

FACT SHEET

Frequently asked questions

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Your questions answered on practising certificates and the maintenance of competence scheme.

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Practising certificates

What is a practising certificate?

A practising certificate is an authorisation that evidences an individual's competence to exercise a statutory function as specified in schedule 10 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014. Further information on statutory functions is available on the NSW Resources Regulator [website](#).

A practising certificate is usually issued for five years but it can be issued for a shorter period. Your certificate will be issued with conditions that must be complied with.

Who should apply?

You must apply for a practising certificate if you wish to be nominated to exercise a statutory function in a mine, as required under schedule 10 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014.

How do I apply?

You are able to apply for a practising certificate using the relevant form published by the regulator. The application form is published on the Regulator's [website](#).

The application form for practising certificates is for if you want to exercise a statutory function at the class of mine anywhere in NSW.

The application form for quarry manager with conditions practising certificate is for if you want to exercise the statutory function of quarry manager at a specific mine location(s) only in NSW.

When can I apply?

The Regulator is implementing the scheme in a staged approach, based on the timeline published on the Regulator's website. The Regulator began issuing practising certificates for statutory functions with a small number of holders from 1 September 2017 and progressively issued practising certificates for statutory functions with larger numbers.

If you hold a certificate of competence, you are invited to apply for your practising certificate at staged intervals over the period. Certificate of competence holders will have two years or more to apply for a practising certificate in the invitation period. During the first 12-months there will be a 'bonus' period so that if you apply and are issued with a practising certificate, then you can claim learning completed in

the one year period before the date of issue on the practising certificate. You can then claim the remaining learning and hours required during the period of the certificate.

The Regulator will not contact you to invite you to apply. Refer to details of invitation period dates on the Regulator [website](#).

What happens if I do not apply on time?

If you do not apply within the one year period timeframe allocated to your certificate type, then you will be given a grace period of a further 12 months or more to apply. At the end of the grace period or other date specified in a [gazette notice](#) you will not be able to exercise the statutory function with your certificate of competence or qualification and will be required to hold a Practising Certificate. Those who apply within the grace period will not be eligible to claim learning completed in the one year period before the date being issued with the practising certificate.

What are the processing times for practising certificates?

It may take some time to process each application due to the large number of applications expected. The Mining Competencies and Authorisations Unit aim to process each application within four weeks of receipt of a complete application. However, there may be delays. We appreciate your patience during this period.

The unit will contact you directly if there are any issues with your application. Please keep your contact details up-to-date with the unit while we process your application so that your practising certificate is sent to the correct address.

If you are concerned about the progress of your application, please email the team at minesafety.competence@planning.nsw.gov.au

How do I renew my practising certificate?

To renew your practising certificate, you must have satisfied its conditions, including maintenance of competence requirements for the period of issue (usually five years). The Regulator and the Mining and Petroleum Competence Board have developed a maintenance of competence scheme that outlines the requirements to renew your certificate.

The scheme requires practising certificate holders to undertake recognised learning and meet professional development requirements over the period of the certificate.

Further details are available on the Regulator [website](#). An application to renew will be made available for you to complete and submit.

I hold a certificate of competence for several statutory functions. Do I need a practising certificate for each one?

No. You will only be issued with one practising certificate. The practising certificate will list all the functions that you are able to exercise.

You can apply for a practising certificate for the functions you have certificates of competence for to be eligible to exercise those functions.

After I receive my practising certificate, do I still need a certificate of competence?

Yes, you should retain your certificate of competence. After we have implemented the practising certificates scheme, you will still hold your certificate of competence. Certificates of competence are issued for life unless otherwise cancelled under clause 150 of the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014. However, if you wish to be nominated to carry out a statutory function(s) you must also hold a current practising certificate.

What should I do if I am nominated by an operator but do not have the correct practising certificate?

The mine operator must only nominate you to exercise a statutory function if you hold the required practising certificate for it and do not have any conditions that would prevent you from exercising the function.

Penalties apply to you as well as the mine operator if you do not comply. This is prescribed under the Work Health and Safety (Mines and Petroleum Sites) Regulation 2014.

You must inform the mine operator of any matter that may interfere with your ability to exercise the statutory function. This could include, for example, not satisfying the maintenance of competence condition.

How do I comply with the conditions on my practising certificate?

You must act to comply with the conditions on your practising certificate.

All practising certificates have the following conditions:

1. The holder must comply at all times with any requirements for the maintenance of competency in relation to the practising certificate published by notice of the Regulator in the Gazette.
2. The holder must maintain the currency of their contact details and places of work with the Regulator in the manner and form determined by the Regulator.

Maintenance of competence scheme

Requirements for holders to satisfy the maintenance of competence condition on their practising certificate are set out in a [gazetted notice](#).

You should read and refer to the [Guide: Maintenance of competence scheme for practising certificates](#) to understand the gazetted requirements and comply with the condition on the practising certificate to maintain your competence.

What is the scheme?

The maintenance of competence scheme is a requirement to keep up-to-date the knowledge and skills of individuals who hold practising certificates to exercise specific statutory functions.

If you hold a practising certificate you will need to undertake specified hours of recognised learning for areas of competence over the five-year validity period of your certificate. The maintenance of competence scheme applies to all practising certificates issued by the NSW Resources Regulator.

The scheme provides several ways to maintain your knowledge and skills for competence. The principles of the scheme are similar to other professional development programs.

What are the requirements to renew my practising certificate?

The maintenance of competence scheme sets out the types of recognised learning and the specified number of hours of learning you must undertake. The types of learning and the minimum number of hours vary between the types of practising certificates.

It is your responsibility to be aware of the types and hours of learning required over the period of your practising certificate. You should read the guide to the maintenance of competence scheme for practising certificates, available on the Regulator's [website](#).

What records should I keep demonstrating that I have maintained my competence?

You must keep evidence of your learning. The Regulator may audit you at any time during the current five-year certification period and at renewal of certificate. Evidence in electronic or paper form may include but is not limited to:

- your course certificates
- records of your attendance at a formal learning course
- copies of any articles you have read
- your employer's records confirming any completion of learning.

Where you are recording learning for multiple functions in different disciplines then you may complete one logbook as long as it shows compliance for each function. Separate sections in the one logbook to claim in common learning for all the functions is acceptable.

Can I rely solely on the records provided by an employer?

Yes, provided you retain the records from past employers and can access records from an existing employer. The records must be able to readily demonstrate in an audit by the Regulator that you are complying with the scheme requirements. The logbook templates and completed examples on the Regulator's [website](#) provide you with the standard that records should meet.

Do I still need to maintain my competence even if I do not perform my statutory function?

If you wish to practise in the function at some point in the future and want to renew your certificate after five years, you must maintain your competence.

You will need to retain any records of learning undertaken during any extended period of absence from the industry. This could include, for example, sick leave or maternity leave.

If you have recently returned to the mining industry after a number of years, please contact the mining competencies and authorisations unit at minesafety.competence@planning.nsw.gov.au. The unit will discuss your options with you and work out how best to become eligible for a practising certificate.

I work part-time. Are my obligations the same?

Yes. The requirements to maintain your competence do not depend on the hours you work.

What should I do if I do not meet my obligations during the five-year period on my certificate?

If you are audited during the five-year period of your certificate and have not met your maintenance of competence obligations, the Regulator can require you to make up the shortfall before your renewal. This could be through a greater number of hours of learning or a mix of different learning types. You can also be subject to enforcement action such as suspension of your certificate until you are compliant.

If you were issued with a practising certificate for mutual recognition prior to the commencement of the scheme on 1 September 2017, then you are required to meet the maintenance of competence condition. Contact the Mining Competencies and Authorisations Unit on 4063 6461 or minesafety.competence@planning.nsw.gov.au for guidance on how to comply.

What will happen if at the end of the five-year period I have not met my obligations?

You will be asked to demonstrate why your practising certificate should not be suspended or cancelled and provide reasons why you did not meet the requirements (e.g. long term sickness) and propose how to make up the shortfall and within what timeframe.

If you are unable to successfully demonstrate this, your practising certificate may be suspended or cancelled and you will no longer be able to practice in NSW.

The Regulator will review non-compliance cases on a case-by-case basis and has the power to enforce a range of options including:

- non-renewal or suspension until you have remedied the non-compliance
- renewal and/or varying the certificate with the imposition of a condition that:
 - the non-compliance is remedied in a period of up to 12 months, and/or
 - restrictions on what parts of the statutory function you can exercise, or
- any other options as determined by the regulator appropriate to your circumstances.

Can I roll over any excess hours to the next maintenance of competence period?

No. We will only count learning that you complete during the certification period.

What happens if I allow my practising certificate to expire for more than 12 months?

If you allow your practising certificate to expire for more than 12 months, you can apply and be issued with a new practising certificate with a condition requiring you to complete an additional 20% of your total learning hours requirements during the first 12 months of the five-year period. This 20% is in addition to the standard requirements.

What if I stop practising for a while or move out of NSW?

If you want to continue to be eligible to exercise the function in the future, then you need to continue complying with the conditions of your practising certificate and maintain your competence. If you return to the NSW industry and reapply for a certificate without maintaining your competence you will have to make up a deficit in maintenance of competence hours and may have your certificate suspended until you are compliant.

What should I do if my personal circumstances mean I am unable to comply with the scheme?

We encourage you to complete some learning each year, but we understand that due to individual circumstances, such as career breaks, you may not be able to do this.

If you are unable to complete learning for more than three or more years of the five-year certificate period due to personal circumstances then you should notify the regulator. Personal circumstances could include, for example, ill health. When you notify the regulator that you are not compliant, you will be required to resolve the shortfall in learning hours so that you are competent to continue practising in the statutory function.

Can I use a continuing professional development program as an alternative to the scheme?

You may be able to use a continuing professional development program to demonstrate you have complied with the maintenance of competence scheme. However, these schemes may not mandate the same number of hours or types of learning for your statutory function as the scheme. As a rule, you must meet the minimum standards of the scheme.

The Regulator is working to inform training providers and registered training organisations in their training and delivery. This will help them ensure their training meets the requirements of the maintenance of competence scheme.

Only learning provided by an organisation that is relevant to your certificate statutory functions can be claimed. Activities that may not be relevant include the operation of the organisation (e.g. parts of general production meetings).

What types of learning and training courses are recognised under the scheme?

You should refer to our [guide to the maintenance of competence scheme for practising certificates](#) that outlines:

- what learning is recognised
- the types of learning you can claim and limits on claimable hours.

If you are then still unsure if you can claim your learning, you can contact the mining competence team at minesafety.competence@planning.nsw.gov.au. They will be able to provide further clarification.

What if I am unsure about what types of learning and training I want to claim?

There are several ways you can check whether what you want to claim is eligible under the scheme:

- refer to our [Guide to the maintenance of competence scheme for practising certificates](#)
- refer to the sample logbook for examples of what can be claimed for each type of learning.

If you are still unsure after referring to these documents, then you can email the Mining Competencies Team at minesafety.competence@planning.nsw.gov.au with full details of what you want to claim. They will provide a written response to confirm whether it is eligible.

If I attend an event with multiple speakers, what do I have to record?

The key principle for you to apply for claiming these events is the time and content to be allocated to the appropriate learning area and type.

Where speakers are addressing individual different topics, you must complete an entry for each speaker and allocate the learning to the appropriate area. Refer to the sample logbook entries for engineering seminars conducted by the Resources Regulator available on our website as an example.

Where speakers are addressing exactly the same topic (e.g. a new piece of plant and its safety controls), then you may be able to record it as one item of learning.

There may be events where not all the speakers are addressing topics that are relevant to your function and are not eligible to be claimed. The same applies to breaks during the events that should be deducted from the time claimed.

Can I claim attendance at pre-shift meetings and tool box talks?

They are not claimable as a whole activity but you may be able to claim parts of them as eligible learning, depending on how they are conducted and their content. For example, in-house formal training course delivered as part of a meeting may be claimable. Other meeting content such as planning production is not claimable.

Can I claim meetings that I attend between mines of the same mine operator as non-formal learning?

Yes, as organised meetings/sessions between mines/mine operators to share learnings e.g. incidents. You can only claim the time for the WHS related topics that are relevant to the statutory functions on your practising certificate.

Can all the learning I claim be the formal type?

Yes. The [Guide to the Maintenance of Competence Scheme for practising certificates](#) states in section 7.2 that you will complete a mix of minimum formal learning and maximum non-formal/informal learning or you could complete all formal learning to meet the maintenance of competence requirements.

What study or training towards tertiary qualifications can I claim?

Section 7.4.2 of the [Guide to the Maintenance of Competence Scheme for practising certificates](#) explains what you can claim for eligible tertiary qualifications:

- face-to-face, electronic or other form of direct interaction between the you and the training institution
- completing required assessments either individually or as a group that involve studying and application of learning
- required reading of information or attending field excursions for the qualification.

Can I claim technical presentations that are not for WHS but are relevant to exercising the statutory function for WHS?

Yes, provided you can record sufficient details to justify how the presentation can be applied to WHS and is one of the recognised learning types that can be claimed. For example, formal learning such as a seminar or non-formal learning such as at an industry expo.

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