

**WESTERN
AUSTRALIAN
GOVERNMENT
Gazette**

959



PERTH, FRIDAY, 8 MARCH 2002 No. 41

SPECIAL

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.45 PM

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OCCUPATIONAL SAFETY AND HEALTH ACT 1984

**OCCUPATIONAL
SAFETY AND HEALTH
AMENDMENT
REGULATIONS (No. 2) 2002**

Occupational Safety and Health Act 1984

Occupational Safety and Health Amendment Regulations (No. 2) 2002

Made by the Governor in Executive Council.

1. Citation

These regulations may be cited as the *Occupational Safety and Health Amendment Regulations (No. 2) 2002*.

2. Commencement

These regulations come into operation on 1 July 2002.

3. The regulations amended

The amendments in these regulations are to the *Occupational Safety and Health Regulations 1996**.

[* *Reprinted as at 15 October 1999.*

For amendments to 26 February 2002 see 2000 Index to Legislation of Western Australia, Table 4, p. 239, and Gazette 30 March and 13 July 2001.]

4. Regulation 1.3 amended

Regulation 1.3 is amended in the definition of “construction work” as follows:

(a) after paragraph (e), by deleting “or”;

(b) after paragraph (f), by inserting —

“

or

(g) work in laying an underground cable or work related to laying an underground cable that is

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done at or adjacent to the place where the
cable is laid or to be laid;

”.

5. Regulation 1.11 amended

Regulation 1.11(2) is amended by deleting “30 June 1997” and
inserting instead —

“ 31 December 2001 ”.

6. Regulation 3.45 amended

Regulation 3.45 is amended as follows:

- (a) in paragraph (b) of the definition of “exposure standard
for noise” by deleting “L_{peak} of 140 dB(lin)” and
inserting instead —

“ L_{C,peak} of 140 dB(C) ”;

- (b) by deleting the definition of “L_{peak}” and inserting the
following definition instead —

“

“L_{C,peak}” means C-weighted peak noise level, that is to
say, the C-weighted peak hold sound pressure
level in decibels (dB(C)) referenced to
20 micropascals, determined in accordance with
AS/NZS 1269.1;

”.

7. Regulation 3.98 amended

Regulation 3.98(2) is repealed.

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8. Regulation 4.1 amended

Regulation 4.1 is amended as follows:

- (a) by deleting the definition of “crane” and inserting the following definition instead —

“

“**crane**” means plant that is used for the raising or lowering of a freely suspended load and moving a load horizontally and —

- (a) includes the supporting structure of the crane and its foundations;
- (b) does not include any industrial lift truck, industrial robot, building maintenance equipment, suspended scaffold or lift;

”;

- (b) in the definition of “earthmoving machinery”, by deleting “but does not include a tractor or an industrial lift truck”;

- (c) by deleting the definition of “electrical plant”;

- (d) in the definition of “elevating work platform”, by inserting after “located above” —

“ or below ”;

- (e) in the definition of “pressure equipment” by deleting “AS 3920.1 or”;

- (f) by deleting the definition of “tractor” and inserting the following definition instead —

“

“**tractor**” means a motor vehicle, whether wheeled or track mounted, designed principally to be used in agriculture, horticulture or turf management to provide power and movement of any attached trailer, machine or implement;

”.

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9. Regulation 4.2 amended

Regulation 4.2(1)(d) is amended by deleting “current”.

10. Regulation 4.7 amended

Regulation 4.7(1)(c)(ii) is amended by inserting before “the design” —

“ an item of plant manufactured in accordance with ”.

11. Regulation 4.10 amended

(1) Regulation 4.10 is amended by inserting before “If the” the subregulation designation “(1)”.

(2) At the end of regulation 4.10 the following subregulation is inserted —

“

(2) A person who sells or otherwise disposes of plant must give the person who acquires the plant the design registration number of the plant.

Penalty: \$25 000.

”.

12. Regulation 4.11 amended

Regulation 4.11 is amended by deleting “a self-employed person or a person having control of the workplace” and inserting instead —

“

a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

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r. 13**13. Regulation 4.14 amended**

(1) Regulation 4.14(1) is amended as follows:

- (a) by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”;

- (b) by deleting “the individual item has been registered by the Commissioner or a regulatory authority and the registration is current.” and inserting instead —

“

—

- (a) the individual item has been registered by the Commissioner or a regulatory authority and the registration is current; and
- (b) the person has a copy of the statement referred to in regulation 4.15(2)(c).

”.

(2) Regulation 4.14(2) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

(3) After regulation 4.14(2) and before the penalty provision the following subregulation is inserted —

“

- (3) A person does not commit an offence against subregulation (1) if the person’s failure to comply with

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the subregulation occurred within 21 days of the day on which the competent person signed the statement referred to in subregulation (1)(b).

”.

14. Regulation 4.15 amended

Regulation 4.15(2)(c) is amended by inserting before “signed statement” —

“ copy of a ”.

15. Regulation 4.19A inserted

After regulation 4.19 the following regulation is inserted —

“

4.19A. Registration number of classified plant or designated plant

If —

- (a) an item of classified plant is treated under regulation 7.7(2)(b) as having a registration number issued under regulation 4.19; or
- (b) an item of designated plant is treated under regulation 7.8(2) as having a registration number issued under regulation 4.19,

the Commissioner, on the application of a person who is required to stamp or mark the item of plant with the current registration number of the item, is to provide the applicant with evidence of the registration number in the approved form.

”.

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r. 16**16. Regulation 4.20 amended**

Regulation 4.20(1) is repealed and the following subregulations are inserted instead —

“

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that an individual item of plant that has been registered as required by this Division is not used at the workplace unless —
- (a) the registration number of the item of plant is legibly stamped on the plant or, if stamping is impractical, is legibly marked on the plant; and
 - (b) a copy of the evidence of the registration is displayed on or near the item of plant.

Penalty: \$25 000.

- (1a) A person does not commit an offence under subregulation (1) in relation to an individual item of plant if the person fails to comply with the subregulation within 21 days of the day on which an application is made for the registration or re-registration of the item of plant.

”

17. Regulation 4.21 amended

Regulation 4.21(2)(b) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”

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18. Regulation 4.21A inserted

After regulation 4.21 in Part 4 Division 2 the following regulation is inserted —

“

4.21A. Notification of permanent withdrawal of plant from service

A person who has applied for and obtained the registration or re-registration of an individual item of plant must when the item of plant is permanently withdrawn from service advise the Commissioner of the withdrawal.

Penalty: \$5 000.

”

19. Regulation 4.23 amended

- (1) Regulation 4.23(1)(a) is deleted and the following paragraph is inserted instead —

“

- (a) as far as practicable, identify any hazard in the design of the plant to which persons who install, erect, dismantle or use the plant at a workplace may be exposed;

”

- (2) Regulation 4.23(2)(a) is amended by deleting “operate” and inserting instead —

“ be used ”.

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r. 20**20. Regulation 4.24 amended**

Regulation 4.24(2) is repealed and the following subregulation is inserted instead —

“

- (2) A person who manufactures plant must as far as practicable, during the manufacturing process, identify any hazard arising from the manufacture of the plant to which persons who install, erect, dismantle or use the plant at a workplace may be exposed.

”

21. Regulation 4.25 amended

Regulation 4.25(2) and (3) are repealed and the following subregulation is inserted instead —

“

- (2) A person who imports plant that is to be used for spare parts for plant at a workplace or for scrap must, before the plant is delivered or taken to a workplace, advise the purchaser of the plant in writing or by a mark on the plant that the plant cannot be put into service and that it can be used only for spare parts or scrap, as the case may be.

”

22. Regulation 4.26 amended

- (1) Regulation 4.26(1) is amended as follows:

- (a) after paragraph (a) by deleting “and”;
- (b) after paragraph (b) by deleting the comma and inserting instead —

“

; and

- (c) the duties under regulation 4.25 of the person who imported the plant,

”

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- (2) Regulation 4.26(2)(a) is deleted and the following paragraph is inserted instead —

“

- (a) as far as practicable, identify any hazard in the design and manufacture of the plant to which persons who install, erect or use the plant at a workplace may be exposed;

”.

- (3) After regulation 4.26(3) and before the penalty provision the following subregulation is inserted —

“

- (4) A person who supplies plant that is to be used for spare parts for plant at a workplace or for scrap must, before the plant is delivered or taken to a workplace, advise the purchaser of the plant in writing or by a mark on the plant that the plant cannot be put into service and that it can be used only for spare parts or scrap, as the case may be.

”.

- (4) The penalty provision at the end of regulation 4.26 is amended by deleting “subregulations (1) and (2)” in both places where it occurs and inserting instead —

“ subregulations (1), (2) and (4) ”.

23. Regulation 4.27 amended

- (1) Regulation 4.27(1) is amended as follows:

- (a) by inserting before “identify” —

“ so far as practicable, ”;

- (b) by deleting “properly”.

- (2) Regulation 4.27(5) is amended by inserting after “design are” —

“ erected or ”.

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- (3) After regulation 4.27(6) and before the penalty provision the following subregulation is inserted —

“

- (7) A person who erects or installs plant at a workplace must ensure that the plant —
- (a) is erected or installed having regard to the instructions of the designer or manufacturer of the plant or, if those instructions are not available, any instructions developed in relation to the plant by a competent person; and
 - (b) if the plant is designed to be operated in a fixed position, the plant is positioned on and if necessary fixed to a secure base to prevent inadvertent movement when the plant is energized or operating.

”.

- (4) The penalty provision at the end of regulation 4.27 is amended by deleting “and (6)” in both places where it occurs and inserting instead —

“ , (6) and (7) ”.

24. Regulation 4.28 amended

- (1) Regulation 4.28(1) is amended as follows:

- (a) by deleting “or a self-employed person must” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must, so far as practicable,

”.

- (b) by deleting “construction” and inserting instead —
“ manufacture ”;

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- (c) by deleting “properly install,” and inserting instead —
 “ install, erect, ”.
- (2) Regulation 4.28(2) is amended by deleting “or a self-employed person” and inserting instead —
 “
 , a self-employed person, a person having control of the
 workplace or a person having control of access to the
 workplace
 ”.
- (3) Regulation 4.28(5) is amended by inserting after “design are installed” —
 “ or erected ”.

25. Regulation 4.29 amended

Regulation 4.29 is amended as follows:

- (a) by deleting “4.25(2)(c),”;
- (b) by deleting “and 4.28(6)” and inserting instead —
 “ , 4.28(6) and 4.37(1)(f) ”.

26. Regulation 4.30A inserted

After regulation 4.30 the following regulation is inserted —

“

4.30A. Persons who manufacture plant to obtain information

A person who manufactures plant for use at a workplace must obtain from the designer of the plant —

- (a) sufficient information to enable the plant to be manufactured in accordance with the design specifications for the plant; and

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- (b) the other information referred to in regulation 4.30(1).

Penalty for a person who commits the offence as an employee: \$5 000.

Penalty in any other case: \$25 000.

”.

27. Regulation 4.31 amended

Regulation 4.31(1) is amended as follows:

- (a) in paragraph (a), by inserting after “4.30” —
“ (1) or obtained under regulation 4.30A ”;
- (b) in paragraph (b), by deleting “current”.

28. Regulation 4.31A inserted

After regulation 4.31 the following regulation is inserted —

“

4.31A. Persons who import new plant to obtain information

A person who imports new plant for use at a workplace must obtain the information referred to in regulation 4.30(1) —

- (a) from the manufacturer of the plant; or
- (b) if it is impracticable to obtain it from the manufacturer of the plant, from a competent person.

Penalty for a person who commits the offence as an employee: \$5 000.

Penalty in any other case: \$25 000.

”.

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29. Regulation 4.32 amended

Regulation 4.32(1) is amended as follows:

- (a) by inserting after “or 4.31” —
“ or obtained under regulation 4.30A or 4.31A ”;
- (b) by deleting “current design registration” and inserting instead —
“ design registration number ”.

30. Regulation 4.33 amended

- (1) Regulation 4.33(2)(a) is amended by deleting “current design registration” and inserting instead —
“ design registration number ”.
- (2) Regulation 4.33(5) is repealed.
- (3) Regulation 4.33(6) is amended by deleting “that the person is advised” and inserting instead —
“ that that person is advised ”.
- (4) The penalty provision at the end of regulation 4.33 is amended by deleting “, (5)” in both places where it occurs.

31. Regulation 4.34 amended

- (1) Regulation 4.34(1) is amended as follows:
 - (a) by deleting “or a self-employed person” and inserting instead —
“
, a self-employed person, a person having control of the workplace or a person having control of access to the workplace
”;
 - (b) by deleting “relevant tests,”;

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(c) by deleting “or alteration of the plant” and inserting instead —

“ , alteration of the plant or test results ”.

(2) Regulation 4.34(2)(b) is amended by deleting the full stop after subparagraph (ix) and inserting instead —

“

;

(x) a concrete placing unit.

”.

(3) Regulation 4.34(3) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

(4) Regulation 4.34(4) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

32. Regulation 4.35 amended

Regulation 4.35(1) is amended as follows:

(a) in paragraph (a), by deleting “properly”;

(b) in paragraph (b), by inserting after “in order to check” —

“ so far as practicable ”;

(c) in paragraph (b), by deleting “properly”.

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33. Regulation 4.36 amended

Regulation 4.36 is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

34. Regulation 4.37 repealed and regulations 4.37 and 4.37A inserted

Regulation 4.37 is repealed and the following regulations are inserted instead —

“

4.37 Duties of certain persons as to use of plant

- (1) A person, who at a workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —
 - (a) that plant at the workplace is subject to appropriate checks, tests and inspections necessary to reduce the risk of injury or harm occurring to a person at the workplace;
 - (b) that inspection, repair, maintenance, alteration and cleaning of the plant at the workplace is carried out having regard to procedures recommended by the designer or manufacturer or, if those recommendations are not available, procedures developed by a competent person;
 - (c) where the function or condition of plant at the workplace is impaired to the extent that it presents an immediate risk to safety or health, that the plant is withdrawn from use until the plant is assessed and repaired under regulation 4.38(1);

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- (d) that plant at the workplace is used only for the purpose for which it was designed, unless the person has determined, and a competent person has assessed, that a proposed change in use does not increase the risk of injury or harm occurring;
- (e) that measures are provided to prevent, as far as practicable, interference with plant or the alteration or use of plant in a manner that could render the plant a hazard to any person at the workplace;
- (f) that every dangerous part of a fixed, mobile or hand held powered plant is, as far as practicable, securely fenced or guarded in accordance with regulation 4.29 unless the plant is so positioned or constructed that it is as safe as it would be if securely fenced or guarded;
- (g) that a fence or guard provided for the purposes of this regulation is constantly maintained and of substantial construction taking into account its intended purpose;
- (h) as far as practicable, that any fence or guard provided for the purpose of this regulation is kept in position while the plant is operated; and
- (i) in the cases where guarding of any moving part of the plant does not eliminate the risk of entanglement or where it is not practicable to guard a moving part of the plant, that persons do not operate, or pass in close proximity to, the moving part unless a safe system of work is in place to reduce the risk as far as is practicable.

Penalty: \$25 000.

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- (2) A person does not commit an offence under subregulation (1)(e) if, proof of which is on the person, the measures are designed to allow interference with the plant or the alteration or use of the plant for the purposes of dealing with an accident or emergency.

4.37A. Duties of certain persons for the purposes of regulation 4.37(1)(b) or (c)

- (1) In this regulation —
“**energy source**” means anything with the capacity for doing work and includes springs under tension or compression, accumulators, capacitors and other energy storing devices.
- (2) If access to plant at a workplace is required for the purposes of regulation 4.37(1)(b) or (c), then a person who, at the workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must —
- (a) ensure that all hazards associated with and all energy sources of the plant are identified; and
 - (b) authorise a person (an “**authorised person**”) to carry out the matters referred to in subregulation (3), (4) or (5)(a).
- (3) An authorised person must, if it is practicable to do so, stop the plant and ensure that any risk associated with any identified hazard is reduced as far as is practicable.
- (4) An authorised person must, if it is practicable to do so, stop the plant and ensure that —
- (a) all energy sources are de-energized, and isolated using an isolation device and locked-out using a lock-out device;

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- (b) an out of service tag is fixed to the plant and danger tags are fixed at the energy sources and the operating controls of the plant;
 - (c) the measures taken in paragraph (a) are tested to ensure that the plant cannot be energized inadvertently;
 - (d) anything to be carried out under regulation 4.37(1)(b) or (c) is not carried out before the tests are carried out; and
 - (e) after anything to be carried out under regulation 4.37(1)(b) or (c) is carried out, the plant is returned to operational status.
- (5) If it is not practicable to carry out all of the matters referred to in subregulation (4)(a) to (d) —
- (a) the authorised person must ensure that such of those matters as it is practicable to carry out are carried out; and
 - (b) the person who gave the authorised person authorisation must —
 - (i) ensure that written procedures are developed by a competent person to deal with the hazards and energy sources that it is not practicable to deal with under subregulation (4)(a) to (d);
 - (ii) provide those written procedures to the authorised person; and
 - (iii) ensure that the written procedures are followed by a person carrying out the matters referred to regulation 4.37(1)(b) or (c).
- (6) If access to plant at a workplace is required for the purposes of regulation 4.37(1)(b) or (c) and it is not practicable to stop the plant, then a person who, at the

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workplace, is an employer, a main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —

- (a) that the plant is fitted with operating controls that allow controlled movement of the plant;
 - (b) that there are written procedures to be followed in relation to anything to be carried out under regulation 4.37(1)(b) or (c) that are designed to prevent injury to persons working on the plant; and
 - (c) that persons working on the plant carry out the work in accordance with the written procedures.
- (7) A person does not commit an offence under subregulation (4)(a) or (5)(a) if the plant is not isolated and locked out in the case of an accident or emergency.
- Penalty applicable to subregulations (2), (3), (4), (5) and (6): \$25 000.

”.

35. Regulation 4.38 amended

- (1) Regulation 4.38 is amended by inserting before “A” the subregulation designation “(1)”.
- (2) Regulation 4.38 is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

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(3) Regulation 4.38 is amended by deleting “Penalty: \$25 000.”.

(4) At the end of regulation 4.38 the following is inserted —

“

(2) If, at a workplace, any plant is damaged and the damage exposes a person to a hazard because of the presence of electricity then a person who, at the workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) the plant is disconnected from the electricity supply and that it is not used until the damaged part is repaired or replaced;
- (b) a person authorised by the first-mentioned person fixes an “out-of-service” tag to the plant and all the common isolation points for that plant, and only removes the tags when the electrical hazard is no longer a hazard; and
- (c) the action to stop the plant and to return the plant to operational status is taken by a person authorised by the first-mentioned person.

Penalty applicable to subregulations (1) and (2):
\$25 000.

”.

36. Regulation 4.39 amended

Regulation 4.39 is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

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37. Regulation 4.40 amended

- (1) Regulation 4.40(1) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (2) Regulation 4.40(2) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (3) Regulation 4.40(3) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

38. Regulation 4.43 replaced

Regulation 4.43 is repealed and the following regulation is inserted instead —

“

4.43 Plant under pressure

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure —

- (a) that any pressure equipment to which AS/NZS 1200 applies (other than a gas

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cylinder) to be used at the workplace is installed, commissioned, operated, maintained and inspected in accordance with AS 2593, AS 3873, AS/NZS 3788 or AS 3892, as is applicable, or the Australian Miniature Boiler Safety Committee Code, except that the inspection is to be conducted by a competent person rather than an in-service inspector within the meaning of AS/NZS 3788; and

- (b) that each gas cylinder to be used at the workplace has a current inspection mark in accordance with AS 2030.
- (2) A person who, at a workplace that is a gas cylinder filling station, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that a gas cylinder to be used at a workplace —
- (a) is not filled unless it bears a current inspection mark in accordance with AS 2030;
 - (b) is filled in accordance with AS 2030; and
 - (c) is filled with a fluid that is compatible with the particular cylinder.

Penalty applicable to subregulations (1) and (2): \$25 000.

”.

39. Regulation 4.44 amended

- (1) Regulation 4.44(1) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

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- (2) Regulation 4.44(4) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (3) Regulation 4.44(5) is amended by inserting after “set of attaching points” —

“ and that the operator of the plant uses the seat belt ”.

- (4) Regulation 4.44(6) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (5) Regulation 4.44(7) is amended as follows:

- (a) by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”;

- (b) in paragraph (c), by inserting after “seat belt” —

“ and that the passenger uses the seat belt ”.

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- (6) After regulation 4.44(7) and before the penalty provision the following subregulation is inserted —

“

- (8) Nothing in subregulation (7) prevents a person who is training, instructing or assessing the operator of a powered mobile plant in the operation of the plant (“**the instructor**”) from riding on the plant other than in a seat specifically designed for carrying a person if a person who, at a workplace, is an employer, the main contractor or a self-employed person ensures that means are used to prevent the instructor from slipping, falling or being thrown from the plant.

”

40. Regulation 4.45 amended

Regulation 4.45(1) is repealed and the following subregulation is inserted instead —

“

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —
- (a) a tractor of a mass greater than 800 kilograms and less than 15 000 kilograms manufactured, imported or originally purchased after 1 January 1981 is fitted with a roll-over protective structure; and
 - (b) hydraulic excavators and earthmoving machinery of a kind to which AS 2294 applies manufactured, imported or originally purchased after 1 January 1989 is fitted with an appropriate combination of operator protective devices.

Penalty: \$25 000.

”

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41. Regulation 4.46 amended

- (1) Regulation 4.46(1) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (2) Regulation 4.46(2) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (3) Regulation 4.46(3) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

42. Regulation 4.47 repealed

Regulation 4.47 is repealed.

43. Regulation 4.48 replaced

Regulation 4.48 is repealed and the following regulation is inserted instead —

“

4.48 Industrial robots, etc.

A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having

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control of the workplace or a person having control of access to the workplace must ensure that —

- (a) no person works in the immediate vicinity of plant which could start without warning and cause a hazard unless appropriate controls and systems of work are in place; and
- (b) if an industrial robot can be remotely or automatically energized, access to the immediate area around that robot is restricted and controlled at all times by —
 - (i) positive isolation; or
 - (ii) the provision of interlocked guarding, presence-sensing devices or permit-to-work systems.

Penalty: \$25 000.

”.

44. Regulation 4.49 amended

Regulation 4.49 is amended as follows:

- (a) by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (b) in paragraph (a) by deleting “operated” and inserting instead —

“ used ”.

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45. Regulation 4.50 amended

- (1) Regulation 4.50(1) and (2) are repealed and the following subregulations are inserted instead —

“

- (1) A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that a nail gun is not brought onto or used at the workplace if it has been modified so that it is not or cannot be used in accordance with its manufacturer's specifications for its safe use.
- (2) Subregulation (1) does not apply to a nail gun that is taken onto a workplace for the purpose of —
- (a) being repaired; or
 - (b) being modified to ensure that it complies with its manufacturer's specifications for its safe use.

”.

- (2) Regulation 4.50(3) is amended as follows:

- (a) by deleting “must not use a nail gun at a workplace unless” and inserting instead —

“

who at a workplace uses a nail gun must ensure that

”;

- (b) by deleting “near” and inserting instead —
“ entering ”.

- (3) The penalty provision at the end of regulation 4.50 is amended by deleting “, (2)” in both places where it occurs.

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46. Regulation 4.51 replaced

Regulation 4.51 is repealed and the following regulation is inserted instead —

“

4.51 Explosive powered tools

A person who, at a workplace, is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that an explosive powered tool used at the workplace complies with the requirements of, and is used in accordance with, AS/NZS 1873.

Penalty for a person who commits the offence as an employee: \$5 000.

Penalty in any other case: \$25 000.

”.

47. Regulation 4.52 amended

(1) Regulation 4.52(1) is amended as follows:

(a) by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

(b) in paragraph (a), by inserting after “structure is operated” —

“ , maintained and inspected ”;

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- (c) in paragraph (a)(i), by deleting “Australian Miniature Boiler Safety Committee Code” and inserting instead —

“

Australian Association of Live Steamers
Code of Practice

”;

- (d) after subparagraph (a)(i), by deleting “or” and inserting instead —

“ and ”;

- (e) in paragraph (b), by deleting “Australian Miniature Boiler Safety Committee Code” and inserting instead —

“

Australian Association of Live Steamers Code
of Practice

”.

- (2) Regulation 4.52(2) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the
workplace or a person having control of access to the
workplace

”.

48. Regulation 4.53 amended

- (1) Regulation 4.53(1) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the
workplace or a person having control of access to the
workplace

”.

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- (2) Regulation 4.53(2) is amended as follows:
- (a) by deleting “or a self-employed person” and inserting instead —
“
, a self-employed person, a person having control of the workplace or a person having control of access to the workplace
”;
 - (b) in paragraph (b), by inserting after “work box” —
“ or other personnel carrying device ”;
 - (c) in paragraph (c), by inserting after “work box” —
“ or other personnel carrying device ”;
 - (d) in paragraph (d), by inserting after “work box” —
“ or other personnel carrying device ”;
 - (e) in paragraph (e), by inserting after “work box” in each place where it occurs —
“ or other personnel carrying device ”.
- (3) Regulation 4.53(3) is amended by deleting “or a self-employed person” and inserting instead —
“
, a self-employed person, a person having control of the workplace or a person having control of access to the workplace
”.
- (4) Regulation 4.53(5) is amended by deleting “or a self-employed person” and inserting instead —
“
, a self-employed person, a person having control of the workplace or a person having control of access to the workplace
”.

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- (5) Regulation 4.53(6) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (6) Regulation 4.53(7) is amended as follows:

- (a) by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”;

- (b) by inserting after “no winch” —

“ other than a winch that is part of a crane ”.

- (7) The penalty provision at the end of regulation 4.53 is amended by deleting “, (7) and (8)” and inserting instead —

“ and (7) ”.

49. Regulation 4.54 amended

- (1) Regulation 4.54(1) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

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- (2) Regulation 4.54(2) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (3) Regulation 4.54(3) is amended as follows:

- (a) by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”;

- (b) by deleting “unit is operated” and inserting instead —

“ unit is inspected, operated and maintained ”;

- (c) in paragraph (b), by deleting “operation” and inserting instead —

“ inspection, operation and maintenance ”.

- (4) Regulation 4.54(4) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

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50. Regulation 4.55 replaced

Regulation 4.55 is repealed and the following regulation is inserted instead —

“

4.55. Additional requirements as to industrial lift trucks

- (1) A person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that an industrial lift truck at the workplace that is not a pedestrian operated industrial lift truck is operated —
 - (a) in the case of a person who is not less than 18 years of age —
 - (i) by a person who has documentary evidence that he or she satisfies the competency requirements of the *National Guidelines for Occupational Health and Safety Competency Standards for the Operation of Loadshifting Equipment and Other Types of Specified Equipment* [NOHSC: 7019 (1992)] for loadshifting equipment; and
 - (ii) having regard to the instructions of a person who designed or manufactured the industrial lift truck or of any competent person who develops instructions for the operation of the industrial lift truck;

or

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- (b) in the case of a person who has reached 17 years of age —
 - (i) by a person who is undergoing training and instruction in the use of that type of industrial lift truck at a workplace under the direct supervision of a person overseeing the training in accordance with the *National Occupational Health and Safety Certification Standards for Users and Operators of Industrial Equipment* [NOHSC: 1006 (2001)] (“**the instructor**”) unless the instructor is satisfied that direct supervision is not necessary because a lesser degree of supervision would not place the person being trained or other persons at risk of injury or harm; and
 - (ii) having regard to the instructions of a person who designed or manufactured the industrial lift truck or of any competent person who develops instructions for the operation of the industrial lift truck.
- (2) If there is a pedestrian operated industrial lift truck at a workplace, then a person who, at the workplace is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that that truck is operated —
 - (a) by a person trained or being trained in the operation of that type of truck; and
 - (b) having regard to the instructions of a person who designed or manufactured the industrial lift truck or of any competent person who

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develops instructions for the operation of the industrial lift truck.

Penalty applicable to subregulations (1) and (2):
\$25 000.

”.

51. Regulation 4.56 amended

(1) Regulation 4.56(1) is amended as follows:

- (a) after paragraph (a), by deleting the semi colon and “and” and inserting a full stop;
- (b) by deleting paragraph (b).

(2) Regulation 4.56(2) is amended as follows:

- (a) in paragraph (a), by inserting after “platform” —
“ or area ”;
- (b) in paragraph (b), by deleting “protection decking” and inserting instead —
“ overhead protection ”;
- (c) by deleting paragraph (c) and inserting the following paragraph instead —

“

- (c) safe access to the safe working platform or area.

”.

52. Regulation 4.57 amended

(1) Regulation 4.57(2) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

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- (2) Regulation 4.57(4) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (3) Regulation 4.57(5) is amended by deleting “or a self-employed person” and inserting instead —

“

, a self-employed person, a person having control of the workplace or a person having control of access to the workplace

”.

- (4) After regulation 4.57(5) and before the penalty provision the following subregulation is inserted —

“

- (6) If a lift is being constructed or installed at a workplace then a person who is an employer, the main contractor, a self-employed person, a person having control of the workplace or a person having control of access to the workplace must ensure that —

- (a) the safe working provisions and practices set out in AS/NZS 4431 are followed; and
- (b) an independent power supply is provided to enable the construction or installation to be carried out.

”.

- (5) Regulation 4.57 is amended in the penalty provision at the end of the regulation by deleting “and (5)” and inserting instead —

“ , (5) and (6) ”.

Occupational Safety and Health Amendment Regulations (No. 2) 2002**r. 53****53. Regulation 6.1 amended**

Regulation 6.1(1) is amended in the definition of “national standard” by deleting “[NOHSC: 1006 (1995)]” and inserting instead —

“ [NOHSC: 1006 (2001)] ”.

54. Schedule 1 amended

- (1) Schedule 1 item 27 is deleted.
- (2) Schedule 1 item 28 is amended by deleting “AS 2359.2-1985 Operation”.
- (3) Schedule 1 item 51 is amended as follows:
 - (a) by deleting “4.1,” (where it first occurs);
 - (b) by deleting “Sch. 4.1, Sch. 4.2,”.

55. Schedule 2 amended

Schedule 2 Form 3 is amended as follows:

- (a) after the item relating to “Occupation”, by inserting the following items —

“

Occupational category¹:

Industry subgroup²:

”.

- (b) by deleting “Years in Current Position:” and inserting instead —

“

Years doing current work or work of a similar nature:

”.

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- (c) At the end of the form by inserting the following notes —

“

¹ The following are occupational categories —

Managers and Administrators

Including School Principals, Directors, Mine Managers, Farm Managers, Managing Supervisors, Commissioned Police Officers, Chief Executives, Trade Union Secretaries

Professionals

Including Chemists, Teachers, Architects, Accountants, Engineers, Geologists, Metallurgists, Journalists, Actors, Librarians, Public Relations Officers

Para-Professionals

Including Technicians, Registered Nurses, Police Officers, Pilots, Ships Captains, Welfare Officers, Safety Inspectors, Prison Officers

Tradespersons

Including Fitters, Welders, Tilers, Hairdressers, Chefs, Tailors, Mechanics, Gardeners, Apprentices

Clerks

Including Typists, Secretaries, Messengers, Computer Operators, Bookkeepers, Telephonists, Teachers Aids, Law Clerks

Salespersons and Personal Service Workers

Including Travel Agents, Enrolled Nurses, Dental Nurses, Waiters, Insurance Brokers, Sales Representatives, Tellers, Cashiers, Beauty Therapists

Plant and Machine Operators

Including Bus Drivers, Fork Lift Drivers, Crane Operators, Press Operators, Processing Machine Operators, Treatment Plant Operators, Mining Equipment Operators

Labourers and Related Workers

Including Trades Assistants, Factory Hands, Cleaners, Farm Hands, Meat Process Workers, Scaffolders, Riggers, Security Officers, Fishing Workers, Deckhands, Labourers, Miners

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²The following are industry subgroups —

AGRICULTURE, FORESTRY, FISHING

Agriculture

Services to agriculture; hunting and trapping

Forestry and logging

Commercial fishing

MINING

Coal mining

Oil and gas extraction

Metal ore mining

Other mining

Services to mining

MANUFACTURING

Food, beverages and tobacco manufacturing

Textile, clothing, footwear and leather manufacturing

Wood and paper product manufacturing

Printing, publishing and recorded media

Petroleum, coal, chemical, associated product manufacturing

Non-metallic mineral product manufacturing

Metal product manufacturing

Machinery and equipment manufacturing

Other manufacturing

ELECTRICITY, GAS AND WATER SUPPLY

Electricity and gas supply

Water supply, sewerage and drainage services

CONSTRUCTION

General construction

Construction trades services

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r. 55**WHOLESALE TRADE**

Basic material wholesaling

Machinery and equipment wholesaling

Personal and household goods wholesaling

RETAIL TRADE

Supermarket and grocery stores

Personal and household goods retailing

Motor vehicle retailing and services

ACCOMMODATION, CAFES AND RESTAURANTS

Accommodation, cafes and restaurants

TRANSPORT AND STORAGE

Road transport

Rail transport

Water transport

Air and Space transport

Other transport

Services to transport

Storage

COMMUNICATION SERVICES

Communication services

FINANCE AND INSURANCE

Finance

Insurance

Services to finance and insurance

PROPERTY AND BUSINESS SERVICES

Property services

Business services

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GOVERNMENT ADMINISTRATION

Government administration

EDUCATION

Education

HEALTH AND COMMUNITY SERVICES

Health services

Community services

CULTURAL AND RECREATION SERVICES

Motion picture, radio and television services

Libraries, museums and the arts

Sport and recreation

PERSONAL AND OTHER SERVICES

Personal services

Other services

Private household employing staff

”.

56. Schedule 4.1 amended

Schedule 4.1 is amended as follows:

- (a) by deleting “Amusement structures except class 1 structures within the meaning of AS 3533” and inserting instead —

“

Amusement structures within the scope of AS 3535 other than Class 1 devices

”.

- (b) by deleting “AS 3920, Part 1 and”.

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r. 57**57. Schedule 4.2 amended**

Schedule 4.2 is amended as follows:

- (a) by deleting “Amusement structures except class 1 structures within the meaning of AS 3533” and inserting instead —

“

Amusement structures within the scope of AS 3535 other than Class 1 devices

”.

- (b) by deleting “AS 3920, Part 1 and” in the second place where it occurs.

By Command of the Governor,

ROD SPENCER, Clerk of the Executive Council.

