

GUIDE FOR APPLICANTS

Plant registration



Australian Government

Comcare

PUTTING YOU *FIRST*

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CONTENTS

PLANT REGISTRATION 4

SCOPE—WHEN REGISTRATION IS REQUIRED 4 Items of plant 4
Types of registration 5

WHEN THE APPLICATION SHOULD BE MADE TO COMCARE 5

RECOGNITION OF INTERSTATE AUTHORISATIONS 5

SUMMARY OF APPLICATION REQUIREMENTS 6

WHO IS A COMPETENT PERSON? 6

FEES 6

HOW TO APPLY FOR REGISTRATION 6

DURATION OF REGISTRATION 6

GRANTING REGISTRATION 7

REQUESTS FOR ADDITIONAL INFORMATION 7

WHAT TIME LIMITS APPLY FOR CONSIDERATION OF AN
APPLICATION? 7

GRANTING A CONDITIONAL REGISTRATION 8

REFUSING TO GRANT A PLANT REGISTRATION 8

APPLICATION FOR REVIEW OF DECISION 9

INTERNAL REVIEW 9

EXTERNAL REVIEW 10

OBLIGATIONS 10 Inspection 10 Registration number 10 Change
of details 10 Replacement registration document 10

FURTHER INFORMATION 11

LEGISLATION 11

PLANT REGISTRATION

The *Work Health and Safety Regulations 2011* (Cth) (the Regulations) provide for the registration of items of plant that are listed in Part 2 of Schedule 5 of the Regulations [regulation 246(1)].

Under section 42 of the *Work Health and Safety Act 2011* (Cth) (WHS Act), it is an offence to use plant if the Regulations require the plant to be registered and it is not.

Registration is required for items of plant to ensure that they are inspected by a competent person and are safe to operate [regulation 246(2)].

Note: Previously plant registration was known as plant licensing within the Commonwealth jurisdiction. Although the terminology has changed, the principles behind a licensing/ registration program have not.

SCOPE—WHEN REGISTRATION IS REQUIRED

ITEMS OF PLANT

An item of plant specified in Part 2 of Schedule 5 of the Regulations must be registered [regulation 246(1)].

List of plant requiring registration:

- > boilers categorised as hazard level A, B or C according to criteria in Section 2.1 of AS 4343:2005 *Pressure equipment—Hazard levels*
- > pressure vessels categorised as hazard level A, B or C according to the criteria in Section 2.1 of AS 4343:2005 *Pressure equipment—Hazard levels*, except gas cylinders, LP Gas fuel vessels for automotive use, and serially produced vessels
- > tower cranes, including self-erecting tower cranes
- > lifts, including escalators and moving walkways
- > building maintenance units
- > amusement devices covered by Section 2.1 of AS 3533.1:2009—*Amusement rides and devices*, except:
 - class 1 devices
 - playground devices
 - water slides where water facilitates patrons to slide easily, predominantly under gravity, along a static structure
 - wave generators where patrons do not come into contact with the parts of machinery used for generating water waves
 - inflatable devices that are sealed
 - inflatable devices that do not use a non return valve
- > concrete placement units with delivery booms
- > mobile cranes with a safe working load of greater than 10 tonnes.

Exception: A crane or hoist that is manually powered does not need to be registered.

TYPES OF REGISTRATION

Registration is required for:

- > new items of plant
- > renewals of registration
- > variations to registration details.

The registration holder must give Comcare written notice if, during the registration period, there have been changes to:

- > the registration holder's name
- > any of the information provided by the registration holder for the grant of the existing registration or in other circumstances.

The written notice must be given to Comcare within 14 days after the registration holder becomes aware of the change [regulation 282].

WHEN THE APPLICATION SHOULD BE MADE TO COMCARE

The person with management or control of an item of plant at a workplace may apply to Comcare for registration of that item of plant [regulation 265] if:

- > the item of plant is specified in Part 2 of Schedule 5 of the Regulations
- > the person is a Commonwealth worker, the Commonwealth, a public authority or a non-Commonwealth licensee ('a Commonwealth or licensee applicant') [regulation 269]
- > the item of plant is located where work is carried out or taken to be carried out for a business or undertaking conducted by the Commonwealth or licensee applicant [regulation 269(c)].

If the person is not a Commonwealth worker or a Commonwealth or licensee applicant, Comcare must be satisfied that circumstances exist to justify granting the registration [regulations 269(2)(d) and (e)].

Note: A person with management or control of plant at a workplace is a person conducting a business or undertaking (PCBU) to the extent that it involves the management or control of that plant, in whole or in part, at a workplace. A PCBU is not an occupier of a residence unless the residence is occupied for the purposes of, or as part of, the conduct of a business or undertaking [section 21 of the WHS Act].

A PCBU may be an individual, a body corporate, a government agency, a partnership or an unincorporated association. It includes a manufacturer, importer or supplier of the plant [section 5 of the WHS Act].

RECOGNITION OF INTERSTATE AUTHORISATIONS

An item of plant does not require registration by Comcare if it has already been registered by another state or territory under a corresponding WHS law [regulation 247].

SUMMARY OF APPLICATION REQUIREMENTS

An application for registration of an item of plant must include the following:

- > the applicant's name and whether or not the applicant is a body corporate
- > the applicant's business name, if applicable
- > sufficient information to clearly identify the item of plant
- > the date on which the plant was first commissioned or registered, if known
- > the plant design registration number and the name of the regulator if the design of the item of plant had to be registered under the Regulations
- > a statement that a competent person has inspected the item of plant and assessed it as safe to operate
- > a declaration that the applicant does not hold an equivalent registration under a state or territory WHS law
- > the relevant fee [regulation 266].

WHO IS A COMPETENT PERSON?

A person is competent to inspect an item of plant for registration if the person has:

- > educational or vocational qualifications in an engineering discipline relevant to the item of plant to be inspected, or
- > knowledge of the technical standards relevant to the plant to be inspected [regulation 267].

FEES

The fee for a plant registration or a renewal is \$100. There is no fee for reprints, variations or cancellations.

HOW TO APPLY FOR REGISTRATION

Complete and submit *FORM WHS—PIRO01 Application for registration of an item of plant* and fax to (02) 6274 8866 or post to:

Authorisations Team
Comcare
GPO Box 9905
Canberra ACT 2601

For applications containing more than ten items, the multiple application form may be more convenient. To obtain a copy, visit the Authorisations page of the Comcare website.

DURATION OF REGISTRATION

A registration for an item of plant will last for five years [regulation 272].

Provided an applicant applies for the renewal of a registration before the expiry of the existing registration [regulation 277], the registration continues to remain in force until the applicant is given notice of the decision on the renewal application [regulation 278].

GRANTING REGISTRATION

Comcare must register the item of plant if Comcare is satisfied that:

- > the application has been made in accordance with requirements of the relevant legislation [regulation 269(2)(a)]
- > the item of plant is not already registered with another state or territory under a corresponding WHS law [regulation 269(2)(b)]
- > the item of plant is at a place where work is carried out (or taken to be carried out) by a business or undertaking conducted by the Commonwealth, a public authority or a non-Commonwealth licensee
- > the applicant (who may also be the current registration holder) is a person (individual or organisation) falling within Comcare's jurisdiction or, if otherwise, circumstances exist to justify Comcare's grant of the registration. [regulations 269(2)(d) and (e)]
- > the applicant can ensure compliance with any conditions applied to the registration.

Comcare must refuse to grant registration if satisfied that the applicant:

- > has given false or misleading information that is material to the application, or
- > has failed to provide material information [regulation 269(3)].

REQUESTS FOR ADDITIONAL INFORMATION

Comcare may request additional information (on one or more occasions) if the application does not contain enough information to make a decision whether or not to grant the registration.

Comcare must give the applicant at least 28 days to provide the additional information after making its request.

Comcare must confirm its request in writing and this confirmation must include the date by which the additional information is to be provided.

If the applicant fails to provide the additional information by the requested date, the application will be taken to have been withdrawn [regulation 268].

WHAT TIME LIMITS APPLY FOR CONSIDERATION OF AN APPLICATION?

Comcare must make a decision within 120 days after receiving:

- > the application, or
- > the additional information provided in accordance with regulation 268.

If Comcare does not make a decision within this timeframe, the application will be taken to have been refused [regulation 269(5)]. A 'refusal' made in these circumstances is a reviewable decision.

If Comcare decides to grant the registration, it must notify the applicant within 14 days after making the decision [regulation 269(4)].

GRANTING A CONDITIONAL REGISTRATION

Comcare may impose any condition it considers appropriate on a plant registration. Such conditions may include:

- > use and maintenance of the plant
- > recording or keeping information
- > providing information to Comcare.

A decision to impose a condition/s on the registration of a plant design is a reviewable decision [regulation 271].

It is an offence for a person to fail to comply with a condition of registration [section 45].

The person with management or control of plant at a workplace must ensure that the maintenance, inspection and, if necessary, testing of the plant is carried out by a competent person [regulation 213(1)].

The maintenance, inspection and testing must be carried out in accordance with the manufacturer's recommendations. If there are no such recommendations, the recommendations of a competent person should be followed. Where inspection of the item of plant is involved and it is not reasonably practicable to comply with the recommendations of the manufacturer or a competent person, the inspection must be conducted annually [regulation 213(2)].

As a condition of plant registration Comcare requires that the applicant provide written notice that the item of plant is being maintained in a safe condition and is safe to operate. This notice must be provided for every 12 months of an item of plant's registration.

To notify: Complete *FORM WHS—PIR002 Notification of scheduled maintenance of plant* and send to Comcare at the fax number or postal address listed in 'How to apply for registration'.

For notifications containing more than ten items, the multiple notification form may be more convenient. To obtain a copy, visit the plant licensing, registration and notification page of the Comcare website.

REFUSING TO GRANT A PLANT REGISTRATION

Comcare must refuse to grant a registration if satisfied that in making the application the applicant has given false or misleading information, or failed to provide information that should have been given (mandatory refusal) [regulation 269(3)].

If Comcare proposes to refuse to grant or renew a registration, it must provide written notice:

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

If the applicant has made a submission after the specified date, Comcare must consider the submission. Whether or not the applicant has made a submission, Comcare must decide whether to grant or refuse to grant the registration. Within 14 days after making the decision, Comcare must give the applicant written notice of the decision including reasons.

A decision to refuse to grant or renew a registration is a reviewable decision [regulations 269, 270 and 279].

APPLICATION FOR REVIEW OF DECISION

Regulation 676 sets out decisions that are reviewable and who may apply for the review of a decision ('the eligible person') as follows:

Decision	Who can apply for a review as an eligible person
<ul style="list-style-type: none">> Refusal to grant a registration of an item of plant (regulation 269(5)—failure to make a decision).> Refusal to grant a registration (regulation 270).> Imposition of a condition when granting registration (regulation 271).	The applicant or person with management or control of the item of plant.
<ul style="list-style-type: none">> Imposition of a condition when renewing registration (regulation 271).> Refusal to renew registration (regulation 279).> Amendment of registration on Comcare's initiative (regulation 283).> Refusal to amend registration on application or a decision to make a different amendment (regulation 284).> Refusal to issue replacement registration document (regulation 288).	The registration holder or person with management or control of the item of plant.

INTERNAL REVIEW

An applicant seeking review of a decision must first seek an internal review by Comcare.

An eligible person seeking an internal review of a refusal or conditional refusal must lodge an application for review in a form required by Comcare:

- > if Comcare has failed to make a decision, within 28 days after the last day of the 120-day period starting on the day when Comcare received the application or additional information
- > for other decisions as itemised in the previous table, within 28 days after the day on which the decision first came to the applicant's notice.

Comcare may allow the person seeking review (PSR) additional time to submit a review application [regulation 678].

An internal review cannot be conducted by the same person who made the reviewable decision [regulation 679].

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)].

The internal reviewer may ask the PSR for additional information and specify a timeframe of not less than 7 days in which this information must be provided [regulations 680(3) and (4)].

The internal reviewer must make a decision within 14-days after receipt of the application for internal review or the additional information (the 14 day period) [regulation 680(1)].

If the internal reviewer fails to make a decision within the 14 day period, or the PSR fails to provide the additional information within the specified timeframe, then the reviewable decision is taken to have been confirmed (a deemed confirmation) [regulations 680(5) and (6)].

Comcare must give the PSR written notice of the internal review decision and reasons within 14 days of making the decision [regulation 681].

Generally, an application for an internal review does not affect the operation of the original decision or prevent the taking of any lawful action to implement or enforce the decision. However, once the internal review decision is made, if a new decision is substituted, then that new decision takes effect [regulation 682].

EXTERNAL REVIEW

The person eligible to seek an internal review may apply to the Administrative Appeals Tribunal (AAT) for external review of a decision or deemed confirmation made on an internal review.

The application may be made within 28 days after the day on which the decision first came to the applicant's notice, or any longer time that the AAT allows [regulation 683].

OBLIGATIONS

INSPECTION

The applicant must keep the registration document available for inspection under the Act. This does not apply if the registration document has been returned to Comcare for amendment at the request of Comcare [regulation 275].

REGISTRATION NUMBER

The person with management or control of plant at a workplace must ensure that the registration number is marked on the item of plant [regulation 273(4)].

CHANGE OF DETAILS

The registration holder must give Comcare written notice:

- > of a change to the registration holder's name
- > within 14 days of becoming aware of any change to the registration holder's address or any information provided to Comcare in the registration application.

The changes could include, for example:

- > alteration of the item of plant to an extent which requires the plant to be subject to new risk control measures
- > the relocation of an item of plant that is usually fixed, or
- > circumstances where the applicant no longer has management or control of the item of plant [regulation 282].

REPLACEMENT REGISTRATION DOCUMENT

A registration holder must give written notice to Comcare as soon as practicable if the registration document is lost, stolen or destroyed. In these circumstances, the registration holder may apply for a replacement registration document.

An application for a replacement registration document must include a declaration describing the circumstances in which the original was lost, stolen or destroyed.

A decision to refuse to issue a replacement registration document is a reviewable decision [regulation 288].

FURTHER INFORMATION

If you have any enquiries, please contact the Comcare Authorisations team at WHS.Plant@comcare.gov.au or on 1300 366 979.

LEGISLATION

Work Health and Safety Act 2011 (Cth)

Work Health and Safety Regulations 2011 (Cth)

www.comcare.gov.au/WHS