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## INDUSTRIAL RELATIONS

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IR301

Work Health and Safety Act 2020

### **Industrial Relations Regulations Amendment (Work Health and Safety) Regulations 2022**

SL 2022/214

Made by the Governor in Executive Council.

#### **Part 1 — Preliminary**

**1. Citation**

These regulations are the *Industrial Relations Regulations Amendment (Work Health and Safety) Regulations 2022*.

**2. Commencement**

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

## **Part 2 — *Work Health and Safety (General) Regulations 2022* amended**

### **3. Regulations amended**

This Part amends the *Work Health and Safety (General) Regulations 2022*.

### **4. Regulation 5 amended**

- (1) In regulation 5 insert in alphabetical order:

*psychosocial hazard* has the meaning given in regulation 55A;

*psychosocial risk* has the meaning given in regulation 55B;

- (2) In regulation 5 in the definition of *medical examination notice*:

- (a) delete “Division 11,” and insert:

Division 12,

- (b) delete “regulation 55A;” and insert:

regulation 55E;

### **5. Part 3.2 Division 11 replaced**

Delete Part 3.2 Division 11 and insert:

## **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 other than regulation 36.

**55D. Control measures**

(1A) In this regulation —

*workers' accommodation* means premises to which section 19(4) of the Act applies.

- (1) A person conducting a business or undertaking must implement control measures —
  - (a) to eliminate psychosocial risks so far as is reasonably practicable; and
  - (b) if it is not reasonably practicable to eliminate psychosocial risks — to minimise the risks so far as is reasonably practicable.
- (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) *[not used]*

Note for this regulation:

WHS Act — section 19 (see regulation 9).

## **Division 12 — Directed medical examinations**

### **55E. Meaning of medical examination notice**

In this Division —

***medical examination notice*** has the meaning given in regulation 55F(1).

### **55F. Regulator may direct medical examination of workers**

- (1) The regulator may, by written notice (a ***medical examination notice***), direct a person conducting a business or undertaking to arrange, at the expense of the person and within the time specified in the notice, a medical examination of a worker whose name is specified in the notice.
- (2) The medical examination notice must specify the purpose of the proposed medical examination.

Note for this regulation:

A decision to issue a medical examination notice is a reviewable decision (see regulation 676).

### **55G. Worker to choose registered medical practitioner**

- (1) The regulator must ensure that, before the medical examination is conducted, the worker is advised of the nature of, and the reasons for, the medical examination so that the worker is sufficiently informed for the purposes of making a choice in the selection of a registered medical practitioner.
- (2) For the purposes of selecting a registered medical practitioner to conduct the medical examination, the person conducting the business or undertaking must consult with the worker and give the worker a reasonable choice in the selection of the registered medical practitioner.

### **55H. Person conducting business or undertaking must comply with medical examination notice**

- (1) A person conducting a business or undertaking must comply with a medical examination notice.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;

- (b) for a body corporate, a fine of \$21 000.
- (2) It is a defence to a charge of an offence under subregulation (1) to prove that the worker who is the subject of the medical examination notice does not —
  - (a) agree to the selection of the registered medical practitioner; or
  - (b) consent to undergoing the examination.

**55I. Duties of registered medical practitioner conducting examination**

- (1) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must explain any test results to the worker and give a copy of the test results to the worker.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
    - (b) for a body corporate, a fine of \$21 000.
  - (2) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must give a copy of any medical report based on the test results or medical examination to the worker.
- Penalty for this subregulation:
- (a) for an individual, a fine of \$4 200;
    - (b) for a body corporate, a fine of \$21 000.
  - (3) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must give a copy of the test results to the regulator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
  - (b) for a body corporate, a fine of \$21 000.
- (4) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must, on the written request of the examined worker, give the registered medical practitioner's findings on the examination to another registered medical practitioner who has been nominated by the examined worker.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
  - (b) for a body corporate, a fine of \$21 000.

**55J. Regulator must inform person conducting business or undertaking**

The regulator must inform the person conducting a business or undertaking who arranged a medical examination for the purposes of a medical examination notice of —

- (a) the outcome of the medical examination; and
- (b) any need for remedial action.

**55K. Person conducting business or undertaking must ensure confidentiality of medical examination results**

A person conducting a business or undertaking must ensure that the results of a medical examination conducted for the purposes of a medical examination notice are treated as confidential records.

Penalty:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

**6. Regulation 676 amended**

In regulation 676(1) in the Table in item 1A delete “r. 55B —” and insert:

r. 55F —

**Part 3 — *Work Health and Safety (Mines) Regulations 2022* amended**

**7. Regulations amended**

This Part amends the *Work Health and Safety (Mines) Regulations 2022*.

**8. Regulation 5 amended**

- (1) In regulation 5 insert in alphabetical order:

*psychosocial hazard* has the meaning given in regulation 55A;

*psychosocial risk* has the meaning given in regulation 55B;

(2) In regulation 5 in the definition of *medical examination notice*:

(a) delete “Division 11,” and insert:

Division 12,

(b) delete “regulation 55A;” and insert:

regulation 55E;

**9. Part 3.2 Division 11 replaced**

Delete Part 3.2 Division 11 and insert:

**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 other than regulation 36.

**55D. Control measures**

(1A) In this regulation —

*workers’ accommodation* means premises to which section 19(4) of the Act applies.

(1) A person conducting a business or undertaking must implement control measures —

(a) to eliminate psychosocial risks so far as is reasonably practicable; and

- (b) if it is not reasonably practicable to eliminate psychosocial risks — to minimise the risks so far as is reasonably practicable.
- (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) *[not used]*

Note for this regulation:

WHS Act — section 19 (see regulation 9).

## **Division 12 — Directed medical examinations**

### **55E. Meaning of medical examination notice**

In this Division —

***medical examination notice*** has the meaning given in regulation 55F(1).



**55F. Regulator may direct medical examination of workers**

- (1) The regulator may, by written notice (a *medical examination notice*), direct a person conducting a business or undertaking to arrange, at the expense of the person and within the time specified in the notice, a medical examination of a worker whose name is specified in the notice.
- (2) The medical examination notice must specify the purpose of the proposed medical examination.

Note for this regulation:

A decision to issue a medical examination notice is a reviewable decision (see regulation 676).

**55G. Worker to choose registered medical practitioner**

- (1) The regulator must ensure that, before the medical examination is conducted, the worker is advised of the nature of, and the reasons for, the medical examination so that the worker is sufficiently informed for the purposes of making a choice in the selection of a registered medical practitioner.
- (2) For the purposes of selecting a registered medical practitioner to conduct the medical examination, the person conducting the business or undertaking must consult with the worker and give the worker a reasonable choice in the selection of the registered medical practitioner.

**55H. Person conducting business or undertaking must comply with medical examination notice**

- (1) A person conducting a business or undertaking must comply with a medical examination notice.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
  - (b) for a body corporate, a fine of \$21 000.
- (2) It is a defence to a charge of an offence under subregulation (1) to prove that the worker who is the subject of the medical examination notice does not —
  - (a) agree to the selection of the registered medical practitioner; or
  - (b) consent to undergoing the examination.

**55I. Duties of registered medical practitioner conducting examination**

- (1) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must explain any test results to the worker and give a copy of the test results to the worker.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (2) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must give a copy of any medical report based on the test results or medical examination to the worker.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (3) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must give a copy of the test results to the regulator.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

- (4) A registered medical practitioner who conducts a medical examination for the purposes of a medical examination notice must, on the written request of the examined worker, give the registered medical practitioner's findings on the examination to another registered medical practitioner who has been nominated by the examined worker.

Penalty for this subregulation:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

**55J. Regulator must inform person conducting business or undertaking**

The regulator must inform the person conducting a business or undertaking who arranged a medical examination for the purposes of a medical examination notice of —

- (a) the outcome of the medical examination; and
- (b) any need for remedial action.

**55JA. Person conducting business or undertaking must inform mine operator**

- (1) This regulation applies if —
- (a) the person conducting a business or undertaking at a mine arranged a medical examination for the purposes of a medical examination notice; and
  - (b) the person conducting the business or undertaking is not the mine operator of the mine.
- (2) The person conducting the business or undertaking must inform the mine operator of the mine of —
- (a) the outcome of the medical examination; and
  - (b) any need for remedial action.

Penalty for this subregulation:

- (a) for an individual, a fine of \$7 000;
- (b) for a body corporate, a fine of \$35 000.

**55K. Person conducting business or undertaking must ensure confidentiality of medical examination results**

Subject to regulation 55JA, a person conducting a business or undertaking must ensure that the results of a medical examination conducted for the purposes of a medical examination notice are treated as confidential records.

Penalty:

- (a) for an individual, a fine of \$4 200;
- (b) for a body corporate, a fine of \$21 000.

**10. Regulation 676 amended**

In regulation 676(1) in the Table in item 1A delete “r. 55B —” and insert:

r. 55F —

N. HAGLEY, Clerk of the Executive Council.