

Work Health and Safety Amendment Regulation 2022

Explanatory notes for SL 2022 No. 161

made under the
Work Health and Safety Act 2011

General Outline

Short title

Work Health and Safety Amendment Regulation 2022

Authorising law

Section 276 of the *Work Health and Safety Act 2011*

Policy objectives and the reasons for them

The *Work Health and Safety Amendment Regulation 2022* (Amendment Regulation) strengthens the *Work Health and Safety Regulation 2011* (WHS Regulation) by adopting amendments to the national model Work Health and Safety Regulation.

The national model Work Health and Safety Regulation was amended by Safe Work Australia members—including Queensland—in 2016, 2018, and 2020. Each state and territory is responsible for legislating amendments to the national model WHS Regulation in their jurisdiction.

The Office of Industrial Relations (OIR) proposes to amend the WHS Regulation with several national model WHS Regulation amendments (NMR amendments). The NMR amendments are a suite of minor technical amendments that are uncontentious and clarify policy intent.

OIR proposes to amend the WHS Regulation consistent with the national model WHS Regulation for lead risk work. The WHS Regulation currently requires employers in ‘lead risk workplaces’ to have workers’ blood lead levels monitored by a medical practitioner. The national model WHS Regulation was amended in 2018 to lower the blood lead level testing thresholds for workers exposed to lead in the workplace to reflect current epidemiological and toxicological evidence. Queensland has not yet adopted the blood lead level amendments in the national model WHS Regulation. All other harmonised jurisdictions have adopted the blood lead level amendments.

The national model WHS Regulation was also amended from 2016 to 2020 to provide updated Australian Standards regarding plant design and registration, high-risk diving work, and the safe use of lasers in the building and construction industry; it also clarifies the definition of a ‘hazardous chemical’. The Amendment Regulation incorporates these updated technical standards and definitions from the national model WHS Regulation.

Achievement of policy objectives

The Amendment Regulation strengthens the WHS Regulation and ensures it remains consistent with the national model WHS Regulation. The Amendment Regulation also ensures that Queensland workers and businesses receive greater protections from the updated technical standards and definitions in the NMR amendments.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the authorising Act.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation will ensure Queensland's WHS Regulation is strengthened and remains consistent with the national model. Another benefit of the Amendment Regulation is that Queensland workers and businesses will receive greater protections from the updated technical standards and definitions in the NMR amendments.

The implementation of the Amendment Regulation is not expected to impose a significant financial burden on industry or the community. Some businesses that undertake lead risk work may incur additional compliance costs. OIR will consult affected businesses prior to the Amendment Regulation taking effect. The introduction of the blood lead level amendments will be delayed by 6-months after commencement to allow industry to prepare for the changes.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

As the Amendment Regulation adopts minor technical amendments to the national model WHS Regulation, public consultation has not been undertaken.

The Office of Best Practice Regulation (OBPR) was consulted on the proposed amendments to the WHS Regulation regarding workers' blood lead levels. In a letter dated 29 March 2022, OBPR confirmed that no further regulatory impact analysis was required under the *Queensland Government Guide to Better Regulation* (the guidelines).

OBPR has not been consulted on the remainder of the proposed amendments in the Amendment Regulation. OIR has assessed the guidelines and considers that the remainder of the proposed amendments are excluded from regulatory impact analysis under *Category (g) – Regulatory proposals that are of a machinery nature*.

Notes on provisions

Short title

Clause 1 sets out the short title of the Amendment Regulation.

Commencement

Clause 2 states that Part 2 of the Amendment Regulation commences on 1 January 2023 and Part 3 of the Amendment Regulation commences on 1 July 2023.

Regulation amended

Clause 3 states that the Amendment Regulation amends the *Work Health and Safety Regulation 2011*.

Amendment of s 183 (Duties of person conducting business or undertaking)

Clause 4 amends section 183 by inserting ‘AS/NZS 2299.1:2015 (Occupational diving operations Part 1: Standard operational practice)’.

Amendment of s 184 (Duty of worker—competence)

Clause 5 amends section 184 by inserting ‘AS/NZS 2299.1:2015 (Occupational diving operations Part 1: Standard operational practice)’.

Amendment of s 223 (Lasers)

Clause 6 amends section 223(6) by inserting ‘AS 2397:2015—Safe use of lasers in the building and construction industry’.

Amendment of s 338 (Supplier labelling hazardous chemicals)

Clause 7 amends section 338 by inserting subsection 338(2) as follows: ‘Subsection (1) does not apply to a hazardous chemical manufactured or imported before 1 January 2023 that was, at the time it was manufactured or imported, labelled in accordance with GHS 3.’

Amendment of s 341 (Labelling hazardous chemicals—general requirement)

Clause 8 amends section 341 by inserting subsection 341(2) with updated requirements for labelling hazardous chemicals.

Amendment of s 342 (Labelling hazardous chemicals—containers)

Clause 9 amends section 342 by inserting subsections 342(1A) and 342(2A) with updated requirements for labelling hazardous chemical containers.

Amendment of schedule 6 (Classification of mixtures)

Clause 10 amends the notes in tables 6.1, 6.2, 6.3, 6.4 and 6.5 of Schedule 6 with updated requirements for the classification of mixtures.

Amendment of schedule 7 (Safety data sheets)

Clause 11 amends sections 1(2)(a) and 1(2)(g) of Schedule 7 to omit outdated information.

Amendment of schedule 8 (Disclosure of ingredients in safety data sheet)

Clause 12 amends tables 8.1 and 8.2 of Schedule 8 with updated requirements for the disclosure of ingredients in safety data sheets.

Amendment of schedule 11 (Placard and manifest quantities)

Clause 13 amends table 11.1 in Schedule 11 with an updated table for placard and manifest quantities of hazardous chemicals.

Amendment of schedule 19 (Dictionary)

Clause 14 amends schedule 19 with updated definitions for ‘*ADG code*’, ‘*fitness criteria*’, ‘*GHS*’, ‘*GHS 3*’, ‘*hazardous chemical*’, and ‘*steam turbine*’.

Amendment of s 394 (Meaning of lead risk work)

Clause 15 amends sections 394(a) and 394(b) to provide an updated meaning of lead risk work for workers in a lead process.

Amendment of s 407 (Frequency of biological monitoring)

Clause 16 amends sections 407(1)(a), 407(1)(b)(i) and 407(1)(b)(ii) to provide updated requirements for the frequency of biological monitoring for workers who carry out lead risk work.

Amendment of s 415 (Removal of worker from lead risk work)

Clause 17 amends sections 415(1)(a)(i), 415(1)(a)(ii) and 415(1)(a)(iii) to provide updated requirements for when workers must be removed from carrying out lead risk work. Clause 17 omits section 415(1)(a)(iii).

Amendment of s 417 (Return to lead risk work after removal)

Clause 18 amends sections 417(3)(a)(i) and 417(3)(a)(ii) to provide updated requirements for returning a worker to lead risk work.

Amendment of schedule 5 (Registration of plant and plant designs)

Clause 19 amends Schedule 5 to provide updated requirements for items of plant requiring registration of design and items of plant requiring registration.