

## Coal Mining Safety and Health Regulation (2001)

### Division 2 Coal Mine Workers' Health Scheme

#### Subdivision 1 Preliminary

##### 44 Application of div 2

- (1) This division applies to each coal mine worker, other than a coal mine worker employed, or to be employed, to carry out a low risk task at a coal mine.
- (2) In this section –  
**Low risk task** means a task shown by a risk assessment to create a risk that is so minimal it can be managed effectively without requiring the worker to undergo a health assessment.

#### Subdivision 2 Nominated Medical Adviser

##### 45 Appointment of nominated medical adviser

- (1) Each employer must –
  - (a) appoint a doctor (the **nominated medical adviser**) to carry out, supervise, and report on, health assessments under this division for the employer's coal mine workers; and
  - (b) as soon as practicable after making the appointment, give the chief executive a notice stating the nominated medical adviser's name and contact details.
- (2) The employer must include in the contract appointing the nominated medical adviser an obligation on the adviser to discuss, and give advice about, appropriate duties for the worker, under subsection 3.
- (3) The discussions must be held with, and advice given to, the employer and coal mine worker or the worker's representative.
- (4) The employer must also include in the contract an obligation on the nominated medical adviser, if asked by the coal mine worker, to discuss the worker's health assessment with another doctor nominated by the worker.

#### Subdivision 3 Health assessments and health monitoring

##### 46 Health assessment

- (1) The employer must ensure that a health assessment is carried out for each person who is to be employed, or is employed, by the employer as a coal mine worker.
- (2) The assessment must be carried out –
  - (a) in accordance with the instructions, and covering the matters, in the approved form; and

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- (b) by, or under the supervision of, the nominated medical adviser.
- (3) The assessment may include matters not covered in the approved form if, having regard to a risk assessment carried out for a task for which the person is to be employed, or is employed, the nominated medical adviser considers the person needs to be assessed in relation to the additional matters to achieve an acceptable level of risk.
- (4) The assessment must be carried out –
- (a) before the person is employed as a coal mine worker; and
  - (b) if the nominated medical adviser considers the assessment is necessary after being given a notice under section 49(3) – periodically, as decided by the nominated medical adviser; and
  - (c) otherwise, periodically, as necessary, but at least once every 5 years.
- (5) A medical examination of the person carried out by a doctor other than the nominated medical adviser is taken to be a health assessment carried out by the nominated medical adviser under subsection (2) if –
- (a) the medical examination is carried out under the instructions in the approved form and the nominated medical adviser gives the employer a health assessment report about the examination; or
  - (b) the medical examination is for other employment and the nominated medical adviser -
    - (i) is satisfied the examination is equivalent to a health assessment; and
    - (ii) gives the employer a health assessment report about the examination.

## 47 Employer's responsibility for health assessment

- (1) The employer must –
- (a) arrange for the health assessment or medical examination mentioned in section 46; and
  - (b) ask the nominated medical adviser to give –
    - (i) a health assessment report to the employer; and
    - (ii) a copy and explanation of the report to the person to whom it relates.
- (2) The nominated medical adviser must comply with the request under subsection 1(b).

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- (3) The employer must pay for the following –
- (a) The health assessment or medical examination;
  - (b) A copy of a report about the medical examination.
- (4) Subsection (3) is not a safety and health obligation for the Act.
- (5) Nothing in this division makes the employer responsible for the treatment of any physical or medical condition of the person.

#### 48 Reviewing health assessment report

- (1) This section applies if the employer is given a health assessment report (the **original health assessment report**) about a coal mine worker showing the worker is unable to carry out the worker's tasks at the mine without creating an unacceptable level of risk.
- (2) Before taking action to terminate the worker's employment or demote the worker, the employer must give –
- (a) the worker reasonable opportunity to undergo a further health assessment from another nominated medical adviser or relevant medical specialist chosen by the worker; and
  - (b) the nominated medical adviser or medical specialist details of the worker's tasks.
- (3) Subsection 4 applies if the worker –
- (a) undergoes the further health assessment; and
  - (b) gives the employer a report about the assessment (the **further health assessment report**), signed by the nominated medical adviser or medical specialist who carried out the assessment.
- (4) The employer must-
- (a) give the nominated medical adviser who gave the employer the original health assessment report a copy of the further health assessment report; and
  - (b) ask the nominated medical adviser to-
    - (i) review the original health assessment report having regard to the further health assessment report; and
    - (ii) give both the employer and the worker a report about the review.
- (5) The worker must pay for the further health assessment.

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- (6) In this section-  
**relevant medical specialist** means a specialist under the *Medical Act 1939* for a branch of medicine that is relevant to the worker's condition.

## 49 Monitoring for workers' exposure to hazards

- (1) A coal mine's safety and health management system must provide for the periodic monitoring of the level of risk from hazards at a mine that are likely to create an unacceptable level of risk.
- (2) The system must also provide for notice of any appreciable increase in the level of risk to a coal mine worker at the mine to be given to the worker's employer.
- (3) An employer who is given notice under subsection (2) must give a copy of the notice to the employer's nominated medical adviser.
- (4) An employer must ensure that, if a coal mine worker employed by the employer is exposed to a hazard at a coal mine that may increase the level of risk to the worker, the worker's exposure to the hazard is periodically monitored to assess the level of risk to the worker.

## Subdivision 4 Records

### 50 Records about health assessment

- (1) Subject to subsection (2), a nominated medical adviser must, on behalf of the chief executive, keep the following records –
  - (a) For each health assessment carried out by the nominated medical adviser under this division -
    - (i) the data on which the assessment was based; and
    - (ii) a copy of the completed approved form for the assessment;
  - (b) for each medical examination taken, under section 46(5), to be a health assessment carried out by the nominated medical adviser-
    - (i) the information forming the basis for the nominated medical adviser's report about the medical examination under the subsection; and
    - (ii) a copy of the report.
- (2) As soon as practicable after obtaining an original chest x-ray and x-ray report, the nominated medical adviser must give the x-ray and a copy of the report to the chief executive.

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- (3) As soon as practicable after completing a report about the health assessment or medical examination, the nominated medical adviser must give a legible copy of the report and the data or information on which it was based to the chief executive.

## 51 Ownership of health assessment records

A record kept by the nominated medical adviser under section 50(1) is a record of the department.

## 52 Confidentiality of medical record

- (1) A person must not disclose to anyone, other than under this section, the contents of a coal mine worker's medical record obtained by the person under this division.

Maximum penalty – 100 penalty units.

- (2) A nominated medical adviser may disclose the contents of the record to the coal mine worker or someone with the worker's written consent.

*Example of someone with the written consent – The worker's representative at the mine.*

- (3) The chief executive may disclose the contents of the record –
- (a) to the worker; or
  - (b) with the written consent of the worker, to a doctor, hospital or other person; or
  - (c) to a person for research purposes, but only if the identity of the worker is protected.
- (4) Despite subsection (3)(b), the chief executive may disclose the contents of the record to a doctor or hospital without the worker's consent if –
- (a) the doctor or hospital need to obtain the contents to treat the worker; and
  - (b) the worker is unable to give the consent.
- (5) Subsection (1) is not a safety and health obligation for the Act.
- (6) In this section -  
**Medical record**, of a coal mine worker, means personal medical results or clinical findings obtained from a health assessment of a worker.

## 53 Records of monitoring for worker's exposure to hazards

- (1) The site senior executive must ensure a record about monitoring carried out under section 49 is kept for 30 years after it is made or the lesser period agreed with the chief executive.

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- (2) The employer of a coal mine worker for whom monitoring is carried out under section 49(4), or another person agreed between the employer and the chief executive, must keep a record about the monitoring for 30 years after it is made or the lesser period agreed with the chief executive.
- (3) In agreeing to a lesser period under subsection (1) or (2), the chief executive must have regard to information held by the department about the matter the subject of the record.

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The complete coal mining safety and health legislation (the *Coal Mining Safety and Health Act [1999]* and the *Coal Mining Safety and Health Regulation [2001]*) is available from the Parliamentary Counsel website <http://www.legislation.qld.gov.au/OQPChome.htm> Click on "Acts and SL (subordinate legislation) as in force", then on "C" in the alphabet list and scroll down to the coal mining legislation.

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