

Guide

High risk work licences

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Introduction

Why you need a high risk work licence

The Work Health and Safety (National Uniform Legislation) Regulations – the WHS (NUL) Regulations – provide for the licensing of persons to perform high risk work.

Under Section 44 of the *Work Health and Safety (National Uniform Legislation) Act* – the WHS (NUL) Act – it is an offence to carry out work if the WHS (NUL) Regulations require the person carrying out the work to be authorised (in this case licensed) and the person is not so authorised (licensed).

Under Section 44 of the WHS (NUL) Act it is an offence for a person who conducts a business or undertaking to direct or allow a worker to carry out work if the WHS (NUL) regulations require the worker carrying out the work to be authorised or be supervised and the worker is not so authorised or supervised.

The licensing of workers ensures the carrying out of high risk work is performed with competence to ensure the health and safety of workers and other persons in the workplace.

Scope

An individual must be licensed for the class of high risk work before they carry out that type of work unless:

- the high risk work is carried out in the course of training toward a certification in order to be licensed to carry out the high risk work and under the supervision of an individual with a licence in that class of high risk work, or
- the high risk work is carried out by an individual who has obtained the certification and applied for a licence while waiting for a decision on the application, or
- the high risk work involves plant at a workplace solely for the purpose of the manufacture, testing, trialling, installation, commissioning, maintenance, servicing, repair, alteration, demolition or disposal of the plant at that workplace or moving the plant (moving does not include loading plant onto or unloading it from the vehicle or equipment used to move it) within the workplace and is operated or used without a load except for calibration purposes, or
- high risk work with a crane or hoist that is limited to setting up or dismantling the crane or hoist and the individual carrying out the work is licensed in rigging, or
- high risk work with a boiler if the boiler is being used for a historical purpose or activity or activity ancillary to a historical activity. Examples of historical activity given in the WHS (NUL) Regulations include an historical display, parade, demonstration or re-enactment. Activity ancillary to a historical activity includes restoring, maintaining, modifying, servicing a boiler used or to be used for a historical activity.

Regulations 81 and 82

Licence types

The classes of high risk work for which a licence is required:

Licence class	Licence code	VET accredited course
Basic scaffolding	SB	Licence to erect, alter and dismantle scaffolding basic level
Intermediate scaffolding	SI	Licence to erect, alter and dismantle scaffolding basic and intermediate level
Advanced scaffolding	SA	Licence to erect, alter and dismantle scaffolding basic and intermediate and advanced level
Dogging	DG	Licence to perform dogging
Basic rigging	RB	Licence to perform dogging and rigging basic level
Intermediate rigging	RI	Licence to perform dogging, rigging basic and intermediate level
Advanced rigging	RA	Licence to perform dogging, rigging basic, rigging intermediate and rigging advanced level
Tower crane	CT	Licence to operate a tower crane
Self-erecting tower crane	CS	Licence to operate a self-erecting tower crane
Derrick crane	CD	Licence to operate a derrick crane
Portal boom crane	CP	Licence to operate a portal boom crane
Bridge and gantry crane	CB	Licence to operate a bridge and gantry crane
Vehicle loading crane	CV	Licence to operate a vehicle loading crane (capacity 10 metre tonnes and above)
Non-slewing mobile crane	CN	Licence to operate a non-slewing mobile crane (greater than 3 tonnes capacity)
Slewing mobile crane – with a capacity up to 20 tonnes	C2	Licence to operate a slewing mobile crane (up to 20 tonnes)
Slewing mobile crane – with a capacity up to 60 tonnes	C6	Licence to operate a slewing mobile crane (up to 60 tonnes)
Slewing mobile crane – with a capacity up to 100 tonnes	C1	Licence to operate a slewing mobile crane (up to 100 tonnes)
Slewing mobile crane – with a capacity over 100 tonnes	CO	Licence to operate a slewing mobile crane (over 100 tonnes)
Materials hoist	HM	License to operate a materials hoist
Personnel and materials hoist	HP	Licence to operate a personnel and materials hoist
Boom-type elevating work platform	WP	Licence to operate a boom-type elevating work platform (boom length 11 metres or more)
Concrete placing boom	PB	Licence to conduct concrete boom delivery operations
Reach stacker	RS	Licence to operate a reach stacker of greater than 3 tonne capacity
Forklift truck	LF	Licence to operate a forklift truck
Order-picking forklift truck	LO	Licence to operate an order picking forklift truck
Standard boiler operation	BS	Licence to operate a standard boiler
Advanced boiler operation	BA	Licence to operate a standard boiler and an advanced boiler
Turbine operation	TO	Licence to operate a turbine
Reciprocating steam engine operation	ES	Licence to operate a reciprocating steam engine

Schedule 4 of the WHS Regulations

Who may apply for a licence

Age requirements

An individual must be at least 18 years of age to apply for a high risk work licence – Regulation 89(2)(d).

Qualifications

The applicant must hold the qualification set out in Schedule 4 of the WHS (NUL) Regulations and the qualification must not have been issued more than 60 days before the application for the licence was made – Regulation 86 and 87(f).

Photographs

One clear, passport-size photograph not more than 6 months old with your name printed on the back. Please staple (through edge of photo) to the application. Alternatively, photographs can be taken at any Territory Business Centre.

Proof of identity

The applicant is required to provide proof of identity in the form of one primary document and 2 secondary documents or two primary documents and one secondary document. For more information regarding ID requirements refer to the bulletin - Identity requirements – People licensing bulletin located on the NT WorkSafe website.

Residence/Location

A high risk work licence will not be issued if the applicant holds an equivalent licence under a WHS law of another State or Territory or the Commonwealth unless the licence is due for renewal – Regulation 89(2)(b).

The Regulator must issue a high risk work licence to an applicant who resides in the Northern Territory or if residing outside the Northern Territory satisfies the Regulator of circumstances justifying the granting of the licence – Regulation 89(2)(c). A circumstance to justify the grant of a licence is for example **fly in / fly out** workers on a Northern Territory mine site.

Duration of licence

A high risk work licence lasts for five years unless cancelled earlier – Regulation 92.

Renewal of expired licence

An individual whose high risk work licence has expired may apply for the renewal of the licence within 12 months after its expiry or within a longer period if the individual satisfies the Regulator that exceptional circumstances exist. However, as the licence has expired, the individual cannot carry out high risk work covered by the licence until the licence is renewed – Regulation 103.

Recognition of interstate authorisations

Each State or Territory or the Commonwealth WHS Regulator will recognise a current high risk work licence issued by another State or Territory or the Commonwealth that is being used in accordance with the terms and conditions under which it was granted – Regulation 83.

Renewal

The Regulator may renew a high risk work licence granted to an individual under a WHS law of another State or Territory or the Commonwealth unless that licence is renewed by the WHS Regulator of the other State or Territory or the Commonwealth – Regulation 104(2). In these circumstances the Regulator will issue a Northern Territory high risk work licence.

How to apply for a licence

Application forms are available on NT WorkSafe's website www.worksafe.nt.gov.au.

Fees

- New \$76
- Renewal \$63
- Replacement \$38.

Granting/renewing/refusing

What does the Regulator take into account in deciding whether to grant or renew a licence?

The Regulator will consider the following in making a decision to grant or renew your high risk work licence:

- Whether an equivalent high risk work licence is held by the applicant under the WHS law of another State or Territory or the Commonwealth and whether the licence is due for renewal.
- Whether the applicant is at least 18 years of age, and
- Whether the applicant lives in the Northern Territory, and
- Whether the applicant has received the high risk work training and the subsequent qualification/certification in the Northern Territory.
- Whether the qualification was issued not more than 60 days before the application is made (new applications only), and
- Whether the applicant is disqualified under the WHS law of another State or Territory or the Commonwealth from holding an equivalent licence.
- Whether the applicant in making the application has given information that is false or misleading or has failed to provide information that should have been provided in the application.
- Whether the applicant is able to carry out the high risk work safely and competently. In considering whether the applicant is able to carry out work competently and fairly, the Regulator must have regard to any relevant matter including the following:
 - Whether the applicant has been convicted or found guilty of any offence under the WHS (NUL) Act or the Regulations or under the WHS law of another State or Territory or the Commonwealth; and
 - Whether an equivalent licence held by the applicant has been refused or suspended or cancelled under the WHS (NUL) Act or the Regulations or under the WHS law of another State or Territory or the Commonwealth; and
 - Whether the applicant has entered into an enforceable undertaking under the WHS (NUL) Act or the Regulations under the WHS law of another State or Territory or the Commonwealth.
 - The applicant's compliance record with respect to any matters arising under the WHS (NUL) Act or the Regulations or under the WHS law of another State or Territory or the Commonwealth. In respect to compliance record the Regulator will consider the following, current and previous suspension, cancellation or disqualification, a previous refusal of a licence by any WHS Regulator, history of compliance to any condition of the licence and/or any requirement to improve or modify performance and improvement and prohibition notices that have been issued by a WHS Regulator.

Regulations 89, 90 and 104

An enforceable undertaking is an alternative to court action for an alleged breach of the Act. It is a legal agreement in which the employer take on the obligation to carry out specific activities to improve not only worker health and safety, but also deliver benefits to industry and the broader community.

If the Regulator decides to grant the licence, it must notify the applicant within 14 days after making the decision – Regulation 89(4).

If the Regulator does not make a decision within 120 days after receiving the application, the application is taken to have been refused – Regulation 89(5).

Refusing to grant or renew a licence

The Regulator must refuse to issue a licence or renew a licence if satisfied that the applicant:

- Has been disqualified under the WHS law of another State or Territory or the Commonwealth from holding an equivalent licence (mandatory refusal).
- In making the application has given information that is false or misleading or did not provide information that should have been provided (mandatory refusal).

Regulation 89(3)

If the Regulator proposes to refuse to grant the licence or renewal, it must provide written notice to the applicant:

- Informing the applicant of the reasons for the proposed refusal, and
- Advising the applicant that they may, by a specified date (being not less than 28 days after giving the notice) make a submission in relation to the proposed refusal.

After the specified date the Regulator must:

- If the applicant has made a submission, consider the submission, and
- Whether or not the applicant has made a submission, decide whether to grant or refuse to grant the licence, and
- Within 14 days after making the decision, give the applicant written notice of the decision including reasons for the decision.

A decision to refuse to grant a licence or renew a licence is a reviewable decision – Regulations 91 and 104.

Obligations

Inspection

A licence holder must keep the licence available for inspection by an inspector under the WHS (NUL) Act unless the card has been returned to the Regulator for amendment – Regulation 94.

Changes to details

A licence holder must give written notice to the Regulator of a change of postal or residential address within 14 days of the change occurring – Regulation 96.

Return of the licence

If requested in writing by the Regulator, the licence holder must return the licence to the Regulator for amendment within the time specified in the request – Regulation 97.

Replacement licence

A licence holder must give written notice to the Regulator as soon as possible if the licence is lost, stolen or destroyed, and may apply for a replacement licence. An application for a replacement licence must include a declaration describing the circumstances in which the original document was lost, stolen or destroyed.

A decision to refuse to issue a replacement high risk work licence is a reviewable decision – Regulation 98.

Cancellation/suspension of licence

The Regulator may suspend or cancel a high risk work licence if it is satisfied about one or more of the following:

- The licence holder has failed to take reasonable care to carry out the high risk work safely and competently; or
- The licence holder has given false or misleading information or failed to give information that should have been given in the application for the grant of a licence or renewal of the licence or where requested by the Regulator.
- The licence was granted or renewed on the basis of certification that was obtained on the basis of the giving of false or misleading information by any person or body.

Regulation 106

In making a decision regarding these first two points above, the Regulator must take into account any relevant matter, including:

- Any offence under the WHS (NUL) Act or Regulations or under the WHS laws of another State or Territory or the Commonwealth, of which the licence holder has been convicted or found guilty,
- Any suspensions or cancellations of an equivalent licence or other authorisations held under the WHS (NUL) Act or Regulations or under the WHS laws of another State or Territory or the Commonwealth,
- Any enforceable undertaking that has been entered into by the licence holder under the WHS (NUL) Act or Regulations or under the WHS laws of another State or Territory or the Commonwealth,
- The licence holder's record (compliance record) in relation to any matters arising under the WHS (NUL) Act or Regulations or under the WHS laws of another State or Territory or the Commonwealth.

Regulation 108

The Regulator may require the licence holder whose licence is suspended to undertake retraining and provide evidence of competency before the suspension ends.

If the Regulator suspends or cancels a licence, it may disqualify the licence holder from applying for:

- A further high risk work licence of the same class, or
- Another licence under the WHS (NUL) Regulations to carry out work which requires similar skills to those required for the work authorised by the licence that has been suspended or cancelled.

Regulation 106

Notice to and submissions by the licence holder (prior notice)

Before suspending or cancelling high risk work licence the Regulator must:

- Give the licence holder written notice of the proposed suspension or cancellation or disqualification that outlines all relevant allegations, facts and circumstances known to the Regulator, and
- Give the licence holder not less than 28 days to make submissions to the Regulator in relation to the proposed suspension or cancellation and any proposed disqualification.

Regulation 107

Notice of the decision

The Regulator must give the licence holder written notice of a decision to suspend or cancel a high risk work licence within 14 days after the decision is made. The notice must:

- State that the licence is to be suspended or cancelled, and
- If the licence is suspended, state when the suspension begins and ends and the reasons for the suspension, and
- Whether the licence holder is required to obtain retraining or reassessment or take any other action before the suspension ends; and
- Any class of high risk work licence or other licence or authorisation under the WHS (NUL) Regulations that the licence holder must not apply for during the suspension.

If the licence is to be cancelled, the notice must state when the cancellation takes effect and the reasons for the cancellation and whether or not the licence holder is disqualified from applying for a further licence.

If the licence holder is disqualified from obtaining a further licence or authorisation the notice must state:

- when the disqualification begins and ends and the reasons for the disqualification, and
- whether or not the disqualification ending is conditional upon the licence holder obtaining retraining or reassessment or taking any other action, and
- any class of licence or authorisation under the WHS (NUL) Regulations that the licence holder must not apply for during the disqualification.
- When the licence document must be returned to the Regulator.

Regulation 109

Immediate suspension

The Regulator may immediately suspend a high risk work licence without giving prior notice, if:

- Work carried out under the high risk work licence should cease because the work may involve an imminent serious risk to the health and safety of any person, or
- Another State or Territory or the Commonwealth WHS Regulator has suspended an equivalent licence held by the licence holder.

Regulation 110(1)

If the Regulator decides to immediately suspend the licence, written notice of the suspension must be given to the licence holder and the reasons for the suspension. The suspension of the licence takes effect on the giving of the notice – Regulation 110(2).

The Regulator must then give notice that outlines all relevant allegations, facts and circumstances and giving them not less than 28 days to make a submission in relation to the suspension. The Regulator must issue this notice within 14 days of the notice advising of the suspension – Regulation 110(3).

If the Regulator does not give notice under Regulation 110(3), the suspension of the licence ends at the end of the 14 days. If notice is given the licence remains suspended until a decision is made – Regulation 110(5).

The Regulator must return the licence document to the licence holder within 14 days after the licence suspension ends – Regulation 112.

A decision to suspend or cancel a licence or to disqualify a licence holder from applying for a further licence is a reviewable decision – Regulation 106.

Exemptions

Who may apply

Any person or class of persons may apply to the Regulator in writing for an exemption from the requirement to hold a high risk work licence – Regulation 686.

A class of persons means a number of persons who have a common characteristic for example: operators of a specific tool or machinery.

What does the regulator take into account

The Regulator may have regard to any matter relevant when making its decision to grant an exemption from holding a high risk work licence but must be satisfied that granting the exemption will result in a standard of health and safety that is at least equivalent to the standard that would be achieved without the exemption. The Regulator will consider the following in making a decision:

- The impracticability of obtaining a high risk work licence,
- Whether the person's competencies exceed those required for the grant of a high risk work licence, and
- Whether any plant used can be modified to reduce the risk associated with its operation.

Regulation 687

Granting of a conditional exemption

The Regulator may impose any conditions considered appropriate on an exemption. Conditions that may be imposed include:

- Monitoring risks
- Monitoring the health of persons at the workplace who may be affected by the exemption
- Keeping certain records
- Using a stated system of work
- Reporting certain matters to the Regulator, and
- Giving notice of the exemption to person/s that may be affected by the exemption.

A decision to impose condition/s on an exemption is a reviewable decision – Regulation 691.

Refusing to grant an exemption

The Regulator may refuse to grant an exemption. If the decision to refuse to grant an exemption is made, the applicant must be given written notice of the refusal within 14 days after making that decision and the notice must state the reasons for the refusal – Regulation 696.

A decision to refuse to grant an exemption is a reviewable decision – Regulation 676.

Obligations

A person to whom an exemption is granted must comply with the conditions of the exemption and ensure any person under their management or control complies with the conditions of the exemption – Regulation 693.

Cancellation/Amendment

The Regulator may amend or cancel an exemption at any time.

A decision to amend or cancel an exemption is a reviewable decision – Regulation 697.

If the Regulator decides to amend or cancel an exemption, written notice to the applicant of the amendment or cancellation must be given within 14 days after making that decision and the notice must state the reasons for the decision – Regulation 698(1) and (3).

If the exemption affects a class of persons, the Regulator must publish a notice of amendment or cancellation of the exemption in the Northern Territory Government Gazette – Regulation 698(2).

The amendment or cancellation takes effect on the publication of the notice in the Northern Territory Government Gazette or on a later date specified in the notice or if a notice is not required to be published in the Northern Territory Government Gazette, on the giving of the notice to the applicant or on a later date specified in the notice – Regulation 698(4).

Application for Review of Decision

The table in Regulation 676 sets out decisions that are reviewable (reviewable decisions) and who is eligible (eligible person) to apply for the review of a reviewable decision.

The applicant is the eligible person to request a review of a decision to refuse to grant a licence – Regulations 89 and 91 – or refuse to renew a licence – Regulation 104 – or to refusal to issue a replacement licence – Regulation 104.

The licence holder is the eligible person to request a review of the decision to cancel or suspend a licence or a decision to disqualify the licence holder from applying for another licence – Regulation 106.

Internal review

An application for internal review allows the Regulator's decision to be reviewed and possibly changed by a person who was not involved in the original decision. A written application for the internal review of a reviewable decision is made using the application form provided by the Regulator. The application must be lodged within 28 days of the day on which the decision first came to the eligible person's notice or such longer period as the Regulator allows – Regulation 678(1).

The internal reviewer may:

- confirm or vary the reviewable decision, or
- set aside the reviewable decision and substitute another decision that the internal reviewer considers appropriate.

Regulation 680(2)

If the reviewable decision is not varied or set aside within the 14 day period the internal decision is taken to have been confirmed – Regulation 680(6).

The Regulator will give the applicant written notice of the decision on the internal review and reason for the decision within 14 days of making the decision – Regulation 681.

An application for an internal review does not affect the operation of the original reviewable decision or prevent the taking of any lawful action to implement or enforce the decision, though once the decision on internal review is made if a new decision is substituted then the new decision takes effect – Regulation 682.

External review

If the applicant or licence holder is not satisfied with the decision on internal review, they can apply to the Work Health Court.

Further information

Legislation

The *Work Health and Safety (National Uniform Legislation) Act* and *Work Health and Safety (National Uniform Legislation) Regulations* are available on NT WorkSafe's website www.worksafe.nt.gov.au.

List of jurisdiction contacts

Jurisdiction	Name of Regulator	Telephone	Web site
Commonwealth	Comcare	1300 366 979	www.comcare.gov.au
New South Wales	WorkCover NSW	13 10 50	www.workcover.nsw.gov.au
Victoria	WorkSafe Victoria	1800 136 089 or (03) 9641 1444	www.worksafe.vic.gov.au
Queensland	Workplace Health and Safety Qld	1300 362 128	www.worksafe.qld.gov.au
South Australia	SafeWork SA	1300 365 255	www.safework.sa.gov.au
Western Australia	WorkSafe WA	1300 307 877	www.worksafe.wa.gov.au
Australian Capital Territory	WorkSafe ACT	(02) 6207 3000	www.worksafe.act.gov.au
Tasmania	WorkSafe Tasmania	1300 366 322 (Inside Tasmania) (03) 6166 4600 (Outside Tasmania)	www.worksafe.tas.gov.au

Contact us

For further information please contact us on 1800 019 115, via email at ntworksafe@nt.gov.au or go to the NT WorkSafe website at www.worksafe.nt.gov.au.

DISCLAIMER

This publication contains information regarding work health and safety. It includes some of your obligations under the *Work Health and Safety (National Uniform Legislation) Act* – the WHS (NUL) Act – that NT WorkSafe administers. The information provided is a guide only and must be read in conjunction with the appropriate legislation to ensure you understand and comply with your legal obligations. NT WorkSafe does not warrant the information in this publication is complete or up-to-date and does not accept any liability for the information in this report or as to its use.