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MESSAGE No. 140

Mr Speaker

The Legislative Council acquaints the Legislative Assembly that it has agreed to the *Work Health and Safety Bill 2019* subject to the amendments contained in the Schedule annexed; in which amendments the Legislative Council desires the concurrence of the Legislative Assembly.

A handwritten signature in blue ink, appearing to read "K Doust".

Hon Kate Doust
President of the Legislative Council

Legislative Council Chamber
Perth, 21 October 2020

Schedule indicating the amendments made by the Legislative Council in the Work Health and Safety Bill 2019

No. 1

Clause 2, page 2, line 8 — To insert after “Royal Assent;”:

(assent day)

No. 2

Clause 2, page 2, after line 8 — To insert:

(aa) Part 14, other than Divisions 1 to 3 — on the day after assent day;

No. 3

Clause 2, page 2, after line 9 — To insert:

(2) However, if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on assent day, this Act is repealed on the day after that period ends.

No. 4

Clause 4, page 7, lines 11 and 12 — To delete the lines and insert:

industrial manslaughter — see section 30A;

No. 5

Clause 5, page 12, after line 15 — To insert:

(7A) A strata company that is responsible for any common areas used only for residential purposes may be taken not to be a person conducting a business or undertaking in relation to those premises.

(7B) Subsection (7A) does not apply if the strata company engages any worker as an employee.

No. 6

Clause 5, page 12, after line 16 — To insert:

strata company means a body corporate established under section 14 of the *Strata Titles Act 1985* on registration of a strata titles scheme;

No. 7

Clause 12A, page 15, lines 4 to 9 — To delete the clause.

No. 8

Clause 12B, page 15, line 21 — To delete the line.

No. 9

Clause 30, page 34, after line 26 — To insert:

serious harm, in relation to an individual, means an illness or injury that —

- (a) endangers, or is likely to endanger, the individual's life; or
- (b) results, or is likely to result, in permanent injury or harm to the individual's health.

No. 10

Clause 30A, page 35, line 3 — To insert after “crime”:

(industrial manslaughter)

No. 11

Clause 30A, page 35, line 12 — To insert after “of”:

, or serious harm to,

No. 12

Clause 30A, page 35, line 19 — To delete “an offence under section 30B(1).” and insert:

a Category 1 offence, a Category 2 offence or a Category 3 offence.

No. 13

Clause 30A, page 35, line 20 — To insert after “crime”:

(industrial manslaughter)

No. 14

Clause 30A, page 36, line 7 — To insert after “of”:

, or serious harm to,

No. 15

Clause 30A, page 36, line 12 — To delete “an offence under section 30B(3).” and insert:

a Category 1 offence, a Category 2 offence or a Category 3 offence.

No. 16

Clause 30B, page 36, line 13 to page 37, line 10 — To delete the clause.

No. 17

Clause 31, page 37, line 17 — To delete “serious harm to” and insert:

the death of, or serious harm to,

No. 18

Clause 32, page 38, line 16 — To delete “a Category 2 offence” and insert:

an offence (a *Category 2 offence*)

No. 19

Clause 33, page 39, line 2 — To delete “a Category 3 offence” and insert:

an offence (a *Category 3 offence*)

No. 20

Clause 216, page 143, line 11 — To delete “an industrial manslaughter offence” and insert:

industrial manslaughter

No. 21

Clause 223, page 146, after line 9, the Table after item 5 — To insert:

5A.	Section 155A(6)(b) (decision to withhold approval of legal practitioner on other reasonable grounds)	The witness.
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No. 22

Clause 230, page 159, lines 11 and 12 — To delete “, other than an industrial manslaughter offence under section 30A,”.

No. 23

Clause 230, page 159, lines 21 to 23 — To delete the lines and insert:

- (3) Nothing in this section affects —
 - (a) the ability of an authorised officer (as defined in the *Criminal Procedure Act 2004* section 80(1)) to commence or conduct a prosecution for an offence against this Act; or
 - (b) the functions of the DPP under the *Director of Public Prosecutions Act 1991*.

No. 24

Clause 231, page 159, lines 27 and 28 — To delete “an industrial manslaughter offence,” and insert:

industrial manslaughter,

No. 25

Clause 231, page 160, line 17 to page 161, line 10 — To delete the lines.

No. 26

Clause 232, page 161, lines 15 and 16 — To delete “an industrial manslaughter offence under section 30A,” and insert:

industrial manslaughter,

No.27

Clause 232, page 161, lines 31 and 32 — To delete “an industrial manslaughter offence under section 30B, or for a Category 1 offence,” and insert:

a Category 1 offence

No. 28

Clause 232, page 162, lines 5 to 21 — To delete the lines and insert:

- (3) Subsections (4) and (4A) apply to proceedings (the *relevant proceedings*) against a person for a Category 1 offence, a Category 2 offence or a Category 3 offence in relation to any conduct (the *relevant conduct*).
- (4) The relevant proceedings may be brought after the end of the applicable limitation period in subsection (1) if—
 - (a) either —
 - (i) the DPP has considered whether proceedings for industrial manslaughter should be brought against the person in relation to the relevant conduct or to any conduct that includes the relevant conduct, and has decided not to bring those proceedings; or
 - (ii) the DPP has discontinued proceedings for industrial manslaughter against the person in relation to the relevant conduct or to any conduct that includes the relevant conduct;
 - and
 - (b) the relevant proceedings are brought no later than 6 months after the day on which the DPP made that decision or discontinued those proceedings.
- (4A) Despite section 230(1), the relevant proceedings may only be brought under subsection (4) by an authorised officer (as defined in the *Criminal Procedure Act 2004* section 80(1)).

No. 29

Clause 232, page 162, lines 22 to 26 — To delete the lines and insert:

- (5) A person may be convicted of an offence as provided for by section 30A(2) or (4) despite subsection (1) and section 10A(2) of *The Criminal Code*.

No.30

Clause 272A, page 178, line 7 — To delete “\$55 000” and insert:

\$51 000

No.31

Clause 272A, page 178, line 8 — To delete “\$285 000” and insert:

\$255 000

No. 32

Clause 274, page 179, after line 21 — To insert:

- (7) The Minister must make available on the WHS Department’s website, without charge —
 - (a) a copy of each code of practice that is currently approved; and
 - (b) the identity of each document applied, adopted or incorporated (to any extent) by an approved code of practice and, unless doing so would infringe copyright, a copy of that document.

No. 33

Clause 277, page 181, line 24 — To delete the line and insert:

on which this section comes into operation; and

No. 34

Clause 277, page 181, after line 32 — To insert:

- (3) If, in the Minister’s opinion, a House of Parliament will not sit during the period of 21 days after finalisation of the report, the Minister must send the report to the Clerk of the House.
- (4) When the report is sent to the Clerk of a House it is taken to have been laid before the House.
- (5) The laying of the report that is taken to have occurred under subsection (4) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk receives the report.

No. 35

Clause 288, page 186, lines 7 to 21 — To delete the clause.

No. 36

New Clause 288, page 186, after line 21 — To insert:

288. Section 96A deleted

Delete section 96A.

No. 37

Clause 417, page 249, lines 10 and 11 — To delete the lines.

No. 38

Clause 417, page 249, line 28 — To delete “health and safety”.

No. 39

Clause 417, page 250, line 4 — To delete “health and safety”.

No. 40

Schedule 1, page 253, lines 1 to 31 — To delete the Schedule.

No. 41

Schedule 2, page 273, line 23 to page 274, line 10 — To delete the lines.

No. 42

Long Title, page 1, the 4th bullet point — To delete “and” the second time it occurs.

No. 43

Long Title, page 1 — To delete the 5th bullet point.

A handwritten signature in blue ink, appearing to be 'M. Hall', with a long horizontal stroke extending to the right.

Clerk of the Legislative Council