

GUIDANCE FOR APPLICANTS

External review of decisions



Australian Government

Comcare

PUBLICATION DETAILS

Published by Comcare

© Commonwealth of Australia

WHS032—External review of decisions

ISBN: TBA

ABN: 41 640 788 304 (Comcare)

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Commonwealth Copyright Administration, Attorney-General's Department, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>.

CONTENTS

EXTERNAL REVIEW OF DECISIONS UNDER THE WHS ACT AND WHS REGULATIONS 4

What is the role of the external review body? 4

Which external review body do I apply to? 4

DECISIONS REVIEWABLE BY FAIR WORK AUSTRALIA 4

Do I need to first seek an internal review before I apply to Fair Work Australia? 6

Decisions which cannot be internally reviewed 6

Decisions which must first be internally reviewed before applying to Fair Work Australia 6

Time limits for lodging applications with Fair Work Australia 7

Form to Use for Fair Work Australia Applications 8

Fair Work Australia Fees 8

Further information about Fair Work Australia 8

DECISIONS REVIEWABLE BY THE ADMINISTRATIVE APPEALS TRIBUNAL (AAT) 8

Do I need to first seek an internal review? 11

Decisions for which no internal review process is available 11

Decisions for which you must first seek internal review before applying to AAT 12

Time limits for lodging applications to the AAT 15

Form to Use for AAT applications 15

AAT Fees 15

Further information about the AAT 15

CONTACTING THE REVIEWS TEAM FOR MORE HELP 15

APPENDIX—EXTERNAL REVIEW 16

EXTERNAL REVIEW OF DECISIONS UNDER THE WHS ACT AND WHS REGULATIONS

If an eligible person¹ disagrees with either:

- > a reviewable decision made by Comcare or its delegate; or
- > a decision made on an internal review by Comcare's Reviews Team

They may apply to one of two external review bodies, being either Fair Work Australia or the Administrative Appeals Tribunal (AAT) for a review of that decision.²

The external review body you apply to depends on the particular decision that is the subject of external review.

WHAT IS THE ROLE OF THE EXTERNAL REVIEW BODY?

If you seek review of a decision made by Comcare to Fair Work Australia it may either:

- > confirm the decision;
- > vary the decision;
- > set aside the decision under review and substitute it with another decision.³

The AAT has similar powers in respect of reviewing Comcare's decisions, although it also has the power to set aside the decision and remit the matter to Comcare to reconsider the decision in accordance with any directions or recommendations of the AAT.⁴

WHICH EXTERNAL REVIEW BODY DO I APPLY TO?

To work out which external review body you must apply to, you need to identify the decision you want to have reviewed.

DECISIONS REVIEWABLE BY FAIR WORK AUSTRALIA

If you are applying to an external review body for review of a decision listed in Table 1,⁵ you must apply to Fair Work Australia.

Table 1: Reviewable decisions subject to jurisdiction of Fair Work Australia

Reviewable decisions made under the WHS Act which are subject to review jurisdiction of Fair Work Australia		
Item	Provision under which reviewable decision is made	Eligible person in relation to reviewable decision.
1	Section 54(2) (decision following failure to commence negotiations).	(1) A worker whose interests are affected by the decision or his or her representative appointed for the purpose of section 52(1)(b). (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A health and safety representative who represents a worker whose interests are affected by the decision.

1 The persons who are eligible to apply for review are set out in the tables at section 223(1) of the WHS Act and regulation 676 of the *Work Health and Safety Regulations 2011* (Cth).

2 Fair Work Australia is the external review body for decisions listed in the table at s223(1) of the WHS Act, and the AAT is the external review body for decisions listed in the table at regulation 676 of the WHS Regulations.

3 See section 229 (3) of the WHS Act.

4 See section 43 of the *Administrative Appeals Tribunal Act 1975* (Cth).

5 See section 223(1) of the WHS Act.

Reviewable decisions made under the WHS Act which are subject to review jurisdiction of Fair Work Australia

Item	Provision under which reviewable decision is made	Eligible person in relation to reviewable decision.
2	Section 72(6) (decision in relation to training of health and safety representative)	(1) A person conducting a business or undertaking whose interests are affected by the decision. (2) A health and safety representative whose interests are affected by the decision.
3	Section 76(6) (decision relating to health and safety committee)	(1) A worker whose interests are affected by the decision. (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A health and safety representative who represents a worker whose interests are affected by the decision.
4	Section 102 (decision on review of provisional improvement notice)	(1) The person to whom the provisional improvement notice was issued. (2) The health and safety representative who issued the provisional improvement notice. (3) A worker whose interests are affected by the decision. (4) A health and safety representative who represents a worker whose interests are affected by the decision. (5) A person conducting a business or undertaking whose interests are affected by the decision.
5	Section 179 (forfeiture of thing)	The person entitled to the thing.
6	Section 180 (Return of seized things)	The person entitled to the thing.
7	Section 191 (issue of improvement notice)	(1) The person to whom the notice was issued. (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A worker whose interests are affected by the decision. (4) A health and safety representative who represents a worker whose interests are affected by the decision.
8	Section 194 (extension of time for compliance with improvement notice)	(1) The person to whom the notice was issued. (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A worker whose interests are affected by the decision. (4) A health and safety representative who represents a worker whose interests are affected by the decision.
9	Section 195 (issue of prohibition notice)	(1) The person to whom the notice was issued. (2) The person with management or control of the workplace, plant or substance. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision. (6) A health and safety representative who gave a direction under section 85 to cease work, that is relevant to the prohibition notice.
10	Section 198 (issue of a non disturbance notice)	(1) The person to whom the notice was issued. (2) The person with management or control of the workplace. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision.
11	Section 201 (issue of subsequent notice)	(1) The person to whom the notice was issued. (2) The person with management or control of the workplace. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision.
12	Section 207 (Decision of regulator to vary or cancel notice)	(1) The person to whom the notice was issued. (2) The person with management or control of the workplace. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision. (6) In the case of a prohibition notice, a health and safety representative whose direction under section 85 to cease work gave rise to the notice.

DO I NEED TO FIRST SEEK AN INTERNAL REVIEW BEFORE I APPLY TO FAIR WORK AUSTRALIA?

That depends on the decision you seek to have reviewed.

DECISIONS WHICH CANNOT BE INTERNALLY REVIEWED

The decisions which are listed in Table 2 are decisions made by Comcare (as the Regulator) or its delegate which cannot be subject of an internal review by Comcare's Reviews Team. If you wish to seek a review of any of the decisions listed in Table 2 you must apply directly to Fair Work Australia.

Table 2: Decisions of Comcare for which you must seek review at Fair Work Australia

Reviewable decisions made under the WHS Act for which review can only be sought at Fair Work Australia		
Item	Provision under which reviewable decision is made	Eligible person in relation to reviewable decision.
5	Section 179 (forfeiture of thing)	The person entitled to the thing.
6	Section 180 (Return of seized things)	The person entitled to the thing.
12	Section 207 (Decision of regulator to vary or cancel notice)	<ol style="list-style-type: none"> (1) The person to whom the notice was issued. (2) The person with management or control of the workplace. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision. (6) In the case of a prohibition notice, a health and safety representative whose direction under section 85 to cease work gave rise to the notice.

DECISIONS WHICH MUST FIRST BE INTERNALLY REVIEWED BEFORE APPLYING TO FAIR WORK AUSTRALIA

Comparatively, for the decisions listed in Table 3, you must first seek an internal review of that decision with Comcare's Reviews Team before you are able to seek external review from Fair Work Australia.

Table 3: Reviewable decisions which must be subject of an internal review before you can apply to Fair Work Australia

Reviewable decisions which must be subject of an internal review before you can apply to Fair Work Australia (see s229(1)(b) WHS Act)		
Item	Provision under which reviewable decision is made	Eligible person in relation to reviewable decision.
1	Section 54(2) (decision following failure to commence negotiations)	<ol style="list-style-type: none"> (1) A worker whose interests are affected by the decision or his or her representative appointed for the purpose of section 52(1)(b). (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A health and safety representative who represents a worker whose interests are affected by the decision.
2	Section 72(6) (decision in relation to training of health and safety representative)	<ol style="list-style-type: none"> (1) A person conducting a business or undertaking whose interests are affected by the decision. (2) A health and safety representative whose interests are affected by the decision.
3	Section 76(6) (decision relating to health and safety committee)	<ol style="list-style-type: none"> (1) A worker whose interests are affected by the decision. (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A health and safety representative who represents a worker whose interests are affected by the decision.

Reviewable decisions which must be subject of an internal review before you can apply to Fair Work Australia (see s229(1)(b) WHS Act)		
Item	Provision under which reviewable decision is made	Eligible person in relation to reviewable decision.
4	Section 102 (decision on review of provisional improvement notice)	(1) The person to whom the provisional improvement notice was issued. (2) The health and safety representative who issued the provisional improvement notice. (3) A worker whose interests are affected by the decision. (4) A health and safety representative who represents a worker whose interests are affected by the decision. (5) A person conducting a business or undertaking whose interests are affected by the decision.
7	Section 191 (issue of improvement notice)	(1) The person to whom the notice was issued. (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A worker whose interests are affected by the decision. (4) A health and safety representative who represents a worker whose interests are affected by the decision.
8	Section 194 (extension of time for compliance with improvement notice).	(1) The person to whom the notice was issued. (2) A person conducting a business or undertaking whose interests are affected by the decision. (3) A worker whose interests are affected by the decision. (4) A health and safety representative who represents a worker whose interests are affected by the decision.
9	Section 195 (issue of prohibition notice)	(1) The person to whom the notice was issued. (2) The person with management or control of the workplace, plant or substance. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision. (6) A health and safety representative who gave a direction under section 85 to cease work, that is relevant to the prohibition notice.
10	Section 198 (issue of a non disturbance notice)	(1) The person to whom the notice was issued. (2) The person with management or control of the workplace. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision.
11	Section 201 (issue of subsequent notice)	(1) The person to whom the notice was issued. (2) The person with management or control of the workplace. (3) A person conducting a business or undertaking whose interests are affected by the decision. (4) A worker whose interests are affected by the decision. (5) A health and safety representative who represents a worker whose interests are affected by the decision.

TIME LIMITS FOR LODGING APPLICATIONS WITH FAIR WORK AUSTRALIA

If the decision being reviewed is to forfeit a thing (including a document), the application must be made to Fair Work Australia within 28 days after the day on which Comcare's decision first came to the applicant's notice.⁶

For any other decision listed in the table at section 223 of the WHS Act, the application to Fair Work Australia must be made within 14 days after the day on which the decision first came to the applicant's notice.⁷

⁶ See s229(2)(a) WHS Act.

⁷ See section 22(2)(b) WHS Act.

FORM TO USE FOR FAIR WORK AUSTRALIA APPLICATIONS

To apply to Fair Work Australia for reviews of decisions made under the WHS Act, applicants should use Form F1 which is available through the Fair Work Australia website at www.fwa.gov.au.

FAIR WORK AUSTRALIA FEES

There is currently no application fee for these sorts of applications. You will need to cover the costs associated with any legal advice you seek in respect of lodging such applications.

FURTHER INFORMATION ABOUT FAIR WORK AUSTRALIA

Further details are available through the Fair Work Australia website at www.fwa.gov.au.

DECISIONS REVIEWABLE BY THE ADMINISTRATIVE APPEALS TRIBUNAL (AAT)

If you are applying to an external review body to seek review of a decision made that is set out in Table 4,⁸ you must apply to the AAT for a review of that decision.

Table 4: Reviewable decisions subject to jurisdiction of AAT

Reviewable decisions subject to jurisdiction of AAT		
High risk work licences Must proceed to internal review first before AAT can consider matter		
Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
1	89 — Refusal to grant licence Applicant	Applicant
2	91 — Refusal to grant licence	Applicant
3	98 — Refusal to issue replacement licence document	Applicant
4	104 — Refusal to renew licence	Applicant
5	106 — Suspension of licence	Licence holder
6	106 — Cancellation of licence	Licence holder
7	106 — Disqualification of licence holder from applying for another licence	Licence holder
Accreditation of assessors Must proceed to internal review first before AAT can consider matter		
8	118 — Refusal to grant accreditation	Applicant An RTO that engages the applicant
9	120 — Refusal to grant accreditation	Applicant An RTO that engages the applicant
10	121 — Imposition of a condition when granting accreditation.	Applicant An RTO that engages the applicant
11	121 — Imposition of a condition when renewing accreditation	Applicant An RTO that engages the applicant

⁸ See regulation 676 WHS Regulations.

Accreditation of assessors Must proceed to internal review first before AAT can consider matter		
Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
12	127 — Refusal to issue replacement accreditation document	Accredited assessor An RTO that engages the accredited assessor
13	132 — Refusal to renew accreditation	Applicant An RTO that engages the applicant
14	133 — Suspension of accreditation	Accredited assessor An RTO that engages the accredited assessor
15	133 — Cancellation of accreditation	Accredited assessor An RTO that engages the accredited assessor
16	133 — Disqualification of assessor from applying for a further accreditation	Accredited assessor An RTO that engages the accredited assessor
Registration of Plant Designs Must proceed to internal review first before AAT can consider matter		
17	256 — Refusal to register plant design	Applicant
18	257 — Refusal to register plant design	Applicant
19	258 — Imposition of a condition when granting registration of plant design	Applicant
Registration of Plant Must proceed to internal review first before AAT can consider matter		
20	269 — Refusal to register item of plant	Applicant The person with management or control of the item of plant
21	270 — Refusal to register item of plant	Applicant The person with management or control of the item of plant
22	271 — Imposition of a condition when granting registration of item of plant	Applicant The person with management or control of the item of plant
23	271 — Imposition of a condition when renewing registration of item of plant	Registration holder The person with management or control of the item of plant
24	279—Refusal to renew registration of item of plant	Registration holder The person with management or control of the item of plant
25	283 — Amendment of registration, on regulator’s initiative	Registration holder The person with management or control of the item of plant
26	284 — Refusal to amend registration on application (or a decision to make a different amendment)	Registration holder The person with management or control of the item of plant
27	288 — Refusal to issue replacement registration document	Registration holder The person with management or control of the item of plant
General Construction Induction Training Must proceed to internal review first before AAT can consider matter		
28	322 — Refusal to issue general construction induction training card	Applicant
29	322 — Refusal to issue replacement general construction induction training card	Card holder
30	323 — Cancellation of general construction induction training card	Card holder

Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
Hazardous chemicals and lead		
Must proceed to internal review first before AAT can consider matter		
31	384 — Refusal to grant authorisation to use, handle or store a prohibited or restricted carcinogen	Applicant
32	386 — Cancellation of authorisation to use, handle or store a prohibited or restricted carcinogen	Authorisation holder
33	393 — Deciding a process to be a lead process	A person conducting a business or undertaking that carries out the lead process A worker whose interests are affected by the decision
34	407 — Determining a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work	A person conducting a business or undertaking that carries out the lead process A worker whose interests are affected by the decision
Asbestos removal licences and asbestos assessor licences		
Must proceed to internal review first before AAT can consider matter		
35	497 — Refusal to grant licence	Applicant
36	501 — Refusal to grant licence	Applicant
37	502 — Imposition of a condition when granting licence	Applicant
38	502 — Imposition of a condition when renewing licence	Applicant
39	508 — Amendment of licence, on regulator's initiative	Licence holder
40	509 — Refusal to amend licence on application (or a decision to make a different amendment)	Licence holder
41	513 — Refusal to issue replacement licence document	Applicant
42	517 — Refusal to renew licence	Applicant
43	520 — Suspension of licence	Licence holder
44	520 — Cancellation of licence	Licence holder
45	520 — Disqualification of licence holder from applying for another licence	Licence holder
Major hazard facilities		
These decisions must be subject of direct application to AAT. Comcare's Internal Reviews Team cannot reconsider these decisions (see regulation 677 WHS Regulations)		
<i>Determination of facility to be major hazard facility—refer to Table 5</i>		
<i>Licensing of major hazard facility—refer to Table 5</i>		
<i>Licensing of major hazard facility —refer to Table 5</i>		
Exemptions		
These decisions must be subject of direct application to AAT. Comcare's Internal Reviews Team cannot reconsider these decisions (see regulation 677 WHS Regulations)		
<i>Refer to Table 5</i>		

DO I NEED TO FIRST SEEK AN INTERNAL REVIEW?

That depends on the decision you want to have reviewed.

DECISIONS FOR WHICH NO INTERNAL REVIEW PROCESS IS AVAILABLE

Table 5 sets out those decisions made under the WHS Regulations which cannot be subject of an internal review by Comcare’s Reviews Team. If you seek review of the decisions listed in Table 5 you must apply directly to the AAT for that review.

Table 5: Decisions under the WHS Regulations which can only be reviewed by the AAT

Reviews of these decisions must be made directly with AAT		
Major hazard facilities These decisions must be subject of direct application to AAT. Comcare’s Internal Reviews Team cannot reconsider these decisions (see regulation 677 WHS Regulations)		
<i>Determination of facility to be major hazard facility</i>		
Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
46	541 — Determination of facility to be a major hazard facility, on making inquiry	Operator of facility
47	541—Decision not to determine proposed facility to be a major hazard facility	Operator of facility
48	542 — Determination of major hazard facility.	Operator of facility
49	543 — Determination of suitability of operator.	Operator of facility
50	544 — Imposition of a condition on a determination of a major hazard facility	Operator of facility
<i>Licensing of major hazard facility</i>		
51	580 — Refusal to grant licence	Operator of facility
52	584 — Imposition of a condition when granting licence	Operator of facility
53	584 — Imposition of a condition when renewing licence	Operator of facility
54	589 — Amendment of licence, on regulator’s initiative	Operator of facility
55	590 — Refusal to amend licence, on application (or a decision to make a different amendment)	Operator of facility
56	594 — Refusal to issue replacement licence document	Operator of facility
57	598 — Refusal to renew licence	Operator of facility
58	600 — Refusal to transfer licence, on application.	Operator of facility. Proposed operator of facility.
59	601 — Refusal to cancel licence, on application.	Operator of facility.
60	602 — Suspension of licence.	Operator of facility.
61	602 — Cancellation of licence.	Operator of facility.
62	602 — Disqualification of licence holder from applying for another licence.	Operator of facility.

Exemptions		
These decisions must be subject of direct application to AAT. Comcare's Internal Reviews Team cannot reconsider these decisions (see regulation 677 WHS Regulations)		
Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
63	684 — Refusal to exempt person (or a class of persons) from compliance with any of these Regulations	Applicant
64	686 — Refusal to exempt person from requirement to hold a high risk work licence	Applicant
65	688 — Refusal to exempt operator of major hazard facility from compliance with any of these Regulations, on application	Operator of facility
66	691 — Imposing condition on an exemption granted on application under Part 11.2	Applicant
67	696 — Refusal to grant exemption	Applicant
68	697 — Amendment of an exemption granted on application under Part 11.2	Applicant
69	697 — Cancellation of an exemption granted on application under Part 11.2	Applicant

DECISIONS FOR WHICH YOU MUST FIRST SEEK INTERNAL REVIEW BEFORE APPLYING TO AAT

Table 6 sets out those decisions made under the WHS Regulations for which the AAT does not have jurisdiction to review, unless they have first been subject of the internal review process conducted by Comcare's Reviews Team.

Table 6: Decisions under the WHS Regulations which must be internally reviewed by Comcare's Reviews Team before you can apply to the AAT

Reviewable decisions which must first be subject to internal review before applying to AAT		
High risk work licences		
Must proceed to internal review first before AAT can consider matter		
Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
1	89 — Refusal to grant licence	Applicant
2	91 — Refusal to grant licence	Applicant
3	98 — Refusal to issue replacement licence document	Applicant
4	104 — Refusal to renew licence	Applicant
5	106 — Suspension of licence	Licence holder
6	106 — Cancellation of licence	Licence holder
7	106 — Disqualification of licence holder from applying for another licence	Licence holder
Accreditation of assessors		
Must proceed to internal review first before AAT can consider matter		
8	118 — Refusal to grant accreditation	Applicant An RTO that engages the applicant
9	120 — Refusal to grant accreditation	Applicant An RTO that engages the applicant
10	121 — Imposition of a condition when granting accreditation.	Applicant An RTO that engages the applicant

Accreditation of assessors Must proceed to internal review first before AAT can consider matter		
Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
11	121 — Imposition of a condition when renewing accreditation	Applicant An RTO that engages the applicant
12	127 — Refusal to issue replacement accreditation document	Accredited assessor An RTO that engages the accredited assessor
13	132 — Refusal to renew accreditation	Applicant An RTO that engages the applicant
14	133 — Suspension of accreditation	Accredited assessor An RTO that engages the accredited assessor
15	133 — Cancellation of accreditation	Accredited assessor An RTO that engages the accredited assessor
16	133 — Disqualification of assessor from applying for a further accreditation	Accredited assessor An RTO that engages the accredited assessor
Registration of Plant Designs Must proceed to internal review first before AAT can consider matter		
17	256 — Refusal to register plant design	Applicant
18	257 — Refusal to register plant design	Applicant
19	258 — Imposition of a condition when granting registration of plant design	Applicant
Registration of Plant Must proceed to internal review first before AAT can consider matter		
20	269 — Refusal to register item of plant	Applicant The person with management or control of the item of plant
21	270 — Refusal to register item of plant	Applicant The person with management or control of the item of plant
22	271 — Imposition of a condition when granting registration of item of plant	Applicant The person with management or control of the item of plant
23	271 — Imposition of a condition when renewing registration of item of plant	Registration holder The person with management or control of the item of plant
24	279—Refusal to renew registration of item of plant	Registration holder The person with management or control of the item of plant
25	283 — Amendment of registration, on regulator's initiative	Registration holder The person with management or control of the item of plant
26	284 — Refusal to amend registration on application (or a decision to make a different amendment)	Registration holder The person with management or control of the item of plant
27	288 — Refusal to issue replacement registration document	Registration holder The person with management or control of the item of plant

General Construction Induction Training Must proceed to internal review first before AAT can consider matter		
Item	Regulation under which reviewable decision is made	Eligible person in relation to reviewable decision
28	322 — Refusal to issue general construction induction training card	Applicant
29	322 — Refusal to issue replacement general construction induction training card	Card holder
30	323 — Cancellation of general construction induction training card	Card holder
Hazardous chemicals and lead Must proceed to internal review first before AAT can consider matter		
31	384 — Refusal to grant authorisation to use, handle or store a prohibited or restricted carcinogen	Applicant
32	386 — Cancellation of authorisation to use, handle or store a prohibited or restricted carcinogen	Authorisation holder
33	393 — Deciding a process to be a lead process	A person conducting a business or undertaking that carries out the lead process A worker whose interests are affected by the decision
34	407 — Determining a different frequency for biological monitoring of workers at a workplace, or a class of workers, carrying out lead risk work	A person conducting a business or undertaking that carries out the lead process A worker whose interests are affected by the decision
Asbestos removal licences and asbestos assessor licences Must proceed to internal review first before AAT can consider matter		
35	497 — Refusal to grant licence	Applicant
36	501 — Refusal to grant licence	Applicant
37	502 — Imposition of a condition when granting licence	Applicant
38	502 — Imposition of a condition when renewing licence	Applicant
39	508 — Amendment of licence, on regulator's initiative	Licence holder
40	509 — Refusal to amend licence on application (or a decision to make a different amendment)	Licence holder
41	513 — Refusal to issue replacement licence document	Applicant
42	517 — Refusal to renew licence	Applicant
43	520 — Suspension of licence	Licence holder
44	520 — Cancellation of licence	Licence holder
45	520 — Disqualification of licence holder from applying for another licence	Licence holder

TIME LIMITS FOR LODGING APPLICATIONS TO THE AAT

Applications for review of decisions listed in Table 4 must be made to the AAT within 28 days after the day on which Comcare's decision—either on internal review, or a decision at first instance made under Chapter 9 or Part 11.2 of the WHS Regulations—first came to the applicant's notice.⁹

The AAT may extend the time for lodging an application to review Comcare's decisions under the WHS Regulations beyond that 28 day timeframe, but it will only do so if satisfied that extension is reasonable in the circumstances.¹⁰

Further information is available through the AAT website at www.aat.gov.au.

FORM TO USE FOR AAT APPLICATIONS

To apply to the AAT for reviews of decisions made under the WHS Regulations, applicants should use Application Form 1 which is available through the AAT website.

AAT FEES

The full fee for applications to the AAT for review of decisions made under the WHS Regulations is \$777.00. Certain applicants are eligible for fee reductions. Further information on AAT application fees is available through the AAT website.

You will need to cover the costs associated with any legal advice you seek in respect of lodging applications for review of Comcare's decisions with the AAT.

FURTHER INFORMATION ABOUT THE AAT

Further information on applying for a review with the AAT is available through www.aat.gov.au.

CONTACTING THE REVIEWS TEAM FOR MORE HELP

If you have requested an internal review of an original decision made under Federal work health and safety law, Comcare's Reviews Team will include reasons supporting its internal review decision, and advice on how to apply for external review of that particular decision, including advice on which external body you ought to apply to.

If you are unsure about your rights or need further advice in respect of applying to external review bodies against decisions made by Comcare under Federal work health and safety law, you can call Comcare's Reviews team on 1300 366 979, email us at reviews.team@comcare.gov.au.

For information about a solicitor who may be able to help you with respect of either a request for an internal review by Comcare's Reviews Team, or an application to Fair Work Australia or the Administrative Appeals Tribunal for review of decisions made by Comcare or its Reviews Team, contact the Law Society in your state and territory.

⁹ See regulation 683(2) of the WHS Regulations.

¹⁰ See regulation 683(2)(b) of the WHS Regulations; section 29(7)-(10) *Administrative Appeals Tribunal Act 1975* (Cth).

APPENDIX—EXTERNAL REVIEW

FLOW CHART—WHERE DO I GO TO SEEK REVIEW OF COMCARE'S DECISIONS

