Appendix 6 HUPP 2.10.1

Extract from Workplace Health and Safety Act 1995

**Part 8 Workplace health and safety officers**

**Division 1 Purpose of part**

**91 Purpose of part**
The purpose of this part is to provide for the appointment and functions of workplace health and safety officers.

**Division 2 Definition for part**

**92 Meaning of qualified person**
In this part—

*qualified person* means a person who holds a certificate of authority prescribed under a regulation for appointment as a workplace health and safety officer.

**Division 3 Appointment of workplace health and safety officers**

**93 Appointment of workplace health and safety officer by employer**

(1) An employer must appoint a qualified person as workplace health and safety officer for a workplace prescribed under a regulation if 30 or more workers are normally employed at the workplace.

Maximum penalty—20 penalty units.

*Example of subsection (1)*—

If, at a workplace, an employer normally employs 5 workers on Tuesdays, Wednesdays and Thursdays, but 30 workers in 3 shifts of 10 workers on Mondays and Fridays, the employer must appoint a workplace health and safety officer for the workplace if it is a workplace of a type prescribed under a regulation.

(2) Subsection (1) does not limit the ability of an employer to appoint a qualified person as a workplace health and safety officer for a workplace in other circumstances.

(3) An employer who is a qualified person may appoint himself or herself as workplace health and safety officer for the workplace.

(4) An employer may, with the chief executive’s written approval, appoint a qualified person to be the workplace health and safety officer for more than 1 workplace if the person can reasonably perform the person’s functions as workplace health and safety officer for each workplace.

(5) In this section—

30 or more workers are normally employed at the workplace means, during the current year, at least 30 workers are employed, or are likely to be employed, at the workplace for a
total of any 40 days during the year.

94 Appointment of workplace health and safety officer by principal contractor

(1) A principal contractor must appoint a qualified person as workplace health and safety officer—
(a) if 30 or more persons work at the workplace during any 24 hour period; or
(b) if the principal contractor built at least 30 domestic premises during the previous financial year; or
(c) in another circumstance prescribed under a regulation.
Maximum penalty—20 penalty units.
(2) Subsection (1) does not limit the ability of a principal contractor to appoint a qualified person as workplace health and safety officer in other circumstances.
(3) A principal contractor who is a qualified person may appoint himself or herself as workplace health and safety officer.
(4) A principal contractor may, with the chief executive’s written approval, appoint a qualified person under subsection (1)(a) to be the workplace health and safety officer for more than 1 workplace if the person can reasonably perform the person’s functions as workplace health and safety officer for each workplace.

Division 4 Identity of workplace health and safety officer to be displayed

95 Employer and principal contractor to display identity of workplace health and safety officer

(1) An employer or principal contractor must display, in accordance with this section, a notice advising the identity of the workplace health and safety officer for the workplace.
Maximum penalty—10 penalty units.
(2) The notice must be displayed within 5 days after the officer is appointed.
(3) The notice must be displayed in 1 or more conspicuous positions at the workplace in a way likely to come to the attention of workers at the workplace.

Division 5 Functions of workplace health and safety officers

96 Functions of workplace health and safety officers

A workplace health and safety officer has the following functions—
(a) to tell the employer or principal contractor about the overall state of health and safety at the workplace;
(b) to conduct inspections at the workplace to identify any hazards and unsafe or unsatisfactory workplace health and safety conditions and practices;
(c) to report in writing to the employer or principal contractor any hazard or unsafe or unsatisfactory workplace health and safety practice identified during
inspections;

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(d) to establish appropriate educational programs in workplace health and safety;
(e) to investigate, or assist in the investigation of, all workplace incidents at the workplace;
(f) to help inspectors in the performance of the inspectors’ duties;
(g) if any workplace incident or immediate risk to workplace health and safety at the workplace happens—to report the incident or risk to the employer or principal contractor;
(h) another function prescribed under a regulation.

96A Assessment function
(1) A workplace health and safety officer has the function, at the specified intervals for the workplace, of—
(a) conducting an assessment at the workplace to identify any hazards and unsafe or unsatisfactory workplace health and safety conditions and practices; and
(b) complying with subsections (2) to (4) in relation to the assessment.
(2) In conducting the assessment, the workplace health and safety officer must use—
(a) if there is a workplace health and safety committee established at the workplace—
(i) workplace health and safety criteria approved by the chief executive; or
(ii) workplace health and safety criteria agreed to by the committee; or
(b) otherwise—workplace health and safety criteria approved by the chief executive.
(3) The workplace health and safety officer must record—
(a) the results of the assessment; and
(b) actions the officer recommends be taken to rectify hazards, and unsafe or unsatisfactory workplace health

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and safety conditions and practices, identified in the assessment.
(4) The workplace health and safety officer must, within 30 days after the assessment is completed, give a copy of the matters recorded under subsection (3) to each of the following—
(a) if there is a workplace health and safety committee established at the workplace—the committee;
(b) the employer or principal contractor.
(5) This section does not apply to a workplace if this Act does not require the appointment of a workplace health and safety officer for the workplace.
(6) This section does not limit section 96.
In this section—

*specified intervals*, for a workplace, means—

(a) if there is a workplace health and safety committee established at the workplace—the intervals agreed between the officer and the committee; or

(b) if there is no workplace health and safety committee established at the workplace, or if there is a committee established, but the officer and the committee cannot agree—at least once every 12 months.

**Division 6 Employer’s and principal contractor’s responsibilities**

**97 Employer and principal contractor to help workplace health and safety officer etc.**

(1) An employer or principal contractor must do each of the following—

(a) provide information in the employer’s or principal contractor’s possession about risks to the workplace health and safety of workers and other persons from workplaces, relevant workplace areas, workplace activities, or plant or substances for use at a workplace to the workplace health and safety officer;

(b) include the workplace health and safety officer at any interview about workplace health and safety between the employer and a worker, if the worker agrees;

(c) consult the workplace health and safety officer on any proposed change to the workplace that affects, or may affect, workplace health and safety at the workplace;

(d) help the workplace health and safety officer to seek appropriate advice on issues that affect, or may affect, workplace health and safety at the workplace;

(e) allow the workplace health and safety officer to conduct workplace inspections and assessments during normal working hours;

(f) provide resources to the workplace health and safety officer to allow the officer to properly exercise the officer’s functions under this Act;

(g) take appropriate action to rectify any identified unsafe workplace health and safety conditions and practices;

(h) take all reasonable steps to ensure the workplace health and safety officer performs the person’s function under section 96A;

(i) keep anything given to the employer or principal contractor by the workplace health and safety officer under section 96(c) or 96A(4) for 5 years after it is given.

Maximum penalty—10 penalty units.

(2) An employer or principal contractor may instruct the workplace health and safety officer on action to be taken to
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Division 7 Appointment of workplace health and safety officer not to diminish employer’s obligations

98 Appointment of workplace health and safety officer not to diminish employer’s obligations

An employer’s or principal contractor’s workplace health and safety obligations are not diminished by—
(a) the appointment of a workplace health and safety officer; or
(b) any act or omission of a person acting in the capacity of workplace health and safety officer.