

[Act 1997 No 51]



New South Wales

Occupational Health and Safety Amendment Bill 1997

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to repeal the principal associated occupational health and safety legislation (such as the *Construction Safety Act 1912* and Part 3 of the *Factories, Shops and Industries Act 1962*) so that comprehensive provision may be made by or in the regulations under the *Occupational Health and Safety Act 1983* for occupational health and safety, and
 - (b) to extend the operation of the *Occupational Health and Safety Act 1983* to cover public safety matters associated with certain plant (whether or not at a place of work) as a consequence of the repeal of provisions in the *Construction Safety Act 1912* relating to those matters, and
 - (c) to revise the obligations under the *Occupational Health and Safety Act 1983* relating to plant or substances for use at work, in particular in the light of national standards relating to plant, and
 - (d) to make other miscellaneous changes.
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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 on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Occupational Health and Safety Act 1983* (the principal Act) set out in Schedule 1.

Clause 4 is a formal provision giving effect to the repeal and consequential amendment of the associated occupational health and safety legislation set out in Schedule 2.

Clause 5 is a formal provision giving effect to the consequential amendment of other Acts set out in Schedule 3.

Schedule 1 [1] and [13] extend the provisions of the principal Act that protect persons against risks to health and safety arising from the use of plant so that they apply to certain prescribed plant affecting public safety (such as lifts and scaffolding) whether or not at a place of work.

Schedule 1 [2], [4]–[7], [12] and [14] make changes to the principal Act that are consequent on the repeal of the associated occupational health and safety legislation by Schedule 2.

Schedule 1 [3] revises section 18 of the principal Act, which imposes obligations on the designers, manufacturers and suppliers of any plant or substance for use at work to ensure that it is safe and without risks to health when properly used. The revision seeks to express the obligations in plainer terms and in the light of national standards relating to plant.

Schedule 1 [8] ensures that regulations may be made under the principal Act requiring persons to identify hazards arising from work and to assess the risks to health and safety associated with any such hazards and to deal with those risks. Provisions of that kind are contained in national occupational health and safety standards.

Schedule 1 [9] enables occupational health and safety qualifications required by the regulations to be described as certificates of competency as well as permits.

Schedule 1 [10] makes it clear that compliance with the regulations is not of itself a defence in any prosecution for an offence for a breach of the general duties of employers and others under Part 3 of the principal Act, and ensures that a relevant contravention of the regulations is admissible in evidence in any proceedings for such an offence.

Schedule 1 [13] enables more than one contravention of the principal duties of employers and others under Part 3 of the principal Act to be charged as a single offence if the contraventions arose out of the same factual circumstances.

Schedule 1 [15] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [16] makes miscellaneous savings and transitional provisions consequent on the enactment of the proposed Act. In particular, the provisions:

- (a) enable (for at least 3 years after the repeal of the associated occupational health and safety legislation) regulations to be made under the principal Act for any matter that was or could be made under that legislation before its repeal,
- (b) prevent the associated occupational health and safety regulations repealed by the proposed Act being repealed automatically beforehand under the staged repeal provisions of the *Subordinate Legislation Act 1989*,
- (c) save existing certificates of competency that were issued under the associated occupational health and safety legislation and that will be required under the principal Act.

Schedule 2 specifies the Acts, the provisions of Acts and regulations (constituting the associated occupational health and safety legislation) that are repealed or consequentially amended by the proposed Act.

Schedule 3 makes consequential amendments to other Acts.