

TASMANIA

**WORK HEALTH AND SAFETY (TRANSITIONAL)
REGULATIONS 2022**

STATUTORY RULES 2022, No. 110

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SCHEDULE 1 – LEGISLATION RESCINDED

WORK HEALTH AND SAFETY (TRANSITIONAL) REGULATIONS 2022

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *Work Health and Safety (Transitional and Consequential Provisions) Act 2012*.

Dated 21 November 2022.

B. BAKER
Governor

By Her Excellency's Command,

ELISE ARCHER
Minister for Workplace Safety and Consumer Affairs

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *Work Health and Safety (Transitional) Regulations 2022*.

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Part 1 – Preliminary

2. Commencement

These regulations take effect on the day on which the *Work Health and Safety Regulations 2022* commence.

3. Interpretation

In these regulations –

Act means the *Work Health and Safety (Transitional and Consequential Provisions) Act 2012*;

new regulations means the *Work Health and Safety Regulations 2022*;

person conducting a business or undertaking has the same meaning as in the new Act;

regulator has the same meaning as in the new Act;

2012 commencement day means the day on which the *Work Health and Safety Regulations 2012* commenced.

PART 2 – UPSTREAM DUTIES

4. Duties of designers of plant or structure

The duties imposed on a designer under regulations 59, 61, 64, 187, 188, 189, 190, 191, 192, 228, 229, 230 and 295 of the new regulations do not apply in relation to plant or a structure if –

- (a) the designer completed the design of the plant or structure before the 2012 commencement day; or
- (b) the designer –
 - (i) commenced designing the plant or structure before the 2012 commencement day; and
 - (ii) completed the design by the second anniversary of the 2012 commencement day.

5. Duties of importers of plant or structure

The duties imposed on an importer under regulations 59, 61, 64, 196 and 197 of the new regulations do not apply in relation to the importing by the importer of plant or a structure if –

- (a) the importer completed the importing of the plant or structure before the 2012 commencement day; or

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Part 2 – Upstream Duties

- (b) the importer –
 - (i) commenced any steps constituting the importation of the plant or structure before the 2012 commencement day; and
 - (ii) completed the importing of the plant or structure by the first anniversary of the 2012 commencement day.

6. Duties of suppliers of plant or structure

The duties imposed on a supplier under regulations 59, 61, 64, 198, 199 and 200 of the new regulations do not apply in relation to the supply by the supplier of plant or a structure if –

- (a) the supplier completed the supplying of the plant or structure before the 2012 commencement day; or
- (b) the supplier –
 - (i) commenced any process associated with the supply of the plant or structure before the 2012 commencement day; and
 - (ii) completed the supplying of the plant or structure by the first anniversary of the 2012 commencement day.

7. Duties of installers or constructors of plant or structure

(1) In this regulation –

designated person means a person who is an installer or constructor of any plant or structure.

(2) The duties imposed on a designated person under regulation 64 of the new regulations do not apply to or in relation to the installation or construction of plant or a structure if –

(a) the designated person completed the installation or construction of the plant or structure before the 2012 commencement day; or

(b) the designated person –

(i) commenced any process associated with the installation or construction of the plant or structure before the 2012 commencement day; and

(ii) completed the installation or construction of the plant or structure by the second anniversary of the 2012 commencement day.

8. Duties of persons conducting businesses or undertakings that install, construct or commission plant or structure

(1) In this regulation –

designated person means a person who conducts a business or undertaking that installs, constructs or commissions plant or a structure.

(2) The duties imposed on a designated person under regulations 201 and 202 of the new regulations do not apply to, or in relation to, the installation, construction or commissioning of plant or a structure if –

(a) the designated person completed the installation, construction or commissioning of the plant or structure before the 2012 commencement day; or

(b) the designated person –

(i) commenced any process associated with the installation, construction or commissioning of the plant or structure before the 2012 commencement day; and

(ii) completed the installation, construction or commissioning of the plant or structure by the second anniversary of the 2012 commencement day.

9. Duties of person who commissions construction work

(1) In this regulation –

designated person means a person conducting a business or undertaking that commissions construction work in relation to a structure.

(2) The duties imposed under regulation 294 of the new regulations on a designated person do not apply in relation to the construction of a structure if –

(a) the designer of the structure completed the design of the structure before the 2012 commencement day; or

(b) the designer of the structure –

(i) commenced designing the structure before the 2012 commencement day; and

(ii) completed the design of the structure by the second anniversary of the 2012 commencement day.

PART 3 – CONSTRUCTION INDUSTRY

10. Construction induction training cards

(1) In this regulation –

occupational health and safety construction induction card means a card of that name issued, by Workplace Standards Tasmania after 19 August 2009, to provide evidence that a person has undertaken general construction induction training in accordance with the *Tasmanian Code of Practice for Induction for Construction Work* which was approved by the Minister pursuant to section 22 of the former Act;

Workplace Standards means the division of the Department that was responsible for the administration of the *Workplace Health and Safety Act 1995* immediately before the 2012 commencement day.

(2) If a person, immediately before the 2012 commencement day, held an occupational health and safety construction induction card –

- (a) that person is taken to have successfully completed general construction induction training for the purposes of Part 6.5 of the new regulations; and
- (b) that card is taken to be a general construction induction training card

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issued by the regulator under regulation
319 of the new regulations.

PART 4 – DIVING

11. Competence of worker – general diving work

(1) In this regulation –

general diving work has the same meaning as in the new regulations;

harvesting or scientific diving work means general diving work (other than incidental diving work and limited scientific diving work) that is carried out for the purposes of –

- (a) taking fish, shellfish or other marine or aquatic life (whether for food or for other purposes); or
- (b) professional scientific research, natural resource management or scientific research as an educational activity;

incidental diving work has the same meaning as in the new regulations;

limited scientific diving work has the same meaning as in the new regulations.

(2) A person is taken to have a qualification under regulation 171 of the new regulations in relation to general diving work if the person has –

- (a) undertaken harvesting or scientific diving work during 2012; and

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- (b) completed at least 60 hours of harvesting or scientific diving work between 1 January 2011 and 31 December 2012 (both days inclusive).

PART 5 – PLANT AND STRUCTURES

12. Tree lopping

- (1) In this regulation –

approved code of practice means a code of practice that has been approved under section 274 of the new Act;

crane-based tree lopping means tree lopping using a method where a person is placed in a tree by a crane.

- (2) Regulation 221 of the new regulations does not apply until an approved code of practice, detailing safety practices in relation to crane-based tree lopping, takes effect.

13. Recognition of plant design registration under former regulations

- (1) This regulation applies in relation to the design of an item of plant if –
- (a) before the 2012 commencement day, the plant design was registered under regulation 99 of the former regulations; and
 - (b) immediately before the 2012 commencement day, the registration was in force; and
 - (c) on the 2012 commencement day, the plant design was required to be registered

under Part 5.3 of the *Work Health and Safety Regulations 2012*.

- (2) The design of an item of plant is taken to be registered under Division 3 of Part 5.3 of the new regulations subject to the same conditions as those which applied, immediately before the 2012 commencement day, to the registration of that plant design under the former regulations.
- (3) The design registration number issued under regulation 99 of the former regulations for a plant design is taken to be the plant design registration number issued under regulation 260 of the new regulations for that design.
- (4) If, before the 2012 commencement day, the Director has given a person written notice advising the person that the person's application to register a plant design under regulation 97 of the former regulations has been granted, that notice is taken to be the registration document issued by the regulator under regulation 261 of the new regulations for that design.

14. Registration of plant designs not registered under former regulations

- (1) This regulation applies to the design of an item of plant if –
 - (a) the item of plant is specified in Part 1 of Schedule 5 to the new regulations; and
 - (b) immediately before the 2012 commencement day, the design was not

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Part 5 – Plant and Structures

required to be registered under Subdivision 2 of Division 3 of Part 4 of the former regulations.

- (2) Regulation 243 of the new regulations does not apply to the design of an item of plant if the item of plant was manufactured before 1 January 2014.
- (3) Regulations 231, 232 and 233 of the new regulations do not apply to the manufacturer, importer or supplier of plant if that plant was manufactured before 1 January 2014.

PART 6 – MISCELLANEOUS

15. Health surveillance reports

- (1) In this regulation –

health surveillance record means a record of health surveillance results that was, immediately before the 2012 commencement day, required to be kept in accordance with regulation 22(6) of the former regulations.

- (2) A health surveillance record is taken to be a health monitoring report for the purposes of regulation 378 of the new regulations.

16. Recurrence to be prevented

- (1) This regulation applies in relation to an accident or incident that occurred before the 2012 commencement day and which caused, or had the potential to cause, serious injury or damage at a workplace.
- (2) If, immediately before the 2012 commencement day, regulation 63 of the former regulations had not been complied with in relation to an accident or incident, the person conducting a business or undertaking at the workplace at which the accident or incident occurred must as soon as reasonably practicable –
- (a) investigate the accident or incident to attempt to discover its cause; and

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Part 6 – Miscellaneous

- (b) identify and implement measures to prevent the accident or incident occurring again.

Penalty: Fine not exceeding 20 penalty units.

17. Codes of practice

The following codes of practice are prescribed for the purposes of section 15 of the Act:

- (a) the Code of Practice for the Safe Use of Reinforced Plastics published by Workplace Standards Tasmania;
- (b) the Code of Practice for Risk Management of Agricultural Shows and Carnivals published by Workplace Standards Tasmania;
- (c) the Forest Safety Code (Tasmania) 2007, produced by the Safety Standards Committee, Tasmanian Forest Industries Training Board Inc;
- (d) the Code of Practice for the Tasmanian Abalone Industry developed by the Tasmanian Abalone Council Ltd.

18. Legislation rescinded

The legislation specified in Schedule 1 is rescinded.

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SCHEDULE 1 – LEGISLATION RESCINDED

Regulation 18

Work Health and Safety (Transitional) Regulations 2012 (No.
144 of 2012)

Work Health and Safety (Transitional) Amendment
Regulations 2013 (No. 123 of 2013)

Work Health and Safety (Transitional) Amendment
Regulations 2014 (No. 148 of 2014)

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 30 November 2022.

These regulations are administered in the Department of Justice.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations, which replace the *Work Health and Safety (Transitional) Regulations 2012*, provide for savings and transitional matters consequent on the making of the *Work Health and Safety Regulations 2022*.