



Queensland

# **Workplace Health and Safety and Other Acts Amendment Bill 2006**





Queensland

# Workplace Health and Safety and Other Acts Amendment Bill 2006

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**2006**

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**A Bill**

for

**An Act to amend the *Workplace Health and Safety Act 1995*,  
and for other purposes**

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3  
 This Act may be cited as the *Workplace Health and Safety and  
 Other Acts Amendment Act 2006*. 4  
 5

**Part 2 Amendment of Workplace  
 Health and Safety Act 1995** 6  
 7

**Clause 2 Act amended in pt 2** 8  
 This part amends the *Workplace Health and Safety Act 1995*. 9

**Clause 3 Amendment of s 7 (Objective of Act)** 10  
 Section 7(3)(f)— 11  
*insert—* 12  
 ‘(iv) authorised representatives to help workers with 13  
 workplace health and safety issues; and’. 14

**Clause 4 Insertion of new pt 7A** 15  
 After section 90— 16  
*insert—* 17



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<b>‘Part 7A</b>	<b>Authorised representatives</b>	1
<b>‘Division 1</b>	<b>Purpose</b>	2
<b>‘90A</b>	<b>Purpose of part</b>	3
	‘The purpose of this part is to provide authorised representatives of employee organisations with a capacity to contribute to workplace health and safety in workplaces and relevant workplace areas.	4 5 6 7
<b>‘Division 2</b>	<b>Definitions</b>	8
<b>‘90B</b>	<b>Definitions for part</b>	9
	‘In this part—	10
	<i>authorised representative</i> means a person appointed as an authorised representative under section 90D.	11 12
	<i>eligible member</i> , of an employee organisation, means a person who is, or is eligible to be, a member of the employee organisation.	13 14 15
	<i>employee organisation</i> means—	16
	(a) an employee organisation under the <i>Industrial Relations Act 1999</i> ; or	17 18
	(b) an organisation of employees under the <i>Workplace Relations Act 1996</i> (Cwlth).	19 20
<b>‘Division 3</b>	<b>Appointment of authorised representatives</b>	21 22
<b>‘90C</b>	<b>Application for appointment as authorised representative</b>	23 24
	‘(1) An employee organisation may apply, in the approved form, to the industrial registrar for appointment of a person as an authorised representative for the employee organisation.	25 26 27

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- ‘(2) An employee organisation must not apply for appointment of a person as an authorised representative unless the person is an employee of, or holds an office with, the employee organisation. 1  
2  
3  
4  
Maximum penalty—40 penalty units. 5
- ‘(3) A regulation may prescribe matters for an application under subsection (1), including, for example, documents required to support the application. 6  
7  
8

**‘90D Appointment of authorised representative 9**

- ‘(1) The industrial registrar may appoint a person as an authorised representative for an employee organisation, for a specified term of not more than 3 years, if— 10  
11  
12
- (a) the person is an employee of, or holds an office with, the employee organisation; and 13  
14
- (b) the person has satisfactorily finished training approved by the chief executive for this section; and 15  
16
- (c) the industrial commission has not, within the previous 3 years, cancelled an appointment of the person as an authorised representative. 17  
18  
19
- ‘(2) The industrial registrar may appoint the person as an authorised representative for the employee organisation— 20  
21
- (a) for the first appointment—if the person has satisfactorily finished the training mentioned in subsection (1)(b) within the previous 3 years; or 22  
23  
24
- (b) for each later appointment—if the person has satisfactorily finished the training mentioned in subsection (1)(b) within the previous 6 years. 25  
26  
27
- ‘(3) The industrial registrar may impose conditions on the appointment of a person as an authorised representative. 28  
29
- ‘(4) To remove any doubt, it is declared that more than 1 person may be appointed as an authorised representative for an employee organisation. 30  
31  
32
- ‘(5) Also, it is declared that training approved for this section for a person’s appointment as an authorised representative may be 33  
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training that was available, and had been undertaken by the person, before the commencement of this section.	1 2
<b>‘90E Limitation of authorised representative’s powers</b>	3
‘The powers of an authorised representative may be limited—	4
(a) under a regulation; or	5
(b) by a condition of appointment imposed under section 90D or amended under section 90Q(4)(a) or 90R(5)(a).	6 7
<b>‘90F Authorised representative’s appointment conditions</b>	8
‘(1) A person is appointed as an authorised representative on the conditions stated in the instrument of appointment under section 90D or to which the person is subject under section 90Q(4)(a) or 90R(5)(a).	9 10 11 12
‘(2) A person’s appointment as an authorised representative ends when whichever of the following first happens—	13 14
(a) the person’s term of appointment ends;	15
(b) the person stops being an employee of, or holding office with, the employee organisation stated in the person’s instrument of appointment;	16 17 18
(c) the person’s appointment is cancelled under section 90Q or 90R;	19 20
(d) the person, or the employee organisation for whom the person is an authorised representative, surrenders the person’s identity card by returning it, with a notice of surrender, to the industrial registrar.	21 22 23 24
<b>‘90G Employee organisation must give notice</b>	25
‘(1) This section applies if an authorised representative for an employee organisation stops being an employee of, or holding office with, the employee organisation.	26 27 28

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‘(2) As soon as reasonably practicable, but not more than 14 days afterwards, the employee organisation must give the industrial registrar written notice of that happening.	1 2 3
Maximum penalty—40 penalty units.	4
<b>‘90H Authorised representative’s identity card</b>	5
‘(1) The industrial registrar must give each authorised representative an identity card.	6 7
‘(2) The identity card must—	8
(a) contain a recent photo of the authorised representative; and	9 10
(b) be signed by the authorised representative; and	11
(c) identify the person as a person appointed as an authorised representative under this part; and	12 13
(d) state an expiry date.	14
‘(3) An authorised representative must return the person’s identity card to the industrial registrar as soon as possible, but within 21 days, after—	15 16 17
(a) the person stops being an authorised representative; or	18
(b) the person’s appointment as an authorised representative is suspended under this part;	19 20
unless the person has a reasonable excuse.	21
Maximum penalty for subsection (3)—10 penalty units.	22
<b>‘Division 4 Authorised representatives’ powers</b>	23
<b>‘90I Powers if a suspected contravention of the Act involves workplace health and safety</b>	24 25
‘(1) An authorised representative for an employee organisation may enter a place if—	26 27
(a) the place is a workplace or a relevant workplace area; and	28 29

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- |      |  |                            |
|------|--|----------------------------|
| (b)  | a worker working at the place is an eligible member of the employee organisation; and  | 1<br>2                     |
| (c)  | the authorised representative reasonably suspects that a contravention of the Act involving workplace health and safety has happened or is happening at the place that relates to or affects an eligible member of the employee organisation at the place.                                     | 3<br>4<br>5<br>6<br>7      |
| ‘(2) | After entering the place, the authorised representative may—   | 8                          |
| (a)  | inspect any plant, substance or other thing at the place relevant to the suspected contravention mentioned in subsection (1)(c); or  | 9<br>10<br>11              |
| (b)  | observe work carried on at the place; or   | 12                         |
| (c)  | speak to a person, with the person’s consent, who is an eligible member of the employee organisation; or   | 13<br>14                   |
| (d)  | speak to the occupier of the place about anything relevant to the suspected contravention mentioned in subsection (1)(c); or   | 15<br>16<br>17             |
| (e)  | require the production for inspection of documents, including employment records, relevant to the suspected contravention mentioned in subsection (1)(c); or   | 18<br>19<br>20             |
| (f)  | copy a document at the place relevant to the suspected contravention mentioned in subsection (1)(c); or  | 21<br>22                   |
| (g)  | require the occupier to give the authorised representative reasonable help to exercise the authorised representative’s powers under paragraphs (a) to (f).   | 23<br>24<br>25             |
| ‘(3) | A person required to give reasonable help under subsection (2)(g) must comply with the requirement, unless the person has a reasonable excuse.   | 26<br>27<br>28             |
|      | Maximum penalty—40 penalty units.  | 29                         |
| ‘(4) | If the requirement is to be complied with by the person giving information, or producing a document, it is a reasonable excuse for the person, if the person is an individual, to fail to comply with the requirement, if complying with the requirement might tend to incriminate the person. | 30<br>31<br>32<br>33<br>34 |
| ‘(5) | In this section—   | 35                         |

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<i>employment records</i> means a record relating to the employment of a worker—	1 2
(a) setting out the type of industrial instrument regulating the employment of the worker; or	3 4
(b) relating to any of the following matters—	5
(i) hours of work;	6
(ii) overtime;	7
(iii) remuneration or other benefits;	8
(iv) leave;	9
(v) superannuation contributions;	10
(vi) termination of employment;	11
(vii) type of employment, including whether the employment is permanent, temporary, casual, full-time or part-time;	12 13 14
(viii) personal details of the worker;	15
(ix) another matter prescribed under a regulation.	16
<b>‘90J Powers for discussing workplace health and safety</b>	17
‘(1) An authorised representative for an employee organisation may enter a place for the purpose of discussing matters relating to workplace health and safety at the place with a worker at the place if—	18 19 20 21
(a) the place is a workplace or a relevant workplace area; and	22 23
(b) a worker working at the place is an eligible member of the employee organisation.	24 25
‘(2) After entering the place, the authorised representative may discuss matters relating to workplace health and safety at the place with a worker who—	26 27 28
(a) is an eligible member of the employee organisation; and	29
(b) wishes to take part in the discussion.	30

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‘(3) A discussion mentioned in subsection (2) may take place only when the worker is on a work break, including a meal break.	1 2
<b>‘90K Notice of entry or exercise of particular power</b>	3
‘(1) This section applies for the entry into a place under this part by an authorised representative.	4 5
‘(2) The authorised representative must give the occupier of the place written notice of the entry and the reasons for the entry—	6 7 8
(a) for entry under section 90J—at least 24 hours before the entry; or	9 10
(b) otherwise—as soon as practicable after the entry.	11
‘(3) For entry in any case, the authorised representative must, as soon as practicable after entry, tell the occupier of his or her presence.	12 13 14
‘(4) For the exercise of the power to inspect, or produce, documents that are employment records on entry under section 90I, the authorised representative must at least 24 hours before exercising the power, give the occupier written notice of his or her intention to exercise the power and the reasons for the exercise of the power.	15 16 17 18 19 20
<b>‘90L Production of authorised representative’s identity card</b>	21 22
‘An authorised representative must not remain at a place entered under this part if the authorised representative does not produce the authorised representative’s identity card for inspection if required by the occupier of the place.	23 24 25 26
<b>‘90M When powers may not be exercised</b>	27
‘(1) An authorised representative must not, under this part—	28
(a) enter any part of a place that is used as domestic premises, without the consent of the occupier of the place; or	29 30 31

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(b) enter any part of a place, or exercise any power at the place, if, under another Act, the authorised representative is not permitted to enter the part of the place or exercise the power at the place.	1 2 3 4
‘(2) An authorised representative must not enter or remain at a place, under this part, if—	5 6
(a) the occupier of the place requests the authorised representative to comply with a workplace health and safety requirement that applies to the place; and	7 8 9
(b) the request is a reasonable request; and	10
(c) the authorised representative fails to comply with the request.	11 12
<i>Example of an unreasonable request—</i>	13
requiring an authorised representative to undertake a site-specific induction if the authorised representative would normally be accompanied on the site by someone who had undertaken the induction	14 15 16 17
<b>‘90N Conduct of authorised representative</b>	18
‘(1) An authorised representative for an employee organisation must not, while acting or purporting to act under this part—	19 20
(a) unreasonably hinder or obstruct a worker or other person at a workplace or relevant workplace area; or	21 22
(b) intimidate or threaten a worker or other person at a workplace or relevant workplace area.	23 24
‘(2) An authorised representative for an employee organisation may exercise or purport to exercise a power under this part only for a purpose relating to the workplace health and safety of an eligible member of the employee organisation.	25 26 27 28
‘(3) Also, an authorised representative for an employee organisation may use or disclose information acquired at a place under this part only—	29 30 31
(a) for a purpose relating to the workplace health and safety of an eligible member of the employee organisation; or	32 33



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(b)	with the consent of the person to whom the information relates.	1 2
	<i>Example of information—</i>	3
	information from employment records	4
	<i>Note—</i>	5
	A contravention of this section is not an offence. However, it may result in suspension or cancellation of the authorised representative's appointment or an amendment of a condition of the appointment.	6 7 8 9
<b>'Division 5</b>	<b>Suspension, cancellation, or amendment of conditions, of appointment</b>	10 11 12
<b>'Subdivision 1</b>	<b>Preliminary</b>	13
<b>'90O</b>	<b>Application to suspend or cancel appointment, or amendment of conditions of appointment</b>	14 15
	'The following persons may apply to the industrial commission to suspend or cancel the appointment of an authorised representative for an employee organisation, or amend the conditions of the appointment—	16 17 18 19
	(a) the chief executive;	20
	(b) an occupier of a place entered into by an authorised representative.	21 22
<b>'90P</b>	<b>Decision on application may be given on the papers or at a hearing</b>	23 24
	'The industrial commission may decide whether or not to take action on an application under section 90O entirely or partly from a consideration of the documents filed.	25 26 27

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<b>‘Subdivision 2</b>	<b>Decisions on the papers</b>	1
<b>‘90Q</b>	<b>Applications decided on the papers</b>	2
‘(1)	This section applies if the industrial commission decides to decide the application after a consideration of the documents filed and without a hearing.	3 4 5
‘(2)	The industrial commission must give the applicant, the authorised representative and the employee organisation a written notice stating—	6 7 8
(a)	the industrial commission is considering suspending or cancelling the authorised representative’s appointment or amending the conditions of the appointment (the <i>proposed action</i> ); and	9 10 11 12
(b)	the reason for the proposed action; and	13
(c)	if the proposed action is amendment of a condition of the appointment, the proposed amendment; and	14 15
(d)	if the proposed action is suspension of the appointment, the proposed suspension period; and	16 17
(e)	an invitation—	18
(i)	to the authorised representative to show in writing, within a stated time of at least 14 days after the date of the notice, why the proposed action should not be taken; and	19 20 21 22
(ii)	to the applicant to comment in writing, within a stated time of at least 14 days after the date of the notice, on the appropriateness of the proposed action.	23 24 25 26
‘(3)	The industrial commission may take action under subsection (4) if, after considering all documents filed in the application and all written submissions made within the time allowed under subsection (2)(e), the industrial commission—	27 28 29 30
(a)	is satisfied, on the balance of probabilities, that the authorised representative has contravened a provision of this part or a condition of the appointment; and	31 32 33

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(b) considers the appointment should be suspended or cancelled or a condition amended.	1 2
‘(4) The industrial commission may—	3
(a) if the proposed action is to amend a condition of the appointment—amend the condition of the appointment in the way stated in the notice; or	4 5 6
(b) if the proposed action is to suspend the appointment—suspend the appointment for no longer than the proposed suspension period; or	7 8 9
(c) if the proposed action is to cancel the appointment—cancel the appointment or suspend it for a period.	10 11 12
‘(5) The industrial commission must give the applicant, the authorised representative and the employee organisation a written notice stating—	13 14 15
(a) the decision; and	16
(b) the reasons for the decision; and	17
(c) that the applicant, the authorised representative or the employee organisation may appeal against the decision under part 11.	18 19 20
‘(6) In this section—	21
<i>applicant</i> means—	22
(a) if the application under section 90O was made by the chief executive—the chief executive; or	23 24
(b) if the application under section 90O was made by an occupier of a place entered into by an authorised representative—the occupier and the chief executive.	25 26 27
 <b>‘Subdivision 3 Decisions at hearings</b>	 28
 <b>‘90R Applications decided at a hearing</b>	 29
‘(1) This section applies if the industrial commission decides to decide the application at a hearing.	30 31

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- ‘(2) The industrial commission must give the applicant, the authorised representative and the employee organisation at least 14 days notice of the hearing date. 1  
2  
3
- ‘(3) To the extent practicable, the hearing is to be conducted under the rules applying to hearings of the industrial commission under the *Industrial Relations Act 1999* with necessary changes or, if the rules make no provision or insufficient provision, in accordance with directions of the industrial commission. 4  
5  
6  
7  
8  
9
- ‘(4) The industrial commission may take action under subsection (5) if, after considering the evidence and submissions in relation to the application, the industrial commission— 10  
11  
12
- (a) is satisfied, on the balance of probabilities, that the authorised representative has contravened a provision of this part or a condition of the appointment; and 13  
14  
15
- (b) considers the appointment should be suspended or cancelled or a condition amended. 16  
17
- ‘(5) The industrial commission may— 18
- (a) amend the condition of the appointment; or 19
- (b) suspend the appointment for a stated period; or 20
- (c) cancel the appointment. 21
- ‘(6) The industrial commission must give the applicant, the authorised representative and the employee organisation a written notice stating— 22  
23  
24
- (a) the decision; and 25
- (b) the reasons for the decision; and 26
- (c) that the applicant, the authorised representative or the employee organisation may appeal against the decision under part 11. 27  
28  
29
- ‘(7) In this section— 30
- applicant*** means— 31
- (a) if the application under section 900 was made by the chief executive—the chief executive; or 32  
33

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- (b) if the application under section 90O was made by an occupier of a place entered into by an authorised representative—the occupier and the chief executive.’.

<b>Clause 5</b>	<b>Amendment of s 99 (Appointment)</b>	4
	Section 99(b), after ‘executive’—	5
	<i>insert—</i>	6
	‘for this section’.	7
<b>Clause 6</b>	<b>Amendment of pt 11 (Appeals)</b>	8
	Part 11, divisions 1A, 1 and 2—	9
	<i>renumber</i> as part 11, divisions 1, 2 and 4.	10
<b>Clause 7</b>	<b>Amendment of s 147A (Definitions for pt 11)</b>	11
	Section 147A, definition <i>original decision</i> —	12
	<i>omit, insert—</i>	13
	‘ <i>original decision</i> —	14
	(a) for division 2, means a decision of an inspector; or	15
	(b) for division 3, means a decision of the industrial registrar under section 90D, including a decision about a condition of appointment; or	16 17 18
	(c) for division 4, means—	19
	(i) a decision of the chief executive; or	20
	(ii) a decision of the industrial commission under section 90Q or 90R.’.	21 22
<b>Clause 8</b>	<b>Insertion of new pt 11, div 3</b>	23
	After section 151—	24
	<i>insert—</i>	25

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<b>‘Division 3</b>	<b>Appeals to industrial commission</b>	1
<b>‘151A Who may appeal</b>		2
‘(1)	A person whose interests are affected by an original decision may appeal against the decision to the industrial commission.	3 4
‘(2)	The person has a right to a statement of—	5
(a)	the decision; and	6
(b)	the reasons for the decision.	7
<b>‘151B How to start appeal</b>		8
‘(1)	An appeal is started by—	9
(a)	filing written notice of appeal with the industrial registrar; and	10 11
(b)	complying with the rules applying to appeals to the industrial commission under the <i>Industrial Relations Act 1999</i> .	12 13 14
‘(2)	The notice of appeal must be filed within 30 days after the day the appellant receives notice of the original decision.	15 16
‘(3)	The industrial commission may at any time extend the period for filing the notice of appeal.	17 18
‘(4)	The notice of appeal must state fully the grounds of the appeal and the facts relied on.	19 20
<b>‘151C Stay of operation of decisions</b>		21
‘(1)	The industrial commission may grant a stay of a decision appealed against to secure the effectiveness of the appeal.	22 23
‘(2)	A stay—	24
(a)	may be given on the conditions the industrial commission considers appropriate; and	25 26
(b)	operates for the period fixed by the industrial commission; and	27 28

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(c) may be revoked or amended by the industrial  
commission. 1  
2

‘(3) The period of a stay must not extend past the time when the  
industrial commission decides the appeal. 3  
4

‘(4) An appeal against a decision affects the decision, or carrying  
out of the decision, only if the decision is stayed. 5  
6

**‘151D Hearing procedures** 7

‘(1) The procedure for an appeal is to be under the rules applying  
to appeals to the industrial commission under the *Industrial  
Relations Act 1999* or, if the rules make no provision or  
insufficient provision, in accordance with directions of the  
industrial commission. 8  
9  
10  
11  
12

‘(2) An appeal is by way of rehearing, unaffected by the industrial  
registrar’s decision. 13  
14

**‘151E Powers of commission on appeal** 15

‘(1) In deciding an appeal, the industrial commission may— 16

(a) confirm the decision appealed against; or 17

(b) vary the decision appealed against; or 18

(c) set aside the decision appealed against and make a  
decision in substitution for the decision set aside; or 19  
20

(d) set aside the decision appealed against and return the  
issue to the decision maker with directions the industrial  
commission considers appropriate. 21  
22  
23

‘(2) If on appeal the industrial commission acts under subsection  
(1)(b) or (c), the decision is taken, for this Act (other than this  
part), to be that of the industrial registrar.’. 24  
25  
26

**Clause 9 Amendment of pt 11, div 4, hdg** 27

Part 11, division 4, as renumbered, heading, after ‘Appeals’— 28

*insert—* 29

**‘to Industrial Court’.** 30

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<b>Clause 10</b>	<b>Amendment of s 171 (False or misleading statements)</b>	1
	(1) Section 171(1)(a) and (b), from ‘a board’ to ‘inspector’—	2
	<i>omit, insert—</i>	3
	‘an official’.	4
	(2) Section 171—	5
	<i>insert—</i>	6
	‘(3) In this section—	7
	<i>official</i> means a board of inquiry, the chief executive, an inspector or an authorised representative.’.	8 9
 <b>Clause 11</b>	 <b>Amendment of s 172 (False, misleading or incomplete documents)</b>	 10 11
	(1) Section 172—	12
	<i>insert—</i>	13
	‘(2A) A person must not give an authorised representative a document containing information the person knows is false or misleading in a material particular.	14 15 16
	Maximum penalty—30 penalty units.	17
	‘(2B) Subsection (2A) does not apply to a person if the person, when giving the document—	18 19
	(a) tells the authorised representative, to the best of the person’s ability, how it is false or misleading; and	20 21
	(b) if the person has, or can reasonably obtain, the correct information—gives the correct information.’.	22 23
	(2) Section 172(3), ‘Also, a’—	24
	<i>omit, insert—</i>	25
	‘A’.	26
	(3) Section 172—	27
	<i>insert—</i>	28



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‘(5) Also, it is enough for a complaint against a person for an offence against subsection (2A) to state that the document was false or misleading to the person’s knowledge.’.

**Clause 12 Insertion of new s 173A**

After section 173—

*insert—*

**‘173A Obstructing authorised representatives**

‘(1) A person must not obstruct an authorised representative in the exercise of a power, unless the person has a reasonable excuse for the obstruction.

Maximum penalty—40 penalty units.

‘(2) If a person has obstructed an authorised representative and the authorised representative decides to proceed with the exercise of the power, the authorised representative must warn the person.

‘(3) In warning a person under subsection (2), an authorised representative must warn the person that—

(a) it is an offence to obstruct the authorised representative, unless the person has a reasonable excuse; and

(b) the authorised representative considers the person’s conduct is an obstruction; and

(c) if the person continues to obstruct the authorised representative, the authorised representative may ask an inspector to help the authorised representative exercise the power.’.

**Clause 13 Amendment of s 174 (Discrimination or victimisation)**

Section 174(1)(c), before ‘inspector’—

*insert—*

‘authorised representative or an’.

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<b>Clause 14</b>	<b>Amendment of s 175 (Employers and principal contractor not to encourage refusal to answer questions)</b>	1 2
	Section 175(1) and (2), before ‘inspector’—	3
	<i>insert</i> —	4
	‘authorised representative or an’.	5
 <b>Clause 15</b>	 <b>Amendment of s 176 (Impersonating inspectors and others)</b>	 6 7
	Section 176, from ‘be’ to ‘representative.’—	8
	<i>omit, insert</i> —	9
	‘be—	10
	(a) an accredited provider; or	11
	(b) an authorised representative; or	12
	(c) an inspector; or	13
	(d) a workplace health and safety officer; or	14
	(e) a workplace health and safety representative.’.	15
 <b>Clause 16</b>	 <b>Amendment of sch 3 (Dictionary)</b>	 16
	Schedule 3—	17
	<i>insert</i> —	18
	<i>‘authorised representative</i> see section 90B.	19
	<i>eligible member</i> , for part 7A, see section 90B.	20
	<i>employee organisation</i> , for part 7A, see section 90B.	21
	<i>industrial registrar</i> means the industrial registrar under the <i>Industrial Relations Act 1999</i> .’.	22 23

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	<b>Part 3</b>	<b>Amendment of Workers’ Compensation and Rehabilitation Act 2003</b>	1 2 3
<b>Clause 17</b>	<b>Act amended in pt 3</b>		4
		This part amends the <i>Workers’ Compensation and Rehabilitation Act 2003</i> .	5 6
<b>Clause 18</b>	<b>Amendment of s 107E (Authority’s board may approve amount payable under industrial instrument)</b>		7 8
		Section 107E(7), definition <i>employee organisation</i> — <i>relocate</i> to schedule 6.	9 10
<b>Clause 19</b>	<b>Amendment of s 108 (Compensation entitlement)</b>		11
		Section 108— <i>insert</i> —	12 13
		‘(3) A worker’s entitlement to compensation is in addition to the worker’s entitlement to sick leave under the <i>Industrial Relations Act 1999</i> , chapter 2, part 1, division 2 <sup>1</sup> or another Act.’.	14 15 16 17
<b>Clause 20</b>	<b>Replacement of s 142 (Application of pt 8)</b>		18
		Section 142— <i>omit, insert</i> —	19 20
	<b>‘142 Application of pt 8</b>		21
		‘This part applies only if a worker stops work because of an injury and under the industrial instrument or contract of employment applying to the worker—	22 23 24

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1 *Industrial Relations Act 1999*, chapter 2 (General employment conditions), part 1 (General), division 2 (Sick leave)



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- (a) the position from which the injured worker was dismissed; or 1  
2
- (b) if the worker was transferred to a less advantageous position before dismissal—the position held by the worker when the worker became unfit for employment. 3  
4  
5
- injured worker* means a worker who sustains an injury. 6
- injury* means an injury for which compensation is payable. 7

**‘232B Dismissal of injured worker only after 12 months** 8

- ‘(1) Within 12 months after a worker sustains an injury, the employer must not dismiss the worker solely or mainly because the worker is not fit for employment in a position because of the injury. 9  
10  
11  
12
- Maximum penalty—40 penalty units. 13
- ‘(2) This section applies to a dismissal after the commencement of this section even if the worker became unfit before the commencement. 14  
15  
16

**‘232C Replacement for injured worker** 17

- ‘(1) This section applies if the employer wants to employ a replacement worker while an injured worker is not fit for employment in a position because of the injury. 18  
19  
20
- ‘(2) The employer must, before a replacement worker starts employment, give the replacement worker a written notice informing the replacement worker of— 21  
22  
23
- (a) the temporary nature of the employment; and 24
- (b) the injured worker’s right to return to work. 25
- ‘(3) In this section— 26
- replacement worker* means— 27
- (a) a person who is specifically employed because an injured worker is not fit for employment in a position because of the injury; or 28  
29  
30

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- (b) a person replacing a worker who is temporarily promoted or transferred to replace the injured worker.

**‘232D Reinstatement of injured worker**

- ‘(1) This section applies if an injured worker is dismissed because the worker is not fit for employment in a position because of the injury.
- ‘(2) The worker may apply to the employer, within 12 months after the injury, for reinstatement to the worker’s former position.
- ‘(3) The worker must give the employer a doctor’s certificate that certifies the worker is fit for employment in the former position.
- ‘(4) This section applies to a dismissal after the commencement of this section even if the worker became unfit before the commencement.
- ‘(5) In this section—
- doctor’s certificate* means a certificate signed by a registrant as defined under the *Medical Practitioners Registration Act 2001* or a law of the Commonwealth or another State that substantially corresponds to that Act.

**‘232E Application to industrial commission**

- ‘(1) This section applies if the employer fails to immediately reinstate the worker under section 232D.
- ‘(2) The following persons may apply to the industrial commission for an order that the employer reinstate the worker to the worker’s former position (a *reinstatement order*)—
- (a) the worker;
- (b) an employee organisation of which the worker is a member, with the worker’s consent.
- ‘(3) The commission may make a reinstatement order if satisfied the worker is fit for employment in the former position.

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- ‘(4) The order may specify terms of reinstatement, including for example, the day the reinstatement is to take effect. 1  
2
- ‘232F Powers of industrial commission 3**
- ‘(1) When exercising its jurisdiction under this part— 4
- (a) the industrial commission may exercise all relevant powers, so far as the powers are appropriate to matters arising under this part, as if the relevant powers were expressly conferred by or under this Act; and 5  
6  
7  
8
- (b) the following provisions, so far as they apply to the industrial commission and are appropriate to matters arising under this part, apply to the industrial commission as if the provisions were expressly included in this Act or in subordinate legislation made under this Act— 9  
10  
11  
12  
13  
14
- (i) the *Industrial Relations Act 1999*, chapter 8 and definitions of that Act relevant to the interpretation of the chapter; 15  
16  
17
- (ii) rules made under the *Industrial Relations Act 1999*, section 338; 18  
19
- (iii) a regulation made for the *Industrial Relations Act 1999*. 20  
21
- ‘(2) However, the only order the commission may make on an application under section 232E is a reinstatement order under the section. 22  
23  
24
- ‘(3) In this section— 25
- relevant powers*** means powers conferred on the industrial commission by— 26  
27
- (a) the *Industrial Relations Act 1999*; or 28
- (b) the rules made under the *Industrial Relations Act 1999*, section 338; or 29  
30
- (c) a regulation made for the *Industrial Relations Act 1999*. 31

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<b>'232G Preservation of worker's rights</b>	1
(1) This part does not affect another right of a dismissed worker under an Act or law.	2 3
(2) This part can not be affected by a contract or agreement.'.	4
<b>Clause 23 Replacement of ch 13, pt 3, div 1 hdg</b>	5
Chapter 13, part 3, division 1, heading—	6
<i>omit, insert—</i>	7
<b>'Division 1 Appeal to industrial magistrate or industrial commission'.</b>	8 9
<b>Clause 24 Amendment of s 548A (Meaning of <i>appeal body</i>)</b>	10
Section 548A(1), 'part'—	11
<i>omit, insert—</i>	12
'division'.	13
<b>Clause 25 Insertion of new ch 13, pt 3, div 1A hdg and new s 560A</b>	14
After section 560—	15
<i>insert—</i>	16
<b>'Division 1A Appeal to Industrial Court</b>	17
<b>'560A Application of div 1A</b>	18
'This division applies to the following decisions—	19
(a) a decision of the industrial commission under chapter 4, part 6; <sup>2</sup>	20 21
(b) a decision of an industrial magistrate or the industrial commission under division 1.'.	22 23

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<sup>2</sup> Chapter 4 (Injury management), part 6 (Protection for injured workers)



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<b>Clause 26</b>	<b>Amendment of s 561 (Appeal from appeal body to Industrial Court)</b>	1 2
	(1) Section 561, heading ‘from appeal body’— <i>omit.</i>	3 4
	(2) Section 561(1), ‘appeal body’s’— <i>omit, insert—</i> ‘industrial magistrate’s or the industrial commission’s’.	5 6 7
	(3) Section 561(3), ‘appeal body’— <i>omit, insert—</i> ‘industrial magistrate or the industrial commission’.	8 9 10
 <b>Clause 27</b>	 <b>Amendment of s 562 (Powers of Industrial Court)</b>	 11
	Section 562(2)— <i>omit, insert—</i>	12 13
	‘(2) If, on an appeal in relation to a decision mentioned in section 560A(a), the court acts under subsection (1)(b) or (c), the decision of the court is taken for this Act, other than this division, to be the decision of the industrial commission.	14 15 16 17
	‘(3) If, on an appeal in relation to a decision mentioned in section 560A(b), the court acts under subsection (1)(b) or (c), the decision of the court is taken for this Act, other than this division, to be the decision of the insurer.’	18 19 20 21
 <b>Clause 28</b>	 <b>Insertion of new ch 13, pt 3, div 1B hdg</b>	 22
	After section 564— <i>insert—</i>	23 24
	<b>‘Division 1B Provisions about particular appealed decisions under divs 1 and 1A’.</b>	25 26 27

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<b>Clause 29</b>	<b>Amendment of s 566 (Decision about payment of compensation)</b>	1
	Section 566(1), ‘appeal body’—	2
	<i>omit, insert—</i>	3
	‘industrial magistrate, the industrial commission’.	4
<b>Clause 30</b>	<b>Amendment of sch 6 (Dictionary)</b>	5
	(1) Schedule 6, definition <i>injury</i> —	6
	<i>omit.</i>	7
	(2) Schedule 6—	8
	<i>insert—</i>	9
	<i>dismiss</i> , for chapter 4, part 6, see section 232A.	10
	<i>former position</i> , for chapter 4, part 6, see section 232A.	11
	<i>injured worker</i> , for chapter 4, part 6, see section 232A.	12
	<i>injury</i> —	13
	(a) generally—see section 32; or	14
	(b) for chapter 4, part 6—see section 232A.	15
	(3) Schedule 6, definition <i>appeal body</i> , after ‘part 3’—	16
	<i>insert—</i>	17
	‘, division 1’.	18
<b>Part 4</b>	<b>Amendment of Industrial Relations Act 1999</b>	19
<b>Clause 31</b>	<b>Act amended in pt 4</b>	20
	This part amends the <i>Industrial Relations Act 1999</i> .	21
		22
		23

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<b>Clause 32</b>	<b>Omission of ch 3, pt 5</b>	1
	Chapter 3, part 5—	2
	<i>omit.</i>	3
<b>Clause 33</b>	<b>Amendment of sch 5 (Dictionary)</b>	4
	Schedule 5, definitions <i>dismiss</i> , <i>injured employee</i> and	5
	<i>injury</i> —	6
	<i>omit.</i>	7