

BULLETIN

High Risk Work Licensing – Workers Obligations

This bulletin outlines the requirements a worker has under the [Work Health and Safety \(National Uniform Legislation\) Act](#) (the WHS Act) and [Regulations](#) (the WHS Regulations) for ensuring the licensing of workers who perform high risk work. Licensing of workers aims to ensure that they have the skills and knowledge to perform high risk work in a safe manner so to reduce the health and safety risk to themselves and other persons in the workplace.

The Regulations, which commenced in the Northern Territory on 1 January 2012, establishes the nationally uniform competency-based licensing system for persons performing certain types of high risk work (Chapter 4, Part 4.5). The Regulations replace the *National Standard for Licensing of Persons Performing High Risk Work* (the National Standard) which was adopted in the Northern Territory in 2010, however the transitional periods that were put in place during the adoption of the National Standard to allow workers time to transition to a compliant licence remains in place.

Requirement to be licensed

It is an offence under the Act for an unlicensed worker to carry out high risk work which requires a licence (section 43 WHS Act). Maximum penalty: \$20,000 for individuals.

Certain exemptions (Regulation 82), allow an unlicensed individual to perform certain high risk work when the:

- high risk work is carried out in the course of training towards a certification in order to obtain a high risk licence **and** the work is done under the supervision of an individual with a licence in that class of high risk work; or
- high risk work is carried out by an individual who has received their certification for completing high risk work training and is waiting for a decision on their licence application; or
- high risk work involves plant at a workplace and
 - the work carried out is solely for the purpose of the manufacture, testing, trialing, installation, commissioning, maintenance, servicing, repair, alteration, demolition or disposal of the plant at that workplace or moving the plant within the workplace; and
 - the plant is operated or used without a load except for calibration purposes; or
- high risk work with a crane or hoist that is limited to setting up or dismantling the crane or hoist and the individual carrying out the work is licensed in rigging; or
- high risk work carried out on a heritage boiler.

Note: The exemption for moving plant within the workplace does not include loading plant onto or unloading it from a vehicle or equipment used to move the plant.

Inspection of License

A licence holder must have their licence available for inspection by an inspector unless the card has been returned to the Work Health Authority for amendment (Regulation 94).

Maximum penalty: \$1,250 for individuals.

Notice required for change of address

A licence holder must give written notice to the Work Health Authority if they change their postal or residential address. The licence holder must do this within 14 days of the change occurring (Regulation 96).

Maximum penalty: \$1,250 for individuals.

Return of licence

If requested in writing by the Work Health Authority, the licence holder must return the licence to the Work Health Authority for amendment within the time specified in the request (Regulation 97).

Maximum penalty: \$1,250 for individuals.

Replacement licence

A licence holder must give written notice to the Work Health Authority as soon as possible if the licence is lost, stolen or destroyed. A licence holder may apply for a replacement licence (Regulation 98).

Maximum penalty: \$1,250 for individuals.

Renewal of an expiring licence

A person whose high risk work licence is due to expire must make an application for renewal before the expiry date. The application must be made on the required form and all information requested must be provided.

A person's licence is still considered valid and the worker is still able to continue high risk work if their licence expires while they are waiting for a decision on their renewal application (Regulation 101).

Renewal of an expired licence

A person whose high risk work licence has expired may apply for a renewal of that licence if the licence has not been expired for more than 12 months. If the renewal application was made after the licence expired, the worker cannot carry out any work covered by the licence until the licence has been renewed.

An application to renew a licence that has been expired for more than 12 months can be made if a person can satisfy the Regulator that exceptional circumstances exist (Regulation 103). This provision is only valid for high risk licence issued after 1 July 2012. If a decision has been made to refuse the renewal of a licence, a person will need to make an application for a new licence and meet all the requirements in the licence application (i.e. evidence of training).

The Regulators decision to refuse a renewal of a licence is a reviewable decision (Regulation 676).

False or Misleading Information

Under the Act, it is an offence to give false or misleading information (section 268). This includes attempts to falsify or provide misleading information on a workers certification of high risk training and licence.

Maximum penalty: \$10,000 for individuals.

Right of worker to cease unsafe work

Under the WHS Act, a worker may cease or refuse to carry out work, especially high risk work, if they have a reasonable concern that to carry out the work would expose them to a serious risk to their health or safety due to an immediate or imminent exposure to a hazard (section 84).

Should a worker cease work, they must as soon as practicable notify the PCBU and remain available to carry out other suitable work (section 86).

A PCBU cannot penalise a worker's employment entitlements, such as pay, promotions, leave entitlements, superannuation benefits etc, for exercising their rights to cease unsafe work, if they have not unreasonably failed to comply with a direction to carry out suitable alternative work (section 88).

If an issue between a worker and the PCBU has not been resolved after reasonable efforts in relation to the exercise of this right, either party may ask the Regulator to appoint an inspector to attend the workplace to assist in resolving the issue. On attending the workplace, an inspector may exercise any of the inspector's compliance powers under the WHS Act in relation to the workplace (section 82).

Changes to supervision of high risk work

Under the repealed Workplace Health and Safety legislation, an unlicensed worker was able to carry out high risk work if they were under the supervision of a worker who had the relevant licence. This is no longer the case and a worker who does not hold the relevant licence must not carry out high risk work until they have completed the appropriate training with an approved Registered Training Organisation (RTO). The only time an unlicensed worker can carry out high risk work under the supervision of a worker with the relevant licence, is via a structured training program, formulated by the RTO, undertaken to obtain a licence.

Maximum penalty: \$6,000 for individuals.

Prohibition of Discriminatory Conduct

The WHS Act prohibits a person from engaging in ***discriminatory conduct*** for a ***prohibited reason*** (section 104). Discriminatory conduct is defined in section 105 and prohibited reason is defined in section 106.

Maximum penalty: \$10,000 for individuals.

Related Information

Additional information on high risk licensing can be found in the following NT WorkSafe guidance material.

Guides

- [Guide to High Risk Licence](#)

Bulletins

- [Licensing Persons Performing High Risk Work](#)

For further information visit www.worksafe.nt.gov.au or contact NT WorkSafe on 1800 019 115.