

Queensland



WORKPLACE HEALTH AND SAFETY AMENDMENT BILL 1997



WORKPLACE HEALTH AND SAFETY AMENDMENT BILL 1997

TABLE OF PROVISIONS

Section	Page
1 Short title	6
2 Commencement	6
3 Act amended	6
4 Replacement of long title	6
5 Replacement of pt 1, div 3 (Overall object of Act)	6
<i>Division 3—Objective of Act</i>	
7 Objective of Act	6
6 Amendment of s 9 (What is a “workplace”?)	8
7 Amendment of s 11 (Who is a “worker” and who is not?)	8
8 Amendment of s 13 (Who is the “principal contractor”?)	8
9 Omission of pt 2, div 1, heading (Being at work and performing work)	9
10 Omission of pt 2, div 2, heading (Consultation)	9
11 Amendment of s 18 (What is consultation?)	9
12 Omission of pt 2, div 3 (Compliance standards, advisory standards, regulations and the difference between them)	9
13 Omission of pt 2, div 4, heading (Ensuring workplace health and safety)	9
14 Amendment of s 22 (How should workplace health and safety be ensured?)	9
15 Amendment of s 24 (Discharge of obligations)	10
16 Insertion of new s 24A	11
24A Charges for offences against s 24	11
17 Amendment of s 26 (How obligations can be discharged if standard made)	11

18	Amendment of s 27 (How obligations can be discharged if no standard made)	12
19	Amendment of s 30 (Obligations of persons in control of workplaces)	12
20	Amendment of s 31 (Obligations of principal contractors)	12
21	Amendment of s 37 (Defences for div 2 or 3)	13
22	Replacement of pt 4 (Compliance standards)	14
	PART 4—REGULATIONS, ADVISORY STANDARDS, INDUSTRY CODES OF PRACTICE AND MINISTERIAL NOTICES	
38	Regulations	14
23	Replacement of pt 5, heading (Advisory standards)	15
24	Omission of s 40 (Purpose of advisory standards)	15
25	Amendment of s 41 (Advisory standards)	15
26	Amendment of s 42 (Use of advisory standards in proceedings)	16
27	Insertion of new pt 4, divs 3 and 4	16
	<i>Division 3—Industry codes of practice</i>	
42A	Industry codes of practice	16
42B	Use of industry codes of practice in proceedings	17
	<i>Division 4—Ministerial notices</i>	
42C	Ministerial notices in urgent circumstances	17
28	Amendment of s 43 (Purposes of part)	18
29	Amendment of pt 6, div 2 (The council and its functions)	18
30	Replacement of s 44 (Workplace health and safety council)	19
44	Workplace health and safety board	19
31	Replacement of s 45 (Functions of council)	19
45	Functions of board	19
32	Insertion of new s 45A	20
45A	Annual report	20
33	Amendment of pt 6, div 3, heading (Membership and conduct of council proceedings)	21
34	Amendment of s 46 (Membership of council)	21
35	Amendment of s 47 (Times of council meetings)	21
36	Amendment of s 48 (Conduct of proceedings)	22
37	Amendment of s 49 (Disclosure of interests)	22

38	Amendment of s 50 (Minutes)	22
39	Amendment of pt 6, div 4, heading (Provisions about appointed council members)	22
40	Omission of s 51 (Application of division)	23
41	Amendment of s 52 (Duration of appointment)	23
42	Amendment of s 53 (Leave of absence)	23
43	Amendment of pt 6, div 5, heading (Industry committees)	23
44	Replacement of ss 55 and 56	23
	55 Industry sector standing committees	23
	56 Functions of industry sector standing committees	24
45	Amendment of pt 6, div 6, heading (Membership and conduct of industry committee proceedings)	24
46	Amendment of s 57 (Membership of industry committee)	25
47	Amendment of s 58 (Times of industry committee meetings)	25
48	Amendment of s 59 (Conduct of industry committee proceedings)	26
49	Amendment of s 60 (Disclosure of interests)	26
50	Amendment of s 61 (Minutes)	26
51	Amendment of pt 6, div 7, heading (Provisions about industry committee members)	26
52	Amendment of s 66 (Definitions for part)	26
53	Amendment of s 108 (General powers after entering places)	27
54	Amendment of s 109 (Power to seize evidence etc.)	27
55	Amendment of s 122 (Power to require production of certain documents)	27
56	Amendment of s 165 (Limitation on time for starting proceedings)	28
57	Insertion of new s 168A	28
	168A Costs of investigation	28
58	Amendment of s 176 (Impersonating inspectors and others)	28
59	Amendment of pt 14, div 1, heading (Accredited officers)	28
60	Amendment of s 177 (Appointment)	29
61	Amendment of s 178 (Functions of accredited officers)	29
62	Amendment of s 179 (Accredited officer's appointment conditions)	29
63	Amendment of s 180 (Accredited officer's identity card)	29

Workplace Health and Safety Amendment

64	Amendment of s 181 (Production or display of accredited officer's identity card)	30
65	Amendment of s 182 (Revocation of accredited officer's appointment) . .	30
66	Amendment of s 183 (Protection from liability—officials)	31
67	Omission of pt 16 (Regulations)	31
68	Amendment of pt 17, heading (Transitional provisions and repeals)	31
69	Insertion of new pt 17, div 1, heading	31
70	Renumbering of s 194 (Existing health and safety officers)	31
71	Renumbering of s 204A (Workplace Health and Safety Act 1989 references)	31
72	Insertion of new pt 17, div 2	32
	<i>Division 2—Transitional provisions for the Workplace Health and Safety Amendment Act 1997</i>	
190	Existing advisory standards	32
191	Existing accredited officers	33
73	Amendment of sch 1 (List of offences and penalties)	34
74	Amendment of sch 3 (Dictionary)	34

1997

A BILL

FOR

An Act to amend the Workplace Health and Safety Act 1995

The Parliament of Queensland enacts—

1

Short title

2

Clause **1.** This Act may be cited as the *Workplace Health and Safety Amendment Act 1997*.

3

4

Commencement

5

Clause **2.** This Act commences on a day to be fixed by proclamation.

6

Act amended

7

Clause **3.** This Act amends the *Workplace Health and Safety Act 1995*.

8

Replacement of long title

9

Clause **4.** Long title—

10

omit, insert—

11

‘An Act about workplace health and safety, and for related purposes’.

12

13

Replacement of pt 1, div 3 (Overall object of Act)

14

Clause **5.** Part 1, division 3—

15

omit, insert—

16

Division 3—Objective of Act

17

‘Objective of Act

18

‘7.(1) The objective of this Act is to prevent a person’s death, injury or illness being caused by a workplace, by workplace activities or by specified high risk plant.

19

20

21

Workplace Health and Safety Amendment

<i>Example of an illness caused by a workplace—</i>	1
Asthma caused by inhaling spray paint mist from a neighbouring workplace.	2
<i>Example of an illness caused by a workplace activity—</i>	3
Carbon monoxide poisoning caused by a liquefied petroleum gas operated forklift being used in a coldroom.	4 5
<i>Example of an illness caused by specified high risk plant—</i>	6
Legionnaire's disease caused by inhaling legionella bacteria from the contaminated cooling tower of an air conditioning unit.	7 8
‘(2) The objective is achieved by preventing or minimising a person's exposure to the risk of death, injury or illness caused by a workplace, by workplace activities or by specified high risk plant.	9 10 11
‘(3) This Act establishes a framework for preventing or minimising exposure to risk by—	12 13
(a) imposing workplace health and safety obligations on certain persons who may affect the health and safety of others by their acts or omissions; and	14 15 16
(b) establishing benchmarks for industry through the making of regulations and advisory standards; and	17 18
(c) establishing a workplace health and safety board—	19
(i) to allow industry to participate in developing strategies for improving workplace health and safety; and	20 21
(ii) to promote community awareness about workplace health and safety; and	22 23
(d) providing for industry participation in workplace health and safety by industry developing their own codes of practice; and	24 25
(e) providing for the election of workplace health and safety representatives, and the establishment of workplace health and safety committees, to foster cooperation between employers, principal contractors, and workers; and	26 27 28 29
(f) providing for the appointment of—	30
(i) workplace health and safety officers to assist employers and principal contractors to manage workplace health and safety; and	31 32 33

Workplace Health and Safety Amendment

(ii) accredited providers to assist industry in managing particular risks; and 1
2

(iii) inspectors to monitor and enforce compliance with this Act. 3

‘(4) The achievement of this Act’s objective will help— 4

(a) reduce the human cost to individuals, families and the community 5
caused by these deaths, injuries and illnesses; and 6

(b) reduce the financial burden on individuals, families and the 7
community caused by these deaths, injuries and illnesses; and 8

(c) reduce the burden on the workers’ compensation scheme caused 9
by these deaths, injuries and illnesses, which in turn reduces costs 10
imposed on industry; and 11

(d) maintain the community standard for workplace health and 12
safety, which is eroded when persons gain an unfair competitive 13
advantage by not implementing appropriate standards.’. 14

Amendment of s 9 (What is a “workplace”?) 15

Clause 6. Section 9(2), example, ‘estimated final price at practical completion’— 16
omit, insert— 17
‘cost of building and construction work’. 18

Amendment of s 11 (Who is a “worker” and who is not?) 19

Clause 7.(1) Section 11(2), example— 20
omit. 21
(2) Section 11(3), example— 22
omit. 23

Amendment of s 13 (Who is the “principal contractor”?) 24

Clause 8. Section 13(3) and (4)— 25
omit. 26

	Omission of pt 2, div 1, heading (Being at work and performing work)	1 2
Clause	9. Part 2, division 1, heading— <i>omit.</i>	3 4
	Omission of pt 2, div 2, heading (Consultation)	5
Clause	10. Part 2, division 2, heading— <i>omit.</i>	6 7
	Amendment of s 18 (What is consultation?)	8
Clause	11. Section 18(2)(a)— <i>omit, insert—</i> ‘(a) at an industry level through establishing the workplace health and safety board and industry sector standing committees under part 6; and’.	9 10 11 12 13
	Omission of pt 2, div 3 (Compliance standards, advisory standards, regulations and the difference between them)	14 15
Clause	12. Part 2, division 3— <i>omit.</i>	16 17
	Omission of pt 2, div 4, heading (Ensuring workplace health and safety)	18 19
Clause	13. Part 2, division 4, heading— <i>omit.</i>	20 21
	Amendment of s 22 (How should workplace health and safety be ensured?)	22 23
Clause	14.(1) Section 22, heading— <i>omit, insert—</i>	24 25

‘Ensuring workplace health and safety’.	1
(2) Section 22, ‘should be ensured’—	2
<i>omit, insert—</i>	3
‘can generally be managed’.	4
(3) Section 22—	5
<i>renumber</i> as section 22(2)	6
(4) Section 22—	7
<i>insert—</i>	8
‘22.(1) Workplace health and safety is ensured when persons are free from—	9
(a) death, injury or illness caused by any workplace, workplace activities or specified high risk plant; and	10
(b) risk of death, injury or illness created by any workplace, workplace activities or specified high risk plant.’.	11
(4) Section 22—	12
<i>insert—</i>	13
‘(3) However, this Act also specifies particular ways in which workplace health and safety must be ensured in particular circumstances.	14
‘(4) Compliance with subsection (2) does not excuse a person from an obligation to ensure workplace health and safety or a particular obligation imposed on the person under this Act.’.	15
	16
Amendment of s 24 (Discharge of obligations)	17
Clause 15. Section 24(1), penalty—	18
<i>omit, insert—</i>	19
‘Maximum penalty—	20
(a) if the breach caused death or grievous bodily harm—800 penalty units or 2 years imprisonment; or	21
(b) if the breach involved exposure to a substance that is likely to cause death or grievous bodily harm—500 penalty units or 1 year	22

Workplace Health and Safety Amendment

	imprisonment; or	1
	(c) if the breach caused bodily harm—500 penalty units or 1 year imprisonment; or	2 3
	(d) otherwise—400 penalty units or 6 months imprisonment.’.	4
	Insertion of new s 24A	5
Clause	16. Part 3, division 1—	6
	<i>insert—</i>	7
	‘Charges for offences against s 24	8
	‘24A.(1) This section applies to an offence against section 24 for a failure to discharge an obligation under section 28(1), 28(2) or 29.	9 10
	‘(2) A complaint against a person for the offence may allege in the alternative that the person committed the offence as employer or self-employed person.	11 12 13
	‘(3) A person may be convicted on the complaint on proof that the person committed the offence either as employer or self-employed person without further proof of the capacity in which the person committed the offence.	14 15 16 17
	‘(4) Also, a person charged with a failure to discharge an obligation under 1 of the following sections may be convicted of a failure to discharge an obligation under either of the other sections that is proved by the evidence—	18 19 20 21
	(a) section 28(1);	22
	(b) section 28(2);	23
	(c) section 29.’.	24
	Amendment of s 26 (How obligations can be discharged if standard made)	25 26
Clause	17.(1) Section 26, heading, ‘ standard ’—	27
	<i>omit, insert—</i>	28
	‘regulation etc.’.	29

Workplace Health and Safety Amendment

(2) Section 26(1) and (2), ‘compliance standard’—	1
<i>omit, insert—</i>	2
‘regulation or ministerial notice’.	3
(3) Section 26(3), ‘or ways of identifying and’—	4
<i>omit, insert—</i>	5
‘of’.	6
(4) Section 26(3)(a) and (b), ‘identifies and’—	7
<i>omit.</i>	8

Amendment of s 27 (How obligations can be discharged if no standard made)	9
	10

Clause	18.(1) Section 27, heading, ‘ standard ’—	11
	<i>omit, insert—</i>	12
	‘ regulation etc. ’.	13
	(2) Section 27(1), ‘compliance standard’—	14
	<i>omit, insert—</i>	15
	‘regulation or ministerial notice’.	16
	(3) Section 27(1), ‘identify and’—	17
	<i>omit.</i>	18

Amendment of s 30 (Obligations of persons in control of workplaces)	19
--	----

Clause	19. Section 30(1)(a) and (b), ‘disease or injury’—	20
	<i>omit, insert—</i>	21
	‘injury or illness’.	22

Amendment of s 31 (Obligations of principal contractors)	23
---	----

Clause	20.(1) Section 31(1)(b)—	24
	<i>omit, insert—</i>	25

Workplace Health and Safety Amendment

‘(b) to ensure that persons at the workplace are not exposed to risks from—	1 2
(i) something that has been provided for the general use of persons at the workplace for which no other person owes a workplace health and safety obligation; or	3 4 5
(ii) a hazard at the workplace for which no other person owes a workplace health and safety obligation;’.	6 7
(2) Section 31(1)(c), ‘disease or injury’—	8
<i>omit, insert—</i>	9
‘injury or illness’.	10
(3) Section 31(1)(d), ‘compliance standard’—	11
<i>omit, insert—</i>	12
‘regulation’.	13
(4) Section 31(3)(b), ‘obligation.’—	14
<i>omit, insert—</i>	15
‘obligation. ¹ ’.	16
(5) Section 31(4)—	17
<i>omit.</i>	18

Amendment of s 37 (Defences for div 2 or 3)	19
--	----

Clause	21.(1) Section 37(1)(a), ‘compliance standard’—	20
	<i>omit, insert—</i>	21
	‘regulation or ministerial notice’.	22
	(2) Section 37(1)(a), ‘standard’—	23
	<i>omit, insert—</i>	24
	‘regulation or notice’.	25

¹ See section 36(a) for the obligation to comply with the instructions given for workplace health and safety at the workplace by the principal contractor.

Workplace Health and Safety Amendment

(3) Section 37(1)(b), ‘identify and’— 1
omit. 2

(4) Section 37(1)(b)(ii), ‘identified and’— 3
omit. 4

(5) Section 37(1)(c), ‘compliance’— 5
omit, insert— 6
‘regulation, ministerial notice’. 7

(6) Section 37(3)— 8
omit, insert— 9

‘(3) In this section, a reference to a regulation, ministerial notice or 10
advisory standard is a reference to the regulation, notice or standard in force 11
at the time of the contravention.’. 12

Replacement of pt 4 (Compliance standards) 13

Clause 22. Part 4— 14
omit, insert— 15

**‘PART 4—REGULATIONS, ADVISORY STANDARDS, 16
INDUSTRY CODES OF PRACTICE AND 17
MINISTERIAL NOTICES 18**

‘Division 1—Regulations 19

‘Regulations 20

‘38.(1) The Governor in Council may make regulations under this Act. 21

‘(2) A regulation may— 22

(a) deal with matters of an administrative nature; or 23

(b) prohibit exposure to risk; or 24

(c) prescribe ways to prevent or minimise exposure to risk. 25

Workplace Health and Safety Amendment

<i>Examples of matters under paragraph (a)—</i>	1
1. Notification of building and construction work.	2
2. Registration of registrable plant.	3
<i>Examples of paragraph (b)—</i>	4
Prohibiting the use of certain hazardous substances.	5
<i>Examples of paragraph (c)—</i>	6
1. Preparing and providing a material safety data sheet for a hazardous substance.	7
2. Providing certain workplace amenities.	8
‘(3) A regulation may—	9
(a) prescribe offences for a breach of a regulation; and	10
(b) fix a maximum penalty of not more than 40 penalty units for the breach.	11
	12
‘(4) A regulation may declare something to be a workplace health and safety obligation imposed on a person for this Act.’.	13
	14
 Replacement of pt 5, heading (Advisory standards)	15
Clause 23. Part 5, heading—	16
omit, insert—	17
‘ <i>Division 2—Advisory standards</i> ’.	18
 Omission of s 40 (Purpose of advisory standards)	19
Clause 24. Section 40—	20
omit.	21
 Amendment of s 41 (Advisory standards)	22
Clause 25. Section 41(1)—	23
omit, insert—	24
‘ 41.(1) The Minister may make advisory standards that give practical advice on ways to manage exposure to risks common to industry.	25
	26

Workplace Health and Safety Amendment

Example—

An advisory standard about managing noise exposure may provide advice about identifying sources of noise, assessing actual or potential levels of noise exposure and eliminating or minimising noise exposure as a risk to health at a workplace.

‘(1A) The standard must include a provision that states the standard expires 5 years after its commencement.’.

Amendment of s 42 (Use of advisory standards in proceedings)

Clause 26.(1) Section 42, ‘An advisory standard’ to ‘under this Act’—

omit, insert—

‘In a proceeding under this Act, a document purporting to be an advisory standard is admissible as evidence of the advisory standard’.

(2) Section 42(b), ‘identify and’—

omit.

(3) Section 42(c), ‘identifying and’—

omit.

Insertion of new pt 4, divs 3 and 4

Clause 27. Part 4—

insert—

‘Division 3—Industry codes of practice

‘Industry codes of practice

‘42A.(1) The workplace health and safety board may make industry codes of practice that give practical advice on ways to manage exposure to risks identified by a part of industry as typical in the part of industry.

Examples of a part of industry—

1. The rural sector.

2. Canegrowing within the rural sector.

‘(2) The code must include a provision that states the code expires

5 years after its commencement.

‘(3) The board must advise, by gazette notice, the making of an industry code of practice.

‘(4) If an industry code of practice is inconsistent with a regulation or advisory standard, the regulation or standard prevails to the extent of the inconsistency.

‘(5) The chief executive must ensure that a copy of each industry code of practice and any document applied, adopted or incorporated by the code is made available for inspection, without charge, during normal business hours at each department office dealing with workplace health and safety.

‘(6) A notice mentioned in subsection (3) is subordinate legislation.

‘Use of industry codes of practice in proceedings

‘42B. In a proceeding under this Act, a document purporting to be an industry code of practice is admissible as evidence of the code of practice if—

- (a) the proceeding relates to the breach of section 24; and
- (b) the person is claimed to have breached section 24 by failing to manage exposure to a risk; and
- (c) the code is about managing exposure to the risk.

‘Division 4—Ministerial notices

‘Ministerial notices in urgent circumstances

‘42C.(1) This section applies if the Minister considers—

- (a) a situation has arisen, or is likely to arise—
 - (i) at or near a workplace because of a workplace activity; or
 - (ii) at any place because of specified high risk plant; and
- (b) because of the situation, there is, or is likely to be, a risk of

Workplace Health and Safety Amendment

serious bodily injury² to someone.

‘(2) The Minister may make a notice about the situation.

‘(3) The notice may prescribe methods of work or other things to prevent or minimise exposure to the risk.

‘(4) A notice expires—

(a) 1 year from the day it is notified in the gazette; or

(b) on an earlier day stated in the notice.

‘(5) However, a regulation may extend the notice’s operation for a further period of not more than 1 year.

‘(6) If a notice is inconsistent with a regulation or advisory standard, the notice prevails to the extent of the inconsistency.

‘(7) A notice is subordinate legislation.’.

Amendment of s 43 (Purposes of part)

Clause 28.(1) Section 43(a), ‘council’—

omit, insert—

‘board’.

(2) Section 43(b), ‘committees’—

omit, insert—

‘sector standing committees of the board’.

Amendment of pt 6, div 2 (The council and its functions)

Clause 29. Part 6, division 2, heading, ‘council’—

omit, insert—

‘board’.

² See schedule 3 (Dictionary) for definition of “serious bodily injury”.

	Replacement of s 44 (Workplace health and safety council)	1
Clause	30. Section 44—	2
	<i>omit, insert—</i>	3
	‘Workplace health and safety board	4
	‘44. The workplace health and safety board (the “board”) is	5
	established.’.	6
	Replacement of s 45 (Functions of council)	7
Clause	31.(1) Section 45—	8
	<i>omit, insert—</i>	9
	‘Functions of board	10
	‘45.(1) The primary functions of the board are—	11
	(a) to give advice and make recommendations to the Minister about	12
	policies, strategies, allocation of resources, and legislative	13
	arrangements, for workplace health and safety; and	14
	(b) to make industry codes of practice.	15
	‘(2) Without limiting subsection (1), the board may discharge its primary	16
	functions by—	17
	(a) developing a 5 year strategic plan for improving workplace health	18
	and safety; and	19
	(b) examining whether the 5 year strategic plan meets the existing	20
	and future needs of industry and the community; and	21
	(c) advising the Minister about state, national and international	22
	workplace health and safety issues; and	23
	(d) considering other issues referred to it by the Minister; and	24
	(e) reviewing the appropriateness of provisions of this Act, a	25
	regulation, advisory standard or industry code of practice; and	26
	(f) considering recommendations made to it by an industry sector	27
	standing committee; and	28
	(g) reviewing the performance of an industry sector standing	29

Workplace Health and Safety Amendment

	committee; and	1
	(h) recommending to the Minister the establishment of industry sector standing committees; and	2 3
	(i) reviewing the membership of an industry sector standing committee; and	4 5
	(j) establishing working parties on the recommendation of an industry sector standing committee; and	6 7
	(k) deciding procedures for the operation of working parties; and	8
	(l) appointing members to a working party; and	9
	(m) considering the most effective and efficient way of applying funds allocated for workplace health and safety; and	10 11
	(n) ensuring industry has been adequately consulted on proposed industry codes of practice; and	12 13
	(o) advising industry, by gazette notice, of the making of an industry code of practice; and	14 15
	(p) promoting workplace health and safety to industry and the community to encourage a healthy and safe culture at workplaces.	16 17
	‘(3) The chief executive must give the board reasonable help to enable it to perform its functions.’.	18 19
	Insertion of new s 45A	20
Clause	32. Part 6, division 2—	21
	<i>insert—</i>	22
	‘Annual report	23
	‘45A.(1) As soon as practical, but within 4 months, after the end of each financial year, the board must prepare and give to the Minister a report on the board’s operations for the year.	24 25 26
	‘(2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after receiving it.’.	27 28

Amendment of pt 6, div 3, heading (Membership and conduct of council proceedings)

- Clause **33.** Part 6, division 3, heading, ‘**council**’—
 omit, insert—
 ‘**board**’.

Amendment of s 46 (Membership of council)

- Clause **34.(1)** Section 46(3) and heading, ‘council’—
 omit, insert—
 ‘board’.
- (2)** Section 46(3)—
 renumber as section 46(4).
- (3)** Section 46(1) and (2)—
 omit, insert—
- ‘**46.(1)** The board consists of a chairperson, and at least 6 other members, appointed by the Minister.
- ‘**(2)** The person the Minister appoints as chairperson must be representative of industry.
- ‘**(3)** In appointing a person as a member, the Minister must consider the person’s practical experience, and competence, in the management of workplace health and safety.’.

Amendment of s 47 (Times of council meetings)

- Clause **35.(1)** Section 47, ‘council’—
 omit, insert—
 ‘board’.
- (2)** Section 47(3)(b), ‘quarter’—
 omit, insert—
 ‘third’.

	Amendment of s 48 (Conduct of proceedings)	1
Clause	36.(1) Section 48(1) and (3) to (7), ‘council’—	2
	<i>omit, insert—</i>	3
	‘board’.	4
	(2) Section 48(3)(a)—	5
	<i>omit, insert—</i>	6
	‘(a) a quorum is at least 4 members; and’.	7
	Amendment of s 49 (Disclosure of interests)	8
Clause	37.(1) Section 49(1) to (3), ‘council’—	9
	<i>omit, insert—</i>	10
	‘board’.	11
	(2) Section 49(2) and (3), ‘council’s’—	12
	<i>omit, insert—</i>	13
	‘board’s’.	14
	Amendment of s 50 (Minutes)	15
Clause	38. Section 50, ‘council’—	16
	<i>omit, insert—</i>	17
	‘board’.	18
	Amendment of pt 6, div 4, heading (Provisions about appointed council members)	19
		20
Clause	39. Part 6, division 4, heading, ‘council’—	21
	<i>omit, insert—</i>	22
	‘board’.	23

	Omission of s 51 (Application of division)	1
Clause	40. Section 51—	2
	<i>omit.</i>	3
	Amendment of s 52 (Duration of appointment)	4
Clause	41. Section 52(2)(c), ‘council’—	5
	<i>omit, insert—</i>	6
	‘board’.	7
	Amendment of s 53 (Leave of absence)	8
Clause	42. Section 53(3)—	9
	<i>omit.</i>	10
	Amendment of pt 6, div 5, heading (Industry committees)	11
Clause	43. Part 6, division 5, heading, after ‘ Industry ’—	12
	<i>insert—</i>	13
	‘ sector standing ’.	14
	Replacement of ss 55 and 56	15
Clause	44. Sections 55 and 56—	16
	<i>omit, insert—</i>	17
	‘Industry sector standing committees	18
	‘ 55.(1) The following industry sector standing committees of the board are established—	19
	(a) construction sector standing committee;	20
	(b) manufacturing sector standing committee;	21
	(c) rural sector standing committee;	22
	(d) services sector standing committee;	23
		24

(e) transport and storage sector standing committee.

(2) Also, the Minister may, by gazette notice, establish other industry sector standing committees for industry sectors.

‘Functions of industry sector standing committees

‘56.(1) The primary function of an industry sector standing committee is to give advice and make recommendations to the workplace health and safety board about workplace health and safety in the industry sector for which the committee is established.

‘(2) Without limiting subsection (1), the committee may discharge its primary function by—

- (a) examining the appropriateness of, and need for, setting workplace health and safety standards; and
- (b) considering issues referred to it by the board; and
- (c) recommending to the board that working parties be established to respond to workplace health and safety issues; and

Examples of responses under paragraph (c)—

- 1. Developing an industry code of practice.
- 2. Organising a workplace health and safety promotional program.

- (d) recommending to the board who should be a member of a working party; and
- (e) recommending to the board procedures for the operation of working parties.’.

Amendment of pt 6, div 6, heading (Membership and conduct of industry committee proceedings)

Clause 45. Part 6, division 6, heading, after ‘**industry**’—
insert—
‘**sector standing**’.

	Amendment of s 57 (Membership of industry committee)	1
Clause	46.(1) Section 57, heading, after ‘industry’—	2
	<i>insert—</i>	3
	‘sector standing’.	4
	(2) Section 57(1) to (3)—	5
	<i>omit, insert—</i>	6
	‘ 57.(1) An industry sector standing committee consists of a chairperson, and at least 6 other members, appointed by the Minister.	7
		8
	‘ (2) In appointing a person as a member, the Minister must consider the person’s practical experience, and competence, in the management of workplace health and safety.’.	9
		10
		11
	(3) Section 57(4), ‘industry’—	12
	<i>omit.</i>	13
	(4) Section 57(4)—	14
	<i>renumber</i> as section 57(3).	15
	Amendment of s 58 (Times of industry committee meetings)	16
Clause	47.(1) Section 58(1) and heading, after ‘industry’—	17
	<i>insert—</i>	18
	‘sector standing’.	19
	(2) Section 58(3)(b), ‘quarter’—	20
	<i>omit, insert—</i>	21
	‘third’.	22
	(3) Section 58(4), after ‘the Minister’—	23
	<i>insert—</i>	24
	‘or the board’.	25

	Amendment of s 59 (Conduct of industry committee proceedings)	1
Clause	48.(1) Section 59(1), (4) to (7) and heading, after ‘industry’—	2
	<i>insert—</i>	3
	‘sector standing’.	4
	(2) Section 59(3)(a)—	5
	<i>omit, insert—</i>	6
	‘(a) a quorum is at least half the members; and’.	7
	Amendment of s 60 (Disclosure of interests)	8
Clause	49. Section 60(1) to (3), after ‘industry’—	9
	<i>insert—</i>	10
	‘sector standing’.	11
	Amendment of s 61 (Minutes)	12
Clause	50. Section 61, after ‘industry’—	13
	<i>insert—</i>	14
	‘sector standing’.	15
	Amendment of pt 6, div 7, heading (Provisions about industry committee members)	16
Clause	51. Part 6, division 7, heading, after ‘ industry ’—	17
	<i>insert—</i>	18
	‘ sector standing ’.	19
	Amendment of s 66 (Definitions for part)	20
Clause	52. Section 66, definition “ union ”—	21
	<i>omit, insert—</i>	22
	‘ “ union ” means an employee association registered, or taken to be	23
		24

registered, as an organisation under the *Industrial Organisations Act 1997*.’.

Amendment of s 108 (General powers after entering places)

Clause 53.(1) Section 108(3)(e), before ‘conduct surveys’—

insert—

‘make inquiries or’.

(2) Section 108—

insert—

‘(6) A reasonable excuse does not include a matter of mere convenience.

Example of a matter of mere convenience—

1. An inspector visits an employer’s workplace to inspect plant involved in a workplace accident. The employer explains to the inspector that the plant is now at the employer’s other workplace. The employer claims to be too busy to unlock the other workplace for another week. This is a matter of mere convenience not a reasonable excuse.

2. An inspector visits an employer’s workplace to inspect plant. The employer claims that the plant can not be operated because the worker who normally operates the plant is not working then. However, another worker at the workplace is competent to operate the plant. The employer refuses to allow the other worker to operate the plant. This is a matter of mere convenience not a reasonable excuse.’.

Amendment of s 109 (Power to seize evidence etc.)

Clause 54. Section 109(1)(b), before ‘seizure’—

insert—

‘for an entry made with the occupier’s consent—’.

Amendment of s 122 (Power to require production of certain documents)

Clause 55.(1) Section 122(2) and (3), ‘subsection (1)(b)’—

omit, insert—

‘subsection (1)’.

	(2) Section 122(2), after ‘the employer,’—	1
	<i>insert—</i>	2
	‘person,’	3
	Amendment of s 165 (Limitation on time for starting proceedings)	4
Clause	56. Section 165(b), from ‘, but within’ to ‘the offence’—	5
	<i>omit.</i>	6
	Insertion of new s 168A	7
Clause	57. After section 168—	8
	<i>insert—</i>	9
	‘Costs of investigation	10
	‘168A.(1) If a court convicts a person of an offence against this Act, the	11
	court may order the person to pay the department’s reasonable costs of	12
	investigating the offence, including reasonable costs of preparing for the	13
	prosecution of the offence.	14
	‘(2) This section does not limit the orders for costs the court may make.’.	15
	Amendment of s 176 (Impersonating inspectors and others)	16
Clause	58. Section 176, ‘accredited officer’—	17
	<i>omit, insert—</i>	18
	‘accredited provider’.	19
	Amendment of pt 14, div 1, heading (Accredited officers)	20
Clause	59. Part 14, division 1, heading—	21
	<i>omit, insert—</i>	22
	‘Division 1—Accredited providers’.	23

	Amendment of s 177 (Appointment)	1
Clause	60. Section 177(1) and (2), ‘accredited officer’—	2
	<i>omit, insert—</i>	3
	‘accredited provider’.	4
	Amendment of s 178 (Functions of accredited officers)	5
Clause	61.(1) Section 178, heading, ‘accredited officers’—	6
	<i>omit, insert—</i>	7
	‘accredited providers’.	8
	(2) Section 178(1) and (2), ‘accredited officer’—	9
	<i>omit, insert—</i>	10
	‘accredited provider’.	11
	(3) Section 178(1), ‘accredited officer’s’—	12
	<i>omit, insert—</i>	13
	‘accredited provider’s’.	14
	Amendment of s 179 (Accredited officer’s appointment conditions)	15
Clause	62.(1) Section 179, heading, ‘Accredited officer’s’—	16
	<i>omit, insert—</i>	17
	‘Accredited provider’s’.	18
	(2) Section 179(1) and (2), ‘accredited officer’—	19
	<i>omit, insert—</i>	20
	‘accredited provider’.	21
	Amendment of s 180 (Accredited officer’s identity card)	22
Clause	63.(1) Section 180, heading ‘Accredited officer’s’—	23
	<i>omit, insert—</i>	24
	‘Accredited provider’s’.	25

(2) Section 180(1), (2)(a), (b) and (c) and (3), ‘accredited officer’— 1
omit, insert— 2
‘accredited provider’. 3

Amendment of s 181 (Production or display of accredited officer’s identity card) 4
5

Clause 64.(1) Section 181, heading, ‘accredited officer’s’— 6
omit, insert— 7
‘accredited provider’s’. 8
(2) Section 181, ‘accredited officer’— 9
omit, insert— 10
‘accredited provider’. 11
(3) Section 181, ‘accredited officer’s’— 12
omit, insert— 13
‘accredited provider’s’. 14

Amendment of s 182 (Revocation of accredited officer’s appointment) 15

Clause 65.(1) Section 182, heading, ‘accredited officer’s’— 16
omit, insert— 17
‘accredited provider’s’. 18
(2) Section 182, ‘accredited officer’s’— 19
omit, insert— 20
‘accredited provider’s’. 21
(3) Section 182, footnote, ‘accredited officer’— 22
omit, insert— 23
‘accredited provider’. 24

	Amendment of s 183 (Protection from liability—officials)	1
Clause	66. Section 183(1)(d)—	2
	<i>omit, insert—</i>	3
	‘(d) a member of the board or industry sector standing committee; and’.	4 5
	Omission of pt 16 (Regulations)	6
Clause	67. Part 16—	7
	<i>omit.</i>	8
	Amendment of pt 17, heading (Transitional provisions and repeals)	9
Clause	68. Part 17, heading ‘AND REPEALS’—	10
	<i>omit.</i>	11
	Insertion of new pt 17, div 1, heading	12
Clause	69. In part 17, before section 194—	13
	<i>insert—</i>	14
	‘ <i>Division 1—Transitional provisions for Act No. 25 of 1995</i> ’.	15
	Renumbering of s 194 (Existing health and safety officers)	16
Clause	70. Section 194—	17
	<i>renumber</i> as section 188.	18
	Renumbering of s 204A (Workplace Health and Safety Act 1989 references)	19 20
Clause	71. Section 204A—	21
	<i>renumber</i> as section 189.	22

	Insertion of new pt 17, div 2	1
Clause	72. After section 189 as renumbered—	2
	<i>insert—</i>	3
	<i>‘Division 2—Transitional provisions for the Workplace Health and Safety Amendment Act 1997</i>	4
		5
	‘Existing advisory standards	6
	‘190.(1) The <i>Workplace Health and Safety (Advisory Standards) Notice 1995</i> (the “ notice ”) is repealed.	7
		8
	‘(2) The following advisory standards mentioned in the notice, as in force at the commencement of this section, are continued in force as standards for 1 year after the commencement—	9
		10
		11
	(a) Code of Practice for Manual Handling;	12
	(b) Code of Practice for Plant;	13
	(c) Code of Practice for the Management of Hazardous Substances;	14
	(d) Code of Practice for the Selection, Provision and Use of Personal Protective Equipment;	15
		16
	(e) Workplace Health and Safety (First Aid) Advisory Standard 1996;	17
		18
	(f) Workplace Health and Safety (Noise) Advisory Standard 1996;	19
	(g) Workplace Health and Safety (Work Involving Repetition, Force, or Awkward Postures) Advisory Standard 1996.	20
		21
	‘(3) The following standards mentioned in the notice, as in force at the commencement of this section, are continued in force as industry codes of practice for 1 year after the commencement—	22
		23
		24
	(a) Code of Practice for Forest Harvesting;	25
	(b) Code of Practice for Manual Handling in the Building Industry;	26
	(c) Code of Practice for Manual Handling—The Handling of People;	27
	(d) Code of Practice for Project Amenities;	28
	(e) Code of Practice for Recreational Diving and Recreational	29

Workplace Health and Safety Amendment

Snorkelling at a Workplace;	1
(f) Code of Practice for Selection, Provision and Use of Personal Protective Equipment in Building Work;	2 3
(g) Code of Practice for the Safe Design and Operation of Tractors;	4
(h) Code of Practice for the Safe Treatment, Removal and Disposal of Asbestos—Cement Sheeting and Asbestos Coated Metal Sheeting;	5 6 7
(i) Code of Practice for the Storage and Use of Chemicals at Rural Workplaces;	8 9
(j) Code of Practice for the Use of Rural Plant at a Rural Workplace;	10
(k) Code of Practice for Workplace Amenities;	11
(l) Workplace Health and Safety (Asbestos Removal) Advisory Standard 1996;	12 13
(m) Workplace Health and Safety (Excavation) Advisory Standard 1996;	14 15
(n) Workplace Health and Safety (Falling Objects) Advisory Standard 1996;	16 17
(o) Workplace Health and Safety (Falls from Heights) Advisory Standard 1996;	18 19
(p) Workplace Health and Safety (Formwork) Advisory Standard 1996;	20 21
(q) Workplace Health and Safety (Scaffolding) Advisory Standard 1996;	22 23
(r) Workplace Health and Safety (Steel Construction) Advisory Standard 1996;	24 25
(s) Workplace Health and Safety (Work on Roofs) Advisory Standard 1996.	26 27
‘Existing accredited officers	28
‘191.(1) A person who, immediately before the commencement of this section, was an accredited officer is taken to have been appointed as an accredited provider at the commencement.	29 30 31

‘(2) This section is a law to which the *Acts Interpretation Act 1954*,
section 20A applies. 1
2

‘(3) This section expires on 1 July 1998.’. 3

Amendment of sch 1 (List of offences and penalties) 4

Clause 73. Schedule 1, section 2, entry for section 24(1)— 5
omit, insert— 6
‘24(1)³— 7
(a) death or grievous 8
bodily harm 800 penalty units or 2 years imprisonment 9
(b) substance exposure 500 penalty units or 1 year imprisonment 10
(c) bodily harm 500 penalty units or 1 year imprisonment 11
(d) otherwise 400 penalty units or 6 months imprisonment’. 12

Amendment of sch 3 (Dictionary) 13

Clause 74.(1) Schedule 3, definitions “**compliance standard**”, “**council**”,
“**risk**”, and “**standard**”— 14
omit. 15
(2) Schedule 3— 16
insert— 17
18

³ Section 24 imposes the penalty for contraventions of the provisions of part 3, divisions 2 and 3.

Workplace Health and Safety Amendment

‘ board ’ see section 44.	1
“bodily harm” see Criminal Code, section 1.4	2
“grievous bodily harm” see Criminal Code, section 1.5	3
“illness” includes a disease.	4
“risk” means risk of death, injury or illness.	5
“workplace health and safety” see section 22(1).	6
(3) Schedule 3, definition “personal protective equipment” , ‘disease’—	7 8
omit, insert—	9
‘illness’.	10
(4) Schedule 3, definition “work caused illness” , paragraph (a), ‘a disease’—	11 12
omit, insert—	13
‘an illness’.	14

-
- 4 Criminal Code, section 1—
“bodily harm” means any injury which interferes with health or comfort.
- 5 The Criminal Code, section 1—
“grievous bodily harm” means—
- (a) the loss of a distinct part or an organ of the body; or
 - (b) serious disfigurement; or
 - (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;
- whether or not treatment is or could have been available.

Workplace Health and Safety Amendment

(5) Schedule 3, definition “**work caused illness**”, paragraph (b),
‘disease’—

omit, insert—

‘illness’.

1

2

3

4