

Occupational Safety and Health Legislation Amendment Bill 2007

CONTENTS

Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2

Part 2 — *Occupational Safety and Health Act 1984* amended

3.	The Act amended in this Part	3
4.	Section 3 amended	3
5.	Section 23D amended	3
6.	Section 23E amended	3
7.	Section 23F amended	4
8.	Section 33 amended	4
9.	Section 35 amended	4
10.	Section 43 amended	4
11.	Section 51A amended	4
12.	Section 51G amended	4
13.	Section 51H amended	5
14.	Section 60 amended	5
15.	Section 60A inserted	5
	60A. Review of Commissioner's decisions under the regulations	5
16.	Schedule amended	6

Schedule 1 — Subject matter for regulations

Contents

Part 3 — *Industrial Relations*
***Act 1979* amended**

17.	The Act amended in this Part	7
18.	Section 8 amended	7
19.	Section 16 amended	7

Western Australia

LEGISLATIVE ASSEMBLY

**Occupational Safety and Health Legislation
Amendment Bill 2007**

A Bill for

**An Act to amend the *Occupational Safety and Health Act 1984* and to
make related amendments to the *Industrial Relations Act 1979*.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Occupational Safety and Health Legislation Amendment Act 2007*.

5 2. Commencement

This Act comes into operation as follows:

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent (“**assent day**”);
- 10 (b) sections 11, 12 and 15 — on a day fixed by proclamation;
- (c) section 13 and Part 3 — on the 28th day after assent day;
- (d) the rest of the Act — on the day after assent day.

**Part 2 — Occupational Safety and Health
Act 1984 amended**

3. The Act amended in this Part

5 The amendments in this Part are to the *Occupational Safety and Health Act 1984*.

4. Section 3 amended

Section 3(4) is amended by deleting “Crown.” and inserting instead —

10 “
Crown and the Crown is to be treated as the employer
of a police officer.
”.

5. Section 23D amended

15 (1) Section 23D(2) is amended by deleting “section 19 has” and inserting instead —

“ sections 19 and 19A have ”.

(2) Section 23D(3) is amended by inserting after “apply” —

“ and sections 20A, 23H and 23J have effect ”.

6. Section 23E amended

20 (1) Section 23E(2) is amended by deleting “section 19 has” and inserting instead —

“ sections 19 and 19A have ”.

(2) Section 23E(3) is amended by inserting after “apply” —

“ , and sections 20A and 23J have effect, ”.

s. 7

7. Section 23F amended

- (1) Section 23F(4) is amended by deleting “section 19 has” and inserting instead —

“ sections 19 and 19A have ”.

- 5 (2) Section 23F(5) is amended by inserting after “apply” —

“ , and sections 20A and 23J have effect, ”.

8. Section 33 amended

Section 33(2) is amended by deleting “Part” and inserting instead —

10 “ Act ”.

9. Section 35 amended

Section 35(1)(g) is amended by deleting “Part.” and inserting instead —

“ Act. ”.

15 **10. Section 43 amended**

Section 43(1)(k)(i)(II) is amended by deleting “39G(2),” and inserting instead —

“ 23G(2), ”.

11. Section 51A amended

20 Section 51A(2) is amended by deleting “in the prescribed form”.

12. Section 51G amended

Section 51G(1) is amended by deleting “(3) and 51A(1).” and inserting instead —

25 “ (3), 51A(1) and 60A. ”.

13. Section 51H amended

- (1) Section 51H(1) is amended by deleting paragraph (a) and “or” after it and inserting instead —

“

- 5 (a) by the commissioner designated under
section 16(1b) of the *Industrial Relations Act 1979* to exercise the jurisdiction; or

”.

- (2) After section 51H(3) the following subsection is inserted —

10 “

- (4) A person who is a commissioner may, even though the
person’s designation has ceased to have effect under
section 16(1c) of the *Industrial Relations Act 1979*,
continue and complete the hearing and determination
15 of part-heard proceedings after another commissioner
has been designated under section 16(1b) of that Act.

”.

14. Section 60 amended

20 Section 60(5) is amended by deleting “the Schedule.” and
inserting instead —

“ Schedule 1. ”.

15. Section 60A inserted

After section 60 the following section is inserted —

“

25 **60A. Review of Commissioner’s decisions under the
regulations**

- (1) In this section —

“reviewable decision” means —

- 30 (a) a decision made under the regulations by the
Commissioner himself or herself; and

s. 16

- 5 (b) a determination of the Commissioner on the review, under the regulations, of a decision made under the regulations by a person other than the Commissioner, whether or not the decision was made by that person as a delegate of the Commissioner,
- but does not include a decision made by a person acting as a delegate of the Commissioner.
- 10 (2) A person who is not satisfied with a reviewable decision may, within 14 days of receiving notice of the decision, refer the decision to the Tribunal for review.
- (3) On reference of a decision under subsection (2), the Tribunal is to inquire into the circumstances relevant to the decision and may —
- 15 (a) affirm the decision; or
- (b) set aside the decision; or
- (c) substitute for the decision any decision that the Tribunal considers the Commissioner should have made in the first instance.
- 20 (4) Pending the decision on a reference under this section, the operation of the reviewable decision is to continue, subject to any decision to the contrary made by the Tribunal.
- ”.

25 **16. Schedule amended**

The headings to the Schedule are deleted and the following is inserted instead —

“

Schedule 1 — Subject matter for regulations

30 [s. 60(5)]

”.

Part 3 — *Industrial Relations Act 1979* amended**17. The Act amended in this Part**

The amendments in this Part are to the *Industrial Relations Act 1979*.

5 18. Section 8 amended

Section 8(2a) is amended as follows:

- (a) by deleting all of the subsection before paragraph (a) and inserting instead —

“

- 10 (2a) At least one commissioner who holds office under subsection (2)(d) must, in addition to the other attributes required for appointment, have —

”;

- 15 (b) in paragraph (b) by deleting “that Act,” and inserting instead —

“ the *Occupational Safety and Health Act 1984*, ”;

- (c) by deleting all of the subsection after paragraph (b) and inserting instead —

“

- 20 sufficient for exercising the jurisdiction that the commissioner designated under section 16(1b) is required to exercise.

”.

19. Section 16 amended

- 25 After section 16(1a) the following subsections are inserted —

“

- (1b) The Chief Commissioner must, in writing, designate one commissioner, who holds office under section 8(2)(d) and who satisfies the additional requirements referred to in section 8(2a), to exercise
- 30

s. 19

the jurisdiction conferred by the *Occupational Safety and Health Act 1984* section 51G.

(1c) Without affecting the Chief Commissioner's duty under subsection (1b) to ensure that, at any one time, one commissioner is designated, the Chief Commissioner —

(a) may at or after the time when a commissioner is designated under subsection (1b), in writing, specify a date when the designation ceases to have effect; and

(b) may, in writing, vary any date so specified.

(1d) The designation of a commissioner under subsection (1b) to exercise the jurisdiction conferred by the *Occupational Safety and Health Act 1984* section 51G does not preclude the commissioner from also performing other functions as a commissioner under this Act.

(1e) On the commencement of the *Occupational Safety and Health Legislation Amendment Act 2007* section 19, the commissioner whose appointment satisfies the requirements of section 8(2a) is to be taken to be designated under subsection (1b) to exercise the jurisdiction conferred by the *Occupational Safety and Health Act 1984* section 51G.

”.

=====