

EXPLANATORY STATEMENT

Select Legislative Instrument 2010 No. 62

Issued by the authority of the Minister for Employment and Workplace Relations

Occupational Health and Safety (Maritime Industry) Act 1993

Occupational Health and Safety (Maritime Industry) (National Standards) Amendment Regulations 2010 (No. 1)

The *Occupational Health and Safety (Maritime Industry) Act 1993* (the Act) establishes a statutory framework to secure the health and safety of maritime industry employees.

Section 121 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act. Section 121 also limits the penalty that can be imposed for a breach of the regulations to 10 penalty units. A penalty unit equals \$110 (section 4AA of the *Crimes Act 1914* refers).

Section 33 of the Act enables regulations to be made relating to any matter affecting or likely to affect the occupational health and safety of employees or contractors working on, or other persons on or near, prescribed ships or prescribed units.

The *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* (the Principal Regulations) currently give force to national standards declared by the former National Occupational Health and Safety Commission (NOHSC) in relation to hazardous substances and manual handling. These national standards apply to all industries.

The Regulations amend the Principal Regulations and implement the Australian Standard relating to confined spaces, AS2865-2009, with adaptations relevant to conditions in the maritime industry.

The purpose of the Regulations is to protect the occupational health and safety of those who are required to enter or work in confined spaces in the maritime industry. They place a variety of duties on operators of prescribed ships and prescribed units and on their employees in order to achieve this aim.

An ‘operator’ is a person who has the management or control of a prescribed ship or prescribed unit. The terms ‘prescribed ship’ and ‘prescribed unit’ are defined in the Act and the *Navigation Act 1912* (Navigation Act). A ‘prescribed ship’ is a ship to which Part II of the Navigation Act applies and that is engaged in intraterritorial or interstate trade or commerce, or trade or commerce to or between places outside Australia. A ‘prescribed unit’ is an offshore industry mobile unit – that is, a vessel or structure used to explore or exploit the natural resources of Australia’s continental shelf or the seabed.

Operator duties prescribed by the Regulations include: ensuring that competent persons prepare detailed, written risk assessments relating to work in a confined space; undertaking risk elimination or control measures; ensuring that emergency procedures are documented and practised; issuing detailed permits to work before anyone enters or works in a confined space and providing appropriate training. Employee duties will include entering and working in a confined space only when identified in a valid permit to work, working in a confined space in accordance with the training they have received and reporting matters that may affect an operator's compliance with the regulations.

The Regulations set the penalties for any breaches at 10 penalty units..

The Regulations contain a number of strict liability offences. These are designed to promote occupational health and safety and serve the public interest. They do not carry penalties of imprisonment. In framing these offences, consideration was given to the principles contained in Report 6/2002 of the Senate Scrutiny of Bills Committee on the *Application of Absolute and Strict Liability Offences in Commonwealth Legislation*. All strict liability offences have been cleared by the Criminal Law Branch of the Attorney-General's Department.

On the advice of the Office of Regulation Review, a Regulation Impact Statement was not prepared.

The Regulations were developed in consultation with the Seafarers' Safety, Rehabilitation and Compensation Authority (Seacare Authority), its Standards Taskforce and Comcare. Members of the Seacare Authority include employer and employee representatives.

Details of the Regulations are set out in the [Attachment](#).

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

ATTACHMENT

Details of the Occupational Health and Safety (Maritime Industry) (National Standards) Amendment Regulations 2010 (No. 1)

Regulation 1 – Name of Regulations

Regulation 1 inserts a title for the Regulations – the *Occupational Health and Safety (Maritime Industry) (National Standards) Amendment Regulations 2010 (No. 1)*.

Regulation 2 – Commencement

Regulation 2 provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 – Amendment of Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003

Regulation 3 provides that the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1 – Amendment

Item [1] After Part 3

This item inserts Part 4 – entitled ‘Confined Spaces’ – into the Principal Regulations. Part 4 establishes an occupational health and safety regime for those working in confined spaces in the maritime industry.

A note refers to subsection 109(1) of the Act, which enables the Minister for Employment and Workplace Relations to approve a code of practice. Codes of practice are designed to provide practical compliance advice.

Division 1 – Preliminary

Regulation 4.01 Interpretation

Subregulation 4.01(1) contains definitions for Part 4. Important among these are:

- ‘atmospheric monitoring’ – means the continuous measurement of oxygen concentration or airborne contaminants over an uninterrupted duration of time. The risk assessment for a confined space may identify a need for atmospheric monitoring of that space to ensure that oxygen concentrations remain at safe levels and that airborne contaminants have not been released into the confined space.
- ‘atmospheric testing’ – means a non-continuous measurement of oxygen concentration or airborne contaminants. The need for atmospheric testing may arise in a number of ways – for instance, it may be part of hazard identification before work is conducted in a confined space or it may be that re-testing is required as a result of the risk assessment process.
- ‘competent person’ – a competent person is defined as someone who, by a combination of training, education and experience, is able to assess whether an

airborne contaminant is present in a confined space or who can correctly perform a specific task associated with a confined space. A competent person must also meet any relevant requirements mandated by State or Territory law.

- ‘confined space’ – means an enclosed or partially enclosed space that is, or is intended to be, at normal atmospheric pressure while a person is in the space; is not intended primarily for human occupancy and within which there is a risk of one or more of the following:
 - an oxygen concentration outside the safe oxygen range;
 - an airborne contaminant that could cause impairment, loss of consciousness or asphyxiation;
 - a flammable airborne contaminant that could cause injury from fire or explosion;
 - engulfment in a stored free flowing solid or a rising level of liquid that could cause suffocation or drowning.

A confined space may have restricted means of entry or exit.

Examples of confined spaces in the maritime industry may include storage tanks, boilers, pipes and ducts, cargo holds and spaces and fuel, oil and ballast tanks.

- ‘HSIS’ – means the hazardous substances information system that is published on the Safe Work Australia website. Among other things, HSIS contains information on substances that have National Exposure Standards declared under the NOHSC Adopted Exposure Standards for Atmospheric Contaminants in the Occupational Environment. The term ‘HSIS’ is referred to in the definition of ‘exposure standard’ in regulation 4.03.
- ‘risk assessment’ – means the process of evaluating the possibility and consequences of injury or illness arising from exposure to identified hazards. The requirements for conducting a risk assessment and the matters that must be included in an assessment are set out in regulation 4.08.
- ‘risk control’ – means the process of managing the elimination or minimisation of the likelihood that a substance will cause harm to health.
- ‘safe oxygen range’ – means, under normal atmospheric pressure, a minimum atmospheric oxygen content of 19.5 per cent by volume and a maximum atmospheric oxygen content of 23.5 per cent by volume. If oxygen content falls below the safe range, injury and death can result. If oxygen content rises above the safe range, combustible material may burst into flames if an ignition source is present.

With the exception of emergency responses, entry to a confined space is forbidden in the absence of a permit to work. Subregulation 4.01(2) defines when a person is deemed to have entered a confined space. This is when their head or upper body is within that space. A note indicates that inserting an arm into a confined space in order to carry out atmospheric testing or atmospheric monitoring does not constitute entry.

Regulation 4.02 Explosive limit

Regulation 4.02 defines the LEL (lower explosive limit) of a flammable contaminant as the concentration of the contaminant in air below which an explosion does not occur on contact with an ignition source.

Regulation 4.17 imposes certain requirements on operators based on the concentration of flammable contaminants in a confined space. For example, except in the case of an emergency response, an operator must ensure that before a person enters a confined space where a flammable contaminant is present, the concentration of that contaminant is below five per cent of its LEL.

Regulation 4.03 Exposure standard

Regulation 4.03 defines the 'exposure standard' for a substance as the airborne concentration of a substance in a person's breathing zone as described in the HSIS.

According to the *Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:3008(1995)] 3rd Edition*, exposure at these standards should not, based on current knowledge, cause adverse health effects or undue discomfort to nearly all workers.

Division 2 – Duties of operators

Subdivision 1 Securing confined spaces

Regulation 4.04 Entry and exit points

Subregulation 4.04(1) imposes a duty on the operator of a prescribed ship or prescribed unit to ensure that entry points to a confined space are secured against unauthorised entry and, if practicable, permanently signposted. A penalty of 10 penalty units applies for breach.

Given that confined spaces may have restricted means of entry or exit, it is particularly important that they are obstruction-free. This may be vital to both rescuers and workers who may be wearing breathing apparatus and other bulky personal protective equipment. Subregulation 4.04(2) therefore requires the operator to ensure that entry and exit points from confined spaces are not obstructed. A penalty of 10 penalty units applies for breach.

The offences in subregulations 4.04 (1) and (2) are strict liability offences (subregulation 4.04(4)). In other words, the prosecution need not prove fault on the part of the defendant. However, strict liability offences allow a defendant to use a defence of reasonable mistake of fact. General defences under the Criminal Code may also be available. Strict liability is mandated because the offences are designed to protect occupational health and safety, act as a deterrent and serve the public interest.

Regulation 4.05 Work practices and confined spaces

Subregulation 4.05(1) requires an operator to design work practices to minimise the need to enter confined spaces. A penalty of 10 penalty units applies for breach.

This offence is a strict liability offence (subregulation 4.05(2)).

Regulation 4.06 Modifications to a confined space

If modifications are made to a confined space, subregulation 4.06(1) requires the operator to modify the space in a way that does not detrimentally affect the safe means of entry to or exit from or work in that space. A penalty of 10 penalty units applies for breach.

This offence is also a strict liability offence (subregulation 4.06(2)).

Subdivision 2 Hazard identification and risk assessment

Regulation 4.07 Hazard identification

Regulation 4.07 requires the operator to ensure that, before any work is undertaken in a confined space, a competent person identifies hazards associated with entering, exiting from or working in that space. The penalty for breach is 10 penalty units.

Regulation 4.08 Risk assessment

Subregulation 4.08(1) prohibits an operator from issuing a permit to work for work in a confined space until a competent person has:

- undertaken a risk assessment, and
- prepared a written report that deals with the matters set out in subregulation 4.08(3).

The matters specified in subregulation 4.08(3) include the nature and inherent hazards of the confined space, work that is to be carried out in the confined space, whether it is necessary to enter the confined space in order to carry out the work, how the work can be carried out, the hazards and risks of the work and equipment, any potential hazard inside the confined space, emergency response procedures and the competencies required for the work.

Subregulation 4.08(4) provides that the penalty for breach of subregulation 4.08(1) is 10 penalty units. A note advises the reader that regulation 4.29 sets out the period for which a risk assessment must be kept.

Where there are similar confined spaces having identical risk factors, a generic risk assessment can be undertaken (subregulation 4.08(2)).

Regulation 4.09 When a risk assessment ceases to be valid

If evidence is available to the operator that a risk assessment does not address or no longer addresses the risks posed by a confined space, the risk assessment ceases to be valid (subregulation 4.09(1)). In such a case:

- subregulation 4.09(2) requires the operator to arrange for a competent person to review the risk assessment;
- subregulation 4.09(3) requires the operator, after such a review, to make any necessary changes in writing to the risk assessment and the permit to work.

A note provides some examples of evidence that could indicate a risk assessment is no longer valid. These include a change in equipment operating conditions, a change in the

atmosphere or occupational environment and an incident that affects or could affect the safety of persons.

Breaches of subregulation 4.09(2) or (3) attract penalties of 10 penalty units in either case.

Subregulation 4.09(4) provides that an offence against subregulation 4.09(2) or (3) is a strict liability offence.

Regulation 4.10 Atmospheric testing

Subregulation 4.10(1) requires the operator to ensure that, before anyone enters or works in a confined space, atmospheric testing in and near the confined space is conducted by a competent person. An operator who does not comply with this duty is liable to a penalty of 10 penalty units.

Additionally, an operator must maintain a record of atmospheric testing (subregulation 4.10(2)). A note refers the reader to regulation 4.29, which sets out the period for which such records must be kept.

Regulation 4.11 Atmospheric monitoring

Regulation 4.11 applies where a risk assessment identifies risks requiring atmospheric monitoring in and near a confined space (subregulation 4.11(1)). In this case, the operator must ensure that atmospheric monitoring in and near the space is carried out by a competent person (subregulation 4.11(2)). The penalty for breach of subregulation 4.11(2) is 10 penalty units.

Because atmospheric monitoring is a continuous process, there is no requirement for records to be kept.

Regulation 4.12 Safe atmosphere

Except in the case of an emergency response, subregulation 4.12(2) requires an operator to ensure that, before a person enters a confined space:

- the space is at normal atmospheric pressure; and
- the level of oxygen is within the safe oxygen range; and
- airborne contaminants are below the relevant exposure standards; and
- the confined space is free from extremes of temperature; and
- the concentration of any flammable airborne contaminant is below five per cent of its LEL.

The penalty for breach of subregulation 4.12(2) is 10 penalty units.

Subdivision 3 Risk control measures

Regulation 4.13 Elimination or control of risk

Subregulation 4.13(1) provides that where a risk assessment identifies a health or safety risk associated with entry to or work in a confined space, the operator must eliminate that risk. If this is not reasonably practicable, the operator is required to take measures in accordance with the regulations to control the risk. The penalty for breach of subregulation 4.13(1) is 10 penalty units.

Subregulation 4.13(2) sets out the order of priority in which risk control measures should be undertaken – commencing with elimination (the highest level of protection against a risk) and ending with the use of personal protective equipment.

Subregulation 4.13(4) provides that personal protective equipment should be used when all the other risk control measures have failed to control the risk or in an emergency response.

Subregulation 4.13(3) requires the operator to document the risk control measures in subregulation 4.13(2) that are undertaken to address risks identified in a risk assessment. Failure to do so incurs a penalty of 10 penalty units.

Where personal protective equipment is needed, the operator is required to ensure that it is fitted to suit the individual (subregulation 4.13(5)). A penalty of 10 penalty units applies for breach.

The term, ‘personal protective equipment’, is defined in regulation 4.01. It includes protective clothing, safety helmets, eye and face protection, hearing protection, gloves, safety footwear, lifelines, safety harnesses, breathing apparatus and respirators.

Regulation 4.14 Using a purging agent

Regulation 4.14 provides that if a confined space must be cleared of an airborne contaminant, the operator must ensure that a suitable purging agent is used that is neither pure oxygen nor a gas mixture with an oxygen content greater than 21 per cent by volume. The penalty for breach is 10 penalty units.

Regulation 4.15 Gas used for ventilation purposes

Regulation 4.15 requires the operator to ensure that gas used for ventilating a confined space is not pure oxygen or a gas mixture with an oxygen content of more than 21 per cent by volume. The penalty for breach is 10 penalty units.

Regulation 4.16 Isolating hazardous services

One way of protecting workers who may enter or work in a confined space is to isolate potentially hazardous services that are connected to the confined space. Subregulation 4.16(1) requires the operator to ensure that potentially hazardous services, including process services, are positively isolated before anyone enters or works in a confined space. The penalty for breach is 10 penalty units.

The term ‘process services’ is defined in subregulation 4.16(2) to include hot water pipes, sewer pipes and gas pipes.

Regulation 4.17 Flammable airborne contaminants

Regulation 4.17 sets out an operator's duties when flammable airborne contaminants are present in a confined space. Except in the case of an emergency response, the operator is required to ensure that before anyone enters a confined space where a flammable contaminant is present:

- the concentration of any flammable airborne contaminant is less than five per cent of its LEL; and
- the oxygen content of the atmosphere is 23.5 per cent or less than 23.5 per cent (subregulation 4.17(2)).

If, after anyone has entered and is working in the confined space, the concentration of a flammable airborne contaminant is found to be five per cent or greater than five per cent of its LEL and less than 10 per cent of its LEL, then the operator is required to ensure that:

- everyone is removed from the confined space; or
- continuous monitoring for the flammable contaminant occurs while anyone is present in the confined space (subregulation 4.17(3)).

If the concentration of a flammable contaminant is found to be 10 per cent of its LEL or greater, then the operator is required to ensure that all persons are evacuated from the confined space (subregulation 4.17(4)).

The requirements in subregulations 4.17(3) and (4) reflect reductions in safety margins associated with increased percentages of the LEL.

The penalties for breach of subregulation 4.17(2), (3) or (4) are 10 penalty units in each case.

Regulation 4.18 Supplied-air respiratory equipment

Subregulation 4.18(2) applies if, after all risk control measures have been undertaken:

- the atmospheric oxygen content in the confined space is 19.5 per cent or less than 19.5 per cent; or
- airborne contaminants in the confined space cannot be reduced below the relevant exposure standards (subregulation 4.18(1)).

In these circumstances, subregulation 4.18(2) requires the operator to ensure that anyone entering or working in the confined space is equipped with supplied-air respiratory equipment that is properly maintained and fitted to suit the person who is to use it.

The penalty for breach of subregulation 4.18(2) is 10 penalty units.

Regulation 4.19 Stand-by person

If a risk assessment identifies a risk to health or safety arising from entry to or work in a confined space, then regulation 4.19 requires the operator to ensure that at least one competent person:

- acts as a stand-by person; and
- is near the confined space when it is occupied for work; and
- can see each person in the confined space, if this is practicable; and
- can be in continuous communication with persons in the confined space; and
- can communicate with the officer of the watch; and
- can operate and monitor equipment used to ensure safety in the confined space; and
- can initiate emergency response measures.

The penalty for breach is 10 penalty units.

Regulation 4.20 Equipment to be provided

Subregulation 4.20(1) requires an operator to provide the equipment identified in the permit to work as necessary for work in the confined space. A permit to work must be issued by the operator before anyone can enter or work in a confined space (regulation 4.24). Among other things, it must identify the equipment required for work in the confined space (paragraph 4.23(1)(i) relates).

The operator must also ensure that the equipment provided is accessible and suitable for the work (subregulation 4.20(2)).

Breaches of the duties in subregulations 4.20(1) or (2) attract penalties of 10 penalty units in each case. Further, a breach of subregulation 4.20(2) is an offence of strict liability.

Regulation 4.21 Equipment – maintenance

Subregulation 4.21(1) requires an operator to ensure that equipment provided for use in or in connection with entry to or work in a confined space or during an emergency response is maintained so that it is fit for the purpose for which it was provided. The penalty for breach of subregulation 4.21(1) is 10 penalty units.

The operator must keep a record of equipment maintenance (subregulation 4.21(2)). A note advises the reader that the period for which the record must be kept is set out in regulation 4.29.

Regulation 4.22 Emergency and first aid procedures

Regulation 4.22 sets out an operator's duties in relation to emergency and first aid procedures. These are to ensure that:

- the procedures are contained in a written document available to all who may enter or work in a confined space (subregulation 4.22(1))
- anyone who may enter or work in a confined space has practised the emergency procedures prior to entry or work (subregulation 4.22(2))
- anyone who enters the confined space as part of an emergency response is informed, prior to entry, of the nature of the emergency, the contents of the relevant permit to work and the hazards and risks identified in the risk assessment for the confined space (subregulation 4.22(3)).

Breach of the requirements in subregulation 4.22(1), (2) or (3) means that the operator is liable to a penalty of 10 penalty units in each case.

A note to subregulation 4.22(1) advises the reader that regulation 4.29 sets out the period for which the emergency and first aid procedures document must be kept.

Division 3 Permit to work**Regulation 4.23 Permit to work**

Except in the case of an emergency response, a permit to work must be issued by the operator before anyone enters or works in a confined space. Subregulation 4.23(1) prescribes the requirements of a permit to work. For example, it must identify the location of the confined space, the person with direct control of work in or entry to the confined space, the work to be conducted in the space, the hazards in the confined space, necessary risk control measures, the persons required to enter the confined space, the period for which the permit is valid and the equipment required. If more than one stand-by person is required, the permit must also indicate how many stand-by persons are needed.

Subregulation 4.23(2) requires an operator to keep a record of everyone who is permitted to enter or work a confined space and everyone who, in fact, enters and exits the confined space. A note advises the reader that the periods for which the permit to work and the record must be kept are specified in regulation 4.29.

Regulation 4.24 Operator's duty – permit to work required for entry to or work in a confined space

The effect of subregulations 4.25(1) to (4) is to require the operator, except in the case of an emergency response, to ensure that:

- no one enters a confined space unless there is a valid permit to work for work in that confined space;
- no one enters or works in a confined space unless the person is identified in the permit as a person who may work in the confined space;

- before a person enters a confined space, he or she is informed of the content of the permit to work.

The penalty for breach in each case is 10 penalty units.

Subregulation 4.24(5) defines a valid permit to work as a permit that:

- has not expired; and
- is the subject of a risk assessment carried out under regulation 4.08; and
- has been the subject of a reviewed risk assessment (if regulation 4.09 applies).

Regulation 4.25 Employee's duty – entry to or work in a confined space

Regulation 4.25 stipulates that an employee who enters or works in a confined space:

- must not enter a confined space unless he or she is identified on a valid permit as a person who may work in the confined space (subregulation 4.25(2));
- must not work in a confined space unless he or she is identified on a valid permit as a person who may work in the confined space (subregulation 4.25(3));
- must work in accordance with the training he or she has received (subregulation 4.25(4));
- must work in accordance with the requirements of the permit to work (subregulation 4.25(5));
- must report any matter that may affect the operator's compliance with the provisions of Part 4 as soon as practicable after becoming aware of the matter (subregulation 4.25(6)).

The penalty for breach of these provisions is 10 penalty units in each case. Strict liability applies to each offence (subregulation 4.25(7)).

Subregulations 4.25(2), (3) and (5) do not apply when entry or work is in response to an emergency (subregulation 4.25(1)).

Regulation 4.26 When a permit to work ceases to be valid

Subregulation 4.26(1) provides that a permit to work ceases to be valid if:

- there is a change in the person with direct control of entry to or work in the confined space; or
- there is a change in the work permitted under the permit to work; or
- the risk assessment ceases to be valid; or
- there is a break in work continuity.

If any of these circumstances apply, the operator is required to ensure that:

- the confined space is evacuated; and
- the entry to the confined space is closed or secured until a new or revalidated permit is issued (subregulation 4.26(2)).

The penalty for breach of subregulation 4.26(2) is 10 penalty units.

Regulation 4.27 Withdrawal of permit to work

Subregulation 4.27(1) enables the operator to withdraw a permit to work after ensuring that work has ceased and everyone has left the confined space. Before the permit is withdrawn the operator is required to acknowledge in writing that work has ceased and all persons have left the confined space (subregulation 4.27(2)).

The penalty for breach of subregulation 4.27(2) is 10 penalty units.

Division 4 Training

Regulation 4.28 Requirement for training

Regulation 4.28 requires the operator to provide the following training:

- general training – about the nature of confined spaces, hazard identification, risk assessment, permits to work and the stand-by role – for those who work in or on prescribed ships or prescribed units (subregulation 4.28(1));
- specific training – about safety equipment, risk control measures and emergency response procedures – for those who might enter or work in a confined space or who directly control work in a confined space (subregulation 4.28(2));
- specific training in hazard identification, risk assessment, atmospheric testing and monitoring and the stand-by role – for those who perform these particular roles in relation to confined spaces (subregulation 4.28(3)).

An operator who fails to provide such training under subregulation 4.28 (1), (2) or (3) is liable to penalties of 10 penalty units in each case.

In addition, under subregulation 4.28(4) an operator must make written records of:

- the name of the training course;
- the name of any registering or accrediting body;
- an outline of the course contents and duration and the names, qualifications and experience of the trainers – in the case of courses that are not registered or accredited;
- the names of those who received training and the dates of attendance;
- the competencies attained.

A note advises readers that regulation 4.29 sets out the period for which such records must be kept.

Division 5 Records

Regulation 4.29 Period for which records kept

Subregulation 4.29(1) requires the operator to keep specified records for the periods stipulated in the table. An operator who breaches this requirement is subject to a penalty of 10 penalty units (subregulation 4.29(1)).

Items 1 to 8 of the table specify the time periods for which particular records must be kept. For example, risk assessments and changed risk assessments must be kept for five years after the time they cease to be valid (items 1 and 2); permits to work must be kept for 30 days after the time they cease to be valid or were withdrawn (item 6) and training records must be kept for five years after the end of the period of employment of the person who received the training (item 8).

Subregulation 4.29(2) provides that breach of subregulation 4.29(1) is a strict liability offence.

Regulation 4.30 Records must be available for inspection

Subregulation 4.30(1) requires an operator to ensure that the records specified in regulation 4.29 are made available to an inspector on request by the inspector. The penalty for breach is 10 penalty units.

Inspectors are either staff of the Australian Maritime Safety Authority (AMSA) appointed under section 84 of the Act or state or territory public servants who are permitted to exercise the powers of inspectors under section 106 of the Act. AMSA performs the OHS inspectorate function under the Seacare scheme. Among other things, inspectors can conduct investigations into possible contraventions of the Act or regulations.

An operator is also required to ensure that the records specified in the table in regulation 4.29 are made available, on request, to the employee to whom the record relates (subregulation 4.30(2)).