



New South Wales

Work Health and Safety Amendment Bill 2023

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Work Health and Safety Act 2011* (***the Act***) to incorporate amendments made to the *Model Work, Health and Safety Act* (the ***model Act***) relating to the following—
 - (i) penalty amounts,
 - (ii) liability of bodies corporate for the conduct of officers, employees and agents,
 - (iii) the powers and responsibilities of inspectors,
 - (iv) prohibited asbestos notices,
 - (v) prohibiting a person from taking out insurance for penalties imposed under the Act,
- (b) to amend the Act to make provision for the establishment of a register to monitor the health of workers exposed to silica dust,
- (c) to amend the *Work Health and Safety Regulation 2017* to incorporate increased penalty amounts in line with penalty increases incorporated in the *Model Work Health and Safety Regulations* (the ***model Regulations***).

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act.

Schedule 1 Amendment of Work Health and Safety Act 2011 No 10

Schedule 1[1] and [2] incorporate certain definitions in the definitions section.

Schedule 1[3] extends criminal liability for gross negligence or reckless conduct to an individual acting in the individual's capacity as an officer of a person conducting a business or undertaking.

Schedule 1[4]–[15], [17], [28], [32] and [37] increase maximum penalties in line with the equivalent increases in the model Act. **Schedule 1[29]** is a consequential amendment.

Schedule 1[16], [23] and [30] make minor amendments to the powers and functions of inspectors.

Schedule 1[18] inserts proposed Part 10, Division 2A. The proposed division provides for—

- (a) the regulator to issue prohibited asbestos notices, and
- (b) the content of prohibited asbestos notices, and
- (c) related compliance matters.

Schedule 1[19], [20], [22] and [24]–[27] are consequential amendments.

Schedule 1[21] is a minor amendment to clarify the effect of section 204(b).

Schedule 1[31] inserts proposed sections 244–244D to provide that the conduct of officers, employees and agents of a body corporate may be taken to be the conduct of the body corporate. The proposed sections reflect equivalent sections in the model Act.

Schedule 1[33] proposes to amend section 272A to clarify the operation of the section and to provide that a contract is void to the extent it provides for insurance cover for monetary penalties under the Act. **Schedule 1[39]** inserts a consequential transitional provision.

Schedule 1[34] inserts proposed Part 14, Division 1A. The proposed division provides for the establishment of and access to a silica worker register to monitor the health of workers exposed to silica dust.

Schedule 1[35] and [36] make minor amendments to section 274 to simplify the process for making minor amendments to an approved code of practice.

Schedule 1[38] makes amendments to the Act, Schedule 3 to clarify regulation-making powers relating to—

- (a) registers, and
- (b) the approval or authorisation by the regulator of training providers and courses.

Schedule 2 Amendment of Work Health and Safety Regulation 2017

Schedule 2[1] omits the definitions of *asbestos* and *asbestos containing material* as the terms are now defined in the Act, proposed section 197A.

Schedule 2[2]–[4] increase maximum penalties in line with the equivalent increases in the model Regulations.

Schedule 2[5] provides that a police officer is an authorised officer who may issue a penalty notice to a food delivery rider.

Schedule 2[6] is consequential to Schedule 1[17], proposed section 197B, which provides for the issue of prohibited asbestos notices.



New South Wales

Work Health and Safety Amendment Bill 2023

Contents

| | | Page |
|-------------------|--|-----------|
| | 1 Name of Act | 2 |
| | 2 Commencement | 2 |
| Schedule 1 | Amendment of Work Health and Safety Act 2011 No 10 | 3 |
| Schedule 2 | Amendment of Work Health and Safety Regulation 2017 | 13 |



New South Wales

Work Health and Safety Amendment Bill 2023

No. , 2023

A Bill for

An Act to amend the *Work Health and Safety Act 2011* to incorporate amendments to the national *Model Work Health and Safety Act* relating to penalty amounts, prohibited asbestos notices, the powers and responsibilities of inspectors and the liability of corporations for the actions of officers, employees and agents; to make provision for a register of workers exposed to silica dust; and for related purposes.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Work Health and Safety Amendment Act 2023*.

2 Commencement

This Act commences as follows—

- (a) Schedule 1[2], [18]–[20], [22], [24]–[27] and Schedule 2[1] and [6]—on the day that is 6 months after the date of assent to this Act,
- (b) Schedule 1[4]–[15], [17], [28], [32] and [37] and Schedule 2[2]–[4]—on 1 July 2024,
- (c) otherwise—on the date of assent to this Act.

| | | |
|--|--|----|
| Schedule 1 | Amendment of Work Health and Safety Act 2011 | 1 |
| | No 10 | 2 |
| [1] Section 4 Definitions | | 3 |
| Insert in alphabetical order— | | 4 |
| | <i>authorised person</i> , in Part 13, Division 4—see section 244. | 5 |
| | <i>board of directors</i> , in Part 13, Division 4—see section 244. | 6 |
| [2] Section 4 | | 7 |
| Insert in alphabetical order— | | 8 |
| | <i>asbestos</i> , in Part 10, Division 2A—see section 197A. | 9 |
| | <i>asbestos containing material (ACM)</i> , in Part 10, Division 2A—see section 197A. | 10 |
| | <i>prohibited asbestos</i> , in Part 10, Division 2A—see section 197A. | 11 |
| | <i>relevant person</i> , in Part 10, Division 2A—see section 197A. | 12 |
| [3] Section 31 Gross negligence or reckless conduct—Category 1 | | 13 |
| Omit section 31(1)(b). Insert instead— | | 14 |
| | (b) the person, without reasonable excuse, engages in conduct that— | 15 |
| | (i) exposes an individual, to whom the duty is owed, to a risk of death or serious injury or illness, or | 16 |
| | (ii) if the person is an officer of a person conducting a business or undertaking—exposes an individual, to whom the person conducting a business or undertaking owes a health and safety duty, to a risk of death or serious injury or illness, and | 17 |
| [4] Section 31(1), penalty provision | | 18 |
| Omit the penalty provision. Insert instead— | | 19 |
| | Maximum penalty— | 20 |
| | (a) for an individual, as a person conducting a business or undertaking or an officer of a person conducting a business or undertaking—18,805 penalty units or 10 years imprisonment, or both, or | 21 |
| | (b) for an individual, otherwise—9,038 penalty units or 10 years imprisonment, or both, or | 22 |
| | (c) for a body corporate—90,424 penalty units. | 23 |
| [5] Section 32 Failure to comply with health and safety duty—Category 2 | | 24 |
| Omit the penalty provision. Insert instead— | | 25 |
| | Maximum penalty— | 26 |
| | (a) for an individual, as a person conducting a business or undertaking or an officer of a person conducting a business or undertaking—3,626 penalty units, or | 27 |
| | (b) for an individual, otherwise—1,813 penalty units, or | 28 |
| | (c) for a body corporate—18,128 penalty units. | 29 |
| [6] Section 33 Failure to comply with health and safety duty—Category 3 | | 30 |
| Omit the penalty provision. Insert instead— | | 31 |
| | Maximum penalty— | 32 |

| | | |
|-------------|---|-------------|
| | (a) for an individual, as a person conducting a business or undertaking or an officer of a person conducting a business or undertaking—1,214 penalty units, or | 1 2 3 |
| | (b) for an individual, otherwise—607 penalty units, or | 4 |
| | (c) for a body corporate—6,070 penalty units. | 5 |
| [7] | Sections 38(1), 39(1), 52(5), 56(2), 61(4), 70(1) and (2), 71(2), 72(7), 79(1), (3) and (4), 155(5), 165(2), 171(6), 177(2) and (6), 185(4), 188, 189, 268(1) and (2) and 271(2) and (4) | 6 7 |
| | Omit the penalty provision wherever occurring. Insert instead— | 8 |
| | Maximum penalty— | 9 |
| | (a) for an individual—121 penalty units, or | 10 |
| | (b) for a body corporate—607 penalty units. | 11 |
| [8] | Sections 38(7), 75(1), 97, 210 and 273 | 12 |
| | Omit the penalty provision wherever occurring. Insert instead— | 13 |
| | Maximum penalty— | 14 |
| | (a) for an individual—61 penalty units, or | 15 |
| | (b) for a body corporate—304 penalty units. | 16 |
| [9] | Sections 41, 99(2), 193, 200(1), 219 and 242(1) | 17 |
| | Omit the penalty provision wherever occurring. Insert instead— | 18 |
| | Maximum penalty— | 19 |
| | (a) for an individual—607 penalty units, or | 20 |
| | (b) for a body corporate—3,036 penalty units. | 21 |
| [10] | Sections 42–46 and 47(1) | 22 |
| | Omit the penalty provision wherever occurring. Insert instead— | 23 |
| | Maximum penalty— | 24 |
| | (a) for an individual—243 penalty units, or | 25 |
| | (b) for a body corporate—1,214 penalty units. | 26 |
| [11] | Sections 53, 57 and 74(1) | 27 |
| | Omit the penalty provision wherever occurring. Insert instead— | 28 |
| | Maximum penalty— | 29 |
| | (a) for an individual—25 penalty units, or | 30 |
| | (b) for a body corporate—121 penalty units. | 31 |
| [12] | Sections 104(1), 107, 108(1), 109(1) and 197 | 32 |
| | Omit the penalty provision wherever occurring. Insert instead— | 33 |
| | Maximum penalty— | 34 |
| | (a) for an individual—1,206 penalty units, or | 35 |
| | (b) for a body corporate—6,028 penalty units. | 36 |
| [13] | Sections 118(3), 124–126, 128, 129, 143, 144(1), 145, 146, 147(1) and 148 | 37 |
| | Omit the penalty provision wherever occurring. Insert instead— | 38 |
| | Maximum penalty— | 39 |

| | | |
|-------------|--|----------------------|
| | (a) for an individual—121 penalty units, or | 1 |
| | (b) for a body corporate—607 penalty units. | 2 |
| [14] | Section 123 Contravening WHS entry permit conditions | 3 |
| | Omit the penalty provision. Insert instead— | 4 |
| | Maximum penalty—243 penalty units. | 5 |
| [15] | Section 150 Union to provide information to authorising authority | 6 |
| | Omit the penalty provision. Insert instead— | 7 |
| | Maximum penalty— | 8 |
| | (a) for an individual—61 penalty units, or | 9 |
| | (b) for a body corporate—304 penalty units. | 10 |
| [16] | Section 162 Inspectors subject to regulator’s directions | 11 |
| | Insert after section 162(2)— | 12 |
| | (3) If exercising a compliance power requires an inspector to have a reasonable belief or reasonable suspicion as to a matter or to be satisfied of a thing, the regulator must not direct the inspector to exercise the compliance power unless the inspector has the belief or suspicion or is satisfied of the thing. | 13 14 15 16 |
| [17] | Section 190 Offence to assault, threaten or intimidate inspector | 17 |
| | Omit the penalty provision. Insert instead— | 18 |
| | Maximum penalty— | 19 |
| | (a) for an individual—607 penalty units or 2 years imprisonment, or both, or | 20 21 |
| | (b) for a body corporate—3,036 penalty units. | 22 |
| [18] | Part 10, Division 2A | 23 |
| | Insert after Division 2— | 24 |
| | Division 2A Prohibited asbestos notices | 25 |
| | 197A Definitions | 26 |
| | In this division— | 27 |
| | <i>asbestos</i> means the asbestiform varieties of mineral silicates belonging to the serpentine or amphibole groups of rock forming minerals, including the following— | 28 29 30 |
| | (a) actinolite asbestos, | 31 |
| | (b) grunerite (or amosite) asbestos (brown), | 32 |
| | (c) anthophyllite asbestos, | 33 |
| | (d) chrysotile asbestos (white), | 34 |
| | (e) crocidolite asbestos (blue), | 35 |
| | (f) tremolite asbestos, | 36 |
| | (g) a mixture that contains 1 or more of the minerals referred to in paragraphs (a) to (f). | 37 38 |
| | <i>asbestos containing material (ACM)</i> means any material or thing that, as part of its design, contains asbestos. | 39 40 |

| | |
|--|----------------------|
| <i>prohibited asbestos</i> means asbestos or ACM, fixed or installed in a workplace on or after 31 December 2003. | 1 2 |
| <i>relevant person</i> in relation to a workplace means— | 3 |
| (a) a person conducting a business or undertaking at the workplace, or | 4 |
| (b) a person with management or control of the workplace, or | 5 |
| (c) a person with management or control of fixtures, fittings or plant at the workplace, or | 6 7 |
| (d) a person who the regulator reasonably believes is or was involved in, or caused, whether directly or indirectly, the fixing or installing of prohibited asbestos at the workplace. | 8 9 10 |
| 197B Issue of prohibited asbestos notices | 11 |
| The regulator must issue a prohibited asbestos notice to a relevant person in relation to a workplace if the regulator reasonably believes prohibited asbestos is present in the workplace. | 12 13 14 |
| 197C Contents of prohibited asbestos notices | 15 |
| (1) A prohibited asbestos notice must state— | 16 |
| (a) that the regulator believes prohibited asbestos is present in the workplace and the basis of that belief, and | 17 18 |
| (b) details of the prohibited asbestos, including the location, type and condition of the prohibited asbestos, and | 19 20 |
| (c) directions in relation to specific measures the relevant person to whom the prohibited asbestos notice is issued is required to take in relation to the prohibited asbestos, including in relation to the management and removal of the prohibited asbestos, and | 21 22 23 24 |
| (d) the day by which the relevant person to whom the prohibited asbestos notice is issued is required to comply with the prohibited asbestos notice. | 25 26 27 |
| (2) The day stated for compliance with the prohibited asbestos notice must be reasonable in all the circumstances. | 28 29 |
| (3) The regulations may prescribe factors that must be considered by the regulator when determining specific measures the relevant person to whom a prohibited asbestos notice is issued is required to take in relation to prohibited asbestos. | 30 31 32 |
| 197D Compliance with prohibited asbestos notice | 33 |
| A relevant person to whom a prohibited asbestos notice is issued must comply with the notice. | 34 35 |
| Maximum penalty— | 36 |
| (a) for an individual—1,206 penalty units, or | 37 |
| (b) for a body corporate—6,028 penalty units. | 38 |
| 197E Extension of time for compliance with prohibited asbestos notices | 39 |
| (1) This section applies if a relevant person has been issued with a prohibited asbestos notice. | 40 41 |
| (2) The regulator may, by written notice given to the relevant person, extend the compliance period for the prohibited asbestos notice. | 42 43 |

| | | |
|-------------|---|-------------|
| (3) | However, the regulator may extend the compliance period only if the period has not ended. | 1 2 |
| (4) | In this section— <i>compliance period</i> means the period stated in the prohibited asbestos notice under section 197C, and includes that period as extended under this section. | 3 4 5 |
| [19] | Section 202 Application of Division | 6 |
| | Omit “or non-disturbance notice”. | 7 |
| | Insert instead “, non-disturbance notice or prohibited asbestos notice”. | 8 |
| [20] | Sections 204 and 205(1) | 9 |
| | Omit “or prohibition notice” wherever occurring. | 10 |
| | Insert instead “, prohibition notice or prohibited asbestos notice”. | 11 |
| [21] | Section 204(b) | 12 |
| | Insert “measures to take or” after “choice of”. | 13 |
| [22] | Section 206 | 14 |
| | Omit the section. Insert instead— | 15 |
| 206 | Changes to notice | 16 |
| (1) | An inspector may— | 17 |
| (a) | make minor changes to a notice issued by an inspector, or | 18 |
| (b) | extend the compliance period for an improvement notice in accordance with section 194. | 19 20 |
| (2) | The regulator may— | 21 |
| (a) | make minor changes to a prohibited asbestos notice issued by the regulator, or | 22 23 |
| (b) | extend the compliance period of a prohibited asbestos notice in accordance with section 197E. | 24 25 |
| (3) | In this section, <i>minor changes</i> means a minor change to a notice— | 26 |
| (a) | for clarification, or | 27 |
| (b) | to correct errors or references, or | 28 |
| (c) | to reflect changes of address or other circumstances. | 29 |
| [23] | Section 207 | 30 |
| | Omit the section. Insert instead— | 31 |
| 207 | Regulator may vary or cancel notice | 32 |
| (1) | Except as provided in section 206, a notice issued by an inspector may only be varied or cancelled by the regulator. | 33 34 |
| (2) | A notice issued by the regulator may only be varied or cancelled by the regulator. | 35 36 |
| [24] | Sections 211, 212(1)(a) and 213(b) | 37 |
| | Insert “or prohibited asbestos notice” after “prohibition notice” wherever occurring. | 38 |

| | | | | | |
|-------------|---|---|--|--|----|
| [25] | Section 212(1)(b) | | | | 1 |
| | Omit the paragraph. Insert instead— | | | | 2 |
| | (b) | a prohibition notice or prohibited asbestos notice cannot be issued because, after taking reasonable steps— | | | 3 |
| | | (i) | in relation to a prohibition notice—the person with management or control of the workplace cannot be found, or | | 4 |
| | | (ii) | in relation to a prohibited asbestos notice—a relevant person in relation to the workplace cannot be found. | | 5 |
| | | | | | 6 |
| | | | | | 7 |
| | | | | | 8 |
| [26] | Section 214 Application of Division | | | | 9 |
| | Omit “or non-disturbance notice”. | | | | 10 |
| | Insert instead “, non-disturbance notice or prohibited asbestos notice”. | | | | 11 |
| [27] | Section 223 Which decisions are reviewable | | | | 12 |
| | Insert after item 9 of the table to section 223(1)— | | | | 13 |
| 9A | Section 197B (issue of prohibited asbestos notice) | (1) | The person to whom the notice was issued. | | |
| | | (2) | The person with management or control of the workplace. | | |
| | | (3) | A person conducting a business or undertaking whose interests are affected by the decision. | | |
| | | (4) | A worker whose interests are affected by the decision. | | |
| | | (5) | A health and safety representative who represents a worker whose interests are affected by the decision. | | |
| 9B | Section 197E (extension of time for compliance with prohibited asbestos notice) | (1) | The person to whom the notice was issued. | | |
| | | (2) | The person with management or control of the workplace. | | |
| | | (3) | A person conducting a business or undertaking whose interests are affected by the decision. | | |
| | | (4) | A worker whose interests are affected by the decision. | | |
| | | (5) | A health and safety representative who represents a worker whose interests are affected by the decision. | | |
| [28] | Section 229B Procedure for offences | | | | 14 |
| | Omit “650 penalty units” from section 229B(4). Insert instead “1,200 penalty units”. | | | | 15 |
| [29] | Section 242A Definitions | | | | 16 |
| | Omit the definition of <i>CPI</i> . Insert instead— | | | | 17 |
| | <i>CPI number</i> means the All Groups Consumer Price Index number, that is, the weighted average of the 8 Australian capital cities, published by the Australian Statistician. | | | | 18 |
| | | | | | 19 |
| | | | | | 20 |

| | |
|--|----|
| [30] Section 243 Penalty notices | 1 |
| Omit section 243(6). Insert instead— | 2 |
| (6) In this section— | 3 |
| <i>authorised officer</i> means the following— | 4 |
| (a) a member of staff of the regulator authorised in writing by the regulator as an authorised officer for the purposes of this section, | 5 |
| (b) a person prescribed by the regulations. | 6 |
| [31] Sections 244–244D | 8 |
| Omit section 244. Insert instead— | 9 |
| 244 Definitions | 10 |
| In this division— | 11 |
| <i>authorised person</i> , for a body corporate, means an officer, employee or agent of the body corporate acting within the actual or apparent scope of the officer’s, employee’s or agent’s— | 12 |
| (a) employment, or | 13 |
| (b) authority. | 14 |
| <i>board of directors</i> means the body, whatever it is called, exercising the executive authority of the body corporate. | 15 |
| 244A Imputing conduct to body corporate | 16 |
| For this Act, conduct engaged in by the following on behalf of a body corporate is conduct also engaged in by the body corporate— | 17 |
| (a) the body corporate’s board of directors, | 18 |
| (b) 1 or more authorised persons, | 19 |
| (c) 1 or more persons acting at the direction of or with the express or implied agreement or consent of— | 20 |
| (i) the body corporate’s board of directors, or | 21 |
| (ii) an authorised person. | 22 |
| 244B State of mind | 23 |
| (1) If it is necessary to establish a state of mind of a body corporate in relation to the commission of an offence, it is sufficient to show— | 24 |
| (a) the body corporate’s board of directors— | 25 |
| (i) intentionally, knowingly or recklessly engaged in the relevant conduct, or | 26 |
| (ii) expressly, tacitly or impliedly authorised or permitted the carrying out of the conduct, or | 27 |
| (b) an authorised person— | 28 |
| (i) intentionally, knowingly or recklessly engaged in the relevant conduct, or | 29 |
| (ii) expressly, tacitly or impliedly authorised or permitted the carrying out of the conduct, or | 30 |
| (c) a corporate culture existed within the body corporate that directed, encouraged, tolerated or led to the carrying out of the conduct. | 31 |

| | | |
|-------------|--|----|
| (2) | Subsection (1)(b) and (c) do not apply if the body corporate proves it took reasonable precautions to prevent— | 1 |
| | (a) the conduct, or | 2 |
| | (b) the authorisation or permission of the conduct. | 3 |
| (3) | Factors relevant to the application of subsection (1)(c) include— | 4 |
| | (a) whether authority or permission to carry out conduct of the same or a similar character, had previously been given by a corporate officer, and | 5 |
| | (b) whether the person who carried out the conduct believed on reasonable grounds, or had a reasonable expectation, that a corporate officer would have authorised or permitted the carrying out of the conduct. | 6 |
| (4) | In this section— | 7 |
| | <i>corporate culture</i> means 1 or more attitudes, policies, rules, courses of conduct or practices existing within the body corporate generally or in the part of the body corporate in which the relevant activity takes place. | 8 |
| | <i>corporate officer</i> means an officer within the meaning of section 9 of the <i>Corporations Act 2001</i> of the Commonwealth other than a partner in a partnership. | 9 |
| 244C | Mistake of fact | 10 |
| | If mistake of fact is relevant to determining liability for an offence, a body corporate may rely on mistake of fact only if— | 11 |
| | (a) the employee, agent or officer of the body corporate who carried out the conduct was under a mistaken but reasonable belief about facts that, had they existed, would have meant the conduct would not have constituted the offence, and | 12 |
| | (b) the body corporate proves it took reasonable precautions to prevent the conduct. | 13 |
| 244D | Failure to take reasonable precautions | 14 |
| | For sections 244B(2) and 244C, a failure to take reasonable precautions may be evidenced by the fact that the conduct was substantially attributable to— | 15 |
| | (a) inadequate management, control or supervision of the conduct of one or more of the body corporate’s employees, agents or officers, or | 16 |
| | (b) failure to provide adequate systems for conveying relevant information to relevant persons in the body corporate. | 17 |
| [32] | Section 272A Prohibition on certain insurance or indemnity arrangements | 18 |
| | Omit the penalty provision. Insert instead— | 19 |
| | Maximum penalty— | 20 |
| | (a) for paragraph (a)— | 21 |
| | (i) for an individual—250 penalty units, or | 22 |
| | (ii) for a body corporate—1,250 penalty units, or | 23 |
| | (b) for paragraph (b) or (c)— | 24 |
| | (i) for an individual—607 penalty units, or | 25 |
| | (ii) for a body corporate—3,036 penalty units. | 26 |
| [33] | Section 272A(2) and (3) | 27 |
| | Insert at the end of section 272A— | 28 |

| | | |
|-------------|--|----------------|
| (2) | Subsection (1) places an evidential burden on the accused to show a reasonable excuse. | 1 2 |
| (3) | A term of a contract of insurance or other arrangement is void to the extent it purports to cover a person for all or part of a liability for a monetary penalty under this Act. | 3 4 5 |
| [34] | Part 14, Division 1A | 6 |
| | Insert after section 273— | 7 |
| | Division 1A Silica worker registration | 8 |
| 273A | Silica worker register | 9 |
| (1) | SafeWork NSW may establish and keep a silica worker register in accordance with the regulations. | 10 11 |
| (2) | A person conducting a business or undertaking must, in accordance with the regulations, give SafeWork NSW information for inclusion on the silica worker register. | 12 13 14 |
| | Maximum penalty— | 15 |
| (a) | for an individual—243 penalty units, or | 16 |
| (b) | for a body corporate—1,214 penalty units. | 17 |
| 273B | Access to silica worker register | 18 |
| (1) | The silica worker register must not be publicly available. | 19 |
| (2) | The following agencies may access and use information on the silica worker register— | 20 21 |
| (a) | SafeWork NSW, | 22 |
| (b) | Insurance and Care NSW, established under the <i>State Insurance and Care Governance Act 2015</i> , | 23 24 |
| (c) | a government sector agency prescribed by the regulations. | 25 |
| (3) | Information on the silica worker register may be used for the following purposes— | 26 27 |
| (a) | tracking the health and safety of a worker with information on the register, including conducting epidemiological research, | 28 29 |
| (b) | a purpose prescribed by the regulations. | 30 |
| [35] | Section 274 Approved codes of practice | 31 |
| | Insert after section 274(2)— | 32 |
| (2A) | Consultation under subsection (2) is not required for a variation of an editorial nature or to correct a typographic error. | 33 34 |
| | Example— A variation to amend or update the name of a document referred to in a code of practice is an example of an editorial change. | 35 36 |
| [36] | Section 274(5) | 37 |
| | Omit “and a newspaper circulating generally throughout the State”. | 38 |
| [37] | Section 276 Regulation-making powers | 39 |
| | Omit “345 penalty units” from section 276(3)(h). Insert “365 penalty units” instead. | 40 |

| | |
|--|----|
| [38] Schedule 3 Regulation-making powers | 1 |
| Insert after Schedule 3, clause 14— | 2 |
| 15 Registers | 3 |
| Matters relating to registers, including the following— | 4 |
| (a) the keeping of registers, | 5 |
| (b) the publication of registers, | 6 |
| (c) fees, including for access to and searches of a register. | 7 |
| 16 Approval or authorisation of training providers and courses | 8 |
| Matters relating to the approval or authorisation of training providers and training courses for the purposes of this Act, including the following— | 9 |
| (a) conditions of approvals and authorisations, | 10 |
| (b) revocation or variation of approvals and authorisations, | 11 |
| (c) fees for approvals and authorisations. | 12 |
| [39] Schedule 4 Savings, transitional and other provisions | 13 |
| Insert at the end of the schedule with appropriate part and clause numbering— | 14 |
| Part Provisions consequent on enactment of Work Health and Safety Amendment Act 2023 | 15 |
| Insurance and indemnity arrangements | 16 |
| Section 272A(3) does not apply to a contract of insurance or other arrangement, or a grant of indemnity for liability, in force immediately before the commencement of the <i>Work Health and Safety Amendment (Review) Act 2020</i> . | 17 |
| | 18 |
| | 19 |
| | 20 |
| | 21 |
| | 22 |

Schedule 2 Amendment of Work Health and Safety Regulation 2017

[1] Clause 5 Definitions

Omit the definitions of *asbestos* and *asbestos containing material* from clause 5(1).

- [2] Clauses 19, 22, 46, 47, 50(3), 66(2) and (5), 68, 70, 77(5), 85(1)–(3), 149, 150(1) and (2), 151, 162(4), 165(1), 176(2), 182(4), 184B, 184C, 184K, 187, 188, 195, 196, 198, 200, 213, 224, 235, 236, 239, 253, 254, 294–296, 298, 301, 302, 303(3), 304(2)–(4), 308, 310, 311, 312, 313(3), 316, 317, 327, 336–338, 344(3), (5) and (6), 346(3), 347(3), 369, 371(2), 372, 373, 385, 387, 388, 398(2), 401, 403, 409, 410, 415(2), 425–428, 429(5), 430, 432(5), 433, 438, 439, 446, 448, 451(5), 454, 455, 464(3), 465, 466, 482(3), 529, 547, 548, 551, 553, 555(5), 557(8), 560, 562, 563, 567(4), 570 and 576

Omit the penalty provision wherever occurring. Insert instead—

Maximum penalty—

- (a) for an individual—43 penalty units, or
- (b) for a body corporate—217 penalty units.

- [3] Clauses 39–45, 48, 49, 50(1), 53, 55, 57–59, 61, 64, 65, 67, 69, 71–75, 76(1), 78–80, 84, 142B, 142C, 154–161, 163, 164, 166, 168, 177–179, 183, 184O, 184Q–184S, 189–194, 197, 199, 201, 202, 204–212, 215, 216, 218, 219, 222, 223, 225, 231–234, 238, 240, 241, 299, 300, 306, 309, 314, 329–335, 339, 340(1) and (2), 341–343, 344(1), 345, 346(1), 347(1), 348–350, 352–363, 365–368, 370, 371(1), 374–377, 379, 389, 391(2), 395–397, 398(1), 399, 400, 402, 405–408, 411–414, 415(1), 416, 417, 419, 420, 422, 424, 429(2) and (3), 432(2) and (3), 434–437, 440–443, 445(1), 449, 450, 451(2) and (3), 452, 453, 456–460, 462, 463, 464(1), 467–477, 479–481, 482(1) and (2), 483, 484, 536, 554, 555(1) and (4), 556, 557(1) and (5)–(7), 558, 559, 564–566, 567(1)–(3), 568, 569, 571, 572(1) and 573–575

Omit the penalty provision wherever occurring. Insert instead—

Maximum penalty—

- (a) for an individual—73 penalty units, or
- (b) for a body corporate—364 penalty units.

- [4] Clauses 50(2), 66(3), 76(2), 77(2)–(4), 85(4), 94, 96–98, 111, 124–127, 139, 142, 142E, 143I–143K, 143P, 143Q, 143ZD, 150(3), 162(2), (3) and (5), 165(2), 170, 175, 176(3), 180, 181, 182(2), (3) and (5), 184J, 184T, 184U, 226, 228–230, 237, 242, 260, 262, 273, 275, 282, 287, 288, 288D, 303(1), (2) and (4), 304(5), 313(1), (2) and (4), 326, 340(3) and (4), 364, 378, 390, 391(3), 404, 418, 423, 444, 445(3) and (4), 461, 505–507, 512, 513, 525, 572(4), 587, 588, 593, 594 and 607

Omit the penalty provision wherever occurring. Insert instead—

Maximum penalty—

- (a) for an individual—15 penalty units, or
- (b) for a body corporate—75 penalty units.

[5] Clause 184U Duties of food delivery riders

Insert after clause 184U(2)—

- (3) For the Act, section 243 a police officer is an authorised officer for an offence under this clause.

[6] Clause 419 Work involving asbestos or ACM—prohibitions and exceptions

Insert after clause 419(3)(j)—

- (k) work that is being carried out in accordance with a prohibited asbestos notice issued under the Act, section 197B.

1
2