.1.5 of the Principal Regulations, the definition of National Model Regulations for the Control of Scheduled Carcinogenic Substances is revoked.

(9) In regulation 1.1.5 of the Principal Regulations, insert the following definitions—

Note
This body was succeeded by the Australian Safety and Compensation Council in January 2006 which itself was succeeded by Safe Work Australia in April 2009.

Safe Work Australia means Safe Work Australia established by section 5 of the Safe Work Australia Act 2008 of the Commonwealth;"

(10) In regulation 1.1.5 of the Principal Regulations, for the definition of Schedule 1 carcinogenic substance substitute—

"Schedule 5A carcinogenic substance means a substance (or any of its salts) listed in Schedule 5A used—

(a) as a pure substance; or

(b) in a mixture containing 0·1% or more of that substance (or any of its salts), determined as a weight/weight (w/w) concentration for solids or liquids or a volume/volume (v/v) concentration for gases;".

(11) In regulation 1.1.5 of the Principal Regulations, for the definition of Schedule 2 carcinogenic substance substitute—

"Schedule 5B carcinogenic substance means—

(a) benzene as listed in Schedule 5B; and

(b) any other substance (or any of its salts) listed in that Schedule used—

(i) as a pure substance; or
(ii) in a mixture containing 0.1% or more of that substance (or any of its salts), determined as a weight/weight (w/w) concentration for solids or liquids or a volume/volume (v/v) concentration for gases;".

(12) In regulation 1.1.5 of the Principal Regulations, for the definition of scheduled carcinogenic substance substitute—

"scheduled carcinogenic substance means a Schedule 5A carcinogenic substance or a Schedule 5B carcinogenic substance;".

6 Determinations of Authority

Regulation 1.1.6(e) of the Principal Regulations is revoked.

7 Documents incorporated as in force from time to time

In regulation 1.2.1(1) of the Principal Regulations, after "any document" insert ", other than the GHS,".

8 New regulation 1.2.5 inserted

After regulation 1.2.4 of the Principal Regulations insert—

"1.2.5 Compliance with the GHS

In complying with the GHS, a person may use the Third revised edition, the Fourth revised edition or the Fifth revised edition of the Globally Harmonized System of Classification and Labelling of Chemicals but not a combination of these editions.".

9 Provision of information, instruction and training

Regulation 2.1.2 of the Principal Regulations is revoked.
10 Record of inspections and maintenance

For regulation 3.5.31 of the Principal Regulations substitute—

"3.5.31 Record of inspections and maintenance

An employer must ensure that any record of inspections and maintenance carried out on the following plant is retained for the period that the employer has management or control of the plant—

(a) the plant referred to in items 1.2, 1.3, 1.5, 1.14 and 1.16 of Schedule 2;

(b) amusement structures to which AS 3533.1—Amusement rides and devices—Part 1: Design and construction applies, other than amusement structures determined by AS 3533.1 to be class 1;

(c) boilers with a hazard level A, B or C as determined by AS 4343 Pressure equipment—Hazard levels;

(d) lifts;

(e) pressure vessels with a hazard level A, B or C as determined by AS 4343 Pressure equipment—Hazard levels, other than—

(i) gas cylinders to which AS 2030—Gas Cylinders applies; and

Note

See the definition of AS 2030—Gas Cylinders which encompasses AS 2030.1, AS 2030.2, AS 2030.4 and AS 2030.5.
(ii) liquefied petroleum gas fuel vessels for automotive use to which AS/NZS 3509—LP Gas fuel vessels for automotive use applies; and

(iii) serially produced vessels to which AS 2971—Serially produced pressure vessels applies.

Penalty: 60 penalty units for a natural person;

300 penalty units for a body corporate.

11 Lifts

For regulation 3.5.41(3) of the Principal Regulations substitute—

"(3) An employer must ensure that any risk to a person travelling in a lift, that is associated with the use of the lift, is—

(a) eliminated so far as is reasonably practicable; or

(b) if it is not reasonably practicable to eliminate the risk, reduced so far as is reasonably practicable.

Note

Act compliance—sections 21 and 23 (see regulation 1.1.7)."

12 Information, instruction and training

Regulation 3.5.45(1) of the Principal Regulations is revoked.
13 New regulation 3.5.45A inserted
After regulation 3.5.45 of the Principal Regulations insert—

"3.5.45A Notification of incidents
For the purposes of section 37(2)(h) of the Act, the collapse, overturning, failure or malfunction of, or damage to, any plant referred to in regulation 3.5.31 is prescribed.".

14 Registration of plant designs
(1) For the heading to Division 7 of Part 3.5 of the Principal Regulations substitute—

"Division 7—Registration of plant designs".

(2) The heading to Subdivision 1 of Division 7 of Part 3.5 of the Principal Regulations is revoked.

15 Plant designs to be registered
In regulation 3.5.47(1) of the Principal Regulations omit "Part 1 of".

16 Altered plant designs to be registered
In regulation 3.5.48(1) of the Principal Regulations omit "Part 1 of".

17 Registration of items of plant
Subdivision 2 of Division 7 of Part 3.5 of the Principal Regulations is revoked.

18 Employer must not use unlicensed employees to do high risk work
In regulation 3.6.2(b) of the Principal Regulations, for "or 3.6.3(1)(b)" substitute "", 3.6.3(1)(b) or 3.6.3(1A)".
19 Exceptions

After regulation 3.6.3(1) of the Principal Regulations insert—

"(1A) Regulation 3.6.1(1) does not apply to a person who is performing high risk work involving plant (other than work referred to in Part 1 of Schedule 3) that is performed solely for the purpose of testing, installing, commissioning, maintaining or repairing that plant.

Note
This exception does not include operating the plant in order to load or unload the plant from a vehicle.".

20 Preparation of MSDS

At the foot of regulation 4.1.5(2) of the Principal Regulations insert—

"Note
An MSDS prepared in accordance with equivalent legislation may be described as a Safety Data Sheet (SDS) under that legislation.".

21 Currency of MSDS

Regulation 4.1.16 of the Principal Regulations is revoked.

22 Requirement to hold carcinogens licence

(1) In regulation 4.2.3(1) of the Principal Regulations, for "Schedule 1" (where twice occurring) substitute "Schedule 5A".

(2) In regulation 4.2.3(2) of the Principal Regulations, for "Schedule 2" (where twice occurring) substitute "Schedule 5B".

(3) In regulation 4.2.3(3) of the Principal Regulations, for "Schedule 2" (where twice occurring) substitute "Schedule 5B".
23 Training record

In regulation 4.3.46(a) of the Principal Regulations, for "the training" substitute "any training".

24 Training record

For regulation 4.3.118(a) of the Principal Regulations substitute—

"(a) ensure that a record is made of any training provided in relation to carrying out asbestos-related activities; and".

25 Information to go to Authority

In regulation 4.4.27 of the Principal Regulations—

(a) in subregulation (1), for "within 48 hours" substitute "as soon as is reasonably possible";

(b) in subregulation (2), for "within 48 hours" substitute "as soon as is reasonably possible";

(c) subregulation (3) is revoked.

26 Application of Subdivision

In regulation 5.1.13(1) of the Principal Regulations, for "$250 000" substitute "$350 000".

27 Regulation 5.1.25 revoked

Regulation 5.1.25 of the Principal Regulations is revoked.

28 Inquiry before making determination

In regulation 5.3.5(3)(b) of the Principal Regulations, for "14" substitute "28".
29  **Report of health surveillance**

For regulation 5.3.15(2) of the Principal Regulations substitute—

"(2) The operator of a mine must obtain a copy of a report under subregulation (1).

Penalty: 60 penalty units for a natural person;

300 penalty units for a body corporate.

Note

The operator must provide a copy of the report to the employee to whom the report relates as soon as is reasonably possible after receiving the report (see regulation 2.1.4(2)(a)).".

30  **Notice to Authority**

Regulation 5.3.16(1) of the Principal Regulations is revoked.

31  **Information, instruction and training**

In regulation 5.3.40 of the Principal Regulations, for "In addition to the matters set out in regulation 2.1.2, the operator" substitute "The operator".

32  **Time for processing the application**

After regulation 6.1.4(2)(a) of the Principal Regulations insert—

"(ab) in the case of an application for a high risk work licence, within 45 days after receiving the application; or".

33  **Fee to be paid before a licence can be granted**

In regulation 6.1.17(1)(a) of the Principal Regulations, for "Schedule 2" substitute "Schedule 5B".
34 Application for the renewal of a high risk work licence

(1) In regulation 6.1.38(2)(b) of the Principal Regulations, for "60" substitute "120".

(2) In regulation 6.1.38(7) of the Principal Regulations, for "60" substitute "45".

35 Transfer of authorising jurisdiction on renewal of high risk work licence

In regulation 6.1.39(1) of the Principal Regulations—

(a) in paragraph (b), for "work; and" substitute "work.";

(b) paragraph (c) is revoked.

36 Fee to be paid before carcinogens licence can be renewed

In regulation 6.1.41(1)(a) of the Principal Regulations, for "Schedule 2" substitute "Schedule 5B".

37 Application of Part 6.2 (Registration)

Regulation 6.2.1(b) of the Principal Regulations is revoked.

38 Regulation 6.2.8 revoked

Regulation 6.2.8 of the Principal Regulations is revoked.

39 Division 3 of Part 6.2 revoked

Division 3 of Part 6.2 (Registration) of the Principal Regulations is revoked.
40 Exemptions in relation to high risk work

For regulation 7.2.2 of the Principal Regulations substitute—

"7.2.2 Exemptions in relation to high risk work

(1) The Authority may exempt any person, or any class of person (including persons who are under 18 years of age) from complying with regulation 3.6.1 in relation to specified high risk work.

(2) The Authority may exempt an employer, or a class of employer, from complying with regulation 3.6.2 in relation to specified high risk work that the employer seeks to have performed by a person, or class of person, who does not hold an appropriate high risk work licence (including persons who are under 18 years of age)."

41 Who may apply for an exemption

(1) In regulation 7.2.3(1) of the Principal Regulations, after "7.2.1" insert "or 7.2.2(1)".

(2) In regulation 7.2.3(2) of the Principal Regulations, for "7.2.2" substitute "7.2.2(2)".

42 Grounds on which an exemption (other than in relation to high risk work) may be granted

For regulation 7.2.4(1)(b) of the Principal Regulations substitute—

"(b) that the provision that is to be the subject of the exemption is an administrative requirement under these Regulations that is inappropriate or unnecessary in the circumstances."
43 **Grounds on which an exemption in relation to high risk work may be granted**

For regulation 7.2.5(2) of the Principal Regulations substitute—

"(2) In the case of an application for an exemption under regulation 7.2.2(1) in relation to specified high risk work, the Authority may require a person to satisfy it as to the competency of the person in relation to any relevant skill or knowledge."

(2A) In the case of an application by an employer for an exemption under regulation 7.2.2(2) in relation to a particular employee, the Authority may require the employer to satisfy it as to the competency of the employee in relation to any relevant skill or knowledge."

44 **Plant**

Regulation 8.1.3(2), (4), (5) and (6) of the Principal Regulations are revoked.

45 **Hazardous substances—MSDS**

Regulation 8.1.4 of the Principal Regulations is revoked.

46 **Asbestos**

Regulation 8.1.6 of the Principal Regulations is revoked.

47 **Major hazard facilities**

Regulation 8.1.8(2), (3) and (7) of the Principal Regulations are revoked.

48 **References to Acts**

Regulation 8.1.11 of the Principal Regulations is revoked.
49 New Part 8.3 inserted

After Part 8.2 of the Principal Regulations insert—

"PART 8.3—OTHER TRANSITIONAL PROVISIONS

8.3.1 Carcinogens licences

(1) A licence to use a Schedule 1 carcinogenic substance at a laboratory, granted under these Regulations as in force immediately before 1 July 2014, continues in force on and after that date in relation to the corresponding Schedule 5A carcinogenic substance.

(2) A licence to use a Schedule 2 carcinogenic substance at a laboratory, granted under these Regulations as in force immediately before 1 July 2014, continues in force on and after that date in relation to the corresponding Schedule 5B carcinogenic substance.

(3) A licence to use a Schedule 2 carcinogenic substance at a workplace other than a laboratory, granted under these Regulations as in force immediately before 1 July 2014, continues in force on and after that date in relation to the corresponding Schedule 5B carcinogenic substance.

Note
1 July 2014 is the commencement date of the Occupational Health and Safety Amendment Regulations 2014.
8.3.2 Construction projects

Despite the amendment of regulation 5.1.13(1) by regulation 26 of the Occupational Health and Safety Amendment Regulations 2014, Subdivision 2 of Division 2 of Part 5.1 applies to a construction project the cost of which is $250 000 or more if the construction contract for the project was entered into before 1 July 2014.

Note

1 July 2014 is the commencement date of the Occupational Health and Safety Amendment Regulations 2014.

50 Schedule 2 substituted

For Schedule 2 to the Principal Regulations substitute—

"SCHEDULE 2

PLANT

Regulations 3.5.47 and 3.5.48

PLANT REQUIRING REGISTRATION OF DESIGN

1.1 Pressure equipment, other than the following—

(a) pressure piping;

(b) miniature boilers designed in accordance with the Australian Miniature Boiler Safety Committee Code Parts 1, 2, 3 or 4, published by the Australian Miniature Boiler Safety Committee;

(c) gas cylinders or fired heaters, with a hazard level equivalent to hazard level E as set out in AS 4343 Pressure equipment—Hazard levels.

Authorised by the Chief Parliamentary Counsel
1.2 Tower cranes.
1.3 Self-erecting tower cranes.
1.4 Lifts, other than—
   (a) platforms for raising or lowering stage performers and associated equipment; and
   (b) plant designed only to store vehicles in a designated parking facility.
1.5 Building maintenance units.
1.6 Hoists, with a platform movement in excess of 2.4 metres, designed to lift people.
1.7 Work boxes suspended from cranes.
1.8 Amusement structures to which AS 3533.1—Amusement rides and devices—Part 1: Design and construction applies, other than the following—
   (a) amusement structures determined by AS 3533.1 to be class 1;
   (b) amusement structures that are, or are intended to be, permanently installed and operated in playgrounds;
   (c) water slides on which water facilitates users sliding easily, predominantly under gravity, along a static structure;
   (d) water wave generators that prevent users from coming into contact with the machinery used to generate the waves;
   (e) inflatable devices, unless they have a platform height (the height of the highest part of the device designed to support users) of at least 3 metres and rely on a supply of continuously blown air to maintain their shape;
(f) amusement structures that are specifically designed for a sporting, professional stunt, theatrical or acrobatic purpose or activity, including canoes operating on artificial currents;

(g) rides or devices that are used as a form of transport, including quad bikes and snow mobiles;

(h) go-karts;

(i) parasailing equipment;

(j) coin or token operated devices that are intended to be ridden, at the one time, by not more than 4 children who must be below the age of 10 years.

1.9 Prefabricated scaffolding, being an integrated system of prefabricated components manufactured in such a way that the possible geometry of assembled scaffolds is pre-determined by the designer.

1.10 Boom-type elevating work platforms.

1.11 Gantry cranes with a safe working load greater than 5 tonnes or bridge cranes with a safe working load greater than 10 tonnes, and a gantry crane or a bridge crane which is designed to handle molten metal or dangerous goods.

1.12 Vehicle hoists, being hoists that are permanently installed or intended to be permanently installed in a workplace to elevate a vehicle to allow work to be performed on the vehicle.

1.13 Mast-climbing work platforms.

1.14 Mobile cranes with a safe working load greater than 10 tonnes.

1.15 Chairlifts, being aerial powered ropeways that incorporate either elevated open chairs or closed cabins (gondola-type).

1.16 Concrete-placing units (truck-mounted with boom).

"
51 Schedule 3—High Risk Work—Licence classes

(1) In clause 9 of Schedule 3 to the Principal Regulations, for the definition of *fork-lift truck* substitute—

"fork-lift truck" means a powered industrial truck equipped with a mast and an elevating load carriage to which is attached a pair of fork arms or other load holding attachment, including a truck on which the operator is raised with the attachment for order-picking, but does not include—

(a) a pedestrian operated industrial truck; or

(b) a tractor fitted with a pair of fork arms or other load holding attachment."

(2) Clause 24 of Schedule 3 to the Principal Regulations is revoked.

52 Schedule 4—High Risk Work—Pressure Equipment for which Licence Is Not Required

(1) In Schedule 4 to the Principal Regulations, in item 1, in the definition of *AMBSC Code*, for "Parts 1 or 2" substitute "Parts 1, 2, 3 or 4".

(2) In Schedule 4 to the Principal Regulations, after item 2.8 insert—

"2.9 Boilers manufactured before 1952 provided they are used solely for a historical purpose or activity, including an activity that is ancillary to a historical activity.

Examples

1 An historical activity may be an historical display, parade, demonstration or re-enactment.

2 An activity ancillary to a historical activity may be restoring, maintaining, modifying, servicing, repairing or housing a boiler used, or to be used, for a historical activity."
53  New Schedules 5A and 5B inserted

After Schedule 5 to the Principal Regulations insert—

"SCHEDULE 5A

Regulations 4.2.2 and 4.2.3

PROHIBITED CARCINOGENIC SUBSTANCES

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PROHIBITED CARCINOGENIC SUBSTANCE [Chemical Abstract Number]</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2-Acetylaminofluorene [53-96-3]</td>
</tr>
<tr>
<td>2</td>
<td>Aflatoxins</td>
</tr>
<tr>
<td>3</td>
<td>4-Aminodiphenyl [92-67-1]</td>
</tr>
<tr>
<td>4</td>
<td>Benzidine [92-87-5] (including benzidine dihydrochloride [531-85-1])</td>
</tr>
<tr>
<td>5</td>
<td>bis(Cloromethyl) ether [542-88-1]</td>
</tr>
<tr>
<td>6</td>
<td>Chloromethyl methyl ether [107-30-2] (technical grade which contains bis(chloromethyl) ether)</td>
</tr>
<tr>
<td>7</td>
<td>4-Dimethylaminoazobenzene [60-11-7] (Dimethyl Yellow)</td>
</tr>
<tr>
<td>8</td>
<td>2-Naphthylamine [91-59-8]</td>
</tr>
<tr>
<td>9</td>
<td>4-Nitrodiphenyl [92-93-3]</td>
</tr>
</tbody>
</table>
SCHEDULE 5B

Regulations 4.2.2 and 4.2.3

RESTRICTED CARCINOGENIC SUBSTANCES

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PROHIBITED CARCINOGENIC SUBSTANCE [Chemical Abstract Number]</th>
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</thead>
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<tr>
<td>1</td>
<td>Acrylonitrile [107-13-1]</td>
</tr>
<tr>
<td>2</td>
<td>Benzene [71-43-2] when used as a feedstock containing more than 50% of benzene by volume</td>
</tr>
<tr>
<td>3</td>
<td>3,3’-Dichlorobenzidine [91-94-1] and its salts (including 3,3’-Dichlorobenzidine dihydrochloride [612-83-9])</td>
</tr>
<tr>
<td>4</td>
<td>Diethyl sulfate [64-67-5]</td>
</tr>
<tr>
<td>5</td>
<td>Dimethyl sulphate [77-78-1]</td>
</tr>
<tr>
<td>6</td>
<td>Ethylene dibromide [106-93-4] when used as a fumigant</td>
</tr>
<tr>
<td>7</td>
<td>4,4’-Methylene bis(2-chloroaniline) [101-14-4] MOCA</td>
</tr>
<tr>
<td>8</td>
<td>3-Propiolactone [57-57-8] (Beta-propiolactone)</td>
</tr>
<tr>
<td>9</td>
<td>o-Toluidine [95-53-4] and o-Toluidine hydrochloride [636-21-5]</td>
</tr>
<tr>
<td>10</td>
<td>Vinyl chloride monomer [75-01-4]</td>
</tr>
</tbody>
</table>

"\n
Authorised by the Chief Parliamentary Counsel

21
**ENDNOTES**


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**Table of Applied, Adopted or Incorporated Matter**

The following table of applied, adopted or incorporated matter is included in accordance with the requirements of regulation 5 of the Subordinate Legislation Regulations 2004.

In this table—

*Principal Regulations* means the Occupational Health and Safety Regulations 2007.

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<tr>
<th>Statutory rule provision</th>
<th>Title of applied, adopted or incorporated document</th>
<th>Matter in applied, adopted or incorporated document</th>
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### Statutory rule provision

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<tr>
<td>Regulation 5(4), which substitutes the definition of <em>competency standard</em> in the Principal Regulations</td>
<td>National Standard for Licensing Persons Performing High Risk Work, published by the Australian Safety and Compensation Council in April 2006</td>
<td>The whole</td>
</tr>
<tr>
<td>Regulation 5(6), which substitutes the definition of <em>GHS</em> in the Principal Regulations, regulation 7, which amends regulation 1.2.1 of the Principal Regulations, and regulation 8, which substitutes regulation 1.2.5 of the Principal Regulations</td>
<td>Globally Harmonized System of Classification and Labelling of Chemicals, 3rd, 4th and 5th editions, published by the United Nations in 2009, 2011 and 2013 respectively</td>
<td>The whole</td>
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