WORKPLACE HEALTH AND SAFETY AND ANOTHER ACT AMENDMENT BILL 2002

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the legislation

The objective of this Bill is to amend the *Workplace Health and Safety Act 1995* (hereinafter referred to as "the Act") to ensure it continues to provide for an effective modern regulatory regime that meets the needs associated with the changing nature of the labour market and ensures appropriate health and safety outcomes are achieved for all stakeholders. The Bill also makes consequential amendments to the *Electrical Safety Act 2002*.

The Bill gives effect to the recommendations of an independent review of the Act conducted in 2001-2002.

Reason for the Bill

In March 2001, the Minister for Industrial Relations commissioned an independent review into the Division of Workplace Health and Safety of the Department of Industrial Relations. The review was organised in response to a number of issues and concerns that identified shortcomings in the organisation and delivery of health and safety services in Queensland.

The recommendations of the review were considered and accepted by the Government in September 2001, which further recommended a review of the *Workplace Health and Safety Act 1995* to ensure it reflects changes in the labour market and meets contemporary regulatory needs, and to consider the adequacy of current enforcement mechanisms and penalties.

The proposals to amend the Act have the following 3 aims:

1. To improve the balance of legal obligations at the workplace

2. To strengthen the consultative arrangements between employers and employees

3. To provide greater consistency with other safety legislation and to streamline reporting requirements for employers.

1. Improving the balance of legal obligations at the workplace

The aim of these provisions is to assign legal responsibility to those that can best control the risk. This is especially important with new work arrangements being introduced on a regular basis. The changes place obligations on persons who conduct work undertakings, persons who design buildings and persons in control of buildings used as workplaces. In addition, the proposals will ensure designers, manufacturers and suppliers of equipment have an obligation to provide safety information with the equipment and to ensure it has been tested or checked. Similarly, manufacturers and suppliers of substances will have an obligation to provide safety information. Finally, the proposals will clarify the specific obligations that employers have to meet to ensure health and safety.

2. Strengthening the consultative arrangements

The changes to the Act will also require workplace health and safety officers to conduct an annual inspection at the workplace and will provide for accredited training for workplace health and safety representatives. The Queensland Industrial Relations Commission will be available to resolve any disputes over issues related to the training of representatives.

3. Providing greater consistency with other safety legislation and streamlining reporting requirements for employers

The changes will bring the *Workplace Health and Safety Act 1995* in line with the recent *Electrical Safety Act 2002* with the introduction of enforceable undertakings as an alternative to prosecution and will align penalties with that Act and the *Dangerous Goods Safety Management Act 2000*. In addition, investigation powers are being clarified.

The proposed amendments also seek to align reporting requirements with WorkCover Queensland provisions so that employers will not have to report the same accident twice. For the building and construction industry,

reporting and fee provisions are being aligned with the *Building and Construction Industry (Portable Long Service Leave) Act 1991*.

Administrative costs and savings to Government

There are no additional costs incurred by government.

Consistency with fundamental legislative principles

Section 24(1) of the *Workplace Health and Safety Act 1995* provides that a person on whom a workplace health and safety obligation is imposed must discharge the obligation and provides for a series of penalties for breaches of this provision. The Bill adds to these obligations and proposes to substitute the existing penalties with a series of higher penalties that are generally consistent with other obligation-based legislation, in particular, the *Dangerous Goods Safety Management Act 2001* and the *Electrical Safety Act 2002*.

It is considered that the new obligations fill identified gaps in the obligation chain and apportion more fairly the responsibility for controlling and managing exposure to risk to those person who create the risk and are best able to control and manage it.

The increased penalties more properly reflect the government's response to the seriousness of these offences.

Consultation

An Issues Paper was released for public consultation in December 2001. The Issues Paper canvassed a range of matters and raised a number of potentially contentious issues that generated a great deal of discussion and disagreement. A total of 66 written submissions were received from a range of stakeholders.

The Workplace Health and Safety Board appointed a reference group consisting of two employer representatives and two employee representatives as well as an independent academic advisor (Professor Richard Johnstone) to assist the legislative review team. The primary function of this reference group was to provide guidance and feedback on the critical issues and views of the representative parties.

An internal reference group consisting of staff from the Department was also established to provide input into the review process.

Policy position papers were subsequently developed and considered by the Workplace Health and Safety Board in April and June 2002.

Further consultation with the major industry bodies, unions and those persons who had expressed an interest by making a submission to the Issues Paper occurred in October 2002. Further discussions were held with key stakeholders on the proposed amendments to the Act in November 2002.

The Department of the Premier and Cabinet, Queensland Treasury and the Department of Justice and the Attorney-General were consulted on several occasions since the beginning of 2002. Consultation was also undertaken with the Department of Public Works, Queensland Health, Queensland Education and Disability Services Queensland during October 2002 in the development of the proposals.

The Department of the Premier and Cabinet, Queensland Treasury, the Department of Justice and the Attorney-General, the Department of Employment and Training, the Office of Rural Communities, the Business Regulatory Review Unit, Education Queensland, the Department of Emergency Services, the Building Services Authority and the Department of Public Works were consulted in November 2002 regarding the draft *Workplace Health and Safety and Another Act Amendment Bill 2002*.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Short title

Clause 1 provides the short title of the Bill.

Commencement

Clause 2 provides for the commencement of the Bill on a date to be fixed by proclamation.

PART 2—AMENDMENT OF THE WORKPLACE HEALTH AND SAFETY ACT 1995

Act amended in pt 2

Clause 3 states the provisions of this Bill amend the *Workplace Health and Safety Act 1995*.

Amendment of s 10 (Who is an "employer"?)

Clause 4 replaces subsection (1) in section 10 to align the definition of an "employer" with the definition appearing in the *Electrical Safety Act 2002*. The amendment clarifies the definition of an employer and does not change the intent of section 10. The clause also amends the wording of subsection (2) to make the intent of the clause clearer.

Amendment of s 11 (Who is a "worker" and who is not?)

Clause 5 corrects the incorrect citation of the expression "contract for services" and omits subsection (3) of section 11. Subsection (3) states that "a person is not a "worker" merely because the person does work for an organisation of which the person is a member." Subsection (3) may be misleading and confusing to users of the legislation in the context of establishing if a person is a "worker" for the purposes of the Act. The omission of subsection (3) does not change the intent of section 11.

Replacement of s 12 (Who is a "self-employed person")

Clause 6 replaces the existing section 12 to align the definition of a "self-employed person" with the definition appearing in the *Electrical Safety Act 2002*. The amendment clarifies the definition of self-employed person and does not change the intent of section 12.

Insertion of new s 13A

Clause 7 inserts a definition of "construction work" as a result of changes to the definitions of "building work" and "civil construction work" in Schedule 3 of the Act.

Amendment of s 14 (What is a "construction workplace"?)

Clause 8 amends the definition of "construction workplace" in order to align it with the amendments made by clause 7.

Insertion of new pt 1, div 4, sdiv 3

Clause 9 inserts a definition for a "relevant workplace area" (s.15A) and definitions for "person in control" of a building or other structure (s.15B) and "person in control" of fixtures, fittings or plant (s.15C) to support provisions introducing new obligations in clause 14.

The clause defines a "relevant workplace area" as any building or structure, or part of a building or structure, used as a workplace and any associated adjacent area.

The clause defines "person in control" of a "relevant workplace area" as the person who is the owner of the building or other structure or part. However, the clause also specifies that if there is in place a lease, contract or other arrangement that provides, or has the effect of providing, for another person to have effective and sustained control of the area, then the other person, and not the owner, is the "person in control" of the area.

The clause defines "person in control" of fixtures, fittings or plant included in a 'relevant workplace area" as the person who is the owner of the building or other structure or part. However, the clause specifies that if there is a lease, contract or other arrangement that provides, or has the effect of providing, for another person to have effective and sustained control of the fixtures, fittings or plant, the other person, and not the owner of the building or other structure or part, is the "person in control" of the fixtures, fittings or plant.

Amendment of s 23 (Obligations for workplace health and safety)

Clause 10 amends the list of obligation holders to incorporate new obligation holders. This includes persons who conduct a business or undertaking, whether or not as an employer or self-employed person; designers of buildings or other structures to be used as workplaces; persons in control of relevant workplace areas and persons in control of fixtures, fittings or plant included in relevant workplace areas. At the same time, it deletes references to "importers" of plant and substances in accordance with amendments made by sections 32, 32A, 32B, 34 and 34A.

Amendment of s 24 (Discharge of obligations)

Clause 11 amends the maximum penalties allowed under the Act to align them with other Queensland workplace safety legislation. The Queensland Government recently considered the appropriate level of fines for breaches of the *Electrical Safety Act 2002*. The size and scope of the penalties adopted are consistent with the *Dangerous Goods Safety Management Act 2001*. It is important for penalties under the *Workplace Health and Safety Act 1995* to mirror other regulators that are also involved in ensuring health and safety where possible.

The amendment increases the penalty for a breach by a corporation resulting in death from $300,000 to $375,000, and similar increases for lesser offences resulting in bodily harm or exposure to substances that may result in death or bodily harm. These changes are consistent with the penalty provisions for similar offences in both the *Electrical Safety Act 2002* and the *Dangerous Goods and Safety Management Act 2001*.

In addition, the amendment introduces a penalty for multiple deaths up to a maximum of $750,000 for a corporation consistent with the *Dangerous Goods and Safety Management Act 2001*. The Bill also makes a consequential amendment to the *Electrical Safety Act 2002* to introduce the same penalty for multiple deaths.

It should be noted that the maximum fine imposed for an offence that resulted in a death under the Act is $70,000 and for a multiple death, $125,000. The change is considered important in that it will signal to the community and courts the seriousness of the offences under the Act and the consistency of penalties for offences under general workplace health and safety legislation.

Amendment of s 24A (Charges for offences against s24)

Clause 12 amends section 24A as a consequence of the amendments made to sections 28 and 29 and the inclusion of section 29A (Clause 13).

Replacement of ss 28 - 29

Clause 13 replaces section 28, which outlines the obligations of employers under the Act. This amendment rewords the provision in order to clarify the obligations and in particular that the employer must prevent the exposure of others to risk of work related injury or illness. This amendment does not change the intent of section 28.

The clause also replaces the existing section 29, which outlines the obligations of self-employed persons under the Act. This amendment rewords the provision in order to clarify the obligations and in particular that the employer must prevent the exposure of others to risk of work related injury or illness. This amendment does not change the intent of section 28.

The clause also inserts a new section 29A, which outlines the obligations of persons conducting a business or undertaking. The traditional focus on the employer as the primary obligation holder has become increasingly problematic due to a range of new labour market and contracting arrangements. The growth in outsourcing and the use of contractors and labour hire workers has created uncertainty in the allocation of health and safety responsibilities.

While the general "duty of care" is a non-delegable duty, the current provisions rely heavily upon the traditional employer/employee relationship and do not adequately reflect changes to work arrangements in the modern labour market. This provision has been designed to shift the emphasis away from the traditional employment status and to focus instead on the originator of the risk and the party best able to manage and control the risks associated with any business or undertaking.

The traditional concept of a "workplace" with an employer who directly employs employees for wages is being increasingly replaced by new and contingent work arrangements. Growth in the not-for-profit sector and the greater involvement by persons in unpaid work-type activities (eg: volunteers) has also contributed to the pressure of remaining with the existing provisions. The purpose of the amendment is to clarify that persons who conduct a business or undertaking have an obligation to ensure the workplace health and safety of each person who performs a work activity for the purposes of the business or undertaking. In this way, the host employer of a labour hire worker, for example, has the same obligation to that worker as to the employer's own workers if he or she were to have any.

The allocation of responsibility to the party that generates the risk associated with a business or undertaking contributes significantly to removing a large part of the ambiguity and overlap existing under current provisions.

The clause also inserts a new section 29B, which specifies the key elements to meeting the obligation outlined in sections 28-29A. Specification of the key elements of the obligation within the Act is

considered an appropriate and effective means of increasing employers' understanding of their obligation to workers. The amendment includes the provision of a safe and healthy work environment, safe systems of work, plant that is safe and the provision of information, instruction, training and supervision.

The amendment does not alter current legal obligations, but clarifies how these obligations can be met.

Replacement of s 32 (Obligations of designers, manufacturers, importers and suppliers of plant)

Clause 14 replaces the existing section 32, which outlined the obligations of designers, manufacturers, importers and suppliers of plant, with new sections 32, 32A and 32B. The clause inserts separate provisions for each obligation holder in order to be more specific about the obligations held by each obligation holder.

The clause imposes an obligation on suppliers to supply plant that will not pose a risk to workplace health and safety. Such an amendment will eliminate the possibility of unsafe plant being legally supplied to Queensland workplaces, especially from outside the country.

The clause introduces a new requirement on each obligation holder to provide information about the safe use of the particular item of plant when that plant is supplied to another person. The current provisions for ensuring that appropriate information about the safe use of the plant is available are inadequate. There are no requirements for suppliers, designers or manufacturers to actually provide relevant health and safety information to the person who receives the plant; all they need do is indicate that it is available. The amendment is designed to ensure that the end user is provided with information about the safe use of plant.

The new provisions provide that an importer is a supplier.

Amendment of s 33 (Obligations of erectors and installers of plant or specified high risk plant)

Clause 15 omits the words 'or specified high risk plant'. The reference to plant preceding these words already includes specified high risk plant. The amendment merely corrects the use of language in this provision.

Replacement of s 34 (Obligations of manufacturers, importers and suppliers of substances for use at workplaces)

Clause 16 replaces the existing section 34, which outlined the obligations of manufacturers, importers and suppliers of plant, with new sections 34 and 34A. The clause inserts separate provisions for each obligation holder in order to be more specific about the obligations held by each obligation holder.

The clause introduces a new requirement on each obligation holder to provide information about the safe use of substances when that substance is supplied to another person. The current provisions for ensuring that appropriate information about the safe use of the substances is available are inadequate. There are no requirements for suppliers or manufacturers to actually provide relevant health and safety information to the person who receives the substance; all they need do is indicate that it is available. The information about safe use of hazardous substances is readily available through a national material safety data sheet (MSDS) scheme. The amendment is designed to ensure that the end user is provided with information about the safe use of substances.

The new provisions provide that an importer is a supplier.

The clause also inserts a new section 34B, which introduces a new obligation on designers of buildings or other structures used as workplaces. The Building and Construction (WHS) Taskforce (2000) recommended that an obligation be placed on designers, engineers and architects to ensure that the design of a building or structure does not pose a risk to the health and safety of those involved in the use, repair and maintenance of the building or structure. A quality safety management approach acknowledges the need to identify and design out foreseeable hazards as early as possible, particularly at the design phase.

The amendment imposes an obligation on designers to ensure that buildings may be used, repaired and maintained in a safe manner. Transitional provisions are provided to ensure that this legal obligation will not apply to those buildings for which designs have been commenced under an existing contract. The amendment also restricts the potential exposure of designers to standards existing at the time of the design and to the extent that the content of the design falls under the control of the designer. The provision excludes domestic premises.

The clause also inserts a new section 34C, which introduces a new obligation on persons in control of a "relevant workplace area." Definitions

for these are included at clause 9 (ss.15A, 15B and 15C). Risk associated with the structural integrity, condition or reasonable use of a building is not explicitly covered by the Act even though the building itself may be a workplace as defined by the Act. The lack of an obligation creates a gap in the obligation chain under the Act, which results in unrealistic obligations being imposed on employers.

The clause also inserts a new and complementary section 34D, which introduces an obligation on persons in control of fixtures, fittings or plant included in a "relevant workplace area".

The imposition of an obligation on persons in control of buildings and persons in control of fixtures and fittings will serve to fill an identified gap in the obligation chain to allow a more equitable distribution of responsibility for health and safety based upon the creation and control of risks.

The provisions exclude residential premises.

These provisions have been included to assist in the allocation of responsibility for health and safety to those parties most appropriate to manage and control exposure to the risk of injury and illness. Tenants and employers who lease premises will now be in as position to determine the appropriate party who can best manage the health and safety obligation. Responsibility for issues such as carpark maintenance, safety switches on switchboards and general maintenance will be clarified under these new provisions.

Insertion of new pt 5

Clause 17 inserts a new part 5, which provides for enforceable undertakings under the Act. Enforceable undertakings are an alternative to prosecution and are legally binding commitments made by obligation holders subsequent to an alleged contravention of the legislation to, for example:

- to cease certain behaviour
- to take specific action to redress parties adversely affected by a contravention of the legislation
- to implement specified actions or programs to prevent future breaches

- to implement other publicity or educative programs to help deter other obligation holders from infringing similar breaches.

The clause explains the meaning of a workplace health and safety undertaking. A workplace health and safety undertaking is a written undertaking made by an identified person. It is entered into as an alternative to prosecution for an alleged contravention of the obligation offence provision or executive officer provision. The clause sets out what is required for a workplace health and safety undertaking.

The clause provides the mechanism for the chief executive to accept an identified person's undertaking. It also allows the chief executive to publish the details of the undertaking. This requirement is aimed at improving compliance with the *Workplace Health and Safety Act 1995* as well as providing an alternative, and possibly more beneficial, sanction for non-compliance.

The clause provides that the chief executive must apply to the Magistrate's Court to discontinue the proceeding for the alleged offence before the enforceable undertaking begins. Where a proceeding for the alleged contravention has not been started, a proceeding for the alleged contravention must not be started.

The clause provides the offence for contravening the workplace health and safety undertaking. The maximum penalty for a breach of this clause is 1000 penalty units.

The clause describes the mechanism for varying or withdrawing an undertaking.

The clause provides that the chief executive can apply to the Industrial Court for certain orders where the chief executive considers a person has contravened the undertaking. When considering an application, the Industrial Court may make an order directing the identified person to comply or another order that it considers appropriate. A prosecution for contravening the undertaking does not prevent a court from making this order.

An order of the court under this clause does not, unless the order otherwise provides, prevent a prosecution for the contravention of the undertaking.

Amendment of s 70 (Negotiation between workers and employer about workplace health and safety representatives)

Clause 18 inserts new subsections in section 70 to provide for the Queensland Industrial Relations Commission to hear and decide, as an industrial matter, an application by a person aggrieved by the failure of a negotiation relating to workplace health and safety representative entitlements as outlined under section 70(1). The new subsection, 70(4), must be read in conjunction with the *Industrial Relations Act 1999*.

Amendment of s 78 (Employer to tell workplace health and safety representative about certain things)

Clause 19 replaces the words "work injury, work caused illness and dangerous event" with the expression "workplace incident" as the result of the amendment in clause 36.

Amendment of s 81 (Entitlements of workplace health and safety representatives)

Clause 20 replaces the words "work injury, work caused illness and dangerous event" with the expression "workplace incident" and inserts a new subsection in section 81 to require an employer to allow a workplace health and safety representative to attend a prescribed training course, including a refresher course, and to have all reasonable costs of the representative's attendance at the course, including course fees and the representative's usual remuneration, met by the employer. This is one of the matters that can be dealt with by the Queensland Industrial Relations Commission under amendments proposed by clause 18.

The current absence of any entitlement to training restricts workplace health and safety representatives' ability to perform their role effectively.

Amendment of s 90 (Functions of workplace health and safety committees)

Clause 21 replaces the words "work injury, work caused illness and dangerous event" with the expression 'workplace incident" in section 90(3)(d).

Amendment of s 96 (Functions of workplace health and safety officers)

Clause 22 replaces the words "work injury, work caused illness and dangerous event" with the expression 'workplace incident" in section 96(e) and section 96(g).

Insertion of new s 96A

Clause 23 inserts a new section 96A, which introduces a requirement for workplace health and safety officers to conduct an annual assessment of the workplace using criteria developed by either the Division of Workplace Health and Safety or agreed to by the workplace health and safety committee at the workplace. Under this amendment, the Workplace Health and Safety Officer is required to record the results of the inspection and submit them to the employer along with any recommendations to rectify any identified unsafe workplace health and safety conditions and practices.

Amendment of s 97 (Employer and principal contractor to help workplace health and safety officer etc.)

Clause 24 is a consequential amendment resulting from clause 23. The clause places a requirement on employers and principal contractors to allow workplace health and safety officers to conduct workplace inspections and assessments during normal working hours, to provide resources to allow the workplace health and safety officer to properly exercise the officer's functions under the Act, to take appropriate action to rectify any identified unsafe workplace health and safety conditions and practices and to take all reasonable steps to ensure the workplace health and safety officer complies with section 96A.

Amendment of s 104 (Entry to places)

Clause 25 amends section 104 to allow a workplace health and safety inspector to enter a place the inspector reasonably suspects is a workplace and a place where specified high risk plant is situated.

The changing nature of the labour market not only reflects the contractual basis upon which labour services are provided but also reflects changing workplace arrangements. Inspectors need to have appropriate levels of access to places where they reasonably suspect work is being performed.

Under current provisions, an inspector only has authorised entry to places and land around places that are known to be workplaces. An inspector who enters a place (without the occupier's consent) under the belief that it is a workplace (or to determine its status) and subsequently determines that it is not a workplace is outside the scope of his or her powers.

Entry to domestic premises that are not used as workplaces is not currently permitted without consent and this restriction will not be modified in any way under the proposed amendment.

A second deficiency of the current section 104, is the failure to provide inspectors with authorised access to places where specified high risk plant is situated. Such plant (e.g. a lift or air conditioning unit in a residential building) is covered by the Act but may not necessarily be situated in a workplace and therefore cannot currently be accessed by an inspector. The amendment provides for an inspector to enter any place that the inspector has reason to suspect is a workplace or where specified high risk plant is situated.

Amendment of s 108 (General powers after entering places)

Clause 26 inserts a new subsection (1A) in section 108 as a consequence of the amendment in clause 25. Section 108(1A) excludes an inspector from exercising powers in a place that was entered because it was suspected of being a workplace but upon entering was found not to be.

Insertion of new s 121

Clause 27 inserts a new section 121, which provides for an inspector to require a person who has knowledge, or whom the inspector reasonably suspects to have knowledge, of the circumstances of a workplace incident to give the inspector reasonable help, as stated in the requirement.

The requirement may be given orally or in written form.

A person must comply with a requirement unless the person has a reasonable excuse for not complying. It is a reasonable excuse for a person not to comply with a requirement if complying with the requirement might tend to incriminate the person.

The maximum penalty for a breach of this provision is ten penalty units.

Insertion of new pt 11, div 1A

Clause 28 amends the definition of a "decision" to exclude any decision taken by the chief executive under part 5 (enforceable undertakings) in relation to review or appeal. This provision is consistent with the *Electrical Safety Act 2002*.

Amendment of s 148 (Application for review)

Clause 29 is a consequential amendment from clause 28.

Amendment of pt 13 (Offences)

Clause 30 omits several division headings that are no longer required.

Insertion of new s 174

Clause 31 inserts a new section 174 for the purposes of providing for anti-victimisation provisions under the Act. The provision provides that an employer must not dismiss a worker, or otherwise act to the detriment of a worker in the worker's employment, for the dominant or substantial reason that the worker is, or has performed a function as, a workplace health and safety representative, a workplace health and safety officer, or a member of a workplace health and safety committee or has raised a complaint about an issue, or in any other way has raised an issue, concerning workers' exposure to the risk of illness or injury or has contacted or given help to an inspector.

The maximum penalty for a breach of this provision is 40 penalty units.

This clause provides that if an employer contravenes section 174(1) by dismissing a worker, the worker is taken to have been unfairly dismissed under the *Industrial Relations Act 1999*, chapter 3, part 2, and subject to that part, has the remedies under that part.

Insertion of new s 184A

Clause 32 inserts a provision for the appointment of a principal contractor for a construction workplace. The appointment must be done using an approved form and notifying the appointment to the chief executive. The clause also provides that more than one principal contractor can be appointed to the same construction workplace only with the approval of the chief executive.

Amendment of s 185 (Powers of chief executive)

Clause 33 omits the words "or specified high risk plant" and "importer". The reference to plant preceding these words already includes specified high risk plant. Importers are now included in the definition of "suppliers" of plant and substances. The amendment merely corrects the use of language in this provision.

Amendment of pt 17 (Transitional provisions)

Clause 34 inserts a new division 3 in part 17 and a new section 191. The clause provides that the new obligations imposed on designers of buildings used as workplaces do not take effect until six months after the commencement of this section. This is to allow a transition period to ensure that this legal obligation will not apply to existing buildings or to those where designs have been commenced under an existing contract.

Omission of sch 1 (List of offences and penalties)

Clause 35 omits schedule 1, which sets out a list of the offences under the Act and their respective penalties.

Amendment of sch 3 (Dictionary)

Clause 36 updates the dictionary to the Act in accordance with the amended provisions. In addition, the clause provides new definitions for "serious bodily injury", "work caused illness" and "dangerous event".

The existing definition of serious bodily injury does not take into account modern treatment methods, especially as there is a movement away from hospital admissions to day surgery and community-based care. Many serious injuries occur that do not require subsequent admission to hospital as an inpatient. In addition, there are currently separate notification requirements for workers' compensation and workplace health and safety legislation. The Division of Workplace Health and Safety would receive far greater number of notifications if it aligned its notification requirements with that of injuries reported to WorkCover.

Work caused illnesses are reportable if they are contracted by a worker in the course of doing work and to which the work was a contributing factor. As the general legal obligation under the Act extends to others that may be affected by the employer's undertaking, it would be appropriate for

the notification of illnesses to be likewise extended to others affected by the undertaking who contract an illness related to the work process where the work is a significant contributing factor.

To promote clarity and simplicity, the new definition of dangerous event specifies the events to be notified to the Division of Workplace Health and Safety. In general, these events are those that are likely to cause serious bodily injury or death if a person were in proximity to the work area when the event occurred.

PART 3—AMENDMENT OF THE ELECTRICAL SAFETY ACT 2002

Act amended in schedule

Clause 37 provides for the consequential amendment of the *Electrical Safety Act 2002*. The schedule sets out those sections of the *Electrical Safety Act 2002* that will be amended as a consequence of the amendments to the *Workplace Health and Safety Act 1995* as well as to rectify minor drafting anomalies.