



Australian Government

Comcare

GUIDE FOR APPLICANTS

Plant design registration

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PLANT DESIGN REGISTRATION

The *Work Health and Safety Regulations 2011* (Cth) (the Regulations) provide that a manufacturer, an importer and a supplier must not supply plant—specified in Part 1 of Schedule 5 of the regulations—unless the design is registered with a WHS Regulator [regulations 231, 232, 233].

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's design to be registered and it is not.

SCOPE—WHEN REGISTRATION IS REQUIRED

DESIGNS FOR ITEMS OF PLANT

The design of an item of plant specified in Part 1 of Schedule 5 of the Regulations must be registered if the designer started—or started and completed—designing the plant on or after 1 January 1996 [regulation 243].

List of plant items in Part 1 of Schedule 5:

- > pressure equipment, other than pressure piping, and categorised as hazard level A, B, C or D according to the criteria in Section 2.1 of AS 4343:2005 *Pressure equipment—hazard levels*
- > gas cylinders covered by Section 1.1 of AS 2030.1:2009 *Gas cylinders—General Requirements*
- > tower cranes including self-erecting tower cranes
- > lifts, including escalators and moving walkways
- > building maintenance units
- > hoists with a platform movement exceeding 2.4 metres, designed to lift people
- > work boxes designed to be suspended from cranes
- > 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
- > prefabricated scaffolding and prefabricated formwork
- > boom-type elevating work platforms
- > gantry cranes with a safe working load greater than 5 tonnes or bridge cranes with a safe working load of greater than 10 tonnes, and any gantry crane or bridge crane which is designed to handle molten metal or Schedule 11 hazardous chemicals
- > vehicle hoists
- > mast climbing work platforms
- > mobile cranes with a rated capacity of greater than 10 tonnes.

Further exceptions:

- > a heritage boiler
- > a crane or hoist that is manually powered
- > an elevating work platform that is a scissor lift or a vertically moving platform
- > a tow truck.

TYPES OF REGISTRATION

Plant design registration is required for new designs [regulation 243]. If, after registration, alterations are made to the design that may affect health and safety, the altered design must be registered [regulation 244].

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

A person conducting a business or undertaking that designs an item of plant ('the designer') or a person with management or control of an item of plant at a workplace (the PMC) may apply to Comcare for registration of the design of the item of plant if:

- > the item of plant is specified in Part 1 of Schedule 5 of the Regulations [regulation 243]
- > the designer started—or started and completed—the design on or after 1 January 1996 [regulation 243]
- > the designer or the PMC is the Commonwealth, a public authority or a non-Commonwealth licensee ('a Commonwealth or licensee applicant') [regulation 256(2)(c)(i)].

Possible exceptions:

If the person is not a Commonwealth or licensee applicant, Comcare must be satisfied that circumstances exist to justify Comcare's grant of the registration [regulation 256(2)(c)(ii)].

Note: A person with management or control of an item of plant 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 [section 5 of the WHS Act].

RECOGNITION OF INTERSTATE AUTHORISATIONS

A plant design does not require registration by Comcare if the design has already been registered by another state or territory under a corresponding WHS law [regulation 245(1)].

Alteration of a plant design does not require registration by Comcare if the design alteration has already been registered by the state or territory regulator which, under a corresponding WHS law, registered the original design [regulation 245(2)].

SUMMARY OF APPLICATION REQUIREMENTS

An application for registration of the design 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
- > a statement signed by the plant designer
- > a design verification statement that accords with regulation 251
- > representational drawings of the design
- > a declaration that the applicant does not hold an equivalent registration under a corresponding state or territory WHS law
- > the relevant fee.

Representational drawings and other documents provided with the application must be available in electronic form [regulation 250].

STATEMENT SIGNED BY PLANT DESIGNER

The applicant must submit a statement signed by the designer of the item of plant with the application for registration. The statement should indicate:

- > that the designer has complied with the designer's obligations under section 22 of the WHS Act
- > the published technical standards and engineering principles used in the design [regulation 250(2)(e)].

The requirements for a designer statement apply also if the designer is located overseas.

The designer statement must be in English or translated into English.

DESIGN VERIFICATION STATEMENT

The application for registration must include a statement written and signed by a person who has verified that the design was produced in accordance with published technical standards or engineering principles specified in the designer's statement. This person is referred to as 'the design verifier'.

The design verifier must include their name, business address and qualifications (if applicable). If applicable, they should also include the name and business address of the organisation they work for [regulation 251].

A person commits an offence if that person makes a design verification statement but is not eligible to do so, or has not carried out a verification of the design [regulation 254].

WHO IS ELIGIBLE TO VERIFY A PLANT DESIGN?

Under regulation 252, a person is eligible to be a design verifier if they are a competent person. Regulation 5(e) provides that a competent person—for regulation 252 purposes—has the skills, qualifications, competence and experience to design the plant or verify the design.

A person is ineligible to be a design verifier if:

- > the person was involved in the plant's design
- > at the time the design was produced, the person was engaged by the PCBU that produced the design. This disqualification does not apply if the PCBU uses a quality system for plant design that has been certified by a body accredited or approved by the Joint Accreditation System of Australia and New Zealand [regulation 252].

FEES

- > Plant design registration—\$90

HOW TO APPLY FOR REGISTRATION

Complete and submit Form WHS—PIR003 *Application for design registration (or variation of design) of an item of plant* and fax to 1300 196 971 or post to:

Authorisations Team
Comcare
GPO Box 9905
Canberra ACT 2601

DURATION OF REGISTRATION

A plant design registration is granted for an unlimited duration [regulation 259].

GRANTING REGISTRATION

Comcare must register the design if satisfied that:

- > the application has been made in accordance with requirements of the relevant legislation [regulation 256(2)(a)]
- > the design is not already registered with another state or territory under a corresponding WHS law [regulation 256(2)(b)]
- > the applicant is a person falling within Comcare's jurisdiction or, if otherwise, circumstances exist to justify Comcare's grant of the registration [regulation 256(2)(c)(i) and (ii)]
- > the applicant can ensure compliance with any conditions to apply to the registration [regulation 256(2)(d)].

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 256(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 255].

WHAT TIME LIMITS APPLY FOR CONSIDERATION OF AN APPLICATION?

Comcare must make a decision within 120 days after receiving:

- > the application
- > the additional information provided in accordance with regulation 255.

If Comcare does not make a decision within this timeframe, the application will be taken to have been refused [regulation 256(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 256(4)].

GRANTING A CONDITIONAL REGISTRATION

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

- > use and maintenance of the plant manufactured to the design
- > 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 258].

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

REFUSING TO GRANT A PLANT DESIGN 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 256(3)].

If Comcare proposes to refuse to grant a registration, it must give the applicant 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 a registration is a reviewable decision [regulation 257].

APPLICATION FOR REVIEW OF DECISION

Regulation 676 sets out decisions that are reviewable and who may apply for the review of a decision.

The applicant for registration may apply for a review of a decision:

- > to refuse to grant a registration of a plant design
- > to impose condition/s on the grant of registration of plant design
- > if Comcare fails to make a decision within 120 days of receiving an application or additional information requested—this failure to make a decision is regarded as a refusal.

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

INTERNAL REVIEW

An applicant 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
- > if Comcare has refused the application or imposed a condition/s on the registration, within 28 days after the day on which the decision first came to the applicant's notice
- > any longer period that Comcare allows [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 applicant 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 the application for internal review or the additional information is received (the 14 day period) [regulation 680(1)].

If the internal reviewer fails to make a decision within the 14-day period, or the applicant 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 applicant 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

An applicant 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

DESIGN VERIFIER

The design verifier must document the design verification process they have carried out and the results of that process. The design verifier commits an offence if they fail to document the process [regulation 253].

INSPECTION

The registration holder 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 262].

DESIGN REGISTRATION NUMBER TO BE KEPT IN THE VICINITY OF THE ITEM OF PLANT

The person with management or control of the plant in the workplace for which a plant design is registered must ensure the design registration number is readily accessible and in the vicinity of the plant at all times [regulation 260(5)].

DESIGN REGISTRATION NUMBER TO BE GIVEN TO THE MANUFACTURER, IMPORTER OR SUPPLIER

The person to whom the plant design registration number is issued must give the registration number to the manufacturer, importer or supplier of plant manufactured to that design [regulation 260(3)].

CHANGE OF DETAILS

The registration document 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 [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