

TECHNICAL AMENDMENTS TO THE MODEL WORK HEALTH AND SAFETY (WHS) REGULATIONS

This list summarises key technical amendments to the model Work Health and Safety (WHS) Regulations made on 4 November 2011 and published in a revised version dated 9 January 2014. The amendments correct inadvertent errors, clarify policy intent and address workability issues. This register does not include simple typographical or cross-referencing errors.

Note: These amendments do not automatically apply. Each participating jurisdiction makes the amendments through their own law-making processes. Check details about implementation with your local WHS regulator.

	Provision	Technical amendment	Reason for technical amendment
1.	5	<u>Definition of 'amusement device'</u> Insert words ' <i>...or when passengers or other users travel or move on, around or along...'</i> '.	Clarification.
2.	5	<u>Definition of 'appropriate training in underwater medicine'</u> Omit. Omit the word 'appropriate' appearing in related para 169(a).	To remove an unnecessary reference to a technical standard and allow more detailed guidance to be developed around standards for courses and also available courses in each jurisdiction.
3.	5	<u>Definition of 'boiler'</u> Amend the paragraph (d) exclusion to additionally exclude: (iii) AMBSC Part 3— <i>Australian Miniature Boiler Safety Committee Code for Sub-miniature Boilers</i> , and (iv) AMBSC Part 4— <i>Australian Miniature Boiler Safety Committee Code for duplex boilers</i> .	Corrects inadvertent omission.
4.	5	<u>New definition of 'combustible dust'</u> Insert new definition.	Consequential upon omitting the definition of 'hazardous area'. This approach omits out-of-date references to technical standards in the original drafting and instead uses a simpler, substantive and self-contained definition.
5.	5	<u>Definition of 'combustible liquid'</u> Omit. Include jurisdictional note to allow for local definitions to be inserted.	To correct a confusing reference to 'flammable liquids' in the original definition. The original definition is inconsistent with how the term is used in the Globally Harmonised System of Classification and Labelling of Chemicals or GHS. This includes 'flammable liquid IV' as a kind of 'combustible liquid'.
6.	5	<u>Definition of 'competent person'</u> Para (c)—add the words ' <i>...for a major inspection...'</i> '.	To better align with the requirements for major inspections in regulation 235.
7.		Para (d)—add the words ' <i>...for inspection of amusement devices and</i>	Consequential—to reflect proposed requirements for

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		<i>passenger ropeways...'</i> .	passenger ropeways.
8.	5	<u>Definition of 'concrete placement units with delivery boom'</u> Omit.	To correct a drafting error. The amendment gives effect to the agreed policy position that all concrete placing booms—not just those that are mobile—are registrable. The term 'concrete placement units with delivery boom' is too narrowly expressed for the registration requirements as it appears to inadvertently exclude fixed units. This was not intended. The proposed amendment fixes this anomaly by removing one of the two overlapping terms: 'concrete placement units with delivery boom' and 'concrete placing boom'. The amendment ensures that the broader definition of 'concrete placing boom' is used consistently across the regulations.
9.	5	<u>Definition of 'gantry crane'</u> Amend paragraph (a) of the definition so that it refers to a crane that ' <i>...consists of a bridge beam or beams that are supported at one or both ends by legs mounted to end carriages...'</i> .	To correct a drafting error. The amended definition of 'gantry crane' covers both the traditional 'two legged' gantry cranes and also the 'one legged' or semi-gantry cranes.
10.	5	<u>Definition of 'hazardous area'</u> Omit and replace.	To replace the definition with a more self-contained definition that does not rely on external technical standards.
11.	5	<u>Definition of 'incidental diving work'</u> Omit paragraph (c) of the definition and move to paragraph 172(1)(c).	To move requirement into a substantive provision to co-locate related provisions and improve readability.
12.	5	<u>New definition of 'inflatable device (continuously blown)'</u> Insert new definition. Insert new related definition of 'platform height'.	Consequential—to support the amendment to narrow the class of inflatable devices subject to design and item registration requirements (see below). Before harmonisation many jurisdictions registered amusement devices depending on their safety rating under a technical standard—AS 3533.1. Up-dates to the technical standard in 2009 meant that more devices were caught by the registration requirements than was previously the case. Some but not all jurisdictions picked up the 2009 revisions, meaning that amusement devices were not being consistently design and item registered at the time the new model WHS laws were introduced. The amendment is intended to restore the status quo for many jurisdictions, consistent with the now-superseded national plant standard.
13.	5	<u>New definition of 'passenger ropeway'</u> Insert new definition.	Consequential—to support the amendment to restore a design registration requirement and related maintenance

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			<p>etc. requirement for certain passenger ropeways.</p> <p>Historically many jurisdictions registered certain ‘passenger ropeways’ like ski lifts as a kind of ‘amusement device’. These registration requirements relied on the definitions in a technical standard—AS 3533.1.</p> <p>When this was up-dated in 2009 ‘passenger ropeways’ were excluded from scope and a stand-alone technical standard was created.</p> <p>Some but not all jurisdictions picked up the 2009 revisions, meaning that some (a minority) but not all jurisdictions ceased registering passenger ropeways at the time the new model WHS laws were introduced.</p> <p>The amendment is intended to restore the status quo for many jurisdictions in relation to design registration requirements only.</p> <p>Item registration requirements are not supported due to the well-known location of these kinds of ropeways.</p>
14.	5	<p><u>Definition of ‘specified VET course’</u></p> <p><u>Para (b):</u> Omit subparagraphs (i) and (ii) and replace with a reference to the one VET course.</p> <p>Consequential amendment to paragraph 498(a)(ii)(B).</p>	<p>Correction.</p> <p>Only the VET course <i>Remove friable asbestos</i> needs to be cited as it automatically covers course material in relation to both friable and non-friable asbestos.</p>
15.	5	<p><u>Definition of ‘specified VET course’</u></p> <p><u>Para (f):</u> Insert new paragraph (f) in relation to high risk work.</p>	Corrects inadvertent omission.
16.	5 171(a)	<p><u>Definition of ‘specified VET course’</u></p> <p>Insert jurisdictional note.</p>	To allow jurisdictions to prescribe a specified VET course or courses for general diving work (if any).
17.	21(2) 25(3)	Amend the requirement from something the regulator <u>must</u> do to something they <u>may</u> do.	Correction to align with agreed policy.
18.	82(1A), (1B)	<p>Insert new subregulations (1A) and (1B) plus consequential amendments including omitting paragraph (1)(b).</p> <p>Consequential amendments to regulation 85.</p>	<p>Clarifies licensing requirements for ‘high risk work’ do not apply for a limited time after the relevant qualifications have been attained and during formal assessments by an accredited assessor.</p> <p>The exemption previously operated from when an application was made, which isn’t always readily ascertainable.</p>
19.	82(3)	Re-draft for clarity.	Re-draft to clarify that operating plant to only load or unload it does not require a high risk work licence.
20.	85(4)	Re-draft for clarity.	To clarify only a record of the written evidence provided under the regulation must be kept—not the original licence document or other acceptable form of evidence.
21.	87(2)(b)	Omit the word ‘recent’ plus	Clarification.

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	93(2)(b) 101(2)(b) 516(2)(b) , (c)	consequential amendments.	Applications for a high risk work licence and similar licences must be made in the manner and form required by the regulator. The reference to a 'recent' photograph in paragraph 87(2)(b) and elsewhere is considered ambiguous. The proposed amendment removes this reference while still allowing the regulator to specify requirements for photographs in more practical detail (for example on a form).
22.	91A	91A—Clarify how conditions of licence may be added to a high risk work licence. Consequential amendments to: 104(1)(b), 106(1)(ab), 106(3) and (4), 108(1) and (2), 109(2)(v) and (vi)	New regulation 91A makes explicit the regulator's power to impose conditions on high risk work licences. This ensures consistency with the drafting of similar provisions elsewhere. The amendments clarify how conditions may be imposed and build in requirements for procedural fairness.
23.	93(2)(f)	Omit paragraph (2)(f).	Correction. The amendment removes a requirement for licence documents to specify licence conditions. This level of detail is not usually provided on licences.
24.	106(1)(a) b), (3), (4)	Add new paragraph 106(1)(ab) to deal with suspensions or cancellations of a licence if there has been a breach of licence conditions. Add new subregulations 106(3), (4).	Consequential to reflect new regulation 91A.
25.	108	Add new paragraph 108(1)(c) with consequential amendments.	Consequential to reflect new regulation 91A.
26.	109(2)(b)	Add new subparagraphs 109(2)(b)(v), (vi).	Consequential to reflect new regulation 91A.
27.	152	Omit the word 'generate'. Amend jurisdictional note.	To clarify the exception at regulation 152 applies in relation to electricity supply—not generation. The jurisdictional note allows jurisdictions to amend the model provision to give effect to the intended policy. This flexibility is necessary as jurisdictions regulate the electricity supply sector differently—for example under competition laws. This means additional local provision may need to be made to clarify the scope of the exception.
28.	161(4)(a) (ii)	Insert the words '...to rescue <i>and resuscitate</i> the worker...'	Corrects inadvertent omission.
29.	169(a)	Omit the word 'appropriate'.	Consequential upon omitting the definition of 'appropriate training in underwater medicine'.
30.	171(a), (b)	Restructure by splitting into two regulations and moving paragraph 171(b) into new regulation 171A.	To clarify policy intent and improve readability.
31.	Old 171(a)(ii)	Amend old subparagraph 171(a)(ii) so it references both AS/NZS 4005.2 and	To recognise competency requirements listed in either technical standard (or part of the standard) may be relevant

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		AS/NZS 2815.	<p>to a person's general diving work.</p> <p>AS/NZS 2815 is the leading technical standard prescribing competencies for different classes of occupational diving. AS/NZS 4005.2 is a carve-out, and prescribes competency requirements for the recreational diving sector only.</p> <p>Which part applies is ultimately determined by the kind of general diving work an occupational diver undertakes.</p> <p>The amendment avoids any suggestion that a person only needs to achieve competencies relevant to the recreational diving sector to undertake any kind of general diving work.</p>
32.	171A (previously 171(b))	Add 'emergency procedures' to the list of requirements at re-numbered paragraph 171A(1)(g). (old subparagraph 171(b)(vii)).	Corrects inadvertent omission.
33.	172	Add paragraph (1)(c), previously included in the definition of 'incidental diving work' in regulation 5.	Corrects drafting error by co-locating all related, substantive requirements.
34.	217	Omit regulation.	<p>To address unintended consequences and workability issues—particularly where there may be little or no relevant risks posed to operators of certain kinds of earthmoving machinery e.g. pavers.</p> <p>This will allow the relevant Code(s) or guidance material to better explain when protective structures should be fitted to earthmoving machinery and minimum acceptable standards for those structures.</p>
35.	235(2), (3), (6)	<p>Simplify and streamline subregulations (2) and (3).</p> <p>Insert new definition of 'major inspection' at subregulation (6).</p>	<p>To clarify the requirements prescribed by the regulation apply in relation to 'major inspections' only.</p> <p>The new wording allows a 'major inspection' to be carried out by <i>or under the supervision of</i> a 'competent person' as defined. This aligns better with the applicable model Code of Practice.</p> <p>The new definition of 'major inspection' is provided for clarity.</p>
36.	235(3)	Insert new subregulation (3).	<p>New subregulation (3) allows for the automatic recognition of 'major inspections' carried out interstate, providing they were carried out under and in accordance with corresponding WHS laws.</p> <p>This means, providing these conditions are met, there is no need to 're-do' a major inspection if equipment is moved interstate—for example by an engineer registered in a particular state or territory.</p>
37.	Part 5.2, Divn 4, Subdn 2, regs 238, 239, 240, 241	Amend so that relevant provisions apply to 'passenger ropeways' as defined.	To extend relevant requirements under regulations 238, 239, 240 and 241 to 'passenger ropeways' as defined. This aligns the requirements for passenger ropeways with most requirements for amusement devices (excepting the regulation 242 logbook requirements).

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			See item 13 above for the policy rationale.
38.	241(5)	Amend 'competent person' requirements for the annual inspection of certain registrable inflatable devices.	<p>To apply a risk-based approach to annual inspection requirements for registrable inflatable devices.</p> <p>The proposed amendment ensure the more stringent qualification requirements apply to higher-risk inflatable devices only—that is registrable inflatable devices (continuously blown) with platform heights of nine metres or more.</p> <p>For registrable inflatables devices under this platform height the general 'competent person' requirements continue to apply. For more information see item 55.</p>
39.	241(7)	Insert new subregulation (7).	As for item 36 above.
40.	244(3)	Insert an exception that removes the requirement to design register a site-specific alteration to a crane foundation or ties.	<p>To clarify site-specific design information about crane foundations and ties does not need to be re-registered as an 'alteration' each time a crane is re-located, in the circumstances set out in subregulation 244(3). This change will assist in the uniform implementation of these registration requirements.</p> <p>This does not affect the duty to register the underlying design—which may include generic design information about foundation, ties and similar elements (e.g. static bases).</p>
41.	252(2) and (3)	Omit external verification requirements for in-house designs in subregulations 252(2) and (3).	To omit third-party verification requirements to address unintended consequences and workability issues.
42.	266(2)(f)	Omit paragraph (2)(f).	To remove duplication—duplicate provision exists at subregulation 266(2)(i).
43.	Part 5.3, Divn 6	Insert new Division 6—Cancellation of registration (regulations 288A – 288D).	<p>New Division 6 of Part 5.3 makes explicit the regulator's power to cancel a registration issued (or preserved) under the Part. This ensures consistency with the drafting of similar provisions elsewhere.</p> <p>There is a pre-existing power to cancel registrations at general law—but the amendments build in important requirements of procedural fairness, including certain rights to have a decision reviewed.</p> <p>A jurisdictional note gives jurisdictions the flexibility to omit the new Division, depending on how it would work with any overlapping local laws.</p>
44.	318	Amend subregulation 318(1) by clarifying that the general construction induction training provisions cover the Part (not just the Division) and that the cards are not subject to terms and conditions, suspension or expiry.	Correction.
45.	348(2)(c)	Omit paragraph 348(2)(c).	To remove duplication with subregulation (4).
46.	421	Dis-apply certain requirements of Part 8.3 so they do not apply to any	Correction to give effect to the agreed policy intention about the scope of requirements for asbestos registers and

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		part of residential premises that is used only for residential purposes.	management plans.
47.	530(1)	Amend the title of the cited authority.	Up-date.
48.	547(1)(c)	Clarify the circumstances under which a re-notification must occur (in relation to major hazard facilities).	To clarify the triggers for re-notification under Part 9.2 (Determinations about Major Hazard Facilities) apply in the prescribed circumstances, whether or not an inquiry was previously conducted.
49.	676(1), table	Insert new items.	Consequential upon the insertion of several new provisions including regulation 91A and regulations 288A – 288D. Corrects several inadvertent omissions.
50.	700	Omit reference to size of the photograph that must be provided.	For consistency with comparable provisions, which allow the regulator to determine specific requirements for photographs (not just size).
Schedule 3, High risk work licences and classes of high risk work			
51.	Sch 3, items 15 – 18.	Insert new licence ‘encompassment’ provisions for these items.	<p>Corrects inadvertent omission and ensures consistent implementation.</p> <p>Under pre-harmonised WHS laws (or under administrative arrangements) most WHS regulators ‘encompassed’ certain related licence classes. These arrangements allowed holders of a licence ranked ‘higher’ in the class operate plant covered by a ‘lower’ licence class automatically without the need for an additional licence. In other words the ‘higher’ licence already ‘encompassed’ all licences ranked lower in the hierarchy.</p> <p>The amendments restore the status quo by allowing licence holders of slewing mobile cranes to operate:</p> <ul style="list-style-type: none"> —a non-slewing crane —a vehicle loading crane (excluding ‘dogging’ work), and —a reach stacker. <p>The amendments clarify these arrangements do not allow the holder of a slewing crane class licence to apply load estimation and slinging techniques to move a load.</p>
Schedule 5, Registration of plant and plant designs			
52.	Sch 5, Pt 1, new item 1.8A	Insert new item 1.8A.	Corrects inadvertent omission—see item 13 above.
53.	Sch 5, Pt 1, item 1.9 Sch 5, Pt 2, item 3.7	Replace the term ‘concrete placement units with delivery booms’ with ‘concrete placing boom’.	Corrects inadvertent omission—see item 8 above.
54.	Sch 5, Pt 1, item 1.10	Omit the words ‘and prefabricated formwork’.	To remove the proposed new design registration requirement for ‘prefabricated formwork’, to address unforeseen workability issues.
55.	Sch 5, Pt 1, cl	Re-draft the registration requirement for amusement	To apply a risk-based approach to determining design and

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	2(2)(e), (f) Sch 5, Pt 2, cl 4(2)(e), (f)	devices that are also inflatable devices.	item registration requirements inflatable devices. Previously inflatable devices were not registrable if they were sealed or did not use a non-return valve. This exception is considered too narrow as it leaves too many lower-risk inflatable devices subject to registration requirements and related inspection and maintenance requirements. The amendments reduce the number of registrable inflatable devices, based on risk. Only those inflatable devices (continuously blown) with a platform height of three metres or more are registrable.
56.	Sch 5, Pt 1, cl 2(1)(ab) Sch 5, Pt 2, cl 4(1)(a)	Add an exception to plant registration requirements: any pressure equipment (other than a gas cylinder) excluded from scope of AS 1200:2000 (Pressure equipment).	To clarify pressure equipment (other than a gas cylinder) is not registrable if it falls outside scope of AS 1200:2000 (Pressure equipment). This clarifies that—for purposes of determining registration requirements under the Schedule—AS 4343:20005 (Pressure equipment—hazard levels) must be read subject to its ‘parent’ standard, AS 200:2000 (Pressure equipment). Exceptions for gas cylinders are dealt with elsewhere.
57.	Sch 5, Part 1, cl 2(1)(ba) Sch 5, Pt 2, cl 4(1)(c)	Add new paragraph 2(1)(ba) ‘a reach stacker’.	To clarify reach stackers are not design registrable (for example as a kind of non-slewing mobile crane).
Schedules 10 – 16			
58.	Sch 10, Table 10.3, item 10	Replace ‘0.1%’ with ‘1%’.	To address workability issues. The change brings the threshold back into line with ‘best practice’ under pre-harmonised laws, while addressing concerns about the workability of the ‘0.1%’ requirement.
59.	Sch 10, Table 10.3, item 10	Omit the words ‘For spray painting’.	Corrects inadvertent inclusion. This entry was inadvertently included following a transcription error.
60.	Sch 11, Table 11.1, items 10, 32, 43	New figures for items 10 and 32 of Table 11.1 and new item 43.	Correction.
61.	Sch 13, cl 1(2)(e) Sch 16, cl 1(1.2)(c), 2(2.3), 2(2.5), 3(3.1) and 3(3.4)	Use the defined term ‘emergency service organisation’ rather than variants.	For consistency in use of the term across the regulations.
62.	Sch 15, cl 1	Omit definitions for LD ₅₀ and LC ₅₀ in Schedule 15.	Consequential. To better align with proposed changes to Table 15.3 of Schedule 15, by relying on the widely accepted and understood meanings of these terms. For scientifically accepted definitions of LD50 and LC50 see for example the <i>Globally Harmonised System of</i>

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			<i>Classification and Labelling of Chemicals</i> , Third revised edition, and the relevant OECD Test Guidelines.
63.	Sch 15, Table 15.3	Various amendments to values.	Correction to align with relevant dangerous goods code and restore the status quo.