

## 5. Regulation 43 substituted

Regulation 43 of the Principal Regulations is rescinded and the following regulation is substituted:

### 43. Expiry of certain certificates of competency

[Schedule 13](#) has effect with respect to the expiry of certain certificates of competency.

## 6. Part 3, Division 3A inserted

After regulation 44 of the Principal Regulations, the following Division is inserted in Part 3:

### *Division 3A - Licensing requirements for high risk work*

#### 44A. Definitions

In this Division, unless the contrary intention appears –

**"equivalent certificate of competency"** means –

(a) a certificate of competency issued under Division 3 in relation to a task that is high risk work; or

(b) a certificate of competency issued by an interstate certifying authority in relation to a task that is high risk work;

**"equivalent licence"** means a licence to perform high risk work issued by an interstate certifying authority;

**"high risk work"** means any work or task which is set out in [Schedule 5](#);

**"high risk work licence"** means a licence to perform high risk work issued under this Division;

**"National Standard"** means the National Standard for Licensing Persons Performing High Risk Work issued by the Australian Safety and Compensation Council.

#### 44B. Requirement to hold high risk work licence

(1) A person must not perform high risk work unless the person holds, in respect of that high risk work –

(a) a high risk work licence; or

(b) an equivalent licence; or

(c) an equivalent certificate of competency.

Penalty:

Level 2.

(2) An accountable person must not direct a person to perform high risk work unless the person so directed holds, in respect of that high risk work –

(a) a high risk work licence; or

(b) an equivalent licence; or

(c) an equivalent certificate of competency.

Penalty:

Level 2.

(3) [Subregulations \(1\)](#) and [\(2\)](#) do not apply if –

(a) the person performing the high risk work is undertaking training under direct supervision of a person who holds, in respect of that work –

(i) a high risk work licence; or

(ii) an equivalent licence; or

(iii) an equivalent certificate of competency; or

(b) the person performing the high risk work is having his or her competence assessed; or

(c) the high risk work being performed is maintenance, testing or repair work and –

(i) the equipment is not used or operated under normal operating conditions; and

(ii) the person in control of the work is a competent person; or

(d) the person performing the high risk work is covered by an industry-based accreditation system approved by the Director.

(4) [Subregulations \(1\)](#) and [\(2\)](#) do not apply if a registered assessor has issued to the person performing the high risk work a notice of satisfactory assessment indicating that the person is competent to perform that work.

(5) A notice of satisfactory assessment remains in force until any of the following occurs:

- (a) the expiration of the period of 60 days after the date of issue of the notice;
- (b) the person in respect of whom the notice was issued receives notice that his or her application for a high risk work licence has been refused;
- (c) the person is issued with a high risk work licence.

(6) The Director, on written application by the person applying for a licence, may extend the period referred to in [subregulation \(5\)\(a\)](#) by a period not exceeding 20 days.

#### **44C. Application for high risk work licence**

(1) An application for a high risk work licence may be made by a person –

- (a) who a registered assessor is satisfied meets the eligibility requirements for that high risk work; or
- (b) who the Director is satisfied holds an equivalent certificate of competency for that high risk work; or
- (c) who the Director is satisfied is otherwise qualified to perform that high risk work.

(2) For the purpose of [subregulation \(1\)](#), the eligibility requirements are –

- (a) any conditions of eligibility for that work specified in the National Standard; and
- (b) any other requirements determined by the Director.

(3) An application under [subregulation \(1\)](#) is to be –

- (a) in an approved form; and
- (b) accompanied by –
  - (i) verification of the applicant's identity and age; and
  - (ii) any information required by the Director or specified in the National Standard for an application for that high risk work; and
  - (iii) the application fee prescribed in [Part 1](#) of [Schedule 12](#) and the applicable licence fee prescribed in Part 3 of that Schedule.

(4) A person applying for a high risk work licence is to submit to the taking of a photograph, by an approved person, for inclusion on the licence.

#### **44D. Issue of high risk work licence**

(1) On receipt of an application for a high risk work licence the Director may –

- (a) grant the application; or
- (b) refuse to grant the application.

(2) The Director may grant an application subject to such conditions as the Director considers appropriate.

(3) If the Director grants an application, the Director is to issue the applicant with a licence, to be known as a high risk work licence.

(4) If the Director refuses to grant an application, the Director is to –

- (a) give written notice of the refusal and the reasons for it to the applicant and, if applicable, the registered assessor; and
- (b) refund the licence fee to the applicant.

(5) If the Director is not satisfied that an applicant for a high risk work licence is competent to perform the work of a class applied for but is satisfied that the person is competent to perform work of some other class, the Director may grant to the applicant a high risk work licence restricted to that other class of work.

(6) A licence issued under this regulation is to be –

- (a) in an approved form; and
- (b) endorsed for all classes of high risk work that the person is competent to perform; and
- (c) issued for a period of up to 5 years.

#### **44E. Licence endorsement for additional classes of high risk work**

(1) A person who holds a high risk work licence or an equivalent licence and –

- (a) who a registered assessor is satisfied meets the eligibility requirements for an additional class of high risk work; or
- (b) who the Director is satisfied is otherwise qualified to perform an additional class of high risk work –

may apply to the Director for his or her licence to be endorsed with that additional class of high risk work.

(2) An application under [subregulation \(1\)](#) is to be –

(a) in an approved form; and

(b) accompanied by –

(i) any information required by the Director or specified in the National Standard for an application for that additional class of high risk work; and

(ii) the application fee prescribed in [Part 1](#) of [Schedule 12](#) and the applicable licence fee prescribed in Part 3 of [Schedule 12](#).

(3) The Director may –

(a) grant an application; or

(b) refuse to grant the application.

(4) The Director may grant an application subject to such conditions as the Director considers appropriate.

(5) If the Director grants an application, the Director is to endorse the licence with the additional class of high risk work.

(6) If the Director refuses to grant an application, the Director is to –

(a) give written notice of the refusal and the reasons for it to the applicant and, if applicable, the registered assessor; and

(b) refund the licence fee to the applicant.

#### **44F. Notification of change of circumstances**

(1) A person who holds a high risk work licence must notify the Director in writing within 14 days after either of the following:

(a) the person changes his or her name, residential address or address for service of notices;

(b) the person becomes incapable of competently performing the high risk work for which the licence is endorsed due to physical or mental incapacity or any other reason.

Penalty:

Level 1.

(2) If a person who holds an equivalent licence has that licence suspended or cancelled, he or she must notify the Director in writing within 14 days after receiving notice of that suspension or cancellation.

Penalty:

Level 1.

#### **44G. Cancellation or suspension of high risk work licence**

(1) The Director, by notice in writing served on the holder of a high risk work licence, may cancel or suspend the licence for a period that the Director considers appropriate if satisfied that the holder –

(a) has obtained the licence on the basis of false or misleading information; or

(b) has failed to act competently; or

(c) is no longer competent to perform the high risk work for which the licence is endorsed without risk to the health or safety of the holder or another person; or

(d) has contravened or failed to comply with the Act or these regulations.

(2) Before cancelling or suspending a high risk work licence, the Director may by notice in writing require the licence holder to appear before the Director or a person or persons nominated by the Director to show cause why the licence should not be cancelled or suspended.

(3) A notice by the Director under [subregulation \(2\)](#) is to be delivered to the licence holder, or sent by registered mail, not less than 14 days before the day the licence holder is to appear.

(4) The holder of a high risk work licence must surrender any cancelled or suspended licence to the Director within 7 days after receiving notice of the cancellation or suspension.

Penalty:

Level 1.

(5) If a high risk work licence relates to more than one class of high risk work, the Director may cancel or suspend the licence in relation to any or all of those classes.

(6) If the Director cancels or suspends a high risk work licence in relation to a class of high risk work, the Director is to take possession of the licence and reissue the licence omitting any endorsement for the class of high risk work to which the cancellation or suspension relates.

#### **44H. Reciprocal cancellation or suspension**

(1) If an interstate certifying authority –

(a) recommends that the holder of a high risk work licence should have that licence cancelled or suspended; and

(b) informs the Director of that recommendation –

the Director may cancel or suspend the licence accordingly.

(2) If the Director does not cancel or suspend the licence, the Director is to advise the Minister in writing of the reasons for not cancelling or suspending the licence.

#### **44I. Register of qualifications**

Before allowing or directing a person to perform high risk work, an accountable person must –

(a) confirm that the person is appropriately qualified to perform the work; and

(b) ensure that –

(i) details of the person's qualifications are recorded in a register at the workplace and that the register is available for inspection by an employees' safety representative or an inspector; or

(ii) the person is carrying his or her high risk work licence, equivalent licence or equivalent certificate of competency while performing the high risk work.

Penalty:

Level 3.

#### **44J. Expiry and renewal of high risk work licence**

(1) A high risk work licence expires –

(a) 5 years after the date of its issue (inclusive of that date) unless otherwise specified in writing by the Director; or

(b) if the licence is issued for a period of less than 5 years, at the end of that period, or at such earlier time as the Director may specify in writing.

(2) A person may apply to the Director for the renewal of a high risk work licence not more than 3 months before the licence expires.

(3) An application for renewal is to be –

(a) in an approved form; and

(b) accompanied by –

(i) any information required by the Director or specified in the National Standard for an application for renewal of that licence; and

(ii) the application fee prescribed in [Part 1](#) of [Schedule 12](#) and the renewal fee prescribed in [Part 4](#) of that Schedule.

(4) A person applying for renewal of a high risk work licence is to submit to the taking of a photograph, by an approved person, for inclusion on the licence.

(5) The Director may –

(a) grant an application for renewal, with or without conditions; or

(b) refuse to grant the application.

(6) If the Director refuses to grant an application for renewal, the Director is to refund the renewal fee to the applicant and advise the applicant of the reasons for the refusal.

(7) A high risk work licence is renewed subject to any conditions specified in the licence as renewed.

(8) If an application to renew a high risk work licence is granted before the licence expires, the period referred to in [subregulation \(1\)](#) starts on the day after the licence expires.

#### **44K. Issue of replacement high risk work licence**

On payment of the fee prescribed in [Part 2](#) of [Schedule 12](#), the Director may issue a replacement licence if satisfied that a high risk work licence has been lost, damaged or destroyed or that it is otherwise appropriate to do so.

## 10. Schedule 1 amended (Definitions)

Clause 1 of Schedule 1 to the Principal Regulations is amended as follows:

(a) by omitting "Workplace Safety Board of Tasmania" from the definition of "**approved authority**" and substituting "Director";

(b) by inserting "or a licence to perform high risk work" after "competency" in the definition of "**interstate certifying authority**";

(c) by omitting the definition of "**specified task**" and substituting the following definition:

"**specified task**" means any work or task determined by the Director to be a specified task;

## 11. Schedule 5 substituted

Schedule 5 to the Principal Regulations is rescinded and the following Schedule is substituted:

### **SCHEDULE 5 - High risk work**

#### [Regulation 44A](#)

1. Any work or task which is within the following classes of work as defined in the National Standard for Licensing Persons Performing High Risk Work issued by the Australian Safety and Compensation Council:

(a) self-erecting tower cranes;

(b) fork-lift operation, including –

(i) fork-lift truck operation, excluding pedestrian walk-behind or pallet trucks; and

(ii) order-picking fork-lift truck operation.

2. Any work or task which is within the following classes of work as defined in the National Occupational Health and Safety Certification Standard for Users and Operators of Industrial Equipment issued by the National Occupational Health and Safety Commission:

(a) crane and hoist operation, including –

- (i) tower cranes; and
- (ii) derrick cranes; and
- (iii) portal boom cranes; and
- (iv) bridge or gantry cranes; and
- (v) vehicle-loading cranes; and
- (vi) non-slewing mobile cranes; and
- (vii) concrete-placing booms; and
- (viii) slewing mobile cranes (up to 20 tonnes); and
- (ix) slewing mobile cranes (up to 60 tonnes); and
- (x) slewing mobile cranes (up to 100 tonnes); and
- (xi) slewing mobile cranes (over 100 tonnes); and
- (xii) boom-type elevating work platforms; and
- (xiii) materials hoists (cantilever platform); and
- (xiv) hoists (personnel and materials);
- (b) pressure equipment operation, including –
  - (i) boiler operation – basic; and
  - (ii) boiler operation – intermediate; and
  - (iii) boiler operation – advanced; and
  - (iv) turbine operation; and
  - (v) reciprocating steam engine operation;
- (c) rigging work, including –
  - (vi) dogging; and
  - (vii) basic rigging; and

- (viii) intermediate rigging; and
- (ix) advanced rigging;
- (d) scaffolding work, including –
  - (i) basic scaffolding; and
  - (ii) intermediate scaffolding; and
  - (iii) advanced scaffolding.

## 12. Schedule 11 amended (Infringement notice offences)

Schedule 11 to the Principal Regulations is amended by inserting after item 6 in Part 2 the following items:

6A.	Regulation 44B(1)	Person fail to hold high risk work licence, equivalent licence or equivalent certificate of competency while performing high risk work	2.5
6B.	Regulation 44B(2)	Accountable person fail to ensure person directed to perform high risk work holds high risk work licence, equivalent licence or equivalent certificate of competency	2.5 5
6C.	Regulation 44F(1)	Holder of high risk work licence fail to notify Director of change in person's circumstances within 14 days	1
6D.	Regulation 44F(2)	Holder of equivalent licence fail to notify Director of suspension or cancellation of licence within 14 days	1
6E.	Regulation 44G(4)	Holder of high risk work licence fail to surrender cancelled or suspended licence to Director within 7 days of notice of cancellation or suspension	1
6F.	Regulation 44I	Accountable person fail to confirm person allowed or directed to perform high risk work is appropriately qualified and to ensure person's details are recorded in register or person carries licence or equivalent certificate	

## 13. Schedule 12 amended (Fees)

Schedule 12 to the Principal Regulations is amended as follows:

(a) by omitting item 1 from Part 1 and substituting the following:

	1.	Regulation 40(4)	Certificate of competency	29
1A.		Regulations 44C(3), 44E(2) and 44J(3)	Issue, endorsement or renewal of high risk work licence	16

(b) by inserting after paragraph (c) in item 3 in Part 2 the following:

4.	Regulation 44K	Fee for issue of replacement high risk work licence	28
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(c) by inserting after paragraph (b) in item 3 in Part 3 the following:

4.	Regulation 44C(3)	Issue of high risk work licence with–	
		(a) 3 or fewer endorsements	28

	(b) more than 3 endorsements	36
5.	Regulation 44C(3) Issue of high risk work licence to holder of equivalent certificate of competency	20
6.	Regulation 44E(2) Endorsement of high risk work licence with additional class of high risk work –	
	(a) 3 or fewer endorsements	12
	(b) more than 3 endorsements	20

(d) by omitting item 1 from Part 4 and substituting the following:

1.	Regulation 51(3) Renewal of registration as an assessor for –	
	(a) one class of high risk work	330.58
	(b) more than one class of high risk work	537.19

(e) by inserting after paragraph (b) in item 3 in Part 4 the following:

4. Regulation 44J(3) Renewal of high risk work licence 20

After Schedule 12 to the Principal Regulations, the following Schedule is inserted:

### **SCHEDULE 13 - Expiry of certain certificates of competency [Regulation 43](#)**

#### **1. Expiry dates for certain certificates of competency**

(1) Unless cancelled earlier, a certificate of competency issued on or before the date specified in item 1 of column 1, or within a period specified in item 2, 3, 4 or 5 of that column, expires on the date specified opposite that date or period in column 2.

(2) Subclause 1 does not apply to the following certificates of competency:

(a) a certificate of competency for a mine winder operation;

(b) a certificate of competency for gas fitting (natural gas);

(c) a certificate of competency for a specified task covered by an industry-based accreditation system approved by the Director.

<b>Column 1</b>	<b>Column 2</b>
1. 31 December 1995	30 June 2008
2. 1 January 1996 to 31 December 1998, inclusive	30 June 2009
3. 1 January 1999 to 31 December 2001, inclusive	30 June 2010
4. 1 January 2002 to 31 December 2004, inclusive	30 June 2011
5. 1 January 2005 to 31 October 2007, inclusive	30 June 2012