



New South Wales

Occupational Health and Safety Amendment (Prosecutions) Act 2003 No 83

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Occupational Health and Safety Act 2000 No 40	2
Schedule 1 Amendments	3



New South Wales

Occupational Health and Safety Amendment (Prosecutions) Act 2003 No 83

Act No 83, 2003

An Act to amend the *Occupational Health and Safety Act 2000* with respect to prosecutions for offences. [Assented to 3 December 2003]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Occupational Health and Safety Amendment (Prosecutions) Act 2003*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Occupational Health and Safety Act 2000 No 40

The *Occupational Health and Safety Act 2000* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 106 Authority to prosecute

Omit “the Minister” from section 106 (1) (a).

Insert instead “a Minister of the Crown”.

[2] Section 106 (2)

Omit “the Minister” where firstly occurring.

Insert instead “a Minister”.

[3] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Occupational Health and Safety Amendment (Prosecutions)
Act 2003*

[4] Schedule 3, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of Occupational Health and Safety Amendment (Prosecutions) Act 2003

18 Definitions

In this Part:

amending Act means the *Occupational Health and Safety Amendment (Prosecutions) Act 2003*.

former Act means the *Occupational Health and Safety Act 1983*.

proceedings includes purported proceedings.

terminated includes stayed, dismissed or not proceeded with for any other reason (including nullity).

19 Application of amendments to offences

- (1) Section 106, as amended by the amending Act, extends to proceedings relating to offences under this Act or the regulations committed before the commencement of the amending Act.
- (2) Section 106, as amended by the amending Act, extends (by the operation of clause 13) to proceedings relating to offences under the former Act or regulations under that Act.
- (3) This clause applies whether any proceedings referred to in this clause were or are instituted before, on or after the commencement of the amending Act or are pending on that commencement.
- (4) In the case of proceedings instituted under section 48 of the former Act before that commencement, section 48 (1) (a) of that Act is to be construed as if a reference to the Minister in that paragraph was and always had been a reference to any Minister of the Crown.
- (5) In the case of any proceedings referred to in this clause that were instituted before that commencement, any such proceedings are taken to have been validly instituted, and to have always been validly instituted, if they were consented to by a Minister of the Crown.

20 Terminated proceedings

- (1) This clause applies to proceedings terminated in the Industrial Relations Commission before the commencement of the amending Act if:
 - (a) the proceedings related to alleged offences under this Act or the former Act or the regulations under those Acts, and
 - (b) the proceedings were consented to by a Minister of the Crown and were terminated merely because the proceedings were invalidly instituted, and
 - (c) the proceedings would have been taken to have been validly instituted if the amending Act had commenced before the proceedings were terminated.
- (2) Any such proceedings may be recommenced, on the basis of the applications and other documents by which those proceedings were last commenced and without any further

consent being required, whether or not the time for commencing such proceedings has expired under this or any other Act and despite any changes to the manner of commencing proceedings since they were last commenced.

- (3) If any terminated proceedings are recommenced, any thing done in the terminated proceedings (other than the termination of the proceedings) is taken to have been done in the recommenced proceedings.

[Second reading speech made in—

Legislative Council on 2 December 2003

Legislative Assembly on 2 December 2003]

BY AUTHORITY