

2009

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Industrial Relations)

# Work Safety Legislation Amendment Bill 2009

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J2008-563

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# Work Safety Legislation Amendment Bill 2009

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## A Bill for

An Act to amend legislation because of the enactment of the *Work Safety Act 2008*, and for other purposes

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

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J2008-563

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

1 **1 Name of Act**

2 This Act is the *Work Safety Legislation Amendment Act 2009*.

3 **2 Commencement**

4 This Act commences on the later of—

- 5 (a) the day after this Act's notification day; and  
6 (b) the commencement of the *Work Safety Act 2008*.

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

9 **3 Legislation amended—schs 1 and 2**

10 This Act amends the legislation mentioned in schedules 1 and 2.

11 **4 Legislation repealed**

12 (1) This Act repeals the following legislation:

- 13 • *Occupational Health and Safety Act 1989* (A1989-18)  
14 • *Occupational Health and Safety (Certification of Plant Users  
15 and Operators) Regulation 2000* (SL2000-48)  
16 • *Occupational Health and Safety (General) Regulation 2007*  
17 (SL2007-36)  
18 • *Occupational Health and Safety (Manual Handling)  
19 Regulation 1997* (SL1997-32).

20 (2) All other legislative instruments, other than the following  
21 instruments, under the *Occupational Health and Safety Act 1989* are  
22 repealed:

- 23 (a) an appointment mentioned in the *Work Safety Act 2008*,  
24 sections 505 to 507;

1 (b) a code of practice mentioned in the *Work Safety Act 2008*,  
2 section 508.

3 *Note* The transitional provisions inserted into the *Work Safety Act 2008* by  
4 this Act provide that certain legislative instruments made under the  
5 *Occupational Health and Safety Act 1989* are taken to be made under  
6 the *Work Safety Act 2008* and continue in force.

1 **Schedule 1 Work Safety Act 2008**

2 (see s 3)

3 **[1.1] Section 19**

4 *substitute*

5 **19 Approved code of practice and incorporated document**  
6 **may be considered**

7 In deciding whether a person has complied with a duty under this  
8 Act, a decision-maker may consider whether a person has complied  
9 with—

- 10 (a) any approved code of practice in relation to the duty; and  
11 (b) any incorporated document in relation to the duty.

12 **[1.2] Section 21 (3)**

13 *substitute*

14 (3) Without limiting subsection (2), the person's duty includes—

- 15 (a) providing and maintaining a safe workplace and safe systems  
16 of work; and  
17 (b) providing and maintaining plant that is safe and without risk to  
18 the work safety of workers and other people at the business or  
19 undertaking; and  
20 (c) ensuring that plant is operated only by workers and other  
21 people at the business or undertaking who are qualified to  
22 operate the plant; and  
23 (d) ensuring the safe use, handling, storage and transport of  
24 substances; and  
25 (e) providing adequate facilities for the work safety of workers  
26 and other people at the business or undertaking; and

- 1 (f) monitoring the work safety of workers at the business or  
2 undertaking, and the conditions at the workplace, to ensure that  
3 work-related illness and injury are prevented; and
- 4 (g) keeping the information and records relating to work safety  
5 required under this Act, including incident reports and training  
6 records, in relation to the business or undertaking; and
- 7 (h) providing appropriate information, instruction, training or  
8 supervision to workers and other people at the business or  
9 undertaking to allow work to be carried out safely; and
- 10 (i) consulting workers at the business or undertaking on matters  
11 that directly affect their work safety; and
- 12 (j) any other duty prescribed by regulation.

13 **[1.3] Section 37**

14 *substitute*

15 **37 Meaning of *dangerous occurrence***

16 In this Act:

17 *dangerous occurrence* means 1 or more of the following:

- 18 (a) an occurrence involving imminent risk of the death of, or  
19 serious injury to, anyone;
- 20 (b) any of the following occurrences that endangers or is likely to  
21 endanger the work safety of people at a workplace:
- 22 (i) damage to a boiler, pressure vessel, plant, equipment or  
23 other thing;
- 24 (ii) damage to, or failure of, a load-bearing member or  
25 control device of a crane, hoist, conveyor, lift, escalator,  
26 moving walkway, plant, scaffolding, gear, amusement  
27 device or public stand;

1 (iii) an uncontrolled fire, uncontrolled explosion or  
2 uncontrolled escape of gas, a dangerous substance or  
3 steam;

4 (c) anything else prescribed by regulation.

5 **Example—par (a)**

6 1 uncontrolled escape of flammable gas in a workshop where welding occurs  
7 creating a imminent risk of death or serious injury due to the likelihood of an  
8 explosion

9 2 collapse of an excavation trapping worker underground causing imminent  
10 risk of death or serious injury due to suffocation

11 *Note* An example is part of the Act, is not exhaustive and may extend, but  
12 does not limit, the meaning of the provision in which it appears (see  
13 Legislation Act, s 126 and s 132).

14 **[1.4] Section 46, new note**

15 *insert*

16 *Note* **Employer**—see s 10.

17 **[1.5] Section 47 (1)**

18 *omit*

19 *if*

20 *substitute*

21 *as far as*

22 **[1.6] Section 52 (2) (c)**

23 *substitute*

24 (c) if a worker in the unit, a work safety representative or a work  
25 safety committee asks for a review.

**[1.7] Section 54 (3)**

*substitute*

- (3) However, if more than half the workers in the worker consultation unit ask that a work safety representative, or a work safety committee, be elected, the employer must arrange for the representative or the committee to be elected by the workers in the unit.

**[1.8] New section 54 (4)**

*insert*

- (4) The employer and the employer's workers may, either separately or together, ask someone else to assist in deciding on the method for worker consultation.

**[1.9] New section 55A**

*insert*

**55A Duty to consult—chief executive may direct election of work safety committee in an industry**

- (1) The chief executive may direct all employers in an industry to arrange for a health and safety committee to be elected by the workers in a worker consultation unit if satisfied on reasonable grounds that—
- (a) the work done by the workers in the industry is hazardous; and
  - (b) the establishment of the committee will improve work safety.
- (2) If the chief executive gives a direction under subsection (1), each employer conducting a business or undertaking in the industry must arrange for a work safety committee to be elected.
- (3) A direction under this section is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

- 1 (4) An employer commits an offence if—  
2 (a) the chief executive gives a direction under subsection (1); and  
3 (b) the employer conducts a business or undertaking in the  
4 industry mentioned in the direction; and  
5 (c) the employer fails to comply with the direction.  
6 Maximum penalty: 100 penalty units.  
7 (5) An offence against this section is a strict liability offence.

8 **[1.10] Section 56 (2) (d)**

9 *substitute*

- 10 (d) if the workers are not represented by a work safety  
11 representative or work safety committee—consulting the  
12 workers directly.

13 **[1.11] Section 56 (3)**

14 *substitute*

- 15 (3) An employer commits an offence if—  
16 (a) a worker consultation unit of the employer's workers elect a  
17 work safety representative or work safety committee; and  
18 (b) the employer fails to consult the work safety representative or  
19 work safety committee about a matter directly affecting the  
20 work safety of the employer's workers.  
21 Maximum penalty: 50 penalty units.

22 **[1.12] Section 58 (1) (a)**

23 *substitute*

- 24 (a) to represent the worker consultation unit—  
25 (i) in relation to work safety; and

- 1 (ii) in consultations with the workers' employer about the  
2 development, implementation and review of ways to  
3 safeguard work safety at each workplace where a  
4 represented worker works; and

5 **[1.13] New sections 58A and 58B**

6 *insert*

7 **58A Work safety representative—employer obstructing etc**

- 8 (1) An employer commits an offence if—  
9 (a) the employer knows that a person is a work safety  
10 representative; and  
11 (b) the employer obstructs, hinders, intimidates or resists the  
12 person in the exercise of the person's functions as a work  
13 safety representative.

14 Maximum penalty: 50 penalty units.

- 15 (2) Strict liability applies to the circumstances that the work safety  
16 representative was exercising the representative's functions as a  
17 work safety representative.

18 **58B Work safety representative—access to personal health  
19 information**

- 20 (1) An employer commits an offence if the employer directly or  
21 indirectly discloses personal health information about a worker to a  
22 work safety representative.

23 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
24 both.

- 25 (2) Subsection (1) does not apply if—

- 26 (a) the worker consents in writing to the work safety  
27 representative having access to the information; or

- 1 (b) the information does not identify the worker or allow the  
2 worker to be identified.

3 **[1.14] New section 60A**

4 *in division 4.3, insert*

5 **60A Work safety committee—protection from liability**

6 A member of a work safety committee does not incur civil liability  
7 for an act or omission done honestly and without recklessness in the  
8 exercise of a function for this Act.

9 *Note* A reference to an Act includes a reference to the statutory instruments  
10 made or in force under the Act, including regulations and the  
11 corrections rules (see Legislation Act, s 104).

12 **[1.15] Section 142 (2)**

13 *omit*

14 an improvement

15 *substitute*

16 a prohibition

17 **[1.16] New section 147 (4)**

18 *insert*

- 19 (4) If the chief executive is asked to arrange a reinspection under  
20 subsection (2) the chief executive must—  
21 (a) arrange for the reinspection; or  
22 (b) decide not to arrange for a reinspection and give the relevant  
23 responsible person the reasons for the decision.

**[1.17] Section 192***substitute***192 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—
- (a) the Minister becomes aware that the member has become bankrupt, executed a personal insolvency agreement or otherwise applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
  - (b) the member was appointed under section 186 (a) and the Minister is satisfied that the member no longer represents the interests of employees; or
  - (c) the member was appointed under section 186 (b) and the Minister is satisfied that the member no longer represents the interests of employees; or
  - (d) the Minister becomes aware that the member has failed to comply with section 190 (Disclosure of interest) without reasonable excuse; or
  - (e) the Minister becomes aware that the member has at any time been convicted, in Australia, of an offence punishable by imprisonment for 1 year or longer; or
  - (f) the Minister becomes aware that the member 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.

- 1 (3) The Minister may end the appointment of a member of the  
2 council—
- 3 (a) if the member is absent from 3 consecutive meetings of the  
4 council, otherwise than on leave approved under section 189;  
5 or
- 6 (b) if the member contravenes a territory law; or
- 7 (c) for misbehaviour; or
- 8 (d) for physical or mental incapacity, if the incapacity substantially  
9 affects the exercise of the member's functions.
- 10 *Note* A person's appointment also ends if the person resigns (see Legislation  
11 Act, s 210).
- 12 (4) However, before ending the appointment of the member under  
13 subsection (2) (e) or (f) or (3) (b) the Minister must be satisfied that  
14 the conviction or contravention affects the person's suitability as a  
15 member of the council.

16 **[1.18] Section 209 (1)**

17 *omit*

18 occupational

19 **[1.19] Section 211**

20 *substitute*

21 **211 Use of protected information**

- 22 (1) This section applies if—
- 23 (a) a person is exercising, or purporting to exercise, any function  
24 under this Act; and
- 25 (b) the person obtains protected information about another person.

- 1 (2) A person to whom this section applies commits an offence if the  
2 person—
- 3 (a) makes a record of the protected information; or
- 4 (b) directly or indirectly divulges the protected information to a  
5 person.
- 6 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
7 both.
- 8 (3) Subsection (2) does not apply if the record is made, or the protected  
9 information is divulged—
- 10 (a) under this or another territory law; or
- 11 (b) in relation to the exercise of a function of the person to whom  
12 this section applies under this or another territory law; or
- 13 (c) to a relevant authority, by the person to whom this section  
14 applies, if the person reasonably believes that recording or  
15 divulging the information is in the interests of work safety; or
- 16 (d) to a person administering or enforcing a corresponding law; or
- 17 (e) to a law enforcement authority; or
- 18 (f) to a court under a summons or subpoena.
- 19 (4) Subsection (2) does not prevent a person from making a record of,  
20 or divulging protected information about another person with the  
21 other person's consent.
- 22 (5) In this section:
- 23 *corresponding law* means—
- 24 (a) a law of a State corresponding, or substantially corresponding,  
25 to this Act; or

1 (b) a law of the Commonwealth or a State, that is declared by  
2 regulation to be a corresponding law, whether or not the law  
3 corresponds, or substantially corresponds, to this Act.

4 *Note* *State* includes a territory (see Legislation Act, dict, pt 1).

5 *court* includes any tribunal or other entity having power to require  
6 the production of documents or the answering of questions.

7 *protected information* means—

- 8 (a) information relating to the personal affairs of a person; or  
9 (b) information the disclosure of which would, or could reasonably  
10 be expected to—  
11 (i) disclose a trade secret; or  
12 (ii) adversely affect a person in relation to the lawful business  
13 affairs of that person.

14 *relevant authority* means a government agency administering a law  
15 of the Territory, the Commonwealth, or a State.

16 **[1.20] Section 230 (2)**

17 *substitute*

- 18 (2) A regulation may make provision on any subject matter affecting, or  
19 likely to affect, work safety.

20 **[1.21] Section 230 (3) (b)**

21 *omit*

22 20 penalty units

23 *substitute*

24 30 penalty units

**[1.22] New section 230 (3) (c)**

*insert*

(c) a document as an incorporated document.

*Note* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disappplied (see s 47 (7)).

**[1.23] New part 20**

*insert*

**Part 20 Transitional****500 Definitions—pt 20**

In this part:

*commencement day* means the day the *Work Safety Act 2008* commences.

*repealed Act* means the *Occupational Health and Safety Act 1989*.

**501 Transitional—health and safety representatives**

(1) The selection of a person as a health and safety representative for a designated work group under the repealed Act, section 56, that is in force immediately before the commencement day, is taken to be an election of the person as a work safety representative for the worker consultation unit that corresponds to the designated work group under this Act, section 58.

(2) The election mentioned in subsection (1) continues in force until the end of the health and safety representative's term of office.

1     **502           Transitional—health and safety committee**

2           A health and safety committee, operational immediately before the  
3           commencement day and carrying out the functions mentioned in the  
4           repealed Act, section 86, is taken to be a work safety committee that  
5           corresponds to the work safety committee under this Act, section 60.

6     **503           Transitional—work groups designated by employer**

7           (1) A work group designated by an employer under the repealed Act,  
8           section 53, that is in force immediately before the commencement  
9           day, that corresponds to a worker consultation unit under this Act is  
10          taken to be a worker consultation unit under this Act.

11          (2) The worker consultation unit mentioned in subsection (1) continues  
12          in force until the unit is reviewed under this Act, section 52.

13    **504           Transitional—authorised representatives**

14          (1) The authorisation by a registered organisation of a person as an  
15          authorised representative under the repealed Act, section 75, that is  
16          in force immediately before the commencement day, is taken to be  
17          an authorisation by the registered organisation of the person as an  
18          authorised representative under this Act, section 62.

19          (2) The authorisation mentioned in subsection (1) continues in force  
20          until the earlier of the following:

21                  (a) the end of the period the authorised representative is authorised  
22                  for under the repealed Act;

23                  (b) the end of the authorisation under this Act, section 62 (3);

24                  (c) 1 year after the commencement day.

1     **505           Transitional—Occupational Health and Safety Council**

2           The appointment of a person as a member of the Occupational  
3           Health and Safety Council under the repealed Act, section 14, that is  
4           in force immediately before the commencement day, is taken to be  
5           an appointment of the person as a member of the Work Safety  
6           Council under this Act, section 186 and continues in force until the  
7           end of the term of the appointment under the repealed Act unless  
8           ended earlier.

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

12     **506           Transitional—Occupational Health and Safety**  
13     **Commissioner**

14           The appointment of a person as the Occupational Health and Safety  
15           Commissioner under the repealed Act, section 26, that is in force  
16           immediately before the commencement day, is taken to be an  
17           appointment of the person as the Work Safety Commissioner under  
18           this Act, section 200 and continues in force until the end of the term  
19           of the appointment under the repealed Act unless ended earlier.

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

23     **507           Transitional—inspectors**

24           The appointment of a person to be an inspector under the repealed  
25           Act, section 201, that is in force immediately before the  
26           commencement day, is taken to be an appointment of the person as  
27           an inspector under this Act, section 180.

1     **508     Transitional—codes of practice**

2           (1) The following codes of practice approved under the repealed Act,  
3           section 206, that are in force immediately before the commencement  
4           day, are taken to be codes of practice under this Act, section 18:

- 5           • *Occupational Health and Safety (National Standard for*  
6           *Synthetic Mineral Fibres) Approval 1992 (DI1992-192);*
- 7           • *Occupational Health and Safety (Control and Safe Use of*  
8           *Inorganic Lead at Work) Approval 1995 (DI1995-23);*
- 9           • *Occupational Health and Safety (National Standard for Plant)*  
10          *Approval 1995 (DI1995-24);*
- 11          • *Occupational Health and Safety (Safe Working in a Confined*  
12          *Space) Approval 1995 (DI1995-30);*
- 13          • *Occupational Health and Safety (National Standard for*  
14          *Limiting Occupational Exposure to Ionising Radiation)*  
15          *Approval 1996 (DI1996-2).*

16          (2) The following codes of practice approved under the repealed Act,  
17          section 206, that are in force immediately before the commencement  
18          day, are taken to be codes of practice under this Act, section 18 for  
19          1 year after the commencement day:

- 20          • *Occupational Health and Safety (Code of Practice for Smoke*  
21          *Free Workplaces) Approval 1994 (DI1994-25);*
- 22          • *Occupational Health and Safety (Human Immunodeficiency*  
23          *Virus and Hepatitis B in the Workplace National Code of*  
24          *Practice) Determination 1994 (DI1994-111);*
- 25          • *Occupational Health and Safety (National Code of Practice for*  
26          *the Prevention of Occupational Overuse Syndrome)*  
27          *Determination 1994 (DI1994-115);*
- 28          • *Occupational Health and Safety (Exposure Standards for*  
29          *Atmospheric Contaminants in the Occupational Environment)*  
30          *Code of Practice Approval 1996 (DI1996-255);*
- 31          • *Occupational Health and Safety (Steel Construction) Code of*  
32          *Practice Approval 1997 (DI1997-57);*

- 1 • *Occupational Health and Safety (Safe Working on Roofs pt 1)*  
2 *Code of Practice Approval 1997* (DI1997-269);
- 3 • *Occupational Health and Safety (ACT Construction Industry*  
4 *Amenities) Code of Practice 1998* (DI1998-222);
- 5 • *Occupational Health and Safety (Manual Handling) Code of*  
6 *Practice 1999* (DI1999-9);
- 7 • *Occupational Health and Safety (Safe Working on Roofs Pt 2)*  
8 *Code of Practice Approval 1999* (DI1999-185);
- 9 • *Occupational Health and Safety (Safe Demolition Work) Code*  
10 *of Practice Approval 2000* (DI2000-343);
- 11 • *Occupational Health and Safety (Code of Practice for the*  
12 *Transport and Delivery of Cash) 2003* (DI2003-260);
- 13 • *Occupational Health and Safety (Codes of Practice for Noise)*  
14 *Approval 2004* (DI2004-178);
- 15 • *Occupational Health and Safety (Sexual Services Industry)*  
16 *Code of Practice 2005 (No 1)* (DI2005-68);
- 17 • *Occupational Health and Safety (ACT First Aid in the*  
18 *Workplace) Code of Practice 2006* (DI2006-94);
- 19 • *Occupational Health and Safety (National Standard for*  
20 *Construction Work) Code of Practice 2008* (DI2008-30);
- 21 • *Occupational Health and Safety (National Standard for Manual*  
22 *Tasks) Code of Practice 2008* (DI2008-31);
- 23 • *Occupational Health and Safety (National Code of Practice for*  
24 *the Prevention of Musculoskeletal Disorders from the*  
25 *Performing of Manual Tasks at Work) Code of Practice 2008*  
26 (DI2008-32).

27 **509 Transitional regulations**

- 28 (1) A regulation may prescribe transitional matters necessary or  
29 convenient to be prescribed because of the enactment of this Act.

1 (2) A regulation may modify this part (including in relation to another  
2 territory law) to make provision in relation to anything that, in the  
3 Executive's opinion, is not, or is not adequately or appropriately,  
4 dealt with in this part.

5 (3) A regulation under subsection (2) has effect despite anything  
6 elsewhere in this Act or another territory law.

7 **510 Expiry—pt 20**

8 (1) This part expires 5 years after the day it commences.

9 (2) This part is a law to which the Legislation Act, section 88 (Repeal  
10 does not end effect of transitional laws etc) applies.

11 **[1.24] Dictionary, note 2**

12 *omit*

- 13 • AAT

14 **[1.25] Dictionary, definitions of *health and safety committee* and  
15 *health and safety representative***

16 *omit*

17 **[1.26] Dictionary, new definition of *incorporated document***

18 *insert*

19 *incorporated document*—see the *Work Safety (General)*  
20 *Regulation 2009*, dictionary.

21 **[1.27] Dictionary, new definitions of *work safety committee* and  
22 *work safety representative***

23 *insert*

24 *work safety committee*, for a worker consultation unit, means the  
25 work safety committee elected for the unit under division 4.1.

1            *work safety representative*, for a worker consultation unit, means a  
2            person elected as a work safety representative for the unit under  
3            division 4.1.

4            **[1.28] Further amendments, mentions of *health***

5            *omit*

6            health

7            *substitute*

8            work safety

9            *in*

- 10           • section 25 (3) (a)  
11           • section 26 (3) (a)

12           **[1.29] Further amendments, mentions of *health and safety*  
13           *committee***

14           *omit*

15           health and safety committee

16           *substitute*

17           work safety committee

18           *in*

- 19           • section 50 (a) (i)  
20           • section 54 (2) (b)  
21           • section 55  
22           • section 56 (2) (b)  
23           • section 57 (1) (d)  
24           • division 4.3 heading  
25           • section 60

- 1 **[1.30] Further amendments, mentions of *health and safety***  
2 ***representative***  
3 *omit*  
4 health and safety representative  
5 *substitute*  
6 work safety representative  
7 *in*  
8 • section 50 (a) (ii)  
9 • section 54 (2) (a)  
10 • section 56 (2) (a)  
11 • section 57 (1) (c)  
12 • division 4.2 heading  
13 • section 58  
14 • section 59

1 **Schedule 2** **Consequential amendments**

2 (see s 3)

3 **Part 2.1** **Children and Young People Act**  
4 **2008**

5 **[2.1] Part 21.3 heading, note**

6 *substitute*

7 *Note* Work safety matters are dealt with in the *Work Safety Act 2008*.

8 **[2.2] Part 21.4 heading, notes**

9 *substitute*

10 *Note 1* Work safety matters are dealt with in the *Work Safety Act 2008*.

11 *Note 2* *School-leaving age* is 15 years old (see dict).

12 **Part 2.2** **Corrections Management Act**  
13 **2007**

14 **[2.3] Section 219 heading**

15 *substitute*

16 **219 Detainee's work—work safety**

17 **[2.4] Section 219 (1)**

18 *omit*

19 *Occupational Health and Safety Act 1989* in relation to work by  
20 employees.

21 *substitute*

22 *Work Safety Act 2008* in relation to work by workers.

- 1 **[2.5] Section 219 (3)**  
2 *omit*  
3 *Occupational Health and Safety Act 1989*  
4 *substitute*  
5 *Work Safety Act 2008*

6 **Part 2.3 Crimes Act 1900**

- 7 **[2.6] Section 49E (7)**  
8 *omit*  
9 *Occupational Health and Safety Act 1989*  
10 *substitute*  
11 *Work Safety Act 2008*

- 12 **[2.7] Dictionary, definition of *commissioner for OH&S***  
13 *omit*

14 **Part 2.4 Crimes (Sentence**  
15 **Administration) Act 2005**

- 16 **[2.8] Section 320 heading**  
17 *substitute*  
18 **320 Community service work—work safety**

1 **[2.9] Section 320 (1)**  
2 *omit*  
3 *Occupational Health and Safety Act 1989* in relation to the doing of  
4 the work by employees.  
5 *substitute*  
6 *Work Safety Act 2008* in relation to work by workers.

7 **[2.10] Section 320 (3)**  
8 *omit*  
9 *Occupational Health and Safety Act 1989*  
10 *substitute*  
11 *Work Safety Act 2008*

## 12 **Part 2.5 Dangerous Substances Act 2004**

13 **[2.11] Section 8 (1), note 2**  
14 *omit*  
15 

- *Occupational Health and Safety Act 1989*

16 **[2.12] Section 8 (1), note 2**  
17 *insert*  
18 

- *Work Safety Act 2008*

1 **Part 2.6 Dangerous Substances**  
2 **(Explosives) Regulation 2004**

3 **[2.13] Schedule 2, section 2.1 (3)**

4 *omit*

5 health and safety representative under the *Occupational Health and*  
6 *Safety Act 1989*

7 *substitute*

8 work safety representative under the *Work Safety Act 2008*

9 **Part 2.7 Dangerous Substances (General)**  
10 **Regulation 2004**

11 **[2.14] Section 203, definition of *health and safety representative***

12 *omit*

13 **[2.15] Section 203, new definition of *work safety representative***

14 *after the note, insert*

15 *work safety representative*—see the *Work Safety Act 2008*,  
16 dictionary.

17 **[2.16] Dictionary, definition of *health and safety representative***

18 *omit*

19 **[2.17] Dictionary, new definition of *work safety representative***

20 *insert*

21 *work safety representative*, for chapter 2 (Certain dangerous  
22 substances)—see section 203.

1 **[2.18] Further amendments, mentions of *health and safety***  
2 ***representative***

3 *omit*

4 health and safety representative

5 *substitute*

6 work safety representative

7 *in*

- 8 • section 219 (7) (b)  
9 • section 226  
10 • sections 275 to 279

11 **[2.19] Further amendments, mentions of *health and safety***  
12 ***representatives***

13 *omit*

14 health and safety representatives

15 *substitute*

16 work safety representatives

17 *in*

- 18 • section 245 (3), notes

19 **Part 2.8** **Legislation Act 2001**

20 **[2.20] Section 131 (1), example 3**

21 *omit*

22 OH&S

23 *substitute*

24 Work Safety

1 **[2.21] Dictionary, part 1, definition of *OH&S Commissioner***

2 *omit*

3 **[2.22] Dictionary, part 1, new definition of *work safety***  
4 ***commissioner***

5 *insert*

6 *work safety commissioner* means the Work Safety Commissioner  
7 under the *Work Safety Act 2008*.

8 **Part 2.9 Public Sector Management**  
9 **Act 1994**

10 **[2.23] Section 249**

11 *omit*

12 **[2.24] Schedule 3**

13 *omit*

14 **Part 2.10 Radiation Protection Act 2006**

15 **[2.25] Section 115 (4) (f)**

16 *substitute*

17 (f) to the chief executive of the administrative unit responsible for  
18 the *Work Safety Act 2008*; or

19 **[2.26] Dictionary, note 2**

20 *omit*

- 21
  - OH&S commissioner

1 **Part 2.11** **Scaffolding and Lifts**  
2 **Regulation 1950**

3 **[2.27] Section 84**

4 *omit*

5 *Occupational Health and Safety Regulation 1991*

6 *substitute*

7 *Dangerous Substances (Explosives) Regulation 2004*

8 **Part 2.12** **Utilities Act 2000**

9 **[2.28] Section 20 (2) (i)**

10 *omit*

11 **[2.29] New section 20 (2) (m)**

12 *before the note, insert*

13 (m) *the Work Safety Act 2008.*

14 **Part 2.13** **Victims of Crime Regulation 2000**

15 **[2.30] Section 48, note**

16 *omit*

1 **Part 2.14 Workers Compensation Act 1951**

2 **[2.31] Section 206**

3 *substitute*

4 **206 Minister must take advice**

5 (1) The Minister must ask for, and take into consideration, the advice of  
6 the work safety council in relation to the development of regulations  
7 for this Act.

8 (2) To remove any doubt—

9 (a) it is a function of the work safety council to advise the Minister  
10 on matters relating to workers compensation; and

11 *Note* This function is given to the work safety council under the *Work*  
12 *Safety Act 2008*, s 185 (1) (a).

13 (b) the work safety council may set up an advisory committee,  
14 made up of people with suitable expertise, to help it in the  
15 exercise of this function.

16 **Examples—suitable expertise**

17 legal or medical expertise

18 *Note 1* The power to set up an advisory committee if necessary to assist  
19 in the exercise of a function is given to the work safety council  
20 under the *Work Safety Act 2008*, s 199.

21 *Note 2* An example is part of the Act, is not exhaustive and may extend,  
22 but does not limit, the meaning of the provision in which it  
23 appears (see Legislation Act, s 126 and s 132).

24 (3) In this section:

25 ***work safety council*** means the work safety council established  
26 under the *Work Safety Act 2008*, part 9.

1 **Part 2.15** **Workers Compensation**  
2 **Regulation 2002**

3 **[2.32] Section 86 (1) (i)**

4 *omit*

5 OH&S

6 *substitute*

7 occupational health and safety

8 **[2.33] Section 86 (6), definition of *OH&S policy***

9 *omit*

10 **[2.34] Section 87 (2) (iii)**

11 *substitute*

12 (iii) be able to comply with the employer's duties under the  
13 *Work Safety Act 2008*, part 3 (Work safety duties); and

14 **[2.35] Dictionary, definition of *OH&S Council***

15 *omit*

16 **[2.36] Dictionary, new definition of *work safety council***

17 *insert*

18 *work safety council* means the work safety council established  
19 under the *Work Safety Act 2008*, part 9.

20 **[2.37] Further amendments, mentions of *OH&S Council***

21 *omit*

22 OH&S Council

23 *substitute*

24 work safety council

- 1 *in*
- 2 • section 5 (2)
- 3 • section 13
- 4 • section 36 (3)
- 

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2009.

**2 Notification**

Notified under the Legislation Act on 2009.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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