



Australian Government

Comcare

NO 4 OF 2022

INSTRUMENT OF DELEGATION

WORK HEALTH AND SAFETY ACT 2011

I, **Aaron Hughes**, Acting Chief Executive Officer of Comcare, make the delegations in this instrument pursuant to section 154 of the *Work Health and Safety Act 2011* (Cth) (**WHS Act**).

1. **REVOKE** the instruments of delegation of Comcare's powers and functions made under section 154 of the WHS Act on 8 June 2021 (No. 3 of 2021) and 27 October 2020 (No. 7 of 2020).*
2. **DELEGATE** to each person from time to time meeting the criteria specified in subsection 154(1) of the WHS Act¹ and occupying or performing the duties of a position in Comcare specified in Column 3 of each schedule to this instrument, the exercise of the powers and performance of the functions of the WHS Act and *Work Health and Safety Regulations 2011* (Cth) (**WHS Regulations**) specified in Column 1 of each schedule to this instrument.
3. The description of a power or function in Column 2 of a schedule is for information only.
4. These delegations are additional to those made in the instrument titled "Instrument of Delegation - Financial" dated 3 June 2021 (the Financial Delegations). To the extent that there is any inconsistency between this instrument and the Financial Delegations, the Financial Delegations, and any instruments which succeed it, will prevail.
5. Attached to this instrument are two schedules.
6. This instrument has effect on the date that this instrument is signed.

Dated ³⁰ June 2022

Aaron Hughes

Acting Chief Executive Officer
Comcare

*To avoid doubt this instrument rectifies the error and confirms that the reference in instrument No. 3 of 2021 to revoking the instrument made on "27 October 2021 (No. 7 of 2020)" was intended to be "27 October 2020 (No. 7 of 2020)".

¹ Subsection 154(1) of the WHS Act states: The regulator may, by instrument in writing, delegate a power or function under this Act other than this power of delegation to:

(a) a member of the staff of the regulator who is an SES employee or acting SES employee; or
(b) an inspector; or
(c) a member of the staff of the regulator prescribed by the regulations.

SCHEDULE 1**Delegations under the *Work Health and Safety Act 2011* (Cth)**

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
1.	s38(1)(4)(6)	Duty to notify of notifiable incidents	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Director of Risk and Analysis > Assistant Director of Risk and Analysis > Inspectors
	s38(5)	Approval of the form of written notice	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Director of Risk and Analysis > Assistant Director of Risk and Analysis
2.	s39(3)(e)	Duty to preserve incident sites	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Inspectors
3.	s54(1)	Failure of negotiations	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
4.	s56(3)	Negotiation of agreement for work groups of multiple businesses	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
5.	s65	Disqualification of health and safety representatives	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
6.	s71(6)	Exceptions from obligations under section 70(1)	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
7.	s72(1)(a)	Obligations to train health and safety representatives	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s72(5)		Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
	s72(6)		Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Inspectors
8.	s74(2)	List of health and safety representatives	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections
9.	s76(5)	Constitution of committee	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
10.	s82(2)	Referral of issues to regulator for resolution by inspector	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations


	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections
11.	s89	Request to regulator to appoint inspector to assist	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
12.	s100(1)	Request for review of provisional improvement notice	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
13.	s138	Application to revoke WHS entry permit	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations
14.	s141	Application for assistance of inspector to resolve dispute	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
15.	s142(4)(b)(vi)	Authorising authority may deal with a dispute about a right of entry under this Act	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations
16.	s155	Powers of regulator to obtain information	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations
	s155(2)(c)		Regulatory Operations Group: <ul style="list-style-type: none"> > Directors of Regional Operations sections
	s155(2)(a)(b)		Regulatory Operations Group: <ul style="list-style-type: none"> > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Inspectors
17.	s156	Appointment of inspectors	Regulatory Operations Group:

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > General Manager > Senior Director National Operations
18.	s157	Identity cards	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations
	s157(3)		Regulatory Operations Group: <ul style="list-style-type: none"> > Directors of Regional Operations sections
19.	s158	Accountability of inspectors	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections
20.	s159	Suspension and ending of appointment of inspectors	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations
21.	s161	Conditions on inspectors' compliance powers	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations
22.	s162(1)	Inspectors subject to regulator's directions	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections
23.	s179	Forfeiture of seized things	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations
24.	s180(1)(2)(3)	Return of seized things	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Inspectors
25.	s181(1)	Access to seized things	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
26.	s207	Regulator may vary or cancel notice	Regulatory Operations Group: > General Manager > Senior Director National Operations
27.	s211	When regulator may carry out action	Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections
28.	s212	Power of the regulator to take other remedial action	Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections
29.	s213	Costs of remedial or other action	Regulatory Operations Group: > General Manager
30.	s215	Injunctions for noncompliance with notices	Regulatory Operations Group: > General Manager
31.	s216	Regulator may accept WHS undertakings	Regulatory Operations Group: > General Manager Legal Group: > General Manager Corporate Group: > Chief Operating Officer
32.	s217	Notice of decision and reasons for decision	Regulatory Operations Group: > General Manager Legal Group: > General Manager Corporate Group: > Chief Operating Officer
33.	s220	Contravention of WHS undertaking	Regulatory Operations Group: > General Manager
34.	s221	Withdrawal or variation of WHS undertaking	Regulatory Operations Group: > General Manager Legal Group: > General Manager Corporate Group: > Chief Operating Officer
35.	s222	Proceeding for alleged contravention	Regulatory Operations Group: > General Manager

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
36.	s224	Application for internal review	Regulatory Operations Group: > General Manager
37.	s225	Internal reviewer	Regulatory Operations Group: > General Manager
38.	s230	Prosecutions	Regulatory Operations Group: > General Manager Legal Group: > General Manager Corporate Group: > Chief Operating Officer
39.	s231	Procedure if prosecution is not brought	Regulatory Operations Group: > General Manager Legal Group: > General Manager
40.	s236	Adverse publicity orders	Regulatory Operations Group: > General Manager
41.	s260	Proceeding may be brought by the regulator or an inspector	Regulatory Operations Group: > General Manager
42.	s262	Recovery of a monetary penalty	Regulatory Operations Group: > General Manager
43.	s271(3)(c)	Confidentiality of information	Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Director of Risk and Analysis > Assistant Director of Risk and Analysis > Inspectors
44.	s274	Approved codes of practice	Regulatory Operations Group: > General Manager

Schedule 1 to instrument dated: 30 June 2022

CEO's Initials: 

SCHEDULE 2**Delegations under the *Work Health and Safety Regulations 2011 (Cth)***

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
1.	s6	Determination of safety management system	Regulatory Operations Group: > General Manager
2.	s21(1)(a)(2)	Training for health and safety representatives	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
3.	s25(1)(2)(3)	Training requirements for WHS entry permits	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
4.	s87(1)	Application for high risk work licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
5.	s88(1)(4)	Additional information	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
6.	s89	Decision on application	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s89(1)(2)(4)		Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
7.	s90	Matters to be taken into account	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
8.	s91(1)	Refusal to grant high risk work licence-process	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s91(2)		Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
9.	s93(1)(3)(4)	Licence document	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
10.	s95	Reassessment of competency of licence holder	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
11.	s96	Notice of change of address	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
12.	s97	Licence holder to return licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
13.	s98(1)(2)(5)	Replacement licence document	Regulatory Operations Group: > General Manager

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s98(3)(6)	Replacement licence document	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
14.	99(1)	Voluntary surrender of licence	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
15.	s100	Regulator may renew licence	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
16.	s101(1)	Application for renewal	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance
17.	s103	Renewal of expired licence	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
18.	s104(2)	Provisions relating to renewal of licence	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
19.	s106	Suspension or cancellation of licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
20.	s107	Matters taken into account (suspension and cancellation of high risk work licences)	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
21.	s108	Notice to and submissions by licence holder	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
22.	s109	Notice of decision	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
23.	s110(1)(2)(3)	Immediate suspension	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
24.	s111	Licence holder to return licence document	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
25.	s112	Regulator to return licence document after suspension	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
26.	s142(1)	Notice of demolition work	Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Director of Risk and Analysis > Assistant Director of Risk and Analysis > Inspectors
27.	s183(2)	Duties of person conducting business or undertaking	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager
28.	s235(4)(b)(5)	Major inspection of registered mobile cranes and tower cranes	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
29.	s241(3)(6)	Annual inspection of amusement device	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s241(3)(5)(b)(6)		Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
30.	s249	Who can apply to register a plant design	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
31.	s250(1)	Application for registration	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
	s250(2)(d)	Application for registration (Registration process for plant designs) – inclusion of the following information	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
32.	s255(1)(4)	Additional information	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager

Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)
		<p>Delegate(s)</p> <ul style="list-style-type: none"> > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
33.	s256(3)	Decision on application
	s256(1)(2)(4)	<p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
34.	s257(1)(2)	Refusal of registration - process
		<p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
35.	s258	Conditions of registration
		<p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
36.	s261(1)	Registration document
		<p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
37.	s263(2)(3)(4)	Disclosure of design information
		<p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
38.	s265	Who can apply to register an item of plant
		<p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			> Assistant Director of National Operations Authorisations
39.	s266(1)	Application for registration	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
	s266(2)(d)	Application for registration (other evidence of the applicant's identity required by the regulator)	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
40.	268(1)(4)	Additional Information	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
41.	s269(1)(2)		Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s269(3)(4)	Decision on application	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
42.	s270(1)(2)	Refusal of registration - process	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
43.	s271(1)	Conditions of registration	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
44.	s273(2)	Plant registration number	Regulatory Operations Group:

Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)
		Delegate(s) <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
45.	s274(1)	Registration document Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
46.	s276	Regulator may renew registration Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
47.	s277(1)	Application for renewal Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
	s277(2)(b)	Application for renewal (information that must be included) Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
48.	s279(1)	Decision on application Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
49.	s282(1)(3)	Changes to information Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
50.	s283(1)(2)(3)	Amendment of registration imposed by regulator	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
51.	s284(1)	Amendment on application by registration holder	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s284(2)(3)(4)	Amendment on application by registration holder	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
52.	s285	Minor corrections to registration	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
53.	s286	Regulator to give amended registration document	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
54.	s287	Registration holder to return registration document	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
55.	s288(1)(2)(5)	Replacement registration document	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
	s288(3)(6)	Replacement registration document	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
56.	s319(1)(3)(6)(7)	Issue of card	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s319(2)	Issue of card	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
57.	s321(1)(4)	Replacement card	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s321(2)	Replacement card	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
58.	s322	Refusal to issue or replace card	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
59.	s323	Cancellation of card - grounds	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
60.	s324(1)	Cancellation of card - process	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s324(2)		Regulatory Operations Group:

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
61.	s325	RTO may enter agreement to issue cards	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager
62.	s348	Regulator must be notified if manifest quantities to be exceeded	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
63.	s367(3)	Notification of abandoned tank	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
64.	s376	Duty to give health monitoring report to regulator	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Assistant Director of National Operations > Inspectors
65.	s383	Application for authorisation to use, handle or store prohibited and restricted carcinogens	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
66.	s384(1)(4)	Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s384(5)	Authorisation to use, handle or store prohibited	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
		carcinogens and restricted carcinogens	<ul style="list-style-type: none"> > Senior Director National Operations > Director National Operations
67.	s385	Changes to information in application to be reported	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
45.	s386	Regulator may cancel authorisation	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
68.	s390(2)	Pipeline builder's duties	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
69.	s391(3)	Management of risks to health and safety by pipeline operator	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
70.	s393	Regulator may decide lead process	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s393(1)(3)		Regulatory Operations Group: <ul style="list-style-type: none"> > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Inspectors
71.	s401(1)(h)	Review of control measures	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Inspectors
72.	s403(1)	Notification of lead risk work	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
73.	s404	Changes to information in notification of lead risk Work	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s404(1)		Regulatory Operations Group: <ul style="list-style-type: none"> > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Inspectors
74.	s407(3)(4)	Frequency of biological monitoring	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
75.	s413	Duty to give health monitoring report to regulator	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Assistant Director of National Operations Authorisations > Inspectors
76.	s415(2)	Removal of worker from lead risk work	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations

Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only) Delegate(s)
		> Directors of Regional Operations sections
77.	s419(4)	Work involving asbestos or ACM - prohibitions and exceptions Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections
78.	s442	Duty to give (asbestos) health monitoring report to regulator Regulatory Operations Group: > General Manager > Director of Risk and Analysis > Assistant Director of Risk and Analysis
79.	s454(3)	Emergency procedure Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Director of Risk and Analysis > Assistant Director of Risk and Analysis > Inspectors
80.	s455(3)	Emergency procedure - domestic premises Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
81.	s466(1)(3)	Regulator must be notified of asbestos removal Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Director of Risk and Analysis > Assistant Director of Risk and Analysis > Inspectors
82.	s476(1)(b)(ii)	Action if respirable asbestos fibre level too high Regulatory Operations Group: > General Manager > Senior Director National Operations > Directors of Regional Operations sections > Assistant Directors of Regional Operations sections > Assistant Director Investigations Assurance > Director of Risk and Analysis

Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)
		<p>Delegate(s)</p> <ul style="list-style-type: none"> > Assistant Director of Risk and Analysis > Inspectors
83.	s492	<p>Application for asbestos removal licence or asbestos assessor licence</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
84.	s493	<p>Content of application - Class A asbestos removal licence</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
85.	s494	<p>Content of application - Class B asbestos removal licence</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
86.	s496	<p>Additional information</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
87.	s497	<p>Decision on application</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
88.	s498	<p>Class A asbestos removal licence-regulator to be satisfied about additional matters</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
89.	s499	<p>Class B asbestos removal</p> <p>Regulatory Operations Group:</p>

Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)
		<p>licence-regulator to be satisfied about additional matters</p> <p>Delegate(s)</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
90.	s500	<p>Matters to be taken into account</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
91.	s501	<p>Refusal to grant licence-process</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
92.	s502	<p>Conditions of licence</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
93.	s503	<p>Duration of licence</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
94.	s504	<p>License document</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
95.	s507(2)	<p>Change to nominated supervisor</p> <p>Regulatory Operations Group:</p> <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
96.	s508	Amendment imposed by regulator	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
97.	s509	Amendment on application by licence holder	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
98.	s510	Minor corrections to licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
99.	s511	Regulator to give amended licence to the holder	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
100.	s512	Licence holder to return licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
101.	s513	Replacement licence document	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
102.	s514	Voluntary surrender of licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations

Column 1		Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			Authorisations
103.	s515	Regulator may renew licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
104.	s516	Application for renewal	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
105.	s517	Provisions relating to renewal of licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
106.	s518	Renewal of asbestos removal licence - Regulator to be satisfied about certain matters	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
107.	s520	Suspension or cancellation of licence	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
108.	s521	Matters taken into account	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
109.	s522	Notice to and submissions by licence holder	Regulatory Operations Group: > General Manager > Senior Director National Operations

Column 1		Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > Director of National Operations > Assistant Director of National Operations Authorisations
110.	s523	Notice of decision	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
111.	s524	Immediate suspension	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
112.	s525	Licence holder to return licence document	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
113.	s526	Regulator to return licence document after suspension	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
114.	s527	Asbestos removal licence register	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
115.	s533(3)(b)(4)	Meaning of operator of a facility or proposed facility	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
116.	s536	Operators of certain facilities	Regulatory Operations Group:

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
		must notify regulator	<ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
117.	s537(1)	Notification - proposed facilities	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
118.	s538(1)(5)	Content of notification	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
119.	s538(3)(c)	Content of notification	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
120.	s539	When regulator may conduct inquiry	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
121.	s540(2)	Inquiry procedure	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
122.	s540(4)	Inquiry procedure	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
123.	s541	Determination in relation to facility, on inquiry	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager
124.	s542	Determination in relation to over-threshold facility	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
125.	s543	Suitability of facility operator	Regulatory Operations Group: > General Manager
126.	s544	Conditions on determination of major hazard facility	Regulatory Operations Group: > General Manager
127.	s545	Notice and effect of determinations	Regulatory Operations Group: > General Manager
128.	s546	When regulator may revoke a determination	Regulatory Operations Group: > General Manager
129.	s547(2)	Re-notification if quantity of Schedule 15 chemicals increases	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
130.	s548(2)	Notification by new operator	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
131.	s549(2)	Time in which major hazard facility licence must be applied for	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
132.	s551	Safety case outline must be provided	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
133.	s553(1)(2)(3)(5)	Alteration	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
134.	s559(2)(f)	Review of risk management	Regulatory Operations Group: > General Manager

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
			<ul style="list-style-type: none"> > Senior Director National Operations > Director National Operations
135.	s560	Safety case must be provided	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
136.	s562	Co-ordination for multiple facilities	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager
	s562(1)		Regulatory Operations Group: <ul style="list-style-type: none"> > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
137.	s567(4)	Emergency plan	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
138.	s578(1)(2)(d)	Application for major hazard facility licence	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
139.	s579(1)(5)	Additional information	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s579(4)		Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager > Senior Director National Operations > Director National Operations
140.	s580	Decision on application	Regulatory Operations Group: <ul style="list-style-type: none"> > General Manager
141.	s581	Matters to be taken into	Regulatory Operations Group:

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
		account	> General Manager
142.	s582	When decision is to be made	Regulatory Operations Group: > General Manager
143.	s583	Refusal to grant major hazard facility licence – process	Regulatory Operations Group: > General Manager
144.	s584	Conditions of licence	Regulatory Operations Group: > General Manager
145.	s585	Duration of licence	Regulatory Operations Group: > General Manager
146.	s586	Licence document	Regulatory Operations Group: > General Manager
147.	s588(1)	Changes to information	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
148.	s589	Amendment imposed by regulator	Regulatory Operations Group: > General Manager
149.	s590	Amendment on application by operator	Regulatory Operations Group: > General Manager
150.	s591	Minor corrections to major hazard facility licence	Regulatory Operations Group: > General Manager
151.	s592	Regulator to give amended licence document to operator	Regulatory Operations Group: > General Manager
152.	s593	Operator to return licence	Regulatory Operations Group: > General Manager
153.	s594	Replacement licence document	Regulatory Operations Group: > General Manager
	s594(1)(2)		Regulatory Operations Group: > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
	s594(3)		Regulatory Operations Group: > Senior Director National Operations > Director National Operations
154.	s595	Regulator may renew licence	Regulatory Operations Group: > General Manager
155.	s596(1)	Application for renewal	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations
156.	s600	Transfer of major hazard facility licence	Regulatory Operations Group: > General Manager
	s600(2)		Regulatory Operations Group: > Senior Director National Operations > Director National Operations
157.	s601	Cancellation of major hazard facility licence - on operator's application	Regulatory Operations Group: > General Manager
	s601(1)		Regulatory Operations Group: > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
	s601(2)(3)		Regulatory Operations Group: > Senior Director National Operations > Director National Operations
158.	s602	Suspension or cancellation of licence - on regulator's initiative	Regulatory Operations Group: > General Manager
159.	s603	Matters to be taken into account	Regulatory Operations Group: > General Manager
160.	s604	Notice to and submissions by operator	Regulatory Operations Group: > General Manager
161.	s605	Notice of decision	Regulatory Operations Group: > General Manager
162.	s606	Immediate suspension	Regulatory Operations Group:

Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)
		Delegate(s)
		> General Manager
163.	s607	Operator to return licence document
		Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
164.	s608	Regulator to return licence document after suspension
		Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
165.	s678	Application for internal review
		Regulatory Operations Group: > General Manager
166.	s679	Internal reviewer
		Regulatory Operations Group: > General Manager
167.	s684	General power to grant exemptions
		Regulatory Operations Group: > General Manager
168.	s686	High risk work licence - exemption
		Regulatory Operations Group: > General Manager
169.	s687	High risk work licence - regulator to be satisfied about certain matters
		Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
170.	s688	Major hazard facility - exemption
		Regulatory Operations Group: > General Manager
171.	s689	Major hazard facility - regulator to be satisfied about certain matters
		Regulatory Operations Group: > General Manager > Senior Director National Operations > Director of National Operations > Assistant Director of National Operations Authorisations
172.	s690	Application for exemption
		Regulatory Operations Group: > General Manager

	Column 1	Column 2	Column 3
Item	Power(s) or function(s) delegated	Summary of power or function (for information only)	Delegate(s)
173.	s691	Conditions of exemption	Regulatory Operations Group: > General Manager
174.	s692	Form of exemption document	Regulatory Operations Group: > General Manager
175.	s694	Notice of decision in relation to exemption	Regulatory Operations Group: > General Manager
176.	s696	Notice of refusal of exemption	Regulatory Operations Group: > General Manager
177.	s697	Amendment or cancellation of exemption	Regulatory Operations Group: > General Manager
178.	s698	Notice of amendment or cancellation	Regulatory Operations Group: > General Manager
179.	s700	Inspectors' identity cards	Regulatory Operations Group: > General Manager > Senior Director National Operations
180.	s743	Registration of plant and plant design by Defence Force	Regulatory Operations Group: > General Manager
181.	s741(2)	Existing registrations of plant and plant designs	Regulatory Operations Group: > General Manager > Senior Director National Operations > Director National Operations

Schedule 2 to instrument dated: 30 June 2022

CEO's Initials: 



Australian Government

Comcare

INSTRUMENT OF DELEGATION

WORK HEALTH AND SAFETY ACT 2011

I, **Greg Vines**, Chief Executive Officer of Comcare, make the delegations in this instrument pursuant to section 154 of the *Work Health and Safety Act 2022* (Cth) (**WHS Act**).

1. **REVOKE** the instrument of delegation of Comcare's powers and functions made under section 154 of the WHS Act on 30 June 2022.
2. **DELEGATE** to each person from time to time meeting the criteria specified in subsection 154(1) of the WHS Act, and occupying or performing the duties of a position in Comcare specified in each Schedule to this instrument, the exercise of the powers and performance of the functions conferred by or under the provisions listed in Column 2 of the Schedule.
3. The description of a function or power in the Schedule is for information only.
4. Attached to this instrument are 2 schedules.
5. This instrument has effect on the date that this instrument is signed.

Dated 13 August 2024

A stylized, handwritten signature in black ink, consisting of a large loop and a long horizontal stroke.

Greg Vines
Chief Executive Officer
Comcare

SCHEDULE 1

Delegations under the Work Health and Safety Act 2011 (Cth)

Item (#)	Power(s) or function(s) delegated (Section of Act)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
1	s38(4) s38(6)	Duty to notify of notifiable incidents	Regulatory Operations Group General Manager (ROG GM)	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		
2	s38(5)	Approval of the form of written notice	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
3	s39(3)(e)	Duty to preserve incident sites	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
6	s65	Disqualification of health and safety representatives	ROG GM						
8	s72(1)(a)	Obligations to train health and safety representatives	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
14	s138	Application to revoke WHS entry permit	ROG GM						
16	s142(4)(b)(vi)	Authorising authority may deal with a dispute about a right of entry under this Act	ROG GM						
17	s152	Functions of Regulator	ROG GM Legal Goup GM (Legal GM)	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		1

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

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Item (#)	Power(s) or function(s) delegated (Section of Act)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
18	s153	Powers of Regulator	Corporate Group Chief Operating Officer (COO) ROG GM Legal Group GM (Legal GM) Corporate Group Chief Operating Officer (COO)	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		2
19	s155(2)	Powers of regulator to obtain information	ROG GM	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		
20	s156	Appointment of inspectors	ROG GM						
21	s157	Identity cards	ROG GM						
22	s158	Accountability of inspectors	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
23	s159	Suspension and ending of appointment of inspectors	ROG GM						
24	s161	Conditions on inspectors' compliance powers	ROG GM						

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

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Item (#)	Power(s) or function(s) delegated (Section of Act)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
25	s162(1)	Inspectors subject to regulator's directions	ROG GM	All EL2 Inspectors					
26	s179	Forfeiture of seized things	ROG GM						
27	s180(2) s180(3)	Return of seized things	ROG GM	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		
28	s181(1)	Access to seized things	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
29	s207	Regulator may vary or cancel notice	ROG GM						
30	s211	When regulator may carry out action	ROG GM	All EL2 Inspectors					
31	s212	Power of the regulator to take other remedial action	ROG GM	All EL2 Inspectors					
32	s213	Costs of remedial or other action	ROG GM						
33	s215	Injunctions for noncompliance with notices	ROG GM						
34	s216	Regulator may accept WHS undertakings	ROG GM Legal GM COO						
35	s217	Notice of decision and reasons for decision	ROG GM Legal GM COO						
36	s220	Contravention of WHS undertaking	ROG GM Legal GM						
37	s221	Withdrawal or variation of WHS undertaking	ROG GM						

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Act)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
38	s222(3) s222(4)	Proceeding for alleged contravention	ROG GM Legal GM COO						
39	s224	Application for internal review	ROG GM						
40	s225	Internal reviewer	ROG GM						
41	s230	Prosecutions	ROG GM Legal GM COO						
42	s231	Procedure if prosecution is not brought	ROG GM Legal GM						
43	s236	Adverse publicity orders	ROG GM						
44	s260	Proceeding may be brought by the regulator or an inspector	ROG GM						
45	s262	Recovery of a monetary penalty	ROG GM						
46	s271A	Additional ways that regulator may use and share information	ROG GM	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		
47	s274	Approved codes of practice	ROG GM						

Specific Limitations / Notes:

1. Each person who from time to time occupies or performs the duties of a position in Comcare, and to whom the functions conferred on the regulator by section 152 of the WHS Act are delegated, may only perform those functions to the extent necessary to perform the other functions, and exercise the other powers, delegated to them under this instrument.

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

2. Each person who from time to time occupies or performs the duties of a position in Comcare, and to whom the powers conferred on the regulator by section 153 of the WHS Act are delegated, may only exercise those powers to the extent necessary to perform the other functions, and exercise the other powers, delegated to them under this instrument.

Schedule 1 to instrument dated: 2024

CEO's Initials

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

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SCHEDULE 2

Delegations under the Work Health and Safety Regulations 2011 (Cth)

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
1	s6	Determination of safety management system	Regulatory Operations Group (ROG) General Manager (GM)						
2	s21(1A) s21(2)	Training for health and safety representatives	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
3	s25(1) s25(2) s25(3)	Training requirements for WHS entry permits	ROG GM	All EL2 Inspectors					
4	s87(1)	Application for high risk work licence	ROG GM	All EL2 Inspectors					
5	s88(1) s88(4)	Additional information	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
6	s89(1) s89(2) s89(3) s89(4)	Decision on application	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
7	s90	Matters to be taken into account	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
8	s91(1) s91(2)	Refusal to grant high risk work licence-process	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
9	s93(1) s93(3) s93(4)	Licence document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
10	s95	Reassessment of competency of licence holder	ROG GM	All EL2 Inspectors					
11	s97	Licence holder to return licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
12	s98(5)	Replacement licence document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
13	s98(3) s98(6)	Replacement licence document	ROG GM	All EL2 Inspectors					
14	s100	Regulator may renew licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
15	s101(1) s101(2)(b) s101(2)(c)	Application for renewal	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
16	s103	Renewal of expired licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
17	s104(2)	Provisions relating to renewal of licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
18	s106	Suspension or cancellation of licence	ROG GM	All EL2 Inspectors					
19	s107	Matters taken into account (suspension and cancellation of	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
		high risk work licences)							
20	s108	Notice to and submissions by licence holder	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
21	s109	Notice of decision	ROG GM	All EL2 Inspectors					
22	s110(1) s110(2) s110(3)	Immediate suspension	ROG GM	All EL2 Inspectors					
23	s112	Regulator to return licence document after suspension	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
24	s183(2)	Duties of person conducting business or undertaking	ROG GM						
25	s235(4)(b) s235(5)	Major inspection of registered mobile cranes and tower cranes	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
26	s241(3) s241(6)	Annual inspection of amusement device	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
27	s241(5)(c)	Regulator may extend the date for an inspection	ROG GM	All EL2 Inspectors					
28	s249	Who can apply to register a plant design	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
29	s250(1)	Application for registration	ROG GM	All EL2 Inspectors					
30	s250(2)(d)	Application for registration	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
31	s255(1) s255(4)	Additional information	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
32	s256(3)	Decision on application	ROG GM	All EL2 Inspectors					
33	s256(1) s256(2) s256(4)	Decision on application	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
34	s257(1) s257(2)	Refusal of registration - process	ROG GM	All EL2 Inspectors					
35	s258	Conditions of registration	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
36	s261(1)	Registration document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
37	s263(2) s262(3) s262(4)	Disclosure of design information	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
38	s266(1)	Application for registration	ROG GM	All EL2 Inspectors					
39	s266(2)(d)	Application for registration	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
40	s268(1) s268(4)	Additional Information	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
41	s269(1) s269(2)	Decision on application	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
42	s269(3) s269(4)	Decision on application	ROG GM	All EL2 Inspectors					

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Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
43	s270(1) s270(2)	Refusal of registration - process	ROG GM	All EL2 Inspectors					
44	s271	Conditions of registration	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
45	s273(2)	Plant registration number	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
46	s274(1)	Registration document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
47	s276	Regulator may renew registration	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
48	s277(1)	Application for renewal	ROG GM	All EL2 Inspectors					
49	s277(2)(b)	Application for renewal (information that must be included)	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
50	s279(1)	Decision on application	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
51	s282(1)(3)	Changes to information	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
52	s283(1) s282(2) s282(3)	Amendment of registration imposed by regulator	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
53	s284(1)	Amendment on application by registration holder	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
54	s284(2) s284(3) s284(4)	Amendment on application by registration holder	ROG GM	All EL2 Inspectors					
55	s285	Minor corrections to registration	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
56	s286	Regulator to give amended registration document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
57	s287	Registration holder to return registration document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
58	s288(1) s288(2) s288(5)	Replacement registration document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
59	s288(3) s288(6)	Replacement registration document	ROG GM	All EL2 Inspectors					
60	s319(1) s319(3) s319(6) s319(7)	Issue of card	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
61	s319(2)	Issue of card	ROG GM	All EL2 Inspectors					
62	s321(1) s321(4)	Replacement card	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
63	s321(2)	Replacement card	ROG GM	All EL2 Inspectors					
64	s322	Refusal to issue or replace card	ROG GM	All EL2 Inspectors					
65	s323	Cancellation of card - grounds	ROG GM	All EL2 Inspectors					

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INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
66	s324(1)	Cancellation of card - process	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
67	s324(2)	Cancellation of card - process	ROG GM	All EL2 Inspectors					
68	s325	RTO may enter agreement to issue cards	ROG GM						
69	s348	Regulator must be notified if manifest quantities to be exceeded	ROG GM	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		
70	s383	Application for authorisation to use, handle or store prohibited and restricted carcinogens	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
71	s384(1) s384(4)	Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
72	s384(5)	Authorisation to use, handle or store prohibited carcinogens and restricted carcinogens	ROG GM	All EL2 Inspectors					
73	s386	Regulator may cancel authorisation	ROG GM	All EL2 Inspectors					

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
74	s393(1) s393(2)	Regulator may decide lead process	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
75	s393(3)	Regulator may decide lead process; notice of decision	ROG GM	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		
76	s401(1)(h)	Review of control measures	ROG GM	All EL2 Inspectors	All EL1 Inspectors	All APS 6 Inspectors	All APS 5 Inspectors		
77	s407(3) s407(4)	Frequency of biological monitoring	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
78	s419(4)	Work involving asbestos or ACM - prohibitions and exceptions	ROG GM	All EL2 Inspectors					
79	s492	Application for asbestos removal licence or asbestos assessor licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
80	s493	Content of application - Class A asbestos removal licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
81	s494	Content of application - Class B asbestos removal licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
82	s496	Additional information	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
83	s497	Decision on application	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
84	s498	Class A asbestos removal licence-regulator to be satisfied about additional matters	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
85	s499	Class B asbestos removal licence-regulator to be satisfied about additional matters	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
86	s500	Matters to be taken into account	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
87	s501	Refusal to grant licence-process	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
88	s502	Conditions of licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
89	s504	License document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
90	s507(2)	Change to nominated supervisor	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
91	s508	Amendment imposed by regulator	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
92	s509	Amendment on application by licence holder	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
93	s510	Minor corrections to licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

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Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
94	s511	Regulator to give amended licence to the holder	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
95	s512	Licence holder to return licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
96	s513	Replacement licence document	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
97	s514	Voluntary surrender of licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
98	s515	Regulator may renew licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
99	s516	Application for renewal	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
100	s517	Provisions relating to renewal of licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
101	s518	Renewal of asbestos removal licence - Regulator to be satisfied about certain matters	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
102	s520	Suspension or cancellation of licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
103	s521	Matters taken into account	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
104	s522	Notice to and submissions by licence holder	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
105	s523	Notice of decision	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
106	s524	Immediate suspension	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
107	s526	Regulator to return licence document after suspension	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
108	s527	Asbestos removal licence register	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
109	s536	Operators of certain facilities must notify regulator	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
110	s538(1) s538(5)	Content of notification	ROG GM	All EL2 Inspectors					
111	s538(3)(c)	Content of notification	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
112	s539	When regulator may conduct inquiry	ROG GM	All EL2 Inspectors					
113	s540(2)	Inquiry procedure	ROG GM	All EL2 Inspectors					
114	s540(4)	Inquiry procedure	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
115	s541	Determination in relation to facility, on inquiry	ROG GM						
116	s542	Determination in relation to over-threshold facility	ROG GM						
117	s543	Suitability of facility operator	ROG GM						
118	s544	Conditions on determination of major hazard facility	ROG GM						
119	s545	Notice and effect of determinations	ROG GM						
120	s546	When regulator may revoke a determination	ROG GM						
121	s549(2)	Time in which major hazard facility licence must be applied for	ROG GM	All EL2 Inspectors					
122	s553(1) s553(2) s553(3) s553(5)	Alteration	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
123	s559(2)(f)	Review of risk management	ROG GM	All EL2 Inspectors					
124	s562(1)	Co-ordination for multiple facilities	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
125	s578(1) s578(2)(d)	Application for major hazard facility licence	ROG GM	All EL2 Inspectors					
126	s579(1) s579(5)	Additional information	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
127	s579(4)	Additional information: national security information	ROG GM	All EL2 Inspectors					
128	s580	Decision on application	ROG GM						
129	s581	Matters to be taken into account	ROG GM						
130	s582	When decision is to be made	ROG GM						
131	s583	Refusal to grant major hazard facility licence – process	ROG GM						
132	s584	Conditions of licence	ROG GM						
133	s585	Duration of licence	ROG GM						
134	s586	Licence document	ROG GM						
135	s589	Amendment imposed by regulator	ROG GM						
136	s590	Amendment on application by operator	ROG GM						
137	s591	Minor corrections to major hazard facility licence	ROG GM						
138	s592	Regulator to give amended licence document to operator	ROG GM						
139	s593	Operator to return licence	ROG GM						
140	s594(3) s594(5)	Replacement licence document	ROG GM	All EL2 Inspectors					

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Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
	s594(6)								
141	s595	Regulator may renew licence	ROG GM						
142	s596(1)	Application for renewal	ROG GM	All EL2 Inspectors					
143	s600	Transfer of major hazard facility licence	ROG GM						
144	s600(2)			All EL2 Inspectors					
145	s601(2) s601(3)	Cancellation of major hazard facility licence - on operator's application	ROG GM	All EL2 Inspectors					
146	s601(4) s601(5)	Cancellation of major hazard facility licence - on operator's application	ROG GM						
147	s602	Suspension or cancellation of licence - on regulator's initiative	ROG GM						
148	s603	Matters to be taken into account	ROG GM						
149	s604	Notice to and submissions by operator	ROG GM						
150	s605	Notice of decision	ROG GM						
151	s606	Immediate suspension	ROG GM						
152	s608	Regulator to return licence	ROG GM	All EL2 Inspectors	All EL1 Inspectors				

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
		document after suspension							
153	s678	Application for internal review	ROG GM						
154	s679	Internal reviewer	ROG GM						
155	s684	General power to grant exemptions	ROG GM						
156	s686	High risk work licence - exemption	ROG GM						
157	s687	High risk work licence - regulator to be satisfied about certain matters	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
158	s688	Major hazard facility - exemption	ROG GM						
159	s689	Major hazard facility - regulator to be satisfied about certain matters	ROG GM	All EL2 Inspectors	All EL1 Inspectors				
160	s690	Application for exemption	ROG GM						
161	s691	Conditions of exemption	ROG GM						
162	s692	Form of exemption document	ROG GM						
163	s694	Notice of decision in relation to exemption	ROG GM						
164	s696	Notice of refusal of exemption	ROG GM						

INSTRUMENT OF DELEGATION [13 AUGUST 2024]

Item (#)	Power(s) or function(s) delegated (Section of Regulations)	Summary of power or function (For information only)	General Manager	EL2 Inspector	EL1 Inspector	APS 6 Inspector	APS 5 Inspector	APS 3-4 Inspector	Specific Limitation / Note
165	s697	Amendment or cancellation of exemption	ROG GM						
166	s698	Notice of amendment or cancellation	ROG GM						
167	s700	Inspectors' identity cards	ROG GM						
168	s741(2)	Existing registrations of plant and plant designs	ROG GM	All EL2 Inspectors					
169	s743	Registration of plant and plant design by Defence Force	ROG GM						

Schedule 2 to instrument dated: 2024

CEO's Initials

ROG Hub

ABOUT

FUNCTIONS

STRATEGY AND GOVERNANCE

SYSTEMS

RESOURCES

INSPECTOR MANUAL

1. Comcare has multiple enforcement options available to it under the *Work Health and Safety Act 2011 (Cth)* (**the WHS Act**). This policy aims to identify the circumstances in which an alleged breach of the WHS Act within Comcare's jurisdiction may require investigation (i.e. Comcare decides to conduct an investigation rather than an inspection – refer to the [compliance and enforcement activity types](#) document).
2. The purpose of this procedure is to define the processes and governance arrangements for regulatory decisions related to:
 - Initiating investigations (refer to Comcare's [Compliance and Enforcement Policy](#) for definition), and
 - De-escalating investigations
3. This procedure refers to other material (e.g., flow charts and templates) to aid understanding. All documents referred to are available in the Resources section of this page.
4. Decision makers must ensure decisions associated with escalation and de-escalation are recorded in IRIS and/or SharePoint

Overview

5. Comcare may exercise enforcement functions in relation to alleged breaches of the WHS Act. This policy considers the responsibility and expectations that apply to Comcare under the Australian Government Investigations Standards (**AGIS**), The Prosecution Policy of the Commonwealth (**PPC**), the SafeWork Australia Compliance and Enforcement Policy (**SWA CEP**), and the Legal Services Directions:
 - The AGIS provides guidelines for the minimum standard of conduct for entities conducting investigations into the programs and legislation they administer.
 - The PPC provides guidelines for making decisions relating to the prosecution of Commonwealth offences (i.e., offences under the WHS Act).
 - The SWA CEP provides guidelines that underpin the approach WHS regulators should take to monitoring and enforcing compliance with the WHS Act and Regulations. It includes guidance for the

interpretation and application of the PPC within the WHS regulatory framework

Roles and Responsibilities

6. **Chief Executive Officer (CEO).** The CEO, as the Regulator, may bring proceedings against persons under the WHS Act (s230). The CEO may delegate this authority to GM ROG and/or the Chief Operating Officer. Delegations are captured in the CEO's Instrument of Delegation, as amended ([refer Comcare intranet](#)).
7. **General Manager ROG.** The GM ROG is responsible for ensuring that ROG has an appropriate system for evaluating, initiating, and de-escalating investigations
8. **GM Legal Group.** The GM Legal Group (GM LG) is responsible for coordinating legal advice to ROG to support the conduct of investigations and coordinating liaison with relevant external agencies (e.g., CDPP), inclusive of arranging discontinuance where required.
9. **Senior Director National Operations (SDNO).** The SDNO is responsible for authorising escalation of inspections (except where the conditions for immediate escalation exist); authorising de-escalation of investigations at any point prior to submission to the EC; assuring the timely progress and the quality of investigations through fortnightly RD catchups and the monthly investigation summary report; and reporting progress to GM ROG.
10. **Regional Director (RD).** The RDs are responsible for the timely submission of matters for escalation and/or de-escalation; assuring the timely progress and the quality of investigations; and providing investigation updates to the SDNO in fortnightly catchups.
11. **Director National Operations (DNO).** The DNO is responsible for providing a monthly investigation summary report to the SDNO, for subsequent briefing of GM ROG and CEO. The report monitors progress against key milestones, assesses risks to completion and the actions taken to resolve/mitigate those risks.
12. **Enforcement Committee (EC).** The EC is a component of the Comcare governance and assurance structure. The EC makes decisions and recommendations to support Comcare in the exercise of its enforcement functions under the Work Health and Safety Act 2011. The EC is responsible for deciding whether to refer a matter to CDPP for consideration of prospects and making recommendations to the CEO in relation to bringing proceedings for offences under the WHS Act and the merits of applications for Enforceable Undertakings (EU).

Comcare Jurisdiction

13. Comcare has jurisdiction to investigate matters that fall within the object (s3) and scope of the WHS Act (s12). Inspectors may refer questions of jurisdiction to Regulatory Legal.
14. GM ROG retains discretion to initiate investigations; however, Comcare will not generally investigate:
 - Matters relating to public safety, unless the circumstances indicate that the matter is also subject to the WHS Act.
 - Matters where another regulatory authority or law enforcement agency administers legislation that is relevant to the circumstances of a potential WHS offence, has jurisdiction, the authority/agency has determined to investigate, and the potential sentence/penalty is comparable to or greater than that afforded under the WHS Act (e.g., Office of the National Rail Safety Regulator, Police). Examples could include the investigation of a derailment or the commission of common assault in a workplace.
15. Comcare may investigate where:

- The matter is under investigation by another agency whose aim is to determine compliance with legislation that is not safety related (i.e., it considers different offences to those afforded under the WHS Act), the actions of that agency may not resolve relevant WHS risks, and Comcare's investigation would not introduce excessive regulatory burden.
 - Shared jurisdiction exists under the WHS Act. Comcare will consider whether this represents an appropriate use of resources given the scope of the other agency's investigation and the potential enforcement outcomes (e.g., situations where a state/territory WHS regulator have commenced investigating).
16. Comcare may suspend or not commence investigation where requested by a law enforcement agency undertaking a criminal investigation (e.g. AFP).

Decision to Initiate an Investigation

17. Comcare conducts investigations to improve compliance with the WHS Act by ensuring it can hold those who breach WHS duties and obligations to account. Comcare investigates matters where the circumstances, as understood at the time, indicate that the matter could warrant prosecution.
18. ROG may commence an investigation immediately or at any stage after becoming aware of a matter (e.g., during an inspection). Refer to the [Flowcharts](#) 'Incident Occurrence to Initiation of Investigation' and 'Commencement of Investigation to Closure' for an overview of all steps outlined below.
19. Comcare acknowledges it is not possible to investigate all potential non-compliances with the WHS Act. Consistent with the principles of proportionality and responsiveness, ROG considers several factors when evaluating and prioritising matters for investigation (refer to **Factors for Consideration**). This process ensures that decisions conform to the relevant [AGIS](#) principles:
- administer and enforce the WHS Act in a coherent, consistent and objective manner;
 - operate as transparently as possible, to be accountable to the Government and the public;
 - take appropriate regulatory action considering the available enforcement actions; and
 - operate efficiently, effectively, and ethically.

Preliminary Actions

20. The decision to initiate an investigation is part of ROG's [Decision-Making Framework](#). Risk and Analysis conducts a risk assessment of all WHS matters referred to Comcare and provides a recommendation to the relevant Regional Operations team for inspectorate action (refer [ROG Hub](#): Managing notifications and WHS concerns). The relevant Regional Operations Assistant Director (**RO AD**) is responsible for deciding what, if any, inspectorate action is warranted (refer [ROG Hub](#): Decide to act).

Immediate Initiation of Investigations

21. ROG will immediately initiate an investigation where Comcare assesses a s231 request for prosecution is valid (refer Legal Services Manual [Section 231 matters](#)), or the WHS incident incorporates all the following:
- The incident arises from the conduct of the business or undertaking.
 - An organisation within the Commonwealth jurisdiction exercised control of the activity or workplace.

- An inspector forms a reasonable suspicion from the nature of the incident, or available information, non-compliance may have contributed to the outcome (e.g. scaffolding collapses often involve non-compliance, vehicle related fatalities arising from the actions of a member of the public do not routinely involve non-compliance).
- The incident results in death or life-threatening injury/illness (e.g., a hospital classifies the person as 'critical'). This generally excludes:
 - i. Medical events (e.g., heart attacks) and apparent self-harm unless there is an apparent causal or contributory link to the PCBU.
 - ii. Motor vehicle incidents:
 - a. on public roads and highways outside of the workplace,
 - b. involving driving under normal circumstances (i.e., not off-road or using driving aids such as night-vision equipment), or
 - c. involving conventional motor vehicles such as cars, trucks, and buses (i.e., does not include specialist vehicles, plant, or vehicles modified for the operations of the business).

22. Upon receiving a notification that potentially meets the requirements for immediate investigation (see above) the relevant RO AD convenes an 'escalation case conference' with the RD and Assistant Director Investigations Manager (**ADIM**) to discuss the matter. The case conference must occur within 48 hours of the referral from R&A. At the case conference, the RD decides whether the circumstances warrant immediate escalation and/or whether Comcare should refer the matter to another authority/law enforcement agency. The RD ensures the case conference summary captures the decision/reasons and saves the summary in IRIS. The RO AD undertakes the following actions dependent upon the decision:

- Escalation not warranted - initiates an inspection.
- Escalation warranted - marks the MC 'type' to an investigation, updates the case conference field to 'escalated', drafts CIB and releases once endorsed by RD, drafts the escalation noting brief for RD release to SDNO (refer to Template 'Noting Brief – Initiating Investigation (mandatory triggers)', and commences actions required for investigations. The SDNO provides a copy of the noting brief to EC members, Director Regulatory Legal, and all ROG directors. The RD advises the PCBU of the escalation via a letter.

Escalation of Existing Inspections

23. ROG will escalate existing inspections to investigations where all the following requirements exist:

- A prima-facie case that a duty holder has breached the WHS Act (i.e. an inspector has formed a reasonable belief that a breach has occurred).
- The circumstances, as understood at the time, indicate that the matter warrants further investigation with a view to potential prosecution (refer to Guidance: Factors for Consideration).

24. During the conduct of an inspection the inspector and RO AD monitor the progress so that, where relevant, they consider escalation to investigation at the earliest possible moment. An assessment should occur after the initial site visit and subsequently not less frequently than during the fortnightly RO AD case review with the inspector. ADs are to actively monitor inspections and initiate actions as required to inform the decision

whether to escalate. Four weeks after commencing an inspection the inspector must advise the AD whether the matter is likely to warrant future escalation.

25. Where the inspector or RO AD consider that the matter has met the requirements for escalation, the RO AD raises the matter with the RD. The RD, in consultation with the ADIA, decides whether to recommend escalation and, if not satisfied:

- The RD advises the RO AD via email (information SDNO) of the reasons for the decision and places a copy of the email in the IRIS file. The SDNO may, after discussion with the RD, decide that the matter warrants further consideration. If this occurs, the SDNO advises the RD via email, the RD records the decision in IRIS and follows the process outlined below.

26. If satisfied, the RD:

- Advises the RO AD via email (information SDNO) that they support consideration for escalation, places a copy of the email in the IRIS file, schedules an 'escalation case conference' within two days and prepares a decision brief for SDNO (refer to Template '[Decision Brief – Initiating Investigation](#)' (non-mandatory triggers). Due to the nature of regulatory operations, the information available to inform decision makers will change over time. When preparing briefs, the RD must make informed judgements in relation to many of the factors, accepting that this may change through any subsequent investigation.

27. The SDNO chairs the escalation case conference, and the participants assist the SDNO in reaching a decision on the escalation decision brief. The SDNO decides whether to escalate the matter during the escalation case conference and annotates the decision brief as required. After the case conference:

- The RO AD saves the annotated brief and summary of outcomes to the file. If escalated, the RO AD changes the MC 'type' to an investigation and updates the case conference field to 'escalated'. The RO AD initiates routine actions required for investigations (refer [ROG Inspector Manual](#)).
- If a CIB had been issued, the RD releases a new CIB noting the update (refer [Critical Incident Brief Procedure](#)).
- The RD advises the PCBU of the escalation via a letter.
- The SDNO emails a copy of the annotated decision brief to EC members, Director Regulatory Legal, and all ROG directors.
- If the Incident is a fatality or serious injury, the RD should follow the [Interim Guidance for Family Contact Engagement Procedure](#).

28. If not escalated, the inspection process continues.

Decision to De-escalate

29. De-escalation can occur at any point prior to referral to the CDPP. Comcare may decide not to refer a matter to CDPP when:

- During the conduct of the investigation, it appears that the circumstances no longer indicate that the requirements for escalation exist and this situation is unlikely to change through the expenditure of further reasonable effort.
- Comcare accepts an Enforceable Undertaking (WHS Act s216) before referring the matter to the CDPP.

- After consideration, the EC decides not to refer the matter.

30. At the point of de-escalation, the focus of the investigation reverts to monitoring compliance with the WHS Act. The matter remains an investigation; however, Comcare subsequently applies the procedures relevant to inspections (e.g., no case conferences or requirement to develop briefs of evidence). Prior to closing a de-escalated investigation, Comcare confirms that the relevant duty holder has eliminated the relevant WHS risks and, if not possible to eliminate, has reduced the risks so far as is reasonably practicable in the circumstances.
31. Comcare will finalise de-escalated investigations within the timeframe allocated for investigations.

De-escalation - Information Does Not Support Continuance

32. RDs must monitor the progress of investigations through case conferences (refer case conference process) and continuously review whether the factors that warranted escalation still exist. Where these circumstances no longer exist, the RD is to assess whether this assessment is likely to change through the expenditure of further reasonable effort in the time available to conduct the investigation:

- If authorising additional effort, record the decision and actions in the case conference notes, update IRIS, and inform the SDNO via the fortnightly update.
- If deciding to recommend de-escalation to the SDNO:
 - i. Record the decision in the case conference notes, update IRIS, and inform the SDNO via email.
 - ii. Within five working-days, schedule a de-escalation case conference with the SDNO and submit a decision brief for de-escalation to the SDNO (refer to Template 'Decision Brief – De-escalating Investigation'). The RD is to draft and store the brief and related correspondence in the relevant investigation file in SharePoint (Planning and Decisions folder).

33. The SDNO must finalise their decision within five working-days of the de-escalation case conference. The SDNO is to assess whether to de-escalate the investigation or commit additional effort:

- If directing additional effort, record the decision and actions in the case conference notes/on the brief and inform GM ROG. If not de-escalated, the investigation process continues.
- If de-escalating:
 - i. The SDNO records the decision in the case conference notes/ the de-escalation brief.
 - ii. The RO AD saves the annotated brief and summary of outcomes to the file and updates the case conference field to 'de-escalated' but does not change the MC 'type' from investigation. The RO AD initiates routine actions required to close investigations (refer ROG Inspector Manual).
 - iii. The RD advises the PCBU of the de-escalation via a letter.
 - iv. The SDNO emails a copy of the annotated decision brief to EC members, Director Regulatory Legal, and all ROG directors.

De-escalation - Comcare Accepts an Enforceable Undertaking

34. Where Comcare is considering an Enforceable Undertaking (**EU**), investigation processes continue unabated until Comcare accepts the EU. Where Comcare accepts an EU, it cannot prosecute that PCBU for the related offence. In consequence, Comcare either de-escalates the investigation or, where multiple PCBUs are in scope, removes that duty holder from the scope of the investigation. Where a PCBU subsequently fails to meet its obligations under an EU, ROG initiates a new investigation into that alleged breach (i.e., it is a separate contravention/matter).
35. RDs monitor the progress of EU proposals through the case conference process. The appointed legal advisor is responsible for providing updates. When advised that Comcare has accepted an EU, the RD is to assess whether to de-escalate the entire investigation:
- If authorising continuation of the investigation against other duty holders, record the decision in the case conference notes, update IRIS (including adjusting the scope), and inform the SDNO via email.
 - If deciding to recommend complete de-escalation:
 - i. Record the decision in the case conference notes, update IRIS, and inform the SDNO via email.
 - ii. Within five working-days, schedule a de-escalation case conference with the SDNO and submit a decision brief for de-escalation to the SDNO (refer to Template 'Decision Brief – De-escalating Investigation'). The RD is to draft and store the brief and related correspondence in the relevant investigation file in SharePoint (Planning and Decisions folder).
36. The SDNO must finalise their decision within five working-days of the de-escalation case conference. The SDNO is to assess whether to de-escalate the investigation or amend the scope:
- If directing an amended scope, record the decision and actions in the case conference notes/on the brief and inform GM ROG. The investigation process then continues.
 - If de-escalating:
 - i. The SDNO records the decision in the case conference notes/ the de-escalation brief.
 - ii. The RO AD saves the annotated brief and summary of outcomes to the file and updates the case conference field to 'de-escalated' but does not change the MC 'type' from investigation. The RO AD initiates routine actions required to close investigations (refer ROG Inspector Manual).
 - iii. The RD advises the PCBU of the de-escalation via a letter.
 - iv. The SDNO emails a copy of the annotated decision brief to EC members, Director Regulatory Legal, and all ROG directors.

De-escalation - Enforcement Committee Decision

37. The EC determines whether investigations warrant referral to the CDPP for prospects advice. ROG submits briefs to the EC through Regulatory Legal.
38. The RD is responsible for obtaining SDNO endorsement and subsequently referring briefs of evidence to the Director Regulatory Legal for legal review. This may result in:
- The requirement for additional information. If so, the RD undertakes actions to obtain the necessary information, prior to reconsideration by Regulatory Legal.

- Assessment that the brief of evidence is satisfactory, and the EC should consider referral to the CDDP. In this case, Regulatory Legal coordinates the submission of the legal and ROG briefs to the EC. The two briefs focus on different aspects:
 - i. Legal brief – confirms whether there is a prima facie case and sufficient evidence.
 - ii. ROG brief – that the matter warrants potential prosecution (i.e., the factors for initiating investigations exist). The RD is responsible for producing this brief.
- Assessment that the matter does not warrant consideration by the EC. The Director Regulatory Legal and SDNO will discuss the matter and:
 - i. If both agree that the matter does not warrant consideration by the EC, the SDNO will advise the members of the EC and ROG RDs and refer the matter back to the RD for action. The RD will convene a case conference to consider an appropriate response (i.e., continue or de-escalate).
 - ii. If either consider that the matter warrants consideration by the EC, Regulatory Legal will coordinate submission of the relevant briefs to the EC to permit the EC to decide the issue.

39. After consideration, the EC may decide not to refer the matter to the CDDP. In deciding not to refer a matter, the EC may direct:

- De-escalation of the matter.
- The conduct of further inquiries pending subsequent re-submission to the EC.

40. The EC may make the decision during the EC meeting or seek time to further consider the matter out of session. The decision is either recorded in the meeting summary or in the decision brief submitted to the EC. The EC must inform the SDNO of their decision within five working-days of the EC meeting.

41. The SDNO advises Director Regulatory Legal, and all ROG Directors of the decision. The relevant RD:

- If conducting further inquiries, the RD convenes a case conference to consider the EC direction, record the operational response (e.g., revised scope) in the case conference notes and update IRIS. The investigation process continues.
- If de-escalating the investigation:
 - i. The RO AD saves the annotated brief and summary of outcomes to the file and updates the case conference field to 'de-escalated' but does not change the MC 'type' from investigation. The RO AD initiates routine actions required to close investigations (refer [ROG Inspector Manual](#)).
 - ii. The RD advises the PCBU of the de-escalation via a letter.
 - iii. The SDNO emails a copy of the annotated decision brief to all ROG directors.

42. If the EC de-escalates a matter, the SDNO is to convene an after-action review (**AAR**) to identify and systematically apply any lessons. The AAR must include consideration of the decision-making guidance relevant to the matter. Regulatory Legal may participate in this review and/or conduct a separate technical AAR. As a minimum, the legal advisor is to participate in the AAR initiated by ROG.

Monitoring and Reporting

43. RO ADs monitor investigation progress during their fortnightly case review with inspectors.

44. RDs:

- Chair operational case conferences, not less than monthly, to enable the timely submission of matters for de-escalation; assure the timely progress and quality of investigations; and inform investigation updates to the SDNO.
- Provide fortnightly updates of the investigation progress to the SDNO within the fortnightly regional report. RDs report progress against the investigation plan, including any amendments to the plan.

45. The ADIA undertakes an assurance review of investigation progress and provides the SDNO with a monthly investigation summary report of all open investigations.

46. The SDNO briefs the following on investigation status:

- GM ROG as part of the fortnightly national operations update, including briefing observations arising from the ADIA investigation summary report as a monthly assurance check.
- Regulatory Legal as part of the fortnightly ROG/Regulatory Legal catch-up, involving GM ROG, GM Legal, SDNO and Director Regulatory Legal.
- EC members and ROG Directors of any newly initiated investigations and de-escalations via email.

47. The GM ROG briefs the CEO of any critical issues arising from investigations as required.

Maintenance of this Procedure

48. The guidance within this procedure requires regular update. ROG is to review the document:

- Not less than biennially.
- As part of an after-action-review conducted in response to the Comcare delegate not referring a matter to CDP, CDP deciding not to commence proceedings or discontinue proceedings, or a judge issuing a not-guilty verdict, dismissing proceedings, or ordering a mistrial.
- In response to relevant reports (e.g., Coronial findings).
- If internal audits or reviews determine that Comcare failed to escalate a matter that warranted escalation or did not escalate a matter in a timely manner.

Resources

- [Guidance - Factors for consideration - Initiation and De-escalation of Investigations](#) [PDF, 226KB]
- [Flowcharts - Evaluation, Initiation and De-escalation of Investigations](#) [PDF, 421KB]
- [Template - Noting Brief - Initiation of Investigation \(mandatory triggers\)](#) [DOC, 32KB]
- [Template - Decision Brief - Initiation of Investigation \(non-mandatory triggers\)](#) [DOC, 86KB]
- [Template - Decision Brief - De-escalation of Investigation](#) [DOC, 71KB]

Page last updated: 23 Nov 2023

Legal Services Manual

Section 231 matters

Procedure

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- [Resources](#)

Managing Section 231 matters

Requests made under section 231 of the *Work Health and Safety Act 2011* (Cth) (WHS Act) for Comcare to bring a prosecution in certain circumstances are co-ordinated by the Statutory Oversight team, Legal Group.

Statutory Oversight will manage all formal correspondence with the person making the request, including acknowledging the request and providing updates throughout its life cycle. Statutory Oversight will refer valid requests to ROG for investigation and once a valid investigation commences, ROG will follow normal investigation procedures when communicating with a complainant. Regulatory Legal provides legal advice on the validity of a section 231 request, legal support to investigations and is responsible for referring appropriate matters to the CDPP.

A high-level workflow highlights the roles of ROG and the Statutory Oversight and Regulatory Legal teams from receipt of a s231 request to its conclusion. A detailed flowchart and written procedure describe each step for managing a s231 request in accordance with the WHS Act.

This process is effective from June 2019.

Resources

- [Section 231 High-level workflow \[PDF\]](#)
- [Section 231 Flowchart \[PDF\]](#)
- [Section 231 Written procedure \[PDF\]](#)
- [Table of Templates \[PDF\]](#)

Page last updated: 23 Jul 2019



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REQUESTS TO PROSECUTE UNDER SECTION 231 OF THE WHS ACT

Purpose

This procedure describes the management of requests for prosecution made under section 231 of the *Work Health and Safety Act 2011* (Cth) (**WHS Act**).

Background

Section 231 of the WHS Act allows any person to request that Comcare bring a prosecution where the person reasonably considers that an act, matter or thing has occurred that constitutes a Category 1 or 2 offence (**231 Request**).

A 231 Request can only be made if no prosecution has been brought in relation to the relevant act, matter or thing at least six months, but not later than twelve months, after the occurrence.

Procedure

1. Receive request

The Risk and Analysis team, Regulatory Operations Group receives section 231 Requests in the notifications inbox. Requests will be logged in IRIS and forwarded to the Statutory Oversight team, Legal Group, within one business day.

2. Assess and process

The Statutory Oversight team processes and acknowledges 231 Requests.

Process 231 Request

Upon Receipt of a 231 Request, the Statutory Oversight team creates a matter plan (using the matter tracker template) and refers the matter to Regulatory Legal.

Validity Assessment

Regulatory Legal assesses whether the 231 Request meets the following criteria in the WHS Act for a valid request:

- the act, matter or thing must have occurred at least 6 months ago and not more than 12 months ago;
- the person making the request must reasonably consider that a Category 1 or Category 2 offence has occurred;
- Comcare must not have brought a prosecution in relation to the occurrence; and
- the request must be made in writing.

Regulatory Legal advises the Statutory Oversight team whether the 231 Request is valid using the legal advice on validity template.

If the 231 Request is valid

Valid 231 Requests are referred to ROG for investigation.

Requests to prosecute under section 231 of the WHS act

If the 231 Request is invalid

Invalid 231 Requests are marked closed. A copy of the request, correspondence and legal advice are referred to ROG to consider any potential health and safety breaches outside of the s231 Request process.

If it unclear whether the 231 Request is valid

If it is unclear on the face of the 231 Request whether the timeframe criteria has been met (ie between 6 and 12 months since the incident occurred) but all other validity criteria are satisfied, the Statutory Oversight team will write to the applicant seeking additional details to assess validity. The Statutory Oversight team will then seek an updated validity advice from Regulatory Legal.

Acknowledgment of 231 Request

Once validity has been assessed, the Statutory Oversight team prepares an acknowledgement letter to the applicant, utilising templates. The acknowledgement letter advises the applicant whether the 231 Request is valid and of next steps. The Statutory Oversight team retains responsibility for providing updates to the applicant, and the alleged offender until the matter is finalised.

Note: all template letters are in Trim folder SF1/17/16203.

3. Investigate

ROG assesses valid 231 Requests to determine the nature and scope of the investigation. ROG conducts the investigation into offence(s) alleged in the 231 Request.

Scope of investigation

ROG determines the scope and purpose of the investigation in accordance with its Investigation Planning procedure, including preparing an investigation plan. The investigation plan should include a timeline and factor in the requirement to inform the applicant of progress on the matter within three months of the request being received.

The scope of the investigation should take into consideration:

- whether an investigation is being, or has been undertaken into the same subject matter;
- the extent to which compliance and enforcement powers can be exercised to obtain evidence;
- whether other agencies are investigating the same circumstances;
- whether any other proceedings are on foot (eg Coronial inquest).

The scope of the investigation can potentially be narrow. For example, if inquiries into the subject matter of the 231 Request have already occurred, a desktop review of the evidence gathered may be sufficient.

Investigation

ROG should conduct an investigation in accordance with the determined scope and the usual investigation procedures.

Statutory limitations for prosecution should be considered throughout the investigation, as well as the need to regularly update the Statutory Oversight team so that accurate updates can be sent to the applicant and the alleged offender.

Outcome of investigation

At the conclusion of the investigation, ROG must decide whether to recommend the matter for prosecution.

If recommended for prosecution

ROG arranges an Enforcement Committee meeting to consider whether there is sufficient admissible evidence to refer the investigation to the CDPP for prosecution advice. If the Enforcement Committee approves the recommendation to prosecute, the usual procedures for referral to the CDPP apply, including preparation of a brief of evidence and letter of referral to the CDPP.

If Recommended for No Further Action

ROG arranges a Case Conference to consider whether to close the investigation and take no further action. If the decision is made to recommend that no further action be taken, a decision brief is prepared for GM ROG to endorse closure of the investigation.

Communicating outcome of investigation

If investigation not finalised within three months of receiving request

Within three months of receiving the 231 Request, the Statutory Oversight team must provide an update of the investigation in writing to the applicant and the alleged offender.

The Statutory Oversight team thereafter updates the applicant and the alleged offender at six monthly intervals until the investigation is complete.

Once the investigation is complete

The Statutory Oversight team:

- writes to the applicant noting the outcome of the investigation, and if no prosecution will be commenced, advises the applicant that they can request referral to the Commonwealth Director of Public Prosecutions (**CDPP**) for consideration; and
- writes to the alleged offender noting the outcome of the investigation.

4. CDPP Review

If Comcare decides not to prosecute, and the applicant requests that Comcare refer the matter to the CDPP, Comcare must do so **within one month** of receiving the request.

Referral to CDPP

Regulatory Legal manages the referral of the 231 Request to the CDPP. The template referral letter is in Trim folder SF1/17/16203.

The CDPP must respond as soon as practicable whether it considers that a prosecution should be brought.

If the CDPP does not recommend prosecution:

The Statutory Oversight team:

- writes to the applicant to let them know that the CDPP does not recommend prosecution and the reasons given by the CDPP; and
- writes to the alleged offender to let them know that the CDPP does not recommend prosecution.

If the CDPP recommends that a prosecution be brought:

ROG arranges an Enforcement Committee meeting to determine whether to follow the CDPP's recommendation.

If Comcare agrees with the CDPP's recommendation, the Statutory Oversight team:

- writes to notify the applicant that the CDPP considers a prosecution should be brought, including the CDPP's reasons for this decision; and
- writes to the alleged offender to notify them that the CDPP recommends prosecution.

If Comcare does not agree with the CDPP's recommendation, the Statutory Oversight team:

- writes to notify the applicant that the CDPP considers a prosecution should be brought, including the CDPP's reasons for this decision, and Comcare's reasons for declining to follow the CDPP's recommendation; and
- writes to the alleged offender to notify them that the CDPP recommends a prosecution and Comcare's reasons for declining to follow the CDPP's recommendation.

Finalising the 231 Request

If Comcare does not consider that a prosecution should be brought and all the above steps have been completed, the matter can be finalised. If Comcare considers that a prosecution should be brought, ROG should work with Regulatory Legal to prepare the matter for referral to the CDPP.



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PROCEDURE REQUESTS TO PROSECUTE SECTION 231

INSPECTORATE
REGULATORY OPERATIONS GROUP

DRAFT January 2023

[ROG HUB](#) IS THE LIVE SOURCE FOR ROG OPERATIONAL MATERIAL
MATERIAL DOWNLOADED IS VERSION AND DATE CONTROLLED

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Purpose

1. This procedure details the management of requests for prosecution made under section 231 of the *Work Health and Safety Act 2011* (Cth) (**WHS Act**) and should be used in conjunction with the [Inspections and Investigations Framework](#).

Introduction

2. [Part 13 of the WHS Act](#) provides for how prosecutions may be brought for offences under the WHS Act or the [Work Health and Safety Regulations 2011](#) (WHS Regulations).
3. Section 231(1) of the WHS Act allows a person who reasonably considers that a category 1 or category 2 offence has been committed but where no prosecution has been brought, to ask Comcare in writing to bring a prosecution. The request can only be made if no prosecution has been brought between six and eighteen months after the event has occurred (s 231(1B)(a)) or within 6 months after a coronial report or inquiry (s 231(1B)(b)).
4. A category one offence occurs when a person has a health and safety duty, and without reasonable excuse engages in conduct that exposes an individual to whom that duty is owed to a risk of death or serious injury or illness, and the person engages in the conduct with negligence or is reckless as to the risk to an individual of death or serious injury or illness (s 31).
5. A category two offence occurs where a person has a health and safety duty and fails to comply with that duty, and the failure exposes an individual to a risk of death or serious injury or illness (s 32).
6. Section 232(1) provides that proceedings for an offence may only be brought within a specified timeframe (the limitation period):
 - a. within 2 years after the offence first comes to the notice of the regulator, or
 - b. within 1 year after a coronial report was made or a coronial inquiry or inquest ended, if it appeared from the report or the proceedings at the inquiry or inquest that an offence had been committed against the WHS Act or
 - c. if a WHS undertaking has been given in relation to the offence, within 6 months after:
 - i. The WHS undertaking is contravened; or
 - ii. It comes to the notice of the regulator that the WHS undertaking has been contravened or
 - iii. The regulator has agreed under section 221 to the withdrawal of the WHS undertaking.

The limitation period refers to the date by which proceedings must be brought. In practice, this means that this is the period in which Comcare must investigate, make a decision as to whether to prosecute, and if so, to refer a brief of evidence to the Commonwealth Director of Public Prosecutions.

It is critical that staff undertaking work on s 231 requests are mindful of the limitation periods and undertake activities as soon as practicable to ensure the process required in the WHS Act and set

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out in this procedure (including referral to the CDPP by either Comcare or the applicant)) can be undertaken within the relevant limitation period.

Receiving the s 231 request

7. Comcare will receive written s 231 requests through various email addresses (CEO, General.Enquiries, Feedback and Notifications).
8. For requests received through the Notifications inbox, the Risk and Analysis Team (R&A) will log the request in IRIS and forward the written request through to the Statutory Oversight Team within the Legal Group within one business day of receipt for processing.
9. Requests received through other Comcare inboxes will be forwarded to both the [notifications inbox](#) for R&A to log into IRIS and to [Statutory Oversight Team](#) for processing.

Processing the s 231 request

10. On receipt of the request, the Statutory Oversight Team will acknowledge the s 231 request with the applicant via email. The Statutory Oversight team is the designated point of contact for the applicant over the course of the matter and is responsible for co-ordinating Comcare's response to the request.
11. The Statutory Oversight team will then register the matter on Lex (Statutory Oversight) and refer the matter to Regulatory Legal for assessment of the validity of the request and next steps.

Assessing the s 231 request

12. The Regulatory Legal team will assess whether the s 231 request meets the following criteria in the WHS Act for a valid request:
 - a. the act, matter or thing must have occurred at least 6 months ago and not more than 18 months ago, and
 - b. the person making the request must reasonably consider that a Category 1 or Category 2 offence has occurred, and
 - c. no prosecution for the offence has been brought, and
 - d. the request must be made in writing.
13. Regulatory Legal advises the Statutory Oversight team whether a s 231 request is valid..

Valid request

14. Statutory Oversight refers valid s 231 requests to ROG for investigation, including a copy of the validity advice and the original request.

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Invalid request

15. Statutory Oversight will mark invalid s 231 requests as closed. A copy of the request, correspondence and legal advice are referred to ROG to consider any potential health and safety contraventions or ongoing risks to health and safety outside of the s 231 request process.

Validity of the request is unclear

16. If it is unclear on the face of the s 231 request whether all criteria have been met (e.g. whether it is between 6 and 18 months since the incident occurred; what offence the applicant believes has been committed), the Statutory Oversight team will write to the applicant seeking additional details to allow Regulatory Legal to better assess the validity of the request.

Advising an applicant of the validity of the s 231 request

17. Once validity has been assessed, and within three months of receiving the request, the Statutory Oversight team will write to the applicant to advise them the outcome of Comcare's assessment.
18. If it is determined that the s 231 request is not valid, the Statutory Oversight team will explain why it was not deemed to be a valid request. Statutory Oversight will advise the applicant as to any other regulatory action Comcare may choose to take in relation to the incident, as well as other avenues the applicant may pursue.
19. If it is determined that the s 231 request is valid, the Statutory Oversight team will advise the applicant that the matter has been referred to ROG for investigation (see below), Statutory Oversight is then required to provide the applicant an update on the status of the investigation at least every three months until the investigation is complete (s 231(2A)(a)).
20. Statutory Oversight is also responsible for notifying the alleged offender of the s 231 request (s 231(2)(b)), within three months of the request.

Assigning the s 231 Investigation

21. Statutory Oversight will inform the R&A team of the outcome of the validity assessment through the notifications inbox.
22. The R&A team will then notify the Assistant Director, Investigations Manager (ADIM) and the relevant Regional Assistant Directors that the s 231 request will be sent to the inspectorate for Decision. Note: The Regional Assistant Directors are not to action the s 231 request in IRIS unless the ADIM requests their assistance.
23. If the s 231 request is valid the ADIM will commence the monitoring compliance activity in IRIS and will immediately escalate the inspection to an investigation in accordance with the [Evaluation, Initiation and De-Escalation of Investigations Procedure](#). The ADIM will then assign the investigation to an investigator in IRIS.
24. In the case of an invalid request the ADIM will close the WHS concern with no further action.

OFFICIAL**Conducting the s 231 investigation**

25. The investigation should be conducted in accordance with ROG's [Inspections and Investigations Framework](#) and within the approved scope of the investigation.
26. Statutory limitations for prosecution should be considered throughout the investigation, as well as the need to regularly update the Statutory Oversight team so that accurate updates can be sent to the applicant and the alleged offender.

Scoping the s 231 investigation

27. The investigator in consultation with their Assistant Director and/or Director determines the scope and purpose of the investigation in accordance with ROG's Investigation Planning Procedure, including the preparation of an investigation plan.
28. The investigation plan should include a timeline and factor in the requirement to inform the applicant of progress on the matter within three months of the request being received.
29. The scope of the investigation should take into consideration:
 - a. Whether an investigation is being, or has been undertaken into the same subject matter
 - b. The extent to which compliance and enforcement powers can be exercised to obtain evidence
 - c. Whether other agencies are investigating the same circumstances and
 - d. Whether any other proceedings are on foot (e.g., Coronial inquest).
30. If Comcare has previously undertaken an inspection or enquiries into the subject matter of a s 231 request, a desktop review of the evidence gathered may be sufficient however this should be determined in consultation with an Assistant Director and/ or Director. Legal advice should be sought from Regulatory Legal as needed.

Outcome of the s 231 investigation

31. At the conclusion of the s 231 investigation, investigators must:
 - a. If the investigator seeks to refer the s 231 matter under investigation for consideration of referral to the CDPP for prosecution, follow the steps outlined in the [Legal Proceedings Procedure](#) including the completion of a brief of evidence. Investigators should be prepared for the eventuality that a brief of evidence may have to be produced even if the matter is de-escalated, as it is open to the applicant to request that Comcare refer the matter directly to the CDPP, even if Comcare decides not to prosecute (s 231(3)(b)) (see below).
 - b. If the investigator seeks to de-escalate the s 231 matter under investigation, complete **an investigations summary** and follow the steps for de-escalating an investigation outlined in the [Evaluation, Initiation and De-Escalation of Investigations Procedure](#). NOTE: Investigators will have to complete a brief of evidence if the applicant requests for Comcare to refer the matter to the CDPP.
 - c. Advise the Statutory Oversight team of the outcome of the investigation and provide them a copy of the approved de-escalation decision brief so that the decision can be

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communicated to the applicant and the person who the applicant believes committed the offence.

Communicating during the s 231 investigation

32. If the investigation is not complete, under s 231(2A) the Statutory Oversight team must:
- until the investigation is complete, give the person and the person who the applicant believes committed the offence a written update about the investigation at least every 3 months.

Communicating the outcome of the s 231 investigation

33. Under s 231(2), within three months of receiving the s 231 request, the Statutory Oversight team must advise the applicant, and the person who the applicant believes committed the offence, in writing:

- whether the investigation is complete; and
- if the investigation is complete, whether a prosecution has been or will be brought, and if not, give reasons why a prosecution will not be brought.

If the applicant is advised that no prosecution will be brought, Statutory Oversight is to advise Regulatory Legal of this fact, to allow Regulatory Legal to prepare for a potential request to refer the matter to the CDPP (see below).

34. Once the investigation is complete the Statutory Oversight team:
- write to the applicant noting the outcome of the investigation, and if no prosecution will be brought, advises the applicant that they can request referral to the Commonwealth Director of Public Prosecutions (CDPP) for consideration; and
 - write to the alleged offender noting the outcome of the investigation.

Request for referral to the CDPP

35. If Comcare decides not to prosecute, and the applicant requests that Comcare refer the matter to the CDPP under s 231(3)(b), Comcare must do so **within one month** of receiving the request.
36. Regulatory Legal manages the referral of the s 231 request to the CDPP. The template referral letter is in **Trim folder SF1/17/16203**.
37. The CDPP must respond "**as soon as practicable**" whether it considers that a prosecution should be brought (s 231(4)).
38. Regulatory Legal advises CDPP's decision to the Statutory Oversight team within 10 business days.

CDPP does not recommend prosecution

39. The Statutory Oversight team:
- writes to the applicant to advise them that the CDPP does not recommend prosecution, providing a summary of the reasons given by the CDPP; and

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- b. writes to the alleged offender to let them know that the CDPP does not recommend prosecution.

CDPP recommends that a prosecution be brought

- 40. ROG arranges an Enforcement Committee meeting to make a decision as to whether to follow the CDPP's recommendation to bring a prosecution. The outcome of the meeting will be provided to Statutory Oversight by Regulatory Legal within 10 business days.
- 41. If Comcare agrees with the CDPP's recommendation that a prosecution should be brought, the Statutory Oversight team:
 - a. writes to notify the applicant that the CDPP considers a prosecution should be brought, including a summary of the CDPP's reasons for this decision; and
 - b. writes to the alleged offender to notify them that the CDPP recommends prosecution.
- 42. If Comcare declines to follow the CDPP's recommendation to bring a prosecution, the Statutory Oversight team:
 - a. writes to notify the applicant that the CDPP considers a prosecution should be brought, including a summary of the CDPP's reasons for this decision, and Comcare's reasons for declining to follow the CDPP's recommendation; and
 - b. writes to the alleged offender to notify them that the CDPP recommends a prosecution and Comcare's reasons for declining to follow the CDPP's advice to bring proceedings.

NOTE: If Comcare decides not to follow the CDPP's recommendation to prosecute the matter then the CDPP may decide to commence a prosecution without Comcare's authorisation (s230(4)).

Finalising the s 231 request

- 43. If Comcare considers that a prosecution should not be brought and all the above steps have been completed, the matter can be finalised in IRIS.
- 44. If Comcare considers that a prosecution should be brought, ROG will work with Regulatory Legal and the CDPP to commence the prosecution in line with appropriate procedures.

Additional Resources

- [High-level workflow](#)
- [Detailed flowchart](#)
- [Table of templates](#)

Document Control

See the [ROG Hub](#) for information on the management of ROG business processes.

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	Updated draft	
	Approved	

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