



Queensland

Electrical Safety and Other Legislation Amendment Bill 2024



Queensland

Electrical Safety and Other Legislation Amendment Bill 2024

Contents

		Page
Part 1	Preliminary	
1	Short title	6
2	Commencement	6
Part 2	Amendment of Electrical Safety Act 2002	
3	Act amended	6
4	Amendment of s 13 (Meaning of appliance)	6
5	Amendment of s 14 (Meaning of electrical equipment)	6
6	Insertion of new s 14A	7
	14A Meaning of prescribed electrical equipment	7
7	Amendment of s 15 (Meaning of electrical installation)	8
8	Amendment of s 18 (Meaning of electrical work)	8
9	Amendment of s 19 (Types of electrical work for this Act)	10
10	Amendment of s 48A (Definitions for pt 2A)	11
11	Replacement of s 48B (Meaning of in-scope electrical equipment) 48B Meaning of in-scope electrical equipment	11 11
12	Amendment of s 48D (Regulator to establish and maintain national register)	12 12
13	Amendment of s 49 (Regulator may accept an electrical safety undertaking)	12 12
14	Amendment of s 54A (Proceeding for alleged contravention)	12
15	Amendment of s 57AC (Licence holder engaged by person conducting a business or undertaking must notify changes)	13 13
16	Amendment of s 109 (Electrical licence issued by regulator)	13
17	Amendment of s 110 (External licence)	13
18	Insertion of new s 121A	14
	121A Changing and removing disciplinary conditions or restrictions	14 14

Contents

19	Amendment of s 122 (Functions of regulator)	15
20	Amendment of s 141 (Power to require production of documents and answers to questions)	15
21	Amendment of s 141B (Warning to be given)	17
22	Amendment of s 167 (Definitions for pt 12)	18
23	Insertion of new s 178A	19
	178A Definition for division	19
24	Amendment of s 179 (Proof of appointment and authority unnecessary)	19
25	Amendment of s 180 (Proof of signature)	19
26	Amendment of s 181 (Evidentiary aids)	19
27	Amendment of s 186 (Prosecutions)	20
28	Amendment of s 186A (Procedure if prosecution is not brought)	20
29	Amendment of s 186B (Limitation period for prosecutions)	21
30	Insertion of new pt 23	21
	Part 23 Transitional provisions for Electrical Safety and Other Legislation Amendment Act 2024	
	257 Application of ss 141 and 141B	21
	258 Existing proceedings	21
	259 Continued application of limitation period	22
31	Amendment of sch 2 (Dictionary)	22
Part 3	Amendment of Electrical Safety Regulation 2013	
32	Regulation amended	23
33	Insertion of new pt 3, div 3A	23
	Division 3A Replacement of appliances	
	26A Circumstances for replacing similar appliance—Act, s 19	23
34	Insertion of new s 122A	24
	122A Voltage range for in-scope electrical equipment—Act, s 48B	24
35	Insertion of new pt 7, div 13	24
	Division 13 Other matters	
	187A Corresponding laws—Act, s 48A, definition corresponding law	25
36	Amendment of sch 9 (Dictionary)	25
Part 4	Amendment of Safety in Recreational Water Activities Act 2011	
37	Act amended	25
38	Amendment of s 21 (Reckless conduct—category 1)	25

Part 5	Amendment of Work Health and Safety Act 2011	
Division 1	Preliminary	
39	Act amended	26
Division 2	Amendments commencing on assent	
40	Amendment of s 31 (Reckless conduct—category 1)	26
41	Amendment of s 34A (Definitions for part)	27
42	Replacement of ss 34C and 34D	27
	34C Industrial manslaughter—person conducting business or undertaking	27
	34D Industrial manslaughter—senior officer	27
	34E Alternative offences to industrial manslaughter	28
43	Insertion of new s 233A	28
	233A Alternative offence to category 1 offence	28
44	Amendment of sch 1 (Application of Act)	29
45	Amendment of sch 3 (Regulation-making powers)	31
Division 3	Amendments commencing on 1 January 2025	
46	Amendment of s 68 (Powers and functions of health and safety representatives)	32
47	Amendment of s 118 (Rights that may be exercised while at workplace)	33
Part 6	Other amendments	
48	Legislation amended	35
Schedule 1	Other amendments	36
	Electrical Safety Act 2002	36

2024

A Bill

for

An Act to amend the *Electrical Safety Act 2002*, the *Electrical Safety Regulation 2013*, the *Safety in Recreational Water Activities Act 2011* and the *Work Health and Safety Act 2011* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Electrical Safety and Other
Legislation Amendment Act 2024.* 4
5

Clause 2 Commencement 6

Part 5, division 3 commences on 1 January 2025. 7

**Part 2 Amendment of Electrical Safety
Act 2002** 8
9

Clause 3 Act amended 10

This part amends the *Electrical Safety Act 2002.* 11

Note— 12

See also the amendments in schedule 1. 13

Clause 4 Amendment of s 13 (Meaning of *appliance*) 14

Section 13(1), from ‘at’ to ‘extra low voltage’— 15

omit. 16

Clause 5 Amendment of s 14 (Meaning of *electrical equipment*) 17

(1) Section 14(1), ‘Electrical equipment means’— 18

omit, insert— 19

Electrical equipment is 20

-
- (2) Section 14(1)— 1
insert— 2
(e) is prescribed electrical equipment. 3
- (3) Section 14(2), ‘Electrical equipment’— 4
omit, insert— 5
Electrical equipment 6
- (4) Section 14— 7
insert— 8
(3) However, prescribed electrical equipment is 9
electrical equipment even if it forms part of a 10
vehicle. 11

- Clause 6** **Insertion of new s 14A** 12
After section 14— 13
insert— 14
 14A Meaning of *prescribed electrical equipment* 15
 Prescribed electrical equipment is any apparatus, 16
 appliance, cable, conductor, fitting, insulator, 17
 material, meter or wire that— 18
 (a) is— 19
 (i) used for controlling, generating, 20
 supplying, transforming or transmitting 21
 electricity at extra low voltage; or 22
 (ii) operated by electricity at extra low 23
 voltage; and 24
 (b) is placing, or may place, persons or property 25
 at electrical risk; and 26
 (c) is prescribed by regulation for this 27
 paragraph. 28

[s 7]

Clause 7	Amendment of s 15 (Meaning of <i>electrical installation</i>)	1
(1)	Section 15(1), ‘electrical installation’—	2
	<i>omit, insert</i> —	3
	<i>electrical installation</i>	4
(2)	Section 15(1)(b)—	5
	<i>omit, insert</i> —	6
	(b) can be supplied with electricity from—	7
	(i) the works of an electricity entity; or	8
	(ii) a generating source; or	9
	(iii) a battery or other storage technology;	10
	and	11
(3)	Section 15—	12
	<i>insert</i> —	13
	(1A) Also, an <i>electrical installation</i> is a group of items of electrical equipment that—	14
	(a) are permanently electrically connected together; and	16
	(b) are used to generate electricity at a voltage greater than extra low voltage; and	17
	(c) do not include items that are works of an electricity entity.	20
(4)	Section 15(1A) to (3)—	22
	<i>renumber</i> as section 15(2) to (4).	23
Clause 8	Amendment of s 18 (Meaning of <i>electrical work</i>)	24
(1)	Section 18(2)—	25
	<i>insert</i> —	26
	(p) connecting an item of prescribed electrical equipment to existing equipment if—	27
		28

-
- (i) that task can be safely performed by a person who does not have expertise in carrying out electrical work; and
- (ii) after they are connected, the item of prescribed electrical equipment and the existing equipment remain—
- (A) controlling, generating, supplying, transforming or transmitting electricity at extra low voltage; or
- (B) operating by electricity at extra low voltage; and
- (iii) the prescribed electrical equipment is not located in an area in which the atmosphere presents a risk to health and safety from fire or explosion; and
- (iv) the prescribed electrical equipment is not, and is not part of, a cathodic protection system;
- (q) disconnecting an item of prescribed electrical equipment from existing equipment if—
- (i) that task can be safely performed by a person who does not have expertise in carrying out electrical work; and
- (ii) before they were disconnected, the item of prescribed electrical equipment and the existing equipment were—
- (A) controlling, generating, supplying, transforming or transmitting electricity at extra low voltage; or
- (B) operated by electricity at extra low voltage; and
- (iii) the prescribed electrical equipment is not located in an area in which the

[s 9]

	atmosphere presents a risk to health and safety from fire or explosion; and	1 2
	(iv) the prescribed electrical equipment is not, and is not part of, a cathodic protection system.	3 4 5
(2)	Section 18—	6
	<i>insert</i> —	7
	(3) In this section—	8
	<i>existing equipment</i> means 1 or more items of—	9
	(a) prescribed electrical equipment; or	10
	(b) extra low voltage equipment.	11
	<i>extra low voltage equipment</i> means any apparatus, appliance, cable, conductor, fitting, insulator, material, meter or wire, other than prescribed electrical equipment, that is—	12 13 14 15
	(a) used for controlling, generating, supplying, transforming or transmitting electricity at extra low voltage; or	16 17 18
	(b) operated by electricity at extra low voltage.	19
Clause 9	Amendment of s 19 (Types of electrical work for this Act)	20
(1)	Section 19(1), after paragraph (a)—	21
	<i>insert</i> —	22
	(aa) replacing an appliance included in the electrical installation with a similar appliance in the circumstances prescribed by regulation for this paragraph;	23 24 25 26
(2)	Section 19(1)(aa) and (b)—	27
	<i>renumber</i> as section 19(1)(b) and (c).	28

Clause 10	Amendment of s 48A (Definitions for pt 2A)	1
(1)	Section 48A, heading, ‘pt 2A’—	2
	<i>omit, insert—</i>	3
	part	4
(2)	Section 48A, definition <i>corresponding law</i> —	5
	<i>omit, insert—</i>	6
	<i>corresponding law</i> means a law of another State	7
	that is prescribed by regulation to be a	8
	corresponding law.	9
Clause 11	Replacement of s 48B (Meaning of <i>in-scope electrical equipment</i>)	10
	Section 48B—	11
	<i>omit, insert—</i>	12
	48B Meaning of <i>in-scope electrical equipment</i>	13
(1)	<i>In-scope electrical equipment</i> is electrical	14
	equipment that—	15
(a)	is operated by electricity within a voltage	16
	range prescribed by regulation for this	17
	paragraph; and	18
(b)	is designed, or marketed as suitable, for	19
	household, personal or similar use.	20
(2)	<i>In-scope electrical equipment</i> does not include	21
	electrical equipment prescribed by regulation for	22
	this subsection not to be <i>in-scope electrical</i>	23
	equipment.	24
(3)	It is immaterial whether the electrical equipment	25
	is also designed or marketed to be used for	26
	commercial or industrial purposes.	27
		28

[s 12]

Clause 12	Amendment of s 48D (Regulator to establish and maintain national register)	1 2
(1)	Section 48D(3)— <i>omit.</i>	3 4
(2)	Section 48D(5), ‘(4)’— <i>omit, insert—</i>	5 6
	(3)	7
(3)	Section 48D(4) to (6)— <i>renumber</i> as section 48D(3) to (5).	8 9
Clause 13	Amendment of s 49 (Regulator may accept an electrical safety undertaking)	10 11
(1)	Section 49(1), note— <i>omit.</i>	12 13
(2)	Section 49— <i>insert—</i>	14 15
	(4) The regulator must issue, and publish on the regulator’s website, general guidelines in relation to the acceptance of electrical safety undertakings under this Act.	16 17 18 19
Clause 14	Amendment of s 54A (Proceeding for alleged contravention)	20 21
	Section 54A(4), from ‘finalised’— <i>omit, insert—</i>	22 23
	finalised—	24
	(a) the regulator must immediately notify the WHS prosecutor of the acceptance of the undertaking; and	25 26 27

	(b) the WHS prosecutor must take all reasonable steps to have the proceedings discontinued as soon as possible.	1 2 3
Clause 15	Amendment of s 57AC (Licence holder engaged by person conducting a business or undertaking must notify changes)	4 5 6
	Section 57AC(2)(a)(iv), from ‘that’—	7
	<i>omit, insert—</i>	8
	that—	9
	(A) changes the work or activities that are authorised to be performed under the licence; or	10 11 12
	(B) includes or changes a condition or restriction in the licence;	13 14
Clause 16	Amendment of s 109 (Electrical licence issued by regulator)	15 16
	(1) Section 109(1)(a), ‘or amend’—	17
	<i>omit.</i>	18
	(2) Section 109(1)—	19
	<i>insert—</i>	20
	(bc) include or change a condition or restriction in the licence;	21 22
Clause 17	Amendment of s 110 (External licence)	23
	(1) Section 110(1)(a), ‘or limit’—	24
	<i>omit.</i>	25
	(2) Section 110(1)—	26
	<i>insert—</i>	27

[s 18]

- (ba) impose or change a condition or restriction on the external licence recognition provision's application to the external licence; 1
2
3
4
- (3) Section 110(2), example, 'limit'— 5
omit, insert— 6
impose a condition on 7

- Clause 18 Insertion of new s 121A** 8
- After section 121— 9
insert— 10
- 121A Changing and removing disciplinary conditions or restrictions** 11
12
- (1) This section applies if the licensing committee has taken disciplinary action against the person by— 13
14
 - (a) including or changing a condition or restriction in the licence; or 15
16
 - (b) if the person is the holder of an electrical work licence that, under the external licence recognition provision, is an external licence—imposing or changing a condition or restriction on the external licence recognition provision's application to the external licence. 17
18
19
20
21
22
23
 - (2) The person may make a written application to the licensing committee to change or remove the condition or restriction. 24
25
26
 - (3) The licensing committee may, on its own initiative or on an application under subsection (2), change the condition or restriction in a way that is beneficial to the person if the committee is satisfied it is reasonable to do so in all the circumstances. 27
28
29
30
31
32
 - (4) The licensing committee may, on its own 33

	initiative or on an application under subsection (2), remove the condition or restriction if the committee is satisfied—	1 2 3
	(a) the condition has been complied with; or	4
	(b) a condition decided by the committee relating to the restriction has been complied with; or	5 6 7
	(c) the condition or restriction is no longer appropriate in all the circumstances.	8 9
	(5) The licensing committee must give notice of its decision to the person.	10 11
	(6) If the licensing committee changes or removes the condition or restriction, and the person is the holder of an external licence, notice of the committee’s decision, but not the reasons for the decision, must also be published in the gazette.	12 13 14 15 16
Clause 19	Amendment of s 122 (Functions of regulator)	17
	(1) Section 122(1)(h)— <i>omit.</i>	18 19
	(2) Section 122(1)(i)— <i>renumber</i> as section 122(1)(h).	20 21
	(3) Section 122(3)— <i>omit.</i>	22 23
Clause 20	Amendment of s 141 (Power to require production of documents and answers to questions)	24 25
	(1) Section 141— <i>insert—</i>	26 27
	(2A) Also, within 30 days after the day the inspector enters the place, the inspector or another inspector may give a written notice to a person requiring the	28 29 30

[s 20]

person—	1
(a) if the person has custody of, or access to, a particular document—to produce the document to the inspector or other inspector within a stated period; or	2 3 4 5
(b) to give written answers to particular questions within a stated period; or	6 7
(c) to attend before the inspector or other inspector and answer any questions put by the inspector or other inspector—	8 9 10
(i) at a particular time and place; or	11
(ii) at a particular time by audiovisual link or audio link.	12 13
<i>Note—</i>	14
See section 141B(2) in relation to matters required to be stated in the notice.	15 16
(2B) If a requirement is made of a person under subsection (3)(c)(i) to attend before the inspector or other inspector in person—	17 18 19
(a) the person may ask to attend by audiovisual link or audio link instead; and	20 21
(b) the inspector or other inspector must agree to the request if it would be reasonable in the circumstances.	22 23 24
(2C) If a requirement is made of a person under subsection (3)(c)(ii) to attend before the inspector or other inspector by audiovisual link or audio link—	25 26 27 28
(a) the person may ask to attend in person; and	29
(b) the inspector or other inspector must agree to the request if it would be reasonable in the circumstances.	30 31 32
(2D) A requirement under subsection (3) may only relate to a document or question relevant to the	33 34

	purpose for which the place was entered.	1
(2E)	A notice under subsection (3) may be given in any way that a notice may be issued or given under section 150G.	2 3 4
(2)	Section 141(3), after ‘subsection (1)(c)’— <i>insert</i> —	5 6
	or (3)(c)	7
(3)	Section 141(4) and (5), ‘Subsection (3)’— <i>omit, insert</i> —	8 9
	Subsection (8)	10
(4)	Section 141(7), ‘Subsection (6)’— <i>omit, insert</i> —	11 12
	Subsection (11)	13
(5)	Section 141(2A) to (7)— <i>renumber</i> as section 141(3) to (12).	14 15
Clause 21	Amendment of s 141B (Warning to be given)	16
(1)	Section 141B(1), after ‘this part,’— <i>insert</i> —	17 18
	other than by written notice under section 141(3),	19
(2)	Section 141B— <i>insert</i> —	20 21
(1A)	A written notice under section 141(3) must—	22
(a)	state that the notice is given under section 141(3); and	23 24
(b)	state the purpose of the entry to the place under section 138 to which the notice relates; and	25 26 27

[s 22]

- (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
- (d) contain a statement about the effect of sections 141A and 192A; and
- (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.
- (3) Section 141B(2), after ‘subsection (1)(c)’—
insert—
or the statement in subsection (2)(d)
- (4) Section 141B(1A) to (3)—
renumber as section 141B(2) to (4).
- Clause 22 Amendment of s 167 (Definitions for pt 12)**
- (1) Section 167, heading, ‘pt 12’—
omit, insert—
part
- (2) Section 167, definition *disciplinary decision*—
insert—
- (c) whether to change or remove a condition or restriction included in an electrical licence under section 121A; or
- (d) whether to change or remove a condition or restriction on the external licence recognition provision’s application to an external licence under section 121A.

Clause 23	Insertion of new s 178A	1
	After section 178—	2
	<i>insert—</i>	3
	178A Definition for division	4
	In this division—	5
	<i>appointed person</i> means—	6
	(a) the regulator; or	7
	(b) the WHS prosecutor; or	8
	(c) an appropriately qualified member of the	9
	WHS prosecutor’s staff who holds an	10
	authorisation from the WHS prosecutor to	11
	start a proceeding either generally or in a	12
	particular case; or	13
	(d) an inspector.	14
Clause 24	Amendment of s 179 (Proof of appointment and authority unnecessary)	15
	Section 179, ‘the regulator or an inspector’—	16
	<i>omit, insert—</i>	17
	an appointed person	18
Clause 25	Amendment of s 180 (Proof of signature)	20
	Section 180, ‘the regulator or an inspector’—	21
	<i>omit, insert—</i>	22
	an appointed person	23
Clause 26	Amendment of s 181 (Evidentiary aids)	24
	Section 181(5), definition <i>certificate</i> —	25
	<i>omit, insert—</i>	26

[s 27]

	<i>certificate</i> means a certificate purporting to be signed by an appointed person.	1 2
Clause 27	Amendment of s 186 (Prosecutions)	3
(1)	Section 186(2)(a)—	4
	<i>omit, insert—</i>	5
	(a) the WHS prosecutor; or	6
	(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	7 8 9 10
(2)	Section 186(2)(b), ‘regulator’—	11
	<i>omit, insert—</i>	12
	WHS prosecutor	13
(3)	Section 186(2)(aa) and (b)—	14
	<i>renumber</i> as section 186(2)(b) and (c).	15
(4)	Section 186(3), ‘subsection (1)(b)’—	16
	<i>omit, insert—</i>	17
	subsection (2)(b) or (c)	18
(5)	Section 186(4)—	19
	<i>omit, insert—</i>	20
	(4) In deciding whether to bring a prosecution for an offence under this Act, the WHS prosecutor must have regard to any guidelines issued under the <i>Director of Public Prosecutions Act 1984</i> , section 11.	21 22 23 24 25
Clause 28	Amendment of s 186A (Procedure if prosecution is not brought)	26 27
	Section 186A, ‘regulator’—	28

omit, insert— 1

WHS prosecutor 2

Clause 29 Amendment of s 186B (Limitation period for prosecutions) 3
4

Section 186B(1)(a), ‘regulator’— 5

omit, insert— 6

WHS prosecutor 7

Clause 30 Insertion of new pt 23 8

After part 22— 9

insert— 10

**Part 23 Transitional provisions
for Electrical Safety
and Other Legislation
Amendment Act 2024** 11
12
13
14

257 Application of ss 141 and 141B 15

Sections 141 and 141B, as in force immediately 16
before the commencement, continue to apply in 17
relation to a place entered by an inspector under 18
section 138 before the commencement as if the 19
Electrical Safety and Other Legislation 20
Amendment Act 2024, sections 20 and 21 had not 21
commenced. 22

258 Existing proceedings 23

(1) This section applies to a proceeding for an offence 24
against this Act started before the commencement 25
by— 26

(a) the regulator; or 27

[s 31]

	(b) an inspector with the written authorisation of the regulator.	1 2
(2)	If, immediately before the commencement, the proceeding had not been finally dealt with, on the commencement—	3 4 5
	(a) if the proceeding was taken by the regulator—the WHS prosecutor becomes a party to the proceeding in place of the regulator; or	6 7 8 9
	(b) if the proceeding was taken by an inspector, other than the WHS prosecutor, with the written authorisation of the regulator—the inspector is taken to hold a written authorisation from the WHS prosecutor for the proceeding.	10 11 12 13 14 15
	259 Continued application of limitation period	16
(1)	This section applies if an offence came to the notice of the regulator before the commencement.	17 18
(2)	Section 186B, as in force immediately before the commencement, continues to apply in relation to the offence as if the <i>Electrical Safety and Other Legislation Amendment Act 2024</i> , section 29 had not commenced.	19 20 21 22 23
Clause 31	Amendment of sch 2 (Dictionary)	24
	Schedule 2—	25
	<i>insert—</i>	26
	<i>appointed person</i> , for part 13, division 1, see section 178A.	27 28
	<i>prescribed electrical equipment</i> see section 14A.	29
	<i>WHS prosecutor</i> see the <i>Work Health and Safety Act 2011</i> , schedule 2, section 25.	30 31

Part 3	Amendment of Electrical Safety Regulation 2013	1 2
Clause 32	Regulation amended	3
	This part amends the <i>Electrical Safety Regulation 2013</i> .	4
Clause 33	Insertion of new pt 3, div 3A	5
	Part 3—	6
	<i>insert—</i>	7
	Division 3A Replacement of appliances	8
	26A Circumstances for replacing similar appliance—Act, s 19	9 10
	(1) For section 19(1)(b) of the Act, the following circumstances are prescribed—	11 12
	(a) the similar appliance has—	13
	(i) a voltage rating that is the same as the voltage rating of the appliance included in the electrical installation (the <i>old appliance</i>); and	14 15 16 17
	(ii) a current rating that is not greater than the current rating of the old appliance; and	18 19 20
	(iii) a power rating that is not greater than the power rating of the old appliance; and	21 22 23
	(iv) the same way of performing the function as the old appliance; and	24 25
	(v) electrical characteristics that are the same as or better than the electrical characteristics of the old appliance;	26 27 28

[s 34]

	<i>Examples of electrical characteristics—</i>	1
	ingress protection rating, insulation,	2
	earthing, operating temperature	3
	(b) the electrical installation is not located in a hazardous area.	4
	(2) In this section—	6
	<i>current rating</i> , for an appliance, means the current stated on the appliance as the current the appliance will consume when operating under normal circumstances.	7
		8
		9
		10
	<i>power rating</i> , for an appliance, means the power stated on the appliance as the power the appliance will consume when operating under normal circumstances.	11
		12
		13
		14
	<i>voltage rating</i> , for an appliance, means the voltage stated on the appliance as the voltage the appliance is designed to be supplied with to operate under normal conditions.	15
		16
		17
		18
Clause 34	Insertion of new s 122A	19
	After section 122—	20
	<i>insert—</i>	21
	122A Voltage range for in-scope electrical equipment—Act, s 48B	22
		23
	For section 48B(1)(a) of the Act, the voltage range is low voltage.	24
		25
Clause 35	Insertion of new pt 7, div 13	26
	Part 7—	27
	<i>insert—</i>	28
	Division 13 Other matters	29

**187A Corresponding laws—Act, s 48A, definition
*corresponding law*** 1
2

For section 48A of the Act, definition
corresponding law, the *Electricity Safety Act*
1998 (Vic) is prescribed. 3
4
5

Clause 36	Amendment of sch 9 (Dictionary)	6
	Schedule 9—	7
	<i>insert</i> —	8
	<i>hazardous area</i> has the meaning given by the wiring rules.	9 10

Part 4 **Amendment of Safety in
Recreational Water Activities
Act 2011** 11
12
13

Clause 37	Act amended	14
	This part amends the <i>Safety in Recreational Water Activities</i> <i>Act 2011</i> .	15 16

Clause 38	Amendment of s 21 (Reckless conduct—category 1)	17
(1)	Section 21, heading, ‘Reckless’—	18
	<i>omit, insert</i> —	19
	Negligent or reckless	20
(2)	Section 21(1)(c)—	21
	<i>omit, insert</i> —	22
	(c) the person—	23
	(i) engages in the conduct with negligence; or	24 25

[s 39]

- (ii) is reckless as to the risk to the individual of death or serious injury or illness. 1
2
3

Part 5 Amendment of Work Health and Safety Act 2011 4 5

Division 1 Preliminary 6

Clause 39 Act amended 7
This part amends the *Work Health and Safety Act 2011*. 8

Division 2 Amendments commencing on assent 9 10

Clause 40 Amendment of s 31 (Reckless conduct—category 1) 11

(1) Section 31, heading, ‘Reckless’— 12
omit, insert— 13
Negligent or reckless 14

(2) Section 31(1)(c)— 15
omit, insert— 16

(c) the person— 17

- (i) engages in the conduct with negligence; or 18
19
- (ii) is reckless as to the risk to the individual of death or serious injury or illness. 20
21
22

Clause 41	Amendment of s 34A (Definitions for part)	1
	Section 34A(3)—	2
	<i>omit.</i>	3
Clause 42	Replacement of ss 34C and 34D	4
	Sections 34C and 34D—	5
	<i>omit, insert—</i>	6
	34C Industrial manslaughter—person conducting business or undertaking	7
		8
	(1) A person conducting a business or undertaking commits an offence if—	9
		10
	(a) an individual to whom the person has a health and safety duty—	11
		12
	(i) dies; or	13
	(ii) is injured and later dies; and	14
	(b) the person’s conduct causes the death of the individual; and	15
		16
	(c) the person is negligent about causing the death of the individual by the conduct.	17
		18
	Maximum penalty—	19
	(a) for an individual—20 years imprisonment; or	20
		21
	(b) for a body corporate—100,000 penalty units.	22
		23
	(2) An offence against subsection (1) is a crime.	24
	34D Industrial manslaughter—senior officer	25
	(1) A senior officer of a person conducting a business or undertaking commits an offence if—	26
		27
	(a) an individual to whom the person has a health and safety duty—	28
		29

[s 43]

	(i) dies; or	1
	(ii) is injured and later dies; and	2
	(b) the senior officer's conduct causes the death of the individual; and	3 4
	(c) the senior officer is negligent about causing the death of the individual by the conduct.	5 6
	Maximum penalty—20 years imprisonment.	7
	(2) An offence against subsection (1) is a crime.	8
	34E Alternative offences to industrial manslaughter	9 10
	(1) On an indictment charging a person with an offence against this part, the person may alternatively be convicted of a category 1 offence or a category 2 offence (in either case an <i>alternative offence</i>) if the alternative offence is established by the evidence.	11 12 13 14 15 16
	(2) A person may be convicted under subsection (1) of an alternative offence even if the applicable limitation period under section 232(1) for the alternative offence ended before the proceedings for the offence against this part were taken.	17 18 19 20 21
Clause 43	Insertion of new s 233A	22
	After section 233—	23
	<i>insert—</i>	24
	233A Alternative offence to category 1 offence	25
	On an indictment charging a person with a category 1 offence, the person may alternatively be convicted of a category 2 offence if that offence is established by the evidence.	26 27 28 29

Clause 44	Amendment of sch 1 (Application of Act)	1
	Schedule 1, part 2—	2
	<i>insert—</i>	3
	Division 3	4
	Vocational education and training regulation	5
5	Relationship with National Vocational Education and Training Regulator Act 2011 (Cwlth)	6
	(1) The State competency regulation provisions are declared to be an excluded matter for the purposes of the Commonwealth Act, section 10 in relation to section 9(1) of that Act to the extent only that section 9(1) prevents the application of the State competency regulation provisions to an NVR registered training organisation (within the meaning of the Commonwealth Act) providing—	7 8 9 10 11 12 13 14 15 16
	(a) training, assessment or instruction for an authorisation under this Act; or	17 18
	(b) training, assessment or instruction about working safely in a workplace in a particular industry.	19 20 21
	(2) Without limiting subsection (1), each provision of this Act is declared to be a VET legislation displacement provision for the purposes of the Commonwealth Act, section 11.	22 23 24 25
	(3) In this section—	26
	<i>Commonwealth Act</i> means the <i>National Vocational Education and Training Regulator Act 2011 (Cwlth)</i> .	27 28 29
	<i>State competency regulation provisions</i> means—	30
	(a) the provisions under this Act—	31

[s 44]

- | | |
|---|----------------------------|
| (i) regulating organisations providing training, assessment or instruction— | 1
2 |
| (A) for an authorisation; or | 3 |
| (B) about working safely in a workplace in a particular industry; or | 4
5
6 |
| (ii) regulating the standard of training, assessment or instruction required— | 7
8 |
| (A) for an authorisation; or | 9 |
| (B) for training about working safely in a workplace in a particular industry; or | 10
11
12 |
| (iii) providing for the approval of the training, assessment and instruction provided by an organisation— | 13
14
15 |
| (A) for an authorisation as suitable for the authorisation; or | 16
17 |
| (B) for training about working safely in a workplace in a particular industry; or | 18
19
20 |
| (iv) providing for the approval of an organisation to provide training, assessment and instruction— | 21
22
23 |
| (A) for an authorisation; or | 24 |
| (B) about working safely in a workplace in a particular industry; or | 25
26
27 |
| (b) the provisions under this Act or another Act providing for the exercise of investigative powers, sanctions and enforcement for the purposes of this Act in relation to those matters. | 28
29
30
31
32 |

Clause 45	Amendment of sch 3 (Regulation-making powers)	1
	Schedule 3—	2
	<i>insert—</i>	3
	6A Training, assessment or instruction	4
	Matters relating to organisations providing training, assessment or instruction for an authorisation or about working safely in a workplace in a particular industry, including providing for—	5 6 7 8 9
	(a) the standard of training, assessment or instruction required—	10 11
	(i) for an authorisation; or	12
	(ii) for training about working safely in a workplace in a particular industry; and	13 14
	(b) the approval of the training, assessment and instruction provided by an organisation—	15 16
	(i) for an authorisation as suitable for the authorisation; or	17 18
	(ii) for training about working safely in a workplace in a particular industry; and	19 20
	(c) the approval of an organisation to provide training, assessment and instruction—	21 22
	(i) for an authorisation; or	23
	(ii) about working safely in a workplace in a particular industry.	24 25

[s 46]

Division 3	Amendments commencing on 1 January 2025	1 2
Clause 46	Amendment of s 68 (Powers and functions of health and safety representatives)	3 4
	(1) Section 68(2)—	5
	<i>insert—</i>	6
	(ba) for the purpose of identifying or recording a hazard or risk, or the extent of a hazard or risk, to the health or safety of workers in the work group, do either or both of the following—	7 8 9 10 11
	(i) take measurements and conduct tests at a part of the workplace at which a worker in the work group works;	12 13 14
	(ii) take photos and videos at a part of the workplace at which a worker in the work group works; and	15 16 17
	(2) Section 68—	18
	<i>insert—</i>	19
	(2A) In taking measurements and conducting tests under subsection (2)(ba), the health and safety representative—	20 21 22
	(a) may bring to the workplace and use equipment and materials that are reasonably necessary for the measurements or tests; and	23 24 25
	(b) must take account of the need to take the measurements and conduct the tests in compliance with this Act, the <i>Electrical Safety Act 2002</i> and other relevant laws.	26 27 28 29
	(2B) Despite subsection (2)(ba)—	30
	(a) a photo or video must not be taken that records the image or voice of—	31 32

	(i) a person participating in an interview under subsection (2)(c) or (d); or	1 2
	(ii) a person other than—	3
	(A) a worker in the work group; or	4
	(B) a worker at the workplace whose actions are directly affecting a worker in the work group; and	5 6 7
	(b) a photo or video must not be live streamed.	8
	<i>Note—</i>	9
	See also the Criminal Code, section 227A, the <i>Corrective Services Act 2006</i> , section 132, and other relevant laws regulating the taking of photos and videos.	10 11 12
(3)	Section 68, after subsection (4)—	13
	<i>insert—</i>	14
	<i>Note—</i>	15
	See also section 271 and the <i>Privacy Act 1988</i> (Cwlth) in relation to limits on the disclosure and use of information collected under this section.	16 17 18
Clause 47	Amendment of s 118 (Rights that may be exercised while at workplace)	19 20
(1)	Section 118(1), after paragraph (a)—	21
	<i>insert—</i>	22
	(aa) during the inspection—	23
	(i) take measurements or conduct tests directly relevant to the suspected contravention; and	24 25 26
	(ii) take photos and videos directly relevant to the suspected contravention;	27 28
(2)	Section 118—	29
	<i>insert—</i>	30
	(1A) In taking measurements and conducting tests	31

[s 47]

under subsection (1)(aa), the WHS entry permit holder—	1 2
(a) may bring to the workplace and use equipment and materials that are reasonably necessary for the measurements or tests; and	3 4 5
(b) must take account of the need to take the measurements and conduct the tests in compliance with this Act, the <i>Electrical Safety Act 2002</i> and other relevant laws.	6 7 8 9
(1B) Despite subsection (1)(aa)—	10
(a) a photo or video must not be taken that records the image or voice of a person other than—	11 12 13
(i) a relevant worker; or	14
(ii) a worker at the workplace whose actions are directly affecting a relevant worker; and	15 16 17
(b) a photo or video must not be live streamed.	18
<i>Note—</i>	19
See also the Criminal Code, section 227A, the <i>Corrective Services Act 2006</i> , section 132, and other relevant laws regulating the taking of photos and videos.	20 21 22
(3) Section 118(2), ‘However,’—	23
<i>omit, insert—</i>	24
Despite subsection (1),	25
(4) Section 118, note 2—	26
<i>omit, insert—</i>	27
2 See also section 148 and the <i>Privacy Act 1988</i> (Cwlth) in relation to limits on the disclosure and use of information collected under this section.	28 29 30

Part 6 **Other amendments** 1

Clause 48 **Legislation amended** 2

 Schedule 1 amends the legislation it mentions. 3

Schedule 1	Other amendments	1
	section 48	2
	Electrical Safety Act 2002	3
1	Section 32(3), ‘(1)(b)’—	4
	<i>omit, insert—</i>	5
	(2)(b)	6
2	Section 58, heading, ‘div 2’—	7
	<i>omit, insert—</i>	8
	division	9
3	Section 66, heading, ‘pt 5’—	10
	<i>omit, insert—</i>	11
	part	12
4	Section 108, heading, ‘div 2’—	13
	<i>omit, insert—</i>	14
	division	15
5	Section 113, heading, ‘div 3’—	16
	<i>omit, insert—</i>	17
	division	18

6	Section 178, heading, ‘div 1’—	1
	<i>omit, insert—</i>	2
	division	3
7	Section 200, heading, ‘div 1’—	4
	<i>omit, insert—</i>	5
	division	6

© State of Queensland 2024