

WORKPLACE HEALTH AND SAFETY BILL 1995

EXPLANATORY NOTES

GENERAL OUTLINE

Objective of the Legislation

The overall object of this Bill is to ensure freedom from disease or injury to persons caused, and risk of disease or injury to persons created, by workplaces, workplace activities or specified high risk plant.

The framework established to achieve the overall object includes provisions for—

- establishing the Workplace Health and Safety Council as the peak body to provide advice to the Minister about promoting and protecting workplace health and safety. The council is comprised of employer, union and government representatives as well as health and safety experts or representatives of community interests;
- establishing industry committees to provide advice to the council and the Minister about promoting and protecting workplace health and safety in the industry or industries for which they are established. Industry committees are comprised of employer, union, and government representatives as well as health and safety experts and any other members decided by the Minister.

Both the council and industry committees as tripartite and expert member bodies have an important role in the development and implementation of workplace health and safety standards;

- electing workplace health and safety representatives and establishing workplace health and safety committees to foster consultation between workers and employers;

- appointing workplace health and safety officers;
- making workplace health and safety compliance standards which must be complied with (these standards are subordinate legislation);
- making workplace health and safety advisory standards which state ways to identify and manage exposure to risk to ensure workplace health and safety (these standards are made by the Minister);
- promoting community knowledge about workplace health and safety;
- imposing workplace health and safety obligations on certain persons who may affect the workplace health and safety of others by their acts or omissions;
- appointing inspectors;
- enforcement procedures.

Reasons for the Bill

A review of the *Workplace Health and Safety Act 1989* was initiated in February 1993 under the Systematic Review of Business Legislation and Regulations protocols. Submissions were invited from interested parties as the first stage of the review. An Issues Paper based on these submissions was developed to facilitate further consultation between industry, unions and other interested parties. The paper was released for public comment in August 1993.

The review was oversighted by the Workplace Health and Safety Council which is the peak workplace health and safety advisory body to the Minister and comprises union, employer, government and expert members. The Council considered submissions received during the review and reached agreement on a number of policy issues which were recommended to the Minister. These recommendations, submissions to the review and extensive consultation with industry and unions formed the basis of the legislative response (this Bill) to the policy issues raised during the review.

Overall, the review confirmed that workplace health and safety legislation in Queensland should continue to provide for standards directed at achieving workplace health and safety. It also confirmed the importance of

the tripartite consultative arrangements in the development and implementation of these standards.

The scope and intent of the existing legislation remain unchanged, but are clarified in this Bill. In particular, the framework established by this Bill—

- enhances industry and workplace level consultative arrangements;
- clarifies the legislative regime of workplace health and safety compliance standards, advisory standards and regulations;
- provides increased certainty about workplace health and safety obligations imposed on persons under this Bill;
- explains how persons with workplace health and safety obligations can discharge them;
- consolidates and clarifies administrative provisions.

Estimated Cost for Government Implementation

There is no additional cost to Government in implementing this Bill. Costs incurred by the removal of the exemption of the Crown in relation to amenities in Government buildings will apply only to new or refurbished buildings and will be managed by the Department of Administrative Services.

The legislation will require a Government/industry/community implementation strategy to promote the importance of managing risks to health and safety in Queensland workplaces. Additional expenditure for this strategy will be met within existing budget allocations.

Consultation

Extensive consultation with industry, unions and other interested parties occurred throughout the review of the *Workplace Health and Safety Act 1989*. The Australian Council of Trade Unions (Queensland), Australian Workers' Union (Queensland Branch), Queensland Chamber of Commerce and Industry and the Metal Trades Industry Association (Queensland Branch) participated in tripartite consultation as representative members of the Workplace Health and Safety Council.

All relevant State Government departments were consulted during the review of legislation. Also, advice on a number of legal issues was provided by the Crown Solicitor.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act—the *Workplace Health and Safety Act 1995*.

Clause 2 provides for the provisions of this Bill to commence on 1 July 1995.

Clause 3 specifies the application of this Bill. This Bill does not apply to—

- a mine to which the *Coal Mining Act 1925* applies; or
- a mine to which the *Mines Regulation Act 1964* applies; or
- land used for the obtaining, mining or conveying of petroleum under the *Petroleum Act 1923*.

This Bill does not limit the application of the following Acts—

- *Explosives Act 1952*;
- *Public Safety Preservation Act 1986*;
- *Radioactive Substances Act 1958*;
- *Traffic Act 1949*;
- *Transport Operations (Marine Safety) Act 1994*.

This clause also provides that a person who has an obligation under Part 3 of this Bill must discharge the obligation by meeting the standard of workplace health and safety required under this Bill, even though another Act, other than an Act mentioned in subclause (1), may provide a lesser standard to discharge the obligation.

The provisions of clause 3 do not change the application of the current Act.

Clause 4 provides for this Bill to bind all persons, including the State. It also provides for the Bill to bind the Commonwealth and other States, so far as the legislative power of the Parliament allows.

Clause 5 provides for this Bill to apply to all workplaces, workplace activities and specified high risk plant.

A “workplace” is defined in clause 9 and has the same meaning as in the current Act. A “workplace activity” includes all work at workplaces and workplace operations, such as any machinery. “Specified high risk plant” is plant that may be a risk to public health and safety, for example, escalators and lifts. Schedule 2 provides a list of “specified high risk plant”.

Clause 6 sets out the persons to whom this Bill applies. This clause clarifies the intent of the Bill to apply to persons in two ways. Firstly, it applies to everyone who may affect the health and safety of others because of workplaces, workplace activities or specified high risk plant. Secondly, it applies to everyone whose health and safety may be affected by workplaces, workplace activities or specified high risk plant.

This clause does not change the application of the current Act.

Clause 7 provides that the overall object of this Bill is to ensure freedom from disease or injury to persons caused, and risk of disease or injury to persons created, by workplaces, workplace activities or specified high risk plant.

The framework established to achieve the overall object provides for—

- establishing a workplace health and safety council and industry committees;
- electing workplace health and safety representatives and establishing workplace health and safety committees;
- appointing workplace health and safety officers;
- making workplace health and safety compliance standards;
- making workplace health and safety advisory standards;
- promoting community awareness about workplace health and safety;

- imposing workplace health and safety obligations on certain persons who may affect the health and safety of others by their acts or omissions;
- appointing inspectors;
- enforcement procedures.

This clause has not altered the objects of the current Act.

Clause 8 provides for a dictionary of particular words and terms used in this Bill. The dictionary at schedule 3 contains definitions of these words and terms.

Clause 9 defines a “workplace” as any place where work is, is to be, or is likely to be, performed by a worker, self-employed person or employer. Examples of a “workplace” include a vessel used for teaching members of the public to scuba dive and a vehicle supplied by an employer for use by a worker in the performance of work.

A place may be a “workplace” even though it does not have to be registered or notified under a regulation. For example, the construction of a building which has an estimated final price at practical completion of less than that prescribed under a regulation does not have to be notified. However, the place where the building is being constructed is a “workplace” for this Bill.

The definition of “workplace” in this Bill has the same meaning as provided in the current Act.

Clause 10 defines an “employer” as a person who, in the course of the person’s business or undertaking, engages someone else to do work, other than under a contract for service, for or at the direction of the person. In this clause, a person “engages someone else” to do work even though the person works on a voluntary basis.

Clause 11 defines a “worker” as a person who does work, other than under a contract for service, for or at the direction of an employer. A person who works under a contract for service, for example a sub-contractor, is not a “worker” under this Bill.

This clause also specifies that a person may be a “worker” even though the person is not paid for his or her work. For example, a person works for an hospital on a voluntary basis and is not a member of an hospital auxiliary. This person is supplied with materials, a workplace and a uniform

by the hospital and only performs work in the way the hospital directs. The person's services may also be ended by the hospital. This person is a "worker" under this Bill.

This clause also provides that a person is not a "worker" merely because the person is a member of an organisation and does work for the organisation. For example, a person who is a member of a lifesaving club is rostered to perform lifesaving duties with an employed lifeguard at the beach. This person is not a "worker" under this Bill.

This clause comprehensively clarifies who is a "worker" and who is not a "worker" for this Bill and does not change the intent of the current Act.

Clause 12 defines a self-employed person as a person who performs work for gain or reward. A self-employed person is not an employer or worker.

Clause 13 defines who is a "principal contractor" for a construction workplace. A principal contractor is a person appointed as principal contractor by the owner of a workplace. However, this clause provides that if the owner does not appoint a principal contractor, the owner becomes the principal contractor.

When a construction workplace is for domestic premises, the principal contractor is the person who is in control of building or demolition work at the workplace. The owner of a construction workplace for domestic premises cannot be the principal contractor for the workplace unless the owner is in control of the building work and holds an owner-builder permit for the work. This means an ordinary home owner does not have the responsibility of a principal contractor under clause 31. The "owner" of a construction workplace for domestic premises means an individual who resides or intends to reside at the premises.

This clause clarifies the provisions about principal contractors in the current Act. Also, the exclusion of the ordinary home owner provides reasonable protection for these people, who may not be in a position to carry out the responsibilities of principal contractors.

Clause 14 defines a "construction workplace". This replaces the term "project" in section 6 of the current Act and clarifies its intent by confining its meaning to a workplace where building work, civil construction work or demolition work is done.

The dictionary at schedule 3 defines the terms “building work”, “civil construction” and “demolition work”. However, in this clause, “building work” does not include the construction of a mobile home or prefabricated building if the construction work is done at the workplace where the home or building is manufactured and it is intended that the home or building will be transported to another place outside the workplace.

Small building and construction works are not “construction workplaces” but are “workplaces” under this Bill.

This clause specifies that a workplace becomes a construction workplace from the beginning of the day that construction work starts at the workplace. The circumstances when a workplace stops being a construction workplace are also specified. This occurs when—

- construction work at the workplace is complete and possession of the workplace is returned to the owner of the workplace; or
- construction work at the workplace is complete (if the owner of the workplace has retained possession of the workplace while work is done).

This clause clarifies what is meant by “construction workplace” for owners and principal contractors for construction workplaces.

Clause 15 specifies that plant or a substance is not “used properly” if it is used without regard to available appropriate information or advice about its use. This is relevant to clauses 30, 32, 33, 34 and 35.

PART 2—BASIC CONCEPTS

Part 2 outlines the basic concepts of this Bill and provides a succinct explanation of its major provisions. The purpose of this part is to help users of this Bill understand its concepts, make the statute more accessible to the general public, and as a consequence, improve compliance with workplace health and safety standards. These basic concepts provide enhanced clarity and certainty about what is to be achieved in respect of workplace health and safety and how it is to be achieved, both at an overall and workplace level.

Clause 16 explains when a worker is at work, that is, if the worker is at the worker's workplace, or at another workplace at the direction of the worker's employer.

This clause has the same intent as the current Act.

Clause 17 provides that a self-employed person performs work only during the time the person devotes to work as a self-employed person. However, a self-employed person does not stop working merely because the person interrupts the performance of work for a short time, for example, stopping for a meal break.

Clause 18 clarifies what consultation means in the context of this Bill and how the framework of the Bill fosters consultation between industry, workers and government.

Clause 19 explains what a compliance standard is and what purpose it serves within the legislative framework established by this Bill.

A compliance standard prohibits or prescribes ways to prevent or minimise exposure to risk for workplace health and safety.

This clause establishes a different term for some mandatory provisions which are called a "regulation" under the current Act. The term "compliance standard" and the content of a standard will provide increased certainty for persons who have obligations under this Bill.

Clause 20 explains what an advisory standard is and what purpose it serves within the legislative framework established by this Bill.

An advisory standard provides practical advice on ways to be used to identify and manage exposure to risk for workplace health and safety. However, a person may adopt another way, more suited to the person's undertaking, for identifying and managing exposure to risk for workplace health and safety.

Advisory standards are called "codes of practice" in the current Act.

Clause 21 explains that a regulation deals with matters of an administrative nature, for example, the registration of workplaces and plant or the issue of certificates to persons to operate certain industrial equipment.

Clause 22 provides that workplace health and safety should be ensured by—

- identifying hazards; and
- assessing risks that may result because of hazards; and
- deciding on control measures to prevent or minimise the level of the risks; and
- implementing control measures; and
- monitoring and reviewing the effectiveness of control measures.

This clause emphasises effective management of risks associated with workplaces, workplace activities and specified high risk plant and outlines the way in which workplace health and safety should be ensured. This clause is advisory in nature and has no penalty attached to it if the person does not follow the advice. However, it is an important component of both compliance and advisory standards as well as general guidance to workplace parties. This clause is a new provision.

PART 3—WORKPLACE HEALTH AND SAFETY OBLIGATIONS

This part continues obligations for the same persons who have duties imposed on them under the current Act. There are some variations, usually to provide for increased clarity or to give effect to original intent. The terms “as far as is practicable” and “except where it is not practicable” which qualify the duties of all persons in the current Act are removed from this part. These are replaced with specific defence provisions in clause 37.

Clause 23 gives an overview of persons who have obligations under this Bill.

Clause 24 provides that a person who has a workplace health and safety obligation under this part must discharge the obligation. This provision applies despite Criminal Code sections 23 and 24.

The maximum penalty for failing to discharge an obligation under this part is 400 penalty units or 6 months imprisonment. This means that an

individual is liable to a penalty of up to \$24 000 or 6 months imprisonment and a body corporate is liable to a penalty of up to \$120 000. The body corporate penalty remains unchanged from the current Act.

Clause 25 specifies that a person on whom a workplace health and safety obligation is imposed under this part may also owe an obligation in another capacity. For example, a person may be an employer, principal contractor and supplier of plant at the same time. In this instance, the person is subject to the obligations imposed on an employer, principal contractor and supplier of plant under this part.

This provision is not specifically contained in the current Act. However, it clarifies that a person can owe more than one obligation at the one time.

Clause 26 explains how a person discharges his or her obligation under this part when a compliance standard or advisory standard has been made.

When there is a compliance standard prescribing a way of preventing or minimising exposure to risk, a person can discharge the person's obligation only by adopting and following the prescribed way.

When a compliance standard prohibits exposure to a risk, a person discharges a workplace health and safety obligation by ensuring the prohibition of exposure to the risk is not contravened.

When there is an advisory standard stating a way of identifying and managing exposure to risk, a person can discharge the person's obligation only by—

- adopting and following a stated way that identifies and manages exposure to the risk; or
- adopting and following another way that identifies and manages exposure to the risk

Clause 27 explains that when—

- there is no compliance standard prescribing a way to prevent or minimise exposure to a risk; or
- there is no advisory standard identifying and managing exposure to a risk;

a person discharges a workplace health and safety obligation only if the person takes reasonable precautions and exercises proper diligence to ensure the obligation is discharged.

While the current Act does not have a similar provision, this clarifies the existing situation by providing a specific clause.

Clause 28 imposes an obligation on an employer to ensure the workplace health and safety of each of the employer's workers at work. It also imposes an obligation on an employer to ensure his or her own workplace health and safety and the workplace health and safety of others is not affected by the way an employer conducts his or her undertaking.

Examples—

- *An employer at a delicatessen provides a meat slicer for use by the employer's workers. The employer has a guard installed on the slicer to ensure the risk of injury to the workers is prevented. This is an example of how an employer can meet the employer's obligation by ensuring plant is safe for workers to use.*
- *At a workplace, a caustic chemical based oven cleaner (a hazardous substance) is used by workers. The workers' employer ensures a Material Safety Data Sheet (MSDS) is made available to the workers. Also, the employer ensures the risk to the workers' health and safety is assessed and appropriate control measures implemented to either prevent or minimise the risk. This is an example of how an employer can meet the employer's obligation to workers who use and handle hazardous substances.*
- *At a hotel, liquids are often spilt on the hotel floor. The employer at the hotel has developed and implemented a housekeeping system to ensure the employer's workers and members of the public are not exposed to the risk of slips, trips or falls because of the hazard created by the liquid on the floor. This is an example of how an employer can meet the employer's obligation to ensure the workplace is safe and without risk to the health and safety of any person at the workplace.*
- *A worker is employed to repair sewerage lines. The worker's employer provides the worker with adequate personal washing facilities to ensure the worker's health is not put at risk from exposure to bacteria. This is an example of how an employer can meet the employer's obligation to ensure the employer's workers are provided with adequate facilities to ensure workplace health and safety.*

- *A nursery worker is required to use a herbicide (a hazardous substance) to eradicate weeds. The worker's employer gives the worker access to the herbicide's MSDS and also provides the worker with both introductory and on-going training about the use of the hazardous substance. This is an example of how an employer can meet the employer's obligation to provide information, instruction and training to ensure the workplace health and safety of the employer's workers is not put at risk.*
- *An abattoir worker is required to use a boning knife. Because there is no other way to control the risk of injury to the worker, the worker's employer provides a steel mesh glove to prevent the risk of cuts to the worker's hand. This is an example of how an employer can meet the employer's obligation by providing a worker with adequate personal protective equipment (a steel mesh glove).*

This clause continues the obligations (duties) of employers under the current Act.

Clause 29 imposes an obligation on a self-employed person to ensure that his or her own workplace health and safety and the workplace health and safety of others is not affected by the way the self-employed person conducts his or her undertaking.

Example—A self-employed person who owns and operates a roof cleaning business (a subcontractor) controls the risk (to his or her own workplace health and safety) of falling off a roof. The subcontractor also controls the risk to the workplace health and safety of other persons by not allowing asbestos dust to be washed off the roof and on to the surrounding area.

This clause is slightly different to the obligations (duties) of self-employed persons under the current Act. It inserts “conducts his or her undertaking” (a task or responsibility) and omits “performance of the work”.

Clause 30 imposes obligations on a person in control of a workplace. These provide for the person in control of a workplace to ensure—

- the risk of disease or injury from a workplace is minimised for persons coming onto the workplace to work;

Example of subclause (1)(a)—A person who manages a transport depot must ensure an electrician visiting the transport depot to repair security lighting is aware of the risks associated with vehicles and forklifts moving in and around the depot.

- risk of disease or injury from any plant or substance provided by the person for the performance of work by someone other than the workers of the person is minimised when the plant or substance is used properly;

Example of subclause (1)(b)—A person who manages a theatre must ensure the safety of visiting trapeze performers by ensuring that the trapeze equipment to be used by the trapeze performers is manufactured and maintained by a competent person or persons.

- appropriate, safe access to and from the workplace for persons other than the workers of the person in control.

Example of subclause (1)(c)—The manager of a shopping centre must ensure that shoppers are not placed at risk of slipping on a wet floor in or around the shopping centre.

For this clause, a “person in control” of a workplace does not include the occupier of domestic premises.

This clause continues the obligations (duties) of persons in control of workplaces under the current Act.

Clause 31 imposes obligations on a principal contractor at a construction workplace. These obligations require a principal contractor to ensure the orderly conduct of all work at the construction workplace to the extent necessary (to ensure workplace health and safety at the workplace and to assist the discharge of an employer or self-employed person’s workplace health and safety obligations).

Example of subclause (1)(a)—At a construction workplace, bricklayers are building a perimeter wall. Scaffolding has been erected for use by the bricklayers. A drain for a sewerage line is also required to be dug near the

scaffolding. The principal contractor plans the work so that neither the scaffolding nor the workplace health and safety of bricklayers are affected while the sewerage line is being installed.

The principal contractor also has an obligation to ensure that plant and substances at the workplace for which no other person is presently responsible are safe and without risk of disease or injury to persons on the workplace. For this clause, no other person is presently responsible for plant or a substance when the plant or substance has been supplied for the general use of persons at the construction workplace. This applies irrespective of who supplied the plant or substance.

Example of subclause (1)(b)—At a construction workplace, permanent stairs have been installed. Because the stairs are a common area used by workers of several employers, the principal contractor installs temporary artificial lighting.

The principal contractor must ensure that work and workplace activities at a workplace are safe and without risk of disease or injury to members of the public at or near the workplace. Also, the principal contractor must comply with safeguards and safety measures prescribed under a compliance standard made for principal contractors.

Example of subclause (1)(c)—A multi-storey building is being constructed in a busy public place. Because members of the public could be struck by objects falling from the construction site, the principal contractor provides overhead protection (a gantry) to protect pedestrians near the site.

Provision is also made for a principal contractor to take action if the principal contractor reasonably believes, or should reasonably believe, that an employer or self-employed person at the workplace is not discharging their workplace health and safety obligations under this part. The action a principal contractor must take is to direct the employer or self-employed person to comply with their workplace health and safety obligation and, if the employer or self-employed person fails to comply with the direction, to direct the employer or self-employed person to stop work until the employer or self-employed person agrees to comply with their obligations.

This clause alters the obligations (duties) for principal contractors under the current Act. The workplace health and safety obligations specified in this Bill are more consistent with the contractual and other powers of a head builder/contractor. This ensures that the primary objective of building work being undertaken in a way that is safe and without risk to health is likely to

be achieved. This clause provides more reasonable obligations for a principal contractor.

Clause 32 imposes obligations on a designer, manufacturer, importer and supplier of plant.

A designer or importer of plant for use at a relevant place has an obligation to ensure that the plant is designed to be safe and without risk to health when used properly.

Example of subclause (1)—An importer imports a pressure vessel from overseas. The importer obtains from the designer of the vessel a compliance statement that the design meets national uniform health and safety standards.

A manufacturer or importer of plant or specified high risk plant for use at a relevant place has an obligation to ensure that the plant is constructed to be safe and without risk to health when used properly.

A designer, manufacturer or importer of plant or specified high risk plant for use at a relevant place has an obligation to ensure that the plant undergoes appropriate levels of testing and examination to ensure compliance with the obligations specifically imposed on designers or importers in subclause(1) and manufacturers or importers in subclause (2).

Example of subclause (3)—A new roller coaster has been installed at an amusement park. The manufacturer of the roller coaster conducts a comprehensive test to ensure the fail safe braking system of the roller coaster performs satisfactorily under all conditions.

Also, a designer, manufacturer, importer or supplier of plant or specified high risk plant for use at a relevant place has an obligation to take all reasonable steps to ensure that appropriate information about the safe use of the plant is available. For this clause, “appropriate” information states the use for which the plant has been designed and tested as well as the conditions (if any) that must be observed if the plant is to be used safely and without risk to health.

A designer, manufacturer, importer or supplier of plant for use at a workplace or specified high risk plant also has an obligation to take the action reasonably required by the chief executive to prevent the use of unsafe plant anywhere. For example, the chief executive may require a designer, manufacturer, importer or supplier of plant to recall the plant to prevent its use.

These obligations remain unchanged but clarify the provisions in the current Act. Also, this clause clarifies the intent of the current Act to provide a power to recall unsafe plant.

Clause 33 imposes an obligation on an erector or installer of plant or specified high risk plant at relevant place. The erector or installer of this plant must ensure it is erected or installed in a way that is safe and without risk to health. It also imposes an obligation to ensure that nothing about the way the plant was erected or installed makes it unsafe or a risk to health when used properly.

Example of subclause (b)—*A tower crane is being erected at a workplace. The erector of the crane performs necessary checks and then conducts load testing to ensure that the crane is safe to use.*

These obligations are unchanged but clarify the provisions in the current Act.

Clause 34 imposes obligations on a manufacturer, importer and supplier of substances for use at a workplace.

A manufacturer or importer of a substance for use at a workplace has an obligation to ensure the substance is safe and without risk to health and safety when used properly. The manufacturer or importer of a substance for use at a workplace also has an obligation to ensure the substance undergoes appropriate levels of testing and examination to comply with the obligation to ensure the substance is without risk to health and safety when used properly.

Example of subclause (1)(b)—*A local manufacturer of paint purchases pigments from an overseas supplier. The manufacturer meets the manufacturer's obligation by ensuring that the level of toxic heavy metals in the pigments are at or below safe limits by conducting laboratory tests on each batch of pigment prior to manufacturing the paint.*

Also, a manufacturer, importer or supplier of a substance for use at a workplace has an obligation to ensure that appropriate information about the safe use of the substance is available. For this clause, information is “appropriate” if it clearly identifies the substance and states—

- the precautions (if any) to be taken for the safe use of the substance; and
- the health hazards (if any) associated with the substance; and

- the results of any tests carried out for the substance that are relevant to its safe use.

Example of subclause (2)(a)—A supplier of a hazardous substance provides a MSDS for the substance.

A manufacturer, importer or supplier of a substance for use at a workplace also has an obligation to take the action reasonably required by the chief executive to prevent the use of an unsafe substance at a workplace. For example, the chief executive may require a manufacturer, importer or supplier of a substance to recall the substance to prevent its use.

These obligations clarify the provisions in the current Act.

Clause 35 imposes an obligation on an owner of specified high risk plant to ensure that the owner's plant is maintained in a condition that ensures the plant is safe, and without risk to health, when used properly. Specified high risk plant is plant that causes risks to public health and safety. Examples of this plant include lifts, escalators and amusement devices. A list of specified high risk plant is at schedule 2.

Examples—

- *An owner of a multi-storey building containing a cooling tower conducts regular testing of biocide levels in the water within the tower to prevent the growth of legionella bacteria.*
- *An owner of a chair-o-plane (an amusement device) has a preventative maintenance program in place to detect fatigue cracking in critical load bearing components of the device.*

Clause 36 imposes obligations on workers and other persons at work.

It provides that a worker or anyone else at a workplace has an obligation to follow instructions given for workplace health and safety by the employer or principal contractor at the workplace or construction workplace.

A worker at a workplace has an obligation to use personal protective equipment if the equipment is provided by the worker's employer and the worker is properly instructed in its use.

Example—A worker is spray painting using certain paints containing a substance known to create a risk of asthma. The worker is required by the worker's employer to wear a supplied air respirator when applying the paint. The worker's employer has provided the personal protective

equipment and given the worker proper instruction in its use. The worker can meet the worker's obligation by using the supplied air respirator when spray painting.

Workers and other persons at workplaces also have an obligation not to wilfully or recklessly interfere with or misuse anything provided for workplace health and safety at the workplace. They also have an obligation not to wilfully place at risk the workplace health and safety of any person at the workplace, and not to wilfully injure themselves.

This clause does not change a worker's obligations under the current Act. However, it removes the offence of wilfully causing harm to another person which is more appropriately dealt with under the Criminal Code.

Clause 37 sets out the defences in a proceeding against a person for a contravention of an obligation imposed on the person under Division 2 (Obligations of employers and others) and Division 3 (Obligations of workers and other persons) of this part.

When there is a compliance standard about the way to prevent or minimise a person's exposure to risk, it is a defence for the person to prove that the person followed the way prescribed in the standard.

When there is an advisory standard stating a way or ways to identify and manage exposure to a risk, it is a defence for a person to prove the person adopted and followed the stated way to prevent the contravention. It is also a defence for the person to prove that the person adopted and followed another way to identify and manage exposure to the risk and took reasonable precautions and exercised proper diligence to prevent the contravention.

When there is no compliance or advisory standard about exposure to a risk, it is a defence for a person to prove that the person chose any appropriate way and took reasonable precautions and exercised proper diligence to prevent the contravention.

It is also a defence in a proceeding for a person to prove that the commission of an offence against Division 2 or 3 of this part was due to causes over which the person had no control.

In this clause, a reference to a standard is a reference to a standard that is in force at the time of the contravention.

This clause partly continues defences available under the current Act. Due to provisions about compliance and advisory standards in this Bill, additional defences are provided by this clause which are not specified in the current Act. This clause contains specific defences that provide certainty for persons about protection offered in proceedings when standards are complied with.

PART 4—COMPLIANCE STANDARDS

This part contains provisions about the making of compliance standards. This continues the regulation making power and the provision about making a special standard in the current Act.

Clause 38 provides for the Governor in Council to make a compliance standard for workplace health and safety to prohibit or prescribe a way to prevent or minimise exposure to risk from workplaces, workplace activities or specified high risk plant. A compliance standard is subordinate legislation.

Clause 39 provides for the Minister to make a special compliance standard when the Minister considers—

- a situation has or is likely to arise at or near a workplace because of work or a workplace activity; and
- because of the situation, there is, or is likely to be, a risk of serious bodily injury to persons, or serious risk to health and safety of the public.

Provision is made for a special compliance standard to expire one year from the day it is notified in the Gazette or on an earlier day stated in the standard. It also provides for a regulation to extend the operation of a special compliance standard for a further period of not more than one year.

It also provides that where a special compliance standard is inconsistent with a compliance standard, advisory standard or regulation, the special compliance standard prevails to the extent of the inconsistency. A special compliance standard is subordinate legislation.

This clause does not alter the effect of provisions in the current Act about special standards.

PART 5—ADVISORY STANDARDS

This part continues the provisions about codes of practice in the current Act. Codes of practice are called advisory standards under this Bill. This part also clarifies the use of advisory standards in proceedings.

Clause 40 provides for an advisory standard to be made for workplace health and safety stating ways to identify and manage exposure to risk from workplaces, workplace activities or specified high risk plant.

Clause 41 provides that the Minister may make an advisory standard and must notify the making of an advisory standard.

This clause also requires the Minister to ensure that copies of each advisory standard and associated documents are available for inspection during normal business hours and without charge at each office of the department dealing with workplace health and safety.

A notice of the making of an advisory standard is subordinate legislation.

Clause 42 specifies the circumstances in which an advisory standard is admissible in evidence in a proceeding under the provisions of this Bill. An advisory standard is admissible in evidence when the proceeding relates to a contravention of an obligation imposed on a person under part 3 and the person is claimed to have contravened the obligation by failing to identify and manage the exposure to a risk. The advisory standard must be about identifying and managing exposure to the risk.

This part does not alter the effect of the provisions about codes of practice in the current Act.

PART 6—INDUSTRY CONSULTATIVE ARRANGEMENTS

This part sets out provisions regarding the establishment and operation of the workplace health and safety council and industry committees. These provisions are similar to those in the current Act. Changes in provisions reflect current legislative drafting techniques.

Clause 43 sets out that the purposes of this part are to establish the workplace health and safety council and provide for the establishment of industry committees.

Clause 44 establishes the Workplace Health and Safety Council (the “council”).

Clause 45 describes the council’s primary function as providing advice and recommendations to the Minister about promoting and protecting workplace health and safety. It also provides some of the ways the council may discharge this function.

Recommendations made by the council must consider the anticipated costs to government and industry of implementing a recommendation and the benefits to workplace health and safety that may result from its implementation.

Clause 46 sets out the tripartite and expert member composition of the council. Members of the council, other than the chairperson, are to be appointed by the Minister. The Minister must seek to appoint both men and women as members of the council.

Clause 47 provides that the council may hold meetings when it decides. However, it requires the council to meet at least four times a year. The chairperson may call a meeting of the council at any time or when requested by at least one quarter of other members of the council. This clause also allows the Minister to call a meeting of the council at any time.

Clause 48 sets out the conduct of proceedings for council meetings, the requirements for a quorum, the voting rights of members and provides for valid resolutions to be passed outside of council meetings subject to certain conditions.

Clause 49 requires council members to disclose a possible professional interest or a commercial advantage in an issue that is to be considered by the

council. Disclosure is required when the member has, or should have, reason to believe that the interest could provide a possible professional or commercial advantage to the member or an entity associated with the member. The member must not be present during council's consideration or decision about the matter, unless the council decides otherwise.

The disclosure of an interest by a member must be recorded in the council's minutes. For this clause, an entity is "associated with" a member if the member is an employee or member of, or an adviser to, the entity.

This clause is a new provision.

Clause 50 requires the council to keep minutes of its proceedings.

Clause 51 provides for Division 4 (Provisions about appointed council members) to apply to a council member other than the chief executive.

Clause 52 provides for the duration of appointment of a member to the council (not longer than three years) and the circumstances in which an office of a member becomes vacant. It also provides that the Minister may, at any time, end the appointment of a member for any reason or none.

Clause 53 allows the Minister to approve a leave of absence for a member of the council. Where a leave of absence is approved, the Minister may appoint someone else as an acting member for the duration of the leave.

The Minister must have regard to the membership requirements of council under clause 45 when appointing someone as an acting member.

Clause 54 provides that a member of council is appointed on a part-time basis and is entitled to remuneration and allowances fixed by the Minister.

Clause 55 allows the Minister to establish and maintain industry committees.

There are eleven industry committees established under the current Act.

Clause 56 describes the primary function of an industry committee as providing advice and making recommendations to the Minister or council about promoting and protecting workplace health and safety in the industry or industries for which the committee is constituted. It also provides some of the ways an industry committee may discharge this function.

Recommendations made by an industry committee to the Minister or council must have regard to the anticipated costs of implementing a

recommendation to government and industry and the benefits to workplace health and safety that may result from its implementation.

Clause 57 sets out the tripartite and expert member composition of an industry committee.

It is provided that the chairperson must not be a representative of the department or a departmental officer. It is also provided that an expert member of an industry committee must not be a departmental officer.

The Minister must seek to appoint both men and women as members of an industry committee.

Clause 58 provides for an industry committee to hold meetings when it decides, but requires it to meet at least four times a year. The chairperson may call a meeting at any time and is required to call a meeting if requested by at least one quarter of the other committee members. This clause also allows the Minister to call an industry committee meeting at any time.

Clause 59 sets out the conduct of proceedings for industry committee meetings, the requirements for a quorum, the voting rights of members and provides for valid resolutions to be passed outside of industry committee meetings subject to certain conditions.

Clause 60 requires committee members to disclose a possible professional interest or a commercial advantage in an issue that is to be considered by a committee. Disclosure is required when the member has, or should have, reason to believe that the interest could provide a possible professional or commercial advantage to the member or an entity associated with the member. The member must not be present during a committee's deliberation of, or decision about the matter, unless the committee decides otherwise.

The disclosure of an interest by a member must be recorded in the industry committee's minutes. For this clause, an entity is "associated with" a member if the member is an employee or member of, or an adviser to, the entity.

This clause is a new provision.

Clause 61 requires an industry committee to keep minutes of its proceedings.

Clause 62 allows the Minister to appoint a member of an industry committee for a term of up to three years. It also describes the

circumstances in which a member's office becomes vacant and allows the Minister to terminate the appointment of a member of an industry committee for any reason or none.

Clause 63 allows the Minister to approve a leave of absence for a member of an industry committee. Where leave is approved, the Minister may appoint someone else as an acting member for the duration of the leave.

The Minister must have regard to the committee's membership requirements under clause 57 when appointing someone as an acting member.

Clause 64 provides that a member of an industry committee is appointed on a part-time basis and is entitled to remuneration and allowances fixed by the Minister.

PART 7—WORKPLACE CONSULTATIVE ARRANGEMENTS

This part establishes a framework for consultation between workers and employers or principal contractors about achieving workplace health and safety at a workplace. It continues provisions of the current Act but has more detailed provisions about the process for workers to elect representatives and the employer's role in the process.

Clause 65 sets out the purposes of this part to provide for the election and entitlements of workplace health and safety representatives and the establishment of workplace health and safety committees. It is also an object of this part to provide a process for employers, principal contractors and workers to identify and resolve issues affecting or that may affect the workplace health and safety of persons at workplaces.

Clause 66 gives the meaning for the terms "co-workers" and "union" in this part.

Clause 67 defines a workplace health and safety representative as a worker who is elected by the worker's co-workers as their workplace health and safety representative.

It is provided that an employer cannot appoint a workplace health and safety representative.

A worker does not need any particular experience or qualification to be a workplace health and safety representative.

Clause 68 provides that workers at a workplace are entitled to elect one workplace health and safety representative for the workplace. More than one representative may be elected by workers if this is negotiated between the workers and their employer.

Clause 69 provides that a workplace health and safety representative's "area of representation" is the workplace, or where there is more than one representative, the area negotiated with the representative's employer under clause 70. It is provided that a workplace health and safety representative may exercise an entitlement under this part only for the workplace or the part of the workplace within the representative's area of representation.

Clause 70 provides for negotiation between workers and an employer at a workplace about workplace health and safety representatives and gives examples of issues that can be negotiated.

Workers may be represented during negotiations by the union of which they are members if they have informed the employer that they want to be represented by their union. If the workers are members of more than one union, each of the unions may be asked to be involved in the negotiations.

Clause 71 provides that the election of a workplace health and safety representative may be initiated by the workers or suggested by their employer.

Clause 72 requires workers who decide to elect a workplace health and safety representative to tell their employer of the decision. It also provides that they may tell a union that has members who are workers at the workplace of the decision to elect a workplace health and safety representative.

Clause 73 requires an employer to facilitate the election of a workplace health and safety representative if requested by the employer's workers. The employer is required to tell all workers at the workplace of the pending election within twenty eight days, and facilitate the election within two months of the workers' request.

This clause also sets out the minimum requirements with which an employer must comply in order to facilitate the election of a workplace health and safety representative.

The maximum penalty for contravention of subclause (3) of this clause is 10 penalty units.

Clause 74 allows workers to ask any union with members at the workplace to conduct the election of one or more workplace health and safety representatives for the workplace. However, if a union agrees to conduct the election, it must conduct it for all workers at the workplace.

Clause 75 provides that a worker elected as a workplace health and safety representative must tell the worker's employer of the person's election as soon as practicable after being elected.

Clause 76 requires an employer to negotiate with workers about workplace health and safety representatives for the workplace if asked by the workers.

The maximum penalty for contravention of subclause (1) of this clause is 10 penalty units.

This clause also provides that an employer must not exclude from the negotiations a union that has members who are workers at the workplace if the workers have told the employer that they want to be represented by the union.

Clause 77 specifies that an employer must assist workplace health and safety representatives by consulting them about workplace health and safety issues at the workplace, allowing representatives to make inspections of the workplace, and not hindering or obstructing the workplace health and safety representative's access to training negotiated under clause 70.

The maximum penalty for contravention of subclause (1), (2) or (3) of this clause is 10 penalty units.

Clause 78 describes the matters an employer is required to tell a workplace health and safety representative about if they are within the representative's area of representation. This includes any work injury, work caused illness or dangerous event happening at the workplace. An employer must also inform a workplace health and safety representative about any proposed changes to the workplace, or plant or substances used at the workplace that affect or may affect the workplace health and safety of

persons at the workplace. The employer must also inform a workplace health and safety representative about the presence of an inspector at the workplace or a notice given by an inspector. An employer is obliged to tell each workplace health and safety representative as soon as practicable after the employer has been made aware of the matters.

Clause 79 requires an employer to prominently display a notice about the identity of each of the workplace health and safety representatives for the workplace. This must be done within five days after the representative has been elected.

The maximum penalty for contravention of subclause (2) of this clause is 10 penalty units.

When a workplace has one workplace health and safety representative, a notice for the representative must be displayed in one or more prominent positions likely to come to the attention of workers at the workplace.

When there is more than one workplace health and safety representative at a workplace, an employer must display the identity of the workplace health and safety representative in the part of the workplace covered by the representative's area of representation in a manner likely to come to the attention of workers in that part of the workplace.

Clause 80 requires an employer at a workplace to display information in a prominent position about provisions under Division 3 (Workplace health and safety representatives), and to tell new workers about workplace health and safety representatives and committees for the workplace.

The maximum penalty for contravention of subclause (1) or (2) of this clause is 10 penalty units.

Clause 81 specifies the entitlements of workplace health and safety representatives. This includes carrying out inspections, exercising entitlements within normal working hours, and being told by the representative's employer of any work injury, work caused illness or dangerous event happening at the workplace. This clause also entitles a workplace health and safety representative to report matters affecting the health and safety of persons at the workplace to the employer or workplace health and safety officer. A workplace health and safety representative, if asked by the worker, is entitled to be present at an interview between an employer and the worker about an incident that has happened at the workplace.

Clause 82 provides that the workplace health and safety obligations of an employer under part 3 are not diminished by the election of, or an act or omission by, a person acting in the capacity of a workplace health and safety representative.

Clause 83 provides that a workplace health and safety representative is eligible for re-election.

Clause 84 specifies that a worker elected as a workplace health and safety representative is elected for a term of two years from the day the worker was elected.

Clause 85 specifies the circumstances in which a person ceases to be a workplace health and safety representative.

Clause 86 provides that an employer or principal contractor may establish a workplace health and safety committee for a workplace. An employer or principal contractor is required to establish a workplace health and safety committee if asked by the workplace health and safety representative, or is directed by written notice from the chief executive because the work is of a particularly hazardous nature.

The workplace health and safety committee must be established within twenty eight days of a request or direction. However, where a workplace health and safety officer is appointed for a construction workplace, a committee must be established within seven days of the workplace health and safety officer's nomination.

A workplace may have more than one workplace health and safety committee.

The maximum penalty for contravention of subclause (3) or (4) of this clause is 10 penalty units.

Clause 87 requires a workplace health and safety committee to consist of at least two members. The members of a committee include any workplace health and safety officer and workplace health and safety representative for the workplace, and other members negotiated by an employer or principal contractor and workers.

A member of a committee must be a worker at the workplace for which the committee is constituted. At least half of the committee members must be workers other than the workers nominated by the employer or principal contractor.

Provision is made for workers to be represented during negotiations about workplace health and safety committees by the union of which they are members if they have told the employer or principal contractor that they wish to be represented by their union. If the workers are members of more than one union, each of the unions asked may be involved in the negotiations.

Clause 88 provides that a workplace health and safety committee meets at the times it decides and as negotiated between the employer or principal contractor and the committee members. Meetings must be held at least every three months or when requested by the workplace health and safety officer member. A committee may meet during ordinary working hours.

Clause 89 provides for a committee to conduct its proceedings as it considers appropriate.

Clause 90 describes the primary function of a workplace health and safety committee as facilitating cooperation between principal contractor or employer and worker in developing and carrying out measures to ensure health and safety at a workplace. A committee may also give information and advice to an employer or principal contractor about workplace health and safety. This clause also specifies some of the ways a committee may discharge its main function.

PART 8—WORKPLACE HEALTH AND SAFETY OFFICERS

This part continues the provisions about workplace based advisers to employers on health and safety matters, that is, workplace health and safety officers. The provision in the current Act about the number of workers at a workplace for which an officer must be appointed is clarified. This may result in more workplaces requiring a workplace health and safety officer.

Clause 91 sets out the purpose of this part to provide for the appointment and functions of workplace health and safety officers.

Clause 92 provides for a “qualified person” in this part to mean a person who holds a certificate of authority for appointment as a workplace health and safety officer prescribed under a regulation.

Clause 93 specifies that an employer must appoint a qualified person as a workplace health and safety officer for a workplace prescribed under a regulation if 30 or more workers are normally employed at the workplace.

The maximum penalty for contravention of subclause (1) of this clause is 20 penalty units.

This clause does not prevent an employer from appointing a workplace health and safety officer in other circumstances.

An employer who is a qualified person may also appoint himself or herself as workplace health and safety officer for the workplace.

An employer may appoint a qualified person as the workplace health and safety officer for more than one workplace if the person can reasonably perform the person's functions as a workplace health and safety officer for each workplace and the written approval of the chief executive has been obtained.

This clause also provides what is meant by "30 or more workers are normally employed at the workplace".

Clause 94 specifies that a principal contractor must appoint a qualified person as a workplace health and safety officer for a construction workplace if 30 or more persons work at the workplace during any twenty four hour period, or if the principal contractor built at least 30 domestic premises during the preceding financial year. A principal contractor must also appoint a qualified person as a workplace health and safety officer in another circumstance prescribed under a regulation.

The maximum penalty for contravention of subclause (1) of this clause is 20 penalty units.

This clause does not prevent a principal contractor from appointing a qualified person as a workplace health and safety officer in other circumstances.

A principal contractor who is a qualified person may appoint himself or herself as a workplace health and safety officer.

This clause also provides for a principal contractor to appoint a qualified person to be a workplace health and safety officer for more than one construction workplace if the person can reasonably perform the person's functions as a workplace health and safety officer for each workplace and the written approval of the chief executive has been obtained.

Clause 95 requires an employer or principal contractor to display a notice about the identity of the workplace health and safety officer for a workplace in a prominent position. A notice must be displayed within five days after the officer is appointed and must be displayed in a manner likely to come to the attention of workers at the workplace.

The maximum penalty for contravention of subclause (1), (2) or (3) of this clause is 10 penalty units.

Clause 96 specifies the functions of a workplace health and safety officer. Among other things, these involve telling the employer or principal contractor about health and safety matters at the workplace.

Clause 97 specifies the ways in which an employer or principal contractor must seek to assist a workplace health and safety officer. This includes the requirement to consult the workplace health and safety officer on any proposed change to the workplace that affects or may affect the workplace health and safety of persons at the workplace.

Clause 98 provides that the obligations of employers under Part 3 are not diminished by the appointment of, or an omission or act by, a person acting in the capacity of a workplace health and safety officer.

PART 9—INSPECTORS

This part is similar to the provisions in the current Act with the exception of removing outdated provisions or unnecessarily wide powers assigned to inspectors.

Clause 99 allows the chief executive to appoint a person as an inspector if the chief executive considers the person has the necessary expertise or experience to be an inspector, or the person has satisfactorily completed training approved by the chief executive.

Clause 100 provides that an inspector is subject to the chief executive's directions in exercising the inspector's powers. It also specifies that the powers of an inspector may be limited under a regulation, under a condition of appointment, or by written notice given by the chief executive to the inspector.

Clause 101 specifies that an inspector holds office on the conditions stated in the instrument of appointment. It also outlines how an inspector can resign or cease to hold office.

Clause 102 requires the chief executive to give each inspector an identity card that identifies the person as an inspector for this Bill and contains the signature and a recent photograph of the inspector. Provision is made for a person who ceases to be an inspector to return the identity card to the chief executive within twenty one days after the person ceases to be an inspector, unless the person has a reasonable excuse.

The maximum penalty for contravention of subclause (3) of this clause is 10 penalty units.

Clause 103 specifies that an inspector may exercise a power in relation to another person only if the inspector first produces his or her identity card or has the identity card clearly displayed. Provision is made for the inspector to produce the identity card for inspection by the person at the first reasonable opportunity if it is not practicable to do so when exercising a power.

Clause 104 allows an inspector to enter a place subject to certain circumstances.

Clause 105 outlines the action an inspector must take if asking for an occupier's consent to an inspector entering the place, including the requirement to inform the person of the purpose of the entry and that the person is not required to consent. This clause also allows an inspector to ask the occupier to sign an acknowledgment of the consent if the consent is given. If the occupier signs an acknowledgment of consent, the inspector must immediately give a copy to the occupier.

Provision is made for a court to presume that consent to entry was not given where, in a proceeding before the court, a question arises as to whether the consent was given by the person and an acknowledgment of the giving of consent to entry is not produced as evidence of the consent, or it is not proved that the consent was given.

Clause 106 provides for an inspector to make an application to a Magistrate for a warrant for a place and specifies the application must be sworn and state the grounds on which the warrant is sought. It provides for the Magistrate to refuse consideration of the application until the inspector gives the Magistrate all the information the Magistrate requires.

This clause also provides that a Magistrate may only issue a warrant if satisfied there are reasonable grounds for suspecting there is a particular thing or activity that may provide evidence of an offence against this Bill, and that the evidence is, or may be within the next seven days, at the place.

Provision is made for the warrant to state certain things, including that the inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector's powers under this Part.

Clause 107 provides for an inspector to apply for a warrant by phone, fax, radio or another form of communication if the inspector considers it necessary on certain grounds.

This clause provides for the inspector to prepare an application stating the grounds on which the warrant is sought but apply for the warrant before the application is sworn.

After a warrant is issued, this clause provides for the Magistrate to immediately fax a copy to the inspector if it is reasonably practicable to do so. This clause also provides for the issue of a warrant in the circumstances where it is not reasonably practicable for the Magistrate to fax a copy of the warrant to the inspector.

This clause provides for either a facsimile warrant or a warrant form properly completed by the inspector to authorise the entry and exercise of other powers stated in the warrant issued by the Magistrate.

This clause requires the inspector to send the sworn application and the completed warrant form, if one has been completed, to the Magistrate at the first reasonable opportunity.

Provision is made for a court to presume, in a proceeding before the court, that a power exercised by an inspector was not authorised by a warrant issued under this clause unless the warrant is produced in evidence, or the contrary is proved.

Clause 108 applies to an inspector who enters a place to get the occupier's consent only if the consent is given or entry is otherwise authorised. This clause also allows an inspector to do certain things after entering a place for the purpose of monitoring or enforcing compliance with this Bill. This includes searching any part of the place and inspecting, measuring, testing, photographing or filming any part of the place or anything in the place. It also allows an inspector to take a thing or sample of or from the thing for the purpose of analysis.

An inspector may also conduct surveys and tests to assess the degree of risk existing in a workplace or the standards of health and safety existing in the workplace. An inspector may also inquire into the circumstances and probable causes of workplace incidents, and take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part.

An inspector may require the occupier of the place, or a person in or on the place, to give the inspector reasonable help in the exercise of the inspector's powers under this clause. It is provided that a person must give the inspector reasonable assistance unless the person has a reasonable excuse. It is a reasonable excuse for the person not to comply if the person is asked to give information or produce a document (other than a document required to be kept by the person under the Bill) that might incriminate the person.

The maximum penalty for contravention of subclause (3) of this clause is 40 penalty units.

Provision is made for an inspector to exercise a power either under this clause, another clause in the Bill or both provisions. This clause does not apply to an inspector who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.

Clause 109 provides that an inspector who enters a workplace or, with the occupiers consent, another place, may seize a thing in the place subject to certain circumstances.

An inspector entering a place with a warrant may seize the evidence for which the warrant was issued.

This clause also authorises an inspector to seize anything else at the place if the inspector reasonably believes it is evidence of an offence against this Bill, and that the thing must be seized to prevent it from being hidden, lost, destroyed or used to continue or repeat the offence.

An inspector may seize a thing if the inspector reasonably believes the thing has just been used in committing an offence against this Bill.

Clause 110 authorises an inspector who enters a workplace to seize the workplace, part of a workplace, plant or substance if it appears to an inspector that the workplace, part of the workplace, or plant or substance at the workplace is defective or hazardous to a degree likely to cause serious bodily injury or work caused illness.

Clause 111 describes the powers an inspector may exercise with regard to a thing which the inspector has seized, including the power to move the thing from the place where it was seized, leave the thing at the place of seizure but take steps to restrict access to it, or in the case of plant to dismantle the plant or cause the plant to be dismantled.

Where an inspector restricts access to a seized thing, a person may not tamper or attempt to tamper with the thing or something restricting access to the thing without the inspector's approval.

The maximum penalty for contravention of subclause (2) or (5) of this clause is 40 penalty units.

Clause 112 requires an inspector who has seized a thing to give a receipt generally describing the seized thing and its condition to the person from whom the thing was seized as soon as it is practicable. If it is not practicable to give a receipt to the person, the inspector must leave the receipt at the place of seizure in a reasonably secure way. This clause also provides for circumstances when an inspector does not have to give a receipt for the thing.

Clause 113 describes the circumstances in which a seized thing is forfeited to the State, and the action an inspector must take if the inspector decides to forfeit the thing to the State.

Clause 114 provides for the circumstances in which an inspector must return a seized thing to its owner when the seized thing has not been forfeited.

An inspector must return a thing seized as evidence, unless the thing has been forfeited, as soon as the inspector is satisfied that its retention as evidence is no longer required.

Clause 115 requires an inspector to allow the owner of a thing seized as evidence access to inspect the thing or, if a document, to take copies of the document. This provision does not apply in circumstances in which it is impractical or unreasonable to allow the owner of a thing seized as evidence to inspect the thing.

Clause 116 provides for an inspector to call a police officer to assist the inspector in the exercise of the inspector's powers under Part 9, and requires the police officer to provide the assistance to the inspector if it is practicable to do so.

Clause 117 allows an inspector to issue an improvement notice to a person requiring the person to remedy a contravention or likely contravention of a provision of this Bill, or remedy matters or operations causing the contravention. This clause specifies what details an inspector must state in an improvement notice.

It also provides that a person must comply with an improvement notice.

The maximum penalty for contravention of subclause (4) of this clause is 40 penalty units.

This clause does not change the intent of the equivalent provision in the current Act.

Clause 118 allows an inspector to issue a prohibition notice or give an oral direction to a person if the inspector reasonably believes that circumstances causing, or likely to cause, an immediate risk to the workplace health and safety of any person have arisen or are likely to arise in relation to a workplace, workplace activity, plant or substance.

The inspector may direct the person in control of the work, workplace activity, plant or substance that caused the circumstances to stop using (or allowing to be used) the workplace, plant or substance or stop the work or workplace activity. For this clause, a person “in control” of a workplace, workplace activity, plant or substance is a person who has, or reasonably appears to have, authority to exercise control over the workplace, activity, plant or substance.

Provision is made for subclause (2) not to apply to an activity or procedure necessary to rectify the circumstances causing or likely to cause an immediate risk to the workplace health and safety of any person.

If an inspector gives an oral direction, it must be confirmed by written notice and given to the person as soon as practicable. This clause also specifies what details an inspector must state in a prohibition notice.

It is provided that a person must comply with a direction or prohibition notice.

The maximum penalty for contravention of subclause (4) of this clause is 40 penalty units or 6 months imprisonment.

This clause does not change the intent of the equivalent provision in the current Act.

Clause 119 allows the chief executive to apply to the Supreme Court for an order directing a person to comply with an improvement or prohibition notice issued by an inspector. The chief executive may do this if it appears that a person issued with a notice has failed to comply with the notice, and as a consequence of failing to comply, there is an imminent risk of serious bodily injury or work caused illness to any person or of a dangerous event happening.

The Court may make any order it considers appropriate in the circumstances if it is satisfied that there is an imminent risk of serious bodily injury or work caused illness to any person or of a dangerous event happening because of the contravention.

This clause provides that a person can commit an offence against this clause in addition to any other liability a person may incur for breach of the order.

The maximum penalty for contravention of this subclause (4) is 200 penalty units or 6 months imprisonment.

Clause 120 specifies the circumstances in which an inspector may require a person to state the person's name and address.

This clause provides that the inspector must warn the person it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

If the inspector reasonably suspects that a person's stated name or address is incorrect, an inspector may require the person to give evidence that the person's stated name or address is correct.

This clause also specifies that, unless the person has a reasonable excuse, it is an offence for a person to fail to comply with a request by an inspector to state his or her name and residential address, or provide evidence of his or her name or address.

The maximum penalty for contravention of subclause (5) of this clause is 10 penalty units.

This clause provides that a person does not commit an offence against this clause if the inspector required the person to state the person's name and address because the inspector suspects the person of having committed an offence against this Bill and the person is not proved to have committed the offence.

An inspector may seek the assistance of a police officer in enforcing this clause.

Clause 121 provides the steps a police officer may take if a person fails to give the persons name and address.

Clause 122 provides that an inspector may require any person to make available or produce for inspection, at a reasonable time and place nominated by the inspector, a document issued to the person under this Bill or required to be kept by the person under this Bill. It also provides for an employer, principal contractor or owner to make available or produce for inspection, at a reasonable time and place nominated by the inspector, any document (including a contract) about work undertaken or being undertaken by the person.

This clause specifies that an employer, contractor or owner must comply with the requirement under subclause (1)(b) unless the employer, contractor or owner has a reasonable excuse. It is a reasonable excuse for the person not to comply with the requirement if compliance might tend to incriminate the person.

The maximum penalty for contravention of subclause (2) of this clause is 10 penalty units.

An inspector is authorised by this clause to keep the document for the purpose of taking an extract or making a copy of it. If the inspector makes a copy of either the document or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry. The person responsible for keeping the document must comply with the requirement to certify the copy as a true copy of the document or entry unless the person has a reasonable excuse.

The maximum penalty for contravention of subclause (6) of this clause is 10 penalty units.

This clause stipulates that an inspector must return the document to the employer or contractor as soon as practicable after taking the extract or making the copy.

Clause 123 applies if an inspector reasonably believes that a workplace or part of a workplace, plant or a substance is so defective or hazardous that it is likely to cause serious bodily injury or work caused illness.

Provision is made for an inspector to require, by written notice, the owner to destroy the workplace (or part), plant or substance or make it harmless. A person must comply with the notice, unless the person has a reasonable excuse.

A maximum penalty for contravention of subclause (3) of this clause is 40 penalty units.

Clause 124 allows the chief executive to have a sample taken by an inspector analysed, and must obtain from the analyst a certificate or report stating the analysis result.

It is specified that a person must not, with the intention to adversely affect the result, tamper with a thing and cause a sample of it taken or to be taken by an inspector, in order to incorrectly represent the thing or its qualities when analysed.

The maximum penalty for contravention of subclause (2) of this clause is 20 penalty units.

This clause further provides that where a method of analysis has been prescribed under a regulation, the analyst must follow the method.

Clause 125 provides for a person to claim compensation from the State if the person incurs loss or expense because of the exercise, or purported exercise, by an inspector of a power under—

- Division 2 (Inspectors' general powers)
- Division 4 (Other investigative powers)
- Division 5 (Other enforcement matters)

A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of a particular case. It is specified that a regulation may prescribe the matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

Clause 126 allows the court to order that a thing be forfeited to the State under certain circumstances.

Clause 127 provides that the chief executive may deal with a thing forfeited to the State as the chief executive considers appropriate, including destruction of the thing.

Clause 128 applies if property is damaged by an inspector or person acting under the direction of an inspector when exercising or purporting to

exercise a power. It is specified that the inspector must promptly give written notice of the particulars of the damage to the person who appears to be the owner of the thing. It is also provided that if it is impracticable to give such notice to the owner, the inspector must leave the notice, in a reasonably secure way where the damage happened.

This clause does not apply to damage the inspector reasonably believes is trivial. For this clause, an “owner” of a thing includes the person in possession or control of the thing.

PART 10—BOARDS OF INQUIRY

This part continues the provisions about accident and inquiry tribunals under the current Act.

Clause 129 allows the Minister to establish or re-establish a board of inquiry into any workplace incident by notification in the Gazette. The Minister may exercise powers under this clause regardless of whether the matter has been investigated by an inspector and been the subject of a previous board of inquiry.

Clause 130 sets out the role of a board of inquiry, including the requirement to provide the Minister with a written report of the board’s findings and recommendations. The Minister is required to table a copy of this report in the Legislative Assembly within 14 days of receiving it.

The Minister is not required to table a report provided separately about a matter from a board of inquiry if the board considers the matter should not be made public.

Clause 131 provides for the members of a board of inquiry to be paid fees and allowances that are decided by the Minister. It also provides for the terms of appointment of members of a board of inquiry to be as provided by this Bill or as otherwise decided by the Minister.

Clause 132 requires the chief executive to consult with the chairperson of the board about arranging for the services of officers and employees of the department and other persons during the inquiry, and for financial matters relevant to the board.

Clause 133 provides for an inspector to exercise the powers conferred upon inspectors in Part 9 when an inspector's services have been made available to a board of inquiry.

Clause 134 requires a board of inquiry to observe natural justice, and to act quickly with as little formality and technicality as appropriate given the issues being considered.

A board of inquiry is not bound by the rules of evidence and may gather information for its inquiry in the ways it considers appropriate. However, the board must comply with the provisions of Division 2 (Conduct of Inquiry) and any other procedural rules prescribed under a regulation.

Clause 135 requires the chairperson of a board of inquiry to give written notice of the time and place of an inquiry at least fourteen days in advance to persons concerned with the incident which is the subject of the inquiry. The chairperson may also give the same notice to any other person whom the chairperson believes should have an opportunity to appear at the inquiry.

Clause 136 requires that an inquiry is to be held in public except where the board of inquiry is satisfied that it is appropriate that the inquiry, or part of the inquiry, be held in private because of special circumstances.

Clause 137 provides that a member of a board of inquiry, when performing the member's duties, has the same protection and immunity as a Supreme Court Judge. This clause also gives a lawyer or other person appearing before a board the same protection and immunity as a lawyer appearing for a party in a proceeding in the Supreme Court. Also, a person summoned by a board has the same protection as a witness appearing in a proceeding in the Supreme Court.

Clause 138 requires a board of inquiry to keep a record of its proceedings.

Clause 139 requires a board of inquiry to provide a person concerned with a workplace incident the opportunity to defend all claims made against the person. The person may be represented before the board by a lawyer or agent.

Clause 140 sets out the powers a board of inquiry may exercise in the conduct of an inquiry.

Clause 141 allows the chairperson of a board of inquiry to require a person to appear as a witness at an inquiry at the time and place stated by written notice. A person required to appear as a witness before an inquiry is entitled to the witness fees prescribed by regulation or determined by the chairperson.

Clause 142 allows a board of inquiry to inspect, copy, photograph, or take possession of a document or thing produced to the board for the duration of the inquiry.

Clause 143 allows a board to conduct an inquiry or report on a matter despite a proceeding before a court or tribunal, unless a court or tribunal with the necessary jurisdiction orders otherwise.

Clause 144 provides for a person who has been given notice under clause 141 to attend a board of inquiry unless the person has a reasonable excuse. It also requires a person appearing as at witness at the inquiry to take an oath or make an affirmation. A witness is also required to respond to questions or produce a document or thing if required. A person appearing before a board of inquiry may refuse to answer a question or produce a document or thing where the answer or production of the document or thing may incriminate the person.

The maximum penalty for contravention of subclause (1), (2) or (3) of this clause is 30 penalty units.

Clause 145 sets out the conduct leading to a person being held in contempt of the board of inquiry.

The maximum penalty for contravention of this clause is 30 penalty units.

Clause 146 provides for the board of inquiry to report an offence to appropriate prescribed authorities if the board considers material produced in the inquiry reveals an offence. The board may also make this material available to one or more of the persons specified in this clause.

Clause 147 provides that a change in membership of a board of inquiry does not affect the inquiry it is undertaking.

PART 11—APPEALS

This part consolidates provisions in the current Act for an appeals tribunal and a board of reference.

Clause 148 provides that a person whose interests are affected by a decision of the chief executive or an inspector (the “original decision”) may apply for the decision to be reviewed.

Clause 149 sets out the conditions to be met by the person in making an application for the review.

Clause 150 specifies the procedure and protocol for the chief executive in undertaking the review, making a review decision, and notifying the applicant of the review decision which may confirm, vary or set aside the decision appealed against.

Clause 151 allows an applicant to apply to the Industrial Court for a stay of an original decision if an application has been made for a review of an original decision. It also provides for the Industrial Court to stay a decision on conditions the court considers appropriate. Provision is made for the period of a stay to not extend past the time when the chief executive reviews the decision and any later period the Industrial Court allows the person to appeal against the decision.

An application made for a review of a decision affects the decision or the carrying out of the decision only if the decision is stayed.

Clause 152 provides that a person whose interests are affected by an original decision or review decision may appeal the decision to the Industrial Court. This person has a right to receive a statement of reasons for the decision.

Clause 153 describes the manner in which an appeal may be initiated and the information to be provided by the appellant about the grounds for appeal.

Clause 154 allows the Industrial Court to stay a decision that is appealed against to secure the effectiveness of the appeal. The stay may be given on the conditions the Industrial Court considers appropriate. This clause also specifies that an appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.

Clause 155 specifies the procedure for an appeal, which is by way of rehearing.

Clause 156 provides for the Industrial Court to appoint one or more assessors to assist in reaching a decision on an appeal.

Clause 157 describes how the Industrial Court may confirm, vary or set aside a decision subject to appeal.

PART 12—LEGAL PROCEEDINGS

Clause 158 provides for this division (Evidence) to apply to a proceeding under this Bill or another Act prescribed under a regulation.

Clause 159 provides that it is not necessary to prove the appointment or authority of the chief executive or an inspector to do anything under this Bill.

Clause 160 provides that a signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.

Clause 161 provides that certain documents are to be taken as evidence of the documents they purport to be.

It is also specified that, in a complaint initiating a proceeding, a statement that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

Provision is also made that any instrument, equipment or installation used by an inspector or analyst in accordance with the conditions (if any) prescribed under a relevant document for its use is taken to be accurate and precise in the absence of evidence to the contrary.

Clause 162 provides that an expert report is admissible in evidence in a proceeding under this Bill, and when admitted, is evidence of any fact or opinion of which the expert could have given oral evidence.

Provision is made that if the expert does not attend to give oral evidence in the proceeding, the report is admissible only with the court's leave. In granting leave, the court must have regard for certain matters, including the risk that its admission or exclusion from evidence will result in unfairness

to a party, particularly considering a party's ability to controvert the contents of the report if the expert does not give oral evidence.

An "expert report" means a report made by a person that deals wholly or mainly with matters on which the person is qualified to give expert evidence, but does not include an analyst's report. The person who makes an expert report is, for this clause, the "expert".

Clause 163 provides that a signed analyst's report is evidence of certain matters that it states, such as the analyst's qualifications and the results of the analysis.

Clause 164 specifies that a prosecution for an offence against this Bill is by way of summary proceedings before an Industrial Magistrate. This clause provides that more than one contravention of a workplace health and safety obligation under Part 3 may be charged as a single charge if the acts or omissions giving rise to the claimed contravention happened within the same period and at the same workplace.

It is provided that a person aggrieved by a decision of an Industrial Magistrate in proceedings for an offence against this Bill can appeal to the Industrial Court.

The *Industrial Relations Act 1990* applies with any necessary changes to proceedings before an Industrial Magistrate brought under this clause.

This clause also provides that a prosecution for an offence against this Bill must be commenced by complaint of an inspector or someone else authorised by the Minister or the chief executive.

Clause 165 specifies that a proceeding for an offence against this Bill must start within one year after the commission of the offence, or within six months after the offence comes to the complainant's knowledge, but within eighteen months of the offence being committed.

Clause 166 gives the meaning of "representative" and "state of mind" for this clause and provides for circumstances in a proceeding when it is relevant to prove a person's state of mind about a particular act or omission.

Clause 167 specifies that the executive officers of a corporation must ensure that the corporation complies with this Bill.

If a corporation commits an offence against a provision of this Bill, this clause provides that each of the executive officers of the corporation commits the offence of failing to ensure that the corporation complies with

this Bill. It is specified that it is evidence that each of the executive officers committed the offence of failing to ensure the corporation complies with this Bill if there is evidence that the corporation has been convicted of an offence against a provision of this Bill.

The maximum penalty for contravention of subclause (2) of this clause is the penalty for the contravention of the provision by an individual.

It is provided that it is a defence for an executive officer of a corporation to prove that—

- the officer, if in a position to influence the conduct of the corporation in relation to the offence, exercised reasonable diligence to ensure the corporation complied with the provision; or
- the officer was not in a position to influence the conduct of the corporation in relation to the offence.

Clause 168 allows a party to a proceeding under this Bill to be represented by the party's lawyer or agent.

Clause 169 provides that an unpaid fee under this Bill may be recovered by the chief executive in summary proceedings under the *Justices Act 1886* or by action for a debt in a court of competent jurisdiction.

This clause also provides for a fee to be recovered in a proceeding for an offence against this Bill. This clause also specifies how an order made under subclause (2) is enforceable.

PART 13—OFFENCES

Clause 170 provides that the maximum penalty for a contravention of a provision appears in or near the provision in this Bill. For the benefit of users of this Bill, there is a full list of provisions creating offences against the Bill and the maximum penalties for their contravention at schedule 1.

Clause 171 provides that a person must not state anything to a board of inquiry, the chief executive or an inspector which the person knows is false or misleading in a material particular. It also specifies that a person must not omit anything from a statement made to a board of inquiry, the chief

executive or an inspector which, to the person's knowledge, makes the statement misleading in a material particular.

The maximum penalty for contravention of subclause (1) of this clause is 30 penalty units.

It is also provided that, for a complaint against a person for an offence against this clause, it is enough to state that the statement made was false or misleading to the person's knowledge.

Clause 172 provides that a person must not give a board of inquiry, the chief executive or an inspector a document containing information the person knows is false, misleading or incomplete in a material particular. However, the person is excused from liability under this provision if the person informs the board, chief executive or inspector how the document is false, misleading or incomplete and gives the correct information if the person has, or can reasonably obtain, the correct information.

This clause also stipulates that a person must not knowingly make a false entry in any document required or permitted to be made, kept, exhibited, given, issued or held under this Bill.

The maximum penalty for contravention of subclause (1) or (3) of this clause is 30 penalty units.

Clause 173 stipulates that a person must not obstruct an inspector in the exercise of a power unless the person has a reasonable excuse.

This clause outlines the steps an inspector may take if obstructed in the exercise of a power by a person.

The maximum penalty for contravention of subclause (1) of this clause is 40 penalty units.

Clause 174 provides for a police officer to take certain steps if a person continues or repeats the obstruction of an inspector in the exercise of a power.

Clause 175 provides that an employer must not encourage or influence a worker to refuse to answer questions put to the worker by an inspector. Similarly, a principal contractor must not encourage or influence an employer or worker to refuse to answer questions put to the employer or worker by an inspector.

The maximum penalty for contravention of this subclause (1) or (2) is 40 penalty units.

Clause 176 stipulates that a person must not pretend to be an inspector, accredited officer, workplace health and safety officer or workplace health and safety representative.

The maximum penalty for contravention of this clause is 40 penalty units.

PART 14—GENERAL

Clause 177 authorises the chief executive to appoint a person to be an accredited officer, whether or not the person is an officer of the public service. This clause also provides the conditions a person must satisfy before the chief executive may appoint a person as an accredited officer.

Clause 178 provides for an accredited officer to be subject to the chief executive's directions in performing the accredited officer's functions. The functions of an accredited officer may be stated under a regulation, under a condition of appointment or by written notice given by the chief executive to the accredited officer.

Clause 179 provides that an accredited officer holds office on the conditions stated in the instrument of appointment. It also provides the circumstances under which a person ceases to be an accredited officer.

Clause 180 provides that the chief executive must give each accredited officer an identity card that identifies the person as an accredited officer under this Bill and contains the signature, a recent photograph of the accredited officer and an expiry date.

A person who ceases to be an accredited officer must return the person's identity card to the chief executive within twenty one days after the person ceases to be an accredited officer, unless the person has a reasonable excuse.

The maximum penalty for contravention of subclause (3) of this clause is 10 penalty units.

Clause 181 specifies that an accredited officer must, if performing a function, produce the officer's identity card for inspection if asked by any person to whom the performance of the function is relevant.

Clause 182 allows the chief executive to revoke the appointment of an accredited officer.

Clause 183 provides that an official does not incur civil liability for an act done, or an omission made, honestly and without negligence under this Bill. An “official” means the Minister, the chief executive, a member of a board of inquiry, a member of the council or industry committee and an inspector. If this clause prevents civil liability being attached to an official, civil liability attaches to the State instead.

Clause 184 provides that civil liability will not attach to a workplace health and safety representative or a member of a workplace health and safety committee because of the exercise of, or the failure to exercise, a health and safety entitlement under Part 7, or to a workplace health and safety officer because of the performance of, or failure to perform, a health and safety function under Part 8.

Clause 185 allows the chief executive to require a designer, manufacturer, importer or supplier of plant or specified high risk to prevent the use of unsafe plant at a workplace or elsewhere. This also applies to a manufacturer, importer or supplier of an unsafe substance at a workplace.

Clause 186 provides that a regulation may exempt a person or thing from this Bill or any of its provisions. Provision is made that the exemption may be given on stated conditions, and, if this is the case, the exemption operates only if the conditions are complied with.

PART 15—ADMINISTRATION

Clause 187 allows the chief executive to delegate the chief executive’s powers under this Bill to an inspector, officer or employee of the public service.

PART 16—REGULATIONS

Clause 188 provides for the Governor in Council to make regulations under this Bill.

Provision is made for a regulation to be made about workplace health and safety. This clause provides examples of matters about which a regulation may be made.

PART 17—TRANSITIONAL PROVISIONS AND REPEALS

Clause 189 provides the meaning for “expiry day” in this Part. It also provides that the “former Act” means the *Workplace Health and Safety Act 1989*.

Clause 190 provides for certain provisions of the *Workplace Health and Safety Regulation 1989* in force under the former Act immediately before commencement to remain in force for this Bill.

The provision may be amended or repealed by a regulation under this Bill. It is to be read with the changes necessary to make it consistent with this Bill and adapt its operation to the provisions of this Bill. The provision expires on the expiry day unless earlier repealed. This clause expires on 1 July 1996.

Clause 191 allows a code of practice approved under the former Act and in force at the commencement to be taken as an advisory standard made under this Bill until the expiry day or its earlier repeal.

The code of practice may be amended or repealed by a regulation under this Bill. It is to be read with the changes necessary to make it consistent with this Bill and adopt its operation to the provisions of this Bill. This clause expires on 1 July 1996.

Clause 192 provides for certain exemption notices in force under the former Act immediately before commencement to remain in force under this Bill.

The notice may be amended or repealed by a regulation under this Bill. The notice is to be read with the changes necessary to make it consistent with this Bill and adapt its operation to the provisions of this Bill. The notices expire on the expiry day unless earlier repealed. This clause expires on 1 July 1996.

Clause 193 continues an industry workplace health and safety committee established under the former Act and discharging its functions immediately before commencement until the period for which the committee was established expires, or the Minister dissolves the committee. It also provides for a person who was a member of the industry committee immediately before commencement to continue being a member until the term for which the member was appointed under the former Act expires, or the member's term is ended under this Bill.

This clause is a law to which the *Acts Interpretation Act 1954* section 20A applies. This clause expires on 1 July 1996.

Clause 194 provides for a person who, immediately before commencement, was designated as a health and safety officer under the former Act to continue being a workplace health and safety officer for a workplace under this Bill. This clause expires on 1 July 2000.

Clause 195 provides for a person who, immediately before commencement, was a health and safety representative under the former Act to continue being a representative for a workplace. This is subject to certain conditions provided in this clause.

This clause is a law to which the *Acts Interpretation Act 1954* section 20A applies. This clause expires on 1 July 1996.

Clause 196 provides for a health and safety committee established by an employer or principal contractor under the former Act and discharging functions immediately before the commencement to continue as a workplace health and safety committee under this Bill.

This clause is a law to which the *Acts Interpretation Act 1954* section 20A applies. This clause expires on 1 July 1996.

Clause 197 provides for a person who, immediately before the commencement, was an inspector or acting inspector under the former Act to be taken as appointed as an inspector under this Bill.

The appointment is, to the greatest practicable extent, subject to the same conditions that applied to it immediately before the commencement. The appointment expires on 31 December 1995, or an earlier day provided for in the appointment. This clause expires on 31 December 1995.

Clause 198 provides for a person who, immediately before commencement, was an accredited officer under the former Act to be taken as appointed as an accredited officer under this Bill. The appointment is, to the greatest practicable extent, subject to the same conditions that applied to it immediately before the commencement. The appointment expires on 31 December 1995, or an earlier day provided for in the appointment. This clause expires on 31 December 1995.

Clause 199 provides for an improvement, prohibition or seizure notice issued under the former Act and in force at the commencement to continue to have effect, after the commencement, as if it were given under this Bill.

An improvement, prohibition or seizure notice is to be read with the changes necessary to make it consistent with this Bill and adapt its operation to the provisions of this Bill. Definitions of “prohibition notice” and “seizure notice” are provided for this clause.

This clause is a law to which the *Acts Interpretation Act 1954* section 20A applies. This clause expires on 1 July 1996.

Clause 200 provides for a certificate to work in, or in a part of, an occupation prescribed under the former Act and granted to a person under the former Act to continue under this Bill. The certificate is, to the greatest practicable extent, subject to the same conditions that applied to it immediately before its commencement.

This clause is a law to which the *Acts Interpretation Act 1954* section 20A applies. This clause expires on 1 July 1996.

Clause 201 provides for a workplace, plant or the details of plant design required to be registered under this Bill and registered under the former Act immediately before commencement to be taken as registered under this Bill.

The registration of a workplace or plant continues in force until the term of the registration ends.

This clause is a law to which the *Acts Interpretation Act 1954* section 20A applies. This clause expires on 1 July 1996.

Clause 202 provides for a method of work approved under the former Act and in force immediately before commencement to continue to have effect according to its terms under this Bill.

The method of work may be amended or repealed by a regulation. The approval of the method of work expires on 1 July 1997 unless earlier repealed or ended. This clause expires on 1 July 1997.

Clause 203 provides for an exemption given under the former Act and in force immediately before commencement to remain in force for this Bill. The exemption expires on the expiry day unless earlier repealed.

This clause is a law to which the *Acts Interpretation Act 1954* section 20A applies. This clause expires on 1 July 1996.

Clause 204 provides for an appeal under the former Act not finally dealt with at the commencement to be continued and dealt with under this Bill. It also provides for a right of appeal under the former Act at the commencement to be exercised (within the time allowed under this Bill for a similar appeal) and dealt with under this Bill. This clause expires on 1 January 1996.

Clause 205 provides for a regulation to make a provision about certain matters. A regulation made under this clause expires on 1 July 1996.

Clause 206 provides for the following Acts to be repealed—

- *Workplace Health and Safety Act 1989* No. 63
- *Workplace Health and Safety Act and Other Acts Amendment Act 1990* No. 94.

SCHEDULE 1—LIST OF OFFENCES AND PENALTIES

Schedule 1 provides a list of penalties for offences under this Bill.

SCHEDULE 2—SPECIFIED HIGH RISK PLANT

Schedule 2 provides a list of items of plant that are prescribed as “specified high risk” plant and defines each item.

SCHEDULE 3—DICTIONARY

Schedule 3 contains a dictionary that provides definitions of words and terms used in this Bill. Where a word has a substantial definition which has been included in this Bill, a cross-reference to where the definition appears is provided.