

WORK HEALTH AND SAFETY BILL 2011

Amendments proposed by Legislative Council on 27 May 2011.

No. 1 Page 4, clause 4. Insert after line 20:

Industrial Court means the Industrial Court of New South Wales.

No. 2 Page 115, clause 229B, lines 16–28. Omit all words on those lines. Insert instead:

229B Summary procedure for offences

- (1) Except as provided by this section, proceedings for an offence against this Act or the regulations are to be dealt with summarily:
 - (a) before the Local Court, or
 - (b) before the District Court in its summary jurisdiction.
- (2) Proceedings for a Category 3 offence are to be dealt with summarily:
 - (a) before the Local Court, or
 - (b) before the Industrial Court.
- (3) Proceedings for a Category 1 offence committed by an individual are to be taken on indictment.
- (4) The maximum monetary penalty that may be imposed by the Local Court in proceedings for an offence against this Act is \$50,000, despite any higher maximum monetary penalty provided in respect of the offence.
- (5) Part 5 of Chapter 4 of the *Criminal Procedure Act 1986* applies to proceedings for an offence taken before the District Court in its summary jurisdiction.
- (6) The provisions of the *Industrial Relations Act 1996*, and of the regulations under that Act, relating to appeals from the Local Court to the Industrial Court in connection with offences against that Act apply to proceedings before the Local Court for Category 3 offences.

Note. Section 197 of the *Industrial Relations Act 1996* deals with appeals against convictions or penalties in connection with offences against that Act.

No. 3 Page 115, clause 230. Insert at the end of line 34:

- , or
- (c) the secretary of an industrial organisation of employees any member or members of which are concerned in the matter to which the proceedings relate, but only as permitted by subsection (3) if the offence concerned is a Category 1 offence or a Category 2 offence.

- No. 4 Page 116, clause 230. Insert after line 3:
- (3) The secretary of an industrial organisation of employees can bring proceedings for a Category 1 offence or a Category 2 offence only if the regulator has (after referral of the matter to the regulator and the Director of Public Prosecutions under section 231) declined to follow the advice of the Director of Public Prosecutions to bring the proceedings.
- No. 5 Page 116, clause 230. Insert after line 9:
- (5) The court before which proceedings for an offence against this Act are brought by the secretary of an industrial organisation of employees must not direct that any portion of a fine or other penalty imposed in the proceedings be paid to the prosecutor (despite section 122 of the *Fines Act 1996*).
- No. 6 Pages 121–123, proposed Division 2A of Part 13, line 1 on page 121 to line 4 on page 123. Omit all words on those lines.
- No. 7 Page 128, clause 255, line 10. Omit “District Court”. Insert instead “Industrial Court”.
- No. 8 Page 144, proposed clause 8 of Schedule 4, lines 30–33. Omit all words on those lines.
- No. 9 Page 146, Schedule 5.1, lines 2–5. Omit all words on those lines.