



REGULATORY UPDATE:

Plant registration – decision to remove a condition

Comcare recently invited stakeholders to make a submission on the proposed removal of the imposed condition on all plant registrations that “a registration holder must notify Comcare annually of any maintenance, repair, inspection or testing of an item of plant”.

In order to make the amendment, Comcare was required to provide you with notice that the submission process was open to relevant stakeholders in accordance with regulation 283 of the *Work Health and Safety Regulations 2011* (WHS Regulations).

Submissions closed on 24 June 2021 and in accordance with regulation 283 of the WHS Regulations, Comcare has considered the submissions received and has decided to cease the condition to submit annual plant maintenance notifications to Comcare from **1 October 2021**.

Please see below for further background on the risk factors, legal requirements, the condition on plant registrations being removed, the reasons for making this change and next steps.

Plant includes items such as cranes, machinery, vehicles, forklifts, lifts, boilers, gas cylinders, and amusement rides and devices. For a full list of plant that requires registration under the current condition, read the [Comcare Guide](#).

Risk factors

Plant is a major cause of work-related death and injury in Australian workplaces. There are significant risks associated with using plant and severe injuries can result from the unsafe use of plant, including:

- being crushed by mobile plant
- sustaining fractures from falls while accessing, operating or maintaining plant
- limbs amputated by unguarded moving parts of machines
- electric shock from plant that is not adequately protected or isolated, and
- burns or scalds due to contact with hot surfaces, or exposure to flames or hot fluids.

Other risks include hearing loss due to noisy plant and musculoskeletal disorders caused by manually handling or operating poorly designed plant.

The WHS Regulations provide for the registration of items of plant that are listed in Part 2 of Schedule 5 of the WHS 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 WHS Regulations require the plant to be registered and it is not.

Certain items of plant and types of plant designs must be registered. Registrable items of plant must be item registered prior to being commissioned for use by a person conducting a business or undertaking. 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)].

Legal requirements

Regulation 213 provides that the person with management and control of plant at the workplace must ensure that the maintenance, inspection, and if necessary, testing of the plant is carried out by a competent person. Penalties apply for non-compliance of this provision.

The maintenance, inspection and testing must be carried out:

- in accordance with the manufacturer's recommendations, if any
- if there are no manufacturer's recommendations, in accordance with the recommendations of a competent person, or
- in relation to inspection, if it is not reasonably practicable to comply with the above, annually.

Comcare imposed condition

Regulation 271 provides that the regulator may impose any conditions it considers appropriate on the registration of any item of plant in relation to any one or more of the following:

- a. the use and maintenance of the item of plant
- b. the recording or keeping of information
- c. the provisions of information to the regulator.

A condition of all plant registrations issued by Comcare is currently that the registration holder must provide Comcare with details of the maintenance, inspection and, if necessary, testing of that item of plant annually. We developed an Annual Plant Maintenance Notification Form to assist duty holders in informing us that annual maintenance was carried out in accordance with the conditions imposed. Applicants are currently required to submit a copy of the maintenance inspection report and/or maintenance checklist that was used during the course of maintenance for the item of plant. This condition will be removed effective from **1 October 2021**.

The condition imposed to notify the regulator annually of the maintenance of registered plant is a carry-over requirement from the former *Occupational Health and Safety (Standards Standards) Regulations 1994*.

Why is this condition being removed

The reason that Comcare is removing this condition is because it is an administrative condition that does not undergo verification to ensure that the condition is met. It may also reduce regulatory burden for stakeholders and ensures that the Comcare jurisdiction is consistent with other WHS jurisdictions across Australia in relation to the registration of plant.

Notwithstanding the removal of the condition, Comcare can request evidence that the plant is appropriately registered, maintained, inspected and if necessary, tested in accordance with the WHS Regulations at any time. Please note, this change does not remove the requirement to keep plant in appropriate order.

Next steps

Comcare has provided registration holders with written notice setting out the proposed amendment and its reasons in line with regulation 283 of the WHS Regulations.

The condition to notify Comcare annually of any maintenance, repair, inspection or testing of an item of plant will cease from **1 October 2021**.