



New South Wales

Work Health and Safety Amendment Regulation 2022

under the

Work Health and Safety Act 2011

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Work Health and Safety Act 2011*.

VICTOR DOMINELLO, MP
Minister for Fair Trading

Explanatory note

The objects of this Regulation are—

- (a) to give effect to the *Model Work Health and Safety Legislation Amendment 2022*, Part 3 by—
 - (i) requiring a person conducting a business or undertaking to manage psychosocial risks

This Regulation is made under the *Work Health and Safety Act 2011*, including sections 271(3)(c)(ii) and 276, the general regulation-making power, and Schedule 3, clauses 5 and 6.

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1 Name of Regulation

This Regulation is the *Work Health and Safety Amendment Regulation 2022*.

2 Commencement

This Regulation commences as follows—

- (a) on 1 October 2022

Schedule 1 Amendment of Work Health and Safety Regulation 2017

[1] Clause 5 Definitions

Insert in alphabetical order in clause 5(1)—

psychosocial hazard—see clause 55A.

psychosocial risk—see clause 55B.

[2] Clause 15 References to standards

Insert at the end of the clause—

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, this Regulation to the extent this Regulation provides, whether expressly or by necessary implication.

For example, in clause 5(1), definition of *boiler*, there is an exception in paragraph (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 of boiler. As a result, the equipment is not covered by particular provisions of this Regulation relating to high risk work.

[3] Clause 28, heading

Omit “section 117”. Insert instead “Part 7, Division 2”.

[4] Clause 28(1)

Omit “section 117”. Insert instead “the Act, Part 7, Division 2”.

[5] Chapter 3, Part 3.2, Division 11

Insert after clause 55—

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 clause 36.

55D Control measures

- (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) In this clause—

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

Note— WHS Act—section 19 (see clause 9).