

# FACT SHEET

## Frequently asked questions

MARCH 2021

### Practising certificates and maintenance of competence

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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 us on our [website](#).

If you wish to apply to exercise a statutory function at a class of mine anywhere in NSW, you must complete the application form for practising certificates.

If you wish to apply to exercise the statutory function of quarry manager at a specific mine location(s) only in NSW, you must complete the application form for quarry manager with conditions practising certificate.

### When can I apply?

You can apply at any time by referring to our [website](#). But allow enough time for us to process your application before you need the certificate to practise in the function (refer processing times below)

### What are the processing times for practising certificates?

We aim to process each application within four weeks of receipt of a complete application.

We will contact you directly if there are any issues with your application. Please keep your contact details up-to-date with the Mining Competencies and Authorisations 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, email us at [mca@planning.nsw.gov.au](mailto:mca@planning.nsw.gov.au)

## How do I renew my practising certificate?

To renew your practising certificate, you must apply and declare you have satisfied the conditions, including maintenance of competence requirements for the period of issue (usually five years). An application to renew is available for you to complete and submit on our [website](#).

The 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 our [website and below](#).

## 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 or the required qualifications 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. 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. Links to website information is provided for each to assist you with complying.

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. Gazettals are published on our [website](#) so you can read the requirements. [The Guide to maintenance of competence](#) explains the requirements.
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.

You can notify of any change of details via our [website](#).

## What if I delayed applying for a practising certificate until after the implementation period?

As you are applying after 30 September 2020 you will be required to complete 20% more learning to satisfy the maintenance of competence condition in the first year of the certificate issue period.

## If I let my practising certificate lapse after the five-year period how do I obtain a new certificate?

You must apply for a new practising certificate on our [website](#).

## How do I stay up to date with requirements and the latest guidance on complying?

You should be a [subscriber](#) to our Mine Safety News, which publishes changes and any new or revised guidance. It also announces webinars hosted by the Resources Regulator to explain any changes or initiatives and at which you can ask questions.

You can also make enquiries via [mca@planning.nsw.gov.au](mailto:mca@planning.nsw.gov.au) or 4063 6461.

## 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 we issue.

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.

For further information refer to our [website](#).

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

You must keep evidence of your learning. We 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 document proving you participated in the activity e.g. risk assessment your employer's records confirming any completion of learning.
- Evidence from a formal training course provider that it satisfies the three criteria to qualify as a formal training course. [The Guide to maintenance of competence](#) explains how this may be achieved with course certificates issued by an RTO or from an employer.

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 us that you are complying with the scheme requirements. The logbook templates and completed examples on our [website](#) provide you with the standard that records should meet.

## Will you accept records from an app?

, Yes, but you should ensure that the records provided are accurate and complete. You will be audited not the app. Any issues regarding the quality of information provided by the app and being compliant, should be directed to the provider.

## Do I have to complete the maintenance of competence requirements separately for each statutory function listed on my practising certificate?

You are not required to satisfy the maintenance of competence requirements for each function listed separately or as a combined total. Generally you are required to complete the requirements for:

- the 'highest' function (the one with the largest amount to be completed), and
- for each engineering discipline (e.g. electrical, mechanical, mining), and



- at each class of mine (underground coal, surface coal, underground metalliferous, other surface mines like quarries), and
- for which you hold the certificate of competence or prescribed qualification

[The Guide to maintenance of competence](#) in section 6.2 further explains the requirements for holders that hold a certificate of competence or qualifications for different engineering disciplines. You can claim in common learning between functions.

## What are the requirements for a Quarry manager with conditions practising certificate restricted to practise at a specific location or tier level?

Individuals holding a practising certificate with a condition restricting them to practise at a specific location(s) only do not have any gazetted requirements. The mine operator nominating the holder are required under general WHS legislation to provide sufficient training, information and instruction.

From July 2020 practising certificates were introduced for the holder to practise at any tier 2 quarry in NSW assessed as having a risk profile of this level. The maintenance of competence requirements for this type of practising certificate are specified at a lower level than those required for a tier 1 quarry.

Tier 1 quarry requirements are those that have been prescribed since the start of the scheme for a Quarry Manager practising certificate holder and are the highest requirements. A holder can practise at any tier of quarry (unrestricted). Eligibility is to hold a certificate of competence for quarry manager or mining engineering manager for underground mines other than coal.

## 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, contact us at [mca@planning.nsw.gov.au](mailto:mca@planning.nsw.gov.au). We 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, we 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 us on 4063 6461 or [mca@planning.nsw.gov.au](mailto:mca@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, 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.

We 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 which parts of the statutory function you can exercise, or
- any other options deemed appropriate to your circumstances as determined by us.

## **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 additional learning hours requirements of 20% during the first 12 months of the five-year period to make up the shortfall to be competent. This extra learning will be 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 us. 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.

We are 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 us at [mca@planning.nsw.gov.au](mailto:mca@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 available on our [website Maintenance of competence page](#).

If you are still unsure after referring to these documents, then you can email us at [mca@planning.nsw.gov.au](mailto:mca@planning.nsw.gov.au) with full details of what you want to claim. We 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 us 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, an 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 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 still relevant to the function?

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.

## What learning from disasters training am I required to do?

You must complete either the Regulator's Learning from disasters one-day program OR minimum 7 hours of other formal learning on disasters.

The Regulator's Learning from disasters one-day program is delivered by a list of approved providers who are listed on our [website](#) (refer to program 3 at bottom of page which has the list within it).

Formal learning can be any of the types listed in section 7.3 of the Guide to maintenance of competence from formal training courses to conferences. The Resources Regulator also provides other programs for learning from disasters on the above website page, which are for a one hour induction/refresher of

workers or specifically for Quarry Managers with conditions restricting them to tier 2 or specific location quarries.

## **How do I qualify for a bonus year to claim learning for the year prior to the issue date on my certificate?**

You can only qualify if you applied in the earlier period of the implementation of the scheme, which was an incentive for individuals to apply early. Refer to our [Practising certificates webpage](#) for the dates for the bonus periods. If you applied during the applicable period for your statutory function but your certificate was not issued until afterwards, then the covering letter should have stated that you were eligible to claim the bonus year.

## **What will happen to an individual if they haven't satisfied the minimum of one-third required hours by the end of year three of the certificate and it was picked up during an audit?**

The Regulator will assess any non-compliance with conditions of maintenance of competence. Failure to comply may result in suspension or cancellation of a certificate.

## **If you work interstate and receive training on the WHS legislation for mines in that state, can you claim it for maintenance of competence?**

A: No – for interstate mine safety legislation.

## **Will there be any extensions to maintenance of competence timeframes because of COVID-19 restrictions?**

The Resources Regulator has indicated that dispensation will be available for certificate holders affected by COVID-19 restrictions. Details of the dispensation are published in our Mine Safety News and our [maintenance of competence webpage](#).

## How will practising certificate holders be audited?

Certificate holders will be audited randomly or if identified as a priority statutory function for auditing. It is planned for a holder to be audited at least once every 10 years (2 certificate periods) or more frequently.

The process for auditing can be summarised as:

- Resources Regulator (auditor) emails holder requesting log of claims within specified timeframe (no evidence required at this stage)
- Individual provides log and it is assessed by auditor
- Auditor requests any further information requested and minimum number of evidence items within required period
- Response from holder and evidence used to finalise audit to return to holder with a letter of findings on conformance.

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