

The following information is an excerpt from the *Model Work Health and Safety (WHS) Regulations 2011*.

The full WHS Regulation 2011, WHS Act 2011, and associated Codes of Practises can be downloaded from [Safe Work Australia](#).

With the exception of Victoria and Western Australia, All Jurisdictions have committed to implementing the new regime from 1 January 2012.

Part 8.3 Management of asbestos and associated risks

421 Application of Part 8.3

This Part does not apply to naturally occurring asbestos.

422 Asbestos to be identified or assumed at workplace

- (1) A person with management or control of a workplace must ensure, so far as is reasonably practicable, that all asbestos or ACM at the workplace is identified by a competent person.

Maximum penalty:

In the case of an individual—\$6 000.

In the case of a body corporate—\$30 000.

- (2) A person with management or control of a workplace must:
 - (a) if material at the workplace cannot be identified but a competent person reasonably believes that the material is asbestos or ACM—assume that the material is asbestos; and
 - (b) if part of the workplace is inaccessible to workers and likely to contain asbestos or ACM—assume that asbestos is present in the part of the workplace.
- (3) Subregulation (1) does not apply if the person:
 - (a) assumes that asbestos or ACM is present; or
 - (b) has reasonable grounds to believe that asbestos or ACM is not present.
- (4) If asbestos or ACM is assumed to be present at a workplace, it is taken to be identified at the workplace.

423 Analysis of sample

- (1) A person with management or control of a workplace may identify asbestos or ACM by arranging for a sample of material at the workplace to be analysed for the presence of asbestos or ACM.
- (2) If a person with management or control of a workplace arranges for an analysis, the person must ensure that the sample is analysed only by:
 - (a) a NATA-accredited laboratory accredited for the relevant test method; or
 - (b) a laboratory approved by the regulator in accordance with guidelines published by Safe Work Australia; or
 - (c) a laboratory operated by the regulator.

Maximum penalty:

In the case of an individual—\$1 250.

In the case of a body corporate—\$6 000.

424 Presence and location of asbestos to be indicated

A person with management or control of a workplace must ensure that:

- (a) the presence and location of asbestos or ACM identified at the workplace under regulation 422 is clearly indicated; and
- (b) if it is reasonably practicable to do so, indicate the presence and location of the asbestos or ACM by a label.

Maximum penalty:

In the case of an individual—\$6 000.

In the case of a body corporate—\$30 000.

425 Asbestos register

- (1) A person with management or control of a workplace must ensure that a register (an *asbestos register*) is prepared and kept at the workplace.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

- (2) The person must ensure that the asbestos register is maintained to ensure the information in the register is up to date.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

- (3) The asbestos register must:
 - (a) record any asbestos or ACM identified at the workplace under regulation 422, or likely to be present at the workplace from time to time including:
 - (i) the date on which the asbestos or ACM was identified; and
 - (ii) the location, type and condition of the asbestos or ACM; or
 - (b) state that no asbestos or ACM is identified at the workplace if the person knows that no asbestos or ACM is identified, or is likely to be present from time to time, at the workplace.
- (4) The person is not required to prepare an asbestos register for a workplace if a register has already been prepared for that workplace.
- (5) Subject to subregulation (6), this regulation applies to buildings whenever constructed.
- (6) This regulation does not apply to a workplace if:
 - (a) the workplace is a building that was constructed after 31 December 2003; and
 - (b) no asbestos has been identified at the workplace; and
 - (c) no asbestos is likely to be present at the workplace from time to time.

426 Review of asbestos register

A person with management or control of a workplace where an asbestos register is kept must ensure that the register is reviewed and as necessary revised if:

- (a) the asbestos management plan is reviewed under regulation 430; or
- (b) further asbestos or ACM is identified at the workplace; or

(c) asbestos is removed from, or disturbed, sealed or enclosed at, the workplace.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

427 Access to asbestos register

(1) A person with management or control of a workplace where an asbestos register is kept must ensure that the asbestos register is readily accessible to:

- (a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and
- (b) a health and safety representative who represents a worker referred to in paragraph (a); and
- (c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and
- (d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

(2) If a person conducting a business or undertaking carries out, or intends to carry out, work at a workplace that involves a risk of exposure to airborne asbestos, the person with management or control of the workplace must ensure that the person is given a copy of the asbestos register.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

428 Transfer of asbestos register by person relinquishing management or control

If a person with management or control of a workplace plans to relinquish management or control of the workplace, the person must ensure, so far as is reasonably practicable, that the asbestos register is given to the person, if any, assuming management or control of the workplace.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

429 Asbestos management plan

(1) This regulation applies if asbestos or ACM is:

- (a) identified at a workplace under regulation 422; or
- (b) likely to be present at a workplace from time to time.

(2) A person with management or control of the workplace must ensure that a written plan (an *asbestos management plan*) for the workplace is prepared.

Maximum penalty:

In the case of an individual—\$6 000.

In the case of a body corporate—\$30 000.

- (3) A person with management or control of the workplace must ensure that the asbestos management plan is maintained to ensure the information in the plan is up to date.

Maximum penalty:

In the case of an individual—\$6 000.

In the case of a body corporate—\$30 000.

- (4) An asbestos management plan must include information about the following:

- (a) the identification of asbestos or ACM;

Example

A reference or link to the asbestos register for the workplace and signage and labelling.

- (b) decisions, and reasons for decisions, about the management of asbestos at the workplace;

Example

Safe work procedures and control measures.

- (c) procedures for detailing incidents or emergencies involving asbestos or ACM at the workplace;

- (d) workers carrying out work involving asbestos.

Example

Consultation, responsibilities, information and training.

- (5) A person with management or control of a workplace must ensure that a copy of the asbestos management plan for the workplace is readily accessible to:

- (a) a worker who has carried out, carries out or intends to carry out, work at the workplace; and

- (b) a health and safety representative who represents a worker referred to in paragraph (a); and

- (c) a person conducting a business or undertaking who has carried out, carries out or intends to carry out, work at the workplace; and

- (d) a person conducting a business or undertaking who has required, requires, or intends to require work to be carried out at the workplace.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

430 Review of asbestos management plan

- (1) A person with management or control of a workplace that has an asbestos management plan must ensure that the plan is reviewed and as necessary revised in the following circumstances:

- (a) there is a review of the asbestos register or a control measure;

- (b) asbestos is removed from, or disturbed, sealed or enclosed at, the workplace;

- (c) the plan is no longer adequate for managing asbestos or ACM at the workplace;

- (d) a health and safety representative requests a review under subregulation (2);

- (e) at least once every 5 years.

Maximum penalty:

In the case of an individual—\$3 600.

In the case of a body corporate—\$18 000.

- (2) A health and safety representative for workers at a workplace may request a review of an asbestos management plan if the representative reasonably believes that:
 - (a) a circumstance referred to in subregulation (1)(a), (b) or (c) affects or may affect the health and safety of a member of the work group represented by the health and safety representative; and
 - (b) the person with management and control of the workplace has not adequately reviewed the asbestos management plan in response to the circumstance.