



Queensland

# **Work Health and Safety and Other Legislation Amendment Bill 2023**





Queensland

# Work Health and Safety and Other Legislation Amendment Bill 2023

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**2023**

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**A Bill**

for

**An Act to amend the *Safety in Recreational Water Activities Act 2011*, the *Work Health and Safety Act 2011* and the legislation mentioned in schedule 1 for particular purposes**

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[s 1]

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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 *Work Health and Safety and Other Legislation Amendment Act 2023*. 4  
5

**Clause 2 Commencement** 6

The following provisions commence on a day to be fixed by proclamation— 7  
8

- part 2, division 3 9
- part 3, division 3 10
- part 4 11
- schedule 1. 12

**Part 2 Amendment of Safety in Recreational Water Activities Act 2011** 13  
14  
15

**Division 1 Preliminary** 16

**Clause 3 Act amended** 17

This part amends the *Safety in Recreational Water Activities Act 2011*. 18  
19

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<b>Division 2</b>	<b>Amendments commencing on assent</b>	1 2
<b>Clause 4</b>	<b>Insertion of new ss 42A and 42B</b>	3
	After section 42—	4
	<i>insert—</i>	5
	<b>42A Insurance or other indemnity against penalties</b>	6
	(1) A person must not, without reasonable excuse—	7
	(a) enter into a contract of insurance or other arrangement that purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act; or	8 9 10 11
	(b) provide a contract of insurance or an indemnity for a liability for all or part of a monetary penalty under this Act; or	12 13 14
	(c) take the benefit of a contract of insurance or other arrangement, or an indemnity, that purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act.	15 16 17 18 19
	Maximum penalty—500 penalty units.	20
	(2) Subsection (1) places an evidential burden on the accused to show a reasonable excuse.	21 22
	(3) A term of a contract of insurance or other arrangement, or an indemnity, is void to the extent it purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act.	23 24 25 26 27
	<i>Note—</i>	28
	For the application of this section, see section 54.	29

[s 5]

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<b>42B Officer may be taken to have committed offence against s 42A</b>	1
	2
(1) If a body corporate commits an offence against section 42A, each officer of the body corporate is taken to have also committed the offence if—	3
	4
	5
(a) the officer authorised or permitted the body corporate’s conduct constituting the offence;	6
or	7
	8
(b) the officer was, directly or indirectly, knowingly concerned in the body corporate’s conduct constituting the offence.	9
	10
	11
(2) The officer of the body corporate may be proceeded against for, and convicted of, the offence against section 42A whether or not the body corporate has been proceeded against for, or convicted of, the offence.	12
	13
	14
	15
	16
(3) This section does not affect either of the following—	17
	18
(a) the liability of the body corporate for the offence against section 42A;	19
	20
(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an officer of the body corporate, for the offence against section 42A.	21
	22
	23
	24

<b>Clause 5</b>	<b>Amendment of pt 6, hdg (Transitional provisions)</b>	25
	Part 6, heading, after ‘provisions’—	26
	<i>insert—</i>	27
	<b>for Act No. 19 of 2011</b>	28

<b>Clause 6</b>	<b>Insertion of new pt 7</b>	29
	After part 6—	30
	<i>insert—</i>	31

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<b>Part 7</b>	<b>Transitional provision for Work Health and Safety and Other Legislation Amendment Act 2023</b>	1 2 3 4 5
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- |  |  |                      |
|--|--|----------------------|
| <b>54 Application of s 42A</b>   |  | 6                    |
| (1) Section 42A(1)(a) and (b) applies in relation to a contract of insurance or other arrangement entered into, or an indemnity provided, on or after the day that is 6 months after the commencement. |  | 7<br>8<br>9<br>10    |
| (2) Section 42A(1)(c) applies to a person on or after the day that is 18 months after the commencement.  |  | 11<br>12<br>13       |
| (3) Section 42A(3) applies in relation to a contract of insurance or other arrangement entered into, or an indemnity provided, on or after the commencement.   |  | 14<br>15<br>16<br>17 |

- |                 |   |    |
|-----------------|---|----|
| <b>Clause 7</b> | <b>Amendment of sch 2 (Dictionary)</b>                              | 18 |
|                 | Schedule 2, definition <i>officer</i> , paragraph (a), ‘section 9’— | 19 |
|                 | <i>omit, insert—</i>  | 20 |
|                 | section 9AD   | 21 |

<b>Division 3</b>	<b>Amendments commencing by proclamation</b>	22 23
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- |                 |  |    |
|-----------------|--|----|
| <b>Clause 8</b> | <b>Amendment of s 21 (Reckless conduct—category 1)</b> | 24 |
|                 | (1) Section 21, heading, ‘Reckless’—                   | 25 |
|                 | <i>omit, insert—</i>                                   | 26 |
|                 | <b>Negligent or reckless</b>                           | 27 |

[s 9]

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- (2) Section 21(1)(c)— 1  
*omit, insert*— 2  
(c) the person— 3  
(i) engages in the conduct with 4  
negligence; or 5  
(ii) is reckless as to the risk to an 6  
individual of death or serious injury or 7  
illness. 8

- Clause 9 Amendment of s 32 (The regulator)** 9  
Section 32(3), ‘155’— 10  
*omit, insert*— 11  
155A 12

- Clause 10 Amendment of s 35 (Review of decisions)** 13  
Section 35(1), ‘sections 54(2), 72(6), 76(6) and 102’— 14  
*omit, insert*— 15  
section 102 16

- Clause 11 Amendment of s 41 (Confidentiality of information)** 17  
Section 41(3)(c)(ii), after ‘Act’— 18  
*insert*— 19  
or law 20

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<b>Part 3</b>	<b>Amendment of Work Health and Safety Act 2011</b>	1 2
<b>Division 1</b>	<b>Preliminary</b>	3
<b>Clause 12</b>	<b>Act amended</b>	4
	This part amends the <i>Work Health and Safety Act 2011</i> .	5
	<i>Note—</i>	6
	See also the amendments in schedule 1.	7
<b>Division 2</b>	<b>Amendments commencing on assent</b>	8 9
<b>Clause 13</b>	<b>Insertion of new ss 272A and 272B</b>	10
	After section 272—	11
	<i>insert—</i>	12
	<b>272A Insurance or other indemnity against penalties</b>	13 14
	(1) A person must not, without reasonable excuse—	15
	(a) enter into a contract of insurance or other arrangement that purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act; or	16 17 18 19
	(b) provide a contract of insurance or an indemnity for a liability for all or part of a monetary penalty under this Act; or	20 21 22
	(c) take the benefit of a contract of insurance or other arrangement, or an indemnity, that purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act.	23 24 25 26 27

[s 13]

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Maximum penalty—500 penalty units.	1
(2) Subsection (1) places an evidential burden on the accused to show a reasonable excuse.	2 3
(3) A term of a contract of insurance or other arrangement, or an indemnity, is void to the extent it purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act.	4 5 6 7 8
<i>Note—</i>	9
For the application of this section, see section 326.	10
<b>272B Officer may be taken to have committed offence against s 272A</b>	11 12
(1) If a body corporate commits an offence against section 272A, each officer of the body corporate is taken to have also committed the offence if—	13 14 15
(a) the officer authorised or permitted the body corporate’s conduct constituting the offence; or	16 17 18
(b) the officer was, directly or indirectly, knowingly concerned in the body corporate’s conduct constituting the offence.	19 20 21
(2) The officer of the body corporate may be proceeded against for, and convicted of, the offence against section 272A whether or not the body corporate has been proceeded against for, or convicted of, the offence.	22 23 24 25 26
(3) This section does not affect either of the following—	27 28
(a) the liability of the body corporate for the offence against section 272A;	29 30
(b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the	31 32



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	person is an officer of the body corporate, for the offence against section 272A.	1 2
<b>Clause 14</b>	<b>Insertion of new pt 16, div 8</b>	3
	Part 16—	4
	<i>insert—</i>	5
	<b>Division 8 Transitional provisions for Work Health and Safety and Other Legislation Amendment Act 2023</b>	6 7 8 9
	<b>Subdivision 1 Provision commencing on assent</b>	10 11
	<b>326 Application of s 272A</b>	12
	(1) Section 272A(1)(a) and (b) applies in relation to a contract of insurance or other arrangement entered into, or an indemnity provided, on or after the day that is 6 months after the commencement.	13 14 15 16
	(2) Section 272A(1)(c) applies to a person on or after the day that is 18 months after the commencement.	17 18 19
	(3) Section 272A(3) applies in relation to a contract of insurance or other arrangement entered into, or an indemnity provided, on or after the commencement.	20 21 22 23
<b>Clause 15</b>	<b>Amendment of sch 1 (Application of Act)</b>	24
	Schedule 1, part 2, division 3—	25
	<i>omit.</i>	26

[s 16]

---

<b>Division 3</b>	<b>Amendments commencing by proclamation</b>	1 2
<b>Clause 16</b>	<b>Amendment of s 31 (Reckless conduct—category 1)</b>	3
	(1) Section 31, heading, ‘Reckless’—	4
	<i>omit, insert—</i>	5
	<b>Negligent or reckless</b>	6
	(2) Section 31(1)(c)—	7
	<i>omit, insert—</i>	8
	(c) the person—	9
	(i) engages in the conduct with negligence; or	10 11
	(ii) is reckless as to the risk to an individual of death or serious injury or illness.	12 13 14
<b>Clause 17</b>	<b>Insertion of new pt 5, div 1AA</b>	15
	Part 5, before division 1—	16
	<i>insert—</i>	17
	<b>Division 1AA Preliminary</b>	18
	<b>45A Definitions for part</b>	19
	In this part—	20
	<i>excluded entity</i> , for representing or assisting a worker or the health and safety representative for a worker, see section 45B.	21 22 23
	<i>relevant union</i> , for a worker, whether the worker is a health and safety representative or another worker, means a union—	24 25 26

- 
- (a) of which the worker is a member or is eligible to be a member; and 1  
2
- (b) whose rules entitle the union to represent the worker's industrial interests. 3  
4
- representative**, in relation to a worker, means— 5
- (a) the health and safety representative for the worker; or 6  
7
- (b) a suitable entity for representing the worker that is authorised by the worker to represent the worker. 8  
9  
10
- suitable entity**, for representing or assisting a worker or the health and safety representative for a worker, means— 11  
12  
13
- (a) a relevant union for the worker; or 14
- (b) another entity that— 15
- (i) is authorised by the worker or representative to represent or assist the worker or representative; but 16  
17  
18
- (ii) is not an excluded entity for representing or assisting the worker or representative. 19  
20  
21

**45B Meaning of *excluded entity*** 22

- (1) Each of the following entities is an ***excluded entity*** for representing or assisting a worker or the health and safety representative for a worker— 23  
24  
25
- (a) the following entities (each an ***excluded body***)— 26  
27
- (i) an entity, other than a union, that is an association of employees or independent contractors, or both; 28  
29  
30
- (ii) an entity, other than a union or an association mentioned in subparagraph 31  
32

[s 18]

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	(i), that represents, or purports to represent, the industrial interests of the worker or representative;	1 2 3
	(iii) an entity that demands or receives a fee from another excluded body, for representing, or purporting to represent, the industrial interests of the worker or representative;	4 5 6 7 8
	(iv) a union that is not a relevant union for the worker;	9 10
(b)	an individual who—	11
	(i) is an officer or employee of an excluded body; or	12 13
	(ii) is acting as an agent of an excluded body; or	14 15
	(iii) is otherwise representing or purporting to represent an excluded body.	16 17
(2)	An association of a type mentioned in subsection (1)(a)(i) is an excluded entity whether or not the association is registered or recognised as an association of that type (however described) under a State or Territory industrial law.	18 19 20 21 22
(3)	Despite subsection (1)(b), an individual is not an excluded entity under subsection (1)(b)(iii) only because the individual is a member of an excluded body.	23 24 25 26
<b>Clause 18</b>	<b>Amendment of s 48 (Nature of consultation)</b>	27
	Section 48—	28
	<i>insert—</i>	29
	(3) Also, if 1 or more of the workers ask the person conducting the business or undertaking to consult with their representative, the consultation must involve that representative.	30 31 32 33

---

(4)	Subsection (5) applies if—	1
(a)	the consultation involves a representative under subsection (3); and	2 3
(b)	the parties to the consultation agree that the consultation is to be carried out at a workplace where 1 or more of the workers work.	4 5 6 7
(5)	The person conducting the business or undertaking must carry out the consultation only at the time and place agreed to by the parties.	8 9 10
(6)	Subsection (1)(a) does not require the person conducting the business or undertaking to allow a representative to have access to—	11 12 13
(a)	personal or medical information concerning a worker without the worker’s consent, unless the information is in a form that—	14 15 16
(i)	does not identify the worker; and	17
(ii)	could not reasonably be expected to lead to the identification of the worker; or	18 19 20
(b)	information that is confidential commercial information.	21 22
<b>Clause 19</b>	<b>Insertion of new ss 50A and 50B</b>	23
	After section 50—	24
	<i>insert—</i>	25
	<b>50A Prohibition of hindering etc. request for election of health and safety representative</b>	26 27
	A person conducting a business or undertaking must not intentionally hinder, prevent or discourage a worker from making a request under section 50 to facilitate the conduct of an election for 1 or more health and safety representatives.	28 29 30 31 32

[s 19]

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Maximum penalty—200 penalty units. 1

**50B Invitation to request election of health and safety representatives** 2  
3

- (1) This section applies to a person conducting a business or undertaking if— 4  
5
- (a) a health and safety representative has not been elected to represent workers who carry out work for the business or undertaking; or 6  
7  
8
  - (b) the term of office of a health and safety representative for a work group ends under section 64(1); or 9  
10  
11
  - (c) a health and safety representative for a work group ceases to hold office under section 64(2). 12  
13  
14
- (2) The person conducting the business or undertaking must, at the time or within the period required under subsection (3)— 15  
16  
17
- (a) notify the workers who work for the business or undertaking in writing about the following matters— 18  
19  
20
    - (i) that a worker may request an election for 1 or more health and safety representatives under section 50; 21  
22  
23
    - (ii) the process for the determination of work groups; 24  
25
    - (iii) who may represent the workers in negotiations under section 52; 26  
27
    - (iv) the process for the election of health and safety representatives; 28  
29
    - (v) the powers and functions of health and safety representatives; and 30  
31

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	(b) invite the workers to ask the person to facilitate an election for 1 or more health and safety representatives under section 50.	1 2 3
	(3) The person conducting the business or undertaking must take the action mentioned in subsection (2)(a) and (b)—	4 5 6
	(a) if subsection (1)(a) applies—	7
	(i) as soon as possible after the business or undertaking is first conducted; or	8 9
	(ii) as soon as possible after the commencement; or	10 11
	(iii) if a notification and invitation mentioned in subsection (2) have been given to the workers—within 1 year after the notification and invitation were last given; or	12 13 14 15 16
	(b) if subsection (1)(b) applies—as soon as reasonably practicable after the day the term of office of the health and safety representative ends; or	17 18 19 20
	(c) if subsection (1)(c) applies—as soon as reasonably practicable after the day the health and safety representative ceased to hold office.	21 22 23 24
<b>Clause 20</b>	<b>Amendment of s 52 (Negotiations for agreement for work group)</b>	25 26
	(1) Section 52(1)—	27
	<i>omit, insert—</i>	28
	(1) A work group must be determined by negotiation and agreement among the following parties—	29 30
	(a) the person conducting the business or undertaking;	31 32

[s 20]

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- (b) the workers who are proposed to form the work group or their representatives; 1  
2
- (c) a relevant union for a worker who is proposed to form part of the work group if the union notifies the person conducting the business or undertaking, in writing, that the union wants to be a party to the negotiation and agreement. 3  
4  
5  
6  
7  
8
- (2) Section 52(2), ‘commence negotiations with the workers’— 9  
*omit, insert—* 10  
complete the negotiations 11
- (3) Section 52— 12  
*insert—* 13
- (4A) Subsection (4B) applies if— 14
- (a) negotiations for a variation of an agreement concerning the determination of a work group or groups are started by the parties to the agreement; and 15  
16  
17  
18
- (b) a relevant union is not a party to the agreement. 19  
20
- (4B) The relevant union may become a party to the negotiations by notifying the person conducting the business or undertaking, in writing, that the union wants to be a party to the negotiations. 21  
22  
23  
24
- (4) Section 52(5)— 25  
*omit, insert—* 26
- (5) For negotiations under subsection (1) or (4), the person conducting the business or undertaking must negotiate with and must not exclude from the negotiations— 27  
28  
29  
30
- (a) if a worker has asked the person to negotiate with a representative of the worker—the worker’s representative; or 31  
32  
33



---

	(b) if a relevant union has become a party to the negotiations under subsection (1)(c) or (4B)—the relevant union.	1 2 3
	Maximum penalty—100 penalty units.	4
(5A)	Subsection (5B) applies if—	5
	(a) a representative for a worker or a relevant union is a party to the negotiations under subsection (1) or (4); and	6 7 8
	(b) the parties to the negotiations agree that the negotiations are to be carried out at a workplace where 1 or more of the workers work.	9 10 11 12
(5B)	The parties must—	13
	(a) agree on when and where in the workplace the negotiations are to be carried out; and	14 15
	(b) carry out the negotiations only at the agreed time and place.	16 17
(5C)	The parties to the negotiations under subsection (1) or (4) may agree to extend the period for the negotiations.	18 19 20
<b>Clause 21</b>	<b>Replacement of s 54 (Failure of negotiations)</b>	21
	Section 54—	22
	<i>omit, insert—</i>	23
	<b>54 Failure of negotiations</b>	24
	(1) If negotiations to make or vary an agreement fail, any person who is or would be a party to the negotiations may ask the regulator to appoint an inspector for the purposes of this section.	25 26 27 28
	(2) For this section, negotiations have failed if agreement is not reached on a matter mentioned in section 52(3), or a matter relating to the variation of the agreement, at the end of—	29 30 31 32

[s 21]

---

- |      |  |                      |
|------|--|----------------------|
| (a)  | for negotiations to make an agreement—14 days after a request is made under section 50; or   | 1<br>2<br>3          |
| (b)  | for negotiations to vary an agreement—14 days after a party to the agreement requests a variation; or  | 4<br>5<br>6          |
| (c)  | for negotiations for which the parties have agreed to extend the period under section 52(5C)—the extended period.  | 7<br>8<br>9          |
| (3)  | An inspector appointed under subsection (1) must attempt to assist the parties to agree on any matter mentioned in section 52(3) that is in dispute.   | 10<br>11<br>12       |
| (4)  | Subsection (5) applies if the inspector reasonably believes that the parties are unlikely to reach an agreement on a matter mentioned in subsection (3) within 7 days after the appointment. | 13<br>14<br>15<br>16 |
| (5)  | The inspector must, within 7 days after the appointment—   | 17<br>18             |
| (a)  | for negotiations to make an agreement—   | 19                   |
| (i)  | decide any matter mentioned in section 52(3) that has not been determined by the parties; or   | 20<br>21<br>22       |
| (ii) | decide that a work group should not be determined; or  | 23<br>24             |
| (b)  | for negotiations to vary an agreement—   | 25                   |
| (i)  | decide a matter that is the subject of the proposed variation; or  | 26<br>27             |
| (ii) | decide that the agreement should not be varied.  | 28<br>29             |
| (6)  | A decision under subsection (5)(a) or (b) is taken to be an agreement between the parties under section 52.  | 30<br>31<br>32       |
| (7)  | A failure to comply with subsection (3), (4) or (5) does not invalidate a decision or a purported  | 33<br>34             |

---

	decision under subsection (5)(a) or (b).	1
<b>Clause 22</b>	<b>Amendment of s 61 (Procedure for election of health and safety representatives)</b>	2 3
	Section 61(3), from ‘the election’ to ‘organisation’—	4
	<i>omit, insert—</i>	5
	a suitable entity for assisting 1 or more of the workers may assist in conducting the election	6 7
<b>Clause 23</b>	<b>Insertion of new s 62A</b>	8
	After section 62—	9
	<i>insert—</i>	10
	<b>62A Prohibition of hindering etc. election of health and safety representative</b>	11 12
	A person conducting a business or undertaking must not intentionally hinder, prevent or discourage—	13 14 15
	(a) the election of a health and safety representative or a deputy health and safety representative under this subdivision; or	16 17 18
	(b) the person conducting the election from following the procedures mentioned in section 61(2).	19 20 21
	Maximum penalty—200 penalty units.	22
<b>Clause 24</b>	<b>Amendment of s 68 (Powers and functions of health and safety representatives)</b>	23 24
	(1) Section 68(2), after paragraph (a)—	25
	<i>insert—</i>	26
	(aa) accompany a WHS entry permit holder if—	27

---

[s 25]

---

- (i) the WHS entry permit holder enters, 1  
under part 7, a workplace where a 2  
worker in the work group works; and 3
  - (ii) the WHS entry permit holder's reason 4  
for entry relates to the work group or a 5  
part of the workplace where a worker 6  
in the work group works; and 7
- (2) Section 68(2)(f), before 'receive'— 8  
*insert*— 9  
request and 10
- (3) Section 68(2)(g), 'any person'— 11  
*omit, insert*— 12  
a suitable entity for the health and safety 13  
representative 14

**Clause 25 Amendment of s 70 (General obligations of person 15  
conducting business or undertaking) 16**

- (1) Section 70(1)(c), after 'information'— 17  
*insert*— 18  
(including any information requested by a health 19  
and safety representative under section 68(2)(f)) 20
- (2) Section 70(1)(c), note— 21  
*omit.* 22
- (3) Section 70(1)— 23  
*insert*— 24  
(ca) if the person becomes aware a notice of 25  
entry under part 7 or a notice under part 10 26  
relating to a work group (a *relevant notice*) 27  
has been given, but the person has not been 28  
given a copy of the notice—inform a health 29  
and safety representative for the work group 30  
about the relevant notice as soon as 31

---

reasonably practicable after becoming aware of the notice; and	1 2
(cb) if the person is given a relevant notice—give a copy of the relevant notice to a health and safety representative for the work group as soon as reasonably practicable after being given the notice; and	3 4 5 6 7
(cc) if a notifiable incident arising out of the conduct of the business or undertaking has occurred that affects a work group—give to a health and safety representative for the work group a copy of either of the following relating to the work group—	8 9 10 11 12 13
(i) the written notice given to the regulator under section 38, as soon as practicable after it is given;	14 15 16
(ii) the information received by the person from the regulator under section 38(6), as soon as practicable after it is received; and	17 18 19 20
(4) Section 70(1)(g), ‘person’— <i>omit, insert—</i>	21 22
suitable entity	23
(5) Section 70(1)(g)— <i>insert—</i>	24 25
<i>Note—</i>	26
The issue resolution procedures in division 5 and the dispute resolution process in division 7A can be used to resolve a dispute arising in relation to paragraph (c), (cb), (cc) or (g). See also section 71(8) and (9).	27 28 29 30
(6) Section 70(1)— <i>insert—</i>	31 32
(ga) inform a health and safety representative for a work group, as soon as possible, if—	33 34

---

[s 25]

---

- (i) a WHS entry permit holder or an inspector has entered a workplace where a worker in the work group works; and
  - (ii) the WHS entry permit holder or inspector's purpose for entering the workplace is relevant to the work group or a part of the workplace where a worker in the work group works; and
- (7) Section 70(1)(h)—  
*omit, insert—*
  - (h) permit a health and safety representative for the work group to accompany—
    - (i) the WHS entry permit holder while the WHS entry permit holder is exercising a right relating to a worker in the work group or a part of the workplace where a worker in the work group works; or
    - (ii) an inspector during an inspection of any part of the workplace where a worker in the work group works; and
- (8) Section 70(3)—  
*omit, insert—*
  - (3) The person conducting the business or undertaking must pay a health and safety representative exercising the representative's powers or functions under this Act the amount, including any overtime, penalties or allowances, the representative would be entitled to receive if the representative were performing their normal duties for the person during the same period.



[s 27]

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<b>Clause 27</b>	<b>Amendment of s 72 (Obligation to train health and safety representatives)</b>	1 2
(1)	Section 72(2), before paragraph (a)— <i>insert—</i>	3 4
	(aa) allow a health and safety representative to choose the training; and	5 6
(2)	Section 72(2)(a), ‘time off work’— <i>omit.</i>	7 8
(3)	Section 72(4)— <i>omit, insert—</i>	9 10
	(4) The person conducting the business or undertaking must pay a health and safety representative for a day (a <b>relevant day</b> ) the health and safety representative attends a course of training—	11 12 13 14 15
	(a) if the health and safety representative usually works for the person on the relevant day—the amount, including any overtime, penalties or allowances, the health and safety representative would otherwise be entitled to receive if the representative performed their normal duties for the person on that day; or	16 17 18 19 20 21 22 23
	(b) if the health and safety representative usually works for the person on a weekend day but attends training on the relevant day instead of working on the weekend day—the amount, including any overtime, penalties or allowances, the health and safety representative would otherwise be entitled to receive if the representative worked on the weekend day for the person; or	24 25 26 27 28 29 30 31 32 33
	(c) if paragraphs (a) and (b) do not apply—the amount the health and safety representative	34 35



---

	would be entitled to receive if the representative performed their normal duties for the person during the hours the representative attends the training.	1 2 3 4
(4)	Section 72— <i>insert—</i>	5 6
(5)	If agreement can not be reached between the person conducting a business or undertaking and a health and safety representative about a matter mentioned in subsection (2)(aa), (a) or (b) or (4)(a), (b) or (c), either party may ask the regulator to appoint an inspector to assist in resolving the matter.	7 8 9 10 11 12 13
	<i>Note—</i>	14
	The issue resolution procedures in division 5, and the dispute resolution process in division 7A, can also be used to resolve an issue in relation to a matter mentioned in subsection (2)(aa), (a) or (b) or (4)(a), (b) or (c).	15 16 17 18
<b>Clause 28</b>	<b>Amendment of s 75 (Health and safety committees)</b>	19
	Section 75(1)(a), ‘within 2 months’— <i>omit, insert—</i>	20 21
	as soon as practicable but not later than 28 days	22
<b>Clause 29</b>	<b>Amendment of s 76 (Constitution of committee)</b>	23
(1)	Section 76(5) and (6)— <i>omit, insert—</i>	24 25
(5)	If a party considers that the parties are unlikely to reach agreement within the period mentioned in section 75(1), the party may ask the regulator to appoint an inspector for the purposes of this section.	26 27 28 29 30
(6)	An inspector appointed under subsection (5) must	31

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[s 30]

---

	attempt to assist the parties to reach agreement	1
	about the constitution of a health and safety	2
	committee under this section.	3
(6A)	Subsection (6B) applies if the inspector	4
	reasonably believes the parties are unlikely to	5
	reach agreement under this section within 7 days	6
	after the appointment.	7
(6B)	The inspector must, within 7 days after the	8
	appointment—	9
(a)	decide the constitution of the health and	10
	safety committee; or	11
(b)	decide that a health and safety committee	12
	should not be established.	13
(2)	Section 76—	14
	<i>insert—</i>	15
(8)	A failure to comply with subsection (6), (6A) or	16
	(6B) does not invalidate a decision or purported	17
	decision under subsection (6B)(a) or (b).	18
<b>Clause 30</b>	<b>Amendment of s 80 (Parties to an issue)</b>	19
(1)	Section 80(1)(c)—	20
	<i>omit, insert—</i>	21
(c)	if the worker or workers affected by the	22
	issue are in a work group for which a health	23
	and safety representative has been	24
	elected—the health and safety	25
	representative or a suitable entity	26
	representing the health and safety	27
	representative;	28
(ca)	if the worker or workers affected by the	29
	issue are in a work group for which a health	30
	and safety representative has not been	31
	elected—the worker or workers or a suitable	32
	entity representing the worker or workers;	33

- 
- (2) Section 80(1)— 1  
*insert*— 2
- (e) if a relevant union for a worker affected by 3  
the issue notifies the person conducting the 4  
business or undertaking, in writing, that the 5  
union wants to be a party to the issue—the 6  
relevant union. 7

- Clause 31 Amendment of s 81 (Resolution of health and safety issues)** 8  
9
- Section 81(3)— 10  
*omit, insert*— 11
- (3) The person conducting the business or 12  
undertaking must allow all the parties to the issue 13  
to enter and remain at the workplace for the 14  
purpose of attending discussions with a view to 15  
resolving the issue. 16

- Clause 32 Amendment of s 85 (Health and safety representative may direct that unsafe work cease)** 17  
18
- (1) Section 85(1)— 19  
*omit, insert*— 20
- (1) A health and safety representative may, by giving 21  
a written notice stating the matters mentioned in 22  
section 85A (a *cease work notice*) to the person 23  
conducting the business or undertaking for whom 24  
workers are carrying out work, direct the person 25  
to direct 1 or more workers to cease work if— 26
- (a) the health and safety representative has a 27  
reasonable concern that to carry out the 28  
work would expose a worker to a serious 29  
risk to the worker's health or safety, 30  
emanating from an immediate or imminent 31  
exposure to a hazard; and 32

[s 32]

---

- (b) the worker mentioned in paragraph (a) is in a work group represented by the health and safety representative. 1  
2  
3
- (2) Section 85(2), from ‘a worker’ to ‘cease work’— 4  
*omit, insert—* 5  
a direction under subsection (1) 6
- (3) Section 85(2)(a), from ‘for’ to ‘work’— 7  
*omit.* 8
- (4) Section 85(3), from ‘to cease’ to ‘consultation’— 9  
*omit, insert—* 10  
or workers to cease work without consulting 11  
about the matter with the person conducting the 12  
business or undertaking 13
- (5) Section 85(4) and (5)— 14  
*omit, insert—* 15
- (4) A direction given under subsection (3) may be 16  
given orally. 17
- (5) As soon as possible after giving a direction under 18  
subsection (3), the health and safety 19  
representative must— 20
- (a) give the person conducting the business or 21  
undertaking a cease work notice to inform 22  
the person of the direction given to the 23  
worker or workers under subsection (3); and 24
- (b) display, in a prominent way in an area used 25  
by the workers who are in the work group, a 26  
copy of the cease work notice mentioned in 27  
paragraph (a); and 28
- (c) consult with the person conducting the 29  
business or undertaking to attempt to resolve 30  
the matter. 31
- (6) Section 85— 32

---

*insert—*

- |   |  |
|---|--|
|   | 1                                      |
| (7) If a person conducting a business or undertaking receives a cease work notice under subsection (1), the person must, as soon as possible, direct the worker or workers to—  | 2<br>3<br>4<br>5                       |
| (a) cease work to the extent it relates to the matter; or   | 6<br>7                                 |
| (b) not start work to the extent it relates to the matter.  | 8<br>9                                 |
| (8) As soon as practicable after the person conducting the business or undertaking gives a direction under subsection (7), the health and safety representative must display, in a prominent way in an area used by the workers who are in the work group, a copy of the cease work notice mentioned in subsection (1). | 10<br>11<br>12<br>13<br>14<br>15<br>16 |
| (9) A direction given under this section remains effective until—   | 17<br>18                               |
| (a) the direction given under subsection (1) or (3) is withdrawn in writing by the health and safety representative; or   | 19<br>20<br>21                         |
| (b) the issue is resolved with the assistance of an inspector under section 89; or  | 22<br>23                               |
| (c) an inspector issues a prohibition notice in relation to the matter; or  | 24<br>25                               |
| (d) the commission decides or deals with the dispute under division 7A.   | 26<br>27                               |

**Clause 33      Insertion of new s 85A** 28

    After section 85— 29

*insert—* 30

**85A Contents of cease work notice** 31

        A cease work notice, in relation to a direction 32

[s 33]

---

- given under section 85(1) or (3), must state— 1
- (a) briefly, the health and safety representative’s 2  
concern and the basis for that concern by 3  
reference to— 4
- (i) the risk to the worker’s health or safety; 5  
and 6
- (ii) the work that, if carried out, will 7  
expose the worker to a serious risk to 8  
the worker’s health or safety; and 9
- (b) whether the direction is given under section 10  
85(1) or (3); and 11
- (c) a description of the work group, or the name 12  
of the worker, subject to the direction; and 13
- (d) the day and time— 14
- (i) the notice is given to the person 15  
conducting the business or 16  
undertaking; and 17
- (ii) if the direction is given under section 18  
85(3)—the direction was given to the 19  
worker; and 20
- (e) if the direction is given under section 21  
85(1)—confirmation the health and safety 22  
representative has— 23
- (i) consulted about the matter with the 24  
person conducting the business or 25  
undertaking; and 26
- (ii) attempted to resolve the matter as an 27  
issue under division 5; and 28
- (f) the name of the health and safety 29  
representative. 30

---

<b>Clause 34</b>	<b>Amendment of s 92 (Contents of provisional improvement notice)</b>	1 2
	Section 92(d), ‘8 days’—	3
	<i>omit, insert—</i>	4
	4 days	5
<b>Clause 35</b>	<b>Amendment of s 94 (Minor changes to provisional improvement notice)</b>	6 7
	(1) Section 94, heading, ‘Minor changes’—	8
	<i>omit, insert—</i>	9
	<b>Changes</b>	10
	(2) Section 94—	11
	<i>insert—</i>	12
	(2) Also, a health and safety representative may change the day by which the person is required to remedy the contravention or likely contravention with the agreement of—	13 14 15 16
	(a) the person to whom the notice was issued; or	17 18
	(b) if the person mentioned in paragraph (a) is a worker, the person conducting the business or undertaking at the workplace at which the worker carries out work.	19 20 21 22
<b>Clause 36</b>	<b>Amendment of s 100 (Request for review of provisional improvement notice)</b>	23 24
	Section 100(1), ‘7 days’—	25
	<i>omit, insert—</i>	26
	3 days	27

[s 37]

---

<b>Clause 37</b>	<b>Amendment of s 102A (Definitions for division)</b>	1
(1)	Section 102A, definitions <i>relevant union</i> and <i>WHS matter</i> —	2
	<i>omit.</i>	3
(2)	Section 102A—	4
	<i>insert—</i>	5
	<b><i>health and safety committee matter</i></b> means the	6
	constitution of a health and safety committee	7
	under section 76.	8
	<b><i>WHS matter</i></b> means any of the following	9
	matters—	10
	(a) a work group determination matter;	11
	(b) a work group variation matter;	12
	(c) access to information by a health and safety	13
	representative under section 70(1)(c);	14
	(d) the giving of a notice or information to a	15
	health and safety representative under	16
	section 70(1)(cb) or (cc);	17
	(e) a request by a health and safety	18
	representative for a person assisting the	19
	representative to have access to the	20
	workplace under section 70(1)(g);	21
	(f) a matter mentioned in section 72(2)(aa), (a)	22
	or (b) or (4)(a), (b) or (c) relating to training	23
	for a health and safety representative;	24
	(g) a health and safety committee matter;	25
	(h) a matter about work health and safety that is	26
	an issue to which division 5 applies;	27
	(i) an issue about cessation of work under	28
	division 6.	29
	<b><i>work group determination matter</i></b> means the	30
	negotiation for the determination of a work group	31
	under section 52(1).	32



*work group variation matter* means the negotiation for a variation of an agreement concerning the determination of a work group under section 52(4).

- (3) Section 102A, definition *dispute*, paragraph (d)—  
*omit, insert—*
- (d) a relevant union for a worker affected by the WHS matter;
  - (e) a representative for a worker affected by the WHS matter.

**Clause 38      Insertion of new s 102AA**

After section 102A—

*insert—*

**102AA Application of division**

This division applies in relation to any of the following disputes—

- (a) a dispute about a WHS matter that is a work group determination matter, work group variation matter or health and safety committee matter, if—
  - (i) an inspector has been appointed to assist the parties to the dispute to reach an agreement about the matter; and
  - (ii) the inspector has made a decision relating to the dispute under section 54(5)(a) or (b) or 76(6B);
- (b) a dispute about a WHS matter, other than a WHS matter mentioned in paragraph (a), whether or not an inspector has been appointed to assist in resolving the dispute.

[s 39]

---

<b>Clause 39</b>	<b>Amendment of s 102B (Notice of dispute may be given to commission)</b>	1 2
	(1) Section 102B(1)—	3
	<i>omit.</i>	4
	(2) Section 102B(3)(d)—	5
	<i>omit, insert—</i>	6
	(d) if, under this part, an inspector has been appointed to assist the parties reach an agreement or resolve the dispute—whether a decision made by the inspector to exercise, or not to exercise, compliance powers under part 10 is subject to review under part 12.	7 8 9 10 11 12
	(3) Section 102B(5)—	13
	<i>omit, insert—</i>	14
	(5) If a relevant union for a worker affected by the WHS matter is not named as a party to the dispute in the notice, the union may notify the industrial registrar, in writing, that the union wants to participate in the resolution of the dispute.	15 16 17 18 19
	(4) Section 102B(6), ‘subsection (5)’—	20
	<i>omit, insert—</i>	21
	subsection (4)	22
	(5) Section 102B(2) to (6)—	23
	<i>renumber</i> as section 102B(1) to (5).	24
<b>Clause 40</b>	<b>Insertion of new s 102BA</b>	25
	After section 102B—	26
	<i>insert—</i>	27
	<b>102BA Effect of notice of dispute on involvement of inspector</b>	28 29
	(1) This section applies if—	30

---

	(a) the dispute is a dispute mentioned in section 102AA(b); and	1 2
	(b) notice of the dispute is given under section 102B(1).	3 4
	(2) A party to the dispute must not ask the regulator to appoint an inspector to assist in resolving the dispute and the regulator must not appoint an inspector to assist in resolving the dispute.	5 6 7 8
	(3) If an inspector has already been appointed to assist in resolving the dispute, the inspector must take no further action to attempt to assist to resolve the dispute.	9 10 11 12
	(4) Subsection (3) applies subject to any order made by the commission in relation to the dispute, including, for example, an order mentioned in section 102C(3) or directions mentioned in section 102D(2)(a)(iii).	13 14 15 16 17
<b>Clause 41</b>	<b>Amendment of s 102D (Review of particular decisions made by inspector)</b>	18 19
	(1) Section 102D(1)— <i>omit, insert—</i>	20 21
	(1) Subsections (1A) to (2A) apply if the dispute relates to any of the following decisions (each an <b>original decision</b> ) made by an inspector—	22 23 24
	(a) a decision under section 54(5) or 76(6B);	25
	(b) a decision (a <b>compliance decision</b> ) to exercise, or not to exercise, compliance powers under part 10 to assist in resolving the dispute.	26 27 28 29
	(1A) In dealing with the dispute under this division, the commission may review the decision.	30 31
	(2) Section 102D(2), ‘a compliance decision under subsection (1)’—	32 33

[s 42]

---

*omit, insert—* 1

the original decision under subsection (1A) 2

(3) Section 102D(2)(a) and (b)(i), ‘the compliance decision’— 3

*omit, insert—* 4

the original decision 5

(4) Section 102D— 6

*insert—* 7

(2A) Despite section 102C(3), the commission must  
not make an order under this division staying the  
operation of the original decision. 8  
9  
10

(2B) Subsections (3) to (6) apply if the dispute relates  
to an original decision that is a compliance  
decision. 11  
12  
13

(5) Section 102D(4)— 14

*omit.* 15

**Clause 42      Amendment of s 105 (What is discriminatory conduct)** 16

Section 105(1)(a)— 17

*insert—* 18

(v) treats a worker less favourably than  
other workers of the person; or 19  
20

**Clause 43      Amendment of s 112 (Civil proceedings in relation to  
engaging in or inducing discriminatory or coercive  
conduct)** 21  
22  
23

(1) Section 112(1)— 24

*omit, insert—* 25

(1) An eligible person may apply to the commission  
for an order under this section. 26  
27

(2) Section 112(2), (3) and (5), ‘court’— 28

---

	<i>omit, insert—</i>	1
	commission	2
(3)	Section 112(6)(b)—	3
	<i>omit, insert—</i>	4
	(b) if a worker is affected by the contravention as a worker—a suitable entity representing the worker;	5 6 7
	(c) if a person is affected by the contravention other than as a worker—someone who is authorised as a representative by the person.	8 9 10
<b>Clause 44</b>	<b>Amendment of s 114 (General provisions relating to orders)</b>	11 12
(1)	Section 114(2), ‘If a court’—	13
	<i>omit, insert—</i>	14
	If the commission	15
(2)	Section 114(3), ‘a court can not’—	16
	<i>omit, insert—</i>	17
	the commission can not	18
<b>Clause 45</b>	<b>Amendment of s 118 (Rights that may be exercised while at workplace)</b>	19 20
(1)	Section 118(1)—	21
	<i>insert—</i>	22
	(f) remain at the workplace for the time necessary to achieve the purpose of the entry, subject to section 126.	23 24 25
(2)	Section 118(2), ‘However’—	26
	<i>omit, insert—</i>	27
	Also	28

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[s 46]

---

<b>Clause 46</b>	<b>Amendment of s 119 (Notice of entry)</b>	1
(1)	Section 119(1), after ‘contravention’—	2
	<i>insert—</i>	3
	of this Act or the <i>Electrical Safety Act 2002</i>	4
(2)	Section 119—	5
	<i>insert—</i>	6
(2A)	To remove any doubt, it is declared that the	7
	requirement to give the notice under subsection	8
	(1) does not limit or otherwise affect the ability of	9
	the WHS entry permit holder to enter the	10
	workplace under this division before giving the	11
	notice.	12
(2B)	A notice given or purported to be given under	13
	subsection (1) is not invalid only because of—	14
(a)	a formal defect or irregularity in the notice;	15
	or	16
(b)	a failure to use the correct name of a person	17
	or relevant union mentioned in the notice if	18
	the notice sufficiently identifies the person	19
	or union.	20
(3)	Section 119—	21
	<i>insert—</i>	22
(4)	However, if the WHS entry permit holder gives a	23
	notice of entry under subsection (1), while the	24
	WHS entry permit holder remains at the	25
	workplace they are not required to—	26
(a)	give further notice under section 120 if	27
	documents related to the suspected	28
	contravention are kept at the workplace or	29
	are accessible from a computer kept at the	30
	workplace; or	31
(b)	give further notice under section 122 if the	32
	WHS entry permit holder is consulting with	33

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	the relevant workers in relation to the	1
	suspected contravention.	2
	(5) This section applies despite sections 120(3) and	3
	122(1).	4
<b>Clause 47</b>	<b>Amendment of s 128 (Work health and safety requirements)</b>	5
	Section 128—	6
	<i>insert—</i>	7
	(2) A request to comply with a work health and safety	8
	requirement under subsection (1)(a) is not	9
	reasonable if complying with the request would	10
	unduly delay or unreasonably prevent or hinder	11
	the WHS entry permit holder exercising a right of	12
	entry to a workplace under division 2 or 3.	13
		14
<b>Clause 48</b>	<b>Amendment of s 137 (Expiry of WHS entry permit)</b>	15
	Section 137(1)(d)(i) and (ii)—	16
	<i>omit, insert—</i>	17
	(i) an organisation registered under the <i>Fair</i>	18
	<i>Work (Registered Organisations) Act 2009</i>	19
	(Cwlth); or	20
	(ii) an employee organisation registered under	21
	the <i>Industrial Relations Act 2016</i> , chapter	22
	12.	23
		23
<b>Clause 49</b>	<b>Amendment of s 148 (Unauthorised use or disclosure of information or documents)</b>	24
	(1) Section 148, ‘a suspected contravention’—	25
	<i>omit, insert—</i>	26
	a suspected contravention of this Act or the	27
	<i>Electrical Safety Act 2002</i> mentioned in section	28
	117(1)	29
		30

[s 50]

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(2) Section 148(a)(ii)—	1
<i>omit, insert—</i>	2
(ii) a serious threat to public health or safety, whether in relation to the suspected contravention or generally; or	3 4 5
(3) Section 148—	6
<i>insert—</i>	7
<i>Note—</i>	8
The use or disclosure of personal information obtained under division 2 is also regulated under the <i>Privacy Act</i> 1988 (Cwlth).	9 10 11

<b>Clause 50</b>	<b>Amendment of s 150 (Union to provide information to industrial registrar)</b>	12 13
	Section 150(c)(i) and (ii)—	14
	<i>omit, insert—</i>	15
	(i) an organisation registered under the <i>Fair Work (Registered Organisations) Act 2009</i> (Cwlth); or	16 17 18
	(ii) an employee organisation registered under the <i>Industrial Relations Act 2016</i> , chapter 12.	19 20 21

<b>Clause 51</b>	<b>Amendment of s 155 (Powers of regulator to obtain information)</b>	22 23
	(1) Section 155—	24
	<i>insert—</i>	25
	(2A) The notice may be served in any way that a notice may be issued or given under section 209.	26 27
	(2) Section 155(3)(b), ‘requirement’—	28
	<i>omit, insert—</i>	29



- 
- requirement, without a reasonable excuse, 1
- (3) Section 155— 2
- insert—* 3
- (8) A notice may be served on a person under this 4  
section even though— 5
- (a) the person is outside the State; or 6
- (b) the notice relates to information, documents 7  
or evidence— 8
- (i) outside the State; or 9
- (ii) relating to a matter outside the State. 10

- Clause 52 Insertion of new s 155A** 11
- After section 155— 12
- insert—* 13
- 155A Power of regulator to give particular 14  
information to particular persons** 15
- (1) This section applies if an inspector issues any of 16  
the following notices (each a *relevant notice*)— 17
- (a) an improvement notice about a 18  
contravention of a provision of this Act at a 19  
workplace; 20
- (b) a prohibition notice about an activity that is 21  
occurring, or may occur, at a workplace; 22
- (c) a non-disturbance notice relating to a site at 23  
a workplace. 24
- (2) The regulator may, at the request of an entitled 25  
person, give the person information contained in 26  
the relevant notice, other than information that 27  
is— 28
- (a) personal information about an individual; or 29
- (b) confidential commercial information. 30

[s 53]

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	(3) For subsection (2), a person is an entitled person if the person is—	1 2
	(a) a health and safety representative for a worker for the workplace to which the relevant notice relates; or	3 4 5
	(b) a WHS entry permit holder representing a relevant union for a relevant worker for the workplace to which the relevant notice relates.	6 7 8 9
	(4) In this section—	10
	<i>relevant union</i> see section 116.	11
	<i>relevant worker</i> see section 116.	12
<b>Clause 53</b>	<b>Amendment of s 171 (Power to require production of documents and answers to questions)</b>	13 14
	(1) Section 171(1), from ‘or has’ to ‘division,’—	15
	<i>omit.</i>	16
	(2) Section 171—	17
	<i>insert—</i>	18
	(2A) Also, within 30 days after the day an inspector enters a workplace under this division, the inspector or another inspector may give a written notice to a person requiring the person—	19 20 21 22
	(a) if the person has custody of, or access to, a particular document—to produce the document to the inspector within a particular period; or	23 24 25 26
	(b) to give written answers to particular questions within a particular period; or	27 28
	(c) to attend before the inspector and answer any questions put by the inspector—	29 30
	(i) at a particular time and place; or	31

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	(ii) at a particular time by audiovisual link or audio link.	1 2
	<i>Note—</i>	3
	See section 173(1A) in relation to matters required to be stated in the notice.	4 5
	(2B) If a requirement is made of a person under subsection (2A)(c)(i) to attend before the inspector in person—	6 7 8
	(a) the person may ask to attend by audiovisual link or audio link instead; and	9 10
	(b) the inspector must agree to the request if it would be reasonable in the circumstances.	11 12
	(2C) If a requirement is made of a person under subsection (2A)(c)(ii) to attend before the inspector by audiovisual link or audio link—	13 14 15
	(a) the person may ask to attend in person; and	16
	(b) the inspector must agree to the request if it is reasonable in the circumstances.	17 18
	(2D) A requirement under subsection (2A) may only relate to a document or question relevant to the purpose for which the workplace was entered.	19 20 21
	(2E) A notice under subsection (2A) may be served in any way that a notice may be issued or given under section 209.	22 23 24
	(3) Section 171(3), after ‘subsection (1)(c)’— <i>insert—</i> or subsection (2A)(c)	25 26 27
<b>Clause 54</b>	<b>Amendment of s 173 (Warning to be given)</b>	28
	(1) Section 173(1), after ‘part’— <i>insert—</i> other than by a written notice under section	29 30 31

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[s 55]

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	171(2A)	1
(2)	Section 173—	2
	<i>insert—</i>	3
(1A)	A written notice under section 171(2A) must—	4
(a)	state that the notice is given under section 171(2A); and	5 6
(b)	state the purpose of the entry to the workplace to which the notice relates; and	7 8
(c)	contain a statement to the effect that it is an offence to refuse or fail to comply with a requirement in the notice without reasonable excuse; and	9 10 11 12
(d)	contain a statement about the effect of sections 172 and 269; and	13 14
(e)	if the notice requires the person to attend before an inspector—state that the person may attend with a legal practitioner or other representative.	15 16 17 18
(3)	Section 173(2), after ‘subsection (1)(c)’—	19
	<i>insert—</i>	20
	or the statement mentioned in subsection (1A)(d)	21
<b>Clause 55</b>	<b>Insertion of new s 229EA</b>	22
	After section 229E—	23
	<i>insert—</i>	24
	<b>229EA Costs of review</b>	25
(1)	The commission may, following a hearing of an application for a review, order that a person pay the costs of the hearing.	26 27 28
(2)	Subject to subsection (1), a person must bear the person’s own costs in relation to the application.	29 30

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	(3) The commission may not make any other order in relation to the costs of an application for a review.	1 2
	(4) This section applies despite the <i>Industrial Relations Act 2016</i> , section 545.	3 4
<b>Clause 56</b>	<b>Amendment of s 230 (Prosecutions)</b>	5
	(1) Section 230(1), after paragraph (a)—	6
	<i>insert—</i>	7
	(aa) an appropriately qualified member of the WHS prosecutor’s staff, with the written authorisation of the WHS prosecutor, either generally or in a particular case; or	8 9 10 11
	(2) Section 230(2), ‘subsection (1)(b)’—	12
	<i>omit, insert—</i>	13
	subsection (1)(aa) or (b)	14
<b>Clause 57</b>	<b>Amendment of s 231 (Procedure if prosecution not brought)</b>	15 16
	(1) Section 231(1) and (1A)—	17
	<i>omit, insert—</i>	18
	(1) Subsection (1A) applies if—	19
	(a) a person (the <i>applicant</i> ) reasonably considers—	20 21
	(i) that an act or omission constitutes a category 1 offence or category 2 offence; or	22 23 24
	(ii) that an act or omission constitutes an offence under part 2A; or	25 26
	(iii) from a coronial report or the proceedings at a coronial inquiry or inquest that an act or omission	27 28 29

[s 57]

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constitutes a category 1 or category 2 offence; and	1 2
(b) no prosecution has been brought in relation to the act or omission.	3 4
(1A) The applicant may make a written request to the WHS prosecutor that a prosecution be brought in relation to the act or omission.	5 6 7
(1B) However, the request may only be made if—	8
(a) if subsection (1)(a)(i) applies—it has been at least 6 months but not more than 18 months since the act or omission happened; or	9 10 11
(b) if subsection (1)(a)(ii) applies—it has been at least 6 months since the act or omission happened; or	12 13 14
(c) if subsection (1)(a)(iii) applies—it has been not more than 6 months since the report was made or the inquiry or inquest ended.	15 16 17
(2) Section 231(2), ‘(1) or’— <i>omit.</i>	18 19
(3) Section 231(2)(a), ‘the person’— <i>omit, insert—</i> the applicant	20 21 22
(4) Section 231— <i>insert—</i>	23 24
(2A) If, under subsection (2)(a)(i), the WHS prosecutor advises the applicant that the investigation is not complete—	25 26 27
(a) the regulator must give the applicant a written update about the investigation at least every 3 months until the investigation is complete; and	28 29 30 31

- 
- (b) when the investigation is complete, the  
WHS prosecutor must—
- (i) advise the applicant, in writing,  
whether a prosecution will be brought  
or give reasons a prosecution will not  
be brought; and
- (ii) advise the person who the applicant  
believes committed the offence about  
the request and the matters mentioned  
in subparagraph (i).
- (5) Section 231(3), ‘the person’—  
*omit, insert—*  
the applicant
- (6) Section 231(5), after ‘advice’—  
*insert—*  
mentioned in subsection (4)
- (7) Section 231(5)(a)—  
*omit, insert—*  
(a) the applicant; and
- Clause 58 Amendment of s 255 (Proceedings for contravention of  
WHS civil penalty provision)**
- (1) Section 255(1)—  
*omit, insert—*  
(1) Subject to this division, an application may be  
made to the commission for an order in relation to  
a contravention, or alleged contravention, of a  
WHS civil penalty provision.
- (2) Section 255(2) and (3), ‘civil penalty provision’—  
*omit, insert—*  
WHS civil penalty provision

[s 59]

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<b>Clause 59</b>	<b>Amendment of s 258 (Civil proceeding rules and procedure to apply)</b>	1 2
	Section 258, ‘court’—	3
	<i>omit, insert</i> —	4
	commission	5
<b>Clause 60</b>	<b>Amendment of s 259 (Proceeding for a contravention of a WHS civil penalty provision)</b>	6 7
	Section 259(1), ‘court’—	8
	<i>omit, insert</i> —	9
	commission	10
<b>Clause 61</b>	<b>Replacement of ss 260 and 261</b>	11
	Sections 260 and 261—	12
	<i>omit, insert</i> —	13
	<b>260 Who may apply for order in relation to contravention of WHS civil penalty provision</b>	14 15
	(1) The WHS prosecutor may apply to the commission for an order in relation to a contravention, or alleged contravention, of any WHS civil penalty provision.	16 17 18 19
	(2) Also, the WHS prosecutor may authorise in writing an appropriately qualified member of the WHS prosecutor’s staff, either generally or in a particular case, to apply for an order under subsection (1).	20 21 22 23 24
	(3) Subsection (4) applies in relation to each of the following WHS civil penalty provisions—	25 26
	(a) section 126;	27
	(b) section 144(1);	28
	(c) section 145;	29



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	(d) section 146;	1
	(e) section 147(1).	2
	(4) The following entities may apply to the commission for an order in relation to a contravention, or alleged contravention, of the WHS civil penalty provision—	3 4 5 6
	(a) a relevant union under part 7;	7
	(b) a WHS entry permit holder;	8
	(c) a person who is affected by the contravention or alleged contravention.	9 10
	<b>261 Limitation period for application in relation to contravention of WHS civil penalty provision</b>	11 12
	An application under section 260 for an order in relation to a contravention, or alleged contravention, of a WHS civil penalty provision must be made within 2 years after the contravention or alleged contravention first comes to the notice of the applicant.	13 14 15 16 17 18
<b>Clause 62</b>	<b>Amendment of s 262 (Recovery of a monetary penalty)</b>	19
	(1) Section 262, ‘court orders’—	20
	<i>omit, insert—</i>	21
	commission orders	22
	(2) Section 262(b), ‘a judgment of the court’—	23
	<i>omit, insert—</i>	24
	an order of the commission	25
<b>Clause 63</b>	<b>Amendment of s 263 (Civil double jeopardy)</b>	26
	Section 263, ‘court’—	27
	<i>omit, insert—</i>	28

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[s 64]

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	commission	1
<b>Clause 64</b>	<b>Amendment of s 271 (Confidentiality of information)</b>	2
(1)	Section 271, after subsection (1)—	3
	<i>insert—</i>	4
	(1A) This section also applies if a person mentioned in section 155A(3)(a) or (b) obtains information under that section.	5 6 7
(2)	Section 271(3)(c)—	8
	<i>omit, insert—</i>	9
	(c) that is made or given by the regulator or a person authorised by the regulator and is authorised under section 271A; or	10 11 12
(3)	Section 271(3)—	13
	<i>insert—</i>	14
	<i>Note—</i>	15
	The use or disclosure of personal information is also regulated under the <i>Privacy Act 1988</i> (Cwlth).	16 17
<b>Clause 65</b>	<b>Insertion of new s 271A</b>	18
	After section 271—	19
	<i>insert—</i>	20
	<b>271A Additional ways that regulator may use and share information</b>	21 22
(1)	This section applies in relation to information or a document mentioned in section 271(1) or (1A).	23 24
(2)	The regulator or a person authorised by the regulator may, in the circumstances stated in subsection (3)—	25 26 27
	(a) disclose the information, or the contents of or information contained in the document,	28 29

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to any other person including a	1
corresponding regulator; or	2
(b) give access to the document to any other	3
person including a corresponding regulator;	4
or	5
(c) use the information or document.	6
(3) The circumstances are that the regulator	7
reasonably believes the disclosure, access or	8
use—	9
(a) is necessary for administering, or	10
monitoring or enforcing compliance with	11
this Act; or	12
(b) is necessary for the administration or	13
enforcement of another Act or law	14
prescribed by regulation; or	15
(c) is necessary for the administration or	16
enforcement of another Act or law, if the	17
disclosure, access or use is necessary to	18
lessen or prevent a serious risk to public	19
health or safety; or	20
(d) is necessary for the recognition of an	21
authorisation under a corresponding WHS	22
law; or	23
(e) is required for the exercise of a power or	24
function under a corresponding WHS law.	25
(4) This section does not limit the operation of	26
section 271(3)(a), (b), (d), (e) or (f) in relation to	27
the disclosure of information, giving of access to	28
a document or use of information by the regulator	29
or a person authorised by the regulator.	30
<b>Clause 66 Amendment of s 274 (Approved codes of practice)</b>	31
(1) Section 274(4C)—	32
<i>omit.</i>	33

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[s 67]

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- (2) Section 274— 1  
*insert*— 2  
(7) The Minister must ensure a code of practice is 3  
reviewed at least every 5 years. 4

**Clause 67 Insertion of new pt 16, div 8, sdiv 2** 5

Part 16, division 8, as inserted by this Act— 6

*insert*— 7

**Subdivision 2 Provisions commencing  
by proclamation** 8  
9

**327 Definitions for subdivision** 10

In this subdivision— 11

*amendment Act* means the *Work Health and  
Safety and Other Legislation Amendment Act  
2023*. 12  
13  
14

*former*, in relation to a provision, means the 15  
provision as in force immediately before the 16  
commencement. 17

*new*, in relation to a provision of this Act, means 18  
the provision as in force from the commencement. 19

**328 Existing procedures for consultation** 20

(1) This section applies if— 21

(a) before the commencement— 22

(i) the person conducting a business or 23  
undertaking started to consult with 24  
workers under section 47(1); and 25

(ii) the parties had agreed to procedures for 26  
the consultation under section 47(2); 27  
and 28

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(b)	immediately before the commencement, the consultation had not ended.	1 2
(2)	Former section 48 continues to apply in relation to the consultation as if the amendment Act had not been enacted.	3 4 5
<b>329</b>	<b>Existing work group negotiations</b>	6
(1)	This section applies if—	7
(a)	before the commencement, negotiations to determine a work group under section 52(1), as in force from time to time before the commencement, had started; and	8 9 10 11
(b)	immediately before the commencement, the work group had not been determined.	12 13
(2)	This section also applies if—	14
(a)	before the commencement, negotiations under section 52(4) to vary an agreement concerning the determination of a work group had started; and	15 16 17 18
(b)	immediately before the commencement, the agreement had not been varied.	19 20
(3)	From the commencement, a relevant union may not become a party to the negotiations under new section 52(1)(c) or (4B).	21 22 23
(4)	Subject to subsection (3), from the commencement, former section 52(2) and (5) continues to apply in relation to the negotiations as if the amendment Act had not been enacted.	24 25 26 27
<b>330</b>	<b>Health and safety representatives to be given particular notices</b>	28 29
(1)	New section 70 and new part 5, division 7A apply only in relation to a notice given by an inspector or a notice of entry given by a WHS entry permit	30 31 32

[s 67]

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holder after the commencement.	1
(2) New section 70 and new part 5, division 7A apply only in relation to 1 or more of the following that happen after the commencement—	2 3 4
(a) a written notice about a notifiable incident is given to the regulator;	5 6
(b) the regulator gives a person conducting the business or undertaking details of information received about a notifiable incident;	7 8 9 10
(c) the regulator gives a person conducting a business or undertaking an acknowledgement of receiving a notice about a notifiable incident.	11 12 13 14
<b>331 Period for establishing health and safety committee</b>	15 16
(1) This section applies if—	17
(a) before the commencement, a request mentioned in section 75(1)(a) was made to establish a health and safety committee; and	18 19 20
(b) immediately before the commencement, the former establishment period had not ended and the committee had not been established.	21 22 23
(2) Former section 75(1)(a) continues to apply for establishing the health and safety committee as if the amendment Act had not been enacted.	24 25 26
(3) In this section—	27
<i>former establishment period</i> means the 2-month period for establishing the health and safety committee mentioned in former section 75(1)(a).	28 29 30

---

<b>332 Resolution of existing issue relating to work health and safety</b>	1 2
(1) Subsection (2) applies if—	3
(a) an issue relating to a matter about work health and safety mentioned in section 81(1) arose before the commencement; and	4 5 6
(b) immediately before the commencement, the issue had not been resolved or settled, whether by a written agreement between the parties, the exercise of an inspector's compliance powers or the commission acting under section 102C(2) or (3).	7 8 9 10 11 12
(2) From the commencement, a relevant union may not become a party to the dispute under new section 80(1)(e).	13 14 15
<b>333 Existing directions to cease unsafe work</b>	16
(1) This section applies if, before the commencement, a health and safety representative gave a direction under former section 85.	17 18 19 20
(2) Former section 85 continues to apply in relation to the direction as if the amendment Act had not been enacted.	21 22 23
<b>334 Time for compliance with provisional improvement notices</b>	24 25
(1) This section applies if—	26
(a) a provisional improvement notice was issued before the commencement; and	27 28
(b) immediately before the commencement, the provisional improvement notice had not been cancelled.	29 30 31
(2) Former sections 92, 94 and 100 continue to apply	32

[s 67]

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in relation to the provisional improvement notice	1
as if the amendment Act had not been enacted.	2
<b>335 Existing proceedings in relation to discriminatory or coercive conduct</b>	3 4
(1) This section applies in relation to proceedings—	5
(a) started before the commencement under section 112, as in force from time to time before the commencement; and	6 7 8
(b) that had not been decided before the commencement.	9 10
(2) The Magistrates Court may continue to hear, and decide, the proceedings under former section 112 as if the amendment Act had not been enacted.	11 12 13
<b>336 Application of s 229EA</b>	14
Section 229EA applies in relation to an application for review filed after the commencement.	15 16 17
<b>337 Existing proceedings in relation to WHS civil penalty provisions</b>	18 19
(1) This section applies in relation to WHS civil penalty proceedings—	20 21
(a) started before the commencement under part 13, division 7, as in force from time to time before the commencement; and	22 23 24
(b) that had not been decided before the commencement.	25 26
(2) The Magistrates Court may continue to hear, and decide, the proceedings under former part 13, division 7 as if the amendment Act had not been enacted.	27 28 29 30



- 
- 338 Application of new s 274** 1
- (1) This section applies in relation to a code of 2  
practice if— 3
- (a) the code of practice was approved by the 4  
Minister after 23 October 2017; and 5
- (b) immediately before the commencement the 6  
code of practice had not expired. 7
- (2) New section 274 applies in relation to the code of 8  
practice. 9
- (3) For calculating when the code of practice must be 10  
reviewed, a review carried out by the Minister 11  
before the commencement is taken to be a review 12  
for the purpose of new section 274. 13
- 339 Existing industry sector standing committees** 14
- On the commencement, the industry sector 15  
standing committees established under former 16  
schedule 2, section 14 are taken to have been 17  
established by the Minister under new schedule 2, 18  
section 14. 19
- 340 Change in committee name** 20
- (1) To remove any doubt, it is declared that the 21  
replacement of schedule 2, section 23B by the 22  
amendment Act has effect only to change the 23  
name of the committee established under that 24  
section and does not establish a new committee. 25
- (2) From the commencement, if the context permits, 26  
a reference in an instrument to the affected 27  
persons committee or the Persons Affected by 28  
Work-related Fatalities and Serious Incidents 29  
Consultative Committee is taken to be a reference 30  
to the Consultative Committee for Work-related 31  
Fatalities and Serious Incidents. 32

[s 68]

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<b>Clause 68</b>	<b>Amendment of sch 1 (Application of Act)</b>	1
(1)	Schedule 1, part 1, section 1(6), definitions <i>air conditioning unit, amusement device, cooling tower, escalator, high risk plant, lift</i> and <i>LP gas cylinder</i> —	2
	<i>omit.</i>	3
		4
	<i>omit.</i>	5
(2)	Schedule 1, part 1, section 1(6)—	6
	<i>insert</i> —	7
	<i>high risk plant</i> means plant prescribed by regulation as high risk plant.	8
		9
<b>Clause 69</b>	<b>Amendment of sch 2 (The regulator and local tripartite consultation arrangements and other local arrangements)</b>	10
		11
		12
(1)	Schedule 2, section 14—	13
	<i>omit, insert</i> —	14
	<b>14 Industry sector standing committees</b>	15
	(1) The Minister may, by gazette notice, establish industry sector standing committees.	16
		17
	(2) However, no more than 10 industry sector standing committees may exist at any particular time.	18
		19
		20
(2)	Schedule 2, section 23A, definition <i>affected persons committee</i> —	21
	<i>omit.</i>	22
		23
(3)	Schedule 2, section 23A—	24
	<i>insert</i> —	25
	<i>consultative committee</i> see section 23B.	26
(4)	Schedule 2, section 23B—	27
	<i>omit, insert</i> —	28
	<b>23B Establishment</b>	29
	The Consultative Committee for Work-related	30

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	Fatalities and Serious Incidents (the <i>consultative committee</i> ) is established.	1 2
<b>Clause 70</b>	<b>Amendment of sch 2A (Reviewable decisions)</b>	3
	Schedule 2A, items 1 and 3—	4
	<i>omit.</i>	5
<b>Clause 71</b>	<b>Amendment of sch 5 (Dictionary)</b>	6
(1)	Schedule 5, definitions <i>affected persons committee</i> , <i>relevant union</i> , <i>representative</i> and <i>union</i> —	7 8
	<i>omit.</i>	9
(2)	Schedule 5—	10
	<i>insert</i> —	11
	<i>cease work notice</i> , for part 5, see section 85.	12
	<i>confidential commercial information</i> means—	13
	(a) information about a trade secret; or	14
	(b) financial information or other information that has commercial value and, if disclosed, will cause significant financial harm to a business or undertaking.	15 16 17 18
	<i>consultative committee</i> , for schedule 2, part 2A, see schedule 2, section 23B.	19 20
	<i>excluded entity</i> , for representing or assisting a worker or the health and safety representative for a worker, see section 45B.	21 22 23
	<i>health and safety committee matter</i> , for part 5, division 7A, see section 102A.	24 25
	<i>relevant union</i> —	26
	(a) for part 7, see section 116; or	27

[s 71]

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(b) otherwise, for a worker, whether the worker is a health and safety representative or another worker, see section 45A.	1 2 3
<b>representative</b> , in relation to a worker, see section 45A.	4 5
<b>suitable entity</b> , for representing or assisting a worker or the health and safety representative for a worker, see section 45A.	6 7 8
<b>union</b> means—	9
(a) an employee organisation registered under the <i>Fair Work (Registered Organisations) Act 2009</i> (Cwlth); or	10 11 12
(b) an employee organisation registered under the <i>Industrial Relations Act 2016</i> , chapter 12.	13 14 15
<b>work group determination matter</b> , for part 5, division 7A, see section 102A.	16 17
<b>work group variation matter</b> , for part 5, division 7A, see section 102A.	18 19
(3) Schedule 5, definition <i>corresponding regulator</i> , ‘corresponding law’—	20 21
<i>omit, insert—</i>	22
corresponding WHS law	23
(4) Schedule 5, definition <i>corresponding WHS law</i> , ‘another’—	24
<i>omit, insert—</i>	25
the Commonwealth or another	26
(5) Schedule 5, definition <i>officer</i> , paragraph (a), ‘section 9’—	27
<i>omit, insert—</i>	28
section 9AD	29



<b>Schedule 1</b>	<b>Other amendments</b>	1
	section 72	2
	<b>Public Health Act 2005</b>	3
<b>1</b>	<b>Section 61A, definition <i>cooling tower</i>—</b>	4
	<i>omit, insert—</i>	5
	<i>cooling tower</i> means a device for lowering the temperature of water by evaporative cooling in which atmospheric air passes through sprayed water exchanging heat, and includes a device incorporating a refrigerant or water heat exchanger.	6 7 8 9 10 11
	<b>Work Health and Safety Act 2011</b>	12
<b>1</b>	<b>Section 47(1), ‘in’—</b>	13
	<i>omit.</i>	14
<b>2</b>	<b>Part 8, division 2, heading, ‘to obtain’—</b>	15
	<i>omit, insert—</i>	16
	<b>relating to</b>	17
<b>3</b>	<b>Section 256(2), ‘civil penalty provision’—</b>	18
	<i>omit, insert—</i>	19
	WHS civil penalty provision	20

<b>4</b>	<b>Section 257, heading, ‘civil penalty provision’—</b>	1
	<i>omit, insert—</i>	2
	<b>WHS civil penalty provision</b>	3
<b>5</b>	<b>Schedule 2, part 2A, heading—</b>	4
	<i>omit, insert—</i>	5
	<b>Part 2A                      Consultative committee</b>	6
<b>6</b>	<b>Particular references to affected persons committee—</b>	7
	Each of the following provisions is amended by omitting	8
	‘affected persons committee’ and inserting ‘consultative	9
	committee’—	10
	•     schedule 2, sections 23C and 23D(1)	11
	•     schedule 2, section 23F(1)(d)	12
	•     schedule 2, sections 23I to 23O.	13