

Part 4.5 High Risk Work

Note

See the jurisdictional note in the Appendix.

Division 1 Licensing of high risk work

Subdivision 1 Requirement to be licensed

81 Licence required to carry out high risk work

A person must not carry out a class of high risk work unless the person holds a high risk work licence for that class of high risk work, except as provided in regulation 82.

Notes

- 1 See section 43 of the Act.
- 2 Schedule 3 sets out the high risk work licences and classes of high risk work that are within the scope of each licence. Schedule 4 sets out the qualifications required for a high risk work licence.

82 Exceptions

- (1) A person who carries out high risk work is not required to be licensed to carry out the work if the work is carried out:
 - (a) in the course of training towards a certification in order to be licensed to carry out the high risk work; and
 - (b) under the supervision of a person who is licensed to carry out the high risk work.
 - (1A) A person who holds a certification in relation to a specified VET course for high risk work is not required to be licensed to carry out the work:
 - (a) for 60 days after the certification is issued; and
 - (b) if the person applies for the relevant high risk work licence within that 60 day period, until:
 - (i) the person is granted the licence; or
 - (ii) the expiry of 28 days after the person is given written notice under regulation 91(2) of a decision to refuse to grant the licence.
 - (1B) A person who carries out high risk work is not required to be licensed to carry out the work if the work is carried out while an accredited assessor is conducting an assessment of the person's competency in relation to the work.
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- (2) A person who carries out high risk work involving plant is not required to be licensed if:
 - (a) the work is carried out at a workplace solely for the purpose of the manufacture, testing, trialling, installation, commissioning, maintenance, servicing, repair, alteration, demolition or disposal of the plant at that workplace or moving the plant within the workplace; and
 - (b) the plant is operated or used without a load except when standard weight loads with predetermined fixing points are used for calibration of the plant.
- (3) For the purposes of subregulation (2)(a), ***moving*** includes operating the plant in order to load the plant onto, or unload it from, a vehicle or equipment used to move it.
- (4) A person who carries out high risk work with a crane or hoist is not required to be licensed as a crane operator if:
 - (a) the work is limited to setting up or dismantling the crane or hoist; and
 - (b) the person carrying out the work holds a licence in relation to rigging, which qualifies the person to carry out the work.

Note

See Schedule 3 for the classes of crane operator licence.

- (5) A person who carries out high risk work with a heritage boiler is not required to be licensed as a boiler operator.

83 Recognition of high risk work licences in other jurisdictions

- (1) In this Subdivision, a reference to a high risk work licence includes a reference to an equivalent licence:
 - (a) granted under a corresponding WHS law; and
 - (b) that is being used in accordance with the terms and conditions under which it was granted.
- (2) Subregulation (1) does not apply to a licence that is suspended or cancelled or has expired in the corresponding jurisdiction.

84 Duty of person conducting business or undertaking to ensure direct supervision

- (1) A person conducting a business or undertaking must ensure that a person supervising the work of a person carrying out high risk work as required by regulation 82(1) provides direct supervision of the person except in the circumstances set out in subregulation (2).
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Maximum penalty:

In the case of an individual—\$6 000.

In the case of a body corporate—\$30 000.

- (2) Direct supervision of a person is not required if:
- (a) the nature or circumstances of a particular task make direct supervision impracticable or unnecessary; and
 - (b) the reduced level of supervision will not place the health or safety of the supervised person or any other person at risk.
- (3) In this regulation, *direct supervision* of a person means the oversight by the supervising person of the work of that person for the purposes of:
- (a) directing, demonstrating, monitoring and checking the person's work in a way that is appropriate to the person's level of competency; and
 - (b) ensuring a capacity to respond in an emergency situation.

85 Evidence of licence—duty of person conducting business or undertaking

- (1) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work for which a high risk work licence is required unless the person sees written evidence provided by the worker that the worker has the relevant high risk work licence for that work.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

- (2) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work in the circumstances referred to in regulation 82(1) unless the person sees written evidence provided by the worker that the worker is undertaking the course of training referred to in regulation 82(1)(a).

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

- (2A) A person conducting a business or undertaking at a workplace must not direct or allow a worker to carry out high risk work in the
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circumstances referred to in regulation 82(1A) unless the person sees written evidence provided by the worker that the worker:

- (a) in the circumstances referred to in regulation 82(1A)(a)—holds a certification referred to in regulation 82(1A); and
- (b) in the circumstances referred to in section 82(1A)(b):
 - (i) holds a certification referred to in regulation 82(1A); and
 - (ii) has applied for the relevant licence within the period referred to in regulation 82(1A)(b).

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

- (3) A person conducting a business or undertaking at a workplace must not direct or allow a worker to supervise high risk work as referred to in regulations 82(1) and 84 unless the person sees written evidence that the worker holds the relevant high risk work licence for that high risk work.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

- (4) A person conducting a business or undertaking at a workplace must keep a record of the written evidence provided:
 - (a) under subregulation (1) or (2)—for at least 1 year after the high risk work is carried out;
 - (b) under subregulation (3)—for at least 1 year after the last occasion on which the worker performs the supervision work.

Maximum penalty:

In the case of an individual—\$1 250.

In the case of a body corporate—\$6 000.

Subdivision 2 Licensing process

86 Who may apply for a licence

Only a person who holds a qualification set out in Schedule 4 may apply for a high risk work licence.