

Relevant Legislation and Regulations

Occupational Health and Safety Act 2004 (OHS Act)
[OHS Act s40(2)]

Occupational Health and Safety Regulations 2007 (OHS Regulations)
[OHS Regulations 3.5.50 & 3.5.51; Part 6.2; Part 2 of Schedule 2]

Equipment (Public Safety) Regulations 2007 (EPS Regulations)
[EPS Regulations 106, 607, Part 8 & Schedule]

Regulation Objectives

‘... to further the objects of the Occupational Health and Safety Act 2004 by providing for health and safety in relation to workplaces and hazards, activities and things at workplaces’
[OHS Regulations Regulations 1.1.1(a)(i)]

‘... to provide for the health and safety of people in relation to prescribed equipment.’
[EPS Regulations 101(b)]

Process Objectives

Plant registration supports the objectives of the Regulations by providing WorkSafe Victoria (WorkSafe) with information on the location of registered plant. This data is used by WorkSafe, the Authority, for conducting prevention and intervention activities such as assessing risk and developing targeted projects for WorkSafe’s industry programs.

Risk Profile

WorkSafe issues around 10,000 plant registrations a year. Boilers and pressure vessels account for 75% of registrations and lifts 20%. Amusement structures, cranes, hoists, and lifting equipment make up the balance.

Suppliers of lifts in domestic premises must notify WorkSafe as soon as is reasonably possible after completing the installation.
[EPS Regulations 607]

Items of plant requiring registration with WorkSafe are listed in Part 2 of Schedule 2 of the Plant Regulations.
[OHS Regulations 3.5.50]

An item of plant that is registered or approved by another State or Territory authority under requirements equivalent to Victorian requirements does not have to be registered in Victoria. Persons with management and control of the item of plant must have documentary evidence of registration or approval.
[OHS Regulations 3.5.51]

Before using an item of plant in a workplace, persons with management and control of scheduled plant must register the plant with WorkSafe. It is breach of the OHS Act for a person to use plant at a workplace if it has not been registered in accordance with the Regulations.
[OHS Act 2004 s40(2)]

Prescribed public safety equipment must also not be used unless notification of the design has been confirmed by WorkSafe or an equivalent authority. Further notification to the confirming authority is required if the equipment is altered to the extent that new control risk measures are needed.

[EPS Regulations 106, Part 8, Schedule]

Applicant's Legislative and Regulatory Requirements

Plant cannot be used at a workplace until WorkSafe either:

- provides the applicant with written notice of registration, or
- one month has passed since the application was received by WorkSafe and no written notice or notification of a deferral of the registration has been received. In this case the plant is deemed to have been registered or renewed.

In the case of no written notice being received within one month of application, the applicant should contact WorkSafe to confirm that the one month period has expired before using the plant. Using unregistered plant constitutes a breach of the Act and penalties apply.

[OHS Act 2004 40.2] [OHS Regulations 6.2.12]

Applicants requiring plant registration must:

Register these items of plant:

- Boilers categorised as hazard level A, B or C according to the criteria identified in AS 4343 Pressure equipment—Hazard levels.
- Pressure vessels categorised as hazard level A, B or C according to the criteria identified in AS 4343 Pressure equipment—Hazard levels.
- Tower cranes.
- Self-erecting tower cranes.
- Lifts.
- Building maintenance units.
- Amusement structures to which AS 3533.1—Amusement rides and devices—Part 1: Design and construction applies, other than amusement structures referred to in the Standard as class 1 structures.
- Concrete placing units (truck-mounted with boom).
- Mobile cranes with a safe working load greater than 10 tonnes.

The following items from the above categories are exempt from registration:

- Gas cylinders to which AS 2030—Gas Cylinders applies (see the definition of AS 2030—*Gas Cylinders* which encompasses AS 2030.1, AS 2030.2 and AS 2030.4).
- Liquefied petroleum gas fuel vessels for automotive use to which AS/NZS 3509—LP Gas fuel vessels for automotive use applies;
- Serially produced vessels to which AS 2971— Serially produced pressure vessels applies.
[OHS Regulations Part 2, Schedule 2]
- Register plant items by providing all the information required by WorkSafe in its *Application for Registration of Item of Plant* form.
[OHS Regulations 6.2.9]
- Pay the registration fee of \$21.50.
[OHS Regulations 6.2.9]
- Keep the notice of registration available for inspection on request under the Act.
[OHS Act 99(b)] [OHS Regulations 6.2.31 (2)]
- Advise WorkSafe in writing if, in relation to a registration under the Regulations, a change occurs to any information provided at any time by the person who holds the registration as soon as is reasonably possible after becoming aware that the change has occurred.
[OHS Regulations 6.2.32]
- Notify WorkSafe within 21 days if registered plant changes ownership or is relocated (in the case of normally fixed plant) and requires commissioning and new measures to control risk as a result of the relocation by providing all the information required by WorkSafe in its *Notification of Relocation or Change of Ownership of Registered Item of Plant* form. There is no fee applicable.
[OHS Regulations 6.2.14]
- Notify WorkSafe if a registered plant item is altered to the extent that new control risk measures are needed. This must be done within 21 days by providing all the information required in WorkSafe's *Notification of Alteration to Registered Item of Plant* form.
[OHS Regulations 6.2.14]
- Renew plant registration every 5 years by responding to the *Plant Registration Renewal Notice* and paying the registration fee of \$21.50 before the registration expires 5 years from the date specified in the notice of registration. Once the registration has expired, it cannot be renewed and a new application must be submitted. It is the plant owner's responsibility to ensure that registration is renewed. If a renewal notice has not been received one month prior to the registration expiry date, the owner should contact WorkSafe's Licensing Branch.
[OHS Regulations 6.2.9 & 6.2.13]
- Suppliers of domestic lifts must notify WorkSafe of domestic lift installations by providing all the information required in WorkSafe's *Notification of Installation of a Lift in a Domestic Premises* form as soon as reasonably possible after installation. There is no fee applicable and no renewal requirement.
[EPS Regulation 607]

WorkSafe's Legislative and Regulatory Requirements

WorkSafe:

- will check all registration and renewal applications for completeness and compliance with the Regulations and confirm payment of the \$21.50 required fee
[OHS Regulations 6.2.9(c), 6.2.12]
- must within **one month** of receiving an application, advise the applicant in writing that:
 - the plant item has been registered or its registration has been renewed for a period of 5 years, **or**
[OHS Regulation 6.2.11(4) & 6.2.12]
 - registration has been deferred and advise the applicant what is required to complete registration.
[OHS Regulations 6.2.11(1) & (2)]
- must advise the applicant of the above within 1 month of receiving the application or the plant is deemed to have been registered or renewed
[OHS Regulations 6.2.11(4)]
- may contact an applicant by telephone to obtain whatever information is required to finalise registration for minor matters.
[Policy]
- will, if it considers the information provided is inadequate to comply with the Regulations, return the application and give written notice that registration or renewal is deferred until the further information is provided.
[OHS Regulations 6.2.11(1)]
- monitors and audits registered items of plant to determine compliance with the Regulations including:
 - registered plant
 - plant identified as of concern during plant design registration.
 - plant with specific safety related issues
 - randomly selected registered plant items
- authorises certain employees to make decisions on these matters under the Act and Regulations.
[Section 21 Accident Compensation Act 1985]

WorkSafe's Decision Making Criteria

WorkSafe will register or renew a registration of plant or register an alteration of plant where the item of plant is listed in Part 2 of Schedule 2 of the OHS Regulations.

[OHS Regulations 3.5.50; Part 2, Schedule 2]

WorkSafe will accept notification of prescribed equipment or a domestic lift installation where:

- the prescribed equipment is listed in regulation 106 of the EPS Regulations
[EPS Regulations 106]
- the lift is to be installed in domestic premises.
[EPS Regulations 607]

Withdrawal of Registration

WorkSafe may withdraw a registration of plant if it is satisfied that the applicant gave false or misleading information in the application with respect to any significant detail, or failed to disclose to WorkSafe any significant information that should have been disclosed.

[OHS Regulations 6.2.29(1)]

Before withdrawing a registration, WorkSafe may conduct an inquiry to determine whether there are grounds for taking the above action. WorkSafe must give the person who holds the registration a minimum of 14 days written notice of this intent which states the subject of the inquiry and the reasons for conducting it, outlines all allegations, facts and circumstances known to WorkSafe that are relevant to the inquiry, and invites the person to make a submission to the inquiry within a specified period (usually 30 days).

[OHS Regulations 6.2.29(2)-(4)]

After considering any submissions made by the person in the time allowed, WorkSafe will decide whether or not grounds exist to withdraw the registration and will give the person written notice of its decision, the reasons for the decision and the date the withdrawal is to take effect (no less than 14 days after giving the notice).

[OHS Regulations 6.2.29(5)-(7)]

Review & Appeal

Persons affected by a decision to withdraw registration of an item of plant are entitled to apply for a process review of this decision by WorkSafe's Internal Review Unit within 14 calendar days from the date the decision is received or such longer period as WorkSafe allows.

[OHS Regulations 6.3.1-6.3.3(3)-(9)]

If an application is made the Internal Review Unit will determine whether the decision was made in accordance with all the processes that apply under the Occupational Health and Safety Act and the Regulations in relation to the making of the decision but will not consider the merits of the decision.

The Internal Review Unit will therefore either:

- confirm the decision on the basis that it was made in accordance with the Act and the Regulations, **or**
- confirm the decision even if it was not made in accordance with the Act and Regulations if the failure to do so was not reasonably likely to have affected the outcome of the decision, **or**
- set aside the decision.

[OHS Regulations 6.3.3]

The Internal Review Unit will give written notice confirming the decision or setting aside the decision within 14 days after the application is made or, with the applicant's consent, within a further 14 days. If the applicant does not receive notification of a decision by that time, the Internal Review Unit is taken to have made a decision to confirm that the decision was made in accordance with the Act and Regulations.

[OHS Regulations 6.3.5]

VCAT

There is a right of appeal to the Victorian Civil and Administrative Tribunal (VCAT) for review of a final adverse decision about withdrawal of a registration of plant within 14 days of notification but only:

- after having applied for a process review of the decision, and
- if the Internal Review Unit has confirmed the decision or has set aside the decision and a new decision is made.

[OHS Regulations 6.3.5]

Other Information

- Applicants should contact the Licensing Branch on 1300 852 562 if the service level or timeframes to finalise an application have not been met.
- A person who suspects that plant item registration or domestic lift notification are not in compliance with the Regulations should contact the WorkSafe Advisory Service (1800 136 089) or Emergency Response Service (13 23 60).
- Exemption from these Regulations can be requested by written application to WorkSafe.
[OHS Regulations Part 7.2] [EPS Regulations 107] [Exemption Advice]

Forms

Application for Registration of Item of Plant
Notification of Relocation or Change of Ownership of Registered Item of Plant
Notification of Alteration to Registered Item of Plant
Notification of Installation of a Lift in Domestic Premises

This Advice Document provides a brief explanation of the main permissioning legislative and regulatory requirements and WorkSafe Victoria policy, practice and administration in Victoria. Advice Documents are intended to assist individuals to comply with Victorian law and are not an alternative or replacement for Victorian Acts and Regulations. It remains the responsibility of individuals to be aware of and comply with all relevant legislation, including occupational health and safety legislation. Advice Documents do not modify or discharge a person from any legal obligation imposed by the provisions of the Occupational Health and Safety Act 2004, the Dangerous Goods Act 1985 or any other applicable legislation.