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Statutory Rules 1994 No. *L*

*414/*

**Occupational Health and Safety  
 (Commonwealth Employment)  
 (National Standards) Regulations**

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Statutory Rules 1994 No. 1

411/

**Occupational Health and Safety  
(Commonwealth Employment) (National  
Standards) Regulations**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia,  
acting with the advice of the Federal Executive Council, make the  
following Regulations under the *Occupational Health and Safety  
(Commonwealth Employment) Act 1991*.

Dated L 1994.

6 December/

L BILL HAYDEN/  
Governor-General

By His Excellency's Command,

L

Assistant Minister for Industrial Relations

GARY JOHNS/

## PART 1—INTRODUCTION

### Citation

- 1.01. These Regulations may be cited as the Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations.

### Commencement

- 1.02. These Regulations commence on 31 March 1995.

#### NOTE

In these Regulations, boxed notes similar to this are used to help you to read the Regulations. The notes are for information only, and the effect of subsection 13 (3) of the *Acts Interpretation Act 1901* is that they do not form part of the Regulations.

The notes serve various purposes, such as providing historical or explanatory information. They may draw your attention to the existence of documents such as “Approved Codes of Practice”, which provide practical guidance on how a particular standard of health and safety can be achieved and describe the preferred methods or courses of action for achieving the standard of health and safety.

### Definitions located in Part 10

- 1.03. Part 10 contains definitions of certain expressions that are used in these Regulations.

**NOTE**

Part 10 defines expressions that are generally used in more than one Part of these Regulations. If an expression is used only in one Part of the Regulations, it will be defined at the start of that Part.

In addition, a number of expressions that are used in these Regulations are defined in section 5 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, including “workplace”, “employer”, “contractor” and “employee” (which is explained in more detail in section 9 of the Act).

**General defence**

- 1.04.** A person is not guilty of an offence against these Regulations if the alleged offence arises out of circumstances over which:
- (a) the person did not have control; and
  - (b) the person could not reasonably be expected to have control.

**NOTES**

1. These Regulations incorporate National Standards declared by the National Occupational Health and Safety Commission under paragraph 8 (1) (f) of the *National Occupational Health and Safety Commission Act 1985*.
2. Penalties in these Regulations are expressed in penalty units, in accordance with the requirements of section 4AA of the *Crimes Act 1914*. At the time these Regulations commenced, one penalty unit was equal to \$100.
3. State and Territory laws also promote occupational health and safety, and they may apply, in addition to these Regulations, to the people and bodies referred to in these Regulations.

**PART 2—COMPETENCY REQUIREMENTS AND  
CERTIFICATION STANDARDS FOR USERS AND  
OPERATORS OF INDUSTRIAL EQUIPMENT**

*Division 1—Introduction*

**Object of Part 2**

**2.01.** The object of this Part is:

- (a) to minimise the incidence and severity of injuries associated with performing the work of an occupation referred to in regulation 2.03 by requiring employees and contractors performing the work to have a particular standard of competency; and
- (b) to make arrangements for the possession and use of certificates that state that a person has the particular standard of competency.

**NOTE**

The regulations in this Part should be read with the National Occupational Health and Safety Certification Standard for Users and Operators of Industrial Equipment (NOHSC:1006(1992)), declared by the National Occupational Health and Safety Commission and as in force on 31 March 1995.



## **Interpretation of Part 2**

**2.02.** In this Part, unless the contrary intention appears:

**“boiler”:**

- (a) means a vessel, or an arrangement of vessels, and interconnecting parts, in which:
  - (i) steam or other vapour is generated; or
  - (ii) water or other liquid is heated at a pressure greater than atmospheric pressure;  
by the use of fire, the products of combustion, electrical power or other similar means; and
- (b) includes a superheater, reheater, economiser, boiler piping support, mounting, valve, gauge, fitting, control, setting or other equipment directly associated with a boiler; and
- (c) does not include a fully flooded or pressurised system where water or other liquid is heated to a temperature lower than the normal atmospheric boiling temperature of the liquid;

**“certificate of competency”** means a document described in regulation 2.04;

**“certifying authority”** means an authority referred to in paragraph 2.04 (b);

**“Class A Commonwealth certificate”** means a document described in subregulation 2.05 (1);

**“Class B Commonwealth certificate”** means a document described in subregulation 2.05 (2);

**“Commonwealth certificate”** means a Class A Commonwealth certificate or a Class B Commonwealth certificate;

**“Equivalence and Translation Tables”** means the document entitled “Equivalence and Translation Tables”:

- (a) published by the Safety Rehabilitation and Compensation Commission; and
- (b) as in force on the day on which this regulation commences;

**“National Standard”** means the document entitled “National Occupational Health and Safety Certification Standard for Users and Operators of Industrial Equipment”:

- (a) declared by NOHSC under paragraph 8 (1) (f) of the *National Occupational Health and Safety Commission Act 1985*; and
- (b) as in force on the day on which this regulation commences;

**“pressure equipment operation”** means the operation of:

- (a) a boiler; or
- (b) a turbine; or
- (c) a reciprocating steam engine;

**“regulation 2.03 occupation”** means an occupation referred to in regulation 2.03.

### **What occupations are covered by Part 2?**

**2.03.** This Part applies to the work of a person involved in performing work or a task that is:

- (a) in any of the following occupations:
  - (i) scaffolding;
  - (ii) dogging;
  - (iii) rigging;
  - (iv) crane and hoist operation;
  - (v) pressure equipment operation; and
- (b) referred to in the National Standard.

**What is a certificate of competency?**

- 2.04.** A certificate of competency is a document that:
- (a) identifies the competency of the person to whom it is issued; and
  - (b) is issued by an authority of a State or a Territory that has the power, under a law of the State or Territory, to issue a certificate that relates to the performance of the work of a regulation 2.03 occupation.

**NOTE**

The States and Territories that implement the National Standard will issue certificates that comply with clause 5.4 of that Standard.

**What are Class A and Class B Commonwealth certificates?**

- 2.05.** (1) A Class A Commonwealth certificate is a document:
- (a) that is issued by an employer before the day on which this regulation commences; and
  - (b) that is described, in the Equivalence and Translation Tables, as being equivalent to a particular certificate of competency; and
  - (c) that states that the person to whom the document is given has achieved a particular competency in an occupation that, after the day on which this regulation commences, is a regulation 2.03 occupation.
- (2) A Class B Commonwealth certificate is a document:
- (a) that is issued by an employer before the day on which this regulation commences; and
  - (b) that is not referred to in the Equivalence and Translation Tables; and
  - (c) that states that the person to whom the document is given has achieved a particular competency in an occupation that, after the day on which this regulation commences, is a regulation 2.03 occupation.

***Division 2—Duties relating to the performance of work***

**Performing the work of a regulation 2.03 occupation**

- 2.06.** (1) An employee must not perform the work of a regulation 2.03 occupation unless:
- (a) the employee holds a valid certificate of competency for the class of occupation; or
  - (b) the certifying authority in the State or Territory has exempted the employee from holding a certificate of competency for the class of occupation; or
  - (c) the employee holds a valid Class A Commonwealth certificate for the class of occupation; or
  - (d) the employee holds a valid Class B Commonwealth certificate:
    - (i) for the class of occupation; and
    - (ii) in relation to the employer who controls the performance of the work.

Penalty: 10 penalty units.

- (2) A contractor must not perform the work of a regulation 2.03 occupation at a workplace unless:
- (a) the contractor holds a valid certificate of competency for the class of occupation; or
  - (b) the certifying authority in the State or Territory has exempted the contractor from holding a certificate of competency for the class of occupation; or
  - (c) the contractor holds a valid Class A Commonwealth certificate for the class of occupation; or
  - (d) the contractor holds a valid Class B Commonwealth certificate:
    - (i) for the class of occupation; and
    - (ii) in relation to the employer who controls the performance of the work or who controls the workplace.

Penalty for a contravention of this subregulation: 10 penalty units.

**Allowing a person to perform the work of a regulation 2.03  
occupation**

- 2.07.** (1) An employer must not allow an employee to perform the work of a regulation 2.03 occupation unless:
- (a) the employee holds a valid certificate of competency for the class of occupation; or
  - (b) the certifying authority in the State or Territory has exempted the employee from holding a certificate of competency for the class of occupation; or
  - (c) the employee holds a valid Class A Commonwealth certificate for the class of occupation; or
  - (d) the employee holds a valid Class B Commonwealth certificate:
    - (i) for the class of occupation; and
    - (ii) in relation to the employer.

Penalty: 10 penalty units.

- (2) An employer must not allow a contractor to perform the work of a regulation 2.03 occupation at a workplace unless:
- (a) the contractor holds a valid certificate of competency for the class of occupation; or
  - (b) the certifying authority in the State or Territory has exempted the contractor from holding a certificate of competency for the class of occupation; or
  - (c) the contractor holds a valid Class A Commonwealth certificate for the class of occupation; or
  - (d) the contractor holds a valid Class B Commonwealth certificate:
    - (i) for the class of occupation; and
    - (ii) in relation to the employer who controls the performance of the work or who controls the workplace.

Penalty for a contravention of this subregulation: 10 penalty units.

**NOTE**

Employers can use the translation tables in the Equivalence and Translation Tables to determine:

- (a) the classes of occupational health and safety certificates of competency that were issued by State and Territory certifying authorities before the implementation of the National Standard; and
- (b) the translation of those classes to classes in the National Standard.

**Production of a certificate for inspection**

- 2.08.** (1) An investigator may ask an employee or a contractor who holds a certificate of competency, or a Commonwealth certificate, to produce the certificate to the investigator.
- (2) The employee or contractor must show the certificate to the investigator within a reasonable period after being asked.

Penalty for a contravention of this subregulation: 1 penalty unit.

***Division 3—Suspension and cancellation of certificates***

**Recommendation to a certifying authority for the suspension or cancellation of a certificate of competency**

- 2.09.** (1) Comcare may recommend the suspension or cancellation of a certificate of competency to the certifying authority that issued the certificate if Comcare has evidence that:
- (a) the certificate was given to a person as a result of the provision of false or misleading information; or
  - (b) the person who holds the certificate is no longer competent to carry out the occupation to which the certificate relates without risk to:
    - (i) the person's health or safety; or
    - (ii) the health or safety of another person; or

- (c) the person who holds the certificate has contravened a requirement of the Act or these Regulations, or of a corresponding law of a State or Territory, applying to the person.
- (2) If Comcare believes that one of the reasons set out in subregulation (1) exists, it must give a written notice to the person who holds the certificate:
- (a) stating that Comcare is considering recommending to the certifying authority that the certificate be suspended or cancelled; and
  - (b) setting out the reason why Comcare believes that it may recommend that the certificate be suspended or cancelled, including any information in support of Comcare's belief; and
  - (c) if Comcare is considering recommending that the certificate be suspended—stating the proposed period of the suspension; and
  - (d) inviting the person to give Comcare reasons why Comcare should not recommend that the certificate be suspended or cancelled; and
  - (e) stating the period in which the person is invited to give reasons, being a period ending at least 14 days after the day on which Comcare gives the notice to the person.
- (3) If the notice given to the person states that Comcare is considering recommending that the certificate be suspended:
- (a) Comcare may, after considering any reasons given by the person in the period stated in the notice, recommend that the certificate be suspended for a period no longer than the period stated in that notice; and
  - (b) Comcare may not recommend that the certificate be cancelled on the basis of that notice.
- (4) If the notice given to the person states that Comcare is considering recommending that the certificate be cancelled, Comcare may, after considering any reasons given by the person in the period stated in the notice, recommend that the certificate be suspended or cancelled.

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Employment) (National Standards) 1994 No.*

- (5) Comcare must give reasons in writing to the certifying authority for a recommendation under this regulation.
- (6) If Comcare recommends that a certificate be suspended or cancelled, it must give the holder of the certificate a written notice setting out its recommendation and its reasons for it.

**Suspension or cancellation of a Commonwealth certificate on Comcare's initiative**

- 2.10.** (1) Comcare may suspend or cancel a Commonwealth certificate in accordance with this regulation if:
- (a) the certificate was given to an employee or a contractor as a result of the provision of false or misleading information; or
  - (b) the employee or contractor who holds the certificate is no longer competent to carry out the occupation to which the certificate relates without risk to:
    - (i) his or her health or safety; or
    - (ii) the health or safety of another person; or
  - (c) the employee or contractor who holds the certificate has contravened a requirement of the Act or these Regulations, or of a corresponding law of a State or Territory applying to the employee or contractor.
- (2) If Comcare believes that one of the reasons set out in subregulation (1) exists, it must give a written notice to the employee or contractor who holds the certificate:
- (a) stating that Comcare is considering suspending or cancelling the certificate; and
  - (b) setting out the reason why Comcare believes that it may suspend or cancel the certificate, including any information in support of Comcare's belief; and
  - (c) if Comcare is considering suspending the certificate—stating the proposed period of the suspension; and
  - (d) inviting the employee or contractor to give Comcare reasons why Comcare should not suspend or cancel the certificate; and



- (e) stating the period in which the employee or contractor is invited to give reasons, being a period ending at least 14 days after the day on which Comcare gives the notice to the employee or contractor.
- (3) If the notice given to the employee or contractor states that Comcare is considering suspending the Commonwealth certificate:
- (a) Comcare may, after considering any reasons given by the employee or contractor in the period stated in the notice, suspend the certificate for a period no longer than the period stated in that notice; and
  - (b) Comcare may not cancel the certificate on the basis of that notice.
- (4) If the notice given to the employee or contractor states that Comcare is considering cancelling the certificate, Comcare may, after considering any reasons given by the employee or contractor in the period stated in the notice, suspend or cancel the certificate.
- (5) If Comcare suspends or cancels a Commonwealth certificate:
- (a) Comcare must give the relevant employee or contractor a written notice setting out its decision and its reasons for it; and
  - (b) the suspension or cancellation commences on the later of:
    - (i) the day on which Comcare gives the notice to the employee or contractor; or
    - (ii) the day (if any) stated in the notice.

**Suspension or cancellation of a Commonwealth certificate on the  
recommendation of a certifying authority**

- 2.11. (1)** In spite of regulation 2.10, if a certifying authority:
- (a) invites an employee or contractor who holds a Commonwealth certificate to give reasons why the Commonwealth certificate should not be suspended or cancelled; and
  - (b) conducts a hearing of the kind authorised by clause 5.33 of the National Standard; and
  - (c) recommends to Comcare that the certificate should be suspended or cancelled; and

Comcare may suspend or cancel the certificate in accordance with the recommendation without inviting the employee or contractor to give reasons to Comcare.

- (2)** If Comcare suspends or cancels the Commonwealth certificate in accordance with the recommendation:
- (a) Comcare must give the relevant employee or contractor a written notice setting out its decision and its reasons for it; and
  - (b) the suspension or cancellation commences on the later of:
    - (i) the day on which Comcare gives the notice to the employee or contractor; or
    - (ii) the day (if any) stated in the notice.

**Return of a suspended or cancelled Commonwealth certificate**

- 2.12. (1)** An employee or contractor who holds a Commonwealth certificate that is suspended or cancelled must return the certificate to Comcare no later than:
- (a) 14 days after receiving a notice under subregulation 2.10 (2) or 2.11 (2), as the case requires; or
  - (b) if the suspension or cancellation commences on a later day—that later day.

**Penalty:** 1 penalty unit.

- (2) If Comcare suspends a Commonwealth certificate, it must return the certificate to the relevant employee or contractor as soon as practicable after the suspension ends.

### **Review of decisions**

- 2.13. Application may be made to the Administrative Appeals Tribunal for review of a decision of Comcare under subregulation 2.10 or 2.11 to suspend or cancel a Commonwealth certificate.

## **PART 3—OCCUPATIONAL NOISE**

### **Object of Part 3**

- 3.01. The object of this Part is to ensure that:
- (a) all reasonably practicable steps are taken to ensure that employees and contractors at work are not subjected to noise in excess of the exposure standard set out in regulation 3.03; and
  - (b) appropriate personal protective measures are implemented if the taking of all reasonably practicable steps does not reduce noise to or below the exposure standard set out in regulation 3.03.

#### **NOTE**

The regulations in this Part should be read with the National Occupational Noise Standard, and the National Code of Practice for Occupational Noise, as in force on 31 March 1995.

### **Interpretation of Part 3**

**3.02.** In this Part, unless the contrary intention appears:

**“administrative noise control”** means a measure (not including the use of a personal hearing protector) that reduces the noise to which an employee or contractor is exposed at work by means of work arrangements, and includes:

- (a) the scheduling of work; and
- (b) job rotation; and
- (c) limiting the entry of persons to work areas; and
- (d) the observance of quiet work practices;

**“engineering noise control”** means a measure (not including the use of a personal hearing protector) that reduces the noise to which an employee or contractor is exposed, by the design or modification of plant or the physical working environment, including design or a modification for the purposes of:

- (a) eliminating noisy plant; or
- (b) replacing noisy plant by quieter plant; or
- (c) reducing noise emission at the source of the noise; or
- (d) isolating or enclosing noisy plant; or
- (e) the acoustical treatment of the plant;

**“exposure standard”** means the exposure standard for noise set out in subregulation 3.03 (1);

**“noise assessment”** means an assessment, by a person with suitable qualifications and experience, of the noise to which an employee or a contractor is exposed at work:

- (a) to establish whether the noise to which the employee or contractor is exposed exceeds, or is likely to exceed, the exposure standard; and
- (b) to provide information, about the noise to which the employee or contractor may be exposed, that will assist the relevant employer to comply with these Regulations;

**“relevant plant”** means plant:

- (a) that may emit hazardous levels of noise; and
- (b) whose manufacturer, supplier or installer ought reasonably to expect will be used by employees, or contractors, at work.

**The exposure standard for noise**

- 3.03.** (1) For the purposes of this Part, the exposure standard for noise is:
- (a) an eight-hour equivalent continuous A-weighted sound pressure level,  $L_{Aeq,8h}$  of 85 dB(A) referenced to 20 micropascals; or
  - (b) a linear (unweighted) peak sound pressure level,  $L_{peak}$  of 140 dB(lin) referenced to 20 micropascals.
- (2) The sound pressure level is the noise level determined at the employee’s ear position:
- (a) in accordance with the requirements of Australian Standard AS 1269 (“Acoustics-Hearing Conservation”):
    - (i) published by Standards Australia; and
    - (ii) as in force on the day on which this regulation commences; and
  - (b) without taking into account any protection that may be provided by a personal hearing protector.
- (3) The value of  $L_{peak}$  must be determined by using sound-measuring equipment with a peak detector-indicator characteristic that complies with the requirements of Australian Standard AS 1259 (“Sound Level Meters, Part 1: Non-integrating”):
- (a) published by Standards Australia; and
  - (b) as in force on the day on which this regulation commences.

**Duties of manufacturer of relevant plant**

**3.04.** (1) The manufacturer of relevant plant must take all reasonably practicable steps to ensure that the plant is designed and constructed in a manner that, when the plant is properly installed, reduces the noise emitted by the plant to a level that:

- (a) is safe for employees and contractors; and
- (b) represents no risk to their health.

Penalty: 10 penalty units.

(2) The manufacturer of relevant plant must take all reasonably practicable steps to make available to an employer information about:

- (a) the noise emitted by the plant; and
- (b) ways to keep the noise emitted by the plant to the lowest level that is reasonably practicable to achieve.

Penalty: 10 penalty units.

(3) The manufacturer of relevant plant must take all reasonably practicable steps to give an employer, at the employer's request, the information described in subregulation (2).

Penalty for a contravention of this subregulation: 10 penalty units.

**Duties of supplier of relevant plant**

**3.05.** (1) The supplier of relevant plant must take all reasonably practicable steps to ensure that the plant is supplied for use by an employee or a contractor in a condition that, when the plant is properly installed and used,:

- (a) is safe for employees and contractors; and
- (b) represents no risk to their health.

Penalty: 10 penalty units.

(2) The supplier of relevant plant must take all reasonably practicable steps to make available to an employer information about:

- (a) the noise emitted by the plant; and
- (b) ways to keep the noise emitted by the plant to the lowest level that is reasonably practicable to achieve.

Penalty: 10 penalty units.

- (3) The supplier of relevant plant must take all reasonably practicable steps to give an employer, at the employer's request, the information described in subregulation (2).

Penalty for a contravention of this subregulation: 10 penalty units.

### **Duties of installer of relevant plant**

- 3.06. (1) The installer of relevant plant must take all reasonably practicable steps to ensure that the plant is erected or installed for use by an employee or a contractor in a manner that:

- (a) is in accordance with any specific instructions issued by the manufacturer of the plant for its erection or installation; and
- (b) when the plant is properly installed, reduces the noise emitted by the plant to the lowest level that is reasonably practicable.

Penalty: 10 penalty units.

- (2) The installer of relevant plant must take all reasonably practicable steps to ensure that the plant is not erected or installed in a manner that:

- (a) makes the plant unsafe for employees or contractors who use it; or
- (b) represents a risk to the health of employees or contractors because of excessive noise emission as a result of erecting or installing the plant.

Penalty for a contravention of this subregulation: 10 penalty units.

**Duties of an employer—risk assessment**

- 3.07.** (1) If a risk exists of an employee or a contractor being exposed at work to noise that exceeds the exposure standard, the relevant employer must arrange for a noise assessment of the noise to which employees or contractors are exposed to be carried out.

Penalty: 10 penalty units.

- (2) If a noise assessment is carried out under subregulation (1), the relevant employer must arrange for another noise assessment to be carried out no later than 5 years after the day on which the first-mentioned noise assessment is completed.

Penalty: 10 penalty units.

- (3) In spite of subregulation (2), if:
- (a) a noise assessment is carried out; and
  - (b) the practices or the administration of the place at which the work is carried out change in a manner that may cause a significant increase in the noise to which an employee or a contractor is exposed;
- the relevant employer must revise the noise assessment, or arrange for a new noise assessment to be carried out, to take account of the change.

Penalty for a contravention of this subregulation: 10 penalty units.

**Duties of an employer—risk control**

- 3.08.** (1) An employer must, as far as reasonably practicable, provide and maintain:
- (a) the place at which an employee performs work; and
  - (b) plant and systems of work;
- in a manner that ensures that the employee is not exposed to noise, at or near the place, that exceeds the exposure standard.

Penalty: 10 penalty units.



- (2) An employer must, as far as reasonably practicable, provide and maintain:
- (a) a workplace at which a contractor performs work; and
  - (b) plant and systems of work;
- in a manner that ensures that the contractor is not exposed to noise, at or near the workplace, that exceeds the exposure standard.

Penalty: 10 penalty units.

- (3) If the employer is required to take action to ensure that an employee or a contractor is not exposed to noise that exceeds the exposure standard, the employer must carry out the following steps:

**STEP 1:** The employer must, as far as reasonably practicable, implement engineering noise controls to reduce the noise to which the employee or contractor is exposed.

**STEP 2:** If the engineering noise controls implemented under step 1 do not reduce the noise to which the employee or contractor is exposed to a level that is less than, or equal to, the exposure standard, the employer must, as far as reasonably practicable, implement administrative noise controls to reduce the noise to which the employee or contractor is exposed.

Penalty: 10 penalty units.

- (4) Until the engineering noise controls implemented under step 1 and the administrative noise controls implemented under step 2 reduce the noise to which the employee or contractor is exposed to a level that is less than, or equal to, the exposure standard, the employer must give the employee or contractor an appropriate personal hearing protector:
- (a) that complies with the requirements of Australian Standard AS 1270 (“Acoustics—Hearing Protectors”):
    - (i) published by Standards Australia; and
    - (ii) as in force on the day on which this regulation commences; and
  - (b) selected by the employer in accordance with the requirements of Australian Standard AS 1269 (“Acoustics—Hearing Conservation”):
    - (i) published by Standards Australia; and
    - (ii) as in force on the day on which this regulation commences.

Penalty: 10 penalty units.

- (5) In addition to carrying out the steps referred to in subregulation (3), the employer must:
- (a) ensure that noise control measures are properly maintained at the workplace; and
  - (b) give an employee or a contractor information and training about the use of a personal hearing protector that the employee or contractor is given in accordance with subregulation (4); and
  - (c) ensure that a personal hearing protector given to an employee or contractor is properly used and maintained.

Penalty for a contravention of this subregulation: 10 penalty units.

**NOTE**

Further advice and guidance on noise assessment and control can be found in the National Code of Practice for Occupational Noise.

**Duties of an employee**

- 3.09. (1)** An employee at work must, as far as reasonably practicable:
- (a) comply with any noise control measure implemented in accordance with this Part; and
  - (b) tell his or her employer, as soon as practicable, of any defect of which the employee is aware in any noise control equipment located at the place at which the employee carries out the work.

Penalty: 10 penalty units.

- (2)** If an employee is given a personal hearing protector, the employee must:
- (a) use the protector; and
  - (b) tell his or her employer, as soon as practicable, of any defect of which the employee is aware in the protector.

Penalty: 10 penalty units.

- (3)** To avoid doubt, subregulations (1) and (2) do not affect any existing or future right at common law that would, but for this subregulation, be affected by those subregulations.

**Duties of a contractor**

- 3.10. (1)** A contractor at a workplace must, as far as reasonably practicable:
- (a) comply with any noise control measure implemented in accordance with this Part; and
  - (b) tell the employer, as soon as practicable, of any defect of which the contractor is aware in any noise control equipment located at the workplace.

Penalty: 10 penalty units.

- (2)** If a contractor is given a personal hearing protector, the contractor must:
- (a) use the protector; and
  - (b) tell the employer, as soon as practicable, of any defect of which the contractor is aware in the protector.

Penalty: 10 penalty units.

- (3)** To avoid doubt, subregulations (1) and (2) do not affect any existing or future right at common law that would, but for this subregulation, be affected by those subregulations.

**PART 4—PLANT**

*[There are as yet no provisions in this Part]*

**PART 5—MANUAL HANDLING**

*[There are as yet no provisions in this Part]*

**PART 6—HAZARDOUS SUBSTANCES**

*[There are as yet no provisions in this Part]*

**PART 7—CONFINED SPACES**

*[There are as yet no provisions in this Part]*

**PART 8—STORAGE AND HANDLING OF DANGEROUS  
GOODS**

*[There are as yet no provisions in this Part]*

**PART 9—MAJOR HAZARD FACILITIES**

*[There are as yet no provisions in this Part]*

## PART 10—DEFINITIONS

### Interpretation

**10.01.** In these Regulations, unless the contrary intention appears:

**“NOHSC”** means the National Occupational Health and Safety Commission established under section 6 of the *National Occupational Health and Safety Act 1985*;

**“risk”** means the probability and consequences of occurrence of injury or illness;

**“the Act”** means the *Occupational Health and Safety (Commonwealth Employment) Act 1991*.

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### NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

L 1994. 13 December