

# Occupational Health and Safety Regulations 2017: Summary of Changes

2017

On 18 June 2017, Victoria's new *Occupational Health and Safety Regulations 2017* (OHS Regulations 2017) will come into effect replacing the 2007 version. This information sheet outlines the key changes made to the OHS Regulations.

## Part 3.1 – Manual Handling

The key changes to the Manual Handling regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Title of the Part	Title of the Part

The title of the Part has been amended from 'Manual Handling' to 'Hazardous Manual Handling' to better reflect the scope of the Part, which applies to activities that fall within the definition of 'hazardous manual handling'.

OHS Regulations 2007	OHS Regulations 2017
Regulation 1.1.5 Definition of 'hazardous manual handling'	Regulation 5 Definitions 'hazardous manual handling'

The 'hazardous manual handling' definition has been redrafted to incorporate the previous definitions of 'manual handling' and 'object', which were defined separately.

The definition has also been streamlined by making the following changes:

- removal of the word 'sustained' in relation to movements (1.1.5 'hazardous manual handling' (a)(iii))
- removal of the reference to 'repetitive' in relation to posture (1.1.5 'hazardous manual handling' (a)(ii)).

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.1.1(1) Hazard identification	Regulation 26 Hazard identification

Regulation 3.1.1(1) requires an employer to identify so far as reasonably practicable any task undertaken by an employee involving hazardous manual handling. However, the term 'task' was not defined in the OHS Regulations 2007.

To reduce confusion around the meaning of 'task' and the risk of employers adopting a narrow definition and failing to identify hazardous manual handling, references to 'task' in the Part have been removed.

Instead, employers are required to identify any 'hazardous manual handling' undertaken, or to be undertaken, by an employee. This encourages employers to focus on all work undertaken by an employee having the characteristics of 'hazardous manual handling'.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.1.1(2) Hazard identification	This subregulation has been removed

Regulation 3.1.1(2) specified that an employer can identify tasks in a class, where the tasks are similar, and it does not result in any greater, additional or different risk to health and safety than if the identification were carried out for each individual task.

It also provides guidance about how an employer can comply with the broader duty to identify hazardous manual handling.

This regulation has been removed as this type of information is considered more appropriate for guidance material.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.1.3(1) Review of risk control measures	Regulation 28(1) Review of risk of control measures

Provision 3.1.3(1) required an employer to review and, if necessary, revise risk control measures in response to specified triggers.

The trigger at 3.1.3(1)(b) in the OHS Regulations 2007, which requires review of a risk control measure before an object is used for another purpose than that for which it was designed, has been removed. It was removed on the basis that the trigger is not widely used or understood.

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Regulation 28 now refers more broadly to alteration to an object or plant, process or system of work, for consistency with other parts of the regulations.

This change ensures that employers are required to review a risk control measure before any change to plant or a system of work.

## Part 3.2 – Noise

The key change to the Noise regulations is in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.2.12 Audiological examinations	Regulation 38 Audiological examinations

Regulation 38 in the OHS Regulations 2017 clarifies that the trigger for an audiological examination is a reduction in hearing level of 15db or greater over a two year period, regardless of how many tests are undertaken over that two year period.

## Part 3.3 – Prevention of Falls

The key change to the Prevention of Falls regulations is in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.3.1 Application of Part	Regulation 41 Application of Part

A note to clarify that legislative obligations still apply to the risk of falls below two metres has been added to regulation 41 of the OHS Regulations 2017.

## Part 3.4 – Confined Spaces

The key changes to the Confined Spaces Regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.4.4 Suppliers	Regulation 53 Suppliers

As a supplier of plant, you no longer have a duty to ensure so far as is reasonably practicable, that the need to enter a confined space is eliminated or reduced. The duty continues to be held by the designers and manufacturers of the plant.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.4.15 Employer to retain entry permits	Regulation 64 Employer to keep entry permits

The requirement for an employer to retain a 'confined space entry permit' for 30 days has been removed and replaced with a requirement for an employer to retain the permit until the work is completed; or for two years in the event of a notifiable incident.

This change will reduce record keeping requirements without reducing safety.

## Part 3.5 – Plant

The key changes to the Plant regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.5.6(1) Operational stop controls and emergency stop devices	Regulation 79(1) Emergency stop devices Regulation 5 Definitions – operator controls

Regulation 79(1) outlines design requirements for emergency stop devices. Design requirements for operational stop controls are covered in Regulation 78.

To remain consistent with Australian standards and industry practice, Regulation 79(1) requires an emergency stop device to be of a type that, after use, can only be reset manually. This means emergency stop devices must be a 'latch in' type device, rather than a 'stop and lock off' type.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.5.10 Records and information	Regulation 83 Records and information

Subregulations 3.5.10(1)(b), (c) and (d), which required a designer to keep copies of the information provided to the manufacturer, have been removed.

This reduces duplication and regulatory burden without reducing safety standards as manufacturers are required (under regulation 87 of the OHS Regulations 2017) to keep information provided by the designer.

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OHS Regulations 2007	OHS Regulations 2017
Regulation 3.5.10(2) Records and information (designer)	Regulation 83(2) Records and information (designer)
Regulation 3.5.11(3) Record of standards or engineering principles used (designer)	Regulation 84(3) Record of standards or engineering principles used (designer)
Regulation 3.5.14(2) Records and information (manufacturer)	Regulation 87(2) Records and information (manufacturer)

The record keeping duties on designers and manufacturers of plant have been reduced by decreasing the time required to keep records from 10 years to 7 years in regulations 83(2), 84(3) and 87(2) of the OHS Regulations 2017.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.5.13 Information must be obtained and provided (manufacturer)	Regulation 86 Information must be given by a manufacturer (manufacturer)
Regulation 3.5.17 Information must be obtained and provided (supplier)	Regulation 89 Information to be given – new plant (supplier)

As a supplier and manufacturer of plant, you no longer have a duty to 'obtain information'. This provision was removed to maintain the focus on the provision of information.

A manufacturer still has duties under regulation 86 to give prescribed information when supplying plant.

A supplier of new plant still has duties under regulation 86 to give prescribed information when supplying the plant.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.5.16 General duties (suppliers of plant)	This regulation has been removed.

The duty imposed on suppliers that requires that hazard identification and risk control requirements placed on designers and manufacturers of plant have been carried out prior to supplying the plant have been removed. The change removes unnecessary prescription and duplication.

Although the regulation has been removed, as a supplier, you still have general duties under section 30 of the *Occupational Health and Safety Act 2004* (OHS Act) to ensure that that plant you supply is safe and without risks to health if it is used for a purpose for which it was designed, manufactured or supplied.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.5.27 Operational stop controls and emergency stop devices	Regulation 102(1) Specific risk control measures – Emergency stop devices

Employer requirements for operational controls are now covered in Regulation 101.

To remain consistent with Australian standards and industry practice, Regulation 102(1) requires an employer to ensure that emergency stop devices are of a type that, after use, can only be reset manually. This means emergency stop devices must now be a 'latch in' type device, rather than a 'stop and lock off' type.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.5.31 Record of inspections and maintenance	Regulation 106 Record of inspection and maintenance

Chairlifts have been added to the list of plant subject to record of inspection and maintenance requirements given that chairlifts have a comparable maintenance risk profile to other plant such as amusement structures.

OHS Regulations 2007	OHS Regulations 2017
Schedule 2 Plant requiring registration of design	Schedule 2 Plant requiring registration of design

## Item 1.2 – Tower cranes

There is no longer a requirement to register the design for the foundations or supporting structure and crane ties of a tower crane.

However, there is still a requirement to register the design of the tower crane with WorkSafe prior to its use.

## Item 1.4 – Lifts

There is no longer a requirement to register the design of lifts designed for the transportation of goods alone and which do not have any operational controls within the lift car (e.g. service lifts, including dumb waiters).

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## Item 1.8 – Amusement structures

There is no longer a requirement to register the design of a number of amusement devices. Specifically, jet packs, hoverboards, rides or devices primarily used as a form of motor sports, and hovercrafts.

## Part 3.6 – High Risk Work

The key changes to the High Risk Work regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.6.10 Person may work while application is being processed	Regulation 138 Person may work while application for high risk work licence or renewal is being processed

A licence holder, who applies for a licence renewal before the licence expires, can continue to perform work until a renewal is granted or until 14 days after being given written notice that the application has been refused.

OHS Regulations 2007	OHS Regulations 2017
Regulation 3.6.11 Authorisation to carry out assessments of competency	Regulation 139 Authorisation to carry out assessments of competency

A provision has been inserted to explicitly provide that WorkSafe may impose terms and conditions when it authorises a person to carry out assessments of competency.

OHS Regulations 2007	OHS Regulations 2017
Schedule 3 Part 1 Licence classes for scaffolding and rigging	Schedule 3 Part 1 Licence classes for scaffolding and rigging
Item 1 Definitions (dogging)	Regulation 5 Definitions – dogging work
Item 5 Dogging licence	Item 4 Dogging licence

The requirement for a dogging licence under the regulations has been clarified by aligning the licence scope statement for a dogging licence with the definition of 'dogging'.

Specifically, item 4 from the OHS Regulations 2017 has been amended to say that the scope of work under the dogging licence is dogging work.

In addition, the existing definition of 'dogging' has been redrafted to provide clarity that a dogging licence

is required if either of the following applies:

- the activity requires the application of slinging techniques; or
- the load is being moved outside the view of the operator.

OHS Regulations 2007	OHS Regulations 2017
Schedule 3 Part 2 Licence classes for crane, hoist and fork-lift truck operation	Schedule 3 Part 2 Licence classes for crane, hoist and fork-lift truck operation
Item 16 Non-slewing mobile crane operation licence	Item 19 Reach stacker operation licence

A new licence class for reach stackers has been introduced.

This allows operators to train and receive a licence for operating reach stackers without having to cover all the competencies required for a non-slewing mobile crane operation licence.

A transitional arrangement has been inserted to provide that the reach stacker licence does not come into operation until 18 June 2018.

Holders of a mobile crane licence will continue to be able to operate a reach stacker.

OHS Regulations 2007	OHS Regulations 2017
Schedule 3 Part 2 Definitions (fork-lift truck)	Regulation 5 Definitions forklift truck

'Low-lift pallet trucks' has been excluded from the definition of 'forklift truck'.

This means that the requirement to hold a forklift truck operation licence does not apply to the operation of low lift pallet trucks.

OHS Regulations 2007	OHS Regulations 2017
Schedule 3 Part 2 Item 14 - Bridge and gantry crane operation licence	Schedule 3 Part 2 Item 12 - Bridge and gantry crane operation licence

The scope of work allowed under a bridge and gantry crane operation licence has been broadened.

Specifically, item 12 in the OHS Regulations 2017 now provides that the scope of the work for a bridge and gantry crane operation licence includes the application of load estimation and slinging techniques to move a load with a bridge crane or gantry crane.

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Previously this work could only be performed by a person holding a dogging licence.

OHS Regulations 2007	OHS Regulations 2017
Schedule 3 Part 2 Item 15 - Vehicle loading crane operation licence	Schedule 3 Part 2 Item 13 - Vehicle loading crane operation licence

Item 13 now provides that the scope of the work for a vehicle loading crane operation licence includes the application of load estimation and slinging techniques to move a load with a vehicle loading crane.

As a consequence, each of the slewing mobile crane licence classes has changed to maintain safety. A slewing mobile crane operation licence will continue to allow the licence holder to operate a vehicle loading crane but the licence holder is not allowed to carry out the application of load estimation or slinging techniques to move a load with a vehicle loading crane.

OHS Regulations 2007	OHS Regulations 2017
Schedule 3 Part 2 Item 27 - Order-picking forklift truck operation licence	Schedule 3 Part 2 Item 25 - Order-picking forklift truck operation licence

Only operators of order-picking forklift trucks with lifting attachments capable of being raised 900 mm or more above the ground are required to hold an order-picking forklift truck operation licence.

Persons operating order-picking forklift trucks that lift less than 900 mm will no longer need to hold a high risk work licence.

OHS Regulations 2007	OHS Regulations 2017
Schedule 3 Part 3 Licence classes for pressure equipment operation	Schedule 3 Part 3 Licence classes for pressure equipment operation
Item 29 Basic boiler operation licence	
Item 30 Intermediate boiler operation licence	Item 26 Standard boiler operation licence
Item 31 Advanced boiler operation licence	Item 27 Advanced boiler operation licence

The boiler operation licensing scheme, which currently consists of three hierarchical licence classes—basic, intermediate and advanced boiler operation have been consolidated and replaced with two new classes (standard

and advanced), and the hierarchical system has been removed. A transitional arrangement has been inserted to provide that the new boiler licence classes do not come into operation until 18 June 2018.

This change will better reflect the risk associated with contemporary boiler design and make it easier for people to work across state and territory borders.

OHS Regulations 2007	OHS Regulations 2017
Schedule 4 Pressure equipment for which high risk work licence is not required	Schedule 4 Pressure equipment for which high risk work licence is not required
Item 2.1 Pressure equipment for which high risk work licence is not required	Item 1 Boilers having less than 5 square metres of heating surface

The current exception that provides that a high risk work licence is not required to operate a boiler having not more than 4.6 square metres of heating surface used in agriculture and related industries has been expanded.

The exception has been expanded to all boilers having less than five square metres of heating surface. Operators of these small boilers do not need to hold a high risk work licence regardless of the industry in which they are used.

## Part 4.1 – Hazardous Substances

The key changes to the Hazardous Substances regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Approved Criteria for Classifying Hazardous Substances referencing	Globally Harmonized System of Classification and Labelling of Chemicals (GHS) terminology
4.1.4 Determination of hazardous substances	143 Determination of hazardous substances

The regulations have been recast to the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) terminology.

All references to the Approved Criteria for Classifying Hazardous Substances, Hazardous Substances Information System (HSIS) and associated terminology have been removed from the OHS regulations 2017.

All terminology that is taken from the Approved Criteria for Classifying Hazardous Substances has been changed to align with GHS terminology.

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OHS Regulations 2007	OHS Regulations 2017
Regulation 4.1.10 Recognition of other labelling systems	Regulation 150 Recognition of other labelling systems

The AgVet labelling requirements at 4.1.10 of the OHS Regulations 2007 has been amended to align with the Model WHS approach which is currently to allow for the Australian Pesticides and Veterinary Medicines Authority (APVMA) approved labels but require GHS hazard and precautionary statements.

OHS Regulations 2007	OHS Regulations 2017
Amendment to GHS labelling requirement exemption for poison or controlled substance	Regulation 150 Recognition of other labelling systems

The regulations now exempt hazardous substances labelled in accordance with the Poisons Standards from the GHS labelling requirements where it is reasonably foreseeable that the substance will be used in a workplace in a quantity and a way which is consistent with household use, and in a way that is incidental to the nature of the work.

OHS Regulations 2007	OHS Regulations 2017
Regulation 1.1.5 Definitions 'container'	Regulation 5 Definitions container

The definition of container in the OHS Regulations 2017 has been amended to capture containers exceeding 500 litres or 500kg i.e. bulk containers.

## Part 4.2 – Scheduled Carcinogenic Substances

The key change to the Scheduled Carcinogenic Substances regulations is in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 4.2.3 Requirement to hold carcinogens licence	Regulation 174 Requirement to hold carcinogens licence

The exemption at 4.2.3(4) of the OHS Regulations 2007 has been clarified in the OHS Regulations 2017 as being limited to suppliers who store these substances for short terms only before passing on to a customer.

## Part 4.3 – Asbestos

The key changes to the Asbestos regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 4.3.19 Application of Division	Regulation 225 Application of Division
Regulation 4.3.34 Application of Division	Regulation 240 Application of Division

The OHS regulations 2007 only apply to a workplace where there is fixed and installed asbestos present. This creates a regulatory gap in a scenario where there may be no fixed or installed asbestos present at the workplace but there may be other forms of asbestos such as asbestos contaminated soil or asbestos-contaminated dust.

In the OHS Regulations 2017, Division 5 and Division 6 will be applied regardless of whether or not there is fixed and installed asbestos present in the workplace. This will ensure that all asbestos in the workplace is identified and the associated risks are appropriately managed.

OHS Regulations 2007	OHS Regulations 2017
Regulation 4.3.49 Provision of information about proposed asbestos removal work Regulation	Regulation 301 Information to be provided to persons occupying premises in immediate and adjacent areas
Regulation 4.3.90 Employers in immediate and adjacent areas to be informed	

Division 7 of the Asbestos regulations requires duty holders to inform others that asbestos removal work will be undertaken. These duties apply to both non-licensed and licensed removal.

The OHS Regulations 2007 makes it appear that in relation to licensed removal, employers who have been informed are not required to notify their employees.

Therefore, a requirement for licensed removal work that employers who have been informed of asbestos removal should inform their employees in immediate and adjacent areas has been introduced to the OHS Regulations 2017.

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The context of limited non-licensed removal work on a domestic premises has also been clarified in the OHS Regulations 2017. The person who commissioned the work is the employer or self-employed person for the purposes of informing others. This will make it clear that occupiers of domestic premises do not have regulatory duties. A similar clarification is provided in relation to licensed removal and it is equally applicable in this scenario.

OHS Regulations 2007	OHS Regulations 2017
Regulations 4.3.59, 4.3.80 and 4.3.111 Notice of medical practitioner	These provisions have been removed.

The requirement to notify WorkSafe of the name and contact details of registered medical practitioners engaged to undertake medical examinations has been removed.

Under the OHS Regulations 2007, employers undertaking asbestos removal work are required to provide WorkSafe with the name and contact details of registered medical practitioners engaged to undertake medical examinations.

As WorkSafe can obtain the details of these medical practitioners through other channels, the process of the employer providing the details to WorkSafe is no longer required.

OHS Regulations 2007	OHS Regulations 2017
Division 7 Removal of asbestos	Part 4.4 Asbestos
Dangerous Goods Order 2007 (separate to regulations)	Dangerous Goods Order 2007 incorporated

The content of the current Dangerous Goods Order 2007 has been incorporated into the OHS Regulations 2017.

This means that the regulations have been extended to regulate the removal of asbestos that is not fixed or installed, including asbestos contaminated dust.

There are multiple changes throughout Part 4 of the OHS Regulations 2017 which give effect to this change.

OHS Regulations 2007	OHS Regulations 2017
Class B asbestos licence holder	Regulation 265 Class B asbestos removal work

Class B removalists were previously restricted under the Dangerous Goods Order 2007 (DG Order) from removing non-friable asbestos that is not fixed or installed, despite being able to remove unlimited amounts of fixed or installed non-friable asbestos.

The DG Order has now been incorporated into the OHS Regulations 2017. Given that the same method of removal and risk control would be used for non-friable asbestos that is not fixed or installed, the Class B asbestos removal licence holders are now able to remove all non-friable asbestos under the OHS Regulations regardless of whether the asbestos is fixed or installed, or not fixed or installed.

In relation to the removal of asbestos contaminated dust (ACD) not associated with the removal of non-friable asbestos, the requirements outlined in DG Order have been included.

This allows Class B removal of ACD:

- If the removal of ACD does not exceed 10 minutes in total, and in a cumulative sense does not exceed one hour in seven days, or
- Where an independent person determines that airborne asbestos fibre levels are likely to be less than one half of the asbestos exposure standard.

OHS Regulations 2007	OHS Regulations 2017
Regulation 4.3.61 Persons not to perform asbestos removal work unless licensed	Regulation 264 Class A asbestos removal work

A Class A licence holder is now allowed to engage an independent contractor who operates an excavator provided the independent contractor is supervised by the licence holder and the asbestos removal supervisor.

The change will enable Class A licence holders to access excavator operator services where necessary from time to time to undertake asbestos removal work. The regulation protects health and safety by ensuring that the independent contractor is appropriately supervised.

OHS Regulations 2007	OHS Regulations 2017
Schedule 7 Asbestos – Information required to be included in an asbestos control plan	Schedule 12 Information required to be included in an asbestos control plan

As independent contractors (excavator operators only) are allowed to perform asbestos removal work for a Class A licenced asbestos removalist under the OHS Regulations 2017, the asbestos control plan has to include the name of any independent contractors engaged.

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OHS Regulations 2007	OHS Regulations 2017
Schedule 8 Asbestos – Information required to be included in a notification of asbestos removal work	Schedule 13 Information required to be included in a notice of asbestos removal work

In Schedule 13 of the OHS regulations 2017:

- Asbestos contaminated dust has been included at item 7 (whether the asbestos is friable or non-friable) given incorporation of the Dangerous Goods Order 2007.
- The number of contractors has been included in item 11 (number of employees) given that independent contractors (excavator operators only) are now allowed to perform asbestos removal work.
- The name of the independent person, who determined that airborne asbestos fibre levels are likely to be less than one half of the exposure standard, is now required as well.

## Part 4.4 – Lead

The key changes for the Lead regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
1.1.5 Definition blood lead level	Regulation 5 blood lead level

The blood lead level definition has been amended in the OHS Regulations 2017 to display the concentration of lead expressed in both µg/dL (micrograms per decilitre) and umol/L (micromoles per litre).

OHS Regulations 2007	OHS Regulations 2017
4.4.5(2) Medical examinations and biological monitoring	Regulation 181(2) Medical examinations and biological monitoring

The requirement for haematocrit correction during biological monitoring of lead has been removed from the OHS regulations 2017.

This is a minor change to remove unnecessary prescription and allow reporting in accordance with standard practices and in a way that is consistent with other Australian states and territories.

## Part 5.1 – Construction

The key changes to the Construction regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Changes to registration requirements regarding construction induction requirements	No longer required to be legislated to undertake construction work

The references to 'registration' in relation to the construction induction training requirements have been removed. Changes have also been made to ensure that the provisions refer directly to the requirement to undertake construction induction training and to hold a 'construction induction training card' (CI card) evidencing that training has been undertaken.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.1.6 Self-employed person to have the same duties as an employer	This provision has been removed.

The provision in the OHS Regulations 2007, which specifies that self-employed persons have the same duties as an employer, has been removed.

'Self-employed person' will now be specifically referenced in any regulation where a self-employed person has a duty and where such a duty is required to be compliant with the OHS Act.

OHS Regulations 2007	OHS Regulations 2017
No equivalent regulation.	Regulation 331 Emergency procedures

Employers and self-employed persons are now required to develop emergency procedures if there is a risk of a person becoming engulfed by soil or other material when construction work is being performed.



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## Part 5.2 – Major Hazard Facilities

The key changes to the Major Hazard Facilities regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.2.5 Safety Management System	Regulation 372 Safety management system

Regulation 5.2.5 of the OHS Regulations 2007 sets out the core content required in a Safety Management System (SMS) and specifies it must also include the matters in Schedule 10.

To improve readability, all the SMS content requirements have been consolidated together in Schedule 15 of the OHS Regulations 2017.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.2.9 Emergency plan	Regulation 375 Emergency plan

Major Hazard Facility (MHF) operators must prepare emergency plans in conjunction with emergency services responsible for the area where the MHF is located and, in relation to the off-site consequences of a major incident, municipal councils in the area occupied by the local community.

While there is a duty to provide a copy of the plan to consulted emergency services, there is currently no requirement to provide any part of the plan to relevant municipal councils.

To enable municipal councils to be prepared and respond more quickly in the event of a major incident, a new requirement has been added to the OHS Regulations 2017 to provide municipal councils in the area occupied by the local community with a copy of the parts of the emergency plan relevant to the off-site consequences of a major incident.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.2.15 Content of a Safety Case	Regulation 385 Content of safety case

Regulation 5.2.15 sets out core information that a Safety Case must contain, as well as matters the Safety Case must be able to demonstrate. It specifies that a Safety Case must also include all the information specified in Schedule 12.

To improve readability, all necessary Safety Case content requirements have been consolidated together in Schedule 17 of the OHS regulations 2017.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.2.17 Review of Safety Case	Regulation 387 Review of safety case

An operator of a major hazard facility must review and revise the Safety Case in response to specified triggers. As soon as reasonably possible after any revision, the operator must provide a full copy of the revised Safety Case to WorkSafe.

To provide operators with more flexibility, under the OHS Regulations 2017 they are now allowed to provide WorkSafe with details of the changes made to the Safety Case rather than the entire revised Safety Case. An operator could still provide the entire revised Safety Case by choice, and would be required to do so upon a request by WorkSafe.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.2.27 Operators of certain facilities to notify Authority	Regulation 360 Operators of certain facilities to notify Authority

Regulation 5.2.27 requires an operator of a facility at which Schedule 9 materials are present (or likely to be present) in a quantity exceeding 10 per cent of their threshold but less than their threshold to notify WorkSafe.

Under this provision a facility holding materials at or above threshold is not technically required to notify WorkSafe of this fact, although if holding materials above threshold it would have to be registered or licensed in order to operate.

To address this anomaly, 5.2.27 has been amended at r.360 of the OHS regulations 2017 to require a facility operator to notify WorkSafe where materials are present in a quantity exceeding 10 per cent of their threshold. This will simplify notification requirements and ensure that there is no gap in coverage of the regulations.

OHS Regulations 2007	OHS Regulations 2017
Schedule 9 Materials at Major Hazard Facilities (and their thresholds)	Schedule 14 Materials at major hazard facilities and their threshold quantities

The term 'major hazard facility' is defined by reference to the hazardous materials and thresholds set out in Schedule 9 of the OHS Regulations 2007. As such, the content of Schedule 9 defines the scope of Part 5.2.

For this reason it is important that materials and threshold quantities described in Schedule 9 reflect the current state of knowledge around risk associated with the mass storage of hazardous materials.

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Schedule 9, which is now Schedule 14 in the OHS Regulations 2017, has been updated to ensure current state of knowledge around major hazard facilities risks is reflected in the regulations. Major hazard facility operators will need to review the revised Schedule to determine whether any changes to material descriptions or thresholds affect their operations. For example, operators should consider whether any hazardous materials they have on site are subject to a revised threshold quantity.

OHS Regulations 2007	OHS Regulations 2017
Schedule 11 Matters to be included in Emergency Plan	Schedule 16 Matters to be included in major hazard facility emergency plan

Schedule 11 of the OHS Regulations 2007 specifies matters that must be included in an emergency plan prepared for a major hazard facility (MHF).

An express requirement that an MHF operator consider the protection of emergency services personnel when preparing an emergency plan has been inserted in the OHS Regulations 2017.

The change is intended to ensure that the potential impact of a major incident on first responders is planned for as part of the preparation and implementation of the facilities' emergency plan.

OHS Regulations 2007	OHS Regulations 2017
Schedule 12 Additional matters to be included in Safety Case	Schedule 17 Additional matters to be included in major hazard facility safety case

As an operator of a major hazard facility, you no longer have to graphically present demographic information for the local community in your safety case.

You now have a duty to provide seismic data in the safety case where it is relevant to the risk of a major incident at a major hazard facility. The likelihood and consequence of a major incident may be affected by the type and nature of any seismic activity posing a risk and it is therefore useful to have this data included in a safety case where it is relevant.

You now also have a duty to provide a summary of any notifiable incidents (i.e. incidents that require notification to WorkSafe under Part 5 of the OHS Act) that have occurred at the major hazard facility in the last five years, in addition to major incidents as shown at Item 10. This is intended to ensure that operators address hazards and risks highlighted by previous incidents, including those that may not fall within the definition of a 'major incident'.

Requirements in the rest of the Schedule are unchanged.

## Part 5.3 – Mines

The key changes to the Mines regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.3.2 What is a mining hazard?	Regulation 400 What is a mining hazard?

The list of mining hazards has been consolidated to align with the Model WHS terminology for principal mining hazards and the remaining mining-hazards types have been retained in the OHS Regulations 2017.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.3.11 Who may enter mine	Regulation 408 Who may enter mine

Flexibility for young workers has been introduced in the OHS Regulations 2017 by allowing:

- an apprentice or trainee over 16 years but under 18 years to work in an underground mine if they are under direct supervision (direct supervision is defined)
- a person under the age of 16 years to work at the mine but not to carry out work in any open cut workings or in an underground mine.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.3.18 Communication in the event of an employee working alone	Regulation 415 communication in the event of an employee working alone

The duty that all mining operators must ensure, so far as is reasonably practicable, that there are available means for 'constant communication' with an employee who is working alone at an isolated location at a mine has been amended in the OHS Regulations 2017, so that the operator must instead provide an 'effective' means of communication.

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OHS Regulations 2007	OHS Regulations 2017
Regulation 5.3.30 Working environment	Regulation 429 Working environment

The requirement that mining operators ensure air is maintained at a safe level 'throughout the mine' to only 'areas in the mine in which persons work or travel' has been amended in the OHS Regulations 2017.

OHS Regulations 2007	OHS Regulations 2017
Regulation 5.3.34 Emergency plan	Regulation 433 Emergency plan

Regulation 5.3.34 has been amended to require the operator of a prescribed mine to provide relevant parts of the emergency plan to municipal councils.

This improves safety standards by assisting municipal councils be prepared and respond more quickly in the event of an incident affecting the health or safety of people in the area surrounding a mine.

## Part 6.1 – Licences

The key changes to the Licences regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 6.1.1 Matters to be included in licence applications	Regulation 449 Matters to be included in licence application

The mechanism for conversion of expired old certificates (i.e. certificate of competency and old style certificates issued under former legislation) to current high risk work licences at regulation 6.1.1(2) of the OHS Regulations 2017 has been removed.

The OHS Regulations replaced certificates of competency with high risk work licences in 2007 and provided for the phased expiry of all old certificates by 30 June 2012.

The change will therefore close a 10 year transition period for the conversion of old certificates to high risk work licences.

OHS Regulations 2007	OHS Regulations 2017
Regulation 6.1.9 Additional information to be included in licence application	Regulation 458 Additional information to be included in high risk work licence application

Regulation 6.1.9(b) from the OHS Regulations 2007 has been amended to require an application for a high risk work licence to include a notice of assessment (satisfactory) and remove references to statement of attainment.

Only a notice of assessment (satisfactory) will be recognised as evidence of a person's competency in a licence application.

OHS Regulations 2007	OHS Regulations 2017
Regulation 6.1.13 Additional information to be included in licence application	Regulation 462 Additional information to be included in asbestos removal licence application

If you are applying for an asbestos removal licence, you are now required to declare whether or not you have ever been found guilty of an offence under specified Environment Protection laws, where the offence relates to the transport or disposal of asbestos.

OHS Regulations 2007	OHS Regulations 2017
Regulation 6.1.24 Authority may impose terms and conditions on licences	Regulation 473 Authority may impose terms and conditions on licence

Regulation 6.1.24 from the OHS Regulations 2007 has been amended in the OHS Regulations 2017 to make explicit the ability for WorkSafe to impose terms and conditions on a major hazard facility licence when a licence is transferred to another operator.

# Occupational Health and Safety Regulations 2017: Summary of Changes

## Part 6.2 – Registration

The key change to the Registration regulation is in relation to:

OHS Regulations 2007	OHS Regulations 2017
Division 4 Registration to perform construction work	Removed from the regulations.

Regulations concerning registration to perform construction work in Part 6.2 of the OHS Regulations 2007 have been removed.

The requirement to be registered will be discontinued but under changes to Part 5.1—Construction in the OHS Regulations 2017, workers will still be required to complete construction induction training and hold a construction induction card (subject to exceptions which have remained unchanged).

## Part 7.2 Exemptions

The key changes to the Exemption regulations are in relation to:

OHS Regulations 2007	OHS Regulations 2017
Regulation 7.2.10 Notice of exemptions to be given to individual applicants	Regulation 546 Notice of exemptions to be given to individual applicants
Regulation 7.2.13 Notice of refusal	Regulation 549 Notice of refusal
Regulation and 7.2.14 Variation or revocation of exemption	Regulation 550 Variation or revocation of exemption

These regulations have been amended in the OHS Regulations 2017 to ensure WorkSafe provides the required document within 14 days after making the decision to give a notice.

## Other changes across the regulations

OHS Regulations 2007	OHS Regulations 2017
Licensing and other fees – Set fees	Licensing and other fees – Fees provided by fee units

Where fees were prescribed in the OHS Regulations 2007, such as the fee for a licence or considering an exemption application, set fees were used. The OHS Regulations 2017 provide for fees by reference to fee units. Fee units have a meaning within the Monetary Units Act 2004 and they increase annually.

### Further information

For further information, contact the WorkSafe Advisory Service on **1800 136 089** or by email at: [ohsregsreform@worksafe.vic.gov.au](mailto:ohsregsreform@worksafe.vic.gov.au)

Further information is also available on the WorkSafe website: [worksafe.vic.gov.au](http://worksafe.vic.gov.au)