



Queensland

Work Health and Safety and Other Legislation Amendment Bill 2014

Includes amendments agreed during Consideration



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2014

A Bill

for

An Act to amend the *Electrical Safety Act 2002* and the *Work Health and Safety Act 2011* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Work Health and Safety and Other Legislation Amendment Act 2014*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Electrical Safety Act 2002

3 Act amended

This part amends the *Electrical Safety Act 2002*.

4 Amendment of s 210 (Regulation-making power)

Section 210(3), '40'—

omit, insert—

300

Part 3 **Amendment of Work Health and Safety Act 2011**

5 **Act amended**

This part amends the *Work Health and Safety Act 2011*.

6 **Amendment of s 68 (Powers and functions of health and safety representatives)**

(1) Section 68(2), note—

omit, insert—

Note—

A health and safety representative also has a power under division 7 to issue provisional improvement notices.

(2) Section 68—

insert—

(3A) Subsection (3B) applies if—

- (a) a health and safety representative requests the assistance of a person (the *assistant*) under subsection (2)(g); and
- (b) the assistant requires access to the workplace to assist the health and safety representative.

(3B) The health and safety representative must give notice of the assistant's proposed entry to—

- (a) the person conducting the business or undertaking at the workplace; and
- (b) the person with management or control of the workplace.

(3C) A notice given under subsection (3B) must—

- (a) comply with a regulation made for this subsection; and

[s 7]

- (b) be given to the persons mentioned in subsection (3B)(a) and (b)—
 - (i) during the usual working hours at the workplace; and
 - (ii) at least 24 hours, but not more than 14 days, before the assistant's entry.

7 Amendment of s 71 (Exceptions from obligations under s 70(1))

Section 71—

insert—

- (5A) Without limiting subsection (5), the person conducting a business or undertaking may refuse to grant access to the workplace to a person (the *assistant*) assisting a health and safety representative for a work group if the health and safety representative has not—
 - (a) given notice under section 68(3B); or
 - (b) given the person conducting the business or undertaking the information about the assistant prescribed under a regulation.

8 Amendment of s 74 (List of health and safety representatives)

Section 74(2)—

omit.

9 Amendment of s 82 (Referral of issue to regulator for resolution by inspector)

Section 82(3)(b), 'or a direction under division 6 to cease work'—

omit.

10 Amendment of s 83 (Definition of *cease work under this division*)

Section 83, from ‘means’—

omit, insert—

means to cease, or refuse, to carry out work under section 84.

11 Omission of s 85 (Health and safety representative may direct that unsafe work cease)

Section 85—

omit.

12 Amendment of s 86 (Worker to notify if ceases work)

Section 86(a), from ‘unless’ to ‘representative’—

omit.

13 Replacement of s 119 (Notice of entry)

Section 119—

omit, insert—

119 Notice of entry

- (1) Before entering a workplace under this division, a WHS entry permit holder must give notice of the proposed entry and the suspected contravention to—
 - (a) the relevant person conducting a business or undertaking; and
 - (b) the person with management or control of the workplace.
- (2) The notice must comply with a regulation made for this section.

[s 14]

- (3) The notice must be given during usual working hours at that workplace at least 24 hours, but not more than 14 days, before the entry.

14 Amendment of s 122 (Notice of entry)

Section 122(1)—

omit, insert—

- (1) Before entering a workplace under this division, a WHS entry permit holder must give notice of the proposed entry to—
- (a) the relevant person conducting a business or undertaking; and
 - (b) the person with management or control of the workplace.

15 Amendment of s 123 (Contravening WHS entry permit conditions)

Section 123, penalty, '100'—

omit, insert—

200

16 Insertion of new s 143A

Part 7, division 7—

insert—

143A WHS permit holder must not fail to give required notice of entry

A WHS permit holder must not—

- (a) enter a workplace under section 117 unless the permit holder has given notice under section 119; or

- (b) enter a workplace under section 120(2) unless the permit holder has given notice under section 120(3); or
- (c) enter a workplace under section 121 unless the permit holder has given notice under section 122.

WHS civil penalty provision.

Maximum penalty—200 penalty units.

17 Amendment of s 274 (Approved codes of practice)

Section 274(2)—

omit.

18 Insertion of new pt 16, div 3

Part 16—

insert—

**Division 3 Transitional provisions for
Work Health and Safety
and Other Legislation
Amendment Act 2014**

307 Definitions

In this division—

amendment Act means the *Work Health and Safety and Other Legislation Amendment Act 2014*.

commencement means the commencement of this section.

former, in relation to a provision of this Act, means the provision as in force before the commencement.

[s 19]

308 Existing directions to cease unsafe work

- (1) This section applies if, before the commencement, a health and safety representative directed a worker to cease work under former section 85.
- (2) Former section 85 continues to apply in relation to the direction as if the section had not been repealed by the amendment Act.

309 Entry to workplace under former s 119

- (1) This section applies if—
 - (a) before the commencement, a WHS entry permit holder entered a workplace under part 7, division 2; and
 - (b) at the commencement, the WHS permit holder has not given notice of the entry and the suspected contravention under former section 119.
- (2) Former section 119 continues to apply in relation to the entry as if the amendment Act had not been enacted.

19 Amendment of sch 2A (Reviewable decisions)

Schedule 2A, item 9, column 2, subsection (6) and item 12, column 2, subsection (6)—

omit.