



**Australian Government**

**Department of Employment and Workplace Relations**

Office of the Federal Safety Commissioner



# WHS Accreditation Scheme Company Compliance Policy



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## Definition of Terms

Term	Definition
CAR	A Corrective Action Report (CAR) is a formal finding made by FSOs during the auditing process to identify where companies need to take further action to improve on-site safety.
Company	A company accredited under the Work Health and Safety Accreditation Scheme. Where the Act and the Rules refer to a 'person' or an 'accredited person', this document refers to a 'company' or 'accredited company'.
Conditional Audit	An audit conducted on a company to meet any further condition(s) of its accreditation requiring an additional audit.
Demonstrable failure	A demonstrable failure of the accredited company's WHS management system includes, but is not limited to <ul style="list-style-type: none"> <li>• a proven WHS statutory breach</li> <li>• major non-conformance of a WHS management system as identified in the audit program</li> <li>• major failure to adhere to a site safety management plan or</li> <li>• ongoing unsafe work practices by the accredited company or an employee, a subcontractor or an employee of a subcontractor who is engaged by the accredited company.</li> </ul>
FSC	Federal Safety Commissioner
FSO	Federal Safety Officers are consultants engaged by the OFSC to conduct audits under the Work Health and Safety Accreditation Scheme.
Immediate risk to health and safety	There is an immediate risk to health and safety if plant, systems of work and/or physical conditions at a workplace constitutes an immediate threat to the health and safety of employees, contractors, visitors and/or the public.
Immediate Threat to Life	There is an immediate threat to life if an incident or event has occurred, or a work system is in place which results, or in the opinion of the FSO might result, in death or serious injury.
OFSC	Office of the Federal Safety Commissioner
The Act	<i>Federal Safety Commissioner Act 2022</i>
The Rules	<i>Federal Safety Commissioner (Accreditation Scheme) Amendment Rules 2023</i>

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The Scheme	The Work Health and Safety Accreditation Scheme
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## Background

1. The WHS Accreditation Scheme (the Scheme) is established under the Federal Safety Commissioner Act 2022 (the FSC Act) and the *Federal Safety Commissioner (Accreditation Scheme) Amendment Rules 2023* (the Rules). The Federal Safety Commissioner (FSC) is the accrediting authority for the Scheme, and the Scheme is administered by the Office of the Federal Safety Commissioner (OFSC).
2. The Scheme seeks to leverage Commonwealth funding to increase safety standards across the building and construction industry. Subject to certain financial thresholds, only builders who are accredited under the Scheme can enter into head contracts for building work that is funded directly or indirectly by the Australian Government.

## Purpose

3. The Rules impose conditions on companies who obtain accreditation under the Scheme. These conditions require accredited companies to adhere to a range of operational and reporting practices to ensure appropriate site safety.
4. This document sets out the framework the OFSC applies to ensure accredited companies comply with the conditions of accreditation. It also outlines the steps the OFSC may take where an accredited company is suspected to have failed to comply with the conditions of accreditation.

## Conditions of Accreditation

5. Section 15 of the Rules provides the conditions that apply to all accredited companies. These conditions are imposed on a company at the time of accreditation and continue to apply for the duration of accreditation. The conditions are:
  - a. the accredited company must at all times have and implement appropriate WHS policies and procedures, and safe work practices
  - b. the accredited company must comply with the performance requirements of the National Construction Code that relate to building materials
  - c. the accredited company must agree to post-accreditation audits being carried out
  - d. the accredited company must take all reasonable steps to facilitate the post-accreditation audits
  - e. the accredited company must comply with the reporting requirements notified to the company by the FSC from time to time.
6. Section 16 enables the FSC to impose further conditions at the time of awarding accreditation or anytime during an accreditation period.
7. Section 18 sets out the legislative sanctions available to the FSC if the FSC is satisfied that an accredited company has breached a condition of accreditation.

## WHS Policies and Procedures

8. Section 15(1)(a) of the Rules requires an accredited company to have and implement appropriate WHS policies, procedures and safe work practices.
9. Accredited companies must maintain and implement a documented WHS management system (**WHSMS**) and ensure that their safety systems and onsite practices meet the requirements of the Scheme at all times. The Scheme requirements are set out in the [FSC Audit Criteria](#).

10. The OFSC audits accredited companies' compliance with the FSC Audit Criteria at accreditation and post-accreditation audits. Where an accredited company's systems or onsite practices do not comply with the FSC Audit Criteria a CAR will be raised.
11. The absence of a documented process, and/or the absence of implementation of a process where the opportunity for implementation has occurred is considered a major non-conformance (**a Major CAR**).
12. A partially documented and implemented process where the opportunity for implementation has occurred is considered a minor non-conformance (**a Minor CAR**).
13. The OFSC uses a number of factors to evaluate audit results, including but not limited to:
  - a. the company's risk rating
  - b. the number of CARs issued in response to non-conformances with FSC Audit Criteria
  - c. the severity (minor or major) of CARs
  - d. the nature of CARs issued taking into account the company's previous compliance and WHS performance history
  - e. the closure rate of CARs raised at previous audits
  - f. the number of CARs that remain open after a second review
  - g. the level of senior management involvement and commitment to the audit process
  - h. any immediate risks onsite, trends in reported incidents or significant incidents identified at the audit, and
  - i. FSO comments and observations.
14. For more information on CARs please refer to [Fact Sheet – Corrective actions and the auditing process](#).

## National Construction Code

15. Section 15(1)(b) requires an accredited company to comply with the performance requirements of the National Construction Code (**NCC**) that relate to building materials.
16. Non-compliance with the performance requirements of the NCC is considered a serious breach of the conditions of accreditation.
17. More information on the NCC can be found on the [OFSC website](#).

## Post-accreditation Audits

18. Accredited companies are subject to an ongoing audit program. Section 15(1)(c)-(d) of the Rules requires an accredited company agree to and take all reasonable steps to facilitate post-accreditation audits.
19. Post-accreditation audits are conducted against the FSC Audit Criteria by an FSO. A post-accreditation audit can be undertaken on any building site on which the accredited company is the head contractor – the site does not need to be government-funded building works.
20. Generally, the audit frequency for companies is as follows:
  - a. Low risk companies are audited annually (noting low risk joint accreditations may be audited more frequently)
  - b. Medium risk companies are audited six monthly
  - c. High risk companies are audited as per the conditions of their accreditation



21. The OFSC acknowledges that there can be a change in circumstances that prevents an accredited company from submitting to an audit within the above timeframes. The OFSC will consider each request for audit postponement on its own merits.
22. The OFSC may be amenable to short delays where there is an appropriate reason for the request, such as inclement weather or a changed project timeline for works involving high-risk hazards.
23. Where delay of an audit continues for an extended period, an accredited company will be expected to take all reasonable steps to facilitate an audit through a modified approach, such as submitting to a desktop review of its WHS management system rather than the usual on-site audit of safety systems and their implementation.

## WHS Performance Reporting

24. Section 15(1)(e) of the Rules makes compliance with WHS performance reporting requirements a condition of accreditation. The FSC notifies a company of these requirements in writing when a company becomes accredited.
25. The WHS performance reporting requirements require accredited companies to report fatalities and certain other work-related incidents to the OFSC.
26. Accredited companies must also provide biannual reports capturing a range of WHS performance information to the OFSC.
27. Reporting on WHS performance enables the OFSC to assess the ongoing suitability of companies to remain accredited under the Scheme. The WHS performance reporting in part informs the OFSC's assessment of a company's risk level, along with other matters including audit performance and incident reporting.
28. Failure to comply with reporting requirements is considered a serious breach of the conditions of accreditation. When an accredited company has failed to report on time, the FSC expects that the company will remedy this breach by submitting the relevant report as soon as possible.
29. A pattern of non or late reporting of incidents can lead to the imposition of further conditions under section 16 or 18 of the Rules on a company requiring modified reporting of safety incidents to the OFSC. If the FSC cannot be satisfied that the company is suitable to remain accredited due to a history of non-reporting, the FSC may decide to suspend or revoke a company's accreditation.
30. The FSC considers reporting history in reaccreditation applications. A history of late or non-reporting may lead to further conditions under section 16 of the Rules being applied to the company's accreditation.
31. Further information on reporting requirements can be found in the [FSC Online WHS Report Guide](#) on the OFSC website and in FSC Online.

## Monitoring Accredited Company Compliance

32. The OFSC monitors company compliance through regular WHS performance reporting, review of regulator and media reports regarding significant workplace incidents and post-accreditation audits.
33. The OFSC will contact a company seeking additional information around any referrals/reports before taking any compliance action.

## Approach to Compliance

34. Accredited companies are required to comply with the Scheme requirements and conditions to maintain accreditation. The FSC has the power to impose compliance measures on an accredited company that fails to comply with these requirements and conditions.
35. The OFSC's preference is to work collaboratively with companies to ensure compliance with Scheme requirements and conditions of accreditation. Where there are concerns a company is not meeting Scheme requirements or its conditions of accreditation, those concerns will be discussed openly with the company, the company's views will be considered and proportionate corrective actions required.
36. Generally, the FSC will seek to resolve compliance issues with a company through administrative compliance measures. However, the type of compliance measure to be applied will be determined by the FSC taking into account the circumstances of the company's non-compliance. The FSC is not obligated to impose an administrative compliance measure before making a legislative sanction.
37. Where compliance measures are necessary, the FSC will have regard to all the relevant circumstances, including the company's risk rating and the company's compliance history.

## Compliance Model

### Risk-based compliance model

38. The OFSC implements a risk-based model to manage the compliance of accredited companies with the Scheme. This risk-based model requires greater oversight of companies with declining WHS performance trends or other issues of concern.
39. Accredited companies will be rated by the OFSC as having a low, medium or high risk of non-compliance with the requirements of the Scheme (including conditions of accreditation). A company's risk level determines the frequency of audits and any additional requirements or conditions that the company must satisfy. It also impacts the process a company must undertake for reaccreditation and its ability to be considered for joint accreditation with other companies or persons.
40. Each accredited company will be informed of their risk rating which can be viewed in FSC Online. The OFSC does not publicly discuss or externally publish an accredited company's risk rating.
41. Further information regarding the Scheme's risk framework is available on the [OFSC website](#).
42. The risk-based model is supported by a compliance process that provides for a company's accreditation to be suspended or revoked when a serious breach of the conditions of accreditation is identified.
43. The FSC can take the following factors into account when determining whether compliance action is appropriate:
  - a. Whether there is a demonstrable failure of the accredited company's WHS management system;
  - b. Whether the company's actions have posed an immediate threat to life;
  - c. Whether the accredited company's overall WHS performance is below the standard required for an accredited person;
  - d. Whether the company fails to comply with reporting obligations; and

- e. The willingness of the accredited company to cooperate with the FSC to remedy the breach.

## Compliance Measures

44. Where the OFSC has concerns regarding a company's compliance with the conditions of accreditation or Audit Criteria, compliance processes can be initiated.
45. There are three types of compliance measures:
  - a. administrative compliance measures, where the OFSC makes use of administrative arrangements;
  - b. legislative compliance measures, where the FSC imposes further conditions of accreditation under Section 16 of the Rules; and
  - c. legislative sanctions, where the FSC imposes further conditions of accreditation, suspends or revokes accreditation under Section 18 of the Rules.

## Administrative Compliance Measures

46. Administrative compliance measures are used where a minor non-compliance with Scheme requirements is identified.
47. Administrative compliance measures allow the accredited company an opportunity to address issues in consultation with the OFSC without the imposition of legislative compliance measures.

### *Administrative Compliance Triggers*

48. Without limiting the factors that can be taken into account, the OFSC may use an administrative compliance action when:
  - a. the company's audit results raise concerns, for example where the number of non-conformances identified is above the number acceptable for an accredited company
  - b. the company is late in meeting reporting requirements,
  - c. the company has not made reasonable efforts to facilitate an audit, and/or
  - d. the company experiences a WHS incident that is deemed to be an issue, but is less serious than an incident that resulted in, or would likely result in, a personal injury or dangerous occurrence.

### *Administrative Compliance Actions*

49. Administrative actions may take the form of, but are not limited to:
  - a. a request for an action plan outlining how non-conformances will be addressed;
  - b. a requirement to provide evidence that non-conformances have been addressed, for review by an FSO;
  - c. a follow-up audit to confirm that non-conformances have been addressed or to examine particular FSC Audit Criteria; and/or
  - d. a request for information from the company on how it has responded to a particular WHS incident or unsafe practice.
50. Where the FSC is not satisfied that an accredited company has complied with an administrative compliance action, the company's risk rating may be increased and/or legislative compliance measures may be imposed.
51. Further information and examples of administrative compliance actions can be found at Appendix A of this policy.

## Legislative Compliance Measures

52. Legislative compliance measures may be issued by the FSC in relation to more serious non-conformance with Scheme requirements.
53. If the FSC commences a legislative compliance measure, the reasons for the action will be given in writing and the accredited company will be provided an opportunity to rectify non-compliances. Companies can expect the FSC to provide procedural fairness, that is:
  - a. The FSC will allow a company an adequate opportunity to present their case and respond to the FSC's concerns, and
  - b. The FSC will make decisions regarding compliance action in a way that is objective and free from any bias.

### *Show Cause*

54. The FSC provides companies with opportunities to address serious non-conformance with Scheme requirements before taking legislative compliance action or imposing a sanction.
55. Before taking legislative compliance action or imposing a sanction, the FSC will send the accredited company a Show Cause letter. The Show Cause letter will disclose the matters that will be taken into account before the FSC makes a decision as to whether legislative compliance action or a sanction is appropriate.
56. The company will be given the opportunity to formally respond in writing to the concerns outlined in the Show Cause letter. The company may wish to provide evidence of actions undertaken to remedy identified issues and/or clarify any aspect of the issues raised.
57. The company may request a meeting between Senior Management of the company and the FSC to discuss the concerns outlined in the Show Cause letter and any steps the company propose to take to remedy these concerns.
58. Unless otherwise stated, the company will be given 30 days from the date of the letter to respond. Should an extension be required, the company must submit a written request to the FSC detailing why additional time is needed. The FSC has the discretion to approve or deny a request for an extension of time.
59. The FSC will consider the accredited company's response when considering what action will be taken.
60. The FSC may require the accredited company to undergo a compliance audit as part of the Show Cause process. In these cases, the Show Cause response as well as the outcome of the compliance audit will be considered to determine what further action will be taken.

### *Legislative Compliance Triggers*

61. Without limiting the factors that can be taken into account, the FSC may take legislative compliance action when:
  - a. the company's audit results raise significant concerns, for example where an unacceptably high number of CARs are raised at audit (particularly major CARs) or the number of CARs that remain open after two or more audits is high;
  - b. significant issues are found during an audit, for example where an immediate risk to health or safety is identified;
  - c. the company experiences a significant WHS incident; and/or
  - d. the company fails to comply with the reporting requirements of the Scheme.

62. The FSC automatically takes legislative compliance action when an accredited company reports an onsite fatality. Refer to 'Fatalities' below for more information.

### *Legislative Compliance Actions*

63. Legislative compliance actions are further conditions that the FSC may impose on an accredited company's accreditation under section 16 of the Rules.
64. Compliance conditions imposed under section 16 are designed to have a cooperative, not punitive, effect. The conditions will be tailored to address the specific area of non-conformance with the conditions of accreditation.
65. Legislative compliance actions may include, but are not limited to:
- a. conditional audits;
  - b. an improvement plan;
  - c. a requirement to provide specific documentation (e.g. reports or WHS policies/procedures);
  - d. a requirement to undertake or provide particular WHS training;
  - e. self-audits;
  - f. a statement of lessons learnt; and/or
  - g. detailed information regarding a company's response to a WHS incident.
66. All companies that have been issued with further conditions of accreditation can expect to have their risk rating reviewed.
67. If an accredited company fails to comply with a legislative compliance action, they are in breach of their conditions of accreditation and may have further section 16 conditions of accreditation or legislative sanctions imposed.
68. Further information and examples of legislative compliance actions can be found at Appendix B of this policy.

### *Legislative Sanctions*

69. Legislative sanctions can be imposed by the FSC in response to a breach of a condition of accreditation.

### *Legislative Sanctions Triggers*

70. Without limiting the factors that the FSC can take into account, the FSC may consider a sanction appropriate when:
- a. A company has repeated poor audit outcomes and previous administrative or legislative compliance actions have failed to address the issues
  - b. the company's actions pose, or have posed, an immediate threat to life
  - c. the company has failed to comply with a legislative compliance action
  - d. the company repeatedly fails to take reasonable steps to facilitate audits
  - e. the company repeatedly fails to comply with the reporting requirements of the Scheme and/or
  - f. a company's response to a fatality is considered by the FSC to be inadequate to ensure compliance with the conditions of accreditation (see Fatality below).
71. The FSC will determine the degree to which these and other factors are in evidence in deciding on the appropriate sanction and time period that sanction will apply.

### *Legislative Sanctions*

72. Sanctions are provided for under Section 18 of the Rules and take the form of:
- a. further conditions of accreditation under paragraph 18(1)(a)

- b. suspension of accreditation under paragraph 18(1)(b) and
  - c. revocation of accreditation under paragraph 18(1)(c) and subsection 18(2).
73. All accredited companies that have had legislative sanctions imposed in the form of Section 18 further conditions or a suspension of accreditation are rated high risk.
74. Further information regarding legislative sanctions can be found at Appendix C of this policy.

## Fatalities

75. Where a fatality is identified on any project where an accredited company is the head contractor, legislative compliance measures will be immediately imposed on the company's accreditation. These include the application of further conditions of accreditation under section 16 of the Rules and increasing the company's risk level to high.
76. As a minimum, the further conditions on accreditation will require:
- a. a meeting between the accredited company's CEO/Managing Director (or equivalent senior manager) and the FSC
  - b. the accredited company must provide the FSC with details of the incident and an overview of the actions it will take to prevent similar events in future
  - c. the company to undergo one or more conditional audits to confirm that acceptable actions in response to the fatality have been implemented and that the company's WHSMS continues to meet the Scheme requirements.
77. Where a fatality has occurred there will be no Show Cause process prior to the legislative compliance measures being imposed.
78. If and when the FSC has met with the accredited company's CEO/Managing Director (or equivalent senior manager) and the FSC has determined that the results of the conditional audit(s) are satisfactory, and any further conditions of accreditation have been met, the company will be advised and their risk level will move to medium risk.
79. If a company does not comply with these further conditions, or the outcomes of the conditional audit(s) are not satisfactory, further legislative sanctions in the form of additional conditions, suspension or revocation of accreditation may be imposed.
80. At any point in this process, if it is identified that the fatality was due to natural causes, did not occur on a project site, or was not a matter that could be controlled by the accredited company's WHS management system, the further conditions will be lifted and the accredited company will return to the risk rating they held prior to the further conditions being issued.

## Review of decisions

81. As set out in the Rules, the FSC's decision to impose a legislative compliance measure or sanction under sections 16 or 18 of the Rules is reviewable.
82. Reviewable decisions include, but are not limited to, decisions of the FSC to:
- a. impose a condition on an accreditation;
  - b. suspend an accreditation; and
  - c. revoke an accreditation.
83. Where the FSC makes a decision that is reviewable under the Rules an affected person may seek a review of that decision. Affected persons are not limited to applicants for accreditation or accredited contractors.

84. All reviewable decisions made by the FSC will be outlined in writing to the relevant applicant or accredited company and include information on how a review may be sought.
85. Further details on how to make a complaint or apply for an internal review are available on the [OFSC website](#).

## Appendix A: Administrative Compliance Actions

### Action Plan

#### *What is an action plan?*

1. An Action Plan is a detailed plan outlining a sequence of steps that will be taken or activities that will be performed in order to address identified deficiencies in a WHS Management System or its implementation on a building and construction site.

#### *What is the purpose of an action plan?*

2. Action plans allow companies to demonstrate commitment to rectifying CARs that are issued in audits in response to non-conformances with FSC Audit Criteria
3. The action plan must outline the actions that have been or will be undertaken by the company to address each CAR. This could include details of changes made to systems documentation, amendments to processes and correcting implementation issues on site.
4. The action plan is required to identify who will be responsible for rectifying each non-conformance. The action plan must also contain indicative completion dates for improvement actions that demonstrate the company will promptly address all non-conformances as a matter of priority.

#### *When are action plans required?*

5. Action plans are required after each audit where CARs have been identified.
6. Where an action plan is required, this will be flagged in the letter to the accredited company with their audit report. The audit report will provide sufficient detail to allow the company to understand the identified non-conformance and subsequent action required.
7. Unless otherwise stated, the accredited company is required to submit an action plan within 30 days of receiving their audit report.

### Evidence Review

#### *What is an evidence review?*

8. An evidence review involves FSO review of an action plan and supporting documents.

#### *What is the purpose of an evidence review?*

9. Evidence reviews provide an opportunity for an action plan to be thoroughly considered by an FSO to confirm that the steps and activities outlined in the plan appear appropriate and sufficient to rectify the non-conformances identified in an audit. The review does not close the CAR which must also be reviewed at an on-site audit.

#### *When are evidence reviews required?*

10. Evidence reviews may be required where the OFSC has concerns regarding the appropriateness or effectiveness of an action plan, or where there are specific compliance concerns regarding an accredited company's audit results.

### Follow-up Audits

#### *What are follow-up audits?*

11. A follow-up audit is conducted subsequent to a scheduled audit where a determination is made that outstanding WHS issues and corrective actions are



required to be reviewed onsite prior to a company's next scheduled audit. There are two types of follow up audits- pre accreditation follow-up audit and post accreditation follow-up audits. In the case of pre accreditation audits, follow-up audits are more commonplace given that companies are less familiar at this stage with the Scheme's requirements.

12. Generally, follow-up audits are focused specifically on the CARs raised at the original audit.

#### *What is the purpose of follow-up audits?*

13. Follow-up audits are conducted to ensure that the non-conformances to Scheme criteria identified at the original audit have been rectified in both documentation and implementation at an active site.
14. Where the results of a follow-up audit are unsatisfactory (for example if a significant amount of CARs are not closed), compliance measures may be imposed.

#### *When are follow-up audits used?*

15. Follow-up audits are typically required where the OFSC has significant concerns with an accredited company's audit results, which require a higher standard of proof of rectification than would be provided by an action plan or evidence review.

## Compliance Audits

#### *What are compliance audits?*

16. Compliance audits are audits that are conducted on a company during a compliance process, including a Show Cause process.

#### *What is the purpose of compliance audits?*

17. Compliance audits allow the OFSC to conduct an audit targeting non-conformances to Scheme criteria. Compliance audits also give an accredited company the opportunity to address issues in consultation with the OFSC without the imposition of legislative compliance measures.
18. Compliance audits may be conducted on a company during a Show Cause process following a poor audit result. In these cases, the Show Cause response as well as the outcome of the compliance audit will be considered to determine what further action will be taken.

#### *When are compliance audits used?*

19. Compliance audits are conducted where issues are identified and the FSC is considering whether a breach of conditions has occurred and/or if further conditions of accreditation are required.
20. Compliance audits may be conducted on a company during a Show Cause process or as a result of an identified trend of incidents or issues of concern relating to the company's compliance with its conditions of accreditation.

## Appendix B: Legislative Compliance Actions

### Section 16 Further Conditions

#### *What are section 16 further conditions?*

1. Section 16 of the Rules allows for the FSC to impose further conditions on accreditation being awarded or during the accreditation period.
2. Further conditions may take any form the FSC determines as relevant to improve the accredited company's WHS performance to ensure Scheme requirements are met and high safety standards are achieved.
3. Section 16 further conditions may be imposed at accreditation or reaccreditation to manage risks associated with newly accredited companies or joint accreditations.

#### *What is the purpose of section 16 further conditions?*

4. Imposing further conditions as a compliance action allows the FSC flexibility to require appropriate management solutions to WHS issues where no breach of the accreditation conditions has occurred.
5. Where imposed, the accredited company must comply with the further conditions in addition to the standard conditions under section 15. Non-compliance with further conditions may lead to sanctions being imposed.

#### *How do section 16 further conditions work?*

6. Further conditions remain in force on an accredited company until the FSC is satisfied that appropriate actions have been undertaken by the accredited company.
7. If the FSC considers the accredited company has met the intent of the further conditions, the FSC will notify the company in writing that no further action is required in relation to the conditions. At that point, the further conditions will be lifted.
8. If required, a follow-up audit may be conducted to confirm the accredited company has complied with the further conditions.
9. Where extenuating circumstances apply and the accredited company is unable to undertake the required actions to demonstrate compliance with the further conditions, the FSC may advise the company that no further action is required in relation to the original conditions and new further conditions will be imposed.
10. The compliance measures listed below serve as examples of further conditions that can be imposed under section 16 (noting that further conditions outside of these examples may be imposed).

### Conditional Audits

#### *What are conditional audits?*

11. A Conditional audit is an audit conducted on a company to meet any further condition(s) of its accreditation requiring an additional audit. Conditional audits focus on an issue, concern or FSC Audit Criteria with particular scrutiny.

#### *What is the purpose of conditional audits?*

12. Conditional audits allow for a specific, robust review to provide assurance to the FSC that particular issues or areas of concern have been addressed by the accredited company.

#### *When are conditional audits used?*

13. Conditional audits can be used as a result of additional conditions being applied to a company's accreditation as an outcome of a compliance process. The FSC also requires companies to undergo a conditional audit after a fatality on site.

## Improvement Plan

### *What is an improvement plan?*

14. An improvement plan is a written agreement between the FSC and accredited company which identifies WHS issues and sets out a proposed plan to remedy these defects.
15. The FSC will provide the accredited company with a template which identifies the WHS issues that need remedying. The accredited company is then responsible for developing the improvement plan by proposing actions and specific timeframes to address the identified issues. These actions and timeframes must be considered and approved by the FSC prior to commencement of the plan.
16. To comply with the improvement plan, the accredited company must implement the actions outlined in the improvement plan within the approved timeframes. Where required, an FSO review of evidence and/ or an on-site audit will be undertaken to verify the actions. Non-compliance with an improvement plan or audit process constitutes a breach of the accreditation conditions.
17. In summary, the improvement plan:
  - a. alerts the accredited company to the unacceptable aspect of the work or identified issue
  - b. prescribes the agreed outcomes that are expected in relation to the matter
  - c. provides an agreed deadline for the remedial action to be completed and
  - d. may result in an FSO review of evidence and/ or an audit to verify the actions.

### *What is the purpose of an improvement plan?*

18. An improvement plan allows an accredited company an opportunity to address identified issues in consultation with the FSC. It also serves as a formal warning which may trigger a more serious compliance measure where:
  - a. the identified shortcoming is not addressed
  - b. a similar non-conformance is subsequently uncovered or
  - c. the accredited company breaches an accreditation condition.

### *When are improvement plans required?*

19. This compliance measure may be used (but is not limited to) where:
  - a. there is an identified safety issue arising out of an audit
  - b. the accredited company has failed to appropriately address the issues referred to in the Show Cause letter and/ or
  - c. the FSC has general concerns over the accredited company's WHS performance.

## Requirement to Provide Specific Documentation

### *What specific documentation may be required?*

20. The FSC may request the provision of any documentation that is of a WHS nature and/ or relates to the company's accreditation. It may include documentation already held by the accredited company or the preparation of new documentation that specifically relates to the identified issue and questions raised.

### *What is the purpose of requesting specific documentation?*

21. Requesting specific documentation aims to properly inform the FSC and further clarify issues where existing information (held by the OFSC) is limited. This compliance measure is also used to reinforce requirements under the Scheme and assists a company to maintain their accreditation.

### *When is specific documentation required?*

22. This compliance measure may be used at any time to address a specific issue or concern identified by the FSC or where documentation has been requested previously and not supplied.

## Self-Audits

### *What is a self-audit?*

23. A self-audit is an audit or multiple audits undertaken by the accredited company, using a self-audit tool, to assess their WHS Management System and hazards against Scheme criteria and requirements.
24. An accredited company is required to provide the FSC with completed audit reports within given timeframes. The frequency or number of self-audits required will be set by the FSC.

### *What is the purpose of a self-audit?*

25. A self-audit allows an accredited company an opportunity to address identified issues via self-diagnosis of inadequacies of the company's WHS Management System and associated policies, procedures and safe work practices.
26. Non-conformances identified by a FSO in a CAR cannot be closed out by an accredited company. The OFSC will monitor the company's progress through the provision of completed audit reports and when appropriate arrange for an FSO to conduct a compliance audit.
27. This compliance measure also serves as a formal warning and may result in a more serious measure should the company:
  - d. fail to provide completed audit reports
  - e. show lack of commitment to addressing issues identified in self audits.

### *When are self-audits used?*

28. This compliance measure may be used where a company has not made considerable improvements or improvements are stagnant. Self-audits are designed to take place between scheduled OFSC audits to encourage continuing focus on identified issues.

## Lessons Learnt Statement

### *What is a lessons learnt statement?*

29. A lessons learnt statement is a written acknowledgement of failures associated with a specific issue, setting out best practice in relation to the specific issue and how the accredited company will implement these best practices in the future.
30. The statement is signed by the accredited company's CEO and/or senior management team, and may be made directly to the FSC and/or as a public announcement on the company's website.

*What is the purpose of a lessons learnt statement?*

31. Lessons learnt statements heighten awareness of an identified issue within the accredited company and allows an opportunity to demonstrate acknowledgment of and commitment to resolving the issue.

*When is a lessons learnt statement required?*

32. This compliance measure may be imposed where there are hazard related incidents occurring or to address specific Scheme criteria.

## Detailed response to a WHS Incident

*What is a detailed response to a WHS incident?*

33. A detailed response to a WHS incident is a written statement from an accredited company that outlines the actions that have been undertaken by a company following a significant WHS incident. This would include outcomes from initial investigations including the factors that may have contributed to the incident, support being provided to affected workers, subsequent changes in processes and/or the WHS management system and next steps.
34. The response should be provided by the accredited company's CEO and/or senior management team.

*What is the purpose of a detailed response to a WHS incident?*

35. A detailed response to a WHS incident provides reassurance to the FSC that an accredited company is complying with the requirements of their accreditation by undertaking an appropriate investigation and ensuring that outcomes from the investigation are appropriately considered to determine potential changes to systems and processes.

*When is a detailed response to a WHS incident required?*

36. This compliance measure may be imposed where the accredited company experiences a significant WHS incident that is either reported to the OFSC or where the FSC becomes aware of the incident through other means.

## Appendix C: Legislative Sanctions

### Section 18 Further Conditions

#### *What are section 18 further conditions?*

1. Paragraph 18(1)(a) of the Rules allows for the FSC to impose further conditions on an accredited company if the accredited company breaches a condition or further condition of accreditation.
2. The further condition may take any form the FSC determines as relevant to improve the accredited company's WHS performance to ensure Scheme requirements are met and high safety standards are achieved.
3. In particular, section 18 further conditions could include, but are not limited to:
  - a. procedural conditions, for example
    - i. increasing the frequency of audits and inspections
    - ii. requiring targeted reports on particular WHS issues
    - iii. revising WHS Committee participation
    - iv. improving communication systems on site
    - v. engaging technical specialists or
    - vi. revising particular aspects of the WHS management system.
  - b. any example given against section 16 condition.

#### *What is the purpose of section 18 further conditions?*

4. This sanction provides the FSC with flexibility in identifying and applying appropriate management solutions to WHS issues, without resorting to the higher level sanctions of suspending or revoking an accreditation. It is used only where a breach of conditions or further conditions of accreditation has occurred.
5. Where imposed, the accredited company must comply with the further conditions in addition to the standard conditions under section 15. Non-compliance with further condition may lead to higher level sanctions being imposed.

#### *How do section 18 further conditions work?*

6. As set out in the Rules, a further condition of accreditation may be imposed under paragraph 18(1)(a) if the FSC is satisfied that an accredited company has breached a condition of accreditation.
7. Further conditions remain in force until the FSC is satisfied that appropriate actions have been undertaken by the accredited company.
8. If the FSC considers the accredited company has met the intent of the further conditions, the FSC will notify the company in writing that no further action is required in relation to the conditions. At this point, the further conditions are lifted.
9. If required, a conditional audit may be conducted to confirm the accredited company has complied with the further conditions.
10. Where extenuating circumstances apply and the accredited company is unable to undertake the required actions to demonstrate compliance with the further conditions, the FSC may advise the company that no further action is required in relation to the original conditions and new further conditions will be imposed.
11. If the FSC considers that the accredited company has not complied with the further conditions, the FSC may:

- a. impose further conditions under paragraph 18(1)(a)
- b. suspend the company's accreditation status or
- c. revoke the company's accreditation status.

## Suspension of Accreditation

### *What is suspension?*

- 12. Paragraph 18(1)(b) allows for the FSC to suspend an accreditation if an accredited company breaches a condition of accreditation. This include those conditions set out in section 15 and section 16 and 18 further conditions.

### *What is the purpose of suspension?*

- 13. A suspension represents a change of accreditation status and is used to ensure a breach is resolved by the accredited company. It means that the accredited company cannot enter into building or construction contracts for which accreditation is required, during the period of suspension.

### *When is suspension imposed?*

- 14. Suspension of accreditation is a serious step. Generally, the FSC will only suspend a company's accreditation status after section 16 and 18 further conditions have been unsuccessful in addressing the issue.
- 15. However, where the FSC is of the opinion that suspension is the most appropriate sanction, the FSC may suspend a company's accreditation status without having exhausted other compliance measures.
- 16. The FSC will stipulate the dates between which the suspension is in force.
- 17. At the end date of the suspension, the FSC will review the issue that led to the suspension being imposed. If the FSC considers that the accredited company has remedied the issue and no further issues or concerns are identified, the accredited company will return to their accredited status.
- 18. If required, an audit will be conducted to confirm the company has remedied the issue.
- 19. If the FSC considers that the company has not remedied the issue, they may:
  - a. impose a further suspension period
  - b. impose further conditions under section 18(1)(a) or
  - c. revoke the company's accreditation status under regulation 18(1)(c).

## Revocation of Accreditation

### *What is revocation?*

- 20. Revocation is the most serious sanction available under the Rules.
- 21. Paragraph 18(1)(c) allows for the FSC to revoke an accreditation if the accredited company has breached a condition of accreditation and the FSC is satisfied that:
  - a. the company has at 2 or more times while accredited failed to have or implement appropriate WHS policies and procedures or safe work practices or
  - b. the company's WHS policies and procedures constitute a risk to safety or
  - c. the company's WHS policies and procedures are not being complied with, in a way that constitutes a risk to safety or
  - d. the company's work practices are not safe.
- 22. Subsection 18(2) allows for the FSC to revoke an accreditation before the period specified for complying with other sanctions has ended if:

- a. the FSC has previously imposed a section 18 further condition or suspended an accreditation in response to a condition of accreditation being breached and
  - b. the FSC later becomes satisfied of any of the points above.
23. Revocation means the company will be removed from the accreditation register and can no longer enter into contracts for building work which falls within the scope of the Scheme, until and unless the company successfully re-applies and is granted accreditation.

*What is the purpose of revocation?*

24. Revocation is a punitive measure designed to maintain the integrity of the Scheme's requirements for WHS performance and to ensure compliance with the Rules. Revocation reinforces the message that WHS is of utmost importance in every building and construction activity.

*When is revocation imposed?*

25. Revocation will generally only occur after section 16 and 18 further conditions have been unsuccessful in addressing the issue.
26. However, if the FSC is satisfied that the accredited company's work practices are not safe, the FSC may revoke the company's accreditation status without having exhausted other compliance measures.