

2019

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Employment and Workplace Safety)

# Work Health and Safety Amendment Bill 2019

## Contents

---

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
4	Schedule 2, part 2.1 heading	3
5	Establishment Schedule 2, section 2.1	3
6	Functions Schedule 2, section 2.2	3
7	Schedule 2, section 2.2 (1) (c) and note	3
8	Schedule 2, new section 2.2 (2) (aa)	4

## Contents

---

		Page
9	Schedule 2, section 2.3	4
10	Schedule 2, new section 2.3A	5
11	Terms of appointment Schedule 2, section 2.4 (2)	5
12	Schedule 2, section 2.4 (2), note	5
13	Schedule 2, new section 2.4 (3)	5
14	Schedule 2, section 2.5	6
15	Ending appointment of council member Schedule 2, section 2.9 (1)	6
16	Schedule 2, section 2.9 (2)	6
17	Schedule 2, section 2.9 (2) (b) and (c)	7
18	Schedule 2, section 2.9 (3)	7
19	Quorum at council meetings Schedule 2, section 2.12 (a) to (c)	7
20	Schedule 2, section 2.13	7
21	Establishment Section 2.16 (2)	8
22	Schedule 2, part 2.2	8
23	Dictionary, new definitions	22
24	Dictionary, definition of <i>council</i>	22
25	Dictionary, new definitions	22
26	Dictionary, definition of <i>regulator</i>	23
27	Dictionary, new definitions	23
28	Dictionary, definition of <i>work safety commissioner</i>	23
<b>Schedule 1</b>	<b>Consequential and other amendments</b>	<b>24</b>
<b>Part 1.1</b>	<b>Annual Reports (Government Agencies) Act 2004</b>	<b>24</b>
<b>Part 1.2</b>	<b>Dangerous Substances Act 2004</b>	<b>24</b>
<b>Part 1.3</b>	<b>Dangerous Substances (Explosives) Regulation 2004</b>	<b>27</b>
<b>Part 1.4</b>	<b>Dangerous Substances (General) Regulation 2004</b>	<b>29</b>
<b>Part 1.5</b>	<b>Energy Efficiency (Cost of Living) Improvement Act 2012</b>	<b>30</b>

Contents

---

		Page
<b>Part 1.6</b>	<b>Legislation Act 2001</b>	30
<b>Part 1.7</b>	<b>Machinery Act 1949</b>	31
<b>Part 1.8</b>	<b>Planning and Development Act 2007</b>	32
<b>Part 1.9</b>	<b>Remuneration Tribunal Act 1995</b>	32
<b>Part 1.10</b>	<b>Workers Compensation Act 1951</b>	33
<b>Part 1.11</b>	<b>Workers Compensation Regulation 2002</b>	34
<b>Part 1.12</b>	<b>Working with Vulnerable People (Background Checking) Act 2011</b>	34



2019

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Employment and Workplace Safety)

# Work Health and Safety Amendment Bill 2019

---

## A Bill for

An Act to amend the *Work Health and Safety Act 2011*, and for other purposes

---

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

1 **1 Name of Act**

2 This Act is the *Work Health and Safety Amendment Act 2019*.

3 **2 Commencement**

4 (1) This Act (other than schedule 1, part 1.12) commences on a day fixed  
5 by the Minister by written notice.

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

8 *Note 2* A single day or time may be fixed, or different days or times may be  
9 fixed, for the commencement of different provisions (see [Legislation Act](#),  
10 s 77 (1)).

11 *Note 3* If a provision has not commenced within 6 months beginning on the  
12 notification day, it automatically commences on the first day after that  
13 period (see [Legislation Act](#), s 79).

14 (2) Schedule 1, part 1.12 commences on the later of—

15 (a) the commencement of the *Working with Vulnerable People*  
16 *(Background Checking) Amendment Act 2019*, section 3; and

17 (b) the commencement of this Act, section 3.

18 **3 Legislation amended**

19 This Act amends the *Work Health and Safety Act 2011*.

20 *Note* This Act also amends other legislation (see sch 1).

1 **4 Schedule 2, part 2.1 heading**

2 *substitute*

3 **Part 2.1 Work health and safety council**

4 **5 Establishment**  
5 **Schedule 2, section 2.1**

6 *omit*

7 Work Safety Council

8 *substitute*

9 Work Health and Safety Council

10 **6 Functions**  
11 **Schedule 2, section 2.2**

12 *omit*

13 work safety

14 *substitute*

15 work health and safety

16 **7 Schedule 2, section 2.2 (1) (c) and note**

17 *substitute*

18 (c) at the first council meeting that happens after the publication of  
19 the annual report required under section 2.41 (Annual report)—

20 (i) review and consider the annual report; and

21 (ii) advise the Minister and the WHS commissioner on any  
22 matters arising from the review and consideration; or

1 (d) any other function prescribed by regulation.

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

6 **8 Schedule 2, new section 2.2 (2) (aa)**

7 *insert*

8 (aa) the performance of the office of the work health and safety  
9 commissioner and the WHS commissioner;

10 **9 Schedule 2, section 2.3**

11 *substitute*

12 **2.3 Membership**

13 (1) The council consists of—

14 (a) 5 members appointed by the Minister after consultation with the  
15 people or bodies that the Minister considers represent the  
16 interests of employees; and

17 (b) 5 other members appointed by the Minister after consultation  
18 with the people or bodies that the Minister considers represent  
19 the interests of employers; and

20 (c) the WHS commissioner; and

21 (d) the public sector workers compensation commissioner.

22 (2) The Minister must not appoint more than 1 public servant as a  
23 member under subsection (1).

24 (3) In this section:

25 *public sector workers compensation commissioner* means the  
26 PSWC commissioner under the [Public Sector Workers  
27 Compensation Fund Act 2018](#).



- 
- 1 **10 Schedule 2, new section 2.3A**
- 2 *insert*
- 3 **2.3A Meaning of *appointed member*—div 2.1.2**
- 4 In this division:
- 5 *appointed member*, of the council, means a member of the council
- 6 appointed by the Minister under section 2.3 (1) (a) or (b).
- 7 **11 Terms of appointment**
- 8 **Schedule 2, section 2.4 (2)**
- 9 *omit*
- 10 3 years
- 11 *substitute*
- 12 4 years
- 13 **12 Schedule 2, section 2.4 (2), note**
- 14 *omit*
- 15 **13 Schedule 2, new section 2.4 (3)**
- 16 *insert*
- 17 (3) A person who has been an appointed member of the council for
- 18 8 consecutive years is not eligible for reappointment.
- 19 *Note* A person may be reappointed to a position if the person is eligible to be
- 20 appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1,
- 21 def *appoint*).

1 **14 Schedule 2, section 2.5**

2 *substitute*

3 **2.5 Chair and deputy chair**

4 (1) The appointed members of the council must elect a chair of the  
5 council, and a deputy chair of the council.

6 *Note* The appointed members must elect a chair and deputy chair of the council  
7 as soon as possible and as often as needed (see [Legislation Act](#), s 151B).

8 (2) The chair and the deputy chair must be elected for not longer than  
9 2 years.

10 (3) If the chair is elected from the members appointed under  
11 section 2.3 (1) (a)—the deputy chair must be elected from the  
12 members appointed under section 2.3 (1) (b).

13 (4) If the chair is elected from the members appointed under  
14 section 2.3 (1) (b)—the deputy chair must be elected from the  
15 members appointed under section 2.3 (1) (a).

16 **15 Ending appointment of council member**  
17 **Schedule 2, section 2.9 (1)**

18 *omit*

19 **16 Schedule 2, section 2.9 (2)**

20 *omit*

21 a member

22 *substitute*

23 an appointed member

1 **17 Schedule 2, section 2.9 (2) (b) and (c)**

2 *omit*

3 **18 Schedule 2, section 2.9 (3)**

4 *omit*

5 a member

6 *substitute*

7 an appointed member

8 **19 Quorum at council meetings**  
9 **Schedule 2, section 2.12 (a) to (c)**

10 *substitute*

11 (a) 3 members appointed under section 2.3 (1) (a), at least 2 of  
12 whom are not acting members; and

13 (b) 3 members appointed under section 2.3 (1) (b), at least 2 of  
14 whom are not acting members.

15 **20 Schedule 2, section 2.13**

16 *substitute*

17 **2.13 Voting at council meetings**

18 (1) At a meeting of the council each appointed member has a vote on  
19 each question to be decided.

20 (2) A question is decided by a majority of the votes of the appointed  
21 members present and voting.



1   **2.19       Constitution of office**

2       The office consists of—

- 3       (a) the WHS commissioner; and  
4       (b) the staff of the office.

5   **2.20       Functions of office**

6       The functions of the office include—

- 7       (a) to promote an understanding and acceptance of, and compliance  
8       with, this Act or another territory law relating to work health and  
9       safety; and  
10      (b) to undertake research, and develop educational and other  
11      programs for the purpose of promoting work health and safety;  
12      and  
13      (c) to advise the Minister on any matter relevant to the operation of  
14      a territory law under which the commissioner performs a  
15      function; and  
16      (d) any other function given to the office under this Act or another  
17      territory law under which the office performs a function.

18      *Note 1*   The commissioner is the regulator under this Act (see dict, def *regulator*).

19      *Note 2*   *Function* includes authority, duty or power (see [Legislation Act](#),  
20      dict, pt 1).

21      *Note 3*   A provision of a law that gives an entity (including a person) a function  
22      also gives the entity powers necessary and convenient to exercise the  
23      function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

1 **Division 2.2.3 Work health and safety commissioner**

2 **2.21 Appointment of WHS commissioner**

- 3 (1) The Executive must appoint a person as the Work Health and Safety  
4 Commissioner (the *WHS commissioner*).

5 *Note 1* For the making of appointments (including acting appointments), see the  
6 [Legislation Act](#), pt 19.3.

7 *Note 2* In particular, an appointment may be made by naming a person or  
8 nominating the occupant of a position (see [Legislation Act](#), s 207).

- 9 (2) The Executive must not appoint a person as WHS commissioner  
10 unless satisfied that—

11 (a) the Minister consulted with the chair and deputy chair of the  
12 council in relation to the selection process for the commissioner;  
13 and

14 (b) the appointment follows an open and accountable selection  
15 process; and

16 (c) the person has the experience or expertise necessary to exercise  
17 the commissioner's functions.

- 18 (3) The WHS commissioner must not be appointed for longer  
19 than 5 years.

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 (4) The WHS commissioner's conditions of employment are the  
24 conditions agreed between the commissioner and the Executive that  
25 are stated in the instrument of appointment, subject to any  
26 determination under the [Remuneration Tribunal Act 1995](#).

- 27 (5) The appointment is a notifiable instrument.

28 *Note* A notifiable instrument must be notified under the [Legislation Act](#).

---

## 2.22 Functions of WHS commissioner

In addition to the functions of the regulator under section 152, the functions of the WHS commissioner are—

- (a) exercising the functions of the office of the work health and safety commissioner; and

*Note* The WHS commissioner is the regulator under this Act (see dict, def *regulator*).

- (b) managing the administration of the office; and

- (c) the efficient and effective financial management of the office's resources; and

- (d) making the following for the office:

(i) a compliance and enforcement policy;

(ii) a strategic plan;

(iii) a draft statement of operational intent; and

- (e) ensuring, as far as practicable, that the functions of the office are exercised—

(i) in an orderly and prompt way; and

(ii) in a way that takes into account, and complies with, the compliance and enforcement policy, the strategic plan and the statement of operational intent; and

- (f) any other function given to the WHS commissioner under this Act or another territory law under which the WHS commissioner performs a function.

*Note* The WHS commissioner has functions under other territory laws including the *Dangerous Substances Act 2004*, the *Dangerous Substances (Explosives) Regulation 2004*, the *Dangerous Substances (General) Regulation 2004* and the *Machinery Act 1949*.

1     **2.23       Independence of WHS commissioner and Ministerial**  
2     **directions**

- 3           (1) Subject to subsection (2), the WHS commissioner is not subject to the  
4           direction of anyone else, and must act independently, in relation to  
5           the exercise of a function under this Act or another territory law under  
6           which the WHS commissioner performs a function.
- 7           (2) However, the Minister may, in writing, give directions to the  
8           WHS commissioner in relation to the exercise of the  
9           WHS commissioner's functions.
- 10          (3) A direction given under subsection (2) must be of a general nature  
11          and not direct the WHS commissioner in relation to a particular  
12          investigation or particular regulatory action.
- 13          (4) The Minister must present a copy of any direction under  
14          subsection (2) to the Legislative Assembly within 5 sitting days after  
15          the day it is given to the commissioner.

16     **2.24       Duty of good conduct**

- 17           (1) In exercising functions in relation to the office of the work health and  
18           safety commissioner, the WHS commissioner must exercise the  
19           degree of honesty, care and diligence required to be exercised by a  
20           director of a corporation in relation to the affairs of the corporation.
- 21           (2) The WHS commissioner also has a duty to the office—
- 22               (a) to act in good faith; and
- 23               (b) not to pursue personal interests at the expense of the office's  
24               interests; and
- 25               (c) not to use the office to gain personal advantage; and
- 26               (d) not to cause detriment to the office or undermine the reputation  
27               of the office.



---

1   **2.25       Disclosure of interests**

2           (1) The WHS commissioner must give the Executive a written statement  
3           of the WHS commissioner's personal and financial interests within  
4           7 days after—

5                   (a) the day the WHS commissioner is appointed; and

6                   (b) the first day of each financial year; and

7                   (c) the day there is a change in the interest.

8           (2) If the WHS commissioner has a personal or financial interest that  
9           conflicts or may conflict, or may be perceived to conflict, with the  
10          WHS commissioner's functions, the WHS commissioner must  
11          disclose to the Executive, in writing, the nature of the interest and the  
12          conflict or potential conflict.

13          *Note*     The WHS commissioner must disclose a conflict of interest as soon as  
14          possible and as often as needed (see [Legislation Act](#), s 151B).

15   **2.26       Outside employment**

16           The WHS commissioner must not, without the Minister's approval,  
17           engage in paid employment outside the functions of the office.

18   **2.27       Ending appointment—generally**

19           (1) The Executive may end a person's appointment as the  
20           WHS commissioner—

21                   (a) for misbehaviour; or

22                   (b) if the person becomes bankrupt or personally insolvent; or

23                   *Note*     **Bankrupt or personally insolvent**—see the [Legislation Act](#),  
24                   dict, pt 1.

25                   (c) if the person fails to take all reasonable steps to avoid being  
26                   placed in a position where a conflict of interest arises during the  
27                   exercise of the WHS commissioner's functions; or

- 1 (d) if the person is convicted, in the ACT, of an offence punishable  
2 by imprisonment for at least 1 year; or
- 3 (e) if the person is convicted outside the ACT, in Australia or  
4 elsewhere, of an offence that, if it had been committed in the  
5 ACT, would be punishable by imprisonment for at least 1 year;  
6 or
- 7 (f) under section 2.28; or
- 8 (g) if the person is absent, other than on leave approved under  
9 section 2.29, for 14 consecutive days or for 28 days in any  
10 12-month period.
- 11 (2) The Executive must end the WHS commissioner's appointment for  
12 physical or mental incapacity, if the incapacity substantially affects  
13 the exercise of the WHS commissioner's functions.

14 *Note* A person's appointment also ends if the person resigns (see [Legislation](#)  
15 [Act](#), s 210).

16 **2.28 Ending appointment—council no-confidence resolution**

- 17 (1) This section applies if the council passes a resolution of  
18 no-confidence in the WHS commissioner by a majority of at least  $\frac{2}{3}$   
19 of the appointed members.
- 20 (2) The Executive must give the WHS commissioner written notice of  
21 the resolution stating—
- 22 (a) the grounds for the resolution; and
- 23 (b) that the WHS commissioner may, within 14 days after the date  
24 of the notice (the *show cause period*), give a written submission  
25 to the Executive showing cause why the WHS commissioner's  
26 appointment should not be ended.

1 (3) The Executive must, within 21 days after the end of the show cause  
2 period—

3 (a) consider any submissions received under subsection (2) (b); and

4 (b) decide whether to end the WHS commissioner’s appointment.

5 **2.29 Leave of absence**

6 The Minister may approve leave of absence for the  
7 WHS commissioner on the terms the Minister decides.

8 **Division 2.2.4 Office—staff**

9 **2.30 Meaning of *staff of the office*—pt 2.2**

10 In this part:

11 *staff of the office* means—

12 (a) the deputy WHS commissioner appointed under section 2.31;  
13 and

14 (b) the staff employed under section 2.32; and

15 (c) consultants and contractors engaged under section 2.33.

16 **2.31 Appointment of deputy WHS commissioner**

17 (1) The WHS commissioner must appoint a public servant to be the  
18 deputy WHS commissioner.

19 *Note 1* For the making of appointments (including acting appointments), see the  
20 [Legislation Act](#), pt 19.3.

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

- 1 (2) However, the WHS commissioner must not appoint a person as the  
2 deputy WHS commissioner unless satisfied that the person has the  
3 experience or expertise necessary to exercise the  
4 WHS commissioner's functions.
- 5 (3) If the appointment of the WHS commissioner has ended, or the  
6 commissioner is absent or cannot for any reason exercise the  
7 commissioner's functions, the deputy WHS commissioner must act  
8 as the WHS commissioner.
- 9 *Note* The [Legislation Act](#), div 19.3.2A deals with standing acting  
10 arrangements.
- 11 (4) However, the deputy WHS commissioner must not act as the  
12 WHS commissioner for a continuous period of more than 6 months.

### 13 **2.32 Employment of staff**

- 14 (1) The WHS commissioner may employ staff on behalf of the Territory.
- 15 (2) The staff must be employed under the [Public Sector Management](#)  
16 [Act 1994](#).
- 17 *Note* The [Public Sector Management Act 1994](#), div 8.2 applies to the  
18 WHS commissioner in relation to the employment of staff (see [Public](#)  
19 [Sector Management Act 1994](#), s 152).

### 20 **2.33 Engagement of consultants and contractors**

- 21 (1) The WHS commissioner may engage the consultants and contractors  
22 that may be necessary or convenient to exercise the  
23 WHS commissioner's functions.
- 24 (2) The conditions of a consultant's or contractor's engagement are the  
25 conditions agreed between the WHS commissioner and the  
26 consultant or contractor.
- 27 (3) However, this section does not give the WHS commissioner the  
28 power to enter into a contract of employment with a consultant or  
29 contractor.

1    **2.34       Independence of staff of the office**

2       A member of the staff of the office is, in relation to the exercise of a  
3       function under this Act or another territory law under which the office  
4       performs a function, not subject to the direction of anyone except—

- 5       (a) the WHS commissioner; or  
6       (b) another member of staff of the office who is authorised by the  
7       WHS commissioner to give directions.

8    **2.35       Delegation of functions**

9       The WHS commissioner may delegate the commissioner’s functions  
10       under this Act or another territory law under which the commissioner  
11       performs a function to a member of the staff of the office.

12       *Note*     For the making of delegations and the exercise of delegated functions,  
13       see the [Legislation Act](#), pt 19.4.

14   **2.36       Other arrangements for staff and facilities**

15       The WHS commissioner may arrange with the head of service to use  
16       the services of a public servant or territory facilities.

17       *Note*     The head of service may delegate powers in relation to the management  
18       of public servants to a public servant or another person (see [Public Sector  
19       Management Act 1994](#), s 18).

20   **Division 2.2.5       Office—policy and reporting  
21                           framework**

22   **2.37       Compliance and enforcement policy**

23       (1) The WHS commissioner must, for every period of 4 years, make a  
24       policy (a *compliance and enforcement policy*) that includes the  
25       following:

- 26       (a) the aims of compliance and enforcement activity for the office;

- 1 (b) the key principles underpinning compliance and enforcement  
2 activity to be carried out by the office;
- 3 (c) the approach the office must take in relation to monitoring and  
4 compliance;
- 5 (d) the compliance and enforcement tools to be used by the office;
- 6 (e) guidance material about enforcement, investigation and  
7 prosecution recommendation criteria to be applied by the office;
- 8 (f) any other matter relating to the compliance and enforcement  
9 functions of the office, prescribed by regulation.
- 10 (2) In developing the compliance and enforcement policy, the  
11 WHS commissioner must—
- 12 (a) consult the Minister and the council; and
- 13 (b) consider any representation or advice given under paragraph (a).
- 14 (3) The compliance and enforcement policy is a notifiable instrument.
- 15 *Note* A notifiable instrument must be notified under the [Legislation Act](#).
- 16 (4) The WHS commissioner must give the compliance and enforcement  
17 policy to the Minister within 10 working days after notifying the  
18 policy.
- 19 (5) The Minister must present the compliance and enforcement policy to  
20 the Legislative Assembly within 6 sitting days after receiving the  
21 policy.
- 22 (6) The WHS commissioner must review the policy at least once in  
23 the 4 years during which the policy is in effect.

---

1   **2.38        Strategic plan**

- 2           (1) The WHS commissioner must, for every period of 4 financial years,  
3           make a plan (a *strategic plan*) that includes the following:
- 4               (a) the purpose and objectives of the office;  
5               (b) the outcomes to be achieved by the office;  
6               (c) strategies to be used by the office to achieve the matters  
7               mentioned in paragraphs (a) and (b);  
8               (d) the strategic enforcement priorities for the office;  
9               (e) a description of the operating environment of the office;  
10              (f) the performance criteria for the office;  
11              (g) strategies to improve the capability of the office;  
12              (h) procedures for the oversight and management of risk within the  
13              office;  
14              (i) any other matter related to strategic planning for the office  
15              prescribed by regulation.
- 16           (2) In developing the strategic plan the WHS commissioner must—
- 17               (a) consult the Minister and the council; and  
18               (b) consider any representation or advice given under paragraph (a).
- 19           (3) The strategic plan is a notifiable instrument.
- 20           *Note*     A notifiable instrument must be notified under the [Legislation Act](#).
- 21           (4) The WHS commissioner must give the strategic plan to the Minister  
22           within 10 working days after notifying the plan.
- 23           (5) The Minister must present the strategic plan to the Legislative  
24           Assembly within 6 sitting days after receiving the plan.

1    **2.39        Ministerial statement of expectations**

- 2           (1) The Minister must, at least once every 12 months—
- 3               (a) make a statement setting out the priority activities and initiatives
- 4               for the office (a *statement of expectations*); and
- 5               (b) give the statement of expectations to the WHS commissioner.
- 6           (2) Before making a statement of expectations, the Minister must consult
- 7           the council about the priority activities and initiatives for the office in
- 8           the next 12 months.
- 9           (3) The statement of expectations—
- 10               (a) must not include specific direction about the exercise of a
- 11               regulatory function under the Act; but
- 12               (b) may include—
- 13                     (i) general directions about the priority activities and
- 14                     initiatives for the office; and
- 15                     (ii) any information the Minister believes will assist the office
- 16                     to implement the statement of expectations.
- 17           (4) A statement of expectations is a notifiable instrument.

18           *Note*     A notifiable instrument must be notified under the [Legislation Act](#).

19    **2.40        Statement of operational intent**

- 20           (1) Within 60 days after the day the Minister gives the statement of
- 21           expectations to the WHS commissioner, the commissioner must give
- 22           the Minister a draft statement setting out how the office will give
- 23           effect to the statement of expectations (a *statement of operational*
- 24           *intent*).



- 1           (2) The Minister must, within 60 days after the day the Minister receives  
2           a draft statement of operational intent—
- 3           (a) approve the draft statement; or
- 4           (b) reject the draft statement; or
- 5           (c) approve the draft statement with conditions.
- 6           (3) An approved statement of operational intent is a notifiable  
7           instrument.

8           *Note*     A notifiable instrument must be notified under the [Legislation Act](#).

9           **2.41     Annual report**

- 10          (1) The WHS commissioner must prepare an annual report about the  
11          operation of the office under the [Annual Reports \(Government  
12          Agencies\) Act 2004](#).
- 13          (2) The report must include—
- 14           (a) a statement from the chair of the council about the following:
- 15               (i) the performance of the office during the reporting year;
- 16               (ii) the effectiveness of compliance and enforcement activities  
17               undertaken by the office during the reporting year taking  
18               into account the compliance and enforcement policy;
- 19               (iii) the implementation by the office of the strategic plan  
20               during the reporting year; and
- 21           (b) any statement of expectations and statement of operational  
22           intent in effect during the reporting year; and
- 23           (c) information about the extent to which any statement of  
24           operational intent in effect during the reporting year was met  
25           during the reporting year; and

- 1 (d) if the statement of operational intent was not met in whole or in  
2 part during the reporting year—reasons why the statement of  
3 operational intent was not met; and  
4 (e) any other matter prescribed by regulation.

5 **23 Dictionary, new definitions**

- 6 *insert*  
7 *appointed member*, of the council, for schedule 2, division 2.1.2  
8 (Constitution and meetings)—see section 2.3A.  
9 *commissioner*—see *work health and safety commissioner*.  
10 *compliance and enforcement policy*, for schedule 2, part 2.2 (Office  
11 of the Work Health and Safety Commissioner)—see section 2.37.

12 **24 Dictionary, definition of *council***

- 13 *omit*  
14 Work Safety Council  
15 *substitute*  
16 Work Health and Safety Council

17 **25 Dictionary, new definitions**

- 18 *insert*  
19 *office*—see *office of the work health and safety commissioner*.  
20 *office of the work health and safety commissioner*, for schedule 2  
21 (The regulator and local tripartite consultation arrangements and  
22 other local arrangements)—means the Office of the Work Health and  
23 Safety Commissioner established under section 2.18.

1 **26 Dictionary, definition of *regulator***

2 *substitute*

3 *regulator* means the WHS Commissioner.

4 **27 Dictionary, new definitions**

5 *insert*

6 *staff of the office*, for schedule 2, part 2.2 (Office of the Work Health  
7 and Safety Commissioner)—see section 2.30.

8 *statement of expectations*, for schedule 2, part 2.2 (Office of the  
9 Work Health and Safety Commissioner)—see section 2.39.

10 *statement of operational intent*, for schedule 2, part 2.2 (Office of the  
11 Work Health and Safety Commissioner)—see section 2.40.

12 *strategic plan*, for schedule 2, part 2.2 (Office of the Work Health  
13 and Safety Commissioner)—see section 2.38.

14 *WHS commissioner*—see *work health and safety commissioner*.

15 *work health and safety commissioner* means the Work Health and  
16 Safety Commissioner appointed under schedule 2, section 2.21.

17 **28 Dictionary, definition of *work safety commissioner***

18 *omit*

1 **Schedule 1 Consequential and other**  
2 **amendments**

3 (see s 3)

4 **Part 1.1 Annual Reports (Government**  
5 **Agencies) Act 2004**

6 **[1.1] Section 7 (2) (b), note**

7 *insert*

- 8 • the office of the work health and safety commissioner (see [Work](#)  
9 [Health and Safety Act 2011](#), sch 2, pt 2.2, s 2.41)

10 **Part 1.2 Dangerous Substances Act 2004**

11 **[1.2] Section 39 etc**

12 *omit*

13 director-general

14 *substitute*

15 work health and safety commissioner

16 *in*

- 17 • section 39  
18 • section 48 (1), definition of *close associate*, paragraph (b)  
19 • section 49 (1)  
20 • section 50 (3)  
21 • section 51 (1), definitions of *designated matter* and *third-party*  
22 • section 51 (2) and (3)  
23 • sections 52 and 53  
24 • sections 56 to 62

- 1 • section 64
- 2 • sections 67 to 72
- 3 • section 83
- 4 • section 85, definition of *site preservation period*
- 5 • sections 88 to 91
- 6 • section 92 (1)
- 7 • section 116 (2)
- 8 • section 117 (3)
- 9 • sections 123
- 10 • section 124 (1)
- 11 • section 126
- 12 • section 127 (1)
- 13 • section 128 (1)
- 14 • section 129 (2)
- 15 • sections 131 and 132
- 16 • section 140
- 17 • section 148 (5)
- 18 • section 149 (b)
- 19 • sections 169 and 170
- 20 • section 171 (4) (a)
- 21 • section 172 (2)
- 22 • section 173 (2) (b)
- 23 • section 174 (2)
- 24 • section 181
- 25 • section 186, definitions of *decision-maker* and *internally*
- 26 *reviewable decision*
- 27 • section 187
- 28 • section 188
- 29 • section 189 (2)

- 1 • section 197
- 2 • section 202
- 3 • section 205 (2)
- 4 • section 206
- 5 • section 207 (2)
- 6 • section 208
- 7 • section 210
- 8 • section 212 (1), definition of *official*, paragraph (b)
- 9 • section 217

10 **[1.3] Section 59 etc**

11 *omit*

12 director-general's

13 *substitute*

14 work health and safety commissioner's

15 *in*

- 16 • section 59
- 17 • section 64 (1)
- 18 • section 68 (5)
- 19 • section 125 (1)
- 20 • section 126

21 **[1.4] Dictionary, note 2**

22 *insert*

- 23 • work health and safety commissioner

1 **Part 1.3** **Dangerous Substances**  
2 **(Explosives) Regulation 2004**

3 **[1.5] Section 24 (1) (b) etc**

4 *omit*

5 director-general

6 *substitute*

7 work health and safety commissioner

8 *in*

- 9 • section 24 (1) (b)
- 10 • section 25 (1)
- 11 • section 26 (1), definition of *authorised explosive*
- 12 • section 29, note 2
- 13 • division 2.2.3 heading
- 14 • sections 30 to 32
- 15 • section 33 (1)
- 16 • sections 34 to 36
- 17 • section 40A
- 18 • section 55
- 19 • section 58 (2)
- 20 • section 62
- 21 • section 95
- 22 • section 96 (1)
- 23 • section 106 (1)
- 24 • section 111 (g)
- 25 • section 112
- 26 • section 117
- 27 • section 129

- 1 • section 154
- 2 • section 170
- 3 • section 175
- 4 • section 186
- 5 • section 187 (1)
- 6 • section 189 (s)
- 7 • section 190
- 8 • section 191 (1), note 1
- 9 • section 192 (1) (b)
- 10 • sections 193 and 194
- 11 • section 201 (2) (b)
- 12 • section 305
- 13 • section 308
- 14 • sections 310 to 312
- 15 • section 313 (1) (b)
- 16 • section 314
- 17 • section 325 (1)
- 18 • section 333A

19 **[1.6] Dictionary, note 2**

20 *omit*

- 21 • director-general (see s 163)

22 **[1.7] Dictionary, note 2**

23 *insert*

- 24 • work health and safety commissioner



1 **Part 1.4** **Dangerous Substances (General)**  
2 **Regulation 2004**

3 **[1.8] Section 403 (1) etc**

4 *omit*

5 director-general

6 *substitute*

7 work health and safety commissioner

8 *in*

- 9 • section 403 (1)
- 10 • sections 404 and 405
- 11 • section 411
- 12 • section 418
- 13 • section 419 (1)
- 14 • section 429
- 15 • section 431
- 16 • section 437
- 17 • section 444
- 18 • section 453
- 19 • schedule 5, part 5.1 heading
- 20 • schedule 5, part 5.1, item 2, column 3
- 21 • schedule 5, part 5.1, item 5, column 3
- 22 • schedule 5, part 5.3 heading
- 23 • schedule 5, part 5.3, item 2, column 3
- 24 • schedule 5, part 5.3, item 5, column 3

1 **[1.9] Dictionary, note 2**

2 *omit*

- 3 • director-general (see s 163)

4 **[1.10] Dictionary, note 2**

5 *insert*

- 6 • work health and safety commissioner

7 **Part 1.5 Energy Efficiency (Cost of**  
8 **Living) Improvement Act 2012**

9 **[1.11] Section 28B (4) (b), example and note**

10 *substitute*

11 **Example—instance where exercise of function could be compromised**

12 XYZ Pty Ltd carries out an eligible activity under this Act. The work health  
13 and safety commissioner (the **WHS commissioner**) is investigating XYZ for  
14 possible breaches of the *Work Health and Safety Act 2011*. The  
15 WHS commissioner receives a request for compliance information from the  
16 administrator. The WHS commissioner believes that giving the administrator  
17 the information could jeopardise the investigation. The WHS commissioner  
18 may refuse the request.

19 **Part 1.6 Legislation Act 2001**

20 **[1.12] Dictionary, part 1, new definition of *work health and***  
21 ***safety commissioner***

22 *insert*

23 ***work health and safety commissioner*** means the Work Health and  
24 Safety Commissioner under the *Work Health and Safety Act 2011*,  
25 schedule 2, section 2.21.

1 **[1.13] Dictionary, part 1, definition of *work safety commissioner***  
2 *omit*

3 **Part 1.7 Machinery Act 1949**

4 **[1.14] Section 3**  
5 *omit*  
6 director-general  
7 *substitute*  
8 work health and safety commissioner

9 **[1.15] Section 4 (1)**  
10 *omit*  
11 director-general  
12 *substitute*  
13 work health and safety commissioner

14 **[1.16] Dictionary, note 2**  
15 *omit*  
16 

- director-general (see s 163)

17 **[1.17] Dictionary, note 2**  
18 *insert*  
19 

- Executive

  
20 

- work health and safety commissioner

1 **Part 1.8 Planning and Development**  
2 **Act 2007**

3 **[1.18] Section 138AA (3) (a)**

4 *omit*

5 work safety commissioner

6 *substitute*

7 work health and safety commissioner

8 **[1.19] Dictionary, note 2**

9 *insert*

- 10
  - work health and safety commissioner.

11 **[1.20] Dictionary, note 2**

12 *omit*

- 13
  - work safety commissioner.

14 **Part 1.9 Remuneration Tribunal Act 1995**

15 **[1.21] Schedule 1, part 1.2, new dot point**

16 *insert*

- 17
  - work health and safety commissioner

18 **[1.22] Dictionary, note 2**

19 *insert*

- 20
  - work health and safety commissioner

1 **Part 1.10** **Workers Compensation Act 1951**

2 **[1.23] Section 103F**

3 *omit*

4 work safety commissioner

5 *substitute*

6 work health and safety commissioner

7 **[1.24] Section 206**

8 *omit*

9 work safety council

10 *substitute*

11 work health and safety council

12 **[1.25] Dictionary, note 2**

13 *insert*

- 14
  - work health and safety commissioner

15 **[1.26] Dictionary, note 2**

16 *omit*

- 17
  - work safety commissioner

1 **Part 1.11** **Workers Compensation**  
2 **Regulation 2002**

3 **[1.27] Sections 5 (2), 13 and 36 (3)**

4 *omit*

5 work safety council

6 *substitute*

7 work health and safety council

8 **[1.28] Dictionary, new definition of *work health and safety***  
9 ***council***

10 *insert*

11 *work health and safety council* means the Work Health and Safety  
12 Council established under the [Work Health and Safety Act 2011](#),  
13 schedule 2, section 2.1.

14 **[1.29] Dictionary, definition of *work safety council***

15 *omit*

16 **Part 1.12** **Working with Vulnerable People**  
17 **(Background Checking) Act 2011**

18 **[1.30] Section 63A (1) (j)**

19 *omit*

20 **[1.31] Section 63A (1) (l)**

21 *substitute*

22 (l) the work health and safety commissioner;

1 **[1.32] Section 63B (3), definition of *entity*, paragraph (e)**

2 *omit*

3 **[1.33] Section 63B (3), definition of *entity*, paragraph (g)**

4 *substitute*

5 (g) the work health and safety commissioner.

6 **[1.34] Dictionary, note 2**

7 *insert*

- 8
  - work health and safety commissioner

9 **[1.35] Dictionary, note 2**

10 *omit*

- 11
  - work safety commissioner

---

## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 15 August 2019.

**2 Notification**

Notified under the [Legislation Act](#) on 2019.

**3 Republications of amended laws**

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

---

© Australian Capital Territory 2019