

Western Australia

Occupational Safety and Health Amendment Bill 2002

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Western Australia

LEGISLATIVE ASSEMBLY

Occupational Safety and Health Amendment Bill 2002

A Bill for

An Act to amend the *Occupational Safety and Health Act 1984* to extend its operation to police officers, and for related purposes.

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Occupational Safety and Health Amendment Act 2002*.

2. Commencement

- (1) This Act, other than the provision set out in subsection (2), comes into operation on the last day of the period of 12 months after the day on which it receives the Royal Assent.
- 5 (2) Section 8 comes into operation on the day on which this Act receives the Royal Assent.

3. The Act amended

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

10 [* Reprinted as at 22 March 1999.
For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 260.]

4. Section 3 amended

- 15 (1) Section 3(1) is amended by inserting the following definitions in the appropriate alphabetical positions —

“

“**Commissioner of Police**” means the person holding the office of Commissioner of Police under the *Police Act 1892*;

20 “**police officer**” means a person appointed —

- (a) under Part I of the *Police Act 1892* to be a member of the Police Force of Western Australia;
- (b) under Part III of the *Police Act 1892* to be a special constable; or
- 25 (c) under Part IIIA of the *Police Act 1892* to be an aboriginal aide;

30 “**WA Police**” means the Police Force of Western Australia provided for by the *Police Act 1892*;

”.

(2) After section 3(3) the following subsections are inserted —

“

(4) For the purposes of this Act, a police officer is to be treated as an employee of the Crown.

5 (5) Without limiting any other provision of this Act, a police officer is at work during any period of time when the officer is performing a function of a police officer, whether or not the officer is rostered on duty and, in relation to a police officer, the expressions
10 “work” and “at work” are to be construed accordingly.

”

5. Section 4 amended

After section 4(1) the following subsection is inserted —

“

15 (1a) The functions that the Crown has under this Act because a police officer is to be treated as an employee of the Crown are, so far as they concern a police officer, to be performed by the Commissioner of Police.

”

20 **6. Section 4A inserted**

After section 4 the following section is inserted —

“

4A. Act does not operate to affect adversely certain police operations

25 (1) In this section —

“**covert operation**” means the performance of a function of a police officer in circumstances where —

30 (a) a covert operation is undertaken by WA Police for the purpose of obtaining information about criminal activity;

s. 6

- 5
- (b) performance of the function is not practicable without exposing a police officer to a risk of imminent and serious injury or imminent and serious harm to the police officer's health; and
- (c) unless the performance of the function is secret or confidential, it would be likely that —
- 10
- (i) the effectiveness of the performance of the function is reduced; or
- (ii) a person is exposed to the danger of physical harm arising from the actions of another person;
- 15
- “dangerous operation”** means the performance of a function of a police officer in circumstances where performance of that function —
- (a) is reasonably necessary; and
- (b) is not practicable without exposing a police officer to a risk of imminent and serious injury or imminent and serious harm to the police officer's health.
- 20
- (2) A police officer cannot refuse to work as mentioned in section 26(1) if the refusal to work would adversely affect, or could reasonably be expected to affect adversely, a covert operation or a dangerous operation.
- 25
- (3) An inspector cannot issue a prohibition notice under section 49(1) to prohibit an activity if prohibiting the carrying on of the activity would adversely affect, or could reasonably be expected to affect adversely, a covert operation or a dangerous operation.
- 30

”.

7. **Section 43 amended**

Section 43(3) is amended by inserting after “work or work process” —

“

5 or affecting adversely a covert operation within the meaning of section 4A(1)

”.

8. **Election of safety and health representatives by police officers before the commencement of this Act**

10 (1) In this section —

“**commencement day**” means the day on which this Act comes into operation;

15 “**police officer**” has the same meaning as it has in section 3(1) of the *Occupational Safety and Health Act 1984* on and after the commencement day;

“**transition period**” means the period of 9 months ending immediately before the commencement day.

20 (2) The provisions listed in the Table to this subsection are to be treated as being in operation during the transition period for the purposes of allowing police officers to elect safety and health representatives for a workplace and for the training of those representatives during that period.

Table

1. This Act

s. 4
s. 5

2. Occupational Safety and Health Act 1984

s. 3(1) s. 32(2)(b) and (c)
s. 29 s. 35(1)(e)
s. 30 s. 35(3)(b)
s. 31 s. 56(1)
s. 32(1)

3. Occupational Safety and Health Regulations 1996

r. 2.2

s. 8

- (3) The term of a safety and health representative elected before the commencement day begins, for the purpose of section 32(1) of the *Occupational Safety and Health Act 1984*, on the commencement day.
- 5 (4) Despite subsection (3), regulation 2.2(3) of the *Occupational Safety and Health Regulations 1996* applies to a safety and health representative elected before the commencement day in relation to the first 12 months of being so elected.

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