

FACT SHEET

Licensed activities - applicants

Introduction

Licensing is a way of making sure people working in businesses carrying out high risk activities have the training, systems, equipment, and procedures to conduct them safely.

Under part 9 of the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014* there is a legal requirement that certain activities that are carried out in an underground coal mine, or equipment supplied, repaired or overhauled for use in an underground coal mine, must be undertaken by a licenced facility to ensure the safety of persons that work in or visit the mine.

What activities require a licence?

The following activities carried out in a coal operation require a licence:

- sampling or analysing airborne dust under Schedule 6 of WHS (Mines and Petroleum Sites) Regulation 2014
- sampling or analysing of diesel engine exhaust under clause 75 of WHS (Mines and Petroleum Sites) Regulation 2014
- overhauling or repairing activities that may affect the explosion-protection properties of explosion-protected diesel engine systems (ExDES)
- overhauling or repairing activities that may affect the explosion-protection properties of explosion-protected electrical plant
- any repairing of flexible reeling, feeding or trailing cables for use in a hazardous zone
- undertaking a polymeric process.

Who is eligible to hold a licence?

People are eligible to hold a licence under part 9 of the WHS (MPS) Regulation if the Regulator is satisfied that all activities carried out under the licence will:

- be supervised by a competent person, and
- be carried out by workers who have had training in safe working methods in relation to the activity, and
- be carried out by workers who have:
 - completed a course of training specified by the regulator in relation to the activity, or
 - appropriate experience or training in the carrying out of the activity, and
- be carried out using procedures, equipment and facilities that are suitable for those activities.

Note: there are penalties in relation to carrying out activities without a licence in accordance with section 153 (1) of the WHS (MPS) Regulation (individual \$6,000, body corporate \$30,000).

How do you obtain a licence?

To obtain a licence, a suitable person or business needs to:

- complete the application for a licence form
- pay the licence application fee
- submit the application and all required supporting documents to the email address listed at the end of the form, and
- successfully demonstrate they have met the eligibility criteria.

An application for a new licence, where there is an existing licence, should be made at least one month prior to the expiry date of the existing licence.

Where do I get an application form?

Application forms for all licence types can be downloaded from our [website](#).

How much does the application cost and how do I pay the application fee?

The fee is dependent upon the type of licence you are applying for. Information regarding the fees and how to make payment can be downloaded from our [website](#).

What is the Regulator's role?

Assessing the application

On receipt of an application, the Regulator will assess the application to ensure it is in the manner and form required by the Regulator. The application will be assessed against the legislated and gazetted requirements and to the extent of the risks identified for the activities to be licenced requiring controls. Following the assessment, the Regulator will decide whether to accept or refuse the application or may request further additional material information if necessary.

Granting a licence

The Regulator will grant the licence or licence amendment if:

- the application has been made in the manner and form determined by the Regulator
- all the material information is provided by the applicant
- the applicant can ensure compliance with any conditions that will apply to the licence.

The licence may be granted for a period of five years, or for a lesser period as specified by the Regulator. The facility will be issued a unique licence number.

Refusing to grant a licence

The licence application will be refused if the Regulator is not satisfied that the applicant is eligible to hold the licence. An application can also be refused where the Regulator is satisfied that there has been a failure to give material information which should have been provided, or false and misleading information has been given by the applicant.

Conditions attached to the licence

Licences may be granted with or without conditions. Most licences will contain conditions. Activities undertaken in association with the licence must be undertaken in compliance with the listed conditions.

Reviewable decisions

Decisions relating to licences are reviewable decisions under the WHS Act. If you disagree with a decision made by the Regulator or to a condition on the licence, an eligible person may apply to the

Regulator for an internal review. An application for internal review must be made using the Application for internal review of certain WHS decisions and lodged within 28 days of receipt of the notice.

Can an amendment be made to an existing licence?

An amendment that would result in a change to the licence document must be made by completing the change of information form available on our [website](#). Examples of an amendment include change of details to the body corporate, change in quality systems certification, change in explosion protected certification (electrical) or accreditation (mechanical), change in competent person/s or other minor corrections.

An amendment that affects the period of a licence cannot be made using the change of information form and must instead be a new licence application.

Can an existing licence be surrendered?

An existing licence may be voluntarily surrendered by the licence holder. To surrender an existing licence the licence holder must provide written notification to the email address below.

Reporting a non-compliance

Where any non-compliance of explosion protected plant is identified by, or reported to, the licensed facility, and no evidence of any prior assessment by a facility licensed by the Regulator can be identified, the licence holder must report such non-compliance to the Regulator on the prescribed form on our [website](#) within 14 days of becoming aware of the non-compliance.

Further information

More information is available on our [licenced activities page on our website](#). Alternatively, you may contact the Mining Authorisation Team at mca@planning.nsw.gov.au

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