

**2022**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**WORK HEALTH AND SAFETY AMENDMENT BILL 2022**

**EXPLANATORY STATEMENT  
and  
HUMAN RIGHTS COMPATIBILITY STATEMENT  
(*Human Rights Act 2004*, s 37)**

**Presented by  
Andrew Barr MLA  
Chief Minister**

# WORK HEALTH AND SAFETY AMENDMENT BILL 2022

The Bill **is not** a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

## OVERVIEW OF THE BILL

The purpose of this Bill is to amend the *Work Health and Safety Act 2011* (WHS Act) to confirm the longstanding policy view about the application of the WHS Act to the Legislative Assembly as a workplace where work is carried out as an undertaking of the Territory.

This Bill remedies any doubt that may exist about the intent of the WHS Act to secure the health and safety of **all** workers and workplaces in the ACT, including the ACT Legislative Assembly.

## CONSULTATION ON THE PROPOSED APPROACH

Noting this is a narrow clarifying amendment there has been no external stakeholder consultation on the proposed approach in the Bill.

## CONSISTENCY WITH HUMAN RIGHTS

The protection against retrospective criminal laws in s 25 of the *Human Rights Act 2004* is not limited by the Bill as the amendment is only clarifying in nature.

The common law has a general protection against the retrospective application of law. The purpose of this protection includes fairness as it seeks to protect the expectations of those who assume that the quality of their past acts would be assessed on the basis of the law as it then stood. The amendment in the Bill is clarifying in nature, consistent with the longstanding policy view that the intention of the WHS Act to secure the health and safety of all workers and workplaces in the ACT, including the ACT Legislative Assembly. It is therefore not considered to alter the expectations, rights and liabilities of those to whom the WHS Act applies.

## Work Health and Safety Amendment Bill 2022

### *Human Rights Act 2004 - Compatibility Statement*

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Work Health and Safety Amendment Bill 2022**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Shane Rattenbury MLA  
Attorney-General

## **WORK HEALTH AND SAFETY AMENDMENT BILL 2022 – CLAUSE NOTES**

### **Clause 1      Name of Act**

This clause provides for the name of the Bill as the Work Health and Safety Amendment Bill 2022.

### **Clause 2      Commencement**

This clause provides for the commencement of the Bill.

Section 75A of the *Legislation Act 2001* (Legislation Act) states that an Act or legislative instrument commences retrospectively if it commences on a day or at a time earlier than the day after its notification day. Section 75B of the Legislation Act provides that an ACT law may operate retrospectively, provided that the law clearly articulates that intention.

This clause provides that the proposed amendments are taken to have commenced on the day the Bill was presented to the ACT Legislative Assembly which means it would commence before the date it is passed and notified.

The amendment in this Bill is clarifying in nature consistent with the longstanding policy view that the intention of the WHS Act is to secure the health and safety of all workers and workplaces in the ACT, including the ACT Legislative Assembly.

### **Clause 3      Legislation amended**

This clause provides for the legislation to be amended, being the *Work Health and Safety Act 2011* (WHS Act).

### **Clause 4      New section 273A**

This clause inserts a new clarifying section to put beyond doubt that the WHS Act covers the work of Members of the Legislative Assembly and Legislative Assembly Committee members and work that others do to support the work of Members of the Legislative Assembly.

Specifically, it provides that the work of a member of the Legislative Assembly in the exercise of the member's functions, and work carried out by other people to support the member in the exercise of their functions is work that is carried out in an undertaking for the purposes of the WHS Act.