

1996—No. 159

**OCCUPATIONAL HEALTH AND SAFETY ACT 1983—  
REGULATION**

(Occupational Health and Safety (Demolition Licensing) Regulation 1996)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Occupational Health and Safety Act 1983, has been pleased to make the Regulation set forth hereunder.

Jeffrey Shaw, Q.C., M.L.C.,  
Minister for Industrial Relations.

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**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the Occupational Health and Safety (Demolition Licensing) Regulation 1996.

**Commencement**

2. (1) Except as provided by subclause (2), this Regulation commences on 13 May 1996.

(2) Part 2 commences on 1 August 1996.

**Application**

3. This Regulation does not apply to demolition work carried out in a mine within the meaning of the Coal Mines Regulation Act 1982 or the Mines Inspection Act 1901.

**Definitions**

4. (1) In this Regulation:

“**approved**” means approved by WorkCover from time to time;

**“demolition work”** means any one or more of the following:

- (a) work comprising the total demolition of any building, structure or installation that is 10 metres or more in height;
- (b) work comprising the partial demolition of any building, structure or installation that is 10 metres or more in height so as to affect its structural integrity;
- (c) work comprising the total or partial demolition of any building, structure or installation, being work involving the use of load shifting machinery on suspended floors;
- (d) work comprising the total or partial demolition of pre-tensioned or post-tensioned structural components of a building or structure;
- (e) work done to a building, structure or installation that is 4 metres or more in height, being work involving mechanical felling;
- (f) work done to a building, structure or installation involving explosives or methods of induced collapse (that is, where the structural stability of the whole or part of the building, structure or installation is deliberately altered in such a way that the collapse ensues suddenly);

**“licence”** means a licence to carry on the business of doing demolition work in force under this Regulation;

**“the Act”** means the Occupational Health and Safety Act 1983;

**“WorkCover”** means the WorkCover Authority constituted by the WorkCover Administration Act 1989.

(2) For the purposes of the definition of “demolition work” in subclause (1), the height of a building, structure or installation is to be measured from the ground level to its highest part.

(3) For the purposes of this Regulation, a person does demolition work if it is done:

- (a) by the person; or
- (b) by the person’s employees or agents.

(4) For the purposes of this Regulation, a person carries on a business if the person carries on the business personally, in partnership or by employees or agents, or if the person advertises that the person carries on the business.

**PART 2—REGULATION OF DEMOLITION BUSINESSES****Demolition business not to be carried on without licence**

**5.** A person must not carry on the business of doing demolition work unless the person is the holder of a licence.

Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in any other case.

**Notification of proposed demolition work: sec. 27A**

**6. (1)** Demolition work is prescribed as work for which notice is required to be given to WorkCover under section 27A of the Act.

**(2)** Any notice under section 27A of the Act in respect of proposed demolition work involving explosives must be given at least 21 days before the commencement of the proposed work.

**(3)** Particulars of any such notice are to be kept by WorkCover and made available free of charge to members of the public.

**PART 3—LICENCES FOR DEMOLITION BUSINESSES****Applications for licences**

**7. (1)** An application for a licence to carry on the business of doing demolition work must:

- (a) be in an approved form; and
- (b) be accompanied by an application fee of \$200; and
- (c) be lodged at an office of WorkCover.

**(2)** The application fee is not refundable.

**(3)** An application by persons who intend to carry on business in partnership may be made by any one or more of those persons.

**Determination of applications**

**8. (1)** After considering an application, WorkCover:

- (a) may grant the licence to which the application relates, either unconditionally or subject to conditions; or
- (b) may refuse the application.

**(2)** A licence is to be in an approved form.

**(3)** WorkCover must not grant a licence unless it is satisfied:

- (a) in the case of an application made by an individual—that the individual:

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- (i) is of or above the age of 18 years; and
  - (ii) is a fit and proper person to hold a licence; and
  - (iii) has demonstrated his or her knowledge of safe working methods relating to demolition work; and
  - (iv) has completed an approved course relating to carrying out demolition work, or, in the opinion of WorkCover, possesses appropriate experience or training in carrying out demolition work; and
- (b) in the case of an application made by a corporation—that:
- (i) each director of the corporation is of or above the age of 18 years, and would, if the application had been made by the director, be a fit and proper person to hold the licence; and
  - (ii) at least one person engaged in the management of the corporation has demonstrated his or her knowledge of safe working methods in relation to demolition work; and
  - (iii) at least one person engaged in the management of the corporation has completed an approved course relating to carrying out demolition work, or, in the opinion of WorkCover, possesses appropriate experience or training in carrying out demolition work; and
- (c) that appropriate arrangements exist to ensure that the applicant's employees (if any) do not carry out demolition work unless they have had proper training in safe methods of demolition work; and
- (d) that appropriate arrangements exist to ensure that, during the carrying out of demolition work, a qualified person (whether or not the holder of the licence) will supervise the carrying out of the work.
- (4)** For the purposes of this clause, a qualified person is a person who:
- (a) has completed an approved course relating to carrying out demolition work; or
  - (b) in the opinion of WorkCover, possesses appropriate experience or training in carrying out demolition work.

**Amendment of conditions of licence**

**9. (1)** WorkCover may, at any time, and whether or not on the application of the holder of the licence concerned:

- (a) amend or cancel any condition to which the licence is subject; or
- (b) impose further conditions on the licence.

(2) Any such amendment or a further condition takes effect on the date it is notified to the holder of the licence concerned, or on such later date as may be specified in the notice.

#### **Notice of refusal**

**10. (1)** If WorkCover refuses to grant a licence, it must give written notice of the refusal, and of the reasons for the refusal, to the applicant.

(2) WorkCover is taken to have refused to grant a licence (and notified the applicant accordingly) if it does not determine an application within 3 months after the date of lodgment of the application.

#### **Duration of licence**

**11.** A licence remains in force, unless sooner suspended or cancelled, for a period of 2 years from the date on which it is granted, or until such later date as may be specified in the licence for its expiry.

#### **Licence fees**

**12. (1)** A licence fee determined by WorkCover (not exceeding \$1,800) is payable to WorkCover in respect of a licence.

(2) A licence has no effect until the licence fee is paid.

#### **Suspension or cancellation of licences**

**13. (1)** WorkCover may, at any time, suspend or cancel a licence if it is satisfied that the holder of the licence:

- (a) has made a statement in or in connection with an application for the licence that the holder knew, when the statement was made, to be false or misleading—in a material particular; or
- (b) has done demolition work in such a manner as to expose any person to a health or safety risk that could reasonably have been avoided; or
- (c) has contravened a condition of the licence; or
- (d) has failed to comply with the requirements of an improvement notice or prohibition notice under the Occupational Health and Safety (Inspector's Notices and Penalty Notices) Regulation 1988; or
- (e) has been convicted of an offence against the Act or any regulation under the Act (including this Regulation) or an offence against the Construction Safety Act 1912 or any regulation under that Act; or

- (f) if the holder is an individual, is no longer a fit and proper person to hold the licence; or
- (g) if the holder is a corporation, has as a director a person who is no longer a fit and proper person to hold a licence.

(2) WorkCover may, at any time, suspend or cancel a licence held by a corporation if any person engaged in the management of the corporation referred to in clause 8 (3) (b) (ii) or (iii) is no longer so engaged.

(3) Before suspending or cancelling a licence, WorkCover must give the holder of the licence:

- (a) written notice of the proposed suspension or cancellation; and
- (b) a reasonable opportunity to make representations to WorkCover in relation to the proposed suspension or cancellation.

(4) WorkCover must have regard to any such representations.

(5) The suspension or cancellation of a licence takes effect on the date it is notified to the holder of the licence concerned, or on such later date as may be specified in the notice.

## PART 4—MISCELLANEOUS

### Exemptions

14. (1) A person may apply to WorkCover for an exemption from the operation of any provision of this Regulation.

(2) An application for an exemption must:

- (a) be in an approved form; and
- (b) be lodged at an office of WorkCover.

(3) After considering an application, WorkCover:

- (a) may, by order in writing, exempt the person from the operation of a provision of this Regulation; or
- (b) may refuse to give an exemption.

(4) An exemption may be given unconditionally or subject to conditions.

(5) WorkCover is taken to have refused to give an exemption (and notified the applicant accordingly) if it does not determine an application within 3 months after the date of lodgment of the application.

(6) WorkCover may, at any time, revoke an exemption given under this clause.

**Appeals**

**15. (1)** An appeal may be made to an Industrial Magistrate against the decision of WorkCover:

- (a) to refuse to grant a licence to the appellant; or
- (b) to impose conditions or further conditions to which a licence held by the appellant is subject, or to revoke or amend the conditions to which a licence held by the appellant is subject; or
- (c) to suspend or cancel a licence held by the appellant.

**(2)** Notice of an appeal must:

- (a) be in a form approved by the Industrial Registrar; and
- (b) specify the grounds of the appeal; and
- (c) be lodged with the Industrial Registrar within 21 days after the person concerned is notified by WorkCover of the decision being appealed against.

**(3)** The Industrial Registrar must:

- (a) give a copy of the notice of an appeal under this clause to WorkCover; and
- (b) give notice to WorkCover and the appellant of the time and place of the hearing of an appeal under this clause.

**(4)** An appeal is to be dealt with by way of a new hearing, and fresh evidence (or evidence in addition to, or in substitution for, the evidence before WorkCover when the relevant decision was made) may be given on the appeal.

**(5)** The hearing of an appeal may proceed despite any omission or error in a notice under subclause (3) or the failure to give any such notice if the Industrial Magistrate hearing the appeal is satisfied that the appellant and WorkCover had knowledge of the time and place set down for the hearing and were not prejudiced by any such omission or error or by the failure to give any such notice.

**(6)** An Industrial Magistrate is to hear and determine an appeal under this clause and may confirm or disallow the appeal and make such decision as WorkCover could have made in the matter to which the appeal relates.

**(7)** The decision of an Industrial Magistrate on an appeal is final and binding and is to be given effect to according to its terms.

**Display of licence**

**16.** The holder of a licence must display the licence or a copy of the licence at each place of work at which that holder carries on the business of doing demolition work.

Maximum penalty: 10 penalty units in the case of a corporation, or 5 penalty units in any other case.

**Cancelled licences to be returned to WorkCover**

**17.** The holder of a licence that is cancelled must return the licence to WorkCover within such period as may be specified in the notice of cancellation given to the holder.

Maximum penalty: 10 penalty units in the case of a corporation, or 5 penalty units in any other case.

**False or misleading information**

**18.** A person must not, in or in connection with an application for a licence, make a statement that the person knows to be false or misleading in a material particular.

Maximum penalty: 100 penalty units in the case of a corporation, or 50 penalty units in any other case.

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**EXPLANATORY NOTE**

The object of this Regulation is to provide for the licensing of persons who carry on a business of doing demolition work. It is intended that this Regulation will operate until a national review of demolition licensing-is carried out by Worksafe Australia.

This Regulation prohibits an unlicensed person carrying on the business of doing certain demolition work. Demolition work includes:

- the total or partial demolition of buildings, structures or installations that are 10 metres or more in height; or
- demolition of buildings, structures or installations that involves particular methods, such as using load shifting machinery on suspended floors, mechanical felling, explosion and induced collapse.

Examples of structures are bridges, chimney stacks, towers, wharves and radio towers. Installations include boilers, pressure vessels and plant.

This Regulation sets out the procedure for applying for a licence to carry on a business of doing demolition work. The WorkCover Authority must determine such applications, as well as applications for an exemption from the requirement to hold a licence. Licences may be granted subject to conditions, and the WorkCover Authority has power to suspend or cancel licences on certain specified grounds.

This Regulation also provides that a person who proposes to carry out demolition work must notify the WorkCover Authority in accordance with section 27A of the Occupational Health and Safety Act 1983. Consequently, notice is no longer required to be given under Part 2 of the Construction Safety Act 1912 (as in force immediately before the repeal of that Part by the Occupational Health and Safety Legislation (Amendment) Act 1990)) in respect of demolition work.

This Regulation is made under the Occupational Health and Safety Act 1983, including section 45 (the general regulation making power), and section 27A.

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