



Australian Capital Territory

Occupational Health and Safety Amendment Act 2007

A2007-31

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Australian Capital Territory

Occupational Health and Safety Amendment Act 2007

A2007-31

An Act to amend the *Occupational Health and Safety Act 1989*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2007-221

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Occupational Health and Safety Amendment Act 2007*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Occupational Health and Safety Act 1989*.

Note This Act also amends the following legislation (see sch 1):

- *Dangerous Substances Act 2004*
- *Public Sector Management Act 1994*.

4 Functions Section 12 (1) (a) (iii) and (b) (iii)

omit

5 Section 12 (1), new note

insert

Note A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, defs of *entity* and *function*).

6 Section 12 (2) (g), (h) and (i)

substitute

(g) the provision of education and training in relation to workers compensation.

**7 Powers
Section 13**

omit

**8 Membership
Section 14 (1) (c)**

substitute

(c) 4 other members appointed by the Minister; and

9 Section 14 (1), new notes

insert

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see Legislation Act, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

10 Section 14 (2)

omit

11 Sections 15 to 17

substitute

15 Terms of appointment

- (1) The appointed members of the council must be appointed as part-time members.
- (2) An appointed member of the council must be appointed for not longer than 3 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def of *appoint*).

- (3) An appointed member of the council holds office on the conditions (if any) about matters not provided for by this Act that are determined in writing by the Minister.

16 Appointment of chair and deputy chair

The Minister must appoint a member of the council appointed under section 14 (1) (c) as chair of the council and another member as deputy chair of the council.

17 Leave of absence

- (1) The Minister may grant leave of absence to the chair or deputy chair on the conditions (if any) about remuneration or other matters that the Minister determines.
- (2) The council may grant leave of absence to a member (other than the chair or deputy chair) on the conditions (if any) about remuneration or other matters that the council determines.

12 Resignation Section 19

omit

13 Section 20*substitute***20 Ending appointment of council member**

- (1) This section applies to a member of the council other than the commissioner.
- (2) The Minister must end the appointment of a member of the council if the Minister becomes aware that the member—
 - (a) has become bankrupt or executed a personal insolvency agreement; or
 - (b) has failed to comply with section 18 (Disclosure of interest) without reasonable excuse; or
 - (c) has at any time been convicted, in Australia, of an offence punishable by imprisonment for 1 year or longer; or
 - (d) has at any time been convicted, outside Australia, of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for 1 year or longer.
- (3) However, before ending the appointment of the member under subsection (2) (c) or (d) the Minister must be satisfied that the conviction affects the member's suitability as a member of the council.
- (4) The Minister may end the appointment of a member of the council—
 - (a) if the member was appointed under section 14 (1) (a) and the Minister is satisfied that the member no longer represents the interests of employees; or
 - (b) if the member was appointed under section 14 (1) (b) and the Minister is satisfied that the member no longer represents the interests of employers; or

- (c) if the member is absent from 3 consecutive meetings of the council, otherwise than on leave approved under section 17; or
- (d) if the member contravenes a territory law; or
- (e) for misbehaviour; or
- (f) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

**14 Acting members
Section 21**

omit

**15 Calling meetings
Section 22 (1) and (2)**

omit

chairperson

substitute

chair

**16 Procedure at meetings
Section 23 (1), (2) and (3)**

omit

chairperson

substitute

chair

**17 Immunity from suit
Section 24 (1)**

substitute

- (1) An action, suit or proceeding does not lie against a person who is or has been a member of the council in relation to an honest act or omission in the exercise or purported exercise of a function under this Act.

**18 Failure to comply with safety duty—exposing people to substantial risk of serious harm
New section 48 (3)**

insert

- (3) Strict liability applies to subsection (1) (b).

**19 Failure to comply with safety duty—causing serious harm to people
New section 49 (3)**

insert

- (3) Strict liability applies to subsection (1) (b).

20 Dictionary, definition of *chairperson*

substitute

chair means the chair of the council appointed under section 16.

21 Dictionary, definition of *deputy chairperson*

substitute

deputy chair means the deputy chair of the council appointed under section 16.

Schedule 1 Other amendments

(see s 3)

Part 1.1 Dangerous Substances Act 2004

[1.1] New section 43 (3)

insert

- (3) Strict liability applies to subsection (1) (b).

[1.2] New section 44 (3)

insert

- (3) Strict liability applies to subsection (1) (b).

[1.3] New section 45 (3)

insert

- (3) Strict liability applies to subsection (1) (b).

[1.4] New section 46 (3)

insert

- (3) Strict liability applies to subsection (1) (b).

Part 1.2 **Public Sector Management Act 1994**

[1.5] Schedule 3, modification 3.17, new section 88L

omit

[1.6] Schedule 3, modification 3.17, new section 88M (1)

omit

A member of the council

substitute

The chief executive

[1.7] Schedule 3, modification 3.17, new section 88Q (1) (b)

omit

council's

substitute

chief executive's

[1.8] Schedule 3, modification 3.17, new section 88S

omit

[1.9] Schedule 3, modification 3.17, new part 5A, further amendments, mentions of *council*

omit

council

substitute

chief executive

in

- sections 88B to 88D
- section 88E heading
- sections 88E to 88K
- section 88LA and note
- section 88M (1) (2nd mention) and (2)
- sections 88Q and 88R

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 30 August 2007.

2 Notification

Notified under the Legislation Act on 24 October 2007.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Occupational Health and Safety Amendment Bill 2007, which was passed by the Legislative Assembly on 18 October 2007.

Clerk of the Legislative Assembly

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