



Queensland

# **Work Health and Safety and Other Legislation Amendment Bill 2015**

**Includes amendments agreed during Consideration**





## Queensland

# Work Health and Safety and Other Legislation Amendment Bill 2015

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# 2015

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## A Bill

for

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

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[s 1]

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## 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 2015*.

#### **2 Commencement**

- (1) Sections 16 and 26 commence 6 months after the date of assent.
- (2) Part 2 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 5 (How purpose of Act is to be achieved)**

Section 5(e)—

*omit, insert—*

- (e) providing for the appointment of a commissioner for electrical safety to advise the Minister on electrical safety matters and to manage the activities of the Electrical Safety Board and its committees;

- (f) establishing the Electrical Safety Board and its committees to—
  - (i) allow industry and the community to participate in developing strategies for improving electrical safety; and
  - (ii) participate in developing requirements for the licensing and discipline of persons who perform electrical work; and
  - (iii) promote community awareness about electrical safety; and
  - (iv) participate in developing requirements for the electrical safety of electrical equipment.

## 5 Insertion of new pt 6

After section 67—

*insert—*

# **Part 6                      Commissioner for electrical safety**

## **68 Appointment of commissioner**

- (1) There is to be a commissioner for electrical safety.
- (2) The commissioner is to be appointed by the Governor in Council by gazette notice.
- (3) The commissioner is to be appointed under this Act, and not under the *Public Service Act 2008*.
- (4) The commissioner's term of appointment is the term, not longer than 5 years, stated in the gazette notice appointing the commissioner.

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- (5) Subsection (4) does not prevent the commissioner from being reappointed.

## **69 Eligibility for appointment**

To be appointed as commissioner, a person must have—

- (a) an electrical trade or qualification; and
- (b) professional experience in electrical safety.

## **70 Terms and conditions of appointment**

- (1) The commissioner is entitled to be paid the salary and allowances decided by the Governor in Council.
- (2) The Governor in Council may set conditions of employment to apply to the person.
- (3) The conditions of employment must, to the greatest extent practicable, be equivalent to the conditions of employment for a person appointed at a comparable level under the *Public Service Act 2008*.
- (4) The commissioner must, as soon as practicable after being appointed under section 68(2), enter into a written contract of employment with the regulator.
- (5) The contract must include any conditions of employment set by the Governor in Council.

## **71 Commissioner's functions**

The functions of the commissioner are—

- (a) to manage the activities of the board, having regard to its objectives, strategies and policies, and to ensure its efficient operation; and



- (b) to manage the activities of each committee, having regard to its objectives, strategies and policies, and to ensure each committee's efficient operation; and
- (c) to fulfil the roles of chairperson of the board and chairperson of the Electrical Licensing Committee; and
- (d) to advise the Minister on electrical safety matters generally; and
- (e) to advise the Minister on proposed codes of practice after appropriate board and committee consideration and endorsement; and
- (f) to perform any other functions given to the commissioner under this Act.

## **72 Commissioner's powers**

The commissioner has the powers necessary or convenient to carry out the commissioner's functions.

## **73 End of appointment**

The commissioner's appointment ends if—

- (a) the commissioner resigns by signed notice of resignation given to the Minister; or
- (b) the commissioner's employment under the contract of employment ends.

## **74 Acting commissioner**

- (1) The Minister may appoint a person to act in the office of commissioner during—
  - (a) any vacancy, or all vacancies, in the office; or

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- (b) any period, or all periods, when the commissioner is absent from duty, or can not, for another reason, perform the functions of the office.
- (2) A person can not be appointed to act as the commissioner unless the person would be eligible for appointment as the commissioner.
- (3) An appointment under subsection (1) is for the term, and on the conditions, decided by the Minister, and the Minister may end the appointment at any time in accordance with the conditions.

## **6 Amendment of s 77 (Composition of board)**

(1) Section 77(1)(a)—

*omit, insert—*

- (a) the commissioner, who is the chairperson of the board;

(2) Section 77(2)—

*omit.*

(3) Section 77(3)—

*renumber* as section 77(2).

(4) Section 77(2), as renumbered, ‘under subsection (1)(c)’—

*omit.*

## **7 Amendment of s 86 (Establishment of board committees)**

Section 86(1), ‘the Electrical Licensing Committee’—

*omit, insert—*

3 committees

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**8 Amendment of s 89 (Composition of licensing committee)**

(1) Section 89(1)(a)—

*omit, insert—*

(a) the commissioner, who is the chairperson of the committee;

(2) Section 89(2) and (3)—

*omit.*

(3) Section 89(4)—

*renumber* as section 89(2).

(4) Section 89(2), as renumbered, ‘under subsection (1)(b)’—

*omit.*

**9 Insertion of new pt 8, divs 2A and 2B**

After section 89—

*insert—*

**Division 2A Electrical Safety Education Committee**

**90 Establishment**

The Electrical Safety Education Committee is established.

**91 Function of safety education committee**

- (1) The function of the safety education committee is to give advice and make recommendations to the board about the promotion of electrical safety in workplaces and in the broader community.
- (2) Without limiting subsection (1), the safety education committee may perform its function by—

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- (a) recommending to the board strategies and marketing campaigns in relation to electrical safety; and
  - (b) recommending to the board information and education strategies for electrical safety; and
  - (c) advising on issues the board refers to it; and
  - (d) examining the appropriateness of, and the need for, marketing campaigns and promotional programs; and
  - (e) making recommendations to the board about the establishment of working parties to deal with particular electrical safety issues.
- (3) The regulator must give the safety education committee the necessary administrative and other support to enable the committee to perform its function efficiently and effectively.

## **92 Composition of safety education committee**

- (1) The safety education committee consists of the following members—
- (a) 1 member appointed by the Minister to be chairperson of the committee;
  - (b) at least 6 other members appointed by the Minister.
- (2) In choosing the members of the committee, the Minister must—
- (a) consider each proposed member's practical experience and competence in the promotion and marketing of electrical safety; and
  - (b) seek to appoint both men and women as members.

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## **Division 2B      Electrical Equipment Committee**

### **93 Establishment**

The Electrical Equipment Committee is established.

### **94 Functions of equipment committee**

- (1) The primary function of the equipment committee is to give advice and make recommendations to the board about the safety of electrical equipment.
- (2) It is also a function of the equipment committee to give advice and make recommendations to the board about the energy efficiency and performance of electrical equipment.
- (3) Without limiting subsections (1) and (2), the equipment committee may perform its functions by—
  - (a) investigating and reporting on issues the board refers to it about the safety of electrical equipment; and
  - (b) advising on other issues the board refers to it; and
  - (c) advising on strategies to improve the safety of electrical equipment; and
  - (d) advising on safety standards for electrical equipment; and
  - (e) advising on certificates for electrical equipment and the suitability of electrical equipment for connection to electricity; and
  - (f) advising on the approval, hire, sale and use of electrical equipment; and

[s 10]

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- (g) advising on actions the regulator might take about unsafe electrical equipment.
- (4) The regulator must give the equipment committee the necessary administrative and other support to enable the committee to perform its functions efficiently and effectively.

### **95 Composition of equipment committee**

- (1) The equipment committee consists of the following members—
  - (a) 1 member appointed by the Minister to be chairperson of the committee;
  - (b) at least 6 other members appointed by the Minister.
- (2) In choosing the members of the committee, the Minister must—
  - (a) consider each proposed member's practical experience and competence in relation to electrical equipment; and
  - (b) seek to appoint both men and women as members.

### **10 Amendment of s 98 (Composition of advisory committee)**

Section 98(3), from 'neither' to 'is'—

*omit, insert—*

the commissioner is not

### **11 Amendment of s 99 (Conditions of appointment to board committee)**

Section 99—

*insert—*

- (4) Subsection (3) does not apply to the commissioner as an appointed member of an advisory committee.

**12 Amendment of s 184 (Certificate about action on electrical licence)**

Section 184, ‘chairperson of the licensing committee’—

*omit, insert—*

commissioner

**13 Insertion of new pt 22**

Before schedule 2—

*insert—*

**Part 22 Transitional provision  
for Work Health and  
Safety and Other  
Legislation  
Amendment Act 2015**

**256 Current chairpersons to hold office until  
commissioner is appointed**

- (1) This section applies if, on the commencement, there is no commissioner holding office.
- (2) The chairperson of the board holding office immediately before the commencement continues to hold office as chairperson of the board until the commissioner’s term of appointment starts.
- (3) The chairperson of the licensing committee holding office immediately before the commencement continues to hold office until the commissioner’s term of appointment starts.

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**14 Amendment of sch 2 (Dictionary)**

- (1) Schedule 2, definition *board committee*—  
*omit.*
- (2) Schedule 2—  
*insert—*

*board committee* means—

- (a) the licensing committee; or
- (b) the safety education committee; or
- (c) the equipment committee; or
- (d) an advisory committee.

*equipment committee* means the Electrical Equipment Committee established under section 93.

*safety education committee* means the Electrical Safety Education Committee established under section 90.

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

**15 Act amended**

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

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

- (1) Section 68(2), note, after ‘power’—  
*insert—*



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under division 6 to direct work to cease in certain circumstances and

(2) Section 68(3A), (3B) and (3C)—

*omit.*

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

Section 71(5A)—

*omit.*

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

Section 82(3)(b), after ‘notice’—

*insert—*

or a direction under division 6 to cease work

**20 Replacement of s 83 (Definition of *cease work under this division*)**

Section 83—

*omit, insert—*

**83 Definition of *cease work under this division***

In this division, *cease work under this division* means—

- (a) to cease, or refuse, to carry out work under section 84; or
- (b) to cease work on a direction under section 85.

**21 Insertion of new s 85**

After section 84—

*insert—*

[s 21]

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## **85 Health and safety representative may direct that unsafe work cease**

- (1) A health and safety representative may direct a worker who is in a work group represented by the representative to cease work if the representative has a reasonable concern that to carry out the work would expose the worker to a serious risk to the worker's health or safety, emanating from an immediate or imminent exposure to a hazard.
- (2) However, the health and safety representative must not give a worker a direction to cease work unless the matter is not resolved after—
  - (a) consulting about the matter with the person conducting the business or undertaking for whom the workers are carrying out work; and
  - (b) attempting to resolve the matter as an issue under division 5.
- (3) The health and safety representative may direct the worker to cease work without carrying out that consultation or attempting to resolve the matter as an issue under division 5 if the risk is so serious and immediate or imminent that it is not reasonable to consult before giving the direction.
- (4) The health and safety representative must carry out the consultation as soon as practicable after giving a direction under subsection (3).
- (5) The health and safety representative must inform the person conducting the business or undertaking of any direction given by the health and safety representative to workers under this section.
- (6) A health and safety representative can not give a direction under this section unless the representative has—

- (a) completed initial training prescribed under a regulation mentioned in section 72(1)(b); or
- (b) previously completed that training when acting as a health and safety representative for another work group; or
- (c) completed training equivalent to that training under a corresponding WHS law.

## **22 Amendment of s 86 (Worker to notify if ceases work)**

Section 86(a), after ‘division’—

*insert—*

unless the worker ceased work under a direction from a health and safety representative

## **23 Replacement of s 119 (Notice of entry)**

Section 119—

*omit, insert—*

### **119 Notice of entry**

- (1) A WHS entry permit holder must, as soon as is reasonably practicable after entering a workplace under this division, give notice of the entry and the suspected contravention, as prescribed by regulation, to—
  - (a) the relevant person conducting a business or undertaking; and
  - (b) the person with management or control of the workplace.
- (2) Subsection (1) does not apply if to give the notice would—
  - (a) defeat the purpose of the entry to the workplace; or

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(b) unreasonably delay the WHS entry permit holder in an urgent case.

(3) Subsection (1) does not apply to an entry to a workplace under this division to inspect or make copies of documents mentioned in section 120.

**24 Amendment of s 123 (Contravening WHS entry permit conditions)**

Section 123, penalty, '200'—

*omit, insert—*

100

**25 Omission of s 143A (WHS permit holder must not fail to give required notice of entry)**

Section 143A—

*omit.*

**26 Insertion of new pt 16, div 4**

Part 16—

*insert—*

**Division 4 Transitional provision for  
Work Health and Safety  
and Other Legislation  
Amendment Act 2015**

**310 Serious injury or illness under s 36(d)**

Section 36(d) does not apply to an injury or illness sustained by a person before the commencement, even if the injury or illness causes the person to be absent from the person's voluntary or paid employment for more than 4 days after the commencement.

**27 Amendment of sch 2A (Reviewable decisions)**

- (1) Schedule 2A, item 9, column 3—

*insert—*

- (6) A health and safety representative who gave a direction under section 85 to cease work, that is relevant to the prohibition notice.

- (2) Schedule 2A, item 12, column 3—

*insert—*

- (6) In the case of a prohibition notice, a health and safety representative whose direction under section 85 to cease work gave rise to the notice.

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