



Work Health and Safety Amendment (Managing Psychosocial Risk and Other Measures) Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 15 December 2022

David Hurley
Governor-General

By His Excellency's Command

Tony Burke
Minister for Employment and Workplace Relations

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1 Name

This instrument is the *Work Health and Safety Amendment (Managing Psychosocial Risk and Other Measures) Regulations 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	4 January 2023
2. Schedule 1, Part 1, Division 1	1 April 2023.	1 April 2023
3. Schedule 1, Part 1, Division 2	The day after this instrument is registered.	4 January 2023
4. Schedule 1, Part 2	The day after this instrument is registered.	4 January 2023

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Work Health and Safety Act 2011*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Part 1—Model WHS law amendments

Division 1—Managing psychosocial risks

Work Health and Safety Regulations 2011

1 Subregulation 5(1)

Insert:

psychosocial hazard: see regulation 55A.

psychosocial risk: see regulation 55B.

2 At the end of Part 3.2

Add:

Division 11—Psychosocial risks

55A Meaning of *psychosocial hazard*

A *psychosocial hazard* is a hazard that:

- (a) arises from, or relates to:
 - (i) the design or management of work; or
 - (ii) a work environment; or
 - (iii) plant at a workplace; or
 - (iv) workplace interactions or behaviours; and
- (b) may cause psychological harm (whether or not it may also cause physical harm).

55B Meaning of *psychosocial risk*

A *psychosocial risk* is a risk to the health or safety of a worker or other person arising from a psychosocial hazard.

55C Managing psychosocial risks

A person conducting a business or undertaking must manage psychosocial risks in accordance with Part 3.1.

Note: WHS Act—section 19 (see regulation 9).

55D Control measures

- (1) This regulation applies to a person conducting a business or undertaking who implements control measures to manage psychosocial risks in accordance with Part 3.1.
- (2) In determining the control measures to implement, the person must have regard to all relevant matters, including:

- (a) the duration, frequency and severity of the exposure of workers and other persons to the psychosocial hazards; and
 - (b) how the psychosocial hazards may interact or combine; and
 - (c) the design of work, including job demands and tasks; and
 - (d) the systems of work, including how work is managed, organised and supported; and
 - (e) the design and layout, and environmental conditions, of the workplace, including the provision of:
 - (i) safe means of entering and exiting the workplace; and
 - (ii) facilities for the welfare of workers; and
 - (f) the design and layout, and environmental conditions, of workers' accommodation; and
 - (g) the plant, substances and structures at the workplace; and
 - (h) workplace interactions or behaviours; and
 - (i) the information, training, instruction and supervision provided to workers.
- (3) For paragraph (2)(f), **workers' accommodation** means premises to which subsection 19(4) of the Act applies.

Division 2—Other amendments

Work Health and Safety Regulations 2011

3 At the end of regulation 15

Add:

Note: A person is only required to comply with an Australian Standard or Australian/New Zealand Standard that is applied, adopted or incorporated by, or otherwise referred to in, a regulation to the extent the regulation provides, whether expressly or by necessary implication.

For example, in regulation 5, definition *boiler*, there is an exception in subparagraph (e)(iii). The definition does not require a person to comply with AS 2593:2004, but equipment must be certified in compliance with AS 2593:2004 in order to fall within that particular exception.

The reference to an Australian Standard in this case is part of a description of equipment excluded from the definition *boiler*. As a result, the equipment is not covered by particular provisions of these Regulations relating to high risk work.

4 Regulation 28 (heading)

Omit “section 117”, substitute “Division 2 of Part 7”.

5 Regulation 28

Omit “section 119 of the Act in relation to an entry under section 117”, substitute “section 119 of the Act in relation to an entry under Division 2 of Part 7 of the Act”.

6 At the end of regulation 238

Add:

- (3) The reference in subregulation (1) to instruction and training in the proper operation of a device or ropeway includes a reference to instruction and training in carrying out the checks and operation required under paragraphs (2)(a) and (b).

7 Paragraph 242(1)(a)

Repeal the paragraph, substitute:

- (a) the log book for the amusement device records the details required under subregulation (1A); and

8 After subregulation 242(1)

Insert:

- (1A) The log book for an amusement device must record:
- (a) for each occasion on which the device is erected, details (including the date) of the erection; and
 - (b) for each occasion on which the device is stored, details of the storage; and
 - (c) details of the maintenance of the device; and
 - (d) for each day on which the device is operated, the number of hours for which it is operated; and
 - (e) the total number of hours for which the device has ever been operated; and

- (f) details of any faults, or other matters relevant to the safety of the device, identified during its operation; and
- (g) the following details for each person who operates the device:
 - (i) the person's name;
 - (ii) whether the person has been provided with instruction and training in the proper operation of the device;
 - (iii) for each occasion on which instruction or training in the proper operation of the device is provided to the person—the date, a summary of the instruction or training and the name and qualifications of the instructor or trainer; and
- (h) details of each statutory notice issued in relation to the device, including:
 - (i) the date on which the notice was issued; and
 - (ii) the reasons for issuing the notice; and
 - (iii) any action taken in response to the notice; and
 - (iv) for a notice given under a corresponding WHS law—the location of the device when the notice was issued.

Note: See also paragraph 238(2)(c).

(1B) For paragraph (1A)(h), **statutory notice** means:

- (a) an improvement notice, prohibition notice or infringement notice; or
- (b) an improvement notice, prohibition notice or infringement notice under a corresponding WHS law.

9 Paragraph 242(2)(a)

Repeal the paragraph, substitute:

- (a) the log book for the amusement device; and

10 At the end of regulation 242

Add:

- (3) The person with management or control of an amusement device at a workplace must make the log book for the device available to any person to whom the person relinquishes control of the device.

Penalty:

- (a) In the case of an individual—\$1 250.
- (b) In the case of a body corporate—\$6 000.

Note: Section 12F of the Act provides that strict liability applies to each physical element of each offence under the Act, unless otherwise stated. The reference in section 12F of the Act includes these Regulations.

Part 2—Other amendments

Work Health and Safety Regulations 2011

11 Regulation 6A

After “the laws”, insert “(as in force from time to time)”.

12 Regulation 6A (table item 4)

Repeal the item.

13 Regulation 6A (table items 5 and 10)

Repeal the items.

14 Regulation 6A (table item 14)

Repeal the item.

15 Regulation 6A (table item 15)

Repeal the item, substitute:

15 *Work Health and Safety Act 2020*

15A Regulations made under the *Work Health and Safety Act 2020*

16 Regulation 6A (table item 20)

Repeal the item.

17 Regulation 6A (table item 21)

Omit “2011”, substitute “2012”.

18 Regulation 6A (table item 24)

Repeal the item.

19 Regulation 6A (table item 25)

Omit “2011”, substitute “2012”.

20 Regulation 6A (table item 28)

Repeal the item.

21 Regulation 6A (table item 32)

Repeal the item.

22 Regulation 6A (table item 36)

Repeal the item.

23 Regulation 6C (table items 7 and 8)

Repeal the items, substitute:

7 Live Better Management Pty Ltd

8 Integrated Care Services Pty Ltd

24 Regulation 6C (table items 11 to 13)

Repeal the items, substitute:

11 Medi Financial Services Pty Ltd

25 Regulation 6C (table items 15 and 16)

Repeal the items.

26 Regulation 6C (table items 21 and 22)

Repeal the items, substitute:

21 Medibank Private Limited

22 Star Track Express Pty Limited

27 Regulation 6C (table item 25)

Repeal the item, substitute:

25 Amplitel Pty Ltd

28 After regulation 12

Insert:

12A Application of Act—ending of transitional period for non-Commonwealth licensees

For the purposes of subsection 12(6) of the Act, the transitional period for the following non-Commonwealth licensees ends on the day on which Part 2 of Schedule 1 to the *Work Health and Safety Amendment (Managing Psychosocial Risk and Other Measures) Regulations 2022* commences:

- (a) Hollard Insurance Partners Limited;
- (b) MLC Wealth Limited;
- (c) Vicinity Centres PM Pty Ltd.