

# 2018 Review of the model WHS laws

## ADAS Submission

### Background.

The following comments pertain specifically to the Model WHS Regulations, Part 4.8 - Diving Work.

In broad terms the regulation categorized diving work into two main categories:

- General diving work, and
- High risk diving work

These comments are specific to the category of work defined as general diving.

The category of high risk diving work is closely aligned to the Australian and New Zealand standards series 2815 and training is currently available in accordance with those Standards.

“General diving work” is a newer category of diving defined within the regulations as:

*work carried out in or under water while breathing compressed gas, and includes:*

- (a) incidental diving work; and*
- (b) limited scientific diving work,*

*but does not include high risk diving work.*

A number of divers working inshore, usually on SCUBA, fall into this category. A Regulatory Impact Statement (RIS) produced by consultants to SafeWork Australia estimated the potential number of General Divers to be in the vicinity of 5000 divers.

The required competencies for a general diver are defined at section 171 as:

- 171 Competence of worker—general diving work—general qualifications
- (1) A person must not carry out any type of general diving work unless the person holds a certificate for general diving work, issued by a training organisation, that demonstrates that the person has acquired the relevant competencies for that type of general diving work.
  - (2) This regulation does not apply in relation to incidental diving work or limited diving work.
  - (3) In subregulation (1), relevant competencies means the competencies specified in AS/NZS 4005.2: 2000 (Training and certification of recreational divers) or AS/NZS 2815 (Training and certification of occupational divers) that are relevant to the type of general diving work to which subregulation (1) applies.

#### Notes

- 1 See section 44 of the Act.
- 2 See the jurisdictional note in the Appendix.

171A Competence of worker—general diving work—additional knowledge and skill

- (1) In addition to regulation 171, a person must not carry out general diving work unless the person has, through training, qualification or experience, acquired sound knowledge and skill in relation to the following:
  - (a) the application of diving physics;
  - (b) the use, inspection and maintenance of diving equipment (including emergency equipment) and air supply of the type to be used in the proposed general diving work;
  - (c) the use of decompression tables or dive computers;
  - (d) dive planning;
  - (e) ways of communicating with another diver and with persons at the surface during general diving work;
  - (f) how to safely carry out general diving work of the type proposed to be carried out;
  - (g) diving physiology, emergency procedures and first aid.

Note:

See section 44 of the Act.

- (2) This regulation does not apply in relation to incidental diving work or limited scientific diving work.

## The Issue

There is currently an option to apply a recreational diving qualification to general diving work based on a Standard that has now been withdrawn (AS/NZS 4005.2). Using a withdrawn Standard as guidance has the risk that it is not keeping up with safety standards that tend to increase over time as an industry matures. AS/NZS 2815 is being updated and maintained with a new version due out this year and therefore in our view is the more appropriate Standard to apply. However, the legacy of referencing an outdated recreational standard is that there is still a perception within some sectors of the industry that a recreational diving qualification is adequate for working divers. It is our view that the recreational qualifications stipulated at Section 171(3) are not necessarily fit for purpose. This opinion has also been expressed by some state regulatory authorities.

Whilst required skills and knowledge are identified in Section 171(3) of the regulations, little emphasis, if any, is placed on the skill sets that align the recreational diver to an understanding of workplace health and safety and sound up-to-date workplace practice with regard to diving operations.

If a recreational qualification is going to remain as the accepted minimum requirement for general divers, it is our view that the emphasis should be placed on divers also holding the units of competency which pertain to Health and Safety in Diving Operations as identified in the Australian / New Zealand Standard (AS/NZS) 2815 Part 1.

These Units of Competency are skill sets that are fundamental to understanding the difference between recreational diving and the requirements of divers in the workplace as identified by the Standards Committee and included in AS/NZS 2815.1.

Whilst some divers may hold a construction induction card that would provide general health and safety information, those divers tend to be the people working in the

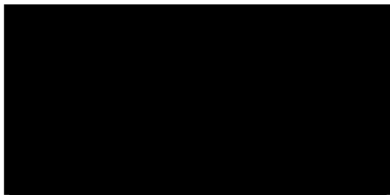
construction industry which is considered high risk diving. General divers, many of whom may never have worked in construction may not have had WHS training and if they only hold recreational diver qualifications are very unlikely to have received diving-specific WHS training as identified within the occupational diver training standard AS2815.1

## Recommendation

- That occupational diver competencies rather than recreational diver competencies are adopted for all divers, as per the AS/NZS 2815 series.

If this is not adopted and there is an ongoing desire to use recreational diver competencies:

- That inclusion is made within section 171 of the WHS Regulations to incorporate skills and knowledge pertaining to workplace health and safety in diving operations as defined within AS/NZS 2815.1.
- That state regulatory bodies enforce the requirement for WHS training through a Diving WHS induction card, similar to that outlined in Part 6.5.



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