



Australian Capital Territory

Work Health and Safety Amendment Act 2019

A2019-38

Contents

		Page
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
4	Schedule 2, part 2.1 heading	3
5	Establishment Schedule 2, section 2.1	3
6	Functions Schedule 2, section 2.2	3
7	Schedule 2, section 2.2 (1) (c) and note	3
8	Schedule 2, new section 2.2 (2) (aa)	4

J2019-57

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

		Page
9	Schedule 2, section 2.3	4
10	Schedule 2, new section 2.3A	5
11	Terms of appointment Schedule 2, section 2.4 (2)	5
12	Schedule 2, section 2.4 (2), note	5
13	Schedule 2, new section 2.4 (3)	5
14	Schedule 2, section 2.5	6
15	Ending appointment of council member Schedule 2, section 2.9 (1)	6
16	Schedule 2, section 2.9 (2)	6
17	Schedule 2, section 2.9 (2) (b) and (c)	7
18	Schedule 2, section 2.9 (3)	7
19	Quorum at council meetings Schedule 2, section 2.12 (a) to (c)	7
20	Schedule 2, section 2.13	7
21	Establishment Section 2.16 (2)	8
22	Schedule 2, part 2.2	8
23	Dictionary, new definitions	22
24	Dictionary, definition of <i>council</i>	22
25	Dictionary, new definitions	22
26	Dictionary, definition of <i>regulator</i>	23
27	Dictionary, new definitions	23
28	Dictionary, definition of <i>work safety commissioner</i>	23
Schedule 1	Consequential and other amendments	24
Part 1.1	Annual Reports (Government Agencies) Act 2004	24
Part 1.2	Dangerous Substances Act 2004	24
Part 1.3	Dangerous Substances (Explosives) Regulation 2004	27
Part 1.4	Dangerous Substances (General) Regulation 2004	29
Part 1.5	Energy Efficiency (Cost of Living) Improvement Act 2012	30

Contents

		Page
Part 1.6	Legislation Act 2001	30
Part 1.7	Machinery Act 1949	31
Part 1.8	Planning and Development Act 2007	32
Part 1.9	Remuneration Tribunal Act 1995	32
Part 1.10	Workers Compensation Act 1951	33
Part 1.11	Workers Compensation Regulation 2002	34
Part 1.12	Working with Vulnerable People (Background Checking) Act 2011	34



Australian Capital Territory

Work Health and Safety Amendment Act 2019

A2019-38

An Act to amend the *Work Health and Safety Act 2011*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Work Health and Safety Amendment Act 2019*.

2 Commencement

- (1) This Act (other than schedule 1, part 1.12) commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

- (2) Schedule 1, part 1.12 commences on the later of—
- (a) the commencement of the *Working with Vulnerable People (Background Checking) Amendment Act 2019*, section 3; and
 - (b) the commencement of this Act, section 3.

3 Legislation amended

This Act amends the *Work Health and Safety Act 2011*.

Note This Act also amends other legislation (see sch 1).

4 Schedule 2, part 2.1 heading

substitute

Part 2.1 Work health and safety council

**5 Establishment
Schedule 2, section 2.1**

omit

Work Safety Council

substitute

Work Health and Safety Council

**6 Functions
Schedule 2, section 2.2**

omit

work safety

substitute

work health and safety

7 Schedule 2, section 2.2 (1) (c) and note

substitute

- (c) at the first council meeting that happens after the publication of the annual report required under section 2.41 (Annual report)—
 - (i) review and consider the annual report; and
 - (ii) advise the Minister and the WHS commissioner on any matters arising from the review and consideration; or

(d) any other function prescribed by regulation.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, defs *entity* and *function*).

8 Schedule 2, new section 2.2 (2) (aa)

insert

(aa) the performance of the office of the work health and safety commissioner and the WHS commissioner;

9 Schedule 2, section 2.3

substitute

2.3 Membership

- (1) The council consists of—
 - (a) 5 members appointed by the Minister after consultation with the people or bodies that the Minister considers represent the interests of employees; and
 - (b) 5 other members appointed by the Minister after consultation with the people or bodies that the Minister considers represent the interests of employers; and
 - (c) the WHS commissioner; and
 - (d) the public sector workers compensation commissioner.
- (2) The Minister must not appoint more than 1 public servant as a member under subsection (1).
- (3) In this section:

public sector workers compensation commissioner means the PSWC commissioner under the [Public Sector Workers Compensation Fund Act 2018](#).

10 Schedule 2, new section 2.3A

insert

2.3A Meaning of *appointed member*—div 2.1.2

In this division:

appointed member, of the council, means a member of the council appointed by the Minister under section 2.3 (1) (a) or (b).

**11 Terms of appointment
Schedule 2, section 2.4 (2)**

omit

3 years

substitute

4 years

12 Schedule 2, section 2.4 (2), note

omit

13 Schedule 2, new section 2.4 (3)

insert

- (3) A person who has been an appointed member of the council for 8 consecutive years is not eligible for reappointment.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

14 Schedule 2, section 2.5

substitute

2.5 Chair and deputy chair

- (1) The appointed members of the council must elect a chair of the council, and a deputy chair of the council.

Note The appointed members must elect a chair and deputy chair of the council as soon as possible and as often as needed (see [Legislation Act](#), s 151B).

- (2) The chair and the deputy chair must be elected for not longer than 2 years.
- (3) If the chair is elected from the members appointed under section 2.3 (1) (a)—the deputy chair must be elected from the members appointed under section 2.3 (1) (b).
- (4) If the chair is elected from the members appointed under section 2.3 (1) (b)—the deputy chair must be elected from the members appointed under section 2.3 (1) (a).

**15 Ending appointment of council member
Schedule 2, section 2.9 (1)**

omit

16 Schedule 2, section 2.9 (2)

omit

a member

substitute

an appointed member

17 Schedule 2, section 2.9 (2) (b) and (c)

omit

18 Schedule 2, section 2.9 (3)

omit

a member

substitute

an appointed member

**19 Quorum at council meetings
Schedule 2, section 2.12 (a) to (c)**

substitute

- (a) 3 members appointed under section 2.3 (1) (a), at least 2 of whom are not acting members; and
- (b) 3 members appointed under section 2.3 (1) (b), at least 2 of whom are not acting members.

20 Schedule 2, section 2.13

substitute

2.13 Voting at council meetings

- (1) At a meeting of the council each appointed member has a vote on each question to be decided.
- (2) A question is decided by a majority of the votes of the appointed members present and voting.

21 **Establishment**
Section 2.16 (2)

omit

work safety

substitute

work health and safety

22 **Schedule 2, part 2.2**

substitute

Part 2.2 **Office of the Work Health and
Safety Commissioner**

Division 2.2.1 **Preliminary**

2.17 **Definitions—pt 2.2**

In this part:

compliance and enforcement policy—see section 2.37.

statement of expectations—see section 2.39.

statement of operational intent—see section 2.40.

strategic plan—see section 2.38.

Division 2.2.2 **Establishment and functions of office**

2.18 **Establishment of office**

The Office of the Work Health and Safety Commissioner is established.

2.19 Constitution of office

The office consists of—

- (a) the WHS commissioner; and
- (b) the staff of the office.

2.20 Functions of office

The functions of the office include—

- (a) to promote an understanding and acceptance of, and compliance with, this Act or another territory law relating to work health and safety; and
- (b) to undertake research, and develop educational and other programs for the purpose of promoting work health and safety; and
- (c) to advise the Minister on any matter relevant to the operation of a territory law under which the commissioner performs a function; and
- (d) any other function given to the office under this Act or another territory law under which the office performs a function.

Note 1 The commissioner is the regulator under this Act (see dict, def *regulator*).

Note 2 **Function** includes authority, duty or power (see [Legislation Act](#), dict, pt 1).

Note 3 A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

Division 2.2.3 Work health and safety commissioner

2.21 Appointment of WHS commissioner

- (1) The Executive must appoint a person as the Work Health and Safety Commissioner (the *WHS commissioner*).

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) The Executive must not appoint a person as WHS commissioner unless satisfied that—

- (a) the Minister consulted with the chair and deputy chair of the council in relation to the selection process for the commissioner; and
- (b) the appointment follows an open and accountable selection process; and
- (c) the person has the experience or expertise necessary to exercise the commissioner's functions.

- (3) The WHS commissioner must not be appointed for longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

- (4) The WHS commissioner's conditions of employment are the conditions agreed between the commissioner and the Executive that are stated in the instrument of appointment, subject to any determination under the [Remuneration Tribunal Act 1995](#).

- (5) The appointment is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

2.22 Functions of WHS commissioner

In addition to the functions of the regulator under section 152, the functions of the WHS commissioner are—

- (a) exercising the functions of the office of the work health and safety commissioner; and

Note The WHS commissioner is the regulator under this Act (see dict, def *regulator*).

- (b) managing the administration of the office; and
- (c) the efficient and effective financial management of the office's resources; and
- (d) making the following for the office:
 - (i) a compliance and enforcement policy;
 - (ii) a strategic plan;
 - (iii) a draft statement of operational intent; and
- (e) ensuring, as far as practicable, that the functions of the office are exercised—
 - (i) in an orderly and prompt way; and
 - (ii) in a way that takes into account, and complies with, the compliance and enforcement policy, the strategic plan and the statement of operational intent; and
- (f) any other function given to the WHS commissioner under this Act or another territory law under which the WHS commissioner performs a function.

Note The WHS commissioner has functions under other territory laws including the *Dangerous Substances Act 2004*, the *Dangerous Substances (Explosives) Regulation 2004*, the *Dangerous Substances (General) Regulation 2004* and the *Machinery Act 1949*.

2.23 Independence of WHS commissioner and Ministerial directions

- (1) Subject to subsection (2), the WHS commissioner is not subject to the direction of anyone else, and must act independently, in relation to the exercise of a function under this Act or another territory law under which the WHS commissioner performs a function.
- (2) However, the Minister may, in writing, give directions to the WHS commissioner in relation to the exercise of the WHS commissioner's functions.
- (3) A direction given under subsection (2) must be of a general nature and not direct the WHS commissioner in relation to a particular investigation or particular regulatory action.
- (4) The Minister must present a copy of any direction under subsection (2) to the Legislative Assembly within 5 sitting days after the day it is given to the commissioner.

2.24 Duty of good conduct

- (1) In exercising functions in relation to the office of the work health and safety commissioner, the WHS commissioner must exercise the degree of honesty, care and diligence required to be exercised by a director of a corporation in relation to the affairs of the corporation.
- (2) The WHS commissioner also has a duty to the office—
 - (a) to act in good faith; and
 - (b) not to pursue personal interests at the expense of the office's interests; and
 - (c) not to use the office to gain personal advantage; and
 - (d) not to cause detriment to the office or undermine the reputation of the office.

2.25 Disclosure of interests

- (1) The WHS commissioner must give the Executive a written statement of the WHS commissioner's personal and financial interests within 7 days after—
 - (a) the day the WHS commissioner is appointed; and
 - (b) the first day of each financial year; and
 - (c) the day there is a change in the interest.
- (2) If the WHS commissioner has a personal or financial interest that conflicts or may conflict, or may be perceived to conflict, with the WHS commissioner's functions, the WHS commissioner must disclose to the Executive, in writing, the nature of the interest and the conflict or potential conflict.

Note The WHS commissioner must disclose a conflict of interest as soon as possible and as often as needed (see [Legislation Act](#), s 151B).

2.26 Outside employment

The WHS commissioner must not, without the Minister's approval, engage in paid employment outside the functions of the office.

2.27 Ending appointment—generally

- (1) The Executive may end a person's appointment as the WHS commissioner—
 - (a) for misbehaviour; or
 - (b) if the person becomes bankrupt or personally insolvent; or

Note **Bankrupt or personally insolvent**—see the [Legislation Act](#), dict, pt 1.

 - (c) if the person fails to take all reasonable steps to avoid being placed in a position where a conflict of interest arises during the exercise of the WHS commissioner's functions; or

- (d) if the person is convicted, in the ACT, of an offence punishable by imprisonment for at least 1 year; or
 - (e) if the person is convicted outside the ACT, in Australia or elsewhere, of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or
 - (f) under section 2.28; or
 - (g) if the person is absent, other than on leave approved under section 2.29, for 14 consecutive days or for 28 days in any 12-month period.
- (2) The Executive must end the WHS commissioner's appointment for physical or mental incapacity, if the incapacity substantially affects the exercise of the WHS commissioner's functions.

Note A person's appointment also ends if the person resigns (see [Legislation Act](#), s 210).

2.28 Ending appointment—council no-confidence resolution

- (1) This section applies if the council passes a resolution of no-confidence in the WHS commissioner by a majority of at least $\frac{2}{3}$ of the appointed members.
- (2) The Executive must give the WHS commissioner written notice of the resolution stating—
 - (a) the grounds for the resolution; and
 - (b) that the WHS commissioner may, within 14 days after the date of the notice (the *show cause period*), give a written submission to the Executive showing cause why the WHS commissioner's appointment should not be ended.

- (3) The Executive must, within 21 days after the end of the show cause period—
- (a) consider any submissions received under subsection (2) (b); and
 - (b) decide whether to end the WHS commissioner’s appointment.

2.29 Leave of absence

The Minister may approve leave of absence for the WHS commissioner on the terms the Minister decides.

Division 2.2.4 Office—staff

2.30 Meaning of *staff of the office*—pt 2.2

In this part:

staff of the office means—

- (a) the deputy WHS commissioner appointed under section 2.31; and
- (b) the staff employed under section 2.32; and
- (c) consultants and contractors engaged under section 2.33.

2.31 Appointment of deputy WHS commissioner

- (1) The WHS commissioner must appoint a public servant to be the deputy WHS commissioner.

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) However, the WHS commissioner must not appoint a person as the deputy WHS commissioner unless satisfied that the person has the experience or expertise necessary to exercise the WHS commissioner's functions.
- (3) If the appointment of the WHS commissioner has ended, or the commissioner is absent or cannot for any reason exercise the commissioner's functions, the deputy WHS commissioner must act as the WHS commissioner.

Note The [Legislation Act](#), div 19.3.2A deals with standing acting arrangements.

- (4) However, the deputy WHS commissioner must not act as the WHS commissioner for a continuous period of more than 6 months.

2.32 Employment of staff

- (1) The WHS commissioner may employ staff on behalf of the Territory.
- (2) The staff must be employed under the [Public Sector Management Act 1994](#).

Note The [Public Sector Management Act 1994](#), div 8.2 applies to the WHS commissioner in relation to the employment of staff (see [Public Sector Management Act 1994](#), s 152).

2.33 Engagement of consultants and contractors

- (1) The WHS commissioner may engage the consultants and contractors that may be necessary or convenient to exercise the WHS commissioner's functions.
- (2) The conditions of a consultant's or contractor's engagement are the conditions agreed between the WHS commissioner and the consultant or contractor.
- (3) However, this section does not give the WHS commissioner the power to enter into a contract of employment with a consultant or contractor.

2.34 Independence of staff of the office

A member of the staff of the office is, in relation to the exercise of a function under this Act or another territory law under which the office performs a function, not subject to the direction of anyone except—

- (a) the WHS commissioner; or
- (b) another member of staff of the office who is authorised by the WHS commissioner to give directions.

2.35 Delegation of functions

The WHS commissioner may delegate the commissioner's functions under this Act or another territory law under which the commissioner performs a function to a member of the staff of the office.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

2.36 Other arrangements for staff and facilities

The WHS commissioner may arrange with the head of service to use the services of a public servant or territory facilities.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

Division 2.2.5 Office—policy and reporting framework

2.37 Compliance and enforcement policy

- (1) The WHS commissioner must, for every period of 4 years, make a policy (a *compliance and enforcement policy*) that includes the following:
 - (a) the aims of compliance and enforcement activity for the office;

- (b) the key principles underpinning compliance and enforcement activity to be carried out by the office;
 - (c) the approach the office must take in relation to monitoring and compliance;
 - (d) the compliance and enforcement tools to be used by the office;
 - (e) guidance material about enforcement, investigation and prosecution recommendation criteria to be applied by the office;
 - (f) any other matter relating to the compliance and enforcement functions of the office, prescribed by regulation.
- (2) In developing the compliance and enforcement policy, the WHS commissioner must—
- (a) consult the Minister and the council; and
 - (b) consider any representation or advice given under paragraph (a).
- (3) The compliance and enforcement policy is a notifiable instrument.
- Note* A notifiable instrument must be notified under the [Legislation Act](#).
- (4) The WHS commissioner must give the compliance and enforcement policy to the Minister within 10 working days after notifying the policy.
- (5) The Minister must present the compliance and enforcement policy to the Legislative Assembly within 6 sitting days after receiving the policy.
- (6) The WHS commissioner must review the policy at least once in the 4 years during which the policy is in effect.

2.38 Strategic plan

- (1) The WHS commissioner must, for every period of 4 financial years, make a plan (a *strategic plan*) that includes the following:
 - (a) the purpose and objectives of the office;
 - (b) the outcomes to be achieved by the office;
 - (c) strategies to be used by the office to achieve the matters mentioned in paragraphs (a) and (b);
 - (d) the strategic enforcement priorities for the office;
 - (e) a description of the operating environment of the office;
 - (f) the performance criteria for the office;
 - (g) strategies to improve the capability of the office;
 - (h) procedures for the oversight and management of risk within the office;
 - (i) any other matter related to strategic planning for the office prescribed by regulation.
- (2) In developing the strategic plan the WHS commissioner must—
 - (a) consult the Minister and the council; and
 - (b) consider any representation or advice given under paragraph (a).
- (3) The strategic plan is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).
- (4) The WHS commissioner must give the strategic plan to the Minister within 10 working days after notifying the plan.
- (5) The Minister must present the strategic plan to the Legislative Assembly within 6 sitting days after receiving the plan.

2.39 Ministerial statement of expectations

- (1) The Minister must, at least once every 12 months—
 - (a) make a statement setting out the priority activities and initiatives for the office (a *statement of expectations*); and
 - (b) give the statement of expectations to the WHS commissioner.
- (2) Before making a statement of expectations, the Minister must consult the council about the priority activities and initiatives for the office in the next 12 months.
- (3) The statement of expectations—
 - (a) must not include specific direction about the exercise of a regulatory function under the Act; but
 - (b) may include—
 - (i) general directions about the priority activities and initiatives for the office; and
 - (ii) any information the Minister believes will assist the office to implement the statement of expectations.
- (4) A statement of expectations is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

2.40 Statement of operational intent

- (1) Within 60 days after the day the Minister gives the statement of expectations to the WHS commissioner, the commissioner must give the Minister a draft statement setting out how the office will give effect to the statement of expectations (a *statement of operational intent*).

- (2) The Minister must, within 60 days after the day the Minister receives a draft statement of operational intent—
 - (a) approve the draft statement; or
 - (b) reject the draft statement; or
 - (c) approve the draft statement with conditions.
- (3) An approved statement of operational intent is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

2.41 Annual report

- (1) The WHS commissioner must prepare an annual report about the operation of the office under the [Annual Reports \(Government Agencies\) Act 2004](#).
- (2) The report must include—
 - (a) a statement from the chair of the council about the following:
 - (i) the performance of the office during the reporting year;
 - (ii) the effectiveness of compliance and enforcement activities undertaken by the office during the reporting year taking into account the compliance and enforcement policy;
 - (iii) the implementation by the office of the strategic plan during the reporting year; and
 - (b) any statement of expectations and statement of operational intent in effect during the reporting year; and
 - (c) information about the extent to which any statement of operational intent in effect during the reporting year was met during the reporting year; and

- (d) if the statement of operational intent was not met in whole or in part during the reporting year—reasons why the statement of operational intent was not met; and
- (e) any other matter prescribed by regulation.

23 Dictionary, new definitions

insert

appointed member, of the council, for schedule 2, division 2.1.2 (Constitution and meetings)—see section 2.3A.

commissioner—see *work health and safety commissioner*.

compliance and enforcement policy, for schedule 2, part 2.2 (Office of the Work Health and Safety Commissioner)—see section 2.37.

24 Dictionary, definition of *council*

omit

Work Safety Council

substitute

Work Health and Safety Council

25 Dictionary, new definitions

insert

office—see *office of the work health and safety commissioner*.

office of the work health and safety commissioner, for schedule 2 (The regulator and local tripartite consultation arrangements and other local arrangements)—means the Office of the Work Health and Safety Commissioner established under section 2.18.

26 Dictionary, definition of *regulator*

substitute

regulator means the WHS Commissioner.

27 Dictionary, new definitions

insert

staff of the office, for schedule 2, part 2.2 (Office of the Work Health and Safety Commissioner)—see section 2.30.

statement of expectations, for schedule 2, part 2.2 (Office of the Work Health and Safety Commissioner)—see section 2.39.

statement of operational intent, for schedule 2, part 2.2 (Office of the Work Health and Safety Commissioner)—see section 2.40.

strategic plan, for schedule 2, part 2.2 (Office of the Work Health and Safety Commissioner)—see section 2.38.

WHS commissioner—see *work health and safety commissioner*.

work health and safety commissioner means the Work Health and Safety Commissioner appointed under schedule 2, section 2.21.

28 Dictionary, definition of *work safety commissioner*

omit

Schedule 1 Consequential and other amendments

(see s 3)

Part 1.1 Annual Reports (Government Agencies) Act 2004

[1.1] Section 7 (2) (b), note

insert

- the office of the work health and safety commissioner (see [Work Health and Safety Act 2011](#), sch 2, pt 2.2, s 2.41)

Part 1.2 Dangerous Substances Act 2004

[1.2] Section 39 etc

omit

director-general

substitute

work health and safety commissioner

in

- section 39
- section 48 (1), definition of *close associate*, paragraph (b)
- section 49 (1)
- section 50 (3)
- section 51 (1), definitions of *designated matter* and *third-party*
- section 51 (2) and (3)
- sections 52 and 53
- sections 56 to 62

- section 64
- sections 67 to 72
- section 83
- section 85, definition of *site preservation period*
- sections 88 to 91
- section 92 (1)
- section 116 (2)
- section 117 (3)
- section 123
- section 124 (1)
- section 126
- section 127 (1)
- section 128 (1)
- section 129 (2)
- sections 131 and 132
- section 140
- section 148 (5)
- section 149 (b)
- sections 169 and 170
- section 171 (4) (a)
- section 172 (2)
- section 173 (2) (b)
- section 174 (2)
- section 181
- section 186, definitions of *decision-maker* and *internally reviewable decision*
- section 187
- section 188
- section 189 (2)

- section 197
- section 202
- section 205 (2)
- section 206
- section 207 (2)
- section 208
- section 210
- section 212 (1), definition of *official*, paragraph (b)
- section 217

[1.3] Section 59 etc

omit

director-general's

substitute

work health and safety commissioner's

in

- section 59
- section 64 (1)
- section 68 (5)
- section 125 (1)
- section 126

[1.4] Dictionary, note 2

insert

- work health and safety commissioner

Part 1.3 Dangerous Substances (Explosives) Regulation 2004

[1.5] Section 24 (1) (b) etc

omit

director-general

substitute

work health and safety commissioner

in

- section 24 (1) (b)
- section 25 (1)
- section 26 (1), definition of *authorised explosive*
- section 29, note 2
- division 2.2.3 heading
- sections 30 to 32
- section 33 (1)
- sections 34 to 36
- section 40A
- section 55
- section 58 (2)
- section 62
- section 95
- section 96 (1)
- section 106 (1)
- section 111 (g)
- section 112
- section 117
- section 129

- section 154
- section 170
- section 175
- section 186
- section 187 (1)
- section 189 (s)
- section 190
- section 191 (1), note 1
- section 192 (1) (b)
- sections 193 and 194
- section 201 (2) (b)
- section 305
- section 308
- sections 310 to 312
- section 313 (1) (b)
- section 314
- section 325 (1)
- section 333A

[1.6] Dictionary, note 2

omit

- director-general (see s 163)

[1.7] Dictionary, note 2

insert

- work health and safety commissioner

[1.9] Dictionary, note 2

omit

- director-general (see s 163)

[1.10] Dictionary, note 2

insert

- work health and safety commissioner

Part 1.5 Energy Efficiency (Cost of Living) Improvement Act 2012

[1.11] Section 28B (4) (b), example and note

substitute

Example—instance where exercise of function could be compromised

XYZ Pty Ltd carries out an eligible activity under this Act. The work health and safety commissioner (the **WHS commissioner**) is investigating XYZ for possible breaches of the *Work Health and Safety Act 2011*. The WHS commissioner receives a request for compliance information from the administrator. The WHS commissioner believes that giving the administrator the information could jeopardise the investigation. The WHS commissioner may refuse the request.

Part 1.6 Legislation Act 2001

[1.12] Dictionary, part 1, new definition of *work health and safety commissioner*

insert

work health and safety commissioner means the Work Health and Safety Commissioner under the *Work Health and Safety Act 2011*, schedule 2, section 2.21.

[1.13] Dictionary, part 1, definition of *work safety commissioner*

omit

Part 1.7 Machinery Act 1949

[1.14] Section 3

omit

director-general

substitute

work health and safety commissioner

[1.15] Section 4 (1)

omit

director-general

substitute

work health and safety commissioner

[1.16] Dictionary, note 2

omit

- director-general (see s 163)

[1.17] Dictionary, note 2

insert

- Executive
- work health and safety commissioner

Part 1.8 Planning and Development Act 2007

[1.18] Section 138AA (3) (a)

omit

work safety commissioner

substitute

work health and safety commissioner

[1.19] Dictionary, note 2

insert

- work health and safety commissioner.

[1.20] Dictionary, note 2

omit

- work safety commissioner.

Part 1.9 Remuneration Tribunal Act 1995

[1.21] Schedule 1, part 1.2, new dot point

insert

- work health and safety commissioner

[1.22] Dictionary, note 2

insert

- work health and safety commissioner

Part 1.10 Workers Compensation Act 1951

[1.23] Section 103F

omit

work safety commissioner

substitute

work health and safety commissioner

[1.24] Section 206

omit

work safety council

substitute

work health and safety council

[1.25] Dictionary, note 2

insert

- work health and safety commissioner

[1.26] Dictionary, note 2

omit

- work safety commissioner

Part 1.11 Workers Compensation Regulation 2002

[1.27] Sections 5 (2), 13 and 36 (3)

omit

work safety council

substitute

work health and safety council

[1.28] Dictionary, new definition of *work health and safety council*

insert

work health and safety council means the Work Health and Safety Council established under the [Work Health and Safety Act 2011](#), schedule 2, section 2.1.

[1.29] Dictionary, definition of *work safety council*

omit

Part 1.12 Working with Vulnerable People (Background Checking) Act 2011

[1.30] Section 63A (1) (j)

omit

[1.31] Section 63A (1) (l)

substitute

(l) the work health and safety commissioner;

[1.32] Section 63B (3), definition of *entity*, paragraph (e)

omit

[1.33] Section 63B (3), definition of *entity*, paragraph (g)

substitute

(g) the work health and safety commissioner.

[1.34] Dictionary, note 2

insert

- work health and safety commissioner

[1.35] Dictionary, note 2

omit

- work safety commissioner

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 August 2019.

2 Notification

Notified under the [Legislation Act](#) on 31 October 2019.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Work Health and Safety Amendment Bill 2019, which was passed by the Legislative Assembly on 22 October 2019.

Clerk of the Legislative Assembly

© Australian Capital Territory 2019