

COMMITTEE NOTES
OCCUPATIONAL SAFETY AND HEALTH (VALIDATION) BILL 1998

CURRENT LEGISLATION	PROPOSED LEGISLATION	NOTES
NA	<p>1. Short title</p> <p>This Act may be cited as the Occupational Safety and Health (Validation) Act 1998.</p> <p>2. Commencement</p> <p>This Act comes into operation on the day on which it receives the Royal Assent.</p> <p>3. Validation</p> <p>(1) In this section –</p> <p>“Commissioner” means –</p> <p style="padding-left: 40px;">(a) the Commissioner for Occupational Health, Safety and Welfare within the meaning of the <i>Occupational Health, Safety and Welfare Act 1984</i> as in force before 1 October 1995; or</p> <p style="padding-left: 40px;">(b) the WorkSafe Western Australia Commissioner within the meaning of the <i>Occupational Safety and Health Act 1984</i> as in force from 1 October 1995.</p>	<p>This is an Act to retrospectively validate past actions of the WorkSafe Western Australia Commissioner.</p> <p>These “past actions” are in respect to prosecutions initiated under a delegation issued by the Commissioner under section 52 of the <i>Occupational Safety and Health Act 1984</i> in periods when there was a deficiency in the appointment of the Commissioner.</p> <p>The Act defines “Commissioner” in order to clarify certain matters.</p> <p>Some of the past actions of the Commissioner were initiated prior to 1 October 1995, when the Commissioner’s title was “Commissioner for Occupational Health, Safety and Welfare”, as specified in the <i>Occupational Health, Safety and Welfare Act 1984</i>. On 1 October 1995, the <i>Occupational Safety and Health Legislation Amendment Act 1995</i> was proclaimed, giving effect to a number of changes to the <i>Occupational Health, Safety and Welfare Act 1984</i>. This included amending the title of the Act to the <i>Occupational Safety and Health Act 1984</i>, and changing the Commissioner’s title to the “WorkSafe Western Australia Commissioner”.</p> <p>A number of appointments of the Commissioner, however, continued to refer to the “Commissioner for Occupational Health, Safety and Welfare” when it should have been “WorkSafe Western Australia Commissioner”. The definition provided in the <i>Occupational Safety and Health (Validation) Act 1998</i> removes any legal uncertainties surrounding this matter.</p>

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	<p>(2) No act, matter or thing done before 8 October 1996 –</p> <p style="padding-left: 40px;">(a) by or in respect of William Neil Bartholomaeus; or</p> <p style="padding-left: 40px;">(b) under the direction, authority or control or purported direction, authority or control of, or pursuant to a delegation or purported delegation made by, William Neil Bartholomaeus,</p> <p style="padding-left: 40px;">in his capacity or purported capacity as Commissioner is, or ever has been, invalid by reason that there was a defect in his appointment as Commissioner, or that he had not been appointed at all.</p> <p>(3) Each act, matter or thing referred to in subsection (2) is, and always has been, as valid, effective and authorised by the Act as it would have been if William Neil Bartholomaeus had been duly appointed as Commissioner at the time the act, matter or thing was done, the direction, authority or control exercised or the delegation made.</p>	<p>On 8 October 1996 Mr Neil Bartholomaeus was appointed as the WorkSafe Western Australia Commissioner until 23 September 2001. Any actions of the Commissioner after 8 October 1996 are valid. This Act therefore retrospectively validates actions of the Commissioner prior to 8 October 1996.</p>