

WORKPLACE HEALTH AND SAFETY ACT

No. 63 of 1989

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Queensland



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

No. 63 of 1989

An Act to consolidate and amend the laws relating to securing the health and safety of persons performing work, protecting persons, other than employees, and members of the public from danger from such work, protecting persons from risks to health and safety from certain plant, to repeal the Construction Safety Act 1971-1987 and the Inspection of Machinery Act 1951-1987, to amend the Factories and Shops Act 1960-1987 and the Health Act 1937-1988 and for related purposes

[ASSENTED TO 12TH MAY, 1989]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Workplace Health and Safety Act 1989*.

2. Commencement. (1) Section 1 and this section shall commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as is provided by subsection (1), this Act or the provisions thereof specified in the Proclamation shall commence on a day or days appointed by Proclamation for the commencement of this Act or, as the case may be, those provisions.

3. Repeals and savings. (1) The Acts set forth in the First Schedule are repealed to the extent specified in that Schedule.

(2) The Act specified in the first column of the Second Schedule is amended as specified in the second column of that schedule opposite the reference to that Act, and the Act as so amended may be cited as specified in the third column of that schedule in relation to that Act.

(3) The provisions repealed by subsections (1) and (2) and under Part XIII are referred to in this Act as the repealed provisions.

(4) A person who at the date of commencement of this section—

(a) holds the appointment of inspector for the purposes of any of the repealed provisions shall on and from that date hold the appointment of inspector for the purposes of this Act until he duly vacates it or is duly removed therefrom;

(b) holds any other appointment for the purposes of any of the repealed provisions shall on and from that date hold that or a corresponding appointment for the purposes of this Act until he duly vacates it or is duly removed therefrom.

(5) Without limiting the operation of the *Acts Interpretation Act 1954-1985*, unless the contrary intention appears in this Act, every Proclamation, Order in Council, rule, regulation, registration, order, notice, permit, certificate, approval, request, requirement, mark, agreement or modification thereof, or other act of authority made, issued, given or done under the repealed provisions and in force immediately prior to the commencement of this section shall continue in force for the purposes of this Act as if it had been made, issued, given or done under this Act until it expires by effluxion of time or is repealed, amended or otherwise modified, revoked, cancelled or suspended under this Act, but shall be read and construed subject to this Act.

(6) For the purposes of subsection (5), every registration of a factory or a shop under the *Factories and Shops Act 1960-1987* shall continue

in force as if it were a registration of a workplace under this Act until it expires by effluxion of time or is modified, revoked, cancelled or suspended under this Act, but shall be read and construed subject to this Act.

4. Application of Act. (1) This Act shall not apply to or in relation to—

- (a) persons, plant or substances in or about a mine to which the *Mines Regulation Act 1964-1983* applies;
- (b) persons, plant or substances in or about a mine to which the *Coal Mining Act 1925-1981* applies;
- (c) persons, plant or substances in or about a well to which the *Petroleum Act 1923-1988* applies;
- (d) persons, plant or substances involved in a rural industry except for a rural industry operated by or under the control of the Crown.

(2) This Act shall not derogate from the provisions of the *Radioactive Substances Act 1958-1978*, the *Queensland Marine Act 1958-1985*, the *Explosives Act 1952-1981*, the *Traffic Act 1949-1985*, the *Motor Vehicles Safety Act 1980-1985* or the *Public Safety Preservation Act 1986* and where there is any conflict between the provisions of this Act and the provisions of those Acts, the provisions of those Acts shall prevail, to the extent of that inconsistency.

5. Extent to which Act binds the Crown. Subject to section 4, this Act binds the Crown not only in right of Queensland but also, so far as the legislative power of Parliament extends, the Crown in all its other capacities, except to the extent that this Act relates to, or could be construed as requiring, the provision, alteration, replacement or dealing with amenities in premises that existed prior to the commencement of this section.

6. Interpretation. (1) In this Act unless the contrary intention appears—

“amenities”, in relation to premises, means the design and construction, air space, ceilings, floors, floor area, roofs and walls thereof, and conveniences, dining rooms, dressing rooms, rest rooms, sanitary conveniences and washing facilities in relation thereto;

“amusement device” means a device—

- (a) used or designed to be used for amusement, games, recreation, sightseeing or entertainment, and on which persons may be carried, raised, lowered or supported by any part of the device including any car, carriage, platform, cage, boat, plank, chair, seat or thing whilst such part, car, carriage, platform, cage, boat, plank, chair, seat or thing is in motion;

and

(b) used for commercial purposes;

“Authority” means the Workplace Health and Safety Authority established under this Act;

“building or structure” includes any erection, edifice, wall, chimney, fence, bridge, dam, reservoir, wharf, jetty, earth works, reclamation, ship, floating structure, plant, tunnel, trench, excavation and shaft;

“certificate” means any certificate granted under this Act and in force at the material time;

“child” means a child of or younger than the age of compulsory attendance within the meaning of the *Education Act 1964-1988* or any Act in substitution therefor;

“Council” means the Workplace Health and Safety Council constituted under this Act;

“Crown” without limiting the generality of that term, includes any commission, board, instrumentality, corporation, or person representing the Crown and any person or body specified by the Governor in Council, by notification published in the Queensland Government Industrial Gazette, as representing the Crown for the purposes of this Act only;

“dangerous occurrence” includes—

(a) damage to any boiler, pressure vessel or refrigerating plant which damage endangers the health and safety or health or safety of any person in the vicinity thereof;

(b) damage to any load-bearing member or part of, or failure to any brake, steering or limiting device or other control device of, any crane, hoist, conveyor, lift, escalator, plant, scaffolding, gear or amusement device;

(c) an uncontrolled explosion, fire, escape of gas or steam;
or

(d) an occurrence (including those involving any dangerous substance) involving imminent risk of explosion, fire, death, serious bodily injury or work-related illness to any person or serious damage to any property;

“Director” means, subject to subsection (2) each of them the Director of Accident Prevention appointed or deemed to be appointed under and for the purposes of this Act and the Director-General of Health and Medical Services appointed under the *Health Act 1937-1989*, and includes any person for the time being performing the duties of the Director;

“domestic premises” means premises occupied as a private dwelling-house and includes such premises where the occupants are temporarily absent therefrom;

“duly qualified” means possessing the required qualifications under the provisions of this Act;

- “employee” means a person who performs work for an employer;
- “employer” includes a person who, in the course of his business, engages the services of another person in the performance of any work: the term includes a self-employed person;
- “escalator” means a power driven inclined continuous stairway used for raising or lowering passengers: the term includes a moving walkway;
- “function” has the meaning ascribed to that term under subsection (5);
- “industrial magistrate” means a person appointed by or under the *Industrial Conciliation and Arbitration Act 1961-1987* to be, or to act temporarily in the office of, an industrial magistrate;
- “inspector” means the Director of Accident Prevention, the Director-General of Health and Medical Services and any person who holds the appointment of workplace health and safety inspector for the purposes of this Act and includes any person for the time being performing the whole or any part of the duties of a workplace health and safety inspector;
- “lift” means any machinery having a platform or cage the direction or movement of which is restricted by a guide or guides and used or designed for use for the purpose of raising or lowering persons, goods or materials: The term includes any and all machinery, supports, and enclosures, and any and all equipment thereof whether detachable or not, used or designed for use for operating a lift;
- “Minister” means, subject to subsection (3), each of them the Minister of the Crown for the time being charged with the administration of the *Industrial Conciliation and Arbitration Act 1961-1987* and the Minister of the Crown for the time being charged with the administration of the *Health Act 1937-1989*, and includes any Minister of the Crown for the time being performing the duties of the Minister;
- “notifiable project” means a project prescribed to be a notifiable project, or a project belonging to a class of projects prescribed to be notifiable projects, under this Act;
- “occupier” with respect to a workplace or other place includes any person in actual occupation of that place whether employing persons or not, and any agent, manager, foreman, or other person acting or apparently acting in the general management or control of the business carried on in that place;
- “owner” means—
- (a) in relation to a project, the person or persons whose property it is whether jointly or severally or for whose

direct benefit the project exists or will exist upon completion;

- (b) in relation to a workplace or any other premises other than a project, the person or persons whose property it is, whether jointly or severally: the term includes a mortgagee in possession and a lessee;
- (c) in relation to any plant or substance the person whose property it is or, where some other person has control, charge or management of it, that other person, and any lessee, mortgagee, hirer or borrower thereof;

“plant” includes any machinery, equipment, appliance, pressure vessel, implement and tool, any plant specified in the Third Schedule, any component thereof and anything fitted, connected or appurtenant thereto;

“practicable”, where the context permits, means practicable having regard to—

- (a) the nature of the employment or, as the case may be, the particular aspect of the employment concerned;
- (b) the severity of any potential injury or harm to health or safety that may be involved, and the degree of risk that exists in relation thereto;
- (c) the state of knowledge about the injury or harm to health or safety that may be involved, about the risk of that injury or harm to health or safety occurring and about any ways of preventing, removing or mitigating that injury, harm or risk;
- (d) the availability and suitability of ways to prevent, remove or mitigate that injury or harm to health or safety or risk; and
- (e) whether the cost of preventing, removing or mitigating that injury or harm to health or safety or that risk is prohibitive in the circumstances;

“premises” includes any—

- (a) land, whether improved or not, or enclosed or not enclosed;
- (b) building on or in any land, and whether completely or partly erected or constructed, or in the course of being erected or constructed;
- (c) room in a building;
- (d) road, street or bridge or other structure on, in or over or under a road or street;
- (e) any structure or area, enclosed or otherwise, and whether above or below ground, wherein or whereon any plant is, or is erected, kept, used, worked or in operation;
- (f) any vehicle, vessel or aircraft;
- (g) any installation on land, on the bed of any waters or floating on any waters;

and

(h) any tent or removable structure;

“principal contractor”, used in relation to a project, means the person who, pursuant to section 18, is the principal contractor in respect of a project;

“project”, means subject to section 17 (2)—

(a) the construction, digging, filling, erection, installation, addition to, alteration, repair, maintenance, cleaning, painting, renewal, removal, dismantling or demolition of a building or structure: provided that the term only includes work in respect of a ship or floating structure where that ship or floating structure is in a dock or at a wharf or other place outside of the tidal influence;

(b) any work, or any work of a kind or class, designated by the Director, pursuant to the provisions of this Act, to be a project;

“rural industry” means an industry in which persons are engaged in work whether as a servant or otherwise—

(a) upon any farm, orchard, vineyard, agricultural holding or pastoral holding in connexion with dairying, poultry farming, bee farming, or the sowing, raising or harvesting of grain, fodder, sugar cane, fruit, cotton, or any other crop or farm produce, whether grown for food or not, or the management, rearing or grazing of horses, cattle, sheep or other livestock, or the shearing or crutching of sheep, or the classing, scouring, sorting or pressing of wool upon any farm or station or at any other farm or station work;

(b) in flower or vegetable market gardens;

or

(c) at clearing, fencing, trenching, draining or otherwise preparing land for any purpose specified in this definition;

“seizure notice” means a seizure notice issued under the provisions of this Act;

“self-employed person” means a person who works for gain or reward otherwise than under a contract of employment or apprenticeship, whether or not that person employs one or more other persons;

“serious bodily injury” means an injury that causes death or disables a person to the extent that as a consequence of that injury he is subject to a period of admission to hospital as an in-patient;

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

“work-related illness” means—

(a) a disease that is contracted by an employee in the course of employment and to which the employment was a contributing factor;

or

- (b) the recurrence, aggravation, acceleration, exacerbation or deterioration in an employee of any existing disease in the course of employment, where the employment was a contributing factor to that recurrence, aggravation, acceleration, exacerbation or deterioration;

“work injury” means—

- (a) an injury that arises out of or in the course of employment and that requires first aid or medical treatment;

or

- (b) the recurrence, aggravation, acceleration, exacerbation or deterioration in an employee of any existing injury in the course of employment, which employment was a contributing factor to that recurrence, aggravation, acceleration, exacerbation or deterioration, that requires first aid or medical treatment;

“workplace” means any premises where work is or is to be or is likely to be performed by employees or self-employed persons and includes any area within the immediate vicinity of such premises where gear, plant, equipment or materials to be used in that work are kept, and any building or structure, bridge, wharf, road or way on or within such premises or in the immediate vicinity thereof;

“young person” means a person who is above the age of compulsory attendance within the meaning of the *Education Act 1964-1988* or any Act in substitution therefor (where that age is under 16 years) and below the age of 16 years.

(2) Unless the contrary intention appears, the functions of the Director under this Act may be exercised or performed severally by each of the persons to whom that term refers in subsection (1).

(3) Unless the contrary intention appears, the functions of the Minister under this Act may be exercised or performed severally by each of the persons to whom that term refers in subsection (1).

(4) For the purposes of this Act—

- (a) an employee is at work throughout the time when he is at his workplace or at or in any premises by the direction of his employer, but not otherwise;
- (b) a self-employed person is at work throughout such time as he devotes to work as a self-employed person.

(5) A reference in this Act to—

- (a) a function includes a reference to a responsibility, power, authority and duty;
and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

7. Objects of the Act. The objects of this Act are—

- (a) to promote and secure the health and safety of persons performing work;
- (b) to protect persons performing work from risks to health and to safety;
- (c) to protect persons other than employees, and members of the public, from danger to health and safety in respect of any undertaking conducted, work performed or substance, manufactured, stored, kept, supplied, used or produced at or from that workplace;
- (d) to assist in securing safe and hygienic work environments;
- (e) to provide for a system of registration of all or any existing workplaces and for the approval prior to the construction of, or the carrying out of any structural alterations or additions to, any building intended for use or used as a workplace;
- (f) to promote an occupational environment for persons performing work that is adapted to their physiological and psychological needs;
- (g) to reduce, eliminate and control risks to the health and safety of persons performing work;
- (h) to foster co-operation and consultation between employers and employees and associations representing employers and employees and to provide for the participation of those persons and associations in the formulation and implementation of health and safety standards to current levels of technical knowledge and development;
- (i) to provide for formulation of policies and for co-ordination of the administration of laws relating to workplace health and safety;
- (j) to promote education and community awareness on matters relating to workplace health and safety;
- (k) to protect and to promote and secure the health and safety of persons operating or using any plant of a kind specified in the Third Schedule and any person who may be affected by such operation or use.

8. Act not to apply in certain circumstances. (1) The Governor in Council, upon the recommendation of the Authority, may at any time and from time to time by Order in Council declare that all or any of the provisions of this Act shall not apply, according to that declaration, in respect of any workplace or part of any workplace, any class or classes of workplace or any other specified premises or any plant, substance or method of work or any class thereof.

(2) A declaration made pursuant to subsection (1) may be made subject to such conditions as are specified in the declaration.

(3) This Act, or the provisions thereof specified in the declaration made pursuant to subsection (1) shall not apply in respect of the

workplace or part of a workplace, class or classes of workplace or other specified premises, plant, substance or method of work or class thereof for so long as the exemption subsists and, in the case of an exemption subject to conditions, while the conditions are complied with.

(4) The Governor in Council may, upon the recommendation of the Authority, revoke any exemption granted under subsection (1) or the conditions attaching to any such exemption.

PART II—PROVISIONS RELATING TO WORKPLACE HEALTH AND SAFETY

Division 1—General Duties of Employers, Manufacturers etc.

9. Employers to ensure health and safety of their employees. (1) An employer who fails to ensure the health and safety at work of all his employees, save where it is not practicable for him to do so, commits an offence against this Act.

(2) Without in any way limiting the generality of subsection (1), any one or more of the following shall represent particulars of the offence created by that subsection:—

- (a) particulars of failure to provide and maintain plant and systems of work that are so far as is practicable safe and without risks to the health and safety of any person;
- (b) particulars of failure to make arrangements for ensuring so far as is practicable safety and absence of risks to health and safety in connexion with the use, handling, storage and transport of plant and substances;
- (c) particulars of failure to maintain so far as is practicable any workplace under the control and management of the employer in a condition that is safe and without risks to the health and safety of any person;
- (d) particulars of failure to provide so far as is practicable adequate facilities for the health and safety of employees at any workplace under the control and management of the employer;
- (e) particulars of failure to provide so far as is practicable such information, instruction, training and supervision to such persons as are necessary to enable the employees to perform their work in a manner that is safe and without risks to their health and safety;
- (f) particulars of failure to provide protective clothing and equipment where it is not practicable to avoid the presence of hazards at the workplace.

(3) No particular referred to in subsection (2) shall constitute a separate offence.

10. Employers and self-employed persons to ensure health and safety of themselves and persons other than employees. (1) An employer

who fails to conduct his undertaking in such a manner as to ensure that his own health and safety and the health and safety of persons not in his employment and members of the public who may be affected thereby are not exposed to risks arising from the conduct of his undertaking, save where it is not practicable for him to do so, commits an offence against this Act.

(2) A self-employed person who fails to ensure that persons not in his employment and members of the public are not exposed to risks to their health or safety as a result of the work in which he or any of his employees is engaged, save where it is not practicable for him so to do, commits an offence against this Act.

11. Persons in control of workplaces, etc., used by non-employees to ensure health and safety. (1) A person who has, to any extent, control of—

(a) premises (not being domestic premises) that have been made available to persons (not being his employees) as a place of work, or the means of access thereto or egress therefrom;

or

(b) any plant or substance, in any premises (not being domestic premises), that has been provided for the use or operation of persons at a workplace (not being his employees),

and who fails to ensure that the premises, the means of access thereto or egress therefrom or the plant or substance, as the case may be, are or is safe and without risks to health, save where it is not practicable for him to do so, commits an offence against this Act.

(2) Where a person has, by virtue of any contract or lease, an obligation of any extent in relation to—

(a) the maintenance or repair of any premises referred to in subsection (1)(a) or any means of access thereto or egress therefrom;

or

(b) the safety of, or the absence of risks to health arising from, any plant or substance referred to in subsection (1)(b),

that person shall be treated, for the purposes of subsection (1), as being a person who has control of the thing to which his obligation extends.

(3) A reference in this section to a person having control of any thing is a reference to a person having control of the thing in connexion with the carrying on by him of a trade, business or other undertaking (whether for profit or not).

12. Duties of manufacturers etc. (1) A person who designs, manufactures, imports or supplies any plant for use at a workplace who—

- (a) fails to ensure that the plant is so designed and constructed as to be safe and without risks to health when used properly, save where it is not practicable for him to do so;
- (b) fails to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed by paragraph (a);
- (c) fails to take such action as is necessary to ensure that there is available in connexion with the use of the plant at the workplace adequate information about the use for which it is designed and has been tested, and about any conditions necessary to ensure that when put to that use it will be without risks to the health and safety of any person;

or

- (d) fails to take such action as is necessary or required by the Director to remove from a workplace, plant that the Director considers, on reasonable grounds, to be unsafe and a risk to the health and safety of any person,

commits an offence against this Act.

(2) A person who erects or installs any plant for use at a workplace and who fails to ensure that nothing about the way in which it is erected or installed makes it unsafe or a risk to health or safety of any person when used properly, save where it is not practicable for him to do so, commits an offence against this Act.

(3) A person who manufactures, imports, controls storage of or supplies any substance for use at a workplace who—

- (a) fails to ensure that the substance is safe and without risks to the health or safety of any person when used properly, save where it is not practicable for him to do so;
- (b) fails to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed by paragraph (a);
- (c) fails to take such action as is necessary to ensure that there is available in connexion with the uses of the substance at the workplace adequate information on the identification, health hazards, precautions for use, and safe handling of the substance and the results of any relevant tests that have been carried out on or in connexion with the substance;

or

- (d) fails to take such action as is necessary or required by the Director to remove from the workplace a substance that is shown to be unsafe and a risk to the health or safety of any person or for which adequate information required under paragraph (c) is not available,

commits an offence against this Act.

(4) For the purposes of this section, any plant or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice that is available relating to its use.

13. Duties of employees. (1) An employee who, while at his workplace, wilfully acts in a manner that endangers the health or safety of himself or any other person, commits an offence against this Act.

(2) An employee who—

(a) fails to comply, so far as is practicable, with instructions given by his employer for the health or safety of that employee or for the health or safety of other persons;

or

(b) fails to use, so far as is practicable, such protective clothing and equipment of the kind referred to in section 9(f), as is provided, or provided for, by his employer, in a manner in which he has been properly instructed to use it,

commits an offence against this Act.

(3) An employee who—

(a) wilfully or recklessly interferes with or misuses anything provided in the interests of health or safety pursuant to any provision of this Act;

or

(b) wilfully places at risk the health or safety of any person at the workplace,

commits an offence against this Act.

14. Duties of persons other than an employer or employee. A person other than an employer or an employee who, at a workplace—

(a) acts in a manner that endangers the health or safety of any other person at the workplace;

(b) fails to carry out a safety direction that is given to him by the principal contractor or employer, as the case may be, for the workplace concerned;

or

(c) wilfully or recklessly interferes with any thing provided in the interests of health or safety at the workplace,

commits an offence against this Act.

Division 2—Provisions concerning Projects

15. Effect of provisions of Division. The duties cast on a person as an owner or a principal contractor under the provisions of this Division are in addition to and not in substitution for duties cast on that person in any capacity under any other provisions of this Act.

16. Director may designate projects. Where the Director, by notification published in the Queensland Government Industrial Gazette, is of the opinion that work carried out on or proposed to be carried on at a workplace or any class or classes of workplace is or is likely to be dangerous for employees or other persons involved in that work or for other persons in or near that workplace or class or classes of workplace, he may designate such workplace or class or classes of workplace to be a project or projects for the purposes of this Act.

17. Duties of owner. (1) The owner of the project, if required by the Director, shall—

- (a) give notice in writing to the Director of the boundaries of the area of the project (described in a manner approved by the Director);
and
- (b) where he has appointed a person as principal contractor of the project pursuant to section 18 (1), lodge with the Director the instrument of appointment.

(2) Where the area notified by the owner in accordance with this section overlaps any other area so notified in respect of a project, the project shall consist of the work performed in the combined area.

18. Principal contractor in respect of project. (1) For the purposes of this Act, the principal contractor in respect of a project shall, subject to subsections (2) and (3), be—

- (a) a person appointed by instrument (in a form approved by the Director) by the owner to be the principal contractor;
or
- (b) where no appointment is made pursuant to paragraph (a), the owner,

of the project.

(2) If a person appointed as principal contractor in respect of a project ceases to perform the functions of principal contractor, the Director may approve the appointment by the owner, of another person as principal contractor and, until such an appointment is approved, the owner of the project shall be deemed to be the principal contractor from the time the person previously appointed as principal contractor ceases to perform those functions.

(3) Where the owner of a project is, pursuant to paragraph (b) of subsection (1), also the principal contractor of the project, the Director may approve the appointment by the owner of another person as principal contractor.

19. Director may prescribe notifiable projects. (1) The Director may prescribe any project or projects of a particular class to be a notifiable project or notifiable projects for the purposes of this Act.

(2) In the exercise of the power conferred on him by this section it shall be competent to the Director to prescribe as notifiable projects all projects involving a building or structure save such project or classes of project as are specified by him.

20. Notifiable project to be notified before commencement. A principal contractor shall not commence nor cause nor suffer to be commenced any project that is a notifiable project unless he has first notified the Director, as prescribed, of the nature of the project and of the time when that project is to be commenced.

21. Mode of Notification. A notification given in relation to a notifiable project shall be in the prescribed form, shall be given to the Director at least 24 hours before the time when it is intended to commence the project and shall be accompanied by the prescribed fee.

22. Contravention of s. 20 not an offence in certain circumstances. A person shall be taken not to have committed an offence against this Act on account of his contravention of section 20 if he shows—

- (a) that the notifiable project was commenced to meet an emergency created by explosion, collision, fire, rain, flood, lightning, wind, earthquake or dangerous occurrence;
and
- (b) that it was impracticable in the circumstances in which the work was commenced to give the notification as prescribed;
and
- (c) that the notification was given in the prescribed form and the prescribed fee paid in the prescribed manner as soon as practicable after the work was commenced.

23. Duties of principal contractor. In respect of a project on which he is engaged, a principal contractor who—

- (a) fails to ensure, save where it is not practicable for him to do so, that every employer and every employee engaged in an occupation at a workplace complies with or, as the case may be, does not contravene the provisions of this Act;
or
- (b) fails to ensure the health and safety of members of the public on or near the workplace;
or
- (c) fails to provide such other safeguards and take such other safety measures as are prescribed,

commits an offence against this Act.

Division 3—Provisions to Protect Persons from Risks from Specified Plant

24. General duties of owner of specified plant. A person who is the owner of any plant of a kind specified in the Third Schedule who, save

where it is not practicable for him to do so, fails to maintain that plant in such a condition that it is without risks to the health or safety of persons who may be affected thereby, commits an offence against this Act.

25. Duties of manufacturers etc. of specified plant. (1) A person who designs, manufactures, imports or supplies, for use by any person at any premises, any plant of a kind specified in the Third Schedule who—

- (a) save where it is not practicable for him to do so, fails to ensure that the plant is so designed and constructed as to be safe and without risks to the health or safety of any person when used properly;
- (b) fails to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed by paragraph (a);
- (c) fails to take such action as is necessary to ensure that there is available in connexion with the use of the plant at the premises of use, adequate information about the use for which it is designed and has been tested, and about any conditions necessary to ensure that when put to that use it will be without risks to the health or safety of any person;
or
- (d) fails to take such action as is necessary or required by the Director to remove from the premises of use any plant that the Director considers, on reasonable grounds, to be unsafe and a risk to the health or safety of any person,

commits an offence against this Act.

(2) A person who erects or installs any plant of a kind specified in the Third Schedule and who, save where it is not practicable for him to do so, fails to ensure that nothing in the way in which it is erected or installed makes it unsafe or a risk to the health or safety of any person when used properly, commits an offence against this Act.

(3) For the purposes of this section, any plant is not to be regarded as properly used where it is used without regard to any relevant information or advice that is available relating to its use.

26. Duties under this Division are additional to other duties. The duties cast on a person under the provisions of this Division are in addition to and not in substitution for duties cast on that person under any other provision of this Act, provided that a person shall not be convicted twice for the same offence.

PART III—GENERAL PROVISIONS

27. Record of injuries, illnesses and occurrences to be kept. Every employer and every principal contractor to whom this Act applies—

- (a) shall keep a record in english, in the prescribed form, showing the prescribed particulars in respect of every work

injury, work-related illness or dangerous occurrence that occurs at a workplace at which work is being performed for him;

- (b) shall, not later than three clear days after any work injury, work-related illness or dangerous occurrence that occurs at that workplace, insert in that record the prescribed particulars of that work injury, work-related illness or dangerous occurrence;
- (c) shall make that record available for inspection by an inspector when requested to do so.

28. Notification of serious bodily injury, work-related illness or dangerous occurrence to be given. (1) Every employer to whom this Act applies shall give notice to the Director in the prescribed form of every serious bodily injury, work-related illness, or dangerous occurrence that occurs at a workplace, other than a project, at which work is being performed for that employer.

(2) Where any serious bodily injury, work-related illness, or dangerous occurrence occurs on or in relation to a project, such notice shall be given by the principal contractor of that project.

(3) The notice referred to in paragraphs (1) and (2) shall be given within 24 hours after the occurrence of any such serious bodily injury or dangerous occurrence or within 24 hours of becoming aware of a work-related illness.

29. Immediate notice concerning death. As soon as possible after the occurrence of any serious bodily injury, work-related illness or dangerous occurrence of a kind referred to in section 28 that causes death, the person required under section 28 to give written notice of the occurrence shall in addition give to the Director or to any other inspector by the quickest means of communication available to him all information concerning the serious bodily injury, work-related illness or, as the case may be, dangerous occurrence then available to him.

30. Scene not to be interfered with. Upon the happening of any serious bodily injury or dangerous occurrence of a kind referred to in section 28 or 29 or a work-related illness of a kind referred to in section 29 that is required to be notified to the Director, a person shall not move or otherwise interfere with any plant or other thing involved in the happening unless he first obtains the permission of an inspector or, if an inspector is not available, a member of the Queensland Police Force save where such movement or interference is necessary to save life or relieve suffering or to prevent damage to property or injury to persons.

31. Offence not to report as prescribed. A person who, being required to give any notice under section 28 or 29, fails to do so as prescribed commits an offence against this Act.

32. Inspector's duty on receipt of notice. (1) Upon receipt of a notice pursuant to section 28 or 29 the Director or any other inspector nominated by him may enquire as he considers necessary into the circumstances of the injury, illness, occurrence or death with a view to establishing the cause thereof and, if he so enquires, shall make a written report of his findings, which, in the case of an inspector other than the Director shall be made to the Director.

(2) In discharging his duty under this section an inspector may require any person to inform him of what that person knows concerning the circumstances relating to the injury, illness, occurrence or death.

33. Tribunal to conduct enquiries and to investigate accidents. (1) The Minister may from time to time—

(a) set up an Accident and Enquiry Tribunal charged with the function of investigating, determining and reporting on the cause of any serious bodily injury, work-related illness or dangerous occurrence—

(i) that is required by this Division to be notified to the Director;

and

(ii) that the Minister refers to it;

or

(b) set up an Accident and Enquiry Tribunal charged with the function of enquiring into and reporting on any matter or thing that the Minister refers to it.

(2) In the discharge of its functions an Accident and Enquiry Tribunal shall enquire into the circumstances and possible causes of the accident, illness or occurrence or, as the case may be, into the circumstances of the matter concerned and shall make its findings in writing to the Minister.

For the purpose of any such enquiry an Accident and Enquiry Tribunal shall be deemed to be a Commission of Inquiry within the meaning of the *Commissions of Inquiry Act 1950-1988* and the provisions of that Act, other than sections 4, 4A, 10 (3), 13, 14 (1A), 19 (2), 19A, 19B, 19C and 26, shall apply accordingly: provided that if a provision of that Act is inconsistent with a provision of this Act, the provision of this Act, to the extent of the inconsistency, shall prevail.

(3) For the purposes of applying the provisions of the *Commissions of Inquiry Act 1950-1988*, each member of the Tribunal shall be deemed to be a Commissioner and the chairman shall be deemed to be the chairman within the meaning of that Act.

(4) There shall be payable to a witness who appears before the Tribunal an allowance for expenses being—

(a) the allowances payable pursuant to section 24 of the *Commissions of Inquiry Act 1950-1988*;

or

(b) such other allowances as the chairman of the Tribunal in special circumstances considers reasonable, whichever is the greater and that allowance shall be paid out of funds appropriated by the Parliament for that purpose.

(5) An Accident and Enquiry Tribunal shall consist of four members appointed by the Minister of whom—

- (a) one shall be an Industrial Magistrate who shall be Chairman of the Tribunal;
 - (b) one shall be a person representing employers and principal contractors or employers or principal contractors, as the Minister considers appropriate, in the industry to which the injury, illness, occurrence or enquiry concerned relates;
 - (c) one shall be a person representing employees in the industry to which the injury, illness, occurrence or enquiry concerned relates;
- and
- (d) one shall be a person who is, in the opinion of the Minister, a health and safety expert in the industry to which the injury, illness, occurrence or enquiry concerned relates.

34. Codes of practice. (1) For the purpose of providing practical guidance to principal contractors, employers, owners, occupiers, employees or any other persons to whom duties of care may apply under this Act, the Minister may upon the recommendation of the Director approve any code of practice.

(2) A code of practice may consist of any code, standard, rule, specification or provision relating to workplace health and safety formulated, prepared or adopted by the Director and may apply, incorporate or refer to any document formulated or published by any body or authority as in force at the time the code of practice is approved or as amended, formulated or published from time to time.

(3) The Minister may upon the recommendation of the Director approve any revision of the whole or any part of a code of practice or revoke the approval of a code of practice.

(4) The Minister shall cause to be published in The Queensland Government Industrial Gazette notices of—

- (a) the approval of a code of practice;
 - (b) the approval of a revision of the whole or any part of a code of practice;
- and
- (c) the revocation of approval of a code of practice.
- (5) The Minister shall cause a copy—
- (a) of every approved code of practice;
 - (b) where an approved code of practice has been revised and

that revision has been approved, of every approved code of practice as so revised;

and

- (c) where an approved code of practice applies, incorporates or refers to any other document, of every such document,

to be made available for inspection by members of the public without charge during normal office hours.

- (6) An approved code of practice shall come into effect—

- (a) on the day on which notice of approval of the code of practice is published in *The Queensland Government Industrial Gazette* or on such later day as may be specified in the notice;

and

- (b) where the code of practice has been revised in whole or in part, to the extent of that revision on the day on which notice of approval of that revision is published in *The Queensland Government Industrial Gazette* or on such later day as may be specified in the notice.

(7) An approved code of practice shall cease to be of effect at the end of the day on which notice of the revocation of approval of the code of practice is published in *The Queensland Government Industrial Gazette*.

(8) A person shall not be liable to any civil or criminal proceedings by reason only that the person has failed to observe any provision of an approved code of practice.

35. Use of codes of practice in proceedings. Where in any proceedings under this Act it is alleged that a person contravened or failed to comply with a provision of this Act in relation to which an approved code of practice was in effect at the time of the alleged contravention or failure—

- (a) the approved code of practice shall be admissible in evidence in those proceedings;

and

- (b) if the court is satisfied, in respect of any matter that it is necessary for the prosecution to prove in order to establish the alleged contravention or failure, that—

- (i) any provision of the approved code of practice is relevant to that matter;

and

- (ii) the person failed at any material time to observe that provision of the approved code of practice,

that matter shall be taken as proved unless the court is satisfied, that in respect of that matter the person complied with that provision of this Act otherwise than by way of observance of that provision of the approved code of practice.

PART IV—AUTHORITY AND COUNCIL

36. Authority. (1) For the purposes of this Act there is established an Authority to be known as the Workplace Health and Safety Authority.

(2) The Authority consists of the Ministers of the Crown for the time being charged with the administration of the *Industrial Conciliation and Arbitration Act 1961-1987* and the *Health Act 1937-1989* respectively.

37. Constitution of Workplace Health and Safety Council. There shall be constituted for the purposes of this Act, a Council to be called the Workplace Health and Safety Council.

38. Membership of the Council. (1) The Council shall consist of ten members appointed by the Governor in Council by notification published in the Queensland Government Industrial Gazette.

(2) The persons eligible for membership shall be—

(a) the following *ex officio* members of the Council—

- (i) the Under Secretary, Department of Industrial Affairs, who shall be Chairman thereof;
- (ii) the Director-General of Health and Medical Services, Department of Health;
- (iii) the Director, Division of Accident Prevention, Department of Industrial Affairs;
- (iv) the Director, Division of Environmental and Occupational Health, Department of Health;

(b) the Governor in Council shall appoint to the Council—

- (i) two members nominated by one or more associations recommended by the Authority as representative of employers;
- (ii) two members nominated by one or more associations recommended by the Authority as representatives of employees;
- (iii) two members recommended by the Authority as experts in the field of workplace health and safety.

39. Chairman of Council. (1) The Chairman shall preside at every meeting of the Council at which he attends.

If the Chairman is absent from a meeting another member of the Council chosen for the purpose by a majority of the members present and voting, shall preside.

(2) Save when the regulations disentitle him from voting on the matter in issue, the member presiding at a meeting of the Council shall be entitled to a deliberative vote on any matter before the meeting and, in the event of an equal division of votes thereon, shall be entitled to a second or casting vote.

40. Tenure of office. (1) The appointment of a member of the Council shall commence on the date specified therefor in the notification

of appointment published in the Queensland Government Industrial Gazette and, save in the case of an appointment to fill a casual vacancy, shall be for a term of three years.

(2) A member of the Council shall be eligible for re-appointment if he is qualified to be nominated therefor.

41. Vacation of office. (1) The office of a member of the Council shall become vacant if the member—

- (a) dies;
 - (b) becomes bankrupt or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
 - (c) is absent without prior leave granted by the Council from three consecutive ordinary meetings of the Council of which due notice has been given to him;
 - (d) resigns his office by writing under his hand delivered to the Authority;
 - (e) is convicted, in Queensland, of an indictable offence (whether upon indictment or by way of summary proceeding) or is convicted, elsewhere than in Queensland, of an offence which would be an indictable offence if committed in Queensland, or is convicted of an offence against this Act;
- or
- (f) is removed from office by the Governor in Council on the grounds of incapacity to perform his duties as a member or of conduct which, in the opinion of the Governor in Council, shows the member to be unfit to be a member of the Council.

(2) Attendance of a member of the Council at the time and place appointed for an ordinary meeting of the Council shall be deemed to constitute presence at a meeting notwithstanding that by reason that a quorum is not present no meeting is then and there actually held, and the names of all persons who so attend shall be entered in the minute book.

(3) A resignation as member of the Council shall be of no effect until notice in writing thereof is received by the Authority or until the operative date specified in the notice whichever is the later.

42. Casual vacancies. When a vacancy occurs in the office of a member of the Council during the term of office of the members then constituting the Council, the Governor in Council may in accordance with section 38 appoint another person as a member to hold office for the balance of his predecessor's term of office as a member.

43. Appointment of deputy members. (1) If it appears to a member of the Council other than the chairman that he will be unable to adequately discharge his functions under this Act for any period he shall, in writing, inform the Authority of that fact.

(2) Where that member was appointed to the Council pursuant to section 38 (2) (b) (iii) the Authority may, upon receipt of that information, recommend to the Governor in Council that another person be appointed as a deputy member of the Council until that member is again able to adequately discharge those functions.

In any other case the Authority may, in writing, call upon the person or body who nominated that member to nominate to it another person for appointment, subject to the recommendation of the Authority, by the Governor in Council as a deputy member of the Council until that member is again able to adequately discharge those functions.

(3) Upon receipt of a recommendation by the Authority pursuant to subsection (2), the Governor in Council may, by notification in the Queensland Government Industrial Gazette, appoint the person recommended as a deputy member of the Council.

(4) A deputy member for as long as his appointment subsists, shall have and may exercise the functions of the member for whom he is deputising.

44. Meetings of Council. (1) The Council shall meet as often as is necessary for the due administration of this Act, at such times and places as it thinks fit, and shall conduct its business in the manner prescribed or, in so far as not prescribed, as it determines from time to time.

(2) A quorum at any meeting of the Council shall be six members entitled to vote on the business before the meeting who, at a duly convened meeting, shall be competent to transact any business of the Council and may exercise and perform all the functions of the Council.

(3) The decision of a majority of the members at a meeting of the Council at which a quorum is present shall be a decision of the Council.

(4) If a member present at a meeting and entitled to vote abstains from voting he shall be taken to have cast his vote for the negative.

(5) A proceeding or decision of the Council shall not be invalidated or made ineffectual by reason only that—

(a) the whole number of members had not been appointed at the time;

or

(b) any member was not entitled to take part in the proceeding or decision;

or

(c) there is a defect in the appointment of any member.

45. Entitlements of members of Council. (1) Members of the Workplace Health and Safety Council shall be entitled to such fees and allowances as are approved by the Governor in Council save that a member of the Council who is an officer of the Public Service Queensland

shall not receive fees or allowances for attendance at a meeting of the Council during his ordinary hours of duty.

(2) Members of the Council shall be entitled to be reimbursed such out of pocket expenses necessarily incurred by them in the performance of their duties as such members as are approved by the Authority.

46. Functions of Workplace Health and Safety Council. The functions of the Council are—

- (a) to advise the Authority on any policy matter relating to workplace health and safety;
- (b) to enquire into, recommend and promote educational programmes on workplace health and safety;
- (c) to devise, in co-operation with educational authorities and bodies, courses in relation to workplace health and safety and to recommend to the Authority that such courses be integrated into programmes in educational institutions;
- (d) to recommend to the Authority the establishment of public enquiries into any matter relating to workplace health and safety;
- (e) to recommend to the Authority the formation of appropriate Industry Workplace Health and Safety Committees and the membership thereof;
- (f) to recommend to the Authority any changes to the constitution and membership of Industry Workplace Health and Safety Committees;
- (g) to require the appropriate Industry Workplace Health and Safety Committees to examine any matter relating to workplace health and safety and make a recommendation accordingly;
- (h) to receive recommendations from Industry Workplace Health and Safety Committees and submit them to the Authority with appropriate recommendations;
- (i) to recommend to the Authority that research into any workplace health and safety matter be undertaken or encouraged,

and include any other functions assigned to it by the Authority under this Act.

PART V—INDUSTRY WORKPLACE HEALTH AND SAFETY COMMITTEES

47. Minister may establish Committees. (1) For the purposes of this Act, the Minister may establish and maintain such number of Committees as he determines each of which shall be called an Industry Workplace Health and Safety Committee.

An Industry Workplace Health and Safety Committee shall consist of—

- (a) a person nominated by the Minister who shall in his appointment be designated and shall be Chairman of the Committee;
- (b) a person nominated by the Minister, other than the person nominated under paragraph (a), who shall represent both the Department of Industrial Affairs and the Department of Health;
- (c) two persons nominated by the Minister (other than the person nominated under subparagraph (a) or (b)) who are in the opinion of the Minister experts in the field of workplace health and safety;
- (d) four persons representing employers in the industry in respect of which the Committee in question is constituted;
- (e) four persons representing employees in the industry in which the Committee in question is constituted;
- (f) such other persons as may from time to time be nominated by the Minister as he thinks necessary.

(2) The members of an Industry Workplace Health and Safety Committee shall be appointed by the Minister by notification published in The Queensland Government Industrial Gazette.

Such a Committee shall be taken to be constituted upon the publication in The Queensland Government Industrial Gazette of the appointment of its members.

48. Appointment of deputy chairman. (1) If it appears to the Chairman of an Industry Workplace Health and Safety Committee that he will be unable to discharge adequately his functions under this Act for any period he shall, in writing, inform the Minister of that fact.

(2) Upon receipt of that information the Minister may appoint a person (whether or not he is a member of the Committee concerned) to deputise for that chairman during that period.

(3) A person appointed to deputise as Chairman pursuant to subsection (2) for so long as his appointment subsists, shall have and may exercise the functions of that Chairman.

49. Appointment of deputy members. (1) If it appears to a member of an Industry Workplace Health and Safety Committee other than the Chairman that he will be unable to discharge adequately his functions under this Act for any period he shall in writing, inform the Minister of that fact.

(2) Where that member was nominated by the Minister pursuant to section 47 (1) (a) or (b) the Minister may, upon receipt of that information, nominate another person for appointment as a deputy member of the Committee concerned until that member is again able to discharge adequately those functions.

In any other case the Minister may, in writing call upon the person or body who nominated that member to nominate to him another person for appointment as a deputy member of the Committee concerned until that member is again able to discharge adequately those functions.

(3) The Minister may, by notification in The Queensland Government Industrial Gazette, appoint the person so nominated under subsection (2) as a deputy member of the Committee.

(4) A deputy member for as long as his appointment subsists, shall have and may exercise the functions of the member for whom he is deputising.

50. Term of appointment of Committee member. (1) A member of an Industry Workplace Health and Safety Committee including the Chairman shall be appointed and hold office for a term of three years.

(2) If by the expiration of that term his successor has not been duly appointed, he shall, subject to section 52, hold office until his successor is duly appointed.

(3) A member of such a Committee shall be eligible for re-appointment.

51. Vacating member's office. (1) A member of an Industry Workplace Health and Safety Committee may at any time—

- (a) resign his appointment as such by writing under his hand addressed to the Minister;
- (b) be removed from his appointment as such by writing under the hand of the Minister.

(2) A member of such a Committee shall be deemed to have vacated his office—

- (a) in the event of his resignation, upon the receipt by the Minister of his notice of resignation;
- (b) in the event of his removal, upon the issue by the Minister of notice of his removal;
- (c) in the event of his absence without the Committee's leave first obtained from 3 consecutive ordinary meetings of the Committee of which notice has been duly given to him;
- (d) if he becomes incapable of performing the functions of a member;
- (e) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his estate for their benefit.

(3) For the purposes of subsection (2) (c)—

- (a) the non-attendance of a member at the time and place appointed for an ordinary meeting shall not constitute absence

from that meeting unless a meeting of the Committee at which a quorum is present is actually held on that day;

- (b) the attendance of a member at the time and place appointed for an ordinary meeting shall be deemed to constitute presence at an ordinary meeting notwithstanding that by reason of the lack of a quorum a meeting is not actually held on that day;
- (c) the names of the members who attend at the time and place appointed for an ordinary meeting shall be entered in the minute book.

(4) Minutes of each meeting of each Committee shall be recorded and a copy presented at the next meeting of the Committee concerned for confirmation, and following confirmation shall be signed by the Chairman and shall form part of the minutes of that meeting.

52. Casual vacancy in member's office. (1) A casual vacancy shall be taken to arise in the office of a member of an Industry Workplace Health and Safety Committee—

- (a) if he dies;
- (b) if his office becomes vacant as prescribed by section 51.

(2) If a casual vacancy occurs in the office of a member another person shall be appointed as a member in accordance with section 47, to fill that vacancy.

(3) The appointment of a person appointed to fill a casual vacancy shall continue for as long as the appointment of his predecessor had the casual vacancy not occurred.

53. Meetings of Committee. (1) An Industry Workplace Health and Safety Committee shall meet as often as is necessary for the exercise of its functions at such times and places as the Committee from time to time determines.

(2) The Chairman of a Committee may convene a meeting of the Committee at any time.

(3) A quorum shall consist of the Chairman and six other members of the Committee and business shall not be conducted at a meeting of a Committee unless a quorum is present.

54. Proceedings of Committee. (1) Where a question requiring a vote arises at a meeting of an Industry Workplace Health and Safety Committee that question shall be decided by a majority of votes of the members present.

(2) The Chairman of a Committee has a deliberative vote and also, in the event of an equality of votes on any question, a casting vote.

(3) Subject to this Act, a Committee shall conduct its meetings generally and proceedings at its meetings in such manner as is prescribed or so far as is not prescribed as it determines from time to time.

55. Validity of acts done by the Committee etc. The validity of acts done by an Industry Workplace Health and Safety Committee or by the Chairman or any other member of such a Committee, or a deputy of any member including the Chairman, shall not be affected by any error or defect in the appointment of any such person or by reason of a vacancy in the membership of the Committee.

56. Functions of Committee. The functions of an Industry Workplace Health and Safety Committee are—

- (a) to review the workplace health and safety legislation in force in respect of the industry or industries for which the Committee is constituted and make suitable recommendations to the Minister for the necessary amendments to existing legislation or for the introduction of new legislation in respect of any workplace health and safety matter;
- (b) to examine any proposal relating to education and community awareness on matters concerning health and safety and reject it or make recommendations on that proposal to the Minister;
- (c) to examine all matters relating to workplace health and safety in respect of the industry or industries for which the Committee is constituted and make recommendations in writing on those matters to the Minister;
- (d) to examine, investigate and report on any matter referred to it by the Workplace Health and Safety Council.

57. Entitlements of members of Industry Workplace Health and Safety Committees. (1) Members of Industry Workplace Health and Safety Committees shall be entitled to such fees and allowances as are approved by the Governor in Council save that a member of such a Committee who is an officer of the Public Service of Queensland shall not receive fees or allowances for attendance at a meeting of the Committee concerned during his ordinary hours of business.

(2) Members of Industry Workplace Health and Safety Committees shall be entitled to be reimbursed such out of pocket expenses necessarily incurred by them in the performance of their duties as such members as are approved by the Minister.

PART VI—WORKPLACE HEALTH AND SAFETY OFFICERS REPRESENTATIVES AND COMMITTEES

Division 1—Health and Safety Officers

58. Health and safety officers. (1) An employer or, in the case of a project, a principal contractor in respect of a workplace where work is performed for or under the control of that employer or, as the case may be, principal contractor and in respect of which workplace—

- (a) 30 or more persons employed by that employer or under the control of that principal contractor are generally engaged in work at the one time;

and

- (b) the Authority has determined by notification in the Queensland Government Industrial Gazette that nomination of such an officer is warranted for that particular industry,

shall not fail to nominate for that workplace a suitably qualified person who shall be designated a Health and Safety Officer for that workplace.

(2) An employer or, in the case of a project, a principal contractor in respect of a workplace where work is performed for or under the control of that employer or principal contractor and in respect of which workplace fewer than 30 persons are generally engaged in work at the one time, may nominate for that workplace a duly qualified person who shall be designated a Health and Safety officer.

The employer or, as the case may be, principal contractor may nominate for and may fill that office.

(3) Where in the opinion of the Director a workplace is of such a hazardous nature that the nomination of a Health and Safety Officer is necessary, the Director may give directions, in writing, to the employer or, as the case may be, principal contractor to make such a nomination.

(4) A person who is designated a Health and Safety Officer at a workplace may, with the prior approval in writing of the Director, be nominated for and hold the office of Health and Safety Officer at another or other workplaces or for another employer or principal contractor.

(5) An employer or principal contractor who has received directions from the Director in accordance with subsection (3) shall not fail to comply with those directions.

(6) Where work is performed for or under the control of an employer or principal contractor at more than one workplace in the State, this section shall be read and construed so that it applies separately to each such workplace.

59. Duties of Health and Safety Officers. (1) Without in any way diminishing the liability of the employer or principal contractor concerned for health and safety management of the workplace, the Health and Safety Officer shall—

- (a) advise the employer or principal contractor by whom he was nominated on the over-all state of health and safety in the workplace concerned;
- (b) conduct inspections of the workplace concerned for the purpose of discovering unsafe or unsatisfactory conditions

and practices and to ensure by all practicable means the observance of health and safety standards;

- (c) conduct appropriate educational programs in workplace health and safety;
- (d) report to the employer or principal contractor by whom he was nominated any unsafe or unsatisfactory conditions or practices discovered on those inspections;
- (e) ensure that all injuries, illnesses and occurrences are investigated and the record kept pursuant to section 27 is completed accordingly;
- (f) assist the inspectors in the performance of their duties;
- (g) in the event of any work injury, work-related illness, dangerous occurrence or immediate risk to the health or safety of any person at the workplace concerned, report the injury, illness, occurrence or other situation to the employer or, as the case may be, principal contractor;
- (h) assist the chairman in the organization and conduct of meetings of a Health and Safety Committee, if any, established for the workplace in accordance with section 71;
- (i) perform such other duties as are prescribed.

60. Supervision by employer or principal contractor. An employer or, as the case may be, principal contractor who has nominated a Health and Safety Officer pursuant to section 58, shall exercise supervision of the workplace concerned to ensure that the duties of that officer are being performed in accordance with this Act.

61. Qualifications of Health and Safety Officer. (1) The qualifications required for a person to be nominated as a Health and Safety Officer are as follows:—

- (a) a sound knowledge of this Act and the regulations and codes of practice relevant to the work performed at the workplace concerned;
- (b) a sound knowledge of workplace health and safety prevention practices;
- (c) a sound knowledge of accident investigation procedures;
- (d) such other qualifications as are prescribed.

(2) The qualifications required by subsection (1) shall be obtained by completion of a course accredited by the Director.

Division 2—Health and Safety Representatives

62. Nomination or election of Health and Safety Representative.

(1) Where it is agreed between the employer or, as the case may be, principal contractor and employees at a workplace, or if directed by a Director to do so, the employees engaged in work for the same employer or principal contractor at a workplace may together nominate or elect for the workplace or for any part or parts of that workplace a duly

qualified person who shall be designated the Health and Safety Representative for the whole or, as the case may be, that part or those parts of the workplace.

(2) Unless it is otherwise agreed between the employer or, as the case may be, principal contractor operating at a workplace and the employees engaged at a workplace, only one Health and Safety Representative need be nominated or, as the case may be, elected for such workplace.

63. Eligibility. A person shall not be nominated or elected or continue to be a Health and Safety Representative for a workplace unless he is or continues to be an employee at that workplace.

64. Qualifications of Health and Safety Representative. No specific experience or qualifications shall be required for a person to be a Health and Safety Representative unless prescribed for the industry in which the Representative is engaged.

65. Jurisdiction of Health and Safety Representative. A Health and Safety Representative shall perform a function or duty under this Part only in respect of the workplace or the part or parts of the workplace for which he was elected.

66. Disqualification of Health and Safety Representative. An inspector, employer or principal contractor may apply to the Director to have a Health and Safety Representative disqualified on any one or more of the following grounds:—

- (a) that the Representative is not performing satisfactorily the functions that are prescribed;
- (b) that the Representative has performed any function primarily with the intention of causing harm to the employer or principal contractor or the employer's or principal contractor's undertaking;
- (c) that the Representative has used any information acquired from the employer or principal contractor by the Representative for a purpose that is not connected with the performance of any of his functions primarily with the intention of causing harm to the employer or principal contractor or the employer's or principal contractor's undertaking.

67. Period of disqualification. (1) Where the Director is satisfied that grounds exist under section 66 for the disqualification of a Health and Safety Representative he may by notice in writing disqualify that Representative for a specified period or permanently, and shall include in that notice his reasons for that disqualification.

(2) A person who is aggrieved by a decision of the Director may appeal in writing to the Appeals Tribunal for the relevant industry constituted under Part VIII.

68. Matters for consideration by Director. For the purpose of determining what action, if any, he should take under section 67 (1), the Director shall take into account—

- (a) whether any harm was caused to the employer or principal contractor or the employer's or principal contractor's undertaking by or as a result of the action of the Representative;
- (b) the past record of the Representative in performing any functions under this Part;
and
- (c) whether the action of the Representative was contrary to the public interest or the health and safety of employees,
and any other matters he considers relevant.

69. Entitlement and duties of Health and Safety Representative. A Health and Safety Representative shall—

- (a) be entitled to make an inspection at prescribed intervals of all parts of the workplace for which he is Representative;
- (b) be entitled to report in writing to the Health and Safety Officer or, where no such officer is required to be nominated under section 58, the employer or the principal contractor, all matters that in the Representative's opinion concern the health and safety of persons at the workplace;
- (c) be entitled to participate in the activities of a Health and Safety Committee established pursuant to section 71;
and
- (d) perform such duties as are prescribed.

70. Identity of Officer and Representative to be displayed. (1) An employer who has nominated a Health and Safety Officer pursuant to section 58 shall within five days of that nomination cause the identity of the Officer to be prominently and permanently displayed at the appropriate workplace while the Officer remains in the position.

(2) Where an employee has been duly nominated or elected as Health and Safety Representative pursuant to section 62, his employer or, as the case may be, the principal contractor shall within five days of that election cause the identity of the Representative to be prominently and permanently displayed at the appropriate workplace while the Representative remains in the position.

Division 3—Health and Safety Committees

71. Establishment of Health and Safety Committees. (1) An employer or, as the case may be, principal contractor in respect of a workplace where work is performed for him or under his control—

- (a) shall when prescribed by regulations so to do;
or
- (b) when not so prescribed shall upon the request of the Health and Safety Representative,

within the prescribed period or within one month after the date of that request;

or

(c) may on his own initiative, establish a Health and Safety Committee.

(2) Where the Director is of the opinion that the work performed by the employees at a workplace is or is likely to be especially dangerous, he may give directions, in writing, to the relevant employer or, as the case may be, principal contractor, to set up such Health and Safety Committee or Committees as he thinks necessary for that workplace.

An employer or principal contractor who has received directions from the Director in accordance with this subsection shall not fail to comply with those directions within one month of receiving them.

(3) The composition of a Health and Safety Committee shall be—

(a) as prescribed for the industry concerned;

or

(b) where not prescribed, shall—

(i) consist of at least two persons;

(ii) include any Health and Safety Officer and Representatives employed at that workplace;

and

(c) otherwise be at the discretion of the employer or, as the case may be, principal contractor.

(4) Every Health and Safety Committee shall meet at least once every three months and in addition, when required by the Health and Safety Officer to do so.

(5) Subject to this Act, every Health and Safety Committee shall regulate its own procedures.

72. Functions of Health and Safety Committees. The functions of every Health and Safety Committee shall be to—

(a) act in an advisory capacity to the employer or principal contractor concerned;

(b) create and maintain at the workplace concerned an active interest in health and safety and assist in reducing work injuries, work-related illnesses and dangerous occurrences;

(c) consider measures for the training and education in and promotion of health and safety at the workplace concerned and make recommendations to the employers or principal contractors concerned in relation to those measures;

(d) facilitate co-operation between the employer or principal contractor concerned and his employees in instigating,

-
- developing and carrying out measures designed to ensure the health and safety of those employees;
 - (e) formulate, review and disseminate (in such languages as are appropriate) to the employees concerned the standards, rules and procedures relating to health and safety that are to be carried out or complied with at the workplace;
 - (f) review the circumstances surrounding recent work injuries, work-related illnesses and dangerous occurrences at the workplace concerned, advise the employer of the results of those reviews and make such recommendations as the Committee considers desirable;
 - (g) initiate programmes aimed at arousing and maintaining the interest of the employer and employees concerned in workplace health and safety;
 - (h) maintain records of meetings including any recommendations made and keep those records available for perusal or copying or both by an inspector;
- and
- (i) assist in the resolution of issues in respect of workplace health and safety as required.

73. Employer or principal contractor to assist Health and Safety Officers and Representatives. An employer or, in the case of a project, a principal contractor in respect of a workplace where work is performed for or under the control of that employer or principal contractor shall—

- (a) permit the Health and Safety Officer to have access to such information as the employer or principal contractor possesses relating to—
 - (i) actual or potential hazards arising at any workplace under the control and management of the employer or principal contractor, the conduct of the undertaking of the employer or principal contractor or the plant or substances used for the purposes of that undertaking;
- and
- (ii) the health and safety of the employees of or under the control of that employer or principal contractor;
- (b) permit the Health and Safety Officer to be present at any interview concerning health and safety between the employer or principal contractor and an employee after prior approval of the employee has been obtained;
 - (c) consult the Health and Safety Officer and Health and Safety Representatives on all proposed changes to the workplace, the plant or substances used in that undertaking or the

- conduct of that undertaking being changes that may affect health and safety at the workplace;
- (d) provide such other facilities and assistance to the Health and Safety Officer as are prescribed or where not so prescribed as are necessary, to enable the Officer to perform his functions;
 - (e) permit the Health and Safety Officer to seek appropriate advice on matters which may affect health and safety at the workplace;
 - (f) permit the Health and Safety Representative to make the inspections referred to in section 69;
 - (g) in order to give effect to his responsibilities under this Part, the employer or, as the case may be, principal contractor may instruct the Officer or Representatives on action to be taken to implement his workplace health and safety policy.

74. Director may grant exemptions from Part VI. The Director may, on conditions or unconditionally—

- (a) exempt any employer or principal contractor from compliance with Part VI, in whole or in part;
- or
- (b) vary, in whole or in part, compliance with Part VI if he is satisfied that the employer or principal contractor has effected a health and safety management policy and training programme which in the opinion of the Director satisfies the intent of Part VI.

75. No civil liability incurred. Neither a Health and Safety Officer nor a Health and Safety Representative nor any member of a Health and Safety Committee shall incur any civil liability arising from their performance of or their failure to perform any health and safety function under this Part.

PART VII—ADMINISTRATION

Division 1—Director's powers and Annual Report

76. Director's power of delegation. (1) A Director may either generally or otherwise as provided by the instrument of delegation, by writing signed by him, delegate to any person all or any of his functions except this power of delegation.

(2) A function so delegated, if exercised or performed by the delegate, shall be exercised or performed in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms and limitations as the Director thinks fit including a requirement that the delegate shall report to the Director upon his exercise or performance of the delegated function.

(4) A Director may make such and so many delegations of the same function and to such number of persons as he considers necessary or desirable.

(5) A delegation is revocable at the will of the Director and does not prevent the performance of a function by him.

77. Annual report. (1) The Director of Accident Prevention and the Director-General of Health and Medical Services shall in every year prepare and submit to the Authority a report on the operation of this Act throughout that year.

(2) The Authority shall lay every report submitted to it pursuant to subsection (1) before the Legislative Assembly within 14 sitting days after its receipt by the Authority.

Division 2—Officers and Acting Inspectors

78. Officers. Inspectors and such other officers as are deemed necessary for the effectual administration of this Act may be appointed and shall hold office under the *Public Service Management and Employment Act 1988*.

An officer of the Public Service of Queensland may, in addition to the position he holds therein, be appointed to and hold office for the effectual administration of this Act.

79. Acting inspectors. (1) The Director may from time to time appoint under and for the purposes of this Act such and so many persons or a class of person as he considers necessary to act as inspectors, for such locality of Queensland as the Director defines in the appointment, for a period, not exceeding two years, specified in the appointment or until the appointment is sooner revoked by the Director.

While that person is acting as an inspector for those purposes, he shall have and may exercise all of the functions from time to time assigned to him in writing by the Director and every reference in this Act to an inspector shall be deemed to include a reference to such an acting inspector.

(2) A person shall not be appointed an inspector under subsection (1) unless he possesses, in the opinion of the Director, sufficient qualifications to permit him to exercise the functions assigned to him.

80. Certificate of appointment. Each inspector shall as far as practicable be furnished with a certificate of appointment, which incorporates a recent photograph of the inspector concerned, signed by the Director and upon entering any place shall, if required, produce that certificate (unless his appointment has been made by lettergram or any other transmitted electronic communication when he shall, if required, produce that lettergram or communication) to the occupier of the place.

Division 3—Provisions relating to inspectors

81. Powers of inspectors. In addition to all of the other powers and authorities conferred upon him by any of the other provisions of this Act, an inspector may at any time—

- (a) enter and remain at any premises and carry out such inspections and examinations as are necessary to ensure compliance with the provisions of this Act;
- (b) call to his aid any person who in his opinion is competent to assist him in the exercise of his powers under this Act;
- (c) control, restrict or prohibit the movement of any person, except where that person is an employer, a principal contractor, an owner or an employee or a self-employed person controlling the performance of or performing work at the material time at or in respect of the workplace concerned, at a workplace where a work-related illness, serious bodily injury or dangerous occurrence has occurred or is likely to occur;
- (d) call to his aid any member of the Queensland Police Force where he has reasonable cause to apprehend any obstruction in the exercise of his functions or in the administration of this Act;
- (e) question with respect to matters under this Act any person whom he finds in or at the premises or whom he has reasonable cause to believe to be, or to have been, an employee who performed work for an employer at that premises and require that person to answer the questions put, which power of an inspector to question an employee shall include power to question that employee out of the hearing of the employer or of any foreman, manager or other superior officer;
- (f) make such examination and enquiry as may be necessary to establish whether the provisions of this Act or of any Act relating to public health and safety are being complied with in every respect in regard to any workplace, any employer for whom work is being performed at a workplace and any employee of such an employer, and any principal contractor of a project;
- (g) require the production of any permit, certificate, or other authority under this Act held or had by any person or alleged by any person to be held or had by him, or of any book, record, list or document of any kind required by this Act to be held or kept by any person, and inspect and examine the same and make copies of and take extracts from the same or of any part thereof or of any entries therein, or do any of those things;
- (h) for the purpose of carrying out his functions under this Act require any employer, owner or principal contractor for whom work is or is in the course of, or has been, performed

- at a workplace to produce for his inspection (at such time and place as may be specified by the inspector) all contracts and other documents relevant to the performance of that work;
- (i) take such copies of and extracts from contracts or other documents produced for his inspection pursuant to paragraph (h);
 - (j) require any person whom he finds committing or whom he suspects on reasonable grounds has committed an offence against this Act, or whom he is authorised to question for the purposes of this Act, or whose name and place of residence is in his opinion reasonably required for the purposes of this Act, to state his name and address and, if he suspects on reasonable grounds that the name or address or name and address as stated is false, require evidence of the correctness thereof;
 - (k) institute proceedings under this Act;
 - (l) take and remove, for purposes of analysis, samples of materials and substances, and any article or thing used or handled in connexion with the business or any process carried on in any place but, in the exercise of the power in this paragraph defined, he shall notify the owner, occupier or the employer or principal contractor concerned or their representative of the samples, articles or things so taken and removed;
 - (m) conduct surveys including such tests as are necessary to assess the degree of risk or health and safety standards existing in a workplace;
 - (n) take photographs or measurements or make sketches or recordings;
 - (o) exercise such other powers as may from time to time be prescribed.

82. Completion of matters by inspectors. Notwithstanding anything to the contrary in this Act, if an inspector has issued any notice or made any request under this Act, he or any other inspector who is empowered by this Act to issue or make a like notice or, as the case may be, request, may at any time by direction of the Director withdraw or revoke or from time to time vary the notice or request, or take further steps thereon.

83. Entry to domestic premises. (1) Before an inspector enters any domestic premises, not being a project, pursuant to a power conferred by any provision of this Act he shall, save where he has the permission of the occupier of those premises to his entry, obtain from a justice a warrant to enter.

(2) A justice who is satisfied upon the complaint of an inspector that there is reason to believe that any premises are of a description such that an inspector is, by this Act, empowered to enter therein may

issue his warrant directed to the inspector to enter the premises specified in the warrant for the purpose of exercising therein the powers conferred on the inspector by this Act.

(3) A warrant issued under this section shall be, for a period of one month from its issue, sufficient authority—

(a) to the inspector to whom it is directed and to all persons acting in aid of him to enter the premises specified in the warrant;

and

(b) to the inspector to whom it is directed to exercise in respect of the premises specified in the warrant all the powers conferred on an inspector by this Act.

(4) For the purposes of this section the expression domestic premises does not include parts of premises which parts are not used exclusively for the purpose of private residence, or the curtilage of any premises.

84. Inspector's power of seizure. (1) If it appears to an inspector that any premises or part thereof, plant, material or substance is so defective or hazardous as to be likely to cause death, serious bodily injury or damage to property or is not of a description and of a standard prescribed or approved by the Director, the inspector may seize the relevant premises or part thereof, plant, material or substance.

(2) For the purposes of carrying out such seizure, an inspector may issue a notice stating his intentions to—

(a) remove any plant or substance or part thereof from the premises;

(b) dismantle or cause to be dismantled any plant by giving direction to such person as he sees fit;

(c) affix to any part of the premises or plant a notice in the prescribed form stating that no work is to be performed in such premises or part thereof until further notified by the inspector in writing.

(3) A person required by an inspector to dismantle any plant for the purposes of this section or who is directed by an inspector to take any other action for the purposes of this section shall comply with the direction forthwith.

85. Consequences of seizure. (1) Any premises, plant, material or substance seized by an inspector pursuant to this Act shall be kept by the inspector until the expiration of the time limited by this Act for the institution of an appeal or, if an appeal is duly instituted, until the determination of the appeal and, in the former case, upon such expiration or, in the latter case, a determination that confirms the seizure, the premises, plant, material or substance seized shall be forfeited to the Crown and may be disposed of as the Director at any time directs.

(2) Neither the Crown nor any inspector shall be liable on account of damage to or destruction of any premises, plant, material or substance

seized by an inspector that occurs, without intent of the inspector, during the time it is kept by him pursuant to subsection (1).

86. Powers and duties of police officers. (1) Where under section 81(d) an inspector calls to his aid a member of the Queensland Police Force, it shall be the duty of that member to aid that inspector as required and a member so aiding shall, for those purposes, be deemed to be an inspector and shall have all of the functions of an inspector under this Act in addition to those functions vested in him as such member of the Queensland Police Force.

(2) Where an offence by a person against this Act consists of—

- (a) a failure to comply with a requisition by an inspector to state his true name or place of residence;
 - (b) assaulting or resisting an inspector in the performance of his functions under this Act or attempting to do so;
 - (c) the stating of a name or place of residence that is false in any particular in response to a requisition made to him by an inspector;
- or
- (d) using any threat to an inspector or to an employee who is connected with an inspection, examination or inquiry being made pursuant to this Act,

any member of the Police Force may arrest without warrant a person whom he finds committing or whom he suspects on reasonable grounds has committed such an offence upon a charge of that offence and take that person before a justice to be dealt with according to law.

(3) Where—

- (a) an inspector has given a lawful direction orally or a notice in writing in accordance with the provisions of this Act to any person;
 - (b) the person to whom the direction or notice was given has failed to comply with the inspector's direction or notice within the time specified;
- and
- (c) it appears to an inspector that the failure to comply with such a direction or notice is likely to cause death or serious bodily injury to any person or damage to any property,

the person who failed to comply with that notice or direction commits an offence against this Act and any member of the Police Force may arrest without warrant a person whom he finds committing or whom he suspects on reasonable grounds has committed such an offence upon a charge of that offence and take that person before a justice to be dealt with according to law.

(4) Proceedings where an offender has been arrested without warrant to be dealt with pursuant to subsection (2) or (3) shall be taken in a summary way under the *Justices Act 1886-1987*.

87. Occupiers, etc., to allow entry and inspection. Every owner, occupier, employer, principal contractor or person entitled to immediate possession of any workplace, and every agent and employee, if any, of any of those persons, shall allow an inspector to enter any premises for the purpose of making an inspection and shall furnish to an inspector all reasonable assistance and all such information as that person is capable of furnishing as is required by that inspector in the exercise of his functions under this Act.

88. Obstructing an inspector or person assisting an inspector. A person shall not—

- (a) assault, threaten, hinder, abuse, insult, intimidate or otherwise obstruct an inspector or a person assisting an inspector in the exercise of his functions under this Act, or attempt to do so;
 - (b) fail to answer any question put to him in accordance with the provisions of this Act by an inspector or give any false or misleading answer to any such question;
 - (c) fail to comply in any respect with the lawful request, requirement, direction, notice or order of an inspector;
 - (d) when required by or under this Act to furnish any assistance or to furnish any information to an inspector, fail to furnish that assistance or information, as the case may be, or in the latter case, furnish false or misleading information;
 - (e) fail, when so required by an inspector, to produce any permit, certificate or authority of any kind held or had by him or alleged by him to be held or had by him under or for the purposes of this Act, or any book, record, list or other document of any kind required by this Act to be held or kept by him, or, upon his so producing the same, fail to allow the inspector to inspect or examine it or the inspector to make copies of or take extracts from it or of any part thereof or of any entries therein;
 - (f) directly or indirectly prevent any person from appearing before or being questioned by an inspector, or attempt to do so;
- or
- (g) impersonate an inspector.

89. Limited use of answers given under compulsion of Act. Where a person who prior to answering a question or giving any information under the compulsion of this Act objects to an inspector that to do so might incriminate him in the commission of an offence against this Act the answer so given or that particular information so furnished shall not be used in proceedings against him other than for an offence defined in section 88 (b) or (d).

Division 4—Improvement and Prohibition Notices

90. Improvement notice. (1) Where an inspector is of the opinion that any person—

- (a) is contravening or failing to comply with any provision of this Act;
- or
- (b) has contravened or failed to comply with any such provision in circumstances that make it likely that the contravention or failure to comply will continue or be repeated,

he may issue to and serve on the person an improvement notice requiring the person to remedy the contravention or failure to comply or the likely contravention or failure to comply or the matters or activities occasioning the contravention or failure to comply or the likely contravention or failure to comply.

(2) An improvement notice shall—

- (a) state that the inspector is of the opinion that the person —
 - (i) is contravening or, as the case may be, failing to comply with a provision of this Act;
 - or
 - (ii) has contravened or, as the case may be, failed to comply with such a provision in circumstances that make it likely that the contravention or failure to comply will continue or be repeated;
- (b) state the reasons for that opinion;
- (c) specify the provision of this Act in respect of which that opinion is held;
and
- (d) specify the day before which the person is required to remedy the contravention or failure to comply or the likely contravention or failure to comply.

(3) A person who fails to comply with the requirements of an improvement notice before the date specified in that notice commits an offence against this Act.

91. Prohibition notice. (1) Where, in the opinion of an inspector, circumstances have arisen or are likely to arise in a workplace or in relation to any plant or substance to which this Act applies, such as to have caused or are likely to cause an immediate risk to the health and safety of any person, the inspector may give an oral direction to or issue to and serve on the person who, in the opinion of the inspector, has or may reasonably be presumed to have control over the activity or procedure or plant or substance that caused those circumstances a prohibition notice prohibiting the carrying on of that activity or procedure or the use of that plant or substance save the work necessary to rectify such circumstances until an inspector is satisfied that the matters that gave or will give rise to the risk are remedied.

(2) A prohibition notice shall—

- (a) state that the inspector is of the opinion that circumstances have arisen or, as the case may be, are likely to arise such as to have caused or are likely to cause an immediate risk to the health and safety of any person;
 - (b) state the reasons for that opinion;
 - (c) specify the circumstances that, in the inspector's opinion have caused or are likely to cause the risk;
- and
- (d) where in the inspector's opinion the circumstances involve a contravention of or failure to comply with or likely contravention of or failure to comply with any provision of this Act, specify that provision and state the reasons for that opinion.

(3) A prohibition notice may also contain directions by the inspector to the person to whom the notice was issued to refrain from —

- (a) using or operating any premises or part thereof, plant or substance to which the prohibition notice relates;
- (b) performing work in respect of which the prohibition notice is given and any other work in the vicinity that is likely to cause death or serious bodily injury to any person or damage to property unless the prohibition notice is complied with;
- (c) selling, letting or hiring, lending or otherwise disposing of any plant or substance in respect of which the prohibition notice is given,

until the directions contained in the prohibition notice are complied with.

(4) A person who fails to comply with an oral direction or prohibition notice duly given or issued pursuant to this section before the time nominated in the direction or, as the case may be, notice commits an offence against this Act.

92. Service of notices. (1) A notice issued under this Act to any person by an inspector may be served—

- (a) by delivery of the notice to that person or his manager, foreman or agent personally;
 - (b) by sending the same in a pre-paid post letter addressed to that person at his place of business or residence;
- or
- (c) by sending the notice by pre-paid certified mail addressed to that person at his place of business or residence in which case the receipt from a post office for the letter is evidence and, in the absence of evidence to the contrary, conclusive evidence that it was so sent and that it was given to that person when the letter would have been delivered to him in the ordinary course of post.

(2) If an owner, occupier, employer, principal contractor or other person is absent from the place when an inspector seeks to serve him with a notice pursuant to a provision of this Act the notice may be served on the person who appears to the inspector to be in charge of the place to which the notice relates and shall be deemed to have been served on the owner, occupier, employer, principal contractor or other person to whom it is directed.

The person on whom notice is served pursuant to this section shall, as soon as practicable, bring it to the knowledge of the owner, occupier, employer, principal contractor or other person to whom it is directed.

(3) A person on whom a notice is served for the purposes of this Act shall, if required by an inspector to do so, acknowledge receipt thereof by signing a duplicate copy thereof.

93. Appeal against prohibition or seizure notice. A person to whom a prohibition notice or a seizure notice is issued may within seven days after the notice is served on him appeal in writing in the prescribed form against the notice to the Appeals Tribunal constituted under Part VIII.

94. Order to secure compliance with notices etc. (1) Where it appears to the Director that a person to whom an inspector has issued a notice pursuant to the provisions of this Act—

(a) has failed to comply with the notice and thereby has committed an offence against this Act;

or

(b) having instituted an appeal against such a notice has failed to comply with the provisions of section 107 or is likely to fail to comply with that section,

the Director—

(c) may, subject to paragraph (d), make application to a Commissioner appointed under the Industrial Conciliation and Arbitration Act 1961-1986 in Chambers;

and

(d) shall where—

(i) the order sought is for an indefinite period;

and

(ii) the Commissioner, upon application being made to him seeking that order pursuant to paragraph (c), has ordered that the application be referred to the Commission established under that Act, make application to the Commission,

for an order in the nature of a mandatory or restrictive injunction or otherwise to secure compliance with the notice or, as the case may be,

with this Act and the Commissioner or, as the case may be, the Commission—

- (e) shall have jurisdiction to deal with any such application;
and
- (f) may in respect of that application make such order as he or it thinks just and necessary.

(2) An application referred to in subsection (1) shall be made and in the first instance dealt with *ex parte*.

(3) If it is made to appear to the Commissioner or, as the case may be, the Commission that—

- (a) there has been a failure to comply with a notice issued by an inspector referred to in subsection (1);
or
- (b) there has been a failure to comply with or it is likely that there will be a failure to comply with the provisions of this Act referred to in subsection (1),

the Commissioner or, as the case may be, the Commission shall—

- (c) make an interim order of the description sought by the applicant;
- (d) adjourn the matter of the application for a period of seven days;
and
- (e) make an order directed to the person who has failed to comply with the notice of the inspector or has failed or is likely to fail to comply with section 107 to show cause why the interim order should not be made absolute.

(4) An interim order made under subsection (3) shall continue in force for a period of seven days from the date of its making but may be extended and, if necessary, reviewed by order of the Commissioner or, as the case may be, the Commission.

(5) The Commissioner or, as the case may be, the Commission may in his or its discretion direct an order made pursuant to subsection (3) to the person to whom the notice of the inspector relates and may enjoin that person to whom it is directed from proceeding further with the activity, procedure or work at such premises.

(6) A person to whom an order made pursuant to subsection (3) is directed shall not, after he has received notice of the order, contravene or fail to comply with the order or permit such contravention or failure to comply.

The form of such notice and the mode of service thereof shall be in the discretion of the Commissioner or, as the case may be, the Commission.

(7) A person to whom an order made pursuant to subsection (3) is directed who contravenes or fails to comply with the order or permits such contravention or failure to comply—

- (a) commits an offence against this Act;
- (b) may be prosecuted for that offence by way of proceedings in the Industrial Court constituted under the *Industrial Conciliation and Arbitration Act 1961-1987* as if the offence were against a provision of that Act;
- and
- (c) is liable—
 - (i) if a body corporate, to a penalty of 1000 penalty units;
 - (ii) if a person other than a body corporate, to a penalty of 200 penalty units or to imprisonment for six months or to both such fine and imprisonment.

(8) Every proceeding taken for the purposes of this section shall be taken subject to and in accordance with the *Industrial Conciliation and Arbitration Act 1961-1987* and the Rules of Court made under those Acts the provisions of which shall, subject to this section, apply accordingly.

PART VIII—APPEALS TRIBUNAL

95. Appeals Tribunal. (1) There shall be constituted a tribunal to be called the Appeals Tribunal.

(2) The Appeals Tribunal shall consist of three persons of whom—

- (a) one shall be an industrial magistrate who shall be a continuing member of the Appeals Tribunal appointed by Order in Council and shall be the chairman;
- (b) two shall be provisional members of the Appeals Tribunal who shall be appointed in respect of each appeal by the Minister of whom—
 - (i) where the appeal in question concerns a workplace—
 - (A) one shall be a person who is, in the opinion of the Authority, suitably qualified to be a representative of persons who are employers or principal contractors or, as the case may require, both employers and principal contractors in the industry to which the appeal relates;
 - (B) one shall be a person who is, in the opinion of the Authority, suitably qualified to be a representative of persons who are employees in the industry to which the appeal relates;
 - (ii) where the appeal concerns a plant—
 - (C) one shall be a person who is, in the opinion of the Authority, suitably qualified to be a representative of persons who are owners, manufacturers, importers, suppliers, erectors or, as the case may be, installers of

plant of the kind that is the subject of the appeal concerned;

(D) one shall be a person who is, in the opinion of the Authority, suitably qualified to be a representative of persons who use or operate plant of the kind that is the subject of the appeal concerned;

(iii) where the appeal concerns a substance—

(E) one shall be a person who is, in the opinion of the Authority, suitably qualified to be a representative of persons who are owners, manufacturers, importers or, as the case may be, suppliers of that kind of substance;

(F) one shall be a person who is, in the opinion of the Authority, suitably qualified to be a representative of persons who use that kind of substance.

(3) The term of appointment of the continuing member made to the Appeals Tribunal shall commence on the date specified therefor in the Order in Council by which the appointment is made and except where the appointment is to a casual vacancy, shall be for a period of one year.

(4) A provisional member appointed to the Tribunal shall hold office during the course of the hearing and determination of the appeal in respect of which he is appointed.

(5) A person shall be eligible for further appointment as a member of the Appeals Tribunal.

(6) A person appointed as a continuing member of the Appeals Tribunal shall, unless he sooner vacates his office as prescribed, continue to hold office until his successor assumes office in his place.

96. Vacation of office. (1) A member of the Appeals Tribunal may, by notice in writing furnished to the Minister, resign his office at any time.

(2) The Governor in Council may at any time remove from office a continuing member of the Appeals Tribunal by notice in writing furnished to the member.

(3) A member of the Appeals Tribunal shall be deemed to have vacated his office—

(a) if he dies;

(b) if he resigns his office;

(c) in the case of the continuing member—

(i) if he ceases to be a stipendiary magistrate;

(ii) if he is removed from office as such member.

97. Filling vacancies. (1) If a casual vacancy occurs in the office of the continuing member of the Appeals Tribunal during the currency of

his term of appointment, there may be appointed to fill that vacancy a person who is a stipendiary magistrate.

(2) A person appointed to fill a casual vacancy as provided in subsection (1) shall hold office for the remainder of the term for which his predecessor was appointed but shall be eligible for reappointment if he remains otherwise qualified as prescribed to be a member of the Appeals Tribunal.

98. Validation of proceedings. No proceedings of the Appeals Tribunal shall be invalidated by reason of any defect in the appointment of any person as a member of the Tribunal.

99. Functions of the Tribunal. It is the function of the Appeals Tribunal—

- (a) to hear any appeal, which is within the jurisdiction of the Tribunal, that is referred to it pursuant to the provisions of this Act;
- (b) to make or cause to be made such investigations as it considers necessary for the purposes of such hearing;
and
- (c) to determine every such appeal in accordance with and for the purposes of the provisions of this Act.

100. Determination of questions before the Appeals Tribunal. (1) Subject to subsection (2), a question before the Appeals Tribunal shall be decided according to the opinion of a majority of the members constituting the Tribunal.

(2) A question of law arising before the Tribunal shall be decided by the Chairman.

101. Status of Appeals Tribunal and powers of its members. (1) Subject to this Act, the Appeals Tribunal shall in the discharge of its functions be deemed to be a Commission of Inquiry within the meaning of the *Commissions of Inquiry Act 1950-1988* and the provisions of that Act, other than sections 4, 4A, 10 (3), 13, 14 (1A), 19 (2), 19A, 19B, 19C and 26, shall apply accordingly: provided that if a provision of that Act is inconsistent with a provision of this Act, the provisions of this Act, to the extent of the inconsistency shall prevail.

(2) For the purposes of applying the provisions of the *Commissions of Inquiry Act 1950-1988*, each member of the Tribunal shall be deemed to be a commissioner and the chairman shall be deemed to be the chairman within the meaning of that Act.

(3) There shall be payable to a witness who appears before the Tribunal an allowance for expenses being—

- (a) the allowance payable pursuant to section 24 of the *Commissions of Inquiry Act 1950-1988*;

or

- (b) such other allowances as the chairman of the Tribunal in special circumstances considers reasonable,

whichever is the greater and that allowance shall be paid out of funds appropriated by the Parliament for that purpose.

102. Secretary to Appeals Tribunal. An officer of one of the departments of Government of the State responsible to the Authority for the administration of this Act shall be assigned to act as secretary of the Appeals Tribunal.

103. Institution of appeal. (1) An appeal shall be instituted within 14 days from the date on which the person instituting the appeal referred to in this Part as the appellant receives notification of the notice or decision by which he is aggrieved and no later, by lodging with the secretary a notice of appeal in writing in the prescribed form and paying the prescribed fee.

(2) The grounds of appeal shall be clearly and briefly set forth in the notice of appeal.

(3) The appellant may at any time, by notice in writing to the secretary, withdraw his appeal.

104. Notice of hearing. (1) When an appeal has been duly instituted, the secretary shall arrange with the chairman of the Appeals Tribunal a date, time and place for the hearing of the appeal and shall give at least seven days' notice thereof to the appellant and to the Director.

(2) An appeal shall be heard and determined as soon as is practicable after the date on which it is instituted.

105. Venue and nature of appeal. (1) The Appeals Tribunal shall sit at such place as the chairman appoints and shall determine an appeal on the evidence that was before the Director or, as the case may be, inspector in the matter in question and on such further evidence as, in the opinion of the chairman, is relevant to the matter of inquiry.

(2) The Tribunal may inform itself on any matter in such manner as it deems fit and subject to this Act, shall not be bound by rules and practices as to evidence.

(3) Subject to this Act, an appeal shall be conducted in accordance with directions of the Tribunal, which directions shall be consistent with natural justice.

(4) The appellant or, as the case may be, the Director or inspector may appear before the Tribunal in person or by counsel or solicitor or by an agent acceptable to the Tribunal.

106. Determination of appeal. By way of determining an appeal, the Appeals Tribunal may confirm, vary or set aside the notice or decision in issue and may make any determination and order that the

Director or inspector could properly have made under this Act with respect to the matter in question, and may make such order as to costs as prescribed or if not so prescribed, as it thinks proper.

107. Consequences of appeal. (1) When an appeal against a notice of an inspector or a decision of the Director has been duly instituted —

(a) a person shall not use or operate or permit to be used or operated any premises or part thereof or plant to which the notice or decision relates;

(b) a person shall not perform or permit to be performed any work in respect of which the notice or decision is issued, until the appeal is determined or struck out, as the case may be.

(2) Where the Appeals Tribunal on appeal confirms or varies a notice, it shall appoint a time within which the notice is to be complied with and—

(a) in the case of a variation, the notice as so varied shall be deemed to be the notice issued to the appellant;

(b) in both cases, the time so appointed shall be deemed to be the time specified in the notice issued by the inspector.

(3) Where the Appeals Tribunal on appeal sets aside a notice it shall be deemed that the notice had not, at any time, been given.

(4) The decision of the Appeals Tribunal shall be final and conclusive and effect shall be given to that decision.

108. Restricted right to question Tribunal's proceedings. The proceedings of the Appeals Tribunal and the determination of the Appeals Tribunal shall not be questioned in any proceedings whatever except proceedings based solely on one or both of the following grounds:—

(a) that the Appeals Tribunal had or has no jurisdiction or has exceeded its jurisdiction in the proceedings in question or in making the determination in question;

or

(b) there has occurred a denial of natural justice in the course of the proceedings in question.

PART IX—PROVISIONS RELATING TO PERFORMANCE OF WORK IN CERTAIN OCCUPATIONS

Division 1—Requirements for work in Prescribed Occupations

109. Certificate, permit or authority required for work in certain occupations. An employer or principal contractor shall not perform work in a prescribed occupation or cause, permit, allow or employ any person to perform work in a prescribed occupation unless that person is the holder of a current certificate of competency, permit or authority to operate issued by the Director on the recommendation of an inspector

or accredited officer for that occupation and held as prescribed under this Act.

110. Director's power to exempt. (1) The Director may by declaration, either on his own motion or upon application made to him in that behalf by any person, exempt a person or persons or any class of person from the operation of all or any of the provisions of this Part.

(2) A declaration by the Director under subsection (1)—

- (a) shall be by notification published in the Queensland Government Industrial Gazette, if it is made of his own motion;
- (b) shall be by notice in writing to the applicant, if it is made on the application of any person;
- (c) may be in respect of work of a particular description generally or in respect of work to be performed in respect of a particular workplace or project;
- (d) may be unrestricted or restricted as to its extent or the circumstances in which the exemption will apply as the Director thinks fit.

(3) A person who engages in work of a type declared by the Director to be work in respect of which subsection (1) shall not apply and who fails to comply with any restriction to which the declaration is subject, commits an offence against this Act.

Division 2—Accredited officers

111. Accredited officers. (1) The Minister or Director may appoint a duly qualified person, whether a member of the public service of the State or not, to be an accredited officer for such period as the Minister or Director specifies in the appointment.

(2) A person shall not be appointed as an accredited officer unless he possesses, in the opinion of the Minister or Director, sufficient qualifications to permit him to exercise and perform the functions likely to be assigned to him by the Director.

(3) An accredited officer appointed under subsection (1) shall exercise and perform such functions as are from time to time assigned to him in writing by the Director.

112. Certificates of appointment. (1) Every accredited officer appointed for the purposes of this Act shall be furnished with a certificate of his appointment, signed by the Director which shall be sufficient evidence thereof.

(2) An accredited officer shall carry his certificate of appointment with him at all times while in the execution of his duty and, if required to do so, shall produce it to a person in charge of a place that he wishes to enter.

Division 3—Boards of Reference

113. Appeal to Board of Reference concerning certificates etc. (1)

A person who is aggrieved by a decision of the Director not to grant a certificate of competency, permit or authority to operate under the provisions of this Act or who has had his certificate, permit or authority to operate suspended or revoked under those provisions, may appeal in writing to a Board of Reference established and maintained under this Act for the relevant industry.

(2) An appeal referred to in subsection (1) shall be instituted within 21 days after the person aggrieved is informed of the Director's decision and shall be instituted, heard and determined in the manner prescribed or, in so far as it is not prescribed, as the Board directs.

(3) Upon an appeal a Board may affirm, rescind or vary the decision of the Director whereupon the Board's decision shall be deemed to be that of the Director and shall be final and conclusive.

114. Minister may establish Boards of Reference. (1) For the purposes of this Act, the Minister may establish and maintain such Boards of Reference for a specified industry or for specified industries or a class or classes of industry as he determines, each of which shall be called a Board of Reference, with such functions as are prescribed.

(2) A Board of Reference shall—

(a) where the Board is established for the purpose of hearing and determining appeals pursuant to section 113 (Appeal to Board of Reference concerning certificates etc.) consist of —

(i) a nominee of the Minister who shall in his appointment be designated and shall be chairman of the Board;

(ii) two persons who, in the opinion of the Minister, have experience appropriate to the relevant industry;

(b) where the Board is established for any other purpose under this Act, consist of—

(i) the Director of Accident Prevention appointed or deemed to be appointed under and for the purposes of this Act, who shall be chairman of the Board;

(ii) two persons who, in the opinion of the Minister, have experience appropriate to the relevant industry.

(3) The members of a Board of Reference shall be appointed by the Minister by notification published in The Queensland Government Industrial Gazette.

A Board of Reference shall be taken to be established upon the publication in The Queensland Government Industrial Gazette of the appointment of its members.

(4) A Board of Reference shall meet as often as is required by the Minister.

(5) Subject to this Act, a Board of Reference shall conduct its business generally and proceedings at its meetings in such manner as is prescribed or so far as not prescribed as it determines from time to time.

115. Costs. A Board of Reference may make such order as to costs to be paid to either party in the prescribed manner or, in so far as it is not prescribed, in the manner approved from time to time by the Minister.

116. Entitlements of members of Boards of Reference. (1) Members of Boards of Reference shall be entitled to such fees and allowances as are approved from time to time by the Governor in Council save that a member of such a Board who is an employee of the Crown shall not receive fees or allowances for attendance at a meeting of that Board during his ordinary hours of duty.

(2) Members of a Board of Reference shall be entitled to be reimbursed such out-of-pocket expenses necessarily incurred by them in the performance of their duties as such members as are approved by the Minister.

PART X—LEGAL PROCEEDINGS

117. Liability under Part II not restricted in certain circumstances. The person on whom a duty is cast by any of the provisions of Part II is liable for a breach of that duty notwithstanding that the act or omission that evidences a failure to perform that duty is the act or omission of another person or that the act or omission is contrary to his instructions and in relation to such breach of duty sections 23 and 24 of *The Criminal Code* do not apply.

118. Offences against Act and general penalty. (1) A person who contravenes or fails to comply with any provision of this Act or any notice or requisition of an inspector given to him pursuant to this Act commits an offence against this Act.

(2) Save where this Act otherwise prescribes, a person who is convicted of an offence against this Act is liable—

- (a) if a body corporate, to a penalty of 200 penalty units;
- (b) if a person other than a body corporate, to a penalty of 50 penalty units or six months imprisonment or both such fine and imprisonment.

119. Particular penalty. (1) A person who is convicted of an offence against this Act that consists of a contravention or failure to comply with any provision of this Act or any notice of an inspector given to him pursuant to this Act—

- (a) in the case where as a consequence of the contravention or failure to comply the death of any person or serious bodily

injury or work related illness to any person has occurred, is liable—

- (i) if a body corporate, to a penalty of 2000 penalty units;
 - (ii) if a person other than a body corporate, to a penalty of 500 penalty units or six months imprisonment or both such fine and imprisonment;
- (b) in the case where the contravention or failure to comply is of such a nature that it may be committed from day to day, is liable, in addition to any other penalty to which he is liable under this Act, to a penalty of 1 penalty unit for each day during which it is continued as from the date of its occurrence until the date on which he is convicted of the offence or until the date on which the default is rectified, whichever date is the earlier.

(2) A person who, being convicted of an offence against this Act that consists of a contravention or failure to comply of such a nature that it may be committed from day to day, thereafter continues that offence may be prosecuted from time to time for an offence against this Act that consists of the same contravention or failure to comply and is liable to a penalty of 2 penalty units for each day during which it is continued as from the date on which he was last convicted thereof until the date on which he is convicted or on which the default is rectified, whichever date is the earlier.

120. Proceedings in respect of offences. (1) A prosecution for an offence against this Act shall be by way of summary proceedings before an industrial magistrate within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1987*.

Jurisdiction is hereby conferred on all industrial magistrates to hear and determine such proceedings.

(2) A person aggrieved by a decision of an industrial magistrate in proceedings brought pursuant to subsection (1) who desires to appeal therefrom shall appeal to the Industrial Court constituted under the *Industrial Conciliation and Arbitration Act 1961-1987*.

Jurisdiction is hereby conferred on the Industrial Court to hear and determine such an appeal.

(3) The provisions of the *Industrial Conciliation and Arbitration Act 1961-1987* and the Rules of Court made under that Act shall, subject to this Act, apply according to their tenor in relation to proceedings before an industrial magistrate brought pursuant to subsection (1) and in relation to proceedings on appeal before the Industrial Court brought pursuant to subsection (2).

(4) Unless otherwise provided by this Act, a prosecution for an offence against this Act shall be commenced by complaint of an inspector or of any person authorised by the Minister or the Director.

121. Fees, penalties and costs. All fees paid and all penalties recovered and costs incurred in respect of proceedings under this Act shall be paid to the Consolidated Revenue Fund.

122. Responsibility for offences against Act in relation to projects.

(1) Where an offence against this Act is committed in respect of the performance of work on a project the person, being the principal contractor in relation to that project, or an employer of employees engaged on the project, who is in control of the performance of that work at the time the offence is committed, shall be deemed to have committed the offence and to be liable therefor under this Act, save—

(a) where it appears from this Act that another person is intended to be solely liable in respect of the offence;

or

(b) where he did not know and could not by the exercise of reasonable diligence have known of the commission of the offence.

Liability incurred by reason of this subsection shall be additional to liability incurred by any other person on account of the offence in question.

(2) Where the person sought to be made liable by reason of subsection (1) is a body corporate the knowledge and means of knowledge to which regard shall be had, for the purposes of that subsection, shall be that of the person who, at the time the offence is committed, is the person who in respect of the project, is the managing agent of the body corporate in respect of the project.

(3) Where an offence against this Act for which a person incurs liability by reason of subsection (1) is in fact the act or omission of an employee or other agent of his, that firstmentioned person shall be deemed to have committed the offence and be liable accordingly notwithstanding any instructions given by him or the limitation of authority conferred on such employee or agent.

123. Time for commencement of proceedings. A prosecution for an offence against this Act shall be commenced at any time within one year after the matter of complaint arose or within six months after the matter of complaint comes to the knowledge of the Director, whichever period is the later to expire.

124. Liability for offence by body corporate. (1) Where an offence against this Act is committed by a body corporate, then without derogating from section 7 of the Criminal Code, each of the following persons shall be deemed to have committed the offence and, notwithstanding section 23 of *The Criminal Code* or any other rule of law or practice, to be criminally responsible for the act or omission concerned therein and may be charged with the offence and punished accordingly:—

(a) the person who at the time the offence is committed was the chairman of directors, managing director or other

governing officer by whatever name called or other member of the governing body thereof by whatever name called; and

- (b) every person who at the time the offence is committed manages or acts or takes part in the management, administration or government of the business in Queensland thereof.

(2) This section applies so as not to limit or affect the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a charge of an offence against this Act brought against a person specified in subsection (1) (a) or (b) to prove that the offence was committed without that person's consent or connivance and that he exercised due diligence to prevent the commission of the offence.

125. Representation of parties at hearing. (1) On the hearing or determination of any proceedings under this Act whether before a Court or the Commission or an industrial magistrate, a party which is an industrial union may be represented by a member or officer and any party may be represented by his agent duly appointed in writing in that behalf.

(2) A party may be represented by counsel or solicitor in proceedings before the Court with the consent of all parties thereto, or by leave of the Court.

(3) Unless all parties consent thereto a party shall not be represented by counsel or solicitor in any proceedings before the Commission or before an industrial magistrate.

(4) This section shall not be construed as limiting the power of a Court or Commission to grant leave to a person in any matter to intervene in any matter before the Court or Commission, but that power shall not be exercised except in a case where the Court or, as the case may be, the Commission is of the opinion that it is desirable that a person be heard.

126. Power to forfeit on conviction. Upon convicting a person of an offence against this Act that is committed in respect of any premises or part thereof, any plant, substance or thing the industrial magistrate may, whether or not application is made therefor, make an order that the premises or part thereof, plant, substance or thing be thereby forfeited to the Crown.

Any plant, substance or thing so forfeited shall be taken into possession on behalf of the Director and shall be disposed of as directed by him.

127. Power to order rectification. (1) Where a person is convicted of an offence against this Act the industrial magistrate may, in addition

to imposing a penalty on him, order that he take steps to rectify the contravention or failure to comply in question to the satisfaction of an inspector within the time specified in the order.

The industrial magistrate may, on application made to him, enlarge the time specified in such an order or may fix another time within which the order is to be complied with.

(2) When he is minded to make an order pursuant to subsection (1) an industrial magistrate may adjourn the matter of penalty to be imposed until the expiration of the time to be specified in the order or of that time as later enlarged or until the expiration of another time later fixed, as the case requires but in that event the offender shall not be punished if he has complied with the order by the expiration of the material time.

(3) Where an order is made under subsection (1) the offender shall not be liable in respect of the continuance of the contravention or failure to comply during the time allowed by the industrial magistrate but if at the expiration of the material time the offender has failed to comply with the order to rectify the offender commits a further offence against this Act.

128. Recovery of fees. (1) An amount of fees payable under this Act and not paid may be recovered—

- (a) by summary proceedings in a Magistrates Court under the *Justices Act 1886-1987*;
- or
- (b) by action in a court of competent jurisdiction as for a debt due and owing to the person in whose name the action is brought,

upon the complaint or, as the case may be, plaint of the Director or of a person authorised by the Minister or by the Director.

(2) Proceedings for the recovery of fees may be taken, heard and determined—

- (a) within any division of the Brisbane District appointed under the *Decentralization of Magistrates Courts Act of 1965-1974*;
- or
- (b) within, or within 35 kilometres of, the boundary of the Magistrates Courts District where the inspection or other service or act in respect of which the fees are payable was made, rendered or done.

129. Forgery of certificates, etc. (1) A person shall not—

- (a) forge any authority, certificate, permit, notice, record, approval, exemption or any other document required or permitted by this Act to be issued or held for any purpose;
- (b) use or deal with or induce another to use, deal with or act upon any such document required or permitted by this Act

to be issued or held for any purpose knowing the same to have been forged;

- (c) use or deal with or induce another to use, deal with or act upon as applying to any person any such document required or permitted by this Act to be issued or held for any purpose knowing the same not to apply to that person;
- (d) impersonate a person named in any such document required or permitted by this Act to be issued or held for any purpose;
- (e) hold himself out as an inspector unless he is appointed under this Act as an inspector;
- (f) hold himself out as a Health and Safety Officer or Representative for a workplace unless he is appointed or elected as such for a workplace under this Act;
- (g) connive at a contravention of any of the preceding paragraphs of this section;
- (h) make a false entry in any register, book, record, notice, direction, certificate, permit, authority or other writing required or permitted by this Act to be made, kept, exhibited, given, issued or held, knowing the same to be false.

(2) For the purposes of subsection (1) the term "forge" has the meaning assigned to that term by section 486 of The Criminal Code.

130. Protection of persons administering act. Neither the Crown, the Minister, a person who is a member of a Board of Reference or an Appeals Tribunal under this Act, an inspector nor any other person shall incur any liability on account of any thing done bona fide and without negligence for the purposes of this Act for damage or injury alleged to arise by reason thereof.

131. Facilitation of proof. (1) In any proceedings under and for the purposes of this Act—

- (a) it shall not be necessary to prove the appointment of the Director or an inspector or other officer or the authority of an inspector to do any act or to issue any order or to give any direction or notice or to make any request or take any proceeding, but this shall not prejudice the right of any defendant to prove the facts or the extent of such authority;
- (b) a signature purporting to be that of the Minister or of the Director or of any other inspector shall be taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be signed by an inspector and stating that, at a specified time, a place specified in such manner as reasonably permits of identification was or was not a workplace or was or was not within a prescribed category of workplace, or stating that any approval of an inspector was or was not given, shall, upon its production in evidence, be evidence of the matter contained in the

- document, and, in the absence of evidence to the contrary, shall be conclusive evidence of such matter;
- (d) a document purporting to be either an original or duplicate copy of any certificate, order, approval, permit, requisition, exemption, authority or notice, issued or granted under this Act by the Minister or by the Director or by any other inspector shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of that certificate, order, approval, permit, requisition, exemption, authority or notice;
 - (e) a certificate purporting to be signed by the Director certifying—
 - (i) as to the receipt or otherwise of a notice, application or payment;
 - (ii) that an amount of fees or other moneys payable under this Act is due and owing by a specified person and has not been paid;
 - (iii) that an inspection was made or a service has been rendered, or
 - (iv) that an offence against this Act came to his knowledge on the date specified therein,shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that certificate;
 - (f) a document purporting to be signed by the Director stating that at a specified time or during a specified period there was or was not in force any certificate, order, approval, permit, authority, requisition, exemption or notice under this Act as described in the document granted, as given or made to a specified person or class of persons or in respect of a specified thing and that the approval, permit or authority was or was not subject to the terms, conditions or restrictions set out in the document shall upon its production in those proceedings be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the document;
 - (g) every provision of this Act relevant to the proceeding shall be presumed to apply with respect to any plant the subject of the proceedings in the absence of evidence to the contrary;
 - (h) the authority of an inspector or other officer of the Government of Queensland to do any act or take any

- proceeding shall be presumed in the absence of evidence to the contrary;
- (i) an allegation on averment in a complaint—
 - (i) that any premises are or that any act, matter or thing was done or omitted within a specified district;
 - (ii) that any plant has been designed, manufactured, imported, supplied, erected or installed by any person;
 - (iii) that any substance has been manufactured, imported, supplied, stored or produced by any person;
 - (iv) that the person named therein is, or was at the time specified, the owner, occupier, employer or principal contractor in respect of any premises,
shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of that matter;
 - (j) a document or booklet purporting to be published by or under the authority of the Standards Association of Australia shall, upon its production in those proceedings be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters appearing on and in that document or booklet;
 - (k) a certificate purporting to be signed by the Director, endorsed upon or annexed to a document or booklet of a kind referred to in paragraph (j) stating that any standard or code of practice contained in that document or booklet was in force on a specified date or during a specified period of time, shall be evidence and, in the absence of evidence to the contrary, conclusive evidence that such standard or, as the case may be, code of practice was in force at the date or, as the case may be, during the period so specified;
 - (l) a certificate purporting to be signed by a person authorised to grant it shall, upon its production in that proceeding, be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in that certificate;
 - (m) a document purporting to be signed by the Director-General of Education and stating that at a specified time there was or was not in force a certificate granted, in relation to the child specified, by the Minister for Education, or the Director-General of Education or some other officer of the Department of Education, certifying that some valid excuse for the purposes of the *Education Act 1964-1988* or any Act in substitution therefor, exists for the non-attendance at school of that child shall, upon its production in evidence, be evidence of the matter contained in the document, and, in the absence of evidence to the contrary, shall be conclusive evidence of such matter;
 - (n) it shall not be necessary to prove the limits of any Local Authority Area or any part of any Local Authority Area, or

radius or other prescribed place, or that any road or place is within any Local Authority Area or radius or other prescribed place, or that any place alleged to be a road or public place or any particular part of a road or public place is a road or public place or part thereof, or the authority of the Director or of any inspector to do any act or take any proceedings, but this shall not prejudice the right of any defendant to adduce evidence in relation to those matters;

- (o) a document purporting to be signed by an inspector and stating that at a specified time an application for the renewal of registration of a place as a workplace was or was not made in respect of a place specified in the document in such manner as reasonably permits of identification shall, upon its production in evidence, be evidence of the matter contained in the document and in the absence of evidence to the contrary shall be conclusive evidence of such matter;
- (p) a document purporting to be signed by an inspector and stating that at a specified time a notice in writing of the vacating of a workplace or of a business carried on at specified premises was or was not lodged in respect of the premises or, as the case may be, a business specified in the document in such manner as reasonably permits of identification shall, upon its production in evidence, be evidence of the matter contained in the document and in the absence of evidence to the contrary shall be conclusive evidence of such matter.

(2) This section does not prejudice or in any way affect other means of proving the elements of an alleged offence.

PART XI—RECOVERY OF PENALTIES BY NOTICES

132. Penalties exacted by way of notice to offender. (1) When an inspector finds a person committing an offence against any provision of the regulations under this Act and, having regard to—

- (a) the type of offence concerned;
- (b) the place where the offence occurs;
- and
- (c) the circumstances in which the offence occurs, the inspector believes that proceedings under this section are adequate, he may, upon ascertaining the true name and usual place of residence of the offender, give him the notice specified in subsection (2).

(2) The notice—

- (a) shall be identified by a serial number;
- (b) shall identify the person to whom it is given by his true name and usual place of residence;
- (c) shall state in general terms the offence which the person has been found committing;
- (d) shall inform the person in general terms that if he does not desire the matter to be determined in a court hearing he

may complete the form attached to or appearing upon the notice and may forward or deliver that form together with a prescribed sum by way of penalty to the person named therein within the time appointed in the notice (which shall be not less than ten days from the date of the giving of the notice) whereupon he will not be liable to further penalty or costs in the matter;

- (e) shall inform the person in general terms that he has the right to decline to proceed in the manner described in paragraph (d) and to allow the matter to be determined in a court hearing—
 - (i) if he desires to contest the question whether the offence alleged was in fact committed;
 - (ii) if he wishes to submit to the court matters in extenuation of penalty;
 - or
 - (iii) for any other reason,in which event he need not reply or take further action in respect of the notice and that in such case court process will issue against him in due course.

(3) Where a person to whom a notice is given pursuant to subsection (1) proceeds in the manner described in paragraph (d) of subsection (2) within the time appointed in the notice a proceeding against him by way of prosecution for the offence alleged in the notice shall not be competent but otherwise such a proceeding may be commenced as if the notice had not been given.

PART XII—MISCELLANEOUS

133. Non-disclosure of information by member of Council or Committee, inspector or other officer. A person who is a member of the Council or a member of an Industry Workplace Health and Safety Committee appointed for the purposes of this Act, an inspector or any other officer appointed for the purposes of this Act shall not disclose to any person any information that he has acquired in the exercise of his functions for the purpose of this Act except—

- (a) to a person or class of person authorized by the Minister or Director, either generally or specifically, to receive that information;
- (b) in the course of carrying out his approved duties;
- or
- (c) to a lawfully constituted court or tribunal.

134. Director may grant exemptions from regulations etc. (1) The Director may by notification published in The Queensland Government Industrial Gazette, on conditions or unconditionally—

- (a) exempt any person or class of persons from compliance with, or any plant, substance or method of work or any

class thereof from the application, in whole or in part, of the regulations;

or

- (b) vary, in whole or in part, the regulations so far as may apply to any such person, class of persons, substance or plant,

if he is satisfied that—

- (c) compliance with the regulations in respect of the person or class of persons, plant, substance or method of work is not practicable;
 - (d) the security or safety of the plant, substance or method of work will not be adversely affected;
- or
- (e) the employer concerned has affected a health and safety management policy and training programs which in the opinion of the Director satisfy the intent of the regulations.

(2) The Director may revoke or modify any exemption or variation granted or made under subsection (1) or the conditions attaching to any such exemption or variation.

135. Director may set standards. (1) In special circumstances, determined by the Minister from time to time, where no standard exists in respect of a particular matter for the purposes of this Act, the Director may approve and set the standard to apply in respect of those special circumstances.

(2) Where in any proceedings under this Act it is alleged that a person contravened or failed to comply with a provision of this Act in relation to which a standard approved under subsection (1) was in effect at the time of the alleged contravention or failure—

- (a) the standard so approved shall be admissible in evidence in those proceedings;

and

- (b) if the court is satisfied, in respect of any matter that it is necessary for the prosecution to prove in order to establish the alleged contravention or failure, that—

- (i) any provision of the standard so approved is relevant to that matter;

and

- (ii) the person failed at any material time to observe that provision of the standard so approved,

that matter shall be taken as proved unless the court is satisfied, that in respect of that matter the person complied with that provision of this Act otherwise than by way of observance of that provision of the standard so approved.

136. Approved methods of work. (1) An employer or principal contractor may apply in writing to the Director for approval to carry out work by a method other than that prescribed.

(2) The Director may, if satisfied with the health and safety measures to apply in connexion with the method of work proposed for approval under subsection (1), grant his approval and may subject his approval to such conditions as he thinks fit.

(3) An employer or principal contractor shall not carry out, or cause to be carried out, work where the method by which the work is to be carried out is prescribed other than—

(a) in accordance with the prescribed method;

or

(b) where the Director has upon the application made to him pursuant to subsection (1), approved another method, in accordance with that method and any conditions to which the grant of approval is subject.

137. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act for or in respect of all matters and things that are required or permitted by or under this Act to be prescribed or that are, in the opinion of the Governor in Council, necessary or convenient for the administration of this Act, for achieving the objects of this Act or for carrying this Act into effect.

(2) The power to regulate includes the power to prohibit.

(3) Regulations may be made to apply generally throughout the State or within any locality of the State or with respect to any persons, class of persons, matter or things to apply generally or to be of such limited application as is indicated therein.

(4) Without limiting the generality of subsection (1), the regulations—

(a) may provide that, on conditions or unconditionally, persons, matters or things, or a class of persons, matters or things may be exempted from the provisions of the regulations and for the revocation of any exemption or conditional exemption so granted;

(b) may adopt wholly or partly and specifically or by reference and with any alteration, amendment, modification or variation any of the standards, rules, codes, specifications or notices of any association, body or institution whether as in force at the time of adoption or as amended from time to time;

(c) may provide for the method of carrying out work and the rights, powers, duties and obligations and practices of persons in, on or about workplaces in respect of matters which might affect the health or safety of such persons or members of the public;

(d) may provide for the rights, powers, duties, obligations and practices of owners of projects, workplaces and plant,

- substances and things, and of owners, manufacturers, importers and suppliers of plant in respect of matters which might affect the health or safety of employees, persons other than employees or members of the public;
- (e) may provide for the regulation by the Director of access to and movement on, or across the whole or part of workplaces, by persons or classes of persons or by vehicles or classes of vehicles, and for the powers of inspectors in relation thereto;
 - (f) may provide for the regulation and control by the Director, by means of conspicuous and legible notices, fences or barriers, the access to and use of workplaces or any part thereof by persons and vehicles or any class or description thereof, and for the powers of inspectors in relation thereto;
 - (g) may provide for regulation and control of the use of plant and for the manufacture, storage, keeping, supply, use and production of substances;
 - (h) may provide for the rights, powers, duties, obligations and practices of owners, designers, manufacturers, importers, suppliers, erectors or installers of any plant of a kind specified in the Third Schedule;
 - (i) may provide for categories of workplaces under and for the purposes of this Act and for regulating the work performed therein;
 - (j) may provide for the regulation and control by the Director of applications for registrations and renewals of registration under this Act of all or any workplaces, and of all or any plant, including all or any plant specified under the Third Schedule;
 - (k) may prescribe the form of registers to be kept for the purposes of this Act, may prescribe the mode of effecting registrations under this Act, may prescribe the information of particulars to be entered in such registers and may provide for all or any matters considered necessary or desirable in relation to those registers;
 - (l) may provide for and regulate and control approvals to commence erection of buildings and the granting or issuing of certificates or other authorities under this Act and for the prescribing of conditions and restrictions subject to which such certificates and other authorities shall be granted or issued;
 - (m) may regulate and control the provision, alteration, replacement or dealing with amenities in any workplace, and provide for submission to the Director of the particulars, plans and specifications of such amenities, and may provide such provision, alteration, replacement or dealing be subject to prior approval;
 - (n) may provide for categories of employers, principal contractors, manufacturers, importers and suppliers under

- and for the purposes of this Act and for regulating the work performed by persons in any such category;
- (o) may provide for the submission to the Director by the manufacturer of any plant, or any class or classes of plant, or by the person who installs any plant or both such manufacturer and installer, of details of any such plant, and may provide that the installation of any such plant be subject to prior approval or registration;
 - (p) may provide for categories of persons including children and young persons and may provide for the manner of employment of any persons or category of persons;
 - (q) may provide for the fees, charges, allowances, costs and expenses payable or to be paid under and for the purposes of this Act and the fixing thereof; matters and things in respect of which they are payable or to be paid; the circumstances in which the Director may waive those fees, charges, allowance, costs and expenses (he being hereby authorised to do so); methods of collection thereof; manner, time and place of payment thereof; persons by whom or to whom they are payable;
 - (r) may provide for the forms to be used for the purposes of this Act and the particular purposes for which those forms shall respectively be used;
 - (s) may provide for the penalties that may be imposed for contravention of or failure to comply with the regulations not exceeding—
 - (i) in the case of a body corporate, 100 penalty units;
 - (ii) of a person other than a body corporate, 30 penalty units;
 - (t) may provide for applications for and the grant and issue of permits, certificates or authorities under this Act and duplicates thereof, eligibility of and the qualifications entitling persons to hold and the prohibitions against persons not qualified or eligible as prescribed from obtaining or holding such permits, certificates or authorities and the circumstances on which exemptions from such prohibitions may be granted; the terms, conditions or restrictions subject to which permits, certificates or authorities under this Act are granted or issued; the surrender, transfer, renewal, revocation, cancellation, suspension or endorsement of such permits, certificates or authorities;
 - (u) may provide for the practice and procedure upon all appeals instituted pursuant to this Act that are not otherwise prescribed, and provide for the award of costs therein and the recovery of such costs awarded;
 - (v) may provide for the qualifications, experience and duties of accredited officers and the standards to be met by persons examined by accredited officers;
 - (w) may prescribe, provide for, regulate and control the examinations by which accredited officers qualify for

accreditation, certificates of competency, permits or authorities to operate under this Act; the standards and times and places of and of all matters touching those examinations and the conduct and holding thereof;

- (x) may provide a system for regulating and controlling the maintenance, construction, testing or inspection of prescribed plant by an authorised person;
- (y) may provide for the medical examination of employees including the collection of biological samples.

138. Orders in Council. Section 28A of the *Acts Interpretation Act 1954-1985* (Tabling of Regulations) shall apply with respect to Orders in Council made for the purposes of this Act and, for the purposes of such application, that section shall be read and construed as if references to regulations were references to Orders in Council made for the purposes of this Act and references to the Gazette were references to the Queensland Government Industrial Gazette.

139. Publication and Tabling of Proclamations. Every Proclamation made under this Act shall—

- (a) be published in the Queensland Government Industrial Gazette;
- (b) be laid before the Legislative Assembly within 14 sitting days after such publication.

PART XIII—AMENDMENT OF FACTORIES AND SHOPS ACT 1960-1987

140. Citation. (1) In this Part the *Factories and Shops Act 1960-1987* is referred to as the Principal Act.

(2) The Principal Act as amended by this Part may be cited as the *Factories and Shops Act 1960-1988*.

141. Repeal of Part III. Registration. The Principal Act is amended by—

- (a) omitting, where it occurs immediately before section 15, the heading “PART III—REGISTRATION”;
- (b) repealing sections 15 to 28 both inclusive.

142. Repeal of s. 33. Record of accidents. The Principal Act is amended by repealing section 33.

143. Repeal of Part V. Safety, Health, and Welfare. The Principal act is amended by—

- (a) omitting, from where it occurs immediately before section 36 the heading “PART V—SAFETY, HEALTH, AND WELFARE”;
- (b) repealing sections 36 to 38 both inclusive.

144. Repeal of Part VI. The Factories and Shops Health, Welfare and Safety Board. The Principal Act is amended by—

(a) omitting, from where it occurs immediately before section 39 the heading “PART VI—THE FACTORIES AND SHOPS HEALTH, WELFARE AND SAFETY BOARD”;

(b) repealing sections 39 to 42 both inclusive.

145. Amendment of heading to Part VII. The Principal Act is amended by omitting from the heading that occurs immediately before section 43 the words “EMPLOYMENT OF CHILDREN, YOUNG PERSONS AND OTHERS -”.

146. Amendment of s. 43. Section 43 of the Principal Act is amended by—

(a) in subsection (2)—

(i) omitting from the note in and at the commencement of that subsection the expression and word “15 Geo. 6 No. 33 and”;

(ii) omitting all words from and including the words “shall not derogate” to and including the words “1960”, and “;

(b) omitting subsection (3).

147. Repeal of heading and ss. 45 (Prohibition of employment of children in factories, etc.) and 46 (Prohibition of employment of children in shops). The Principal Act is amended by repealing sections 45 and 46.

148. Repeal of heading and ss. 47 (Certificates of fitness, etc.) 48 (Obtaining of birth certificates, etc., upon employment of young persons) 49 (Production of certificates) and 51 (Discontinuance of employment of diseased persons, etc.). The Principal Act is amended by—

(a) omitting, from where it occurs immediately before section 47, the heading “CERTIFICATES OF FITNESS, ETC.”;

(b) repealing sections 47, 48, 49 and 51.

149. Repeal of heading and ss. 88 (Inspector may require any defect to be remedied) 89 (Power of Chief Inspector to prohibit the use of a building, etc., as a factory or a shop) 90 (Approval of inspector to be obtained to commence erection of building, etc.) and 91 (Abstracts of Act, etc., to be posted up). The Principal Act is amended by—

(a) omitting, from where it occurs immediately before section 88, the heading “REQUISITIONS OF INSPECTOR”;

(b) repealing sections 88, 89, 90 and 91.

150. Amendment of s. 92. Offences. Forgery, etc. Section 92 of the Principal Act is amended by—

(a) in subsection (1) omitting the words “requisition,” where twice occurring;

(b) omitting subsection (2);

(c) omitting the expression “(1)” where it occurs at the commencement of the section.

151. Amendment of s. 95. Facilitation of proof. Section 95 of the Principal Act is amended by in subsection (1)—

(a) omitting provisions (iii), (v), (vi), (vii), (ix), (xi), (xii) and (xiii);

(b) omitting from provision (viii) the words “requisition,” wherever they occur.

152. Amendment of s. 97. Regulations and rules. Section 97 of the Principal Act is amended by—

(a) in subsection (1), omitting from provision (iii) all words from and including “applications for and” to and including the words “as shops, and”;

(b) in subsection (2)—

(i) omitting the words “or rule” wherever they occur;

(ii) omitting the words “or rules” wherever they occur;

(iii) omitting the words “and rules”;

(c) omitting subsection (3).

153. Amendment of s. 98. Publication of Proclamations, Orders in Council, regulations, etc. Section 98 of the Principal Act is amended by—

(a) in subsection (1)—

(i) omitting the words “, regulation and rule” and substituting the words “and regulation”;

(ii) omitting from provision (iii) the words “or rule” and the words “or, as the case may be, rule” respectively;

(b) in subsection (2) omitting the words “, regulation, or rule” wherever they occur and substituting the words “or regulation” in each case.

154. Repeal of Second Schedule. Some subjects for rules for the purposes of Part V. The Principal Act is amended by repealing the Second Schedule.

FIRST SCHEDULE
REPEALED PROVISIONS

[s. 3 (1)]

Year and Number of Act	Short Title	Extent of Repeal
1971 No. 31	<i>Construction Safety Act 1971</i>	The whole
1973 No. 4	<i>Construction Safety Act Amendment Act 1973</i>	The whole
1975 No. 33	<i>Construction Safety Act Amendment Act 1975</i>	The whole
1982 No. 70	<i>Construction Safety Act and Inspection of Machinery Act Amendment Act 1982</i>	The whole
1985 No. 23	<i>Construction Safety Act Amendment Act 1985</i>	The whole
1987 No. 48	<i>Construction Safety Act Amendment Act 1987</i>	The whole
15 Geo.6 No.33	<i>Inspection of Machinery Act of 1951</i>	The whole
3 Eliz.2 No.10	<i>Inspection of Machinery Act Amendment Act of 1954</i>	The whole
7 Eliz.2 No.38	<i>Inspection of Machinery Acts Amendment Act of 1958</i>	The whole
9 Eliz.2 No.36	<i>Inspection of Machinery Acts Amendment Act of 1960</i>	The whole
1963 No. 17	<i>Inspection of Machinery Acts Amendment Act of 1963</i>	The whole
1966 No. 20	<i>Inspection of Machinery Acts and Another Act Amendment Act of 1966</i>	The balance of the Act remaining un-repealed
1971 No. 77	<i>Inspection of Machinery Acts Amendment Act 1971</i>	The whole
1973 No. 82	<i>Inspection of Machinery Act Amendment Act 1973</i>	The whole
1985 No. 30	<i>Motor Vehicles Safety Act and Other Acts Amendment Act 1985</i>	Part III
1987 No. 41	<i>Rural Machinery Act and Another Act Amendment Act 1987</i>	Part III

SECOND SCHEDULE

[s. 3 (2)]

Act Amended	Amendment	Citation as amended
<i>Health Act 1937-1988</i>	<i>Repeal Division IX of Part III (Occupational Health)</i>	<i>Health Act 1937-1989</i>

THIRD SCHEDULE

SPECIFIED PLANT

[ss. 24, 25]

Air-conditioning units
 Amusement devices
 Cylinders within the ambit
 of Australian Standard 2030
 Escalators
 Lifts