

Work Health and Safety Amendment Regulation 2022

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Grace Grace, Minister for Education, Minister for Industrial Relations and Minister for Racing, provide this human rights certificate with respect to the *Work Health and Safety Amendment Regulation 2022* (Amendment Regulation) made under the *Work Health and Safety Act 2011*.

In my opinion, the Amendment Regulation is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation strengthens the *Work Health and Safety Regulation 2011* (WHS Regulation) by incorporating national model Work Health and Safety Regulations (NMR amendments).

The national model WHS Regulation was amended by Safe Work Australia (SWA) members—including Queensland—in 2016, 2018, and 2020.

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

OIR's position is that the proposed amendments are justified to ensure the WHS Regulation is strengthened and remains consistent with the national model. The Amendment Regulation also ensures that Queensland workers and businesses receive greater protections from the updated technical standards and definitions in the NMR amendments.

OIR proposes to amend the WHS Regulation consistent with the national model WHS Regulation for lead risk work. The WHS Regulation 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 adopt SWA's preferred option of lowering the thresholds of blood lead levels for workers exposed to lead in the workplace to reflect current epidemiological and toxicological evidence. Queensland is yet to adopt the blood lead level amendments. All other harmonised jurisdictions have introduced 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; is also clarifies the definition of a 'hazardous chemical'. The Amendment Regulation incorporates these updated technical standards and definitions from the national model WHS Regulation.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The Amendment Regulation requires employers in ‘*lead risk workplaces*’ to have workers’ blood lead levels monitored by a registered medical practitioner. Workers are required to provide blood samples to ensure any exposure to lead at work is not unsafe.

The HR Act provides that a person has the right not to have their privacy unlawfully or arbitrarily interfered with (section 25, HR Act). The Amendment Regulation requires workers to provide blood samples to protect their health and safety at work—which is a lawful requirement—and is not in conflict with section 25 of the HR Act.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

Notwithstanding that the Amendment Regulation may have implications relevant to the HR Act, the introduction of the Amendment Regulation does not limit human rights under the HR Act. Therefore, it is not necessary to consider section 13 of the HR Act.

Conclusion

I consider that the *Work Health and Safety Amendment Regulation 2022* is compatible with the *Human Rights Act 2019* because it does not limit human rights.

THE HONOURABLE GRACE GRACE MP
MINISTER FOR EDUCATION
MINISTER FOR INDUSTRIAL RELATIONS AND
MINISTER FOR RACING

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