

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Industrial Relations)

# Occupational Health and Safety Amendment Bill 2004

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# Occupational Health and Safety Amendment Bill 2004

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## A Bill for

An Act to amend the *Occupational Health and Safety Act 1989*, and for other purposes

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

**1 Name of Act**

This Act is the *Occupational Health and Safety Amendment Act 2004*.

**2 Commencement**

This Act commences 28 days after its notification day.

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

**3 Legislation amended**

This Act amends the *Occupational Health and Safety Act 1989*.

*Note* This Act also amends the following legislation:

- *Occupational Health and Safety Regulations 1991* (see sch 2)
- *Public Sector Management Act 1994* (see sch 3)

**4 Part 3 heading**

substitute

**Part 3 Safety duties for occupational health and safety**

**Division 3.1 Safety duties**

**5 Duties of employers in relation to employees  
Section 27 (1), penalty**

*omit*

**6 Duties of employers in relation to third parties  
Section 28 (1), penalty**

*omit*

1	<b>7</b>	<b>Duties of persons in control of workplaces</b>
2		<b>Section 29 (1), penalty</b>
3		<i>omit</i>
4	<b>8</b>	<b>Duties of employees</b>
5		<b>Section 30 (1), penalty</b>
6		<i>omit</i>
7	<b>9</b>	<b>Duties of self-employed persons</b>
8		<b>Section 31, penalty</b>
9		<i>omit</i>
10	<b>10</b>	<b>Duties of manufacturers in relation to plant and</b>
11		<b>substances</b>
12		<b>Section 32 (1) and (2), penalty</b>
13		<i>omit</i>
14	<b>11</b>	<b>Duties of suppliers in relation to plant and substances</b>
15		<b>section 33 (1), penalty</b>
16		<i>omit</i>
17	<b>12</b>	<b>Duties of persons erecting or installing plant in a</b>
18		<b>workplace</b>
19		<b>Section 34 (1), penalty</b>
20		<i>omit</i>
21	<b>13</b>	<b>Commencement of prosecution in Magistrates Court</b>
22		<b>Section 35A</b>
23		<i>relocate as section 35G</i>

**14 New division 3.2**

*insert*

**Division 3.2 Failure to comply with safety duties**

**35B Meaning of *safety duty* for div 3.2**

In this division:

***safety duty*** means a duty under any of the following provisions:

- section 27 (Duties of employers in relation to employees)
- section 28 (Duties of employers in relation to third parties)
- section 29 (Duties of people in control of workplaces)
- section 30 (Duties of employees)
- section 31 (Duties of self-employed people)
- section 32 (Duties of manufacturers in relation to plant and substances)
- section 33 (Duties of suppliers in relation to plant and substances)
- section 34 (Duties of people erecting or installing plant in workplace).

**35C Failure to comply with safety duty—general offence**

(1) A person commits an offence if—

- (a) the person is required to comply with a safety duty; and
- (b) the person fails to comply with the safety duty.

Maximum penalty: 100 penalty units.

(2) Absolute liability applies to subsection (1) (a).

(3) Strict liability applies to subsection (1) (b).



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**35D Failure to comply with safety duty—exposing people to substantial risk of serious harm**

- (1) A person commits an offence if—
- (a) the person is required to comply with a safety duty; and
  - (b) the person fails to comply with the safety duty; and
  - (c) the failure exposes anyone to a substantial risk of serious harm; and
  - (d) the person either—
    - (i) was reckless about whether the failure would expose anyone to a substantial risk of serious harm; or
    - (ii) was negligent about whether the failure would expose anyone to a substantial risk of serious harm.

Maximum penalty: 1 500 penalty units, imprisonment for 5 years or both.

- (2) Absolute liability applies to subsection (1) (a).

**35E Failure to comply with safety duty—causing serious harm to people**

- (1) A person commits an offence if—
- (a) the person is required to comply with a safety duty; and
  - (b) the person fails to comply with the safety duty; and
  - (c) the failure causes serious harm to anyone; and
  - (d) the person either—
    - (i) was reckless about whether the failure would cause serious harm to anyone; or

- 1 (ii) was negligent about whether the failure would cause  
 2 serious harm to anyone.
- 3 Maximum penalty: 2 000 penalty units, imprisonment for 7 years or  
 4 both.
- 5 (2) Absolute liability applies to subsection (1) (a).
- 6 **35F Alternative verdicts for failure to comply with safety**  
 7 **duties**
- 8 (1) This section applies if, in a prosecution for an offence for a failure  
 9 to comply with a safety duty, the trier of fact—
- 10 (a) is not satisfied beyond reasonable doubt that the defendant is  
 11 guilty of the offence; but
- 12 (b) is satisfied beyond reasonable doubt that the defendant is guilty  
 13 of an alternative offence.
- 14 (2) The trier of fact may find the defendant guilty of the alternative  
 15 offence, but only if the defendant has been given procedural fairness  
 16 in relation to the finding of guilt.
- 17 (3) In this section:
- 18 *alternative offence*, for an offence mentioned in the table of  
 19 alternative verdicts, column 2, means an offence mentioned in table  
 20 35.F.1, column 3 for the offence.

21 **Table 35F.1 Alternative verdicts**

column 1 item	column 2 prosecuted offence	column 3 alternative offence
1	section 35D (which is about exposing people to substantial risk of serious harm)	section 35C (Failure to comply with safety duty—general offence)
2	section 35E (which is about causing serious harm to people)	section 35C section 35D

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**15**      **Issue**  
**Section 51 (8)**

*substitute*

(8) If the health and safety representative gives a provisional improvement notice to the responsible person, the representative must—

- (a) give a copy of the notice to the commissioner; and
- (b) if the responsible person is an employee and the notice is given to the person in relation to work performed by the person for an employer—take all reasonably practicable steps to give a copy of the notice to the employer.

Maximum penalty: 1 penalty unit.

(8A) The responsible person or, if the responsible person is an employee mentioned in subsection (8) (b), the employer must give a copy of the provisional improvement notice to each of the following people:

- (a) if the notice relates to something that affects workplaces where people not employed by the employer work—each other employer of employees at each affected workplace;
- (b) if the notice relates to premises—
  - (i) each owner of the premises; and
  - (ii) if the premises are leased—the lessor and lessee of the premises; and
  - (iii) anyone else with a right of immediate possession to the premises;
- (c) if the notice relates to plant or a substance or other thing and the plant or thing is hired under a hire-purchase agreement or contract of hire—the hirer of the plant or thing;

- 1 (d) if the notice relates to plant or a substance or other thing,  
2 whether or not the thing is hired—anyone else with a right of  
3 immediate possession to the plant or thing;

4 Maximum penalty: 10 penalty units.

5 (8B) An offence against subsection (8) or (8A) is a strict liability offence.

6 **16 New division 4.3A**

7 *insert*

8 **Division 4.3A Entry to workplaces by authorised**  
9 **representatives**

10 **57A Definitions for div 4.3A**

11 In this division:

12 *authorised representative* means either of the following if  
13 authorised in writing by an employee organisation for this division:

14 (a) an employee of the employee organisation;

15 (b) a person who holds an office in the employee organisation.

16 *employee organisation* means an association of employees that is an  
17 organisation registered under the *Workplace Relations Act 1996*  
18 (Cwlth), schedule 1B.

19 *office*, in an organisation, means an office of the organisation, or a  
20 branch of the organisation, under the *Workplace Relations Act 1996*  
21 (Cwlth), schedule 1B, section 9.

22 **57B Entry to workplaces by authorised representatives**

23 (1) This section applies if an authorised representative of an employee  
24 organisation suspects on reasonable grounds that—

25 (a) a contravention of this Act may have happened, may be  
26 happening or is likely to happen at premises; and

1 (b) the premises are a workplace where members of the  
2 organisation (or people who are eligible to be members of the  
3 organisation) work.

4 (2) The authorised representative may enter the premises to investigate  
5 the contravention.

6 *Note* A reference to an Act includes a reference to the statutory instruments  
7 made or in force under the Act, including regulations (see Legislation  
8 Act, s 104).

9 (3) However, the authorised representative may enter the premises only  
10 at a time when work is carried on, or is usually carried on, at the  
11 premises by those members (or people).

12 (4) Also, this section does not authorise entry into a part of premises  
13 that is being used only for residential purposes.

#### 14 **57C Notice of entry by authorised representative**

15 (1) This section applies to an authorised representative who is  
16 authorised to enter premises under this division.

17 (2) The authorised representative may enter the premises without  
18 notice.

19 (3) The authorised representative must tell the occupier of the premises  
20 that the representative is on the premises as soon as reasonably  
21 practicable after entering the premises.

22 (4) However, the authorised representative need not tell the occupier of  
23 the premises that the representative is on the premises if—

24 (a) to do so would defeat the purpose for which the premises were  
25 entered; or

26 (b) the occupier had been told in writing when the representative  
27 would enter the premises.

**57D      Production of authorised representative's authorisation**

An authorised representative must not remain at premises entered under this part if the representative does not produce his or her authorisation for inspection when asked by the occupier.

*Note*      An authorisation must be in writing (see s 57A, def **authorised representative**).

**57E      Powers available to authorised representative on entry**

- (1) This section applies if an authorised representative enters premises under section 57B (Entry to workplaces by authorised representatives) to investigate a suspected contravention of this Act.
- (2) The authorised representative may investigate the contravention by doing 1 or more of the following:
  - (a) inspect or view work, materials, plant or systems at the premises;
  - (b) interview employees who are members of the employee organisation (or are eligible to be members of the organisation) with their consent;
  - (c) take measurements and make sketches, drawings or any other kind of record (including photographs, films, or audio, video or other recordings) at the premises;
  - (d) examine and copy, or take extracts from, documents relating to occupational health and safety at the premises;
  - (e) require the occupier, or anyone at the premises, to give the representative any assistance reasonably needed to exercise a function under this part at the premises.
- (3) However, the authorised representative must not make a requirement of a person under subsection (2) (e) unless the representative has shown the person his or her authorisation.

- 1     **57F           Damage etc to be minimised by authorised representative**
- 2           (1) In the exercise, or purported exercise, of a function under this
- 3               division, an authorised representative must take all reasonable steps
- 4               to ensure that the representative causes as little inconvenience,
- 5               detriment and damage as is practicable.
- 6           (2) If an authorised representative damages anything in the exercise or
- 7               purported exercise of a function under this division, the
- 8               representative must give written notice of particulars of the damage
- 9               to the person whom the representative believes, on reasonable
- 10              grounds, is the owner of the thing.
- 11          (3) If the damage happens at premises entered under this division in the
- 12              absence of the occupier, the authorised representative may give the
- 13              notice by leaving it secured in a conspicuous place at the premises.
- 14     **57G           Compensation for exercise of function by authorised**
- 15           **representative**
- 16           (1) A person may claim compensation from an employee organisation if
- 17               the person suffers loss or expense because of the exercise, or
- 18               purported exercise, of a function under this part by an authorised
- 19               representative of the employee organisation.
- 20           (2) Compensation may be claimed and ordered in a proceeding for
- 21               compensation brought in a court of competent jurisdiction.
- 22           (3) A court may order the payment of reasonable compensation for the
- 23               loss or expense only if it is satisfied it is just to make the order in the
- 24               circumstances of the particular case.
- 25           (4) The regulations may prescribe matters that may, must or must not be
- 26               taken into account by the court in considering whether it is just to
- 27               make the order.

- 1     **57H        Authorised representative to tell occupier about findings**
- 2             (1) This section applies if an authorised representative enters premises
- 3                 under section 57B.
- 4             (2) Within 2 days after the day the authorised representative enters the
- 5                 premises, the representative must give the occupier a written notice
- 6                 telling the occupier whether the representative believes that this Act
- 7                 has been, or may have been, contravened at the premises.
- 8     **57I        Pretending to be authorised representative**
- 9             A person commits an offence if the person pretends that the person
- 10            is an authorised representative.
- 11            Maximum penalty: 100 penalty units.
- 12     **57J        Obstructing etc authorised representative**
- 13             (1) A person commits an offence if the person obstructs, hinders,
- 14                 intimidates or resists an authorised representative in the exercise of
- 15                 his or her functions as an authorised representative.
- 16             Maximum penalty: 50 penalty units.
- 17             (2) Strict liability applies to an offence against subsection (1).



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**17 Part 5***substitute***Part 5 Enforcement powers****Division 5.1 General****61 Definitions for pt 5**

In this part:

***connected***—a thing is ***connected*** with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

***data*** includes—

- (a) information in any form; and
- (b) a program (or part of a program).

***data storage device*** means a thing containing, or designed to contain, data for use by a computer.***offence*** includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.***person assisting***, in relation to a search warrant, means a person authorised by an inspector to assist in executing the warrant.***search warrant*** means a warrant issued under division 5.3 (Search warrants) that is in force.

**Division 5.2                      General powers of inspectors**

**62                      General power of inspectors to enter premises**

- (1) For this Act, an inspector may—
- (a) at any reasonable time, enter premises that the inspector believes, on reasonable grounds, are a workplace; or
  - (b) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or
  - (c) at any time, enter premises with the occupier's consent; or
  - (d) enter premises in accordance with a search warrant; or
  - (e) at any time, enter premises if the inspector believes, on reasonable grounds, that the circumstances are of such seriousness and urgency as to require immediate entry to the premises without the authority of a search warrant.

*Note*        **Premises** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

- (2) However, subsection (1) (a) does not authorise entry into a part of premises that is being used only for residential purposes.
- (3) For subsection (1), an inspector may stop and detain a vehicle that the inspector believes, on reasonable grounds—
- (a) is a workplace; or
  - (b) contains documents relating to occupational health or safety at a workplace.
- (4) For subsection (3), the inspector—
- (a) may direct the driver of the vehicle to move the vehicle to a place (or another place) to which the public has access; and

- 1 (b) may exercise the inspector's powers in relation to the vehicle at  
2 the place; and
- 3 (c) must not detain the vehicle for longer than is reasonably  
4 necessary to exercise the inspector's powers under this  
5 division.
- 6 (5) An inspector may, without the consent of the occupier of premises,  
7 enter land around the premises to ask for consent to enter the  
8 premises.
- 9 (6) To remove any doubt, an inspector may enter premises under  
10 subsection (1) without payment of an entry fee or other charge.
- 11 (7) For subsection (1) (e), the inspector may enter the premises with any  
12 necessary assistance and force.
- 13 (8) In this section:
- 14 *at any reasonable time* means at any time—
- 15 (a) for subsection (1) (a)—during normal business hours or any  
16 other time when the premises are being used as a workplace; or
- 17 (b) for subsection (1) (b)—when the public is entitled to use the  
18 premises, or when the premises are open to or used by the  
19 public, whether or not on payment of money.
- 20 **62A Production of identity card by inspectors**
- 21 An inspector must not remain at premises entered under this part if  
22 the inspector does not produce his or her identity card for inspection  
23 when asked by the occupier.
- 24 **62B Consent to entry by inspectors**
- 25 (1) When seeking the consent of an occupier to enter premises under  
26 section 62 (1) (c) (General power of inspectors to enter premises),  
27 an inspector must—
- 28 (a) produce his or her identity card; and

- 1 (b) tell the occupier—
- 2 (i) the purpose of the entry; and
- 3 (ii) that anything found and seized under this part may be
- 4 used in evidence in court; and
- 5 (iii) that consent may be refused.
- 6 (2) If the occupier consents, the inspector must ask the occupier to sign
- 7 a written acknowledgment (an *acknowledgment of consent*)—
- 8 (a) that the occupier was told—
- 9 (i) the purpose of the entry; and
- 10 (ii) that anything found and seized under this part may be
- 11 used in evidence in court; and
- 12 (iii) that consent may be refused; and
- 13 (b) that the occupier consented to the entry; and
- 14 (c) stating the time and date when consent was given.
- 15 (3) If the occupier signs an acknowledgment of consent, the inspector
- 16 must immediately give a copy to the occupier.
- 17 (4) A court must find that the occupier did not consent to entry to the
- 18 premises by the inspector under this part if—
- 19 (a) the question whether the occupier consented to the entry arises
- 20 in a proceeding in the court; and
- 21 (b) an acknowledgment of consent for the entry is not produced in
- 22 evidence for the entry; and
- 23 (c) it is not proved that the occupier consented to the entry.

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**62C      General powers of inspectors for premises**

An inspector who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises:

- (a) examine anything;
- (b) examine and copy, or take extracts from, documents relating to a contravention, or possible contravention, of this Act;
- (c) take measurements, conduct tests and make sketches, drawings or any other kind of record (including photographs, films, or audio, video or other recordings);
- (d) open or operate (or require to be opened or operated) plant or a system;
- (e) take for analysis samples of water, soil or anything else that is part of the environment to find out whether the environment poses a risk to the health or safety of people;
- (f) subject to division 5.5 (Taking and analysis of samples), take for analysis samples of anything else;
- (g) carry out any other examination to find out whether this Act has been, or is being, complied with;
- (h) take onto the premises any people, equipment or material the inspector reasonably needs to exercise a power under this Act;
- (i) require the occupier, or anyone at the premises, to give information, answer questions, or produce documents or anything else, reasonably needed to exercise the inspector's functions under this part;

- 1 (j) require the occupier, or anyone at the premises, to give the  
2 inspector reasonable assistance to exercise a function under  
3 this part.

4 *Note 1* **At** premises includes in or on the premises (see dict).

5 *Note 2* **Examine** includes inspect, weigh, count, test and measure (see dict).

6 *Note 3* The Legislation Act, s 170 and s 171 deal with the application of the  
7 privilege against selfincrimination and client legal privilege.

8 *Note 4* A reference to an Act includes a reference to statutory instruments made  
9 or in force under the Act, including regulations and any law or  
10 instrument applied, adopted or incorporated by the Act (see Legislation  
11 Act, s 104).

12 **62D General powers of inspectors for public places**

- 13 (1) An inspector may exercise 1 or more of the powers mentioned in  
14 section 62 at a public place if the inspector suspects, on reasonable  
15 grounds, that the place is a workplace.
- 16 (2) This Act applies in relation to the exercise of a power under  
17 subsection (1) as if—
- 18 (a) the public place were premises entered by the inspector under  
19 this part; and
- 20 (b) all other necessary changes were made.
- 21 (3) Without limiting subsection (2), if a person is required to do  
22 something by an inspector under subsection (1), the person need not  
23 comply with the requirement if the inspector does not produce his or  
24 her identity card for inspection when asked by the person.

- 1     **62E       Contravention of requirement by inspector**
- 2             A person must take all reasonable steps to comply with a
- 3             requirement made of the person under section 62C (i) or (j)
- 4             (including a requirement made in relation to something at a public
- 5             place).
- 6             Maximum penalty: 50 penalty units.
- 7     **62F       Power of inspectors to take action to prevent etc**
- 8             **imminent risk**
- 9             (1) This section applies if an inspector believes, on reasonable grounds,
- 10            that—
- 11            (a) premises are a workplace; and
- 12            (b) there is an imminent risk of serious harm to a person at or near
- 13            the premises; and
- 14            (c) it is necessary for the inspector to take action without delay to
- 15            prevent or minimise the risk.
- 16            *Note 1   At premises includes in or on the premises (see dict).*
- 17            *Note 2   Premises includes any land, structure or vehicle and any part of an area*
- 18            *of land, a structure or vehicle (see dict).*
- 19            (2) This section applies even if an inspector has given a person an
- 20            improvement or prohibition notice in relation to the premises and
- 21            the time for complying with the notice has not ended.
- 22            (3) The inspector may take the action the inspector believes, on
- 23            reasonable grounds, is necessary to prevent or minimise the risk.
- 24            (4) For subsection (3), the inspector may enter the premises with any
- 25            necessary assistance and force.
- 26            (5) In deciding the action to be taken, the inspector must, to the extent
- 27            that is reasonably practicable, consult with the occupier of the
- 28            premises and the chief executive.

- 1           (6) The action an inspector may take includes asking someone the  
2           inspector believes, on reasonable grounds, has appropriate  
3           knowledge and experience to help the inspector prevent or minimise  
4           the risk.
- 5           (7) If an inspector asks someone to help under subsection (6), the  
6           person is taken to have the powers of an inspector to the extent  
7           reasonably necessary for the person to help prevent or minimise the  
8           risk.
- 9           (8) The power to enter premises under this section is additional to the  
10          powers under section 62 (General power of inspectors to enter  
11          premises).

12       **62G          Report about action under s 62F**

13           As soon as practicable after taking action under section 62F, an  
14           inspector must—

- 15           (a) prepare a report that outlines why the action was taken, the  
16           action that was taken and any damage to property because of  
17           the action; and
- 18           (b) give a copy of the report to the occupier of the premises and  
19           the chief executive.

20       **62H          Recovery of Territory's costs for action under s 62F**

- 21           (1) This section applies if an inspector takes action under section 62F  
22           (Power of inspectors to take action to prevent etc imminent risk) to  
23           prevent or minimise a risk.
- 24           (2) Costs incurred by the Territory in relation to the action are a debt  
25           owing to the Territory by, and are recoverable together and  
26           separately from, the following people:
- 27           (a) each employer in relation to work performed at the premises to  
28           which the action related;



- 1 (b) each owner and lessee of the premises to which the action  
2 related;
- 3 (c) the person who caused the risk.
- 4 (3) However, costs are not recoverable from a person if the person  
5 establishes that—
- 6 (a) the risk was caused by the act or omission of someone other  
7 than the person or the person's employee or agent; and
- 8 (b) reasonable precautions were taken and appropriate diligence  
9 was exercised by the person to avoid the act or omission.
- 10 (4) This section does not limit the powers the Territory has apart from  
11 this Act.
- 12 **62I Power of entry etc in relation to dangerous occurrences**
- 13 (1) This section applies if an inspector believes, on reasonable grounds,  
14 that a dangerous occurrence has happened, is happening or is about  
15 to happen at premises.
- 16 (2) The inspector may enter the premises to investigate the dangerous  
17 occurrence, ensure the premises are safe and prevent the  
18 concealment, loss or destruction of anything reasonably relevant to  
19 the investigation of the occurrence.
- 20 (3) For subsection (2), the inspector may enter the premises with any  
21 necessary assistance and force.
- 22 (4) The inspector may do anything reasonably necessary for a purpose  
23 mentioned in subsection (2).
- 24 (5) If an inspector acts under this section in the absence of the occupier  
25 of the premises, the inspector must, when leaving the premises,  
26 leave a written notice, secured in a conspicuous place, setting out—
- 27 (a) the inspector's name; and
- 28 (b) the time and date of the entry; and

- 1 (c) the purpose of the entry; and
- 2 (d) how to contact the inspector.
- 3 (6) The power to enter premises under this section is additional to the
- 4 powers under section 62 (General power of inspectors to enter
- 5 premises).
- 6 **62J Power of inspectors to seize things**
- 7 (1) An inspector who enters premises under this part with the consent of
- 8 the occupier may seize anything at the premises if—
- 9 (a) the inspector is satisfied, on reasonable grounds, that the thing
- 10 is connected with an offence against this Act; and
- 11 (b) seizure of the thing is consistent with the purpose of the entry
- 12 told to the occupier when seeking the occupier's consent.
- 13 (2) An inspector who enters premises under a warrant issued under this
- 14 part may seize anything at the premises that the inspector is
- 15 authorised to seize under the warrant.
- 16 (3) An inspector who enters premises under this part (whether with the
- 17 consent of the occupier, under a warrant or otherwise) may seize
- 18 anything at the premises if satisfied, on reasonable grounds, that—
- 19 (a) the thing is connected with an offence against this Act; and
- 20 (b) the seizure is necessary to prevent the thing from being—
- 21 (i) concealed, lost or destroyed; or
- 22 (ii) used to commit, continue or repeat the offence.
- 23 (4) Also, an inspector who enters premises under this part (whether with
- 24 the consent of the occupier, under a warrant or otherwise) may seize
- 25 anything at the premises if satisfied, on reasonable grounds, that the
- 26 thing poses a risk to the health or safety of people at a workplace.

- (5) The powers of an inspector under subsections (3) and (4) are additional to any powers of the inspector under subsection (1) or (2) or any other Territory law.

**62K Action by inspector in relation to seized thing**

- (1) This section applies if an inspector has seized a thing at premises (the *place of seizure*) under section 62J.

- (2) The inspector may—

- (a) remove the thing from the place of seizure to another place; or
- (b) leave the thing at the place of seizure but restrict access to it; or
- (c) for a thing mentioned in section 62L (1)—destroy or otherwise dispose of the thing under section 62L (5).

**Example of how access may be restricted for par (b)**

The inspector may—

- (a) place the seized thing in a room or other enclosed area, compartment or cabinet at the place of seizure; and
- (b) fasten and seal the door or opening providing access to the room, area, compartment or cabinet; and
- (c) mark the door or opening in a way that indicates that access to it has been restricted under this Act.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) A person commits an offence if—

- (a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (2); and

1 (b) the person does not have an inspector's approval to interfere  
2 with the thing.

3 Maximum penalty: 100 penalty units.

4 (4) An offence against this section is a strict liability offence.

5 **62L Power of inspectors to destroy unsafe things**

6 (1) This section applies to anything inspected or seized under this part  
7 by an inspector if the inspector is satisfied, on reasonable grounds,  
8 that the thing poses a risk to the health or safety of people.

9 (2) The inspector may require the occupier of the premises where the  
10 thing is to destroy or otherwise dispose of the thing.

11 (3) The requirement may state 1 or more of the following:

12 (a) how the thing must be destroyed or otherwise disposed of;

13 (b) how the thing must be kept until it is destroyed or otherwise  
14 disposed of;

15 (c) the period within which the thing must be destroyed or  
16 otherwise disposed of.

17 (4) The occupier of the premises where the thing is commits an offence  
18 if the person contravenes a requirement under subsection (2).

19 Maximum penalty: 100 penalty units.

20 (5) Alternatively, if the thing has been seized under this part, the  
21 inspector may destroy or otherwise dispose of the thing.

22 (6) Costs incurred by the Territory in relation to the disposal of a thing  
23 under subsection (5) are a debt owing to the Territory by, and are  
24 recoverable together and separately from, the following people:

25 (a) each employer in relation to work performed in relation to the  
26 thing seized or, if there is no such employer, each employer in  
27 relation to work performed at the premises from which the  
28 thing was seized;

(b) the person who owned the thing.

## **62M Power of inspectors to require name and address**

- (1) An inspector may require a person to state the person's name and home address if the inspector suspects, on reasonable grounds, that the person is committing, is about to commit, or has just committed, an offence against this Act.

*Note* A reference to an Act includes a reference to statutory instruments made or in force under the Act, including regulations and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

- (2) If an inspector makes a requirement of a person under subsection (1), the inspector must—

- (a) tell the person the reasons for the requirement; and
- (b) as soon as practicable, record the reasons.

- (3) A person commits an offence if the person contravenes a requirement under subsection (1).

Maximum penalty: 10 penalty units.

- (4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the inspector does not produce his or her identity card for inspection by the person.

- (5) An offence against this section is a strict liability offence.

- (6) In this section:

*home address*, of a person, means the address of the place where the person usually lives.

## **62N Power of inspectors to require production of authorisation**

- (1) This section applies if—

- 1 (a) an inspector suspects, on reasonable grounds, that the person is  
2 doing something, is about to do something, or has just done  
3 something; and
- 4 (b) the regulations require doing the thing to be authorised  
5 (however described) under this Act.
- 6 **Example**  
7 a person is operating a forklift and, under this Act, is required to hold a certificate  
8 to operate the forklift
- 9 *Note* An example is part of the Act, is not exhaustive and may extend, but  
10 does not limit, the meaning of the provision in which it appears (see  
11 Legislation Act, s 126 and s 132).
- 12 (2) The inspector may require the person to produce for inspection  
13 anything that authorises the person to do the thing.
- 14 (3) If an inspector makes a requirement of a person under  
15 subsection (2), the inspector must—
- 16 (a) tell the person the reasons for the requirement; and  
17 (b) as soon as practicable, record the reasons.
- 18 (4) A person commits an offence if the person contravenes a  
19 requirement under subsection (2).
- 20 Maximum penalty: 5 penalty units.
- 21 (5) However, a person is not required to comply with a requirement  
22 under subsection (2) if, when asked by the person, the inspector  
23 does not produce his or her identity card for inspection by the  
24 person.
- 25 (6) An offence against this section is a strict liability offence.
- 26 (7) For this section, the regulations may declare that a person authorised  
27 to do a thing under a corresponding law is authorised to do the thing  
28 under this Act.

(8) In this section:

*corresponding law* means a State law that corresponds to this Act.

## **Division 5.3 Search warrants**

### **63 Warrants generally**

(1) An inspector may apply to a magistrate for a warrant to enter premises.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity connected with an offence against this Act; and

(b) the thing or activity is, or is being engaged in, at the premises, or may be, or may be engaged in, at the premises within the next 14 days.

*Note* *At* premises includes in or on the premises (see dict).

(5) The warrant must state—

(a) that an inspector may, with any necessary assistance and force, enter the premises and exercise the inspector's powers under this part; and

(b) the offence for which the warrant is issued; and

(c) the things that may be seized under the warrant; and

(d) the hours when the premises may be entered; and

1 (e) the date, within 14 days after the day of the warrant's issue,  
2 that the warrant ends.

3 (6) In this section:

4 ***connected***—an activity is ***connected*** with an offence if—

5 (a) the offence has been committed by engaging or not engaging in  
6 it; or

7 (b) it will provide evidence of the commission of the offence.

8 *Note* For the meaning of thing ***connected*** with an offence, see s 61.

9 **63A Warrants—application made other than in person**

10 (1) An inspector may apply for a warrant by phone, fax, radio or other  
11 form of communication if the inspector considers it necessary  
12 because of—

13 (a) urgent circumstances; or

14 (b) other special circumstances.

15 (2) Before applying for the warrant, the inspector must prepare an  
16 application stating the grounds on which the warrant is sought.

17 (3) The inspector may apply for the warrant before the application is  
18 sworn.

19 (4) After issuing the warrant, the magistrate must immediately fax a  
20 copy to the inspector if it is practicable to do so.

21 (5) If it is not practicable to fax a copy to the inspector—

22 (a) the magistrate must—

23 (i) tell the inspector what the terms of the warrant are; and

24 (ii) tell the inspector the date and time the warrant was  
25 issued; and



- 1 (b) the inspector must complete a form of warrant (the *warrant*  
2 *form*) and write on it—
- 3 (i) the magistrate's name; and
- 4 (ii) the date and time the magistrate issued the warrant; and
- 5 (iii) the warrant's terms.
- 6 (6) The faxed copy of the warrant, or the warrant form properly  
7 completed by the inspector, authorises the entry and exercise of the  
8 inspector's powers under this part.
- 9 (7) The inspector must, at the first reasonable opportunity, send to the  
10 magistrate—
- 11 (a) the sworn application; and
- 12 (b) if the inspector completed a warrant form—the completed  
13 warrant form.
- 14 (8) On receiving the documents, the magistrate must attach them to the  
15 warrant.
- 16 (9) A court must find that a power exercised by an inspector was not  
17 authorised by a warrant under this section if—
- 18 (a) the question arises in a proceeding before the court whether the  
19 exercise of power was authorised by a warrant; and
- 20 (b) the warrant is not produced in evidence; and
- 21 (c) it is not proved that the exercise of power was authorised by a  
22 warrant under this section.

23 **63B Search warrants—announcement before entry**

- 24 (1) An inspector must, before anyone enters premises under a search  
25 warrant—
- 26 (a) announce that the inspector is authorised to enter the premises;  
27 and

- 1 (b) give anyone at the premises an opportunity to allow entry to  
2 the premises; and
- 3 (c) if the occupier of the premises, or someone else who  
4 apparently represents the occupier, is present at the premises—  
5 identify himself or herself to the person.
- 6 (2) The inspector is not required to comply with subsection (1) if the  
7 inspector believes, on reasonable grounds, that immediate entry to  
8 the premises is required to ensure—
- 9 (a) the safety of anyone (including the inspector or any person  
10 assisting); or
- 11 (b) that the effective execution of the warrant is not frustrated.

12 **63C Details of search warrant to be given to occupier etc**

13 If the occupier of the premises, or someone else who apparently  
14 represents the occupier, is present at the premises while a search  
15 warrant is being executed, the inspector or a person assisting must  
16 make available to the person—

- 17 (a) a copy of the warrant; and
- 18 (b) a document setting out the rights and obligations of the person.

19 **63D Occupier entitled to be present during search etc**

20 (1) If the occupier of premises, or someone else who apparently  
21 represents the occupier, is present at the premises while a search  
22 warrant is being executed, the person is entitled to observe the  
23 search being conducted.

24 (2) However, the person is not entitled to observe the search if—

- 25 (a) to do so would impede the search; or
- 26 (b) the person is under arrest, and allowing the person to observe  
27 the search being conducted would interfere with the objectives  
28 of the search.

- (3) This section does not prevent 2 or more areas of the premises being searched at the same time.

**63E Moving things to another place for examination or processing under search warrant**

- (1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—

(a) both of the following apply:

(i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;

(ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or

(b) the occupier of the premises agrees in writing.

- (2) The thing may be moved to another place for examination or processing for no longer than 72 hours.

- (3) An inspector may apply to a magistrate for an extension of time if the inspector believes, on reasonable grounds, that the thing cannot be examined or processed within 72 hours.

- (4) The inspector must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.

- (5) If a thing is moved to another place under this section, the inspector must, if practicable—

(a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and

- 1 (b) allow the occupier or the occupier's representative to be  
2 present during the examination or processing.
- 3 (6) The provisions of this part relating to the issue of search warrants  
4 apply, with any necessary changes, to the giving of an extension  
5 under this section.
- 6 **63F Use of electronic equipment under search warrant**
- 7 (1) An inspector or a person assisting may operate electronic equipment  
8 at premises entered under a search warrant to access data (including  
9 data not held at the premises) if the inspector or person believes, on  
10 reasonable grounds, that—
- 11 (a) the data might be something to which the warrant relates; and  
12 (b) the equipment can be operated without damaging the data.
- 13 (2) If the inspector or person assisting believes, on reasonable grounds,  
14 that any data accessed by operating the electronic equipment might  
15 be something to which the warrant relates, the inspector or person  
16 may—
- 17 (a) copy the data to a data storage device brought to the premises;  
18 or  
19 (b) if the occupier of the premises agrees in writing—copy the data  
20 to a data storage device at the premises.
- 21 (3) The inspector or person assisting may take the device from the  
22 premises.
- 23 (4) The inspector or person assisting may do the following things if the  
24 inspector or person finds that anything to which the warrant relates  
25 (the *material*) is accessible using the equipment:
- 26 (a) seize the equipment and any data storage device;  
27 (b) if the material can, by using facilities at the premises, be put in  
28 documentary form—operate the facilities to put the material in  
29 that form and seize the documents produced.

- 1 (5) An inspector may seize equipment under subsection (4) (a) only if—  
2 (a) it is not practicable to copy the data as mentioned in  
3 subsection (2) or to put the material in documentary form as  
4 mentioned in subsection (4) (b); or  
5 (b) possession of the equipment by the occupier could be an  
6 offence.

7 **63G Person with knowledge of computer systems to assist**  
8 **access etc under search warrant**

- 9 (1) An inspector may apply to a magistrate for an order requiring a  
10 stated person to provide any information or assistance that is  
11 reasonably necessary to allow the inspector or a person assisting to  
12 do 1 or more of the following:  
13 (a) access data held in or accessible from a computer that is at the  
14 premises;  
15 (b) copy the data to a data storage device;  
16 (c) convert the data into documentary form.  
17 (2) The magistrate may make an order if satisfied that—  
18 (a) there are reasonable grounds for suspecting that something to  
19 which the warrant relates is accessible from the computer; and  
20 (b) the stated person is—  
21 (i) reasonably suspected of possessing, or having under the  
22 person's control, something to which the warrant relates;  
23 or  
24 (ii) the owner or lessee of the computer; or  
25 (iii) an employee or agent of the owner or lessee of the  
26 computer; and

- 1 (c) the stated person has knowledge of—
- 2 (i) the computer or a computer network of which the
- 3 computer forms a part; or
- 4 (ii) measures applied to protect data held in or accessible
- 5 from the computer.
- 6 (3) A person commits an offence if the person contravenes an order
- 7 under this section.
- 8 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 9 both.
- 10 (4) The provisions of this part relating to the issue of search warrants
- 11 apply, with any necessary changes, to the making of an order under
- 12 this section.

13 **63H Securing electronic equipment under search warrant**

- 14 (1) This section applies if the inspector or a person assisting believes,
- 15 on reasonable grounds, that—
- 16 (a) something to which the warrant relates (the *material*) may be
- 17 accessible by operating electronic equipment at the premises;
- 18 and
- 19 (b) expert assistance is needed to operate the equipment; and
- 20 (c) the material may be destroyed, altered or otherwise interfered
- 21 with if the inspector or person does not take action.
- 22 (2) The inspector or person may do whatever is necessary to secure the
- 23 equipment.

24 **Examples**

25 locking the equipment up or placing a guard

26 *Note* An example is part of the Act, is not exhaustive and may extend, but

27 does not limit, the meaning of the provision in which it appears (see

28 Legislation Act, s 126 and s 132).

- 1           (3) The inspector or a person assisting must give written notice to the  
2           occupier of the premises of—
- 3           (a) the securing of the equipment; and
- 4           (b) the fact that the equipment may be secured for up to 24 hours.
- 5           (4) The equipment may be secured until the earlier of the following  
6           events happens:
- 7           (a) the end of the 24-hour period;
- 8           (b) the equipment is operated by the expert.
- 9           (5) If the inspector or a person assisting believes on reasonable grounds  
10          that the expert assistance will not be available within the 24-hour  
11          period, the inspector or person may apply to a magistrate to extend  
12          the period.
- 13          (6) The inspector or a person assisting must tell the occupier of the  
14          premises of the intention to apply for an extension, and the occupier  
15          is entitled to be heard on the application.
- 16          (7) The provisions of this part relating to the issue of search warrants  
17          apply, with any necessary changes, to the giving of an extension  
18          under this section.
- 19       **63I       Copies of things seized under search warrant to be**  
20       **provided**
- 21          (1) This section applies if—
- 22               (a) the occupier of premises, or someone else who apparently  
23               represents the occupier, is present at the premises while a  
24               search warrant is executed; and
- 25               (b) the inspector seizes—
- 26                   (i) a document, film, computer file or something else that  
27                   can be readily copied; or

- 1 (ii) a data storage device containing information that can be  
2 readily copied.
- 3 (2) The person may ask the inspector to give the person a copy of the  
4 thing or information.
- 5 (3) The inspector must give the person the copy as soon as practicable  
6 after the seizure.
- 7 (4) However, the inspector is not required to give the copy if—
- 8 (a) the thing was seized under section 63F (Use of electronic  
9 equipment under search warrant); or
- 10 (b) possession of the thing or information by the occupier or  
11 person would be an offence.

## 12 **Division 5.4 Return and forfeiture of things seized**

### 13 **64 Receipt for things seized**

- 14 (1) As soon as practicable after a thing is seized by an inspector under  
15 this part, the inspector must give a receipt for it to the person from  
16 whom it was seized.
- 17 (2) If, for any reason, it is not practicable to comply with subsection (1),  
18 the inspector must leave the receipt, secured conspicuously, at the  
19 place of seizure under section 62K (2) (b) (Action by inspector in  
20 relation to seized thing).
- 21 (3) A receipt under this section must include the following:
- 22 (a) a description of the thing seized;
- 23 (b) an explanation of why the thing was seized;
- 24 (c) an explanation of the person's right to apply to a court under  
25 section 64C for an order disallowing the seizure;
- 26 (d) if the thing is removed from the premises where it is seized—  
27 where the thing is to be taken;



(e) the inspector's name, and how to contact the inspector.

#### **64A Access to things seized**

- (1) This section applies to a document or anything else seized under this part.
- (2) If asked by a person who would be entitled to inspect the thing if it were not seized under this part, an inspector must allow the person, at any reasonable time—
- (a) for a document—to inspect it, take extracts from it or make copies of it; and
  - (b) for anything else—to inspect it.
- (3) This section does not apply to—
- (a) a thing seized under section 62I (4) (which is about the seizure of a thing that poses a risk to occupational health or safety); or
  - (b) a thing seized under section 63F (Use of electronic equipment under search warrant); or
  - (c) a thing or information if possession of it by the person otherwise entitled to inspect it would be an offence.

#### **64B Return of things seized**

- (1) A thing seized under this part must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—
- (a) an infringement notice for an offence connected with the thing is not served on the owner within 1 year after the day of the seizure and either—
    - (i) a prosecution for an offence connected with the thing is not begun within the 1-year period; or

- 1 (ii) a prosecution for an offence connected with the thing is  
2 begun within the 1-year period but the court does not find  
3 the offence proved; or
- 4 (b) an infringement notice for an offence connected with the thing  
5 is served on the owner within 1 year after the day of the  
6 seizure, the infringement notice is withdrawn and—
- 7 (i) a prosecution for an offence connected with the thing is  
8 not begun within 1 year after the day of the seizure; or
- 9 (ii) a prosecution for an offence connected with the thing is  
10 begun within 1 year after the day of the seizure but the  
11 court does not find the offence proved; or
- 12 (c) an infringement notice for an offence connected with the thing  
13 is served on the owner within 1 year after the day of the  
14 seizure, liability for the offence is disputed in accordance with  
15 the *Magistrates Court Act 1930*, section 132 (Disputing  
16 liability for infringement notice offence) and—
- 17 (i) an infringement notice is not laid in the Magistrates Court  
18 against the person for the offence within 60 days after the  
19 day notice is given under section 132 that liability is  
20 disputed; or
- 21 (ii) the Magistrates Court does not find the offence proved;  
22 or
- 23 (d) before the thing is forfeited to the Territory under section 64F  
24 (Forfeiture of seized things), the chief executive—
- 25 (i) becomes satisfied that there has been no offence against  
26 this Act with which the thing was connected; or
- 27 (ii) decides not to prosecute or serve an infringement notice  
28 for the offence.

(2) However, this section does not apply—

(a) to a thing seized under section 62I (4) (which is about the seizure of a thing that poses a risk to occupational health or safety); or

(b) to a thing if the chief executive believes, on reasonable grounds, that the only practical use of the thing in relation to the premises where it was seized would be an offence against this Act; or

(c) to a thing if possession of it by its owner would be an offence.

#### **64C Application for order disallowing seizure**

(1) A person claiming to be entitled to anything seized under this part may apply to the Magistrates Court within 10 days after the day of the seizure for an order disallowing the seizure.

(2) However, this section does not apply to a thing seized under section 62J (4) (which is about the seizure of a thing that poses a risk to occupational health or safety).

(3) The application may be heard only if the applicant has served a copy of the application on the chief executive.

(4) The chief executive is entitled to appear as respondent at the hearing of the application.

#### **64D Order for return of seized thing**

(1) This section applies if a person claiming to be entitled to anything seized under this part applies to the Magistrates Court under section 64C for an order disallowing the seizure.

(2) The Magistrates Court must make an order disallowing the seizure if the court is satisfied that—

(a) the applicant would, apart from the seizure, be entitled to the return of the seized thing; and

- 1 (b) the thing is not connected with an offence against this Act; and  
2 (c) possession of the thing by the person would not be an offence.
- 3 (3) The Magistrates Court may also make an order disallowing the  
4 seizure if satisfied there are exceptional circumstances justifying the  
5 making of the order.
- 6 (4) If the Magistrates Court makes an order disallowing the seizure, the  
7 court may make 1 or more of the following ancillary orders:
- 8 (a) an order directing the chief executive to return the thing to the  
9 applicant or to someone else that appears to be entitled to it;
- 10 (b) if the thing cannot be returned or has depreciated in value  
11 because of the seizure—an order directing the Territory to pay  
12 reasonable compensation;
- 13 (c) an order about the payment of costs in relation to the  
14 application.

15 **64E Adjournment pending hearing of other proceedings**

- 16 (1) This section applies to the hearing of an application under  
17 section 64C (Application for order disallowing seizure).
- 18 (2) If it appears to the Magistrates Court that the seized thing is required  
19 to be produced in evidence in a pending proceeding in relation to an  
20 offence against a Territory law, the court may, on the application of  
21 the chief executive or its own initiative, adjourn the hearing until the  
22 end of that proceeding.

23 **64F Forfeiture of seized things**

- 24 (1) This section applies if—
- 25 (a) anything seized under this part has not been destroyed or  
26 otherwise disposed of under section 62L (Power of inspectors  
27 to destroy unsafe things) or returned under section 64B (Return  
28 of things seized); and

- 1 (b) an application for disallowance of the seizure under  
2 section 64C (Application for order disallowing seizure)—
- 3 (i) has not been made within 10 days after the day of the  
4 seizure; or
- 5 (ii) has been made within that period, but the application has  
6 been refused or has been withdrawn before a decision in  
7 relation to the application had been made.
- 8 (2) If this section applies to the seized thing—
- 9 (a) it is forfeited to the Territory; and
- 10 (b) it may be sold, destroyed or otherwise disposed of as the chief  
11 executive directs.

#### 12 **64G Return of forfeited things**

- 13 (1) This section applies to something forfeited under section 62F that  
14 has not been disposed of in a way that would prevent its return.
- 15 (2) If the chief executive becomes satisfied that there has been no  
16 offence against this Act with which the thing was connected, the  
17 chief executive must, as soon as practicable, return the thing to the  
18 person from whom it was seized or someone else who appears to the  
19 chief executive to be entitled to it.
- 20 (3) On its return, any proprietary and other interests in the thing that  
21 existed immediately before its forfeiture are restored.

#### 22 **64H Cost of disposal of things forfeited**

- 23 (1) This section applies if—
- 24 (a) a person is convicted, or found guilty, of an offence against  
25 this Act in relation to something forfeited to the Territory  
26 under this part; and
- 27 (b) the thing was connected with an offence against this Act; and

- 1 (c) the person was the owner of the thing immediately before its  
2 forfeiture.

3 *Note* For the meaning of *found guilty*, see Legislation Act, dict, pt 1.

- 4 (2) If this section applies, costs incurred by or on behalf of the Territory  
5 in relation to the lawful disposal of the thing (including storage  
6 costs) are a debt owing to the Territory by the person.

## 7 **Division 5.5 Taking and analysis of samples**

### 8 **65 Inspector may buy samples without complying with** 9 **div 5.5**

10 This division does not stop an inspector from buying a sample of a  
11 substance for analysis for the routine monitoring of compliance with  
12 this Act without complying with the requirements of this part.

### 13 **65A Occupier etc to be told sample to be analysed**

- 14 (1) This section applies if an inspector proposes to take, or takes, a  
15 sample of a substance for analysis from premises that are a  
16 workplace.
- 17 (2) Before or as soon as practicable after taking the sample, the  
18 inspector must tell the occupier of the premises of the inspector's  
19 intention to have the sample analysed.
- 20 (3) If the occupier is not present or readily available, the inspector must  
21 instead tell the person from whom the sample was obtained of the  
22 inspector's intention to have the sample analysed.

### 23 **65B Payment for samples**

- 24 (1) This section applies if an inspector takes a sample of a substance for  
25 analysis from premises that are a workplace.

- 1           (2) The inspector must pay, or offer to pay, to the person from whom  
2           the sample is taken—
- 3           (a) the amount (if any) prescribed under the regulations as the  
4           amount payable for the sample; or
- 5           (b) if no amount is prescribed—the current market value of the  
6           sample.
- 7   **65C       Samples from packaged substances**
- 8           If a package of a substance contains 2 or more smaller packages of  
9           the same substance, the inspector may take 1 of the smaller  
10          packages for analysis.
- 11   **65D       Procedures for dividing samples**
- 12          (1) This section applies to a sample of a substance being taken by an  
13          inspector for analysis and is subject to section 65E.
- 14          (2) The inspector must—
- 15               (a) divide the sample into 3 separate parts, and mark and seal or  
16               fasten each part; and
- 17               (b) leave 1 part with the person told under section 65A (Occupier  
18               etc to be told sample to be analysed) of the inspector's  
19               intention to have the sample analysed; and
- 20               (c) keep 1 of the parts for analysis; and
- 21               (d) keep 1 part for future comparison with the other parts of the  
22               sample.
- 23          (3) If a sample of a substance taken by an inspector is in the form of  
24          separate or severable objects, the inspector—
- 25               (a) may take a number of the objects; and

- 1 (b) divide them into 3 parts each consisting of 1 or more of the  
2 objects, or of the severable parts of the objects, and mark and  
3 seal or fasten each part; and  
4 (c) deal with the sample under subsection (2) (b) to (d).

5 **65E Exceptions to s 65D**

- 6 (1) This section applies to a sample of a substance being taken by an  
7 inspector for analysis if dividing the substance into 3 separate parts  
8 would, in the inspector's opinion—  
9 (a) so affect or impair the composition or quality of the sample as  
10 to make the separate parts unsuitable for accurate analysis; or  
11 (b) result in the separate parts being of an insufficient size for  
12 accurate analysis; or  
13 (c) otherwise make the sample unsuitable for analysis (including a  
14 method of analysis prescribed under the regulations for the  
15 substance in relation to which the sample was taken).  
16 (2) The inspector may take as many samples as the inspector considers  
17 necessary to allow an accurate analysis to be made, and may deal  
18 with the sample or samples in any way that is appropriate in the  
19 circumstances, instead of complying with section 65D.

20 **65F Certificates of analysis by authorised analysts**

- 21 (1) The analysis of a sample of a substance for the chief executive must  
22 be carried out by, or under the supervision of, an authorised analyst.  
23 (2) The authorised analyst must give to the chief executive a certificate  
24 of analysis that—  
25 (a) is signed and dated by the analyst; and  
26 (b) contains a written report of the analysis that sets out the  
27 findings; and



(c) identifies the method of analysis.

*Note 1* If a form is approved under s 96B for the certificate, the form must be used.

*Note 2* For the evidentiary status of a certificate under this section, see s 93H.

## **Division 5.6 Other enforcement provisions**

### **67 Damage etc by inspectors to be minimised**

(1) In the exercise, or purported exercise, of a function under this part, an inspector must take all reasonable steps to ensure that the inspector, and any person assisting, causes as little inconvenience, detriment and damage as is practicable.

(2) If an inspector, or a person assisting, damages anything in the exercise or purported exercise of a function under this part, the inspector must give written notice of particulars of the damage to the person the inspector believes, on reasonable grounds, is the owner of the thing.

(3) If the damage happens at premises entered under this part in the absence of the occupier of the premises, the notice may be given by leaving it secured in a conspicuous place at the premises.

### **67A Compensation for exercise of function by inspector**

(1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an inspector or person assisting.

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an order under section 64C (Application for order disallowing seizure); or

- 1 (c) an offence against this Act brought against the person making  
2 the claim for compensation.
- 3 (3) A court may order the payment of reasonable compensation for the  
4 loss or expense only if it is satisfied it is just to make the order in the  
5 circumstances of the particular case.
- 6 (4) The regulations may prescribe matters that may, must or must not be  
7 taken into account by the court in considering whether it is just to  
8 make the order.

9 **18 Infringement notices for certain offences**  
10 **Part 5A**

11 *omit*

12 **19 Part 6**

13 *substitute*

14 **Part 6 Compliance measures**

15 **Division 6.1 Interpretation for pt 6**

16 **75 Meaning of *responsible person* for pt 6**

17 In this part:

18 *responsible person*, for a contravention of a provision of this Act,  
19 means a person who is required to do something, or not do  
20 something, under the provision.

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## Division 6.2 Information and documents

### 75A Chief executive may require answers to questions and production of documents

- (1) This section applies if the chief executive believes, on reasonable grounds, that a person (the *relevant person*) may have contravened, or may be contravening, a provision of this Act.

*Note 1* A reference to an Act includes a reference to statutory instruments made or in force under the Act, including regulations and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

*Note 2* The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

- (2) The chief executive may, by written notice given to a person (including the relevant person), require the person to attend before the chief executive at a stated reasonable time and place to do either or both of the following:

(a) answer questions that the chief executive considers necessary to decide whether the relevant person has contravened or is contravening this Act;

(b) produce the documents stated in the notice.

*Note* For how the notice may be served, see Legislation Act, pt 19.5.

- (3) The chief executive may require a person to produce a document under subsection (2) (b) only if the chief executive considers the production necessary to decide whether the relevant person has contravened or is contravening this Act.

- (4) The notice must—

(a) state that the requirement is made under this section; and

(b) contain a statement to the effect that failure to comply with the notice is an offence; and

- 1 (c) if the notice requires the person to answer questions—
- 2 (i) contain a statement about the effect of section 75E
- 3 (Privileges against selfincrimination and exposure to civil
- 4 penalties); and
- 5 (ii) state that the person may attend with a lawyer.
- 6 (5) To remove any doubt, for this section, a person answers a question
- 7 if the person explains why the person or an entity did or did not do
- 8 something.

9 **75B Compliance with notice to produce**

- 10 (1) This section applies if a person is required by a notice under
- 11 section 75A to produce a document but not to answer questions.
- 12 (2) The person is taken to have complied with the requirement to
- 13 produce the document if the person—
- 14 (a) does not attend before the chief executive; but
- 15 (b) gives the document to the chief executive before the time
- 16 stated for attendance in the notice.

17 **75C Failure to attend before chief executive or produce**

18 **documents**

- 19 (1) A person commits an offence if—
- 20 (a) the person is required by a notice under section 75A to attend
- 21 and answer questions before the chief executive; and
- 22 (b) the person fails to attend before the chief executive in
- 23 accordance with the notice.
- 24 Maximum penalty: 50 penalty units.
- 25 (2) A person commits an offence if—
- 26 (a) the person is required by a notice under section 75A to produce
- 27 a stated document; and

(b) the person fails to produce the document.

Maximum penalty: 50 penalty units.

(3) An offence against this section is a strict liability offence.

#### **75D Attendance before chief executive—offences**

(1) A person commits an offence if—

(a) the person is required under section 75A to attend and answer questions before the chief executive; and

(b) the person attends before the chief executive; and

(c) the chief executive requires the person to answer a question; and

(d) the person fails to answer the question.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if—

(a) the person is required by a notice under section 75A to attend and answer questions before the chief executive; and

(b) the person attends before the chief executive; and

(c) the person fails to continue to attend as reasonably required by the chief executive until excused from further attendance.

Maximum penalty: 50 penalty units.

(3) An offence against this section is a strict liability offence.

#### **75E Privileges against selfincrimination and exposure to civil penalties**

(1) This section applies if—

(a) a person is attending before the chief executive in accordance with a requirement under section 75A; and

- 1 (b) the chief executive requires the person to answer a question.
- 2 (2) This section also applies if a person is required by a notice under
- 3 section 75A to produce a document.
- 4 (3) The person cannot rely on the common law privileges against
- 5 selfincrimination and exposure to the imposition of a civil penalty to
- 6 refuse to answer the question or produce the document.
- 7 (4) However, any information, document or thing obtained, directly or
- 8 indirectly, because of the giving of the answer or the production of
- 9 the document is not admissible in evidence against the person in a
- 10 civil or criminal proceeding, other than a proceeding for an offence
- 11 against this part or the Criminal Code, part 3.4 (False or misleading
- 12 statements, information and documents).

### 13 **Division 6.3 Compliance agreements**

#### 14 **75F Meaning of *relevant responsible person* for div 6.3**

15 In this division:

16 *relevant responsible person*, for a compliance agreement, means the

17 responsible person for a workplace who enters into the agreement.

#### 18 **75G Inspector may seek compliance agreement**

- 19 (1) This section applies if an inspector believes, on reasonable grounds,
- 20 that a provision of this Act has been, is being or may be contravened
- 21 in relation to a workplace.

22 *Note* A reference to an Act includes a reference to statutory instruments made

23 or in force under the Act, including regulations and any law or

24 instrument applied, adopted or incorporated by the Act (see Legislation

25 Act, s 104).

- 26 (2) The inspector may ask a responsible person for the workplace, other
- 27 than an employee at the workplace, to enter into an agreement (a
- 28 *compliance agreement*) in relation to the contravention.

(3) If the responsible person agrees to enter into a compliance agreement, the agreement must—

- (a) state that it is a compliance agreement under this Act; and
- (b) state the contravention of this Act in relation to which the agreement is entered into; and
- (c) state the period for which the agreement is to operate; and
- (d) state the measures to be taken by the responsible person or anyone else to ensure this Act is complied with and the times within which the measures must be taken; and
- (e) be signed by the inspector and the responsible person.

**Examples of measures for par (d)**

- 1 only direct people to work in confined place if they have appropriate safety training
- 2 fit scaffolding with handrails and kickboards before using the scaffolding
- 3 repair or replace particular plant

*Note* An example is part of this Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(4) The compliance agreement may include anything else the inspector and the relevant responsible person consider appropriate.

(5) The inspector must give a copy of the compliance agreement to the relevant responsible person.

## **75H Term of compliance agreement**

(1) A compliance agreement commences when the agreement is signed by the inspector and relevant responsible person, or at any later time stated in the agreement.

(2) The compliance agreement ends—

- (a) at the end of the period of operation stated in the agreement; or

1 (b) if the inspector and relevant responsible person agree to extend  
2 the period of operation before the end of the stated period—at  
3 the end of the extended period.

4 (3) If an inspector is satisfied that the compliance agreement has been  
5 complied with before it ends, the inspector must revoke the  
6 agreement by written notice given to the relevant responsible  
7 person.

8 **75I Compliance agreement not admission of fault etc**

9 (1) This section applies if a responsible person for a workplace enters  
10 into a compliance agreement in relation to a contravention of this  
11 Act.

12 (2) Entering into the compliance agreement—

13 (a) is not an express or implied admission of fault or liability by  
14 the responsible person in relation to the contravention; and

15 (b) is not relevant to deciding fault or liability in relation to the  
16 contravention.

17 (3) Also, evidence of the existence or contents of the compliance  
18 agreement is not—

19 (a) admissible in a civil proceeding as evidence of the fault or  
20 liability of a person in relation to the contravention; or

21 (b) admissible in a criminal proceeding in relation to the  
22 contravention; or

23 (c) relevant to the taking of action in relation to an authorisation  
24 (however described) held by a person under this Act.

25 *Note 1* This section does not prevent the giving of an improvement notice or  
26 prohibition notice in relation to the relevant contravention (see  
27 Legislation Act, s 44 and s 197).

28 *Note 2* A reference to an Act includes a reference to the statutory instruments  
29 made or in force under the Act, including regulations (see Legislation  
30 Act, s 104).



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**75J Notification and display of compliance agreements**

(1) This section applies to the relevant responsible person for a compliance agreement.

(2) The person commits an offence if the person fails to—

(a) tell each person (an *affected person*) whose work is affected by the measures to be taken under the agreement about the agreement, including the measures; and

(b) give a copy of the agreement to each other person in control of each workplace where an affected person works.

Maximum penalty: 20 penalty units.

(3) The person commits an offence if the person fails to ensure that, while the agreement is operating, a copy of the agreement is displayed in a prominent place at each premises affected by the contravention of this Act in relation to which the agreement was entered into.

Maximum penalty: 20 penalty units.

(4) An offence against this section is a strict liability offence.

**75K Compliance agreement not to be removed etc**

(1) A person commits an offence if—

(a) a copy of a compliance agreement is displayed at premises; and

(b) the person removes, alters, damages, defaces or covers the copy while the agreement is operating.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

**Division 6.4                      Improvement notices**

**76                      Meaning of *relevant responsible person* for div 6.4**

In this division:

*relevant responsible person*, for an improvement notice, means the person to whom the inspector gives the notice.

**76A                      Giving improvement notices**

An inspector may give a notice (an *improvement notice*) to a responsible person for a workplace if the inspector believes, on reasonable grounds, that a person has contravened, is contravening, or is likely to contravene, this Act in relation to the workplace.

*Note 1*    For how documents may be served, see Legislation Act, pt 19.5.

*Note 2*    A reference to an Act includes a reference to statutory instruments made or in force under the Act, including regulations and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

**76B                      Contents of improvement notices**

(1) An improvement notice may require the relevant responsible person to do 1 or more of the following:

- (a) put stated premises, plant or a system into a safe condition, including, for example, by repairing or replacing the premises, plant or system;
- (b) comply with a particular provision of this Act in relation to the workplace;
- (c) do anything else to ensure that this Act is complied with in relation to the workplace.

*Note*        An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) Also, the improvement notice must—
- (a) state that it is an improvement notice under this Act; and
  - (b) state the contravention of this Act in relation to which the notice is given; and
  - (c) state the period for complying with the notice.
- (3) The improvement notice may include any other information the inspector considers appropriate.

#### **76C Scope of improvement notices**

- (1) An improvement notice for a workplace may relate to 1 or more of the following:
- (a) premises forming the workplace;
  - (b) plant or a system at the workplace;
  - (c) an activity at the workplace;
  - (d) a circumstance at the workplace.

*Note* **Premises** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

- (2) This section does not limit the scope of an improvement notice for a workplace.

#### **76D Extension of time for compliance with improvement notices**

- (1) This section applies if a responsible person for a workplace has been given an improvement notice.
- (2) An inspector may, by written notice given to the responsible person, extend the compliance period for the improvement notice on the inspector's own initiative or if asked by the responsible person.
- (3) However, the inspector may extend the compliance period only if the period has not ended.

- 1           (4) In this section:
- 2                 *compliance period* means the period stated in the improvement
- 3                 notice under section 76B (2) (c), and includes that period as
- 4                 extended under this section.

5       **76E       Notification and display of improvement notices**

- 6           (1) This section applies to the relevant responsible person for an
- 7                 improvement notice.
- 8           (2) The person commits an offence if the person fails to—
- 9                 (a) tell each person (an *affected person*) whose work is affected by
- 10                 anything required to be done under the notice about the notice,
- 11                 including the things required to be done under it; and
- 12                 (b) give a copy of the notice to each other person in control of
- 13                 each workplace where an affected person works.

14                 Maximum penalty: 20 penalty units.

- 15           (3) The person commits an offence if the person fails to ensure that,
- 16                 while the notice is in force, a copy of the notice is displayed in a
- 17                 prominent place at each premises affected by the contravention of
- 18                 this Act in relation to which the notice was given.

19                 Maximum penalty: 20 penalty units.

- 20           (4) An offence against this section is a strict liability offence.

21       **76F       Improvement notice not to be removed etc**

- 22           (1) A person commits an offence if—
- 23                 (a) a copy of an improvement notice is displayed at premises; and

- 1 (b) the person removes, alters, damages, defaces or covers the  
2 copy while the notice is in force.

3 Maximum penalty: 20 penalty units.

- 4 (2) An offence against this section is a strict liability offence.

5 **76G Revocation of improvement notice on compliance**

6 If an inspector is satisfied that an improvement notice has been  
7 complied with, the inspector must revoke the notice by written  
8 notice given to the relevant responsible person.

9 **76H Contravention of improvement notices**

- 10 (1) The relevant responsible person for an improvement notice commits  
11 an offence if the person fails to take all reasonable steps to comply  
12 with a requirement of the notice.

13 Maximum penalty: 100 penalty units.

- 14 (2) An offence against this section is a strict liability offence.

15 **Division 6.5 Prohibition notices**

16 **77 Definitions for div 6.5**

17 In this division:

18 *basis*, for giving a prohibition notice, means—

- 19 (a) the contravention of this Act in relation to which the  
20 prohibition notice was given (see section 77A (a)); or  
21 (b) the risk to be prevented or minimised under the notice (see  
22 section 77A (b) (i)); or  
23 (c) the inspection, testing or monitoring to be allowed under the  
24 notice (see section 77A (b) (ii)); or  
25 (d) the accident or other incident to be investigated under the  
26 notice (see section 77A (b) (iii)).

1            **relevant responsible person**, for a prohibition notice, means the  
2            responsible person for a workplace to whom the notice is given.

3            **77A        Giving prohibition notices**

4            An inspector may give a notice (a **prohibition notice**) to a  
5            responsible person for a workplace if the inspector believes, on  
6            reasonable grounds—

7            (a) that someone at the workplace has contravened, is  
8            contravening, or is likely to contravene, this Act; or

9            (b) that giving the notice is necessary—

10            (i) to prevent or minimise risk of serious harm to the health  
11            or safety of people from a hazard at the workplace; or

12            (ii) to allow the inspection, testing or monitoring of anything  
13            at the workplace; or

14            (iii) to allow the investigation of an accident or other incident  
15            (including a dangerous occurrence) at the workplace.

16            **Example for par (b) (ii)**

17            to allow for routine compliance testing of plant and systems if the responsible  
18            person has not voluntarily agreed to the plant or system being shutdown for the  
19            test

20            *Note 1*    For how documents may be served, see Legislation Act, pt 19.5.

21            *Note 2*    A reference to an Act includes a reference to statutory instruments made  
22            or in force under the Act, including regulations and any law or  
23            instrument applied, adopted or incorporated by the Act (see Legislation  
24            Act, s 104).

25            *Note 3*    An example is part of this Act, is not exhaustive and may extend, but  
26            does not limit, the meaning of the provision in which it appears (see  
27            Legislation Act, s 126 and s 132).

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**77B Contents of prohibition notices**

(1) A prohibition notice in relation to a workplace may require a responsible person for the workplace not to do 1 or more of the following until the notice ends:

- (a) use stated premises, plant, systems, substances or things;
- (b) disturb stated premises, plant, systems, substances or things;
- (c) something else at or in relation to the workplace.

(2) Also, the prohibition notice—

(a) must state the following:

- (i) that it is a prohibition notice under this Act;
- (ii) the workplace to which the notice relates;
- (iii) the basis for giving the notice; and

(b) if the notice is given under section 77A (a) or (b) (i) (which are about notices given in relation to contravention of this Act or to prevent or minimise risk of serious harm)—must include a statement to the effect that the relevant responsible person may ask for a reinspection of the situation or circumstances that caused the notice to be given if the person considers that the situation or circumstances comply with this Act; and

(c) if the notice is given under section 77A (b) (ii) or (iii) (which are about notices given to allow inspection, testing, monitoring and investigation)—must state the reasonable period that the inspector considers necessary to carry out the inspection, testing, monitoring or investigation to which the notice relates.

**77C Scope of prohibition notices**

(1) A prohibition notice for a workplace may relate to 1 or more of the following:

- (a) premises forming the workplace;

1 (b) plant or a system at the workplace;

2 (c) an activity at the workplace;

3 (d) a circumstance at the workplace.

4 *Note* **Premises** includes any land, structure or vehicle and any part of an area  
5 of land, a structure or vehicle (see dict).

6 (2) This section does not limit the scope of a prohibition notice for a  
7 workplace.

8 **77D Extension of time for inspection etc**

9 (1) This section applies if a prohibition notice is given under  
10 section 77A (b) (ii) or (iii).

11 (2) An inspector may, by written notice given to the relevant  
12 responsible person for the prohibition notice, extend the relevant  
13 period for the notice on the inspector's own initiative or if asked by  
14 the relevant responsible person.

15 (3) However, the inspector may extend the relevant period only if the  
16 period has not ended.

17 (4) In this section:

18 **relevant period** means the period stated in the prohibition notice  
19 under section 77B (2) (c), and includes that period as extended  
20 under this section.

21 **77E Notification and display of prohibition notices**

22 (1) This section applies to the relevant responsible person for a  
23 prohibition notice.

24 (2) The person commits an offence if the person fails to—

25 (a) tell everyone who works at the workplace to which the notice  
26 relates about the notice, including anything required not to be  
27 done under it; or



- 1 (b) give a copy of the notice to each person (or each other person)  
2 in control of the workplace to which the notice relates.

3 Maximum penalty: 20 penalty units.

- 4 (3) The person commits an offence if the person fails to ensure that,  
5 while the notice is in force, a copy of the notice is displayed in a  
6 prominent place at each premises to which the notice relates.

7 Maximum penalty: 20 penalty units.

- 8 (4) An offence against this section is a strict liability offence.

9 **77F Prohibition notice not to be removed etc**

- 10 (1) A person commits an offence if—

11 (a) a copy of a prohibition notice is displayed at premises; and

12 (b) the person removes, alters, damages, defaces or covers the  
13 copy while the notice is in force.

14 Maximum penalty: 20 penalty units.

- 15 (2) An offence against this section is a strict liability offence.

16 **77G Ending of prohibition notices for contravention of Act etc**

- 17 (1) This section applies to a prohibition notice if the notice was given  
18 under section 77A (a) or (b) (i) (which are about notices given in  
19 relation to contravention of this Act or to prevent or minimise risk  
20 of serious harm).

- 21 (2) The prohibition notice ends when the notice is revoked under  
22 section 77I.

23 **77H Request for reinspection**

- 24 (1) This section applies to a prohibition notice given under  
25 section 77A (a) or (b) (i).

- 1           (2) The relevant responsible person for the prohibition notice may ask  
2           the commissioner, in writing, for a reinspection of the situation or  
3           circumstances that caused the notice to be given if the person  
4           considers that the situation or circumstances comply with this Act.
- 5           (3) If the request relates to a vehicle or equipment, the vehicle or  
6           equipment must be made available for reinspection where it was  
7           originally inspected or at another place agreed to by an inspector.

8       **77I           Revocation on reinspection**

- 9           (1) This section applies if a request has been made under section 77H.
- 10          (2) If the inspector who carries out the reinspection is satisfied that  
11          there are no grounds for the prohibition notice to continue to  
12          operate, the inspector may revoke the notice by written notice given  
13          to the relevant responsible person for the prohibition notice.
- 14          (3) Also, the prohibition notice is taken to be revoked on the 3rd  
15          business day after the day the request for reinspection is received by  
16          the commissioner if—
- 17                  (a) an inspector does not make the reinspection within 2 business  
18                  days after the day the request is received; and
- 19                  (b) the person who made the request is not responsible, completely  
20                  or partly, for the delay in making the reinspection.
- 21          *Note*       For the meaning of **business day**, see Legislation Act, dict, pt 1.
- 22          (4) This section does not prevent an improvement notice or another  
23          prohibition notice being given to the same person in relation to the  
24          same contravention of this Act.

25       **77J           Ending of prohibition notices given for inspection etc**

- 26          (1) This section applies to a prohibition notice if the notice was given  
27          under section 77A (b) (ii) or (iii) (which are about notices given to  
28          allow inspection, testing, monitoring and investigation).

- 1           (2) The prohibition notice ends at the end of the period stated in the  
2           notice under section 77B (2) (c) (Contents of prohibition notices) or,  
3           if the period is extended under section 77D, the end of the extended  
4           period.

5       **77K           Contravention of prohibition notices**

- 6           (1) The relevant responsible person for a prohibition notice commits an  
7           offence if the person fails to take all reasonable steps to ensure the  
8           notice is not contravened.

9           Maximum penalty: 200 penalty units.

- 10          (2) An offence against this section is a strict liability offence.

11       **77L           Request for compensation for prohibition notice**

- 12          (1) This section applies if—

13           (a) a prohibition notice is given in relation to a workplace; and

14           (b) a person suffers loss or expense because of the giving of the  
15           notice; and

16           (c) the person considers that there were insufficient grounds for  
17           giving the notice.

- 18          (2) The person may apply, in writing, to the Minister for compensation.

- 19          (3) The application must give reasons why the person considers that  
20          there were insufficient grounds for giving the prohibition notice.

21       **77M           Compensation for prohibition notice**

- 22          (1) This section applies if a person applies under section 77L for  
23          compensation in relation to the giving of a prohibition notice.

- 24          (2) If, after considering the application, the Minister is satisfied that  
25          there were insufficient grounds for giving the prohibition notice, the  
26          Territory must pay the person the reasonable compensation decided  
27          by the Minister.

- 1           (3) However, compensation is not payable to the person—  
2               (a) in relation to any loss or expense suffered by the person  
3               because of an act or omission of the person; or  
4               (b) if the person caused or contributed to the situation or  
5               circumstances that caused the prohibition notice to be given.  
6           (4) The Minister must give the person written notice of the Minister's  
7               decision on the application.  
8           (5) If the Minister does not decide the application within 28 days after  
9               the day the Minister receives the application, the Minister is taken to  
10              have refused to pay compensation.

11       **Division 6.6                      Enforceable undertakings**

12       **78                      Definitions for div 6.6**

13           In this division:

14           *alleged contravention*—see section 78A (3) (b).

15           *enforceable undertaking* means a safety undertaking that has been  
16           accepted under section 78B.

17           *relevant person*, for an enforceable undertaking, means the person  
18           who gave the undertaking.

19           *safety undertaking*—see section 78A (2).

20       **78A                      Making of safety undertakings**

- 21           (1) This section applies if the chief executive alleges that a person has  
22           contravened a provision of this Act.

23           *Note*       A reference to an Act includes a reference to statutory instruments made  
24                      or in force under the Act, including regulations and any law or  
25                      instrument applied, adopted or incorporated by the Act (see Legislation  
26                      Act, s 104).

- 1 (2) The person may give the chief executive a written undertaking (a  
2 **safety undertaking**) to comply with the provision.
- 3 (3) The safety undertaking must—
- 4 (a) state that it is an enforceable undertaking under this Act; and
- 5 (b) acknowledge that the chief executive alleges that the person  
6 has contravened a stated provision of this Act (the **alleged**  
7 **contravention**); and
- 8 (c) identify the facts and circumstances of the alleged  
9 contravention; and
- 10 (d) include 1 or more undertakings relating to the alleged  
11 contravention.

12 **Examples of undertakings**

- 13 1 to cease a certain conduct
- 14 2 to take particular action to compensate people adversely affected by a  
15 contravention of this Act
- 16 3 to take particular action to rectify a state of affairs that arose as a direct or  
17 indirect result of the contravention
- 18 4 to take particular action (including implementing particular systems) to  
19 prevent future contraventions of this Act
- 20 5 to implement publicity or education programs

21 *Note* An example is part of this Act, is not exhaustive and may extend, but  
22 does not limit, the meaning of the provision in which it appears (see  
23 Legislation Act, s 126 and s 132).

24 **78B Acceptance of safety undertaking**

- 25 (1) The chief executive may accept a safety undertaking by written  
26 notice given to the person who gave the undertaking.
- 27 (2) On acceptance of the safety undertaking, the undertaking becomes  
28 an enforceable undertaking.

- 1     **78C       Withdrawal from or amendment of enforceable**  
2                   **undertaking**
- 3             (1) A relevant person for an enforceable undertaking may withdraw  
4               from or amend the undertaking only with the chief executive's  
5               written agreement.
- 6             (2) However, the enforceable undertaking may not be amended to  
7               provide for a different alleged contravention.
- 8     **78D       Term of enforceable undertaking**
- 9             (1) A safety undertaking is enforceable from the time it becomes an  
10            enforceable undertaking.
- 11            (2) The chief executive may end an enforceable undertaking by written  
12            notice to the relevant person for the undertaking if satisfied that the  
13            undertaking is no longer necessary or desirable.
- 14            (3) The chief executive may act under subsection (2) on the chief  
15            executive's own initiative or on the application of the relevant  
16            person for the enforceable undertaking.
- 17            (4) The undertaking ends when the relevant person for the enforceable  
18            undertaking receives the chief executive's notice.
- 19     **78E       Safety undertaking not admission of fault etc**
- 20            (1) This section applies if a person gives the chief executive a safety  
21            undertaking, whether or not the undertaking is accepted by the chief  
22            executive.
- 23            (2) Giving the safety undertaking—
- 24               (a) is not an express or implied admission of fault or liability by  
25               the person in relation to the alleged contravention; and
- 26               (b) is not relevant to deciding fault or liability in relation to the  
27               alleged contravention.

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**78F      Contravention of enforceable undertakings**

- (1) If the chief executive believes, on reasonable grounds, that an enforceable undertaking has been contravened by anyone, the chief executive may apply to the Magistrates Court for an order under subsection (2).
- (2) If the Magistrates Court is satisfied that the enforceable undertaking has been contravened, the court may make 1 or more of the following orders:
- (a) an order requiring the relevant person for the undertaking to ensure that the undertaking is not contravened;
  - (b) an order requiring the relevant person for the undertaking to pay to the Territory the amount assessed by the court as the value of the benefits anyone derived, directly or indirectly, from the contravention of the undertaking;
  - (c) an order that the court considers appropriate requiring the relevant person for the undertaking to compensate someone who has suffered loss or damage because of the contravention of the undertaking;
  - (d) any other order that the court considers appropriate.
- (3) A person commits an offence if the person fails to take all reasonable steps to comply with an order under subsection (2).
- Maximum penalty: 200 penalty units.
- (4) An offence against this section is a strict liability offence.

## **Division 6.7                      Injunctions**

### **79                      Injunctions to restrain offences against Act**

- (1) This section applies if a person has committed, is committing, or is likely to commit, an offence against this Act.

*Note 1*     A reference to an offence against a Territory law includes a reference to an offence against the Criminal Code, pt 2.4 (Extensions of criminal responsibility) or the *Crimes Act 1900*, s 181 (Accessory after the fact) that relates to the Territory law (see Legislation Act, s 189).

*Note 2*     A reference to an Act includes a reference to statutory instruments made or in force under the Act, including regulations and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

- (2) The chief executive or any other interested person may apply to the Magistrates Court for an injunction.

- (3) On application under subsection (2), the Magistrates Court may grant an injunction restraining the person from contravening this Act (including by requiring the person to do something).

- (4) The Magistrates Court may grant the injunction—

(a) whether or not it appears to the court that the person intends to contravene this Act, contravene this Act again or continue to contravene this Act; and

(b) whether or not the person has previously contravened this Act; and

(c) whether or not there is a likelihood of the health or safety of a person being affected if the person contravenes this Act; and

(d) whether or not a proceeding for an offence against this Act has begun or is about to begin.

- (5) The Magistrates Court may grant an interim injunction restraining the person from committing an offence against this Act (including



requiring the person to do something) before deciding an application for an injunction under this section.

**79A Enforcement of injunctions**

The Magistrates Court has the same powers as the Supreme Court to enforce an injunction (including an interim injunction) made under this division.

**79B Amendment or discharge of injunctions**

The Magistrates Court may amend or discharge an injunction (including an interim injunction) made under this division on the application of the chief executive or any other interested person.

**79C Interim injunctions—undertakings about damages**

(1) If the chief executive applies for an injunction under this division, the Magistrates Court must not require the chief executive to give an undertaking about costs or damages as a condition of granting an interim injunction.

(2) The Magistrates Court must accept an undertaking from the chief executive about costs or damages, and not require a further undertaking from anyone else, if—

(a) the applicant for an injunction under this division is not the chief executive; and

(b) the court would, apart from this subsection, require the applicant to give an undertaking about costs or damages; and

(c) the chief executive gives the undertaking.

**79D Magistrates Court's other powers not limited**

(1) The powers given to the Magistrates Court under this division are in addition to any other powers of the court.

- 1           (2) In particular, an application to the Magistrates Court for an  
2           injunction under this division may be made without notice to the  
3           person against whom the injunction is sought.

4       **20           Sections 80C to 82**

5           *substitute*

6       **81           Meaning of *inspector* in div 7.2**

7           In this division:

8           *inspector* does not include the commissioner.

9       **82           Internally reviewable decisions, reviewable decisions and**  
10       **eligible people**

11          For this part—

- 12          (a) a decision of an inspector mentioned in schedule 1.1 is an  
13             *internally reviewable decision*; and  
14          (b) a person mentioned in schedule 1.1 in relation to an internally  
15             reviewable decision is an *eligible person* for the decision; and  
16          (c) a decision of the commissioner or chief executive mentioned in  
17             schedule 1.2 or 1.3 is a *reviewable decision*; and  
18          (d) a person mentioned in schedule 1.2 or 1.3 in relation to  
19             reviewable decision is an *eligible person* for the decision.

20       **21           Section 83**

21          *substitute*

22       **83           Applications for internal review**

- 23          (1) An eligible person for a internally reviewable decision may apply to  
24          the commissioner for review of the decision.

- 1           (2) The application must be made within—  
2               (a) 28 days after the day the applicant is told about the decision by  
3               the inspector; or  
4               (b) any longer period allowed by the commissioner, whether  
5               before or after the end of the 28-day period.  
6           (3) The application must set out the grounds on which internal review  
7           of the decision is sought.  
8           (4) The making of the application for internal review of the decision  
9           does not affect the operation of the decision.

10   **83A       Internal review**

- 11           (1) This section applies if an application for internal review of a  
12           decision has been made under section 83.  
13           (2) The commissioner must review the decision, and confirm, vary or  
14           revoke the decision, within the time prescribed under the  
15           regulations.  
16           (3) If the decision is not varied or revoked within the prescribed period,  
17           the decision is taken to have been confirmed by the commissioner.  
18           (4) As soon as practicable after reviewing the decision, the  
19           commissioner must give written notice of the decision on the  
20           internal review to the applicant.  
21           (5) The notice must be in accordance with the requirements of the code  
22           of practice in force under the *Administrative Appeals Tribunal*  
23           *Act 1989*, section 25B (1).

**22**      **New part 7A**

*insert*

## Part 7A Administration

## 84R Inspectors

- (1) Each of the following is an inspector for this Act:
  - (a) the commissioner;
  - (b) a public servant appointed under subsection (2).
- (2) The chief executive may appoint a public servant as an inspector for this Act.

*Note 1* For the making of appointments (including acting appointments), see 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 s 207).

## 84S Identity cards

- (1) This section applies only to an inspector appointed under section 84R (2).
- (2) The chief executive must give each inspector an identity card that states the person's name and appointment as an inspector, and shows—
  - (a) a recent photograph of the person; and
  - (b) the date of issue of the card; and
  - (c) the date of expiry of the card; and
  - (d) anything else prescribed under the regulations.

(3) A person commits an offence if—

(a) the person ceases to be an inspector; and

(b) the person does not return the person's identity card to the chief executive as soon as practicable (but within 7 days) after the day the person ceases to be an inspector.

Maximum penalty: 1 penalty unit.

(4) An offence against this section is a strict liability offence.

## **84T Protection of officials from liability**

(1) In this section:

*official* means—

(a) the Minister; or

(b) the chief executive; or

(c) the commissioner; or

(d) an inspector; or

(e) anyone else, other than an authorised representative, exercising functions under this Act.

(2) An official does not incur civil liability for an act or omission done honestly and without negligence for this Act.

(3) Any civil liability that would, apart from this section, attach to an official attaches instead to the Territory.

## **23 Interfering with workplace notices** **Section 90**

*omit*

**24 New sections 93A to 93J**

*insert*

**93A Notices of noncompliance by Territory entities**

- (1) This section applies if a Territory entity (other than a Territory owned corporation) commits an offence against this Act and the offence is an infringement notice offence.

*Note 1* For the meaning of ***Territory owned corporation***, see Legislation Act, dict, pt 1.

*Note 2* A reference to an Act includes a reference to statutory instruments made or in force under the Act, including regulations and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

- (2) An authorised person for the infringement notice offence may serve a notice of noncompliance on the responsible chief executive for the Territory entity.

*Note* For how documents may be served, see Legislation Act, pt 19.5.

- (3) The responsible chief executive must include in the chief executive's annual report a statement of the number of notices of noncompliance serviced on the chief executive and matter to which each notice related.

- (4) In this section:

***annual report*** means a report under the *Annual Reports (Government Agencies) Act 2004*.

***authorised person***, for an infringement notice offence, means an authorised person for the infringement notice offence under the *Magistrates Court Act 1930*.

***infringement notice offence***—see the *Magistrates Court Act 1930*, section 117.

*responsible chief executive*—see the *Auditor-General Act 1996*, dictionary.

*Territory entity* means an administrative unit or a Territory entity under the *Auditor-General Act 1996*.

### **93B Electronic service**

(1) This section applies to a notice required or allowed to be given to a person under this Act.

(2) To remove any doubt, the notice may be given by emailing it to the person's email address even if the notice is required to be in writing.

(3) This section is in addition to, and does not limit, any other method of service provided under another law.

*Note* Service is also dealt with in the Legislation Act, pt 19.5 and the *Electronic Transactions Act 2001*, s 8 (which is about electronically giving information required or allowed to be in writing).

(4) In this section:

*email address*, of a person in relation to anything done or to be done under this Act, includes the latest email address of the person (if any) recorded in a register or other records kept under this Act.

### **93C Publication by chief executive of convictions etc**

(1) This section applies if a person, or a representative of the person, is convicted or found guilty of an offence against this Act and—

(a) the time for making an appeal against the conviction, or finding of guilt, ends without an application for an appeal being made; or

(b) if an appeal is made against the conviction or finding of guilt—

(i) the conviction or finding is confirmed on appeal, and the time for making any further appeal in relation to the

- 1 conviction or finding ends without an application for an  
2 appeal being made; or
- 3 (ii) the appeal is withdrawn, struck out or discontinued or  
4 lapses; or
- 5 (c) if a retrial has been ordered—the time for making an appeal on  
6 the retrial ends in accordance with paragraph (a) or (b).
- 7 *Note* For the meaning of **found guilty**, see Legislation Act, dict, pt 1.
- 8 (2) The chief executive may publish the following information in  
9 relation to the conviction or finding of guilt in a way that the chief  
10 executive considers appropriate:
- 11 (a) particulars that allow the public to identify the person;  
12 (b) details of the offence;  
13 (c) the decision of the court and the penalty imposed on the person  
14 or a representative of the person;  
15 (d) any other information in relation to the offence and the safety  
16 of the workplace (if any) where the offence happened that the  
17 chief executive considers appropriate to be published.
- 18 **Examples for par (a)**  
19 1 the person's name and ACN (if any)  
20 2 any name (and, if relevant, ACN) used in the past by the person  
21 3 the person's current and previous business addresses
- 22 **Examples of publication for par (d)**  
23 1 a press release  
24 2 an article in a document published by the Territory or a Territory authority  
25 3 an advertisement in a newspaper circulating in the ACT
- 26 *Note* An example is part of the Act, is not exhaustive and may extend, but  
27 does not limit, the meaning of the provision in which it appears (see  
28 Legislation Act, s 126 and s 132).
- 29 (3) If the conviction or finding of guilt is quashed or set aside on  
30 appeal, the information must not be published.



- 1 (4) If the penalty is changed on appeal, this section applies in relation to  
2 the penalty as changed.
- 3 (5) For the *Civil Law (Wrongs) Act 2002*, section 128 (Publication of a  
4 proceeding of public concern), the information published by the  
5 chief executive under this section is taken to be a fair report of a  
6 proceeding of public concern.
- 7 (6) In this section:
- 8 ***executive officer***, of a corporation, means a person, by whatever  
9 name called and whether or not the person is a director of the  
10 corporation, who is concerned with, or takes part in, the  
11 corporation's management.
- 12 ***representative of the person*** means—
- 13 (a) if the person is an individual—an employee or agent of the  
14 person; or
- 15 (b) if the person is a corporation—an employee, agent or executive  
16 officer of the person.

### 17 **93D Court-directed publicity for offences**

18 If a person is convicted or found guilty of an offence against this  
19 Act, the court may direct the person to publish a statement in  
20 accordance with the directions of the court in relation to the offence.

21 *Note* For the meaning of ***found guilty***, see Legislation Act, dict, pt 1.

### 22 **93E Remedial orders by courts for offences**

- 23 (1) This section applies if—
- 24 (a) a person is convicted, or found guilty, of an offence against  
25 this Act; and
- 26 (b) the prosecutor asks the court to make an order under this  
27 section; and

- 1 (c) it appears to the court that the person could partly or  
2 completely rectify a state of affairs that arose as a direct or  
3 indirect result of the conduct that was the subject of the  
4 offence.

5 *Note* For the meaning of ***found guilty***, see Legislation Act, dict, pt 1.

- 6 (2) The court may order the person to take any steps that it considers are  
7 necessary and appropriate to rectify the state of affairs and that are  
8 within the person's power to take.

- 9 (3) If a court makes an order under this section, it may also make any  
10 other consequential orders (including orders about costs) that it  
11 considers appropriate.

12 **93F Court may order costs and expenses**

- 13 (1) A court that hears a proceeding for an offence against this Act may  
14 make any order it considers appropriate in relation to costs and  
15 expenses in relation to the examination, seizure, detention, storage,  
16 analysis (including further analysis), destruction or other disposition  
17 of anything the subject of the proceeding.

- 18 (2) This section does not affect any other power of the court to award  
19 costs.

20 **93G Presumptions about substances**

21 In a proceeding for an offence against this Act, it is presumed until  
22 the contrary is proved, on the balance of probabilities, that—

- 23 (a) a substance that is part of a batch, lot or consignment of the  
24 substance of the same kind or description is representative of  
25 all of the substance in the batch, lot or consignment; and  
26 (b) each part of a sample of a substance divided for analysis for  
27 this Act is of uniform composition with every other part of the  
28 sample.

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**93H Evidence of analysts**

- (1) A certificate of the results of an analysis is admissible in a proceeding for an offence against this Act, and is evidence of the facts stated in it, if a copy of the certificate is served by the party who obtained the analysis on the other party to the proceeding at least 14 days before the day of the hearing.
- (2) However, a court may order, at the request of a party to the proceeding or on its own initiative, that the period mentioned in subsection (1) be reduced to the period stated in the court's order.
- (3) An analyst who carried out an analysis in relation to which a certificate is produced as evidence in a proceeding for an offence against this Act need not be called as a witness in the proceeding by the party producing the certificate unless the court hearing the proceeding orders, at the request of a party to the proceeding or on its own initiative, that the analyst be called as a witness.

**93I Power of court to order further analysis**

- (1) This section applies if the court before which a person is being prosecuted for an offence against this Act is satisfied that there is a disagreement between the evidence of the analysts for the parties to the proceeding.
- (2) The court may order that the part or parts of a sample kept under section 65D (Procedures for dividing samples) be sent by the chief executive to an independent analyst.
- (3) For subsection (2), the order may require the sample to be sent to a particular analyst or to an analyst agreed to by the parties.
- (4) An analyst who is sent a part or parts of a sample for analysis under this section must make the analysis for the information of the court.
- (5) Subject to section 93F (Court may order costs and expenses), the cost of an analysis under this section is payable by the Territory.

**93J Appointment of authorised analysts**

The chief executive may appoint a person as an authorised analyst for this Act.

*Note 1* For the making of appointments (including acting appointments), see 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 s 207).

**25 Part 9**

*substitute*

**Part 9 Transitional**

**98 Definitions for pt 9**

In this part:

***amending Act*** means the *Occupational Health and Safety Amendment Act 2004*.

***original Act*** means the *Occupational Health and Safety Act 1989*, as in force immediately before the commencement of the amending Act.

**99 Improvement notices**

- (1) An improvement notice issued under the original Act that was in force immediately before the commencement of the amending Act continues in force as if the original Act had not been amended by the amending Act.
- (2) However, if the improvement notice has not ended before this part expires, the notice ends when this part expires.

1     **100       Prohibition notices**

2             (1) A prohibition notice issued under the original Act that was in force  
3               immediately before the commencement of the amending Act  
4               continues to operate as if the original Act had not been amended by  
5               the amending Act.

6             (2) However, if the prohibition notice has not ended before this part  
7               expires, the notice ends when this part expires.

8     **101       Modification of pt 9's operation**

9             The regulations may modify the operation of this part to make  
10            provision in relation to any matter that, in the Executive's opinion,  
11            is not, or is not adequately, dealt with in this part.

12    **102       Expiry of pt 9**

13            This part expires 6 months after the day it commences.

14    **26       Schedule 1**

15            *substitute*

16    **Schedule 1       Appeal rights**

17            (see s 82)

18    **Part 1.1       Internally reviewable decisions**

column 1 item	column 2 decisions	column 3 eligible person
1	revoking a provisional improvement notice under section 55 (4)	(a) the health and safety representative who gave the notice; or  (b) an involved union in relation to an employee whose work is affected by the notice

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
2	refusing to revoke a provisional improvement notice under section 55 (4)	(a) the person to whom the notice was given; or (b) an employer whose undertaking is adversely affected by the refusal
3	deciding to seize plant, a substance or thing under section 62J	(a) the owner of, or a person with a property interest in, the plant, substance or thing; or (b) an employer whose undertaking is adversely affected by the seizure
4	revoking, or refusing to revoke, a compliance agreement under section 75H (3)	(a) a responsible person for contravention to which the compliance agreement relates; or (b) an employer whose undertaking is adversely affected by the agreement
5	giving an improvement notice under section 76A	(a) a responsible person for the contravention to which the improvement notice relates; or (b) an employer whose undertaking is adversely affected by the notice
6	refusing to extend the compliance period for an improvement notice, or extending the period for less than the period asked for, under section 76D	(a) the relevant responsible person for the compliance notice; or (b) an employer whose undertaking is adversely affected by the notice

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
7	revoking an improvement notice under section 76G	<p>(a) the health and safety representative for a designated work group in which there is an employee whose work is affected by the notice; or</p> <p>(b) if there is no health and safety representative for an employee whose work is affected by the notice—an employee whose work is affected by the notice; or</p> <p>(c) an involved union in relation to an employee whose work is affected by the notice</p>
8	refusing to revoke an improvement notice under section 76G	<p>(a) the relevant responsible person for the improvement notice; or</p> <p>(b) an employer whose undertaking is adversely affected by the notice</p>
9	giving a prohibition notice under section 77A	<p>(a) the relevant responsible person for the prohibition notice; or</p> <p>(b) an employer whose undertaking is adversely affected by the notice</p>
10	extending the relevant period for a prohibition notice under section 77D	<p>(a) the relevant responsible person for the prohibition notice; or</p> <p>(b) an employer whose undertaking is adversely affected by the notice</p>

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
11	refusing under section 77H (3) to agree to inspect a vehicle or equipment at a place other than where it was originally inspected	(a) the owner of, or a person with a property interest in, the vehicle; or (b) an employer whose undertaking is adversely affected by the refusal
12	revoking a prohibition notice under section 77I	(a) the health and safety representative for a designated work group in which there is an employee whose work is affected by the notice; or (b) if there is no health and safety representative for an employee whose work is affected by the notice—an employee whose work is affected by the notice; or (c) an involved union in relation to an employee whose work is affected by the notice
13	refusing to revoke a prohibition notice under section 77I	(a) the relevant responsible person for the prohibition notice; or (b) an employer whose undertaking is adversely affected by the notice



## Part 1.2 Reviewable decisions of commissioner

column 1 item	column 2 decisions	column 3 eligible person
1	establishing a designated work group under section 38 (1) or (2)	(a) an involved union in relation to the designated work group; or (b) an employer whose employee is in the designated work group
2	varying a designated work group under section 38 (3)	(a) an involved union in relation to the designated work group; or (b) an employer whose employee is in the designated work group
3	refusing to declare that section 39 applies to a site	the applicant for the declaration
4	disqualifying a health and safety representative under section 48 (1)	the person disqualified
5	revoking a provisional improvement notice under section 55 (4)	(a) the health and safety representative who gave the notice; or (b) an involved union in relation to an employee whose work is affected by the notice
6	refusing to revoke a provisional improvement notice under section 55 (4)	(a) the person to whom the notice was given; or (b) an employer whose undertaking is adversely affected by the refusal

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
7	deciding to seize plant, a substance or thing under section 62J	(a) the owner of, or a person with a property interest in, the plant, substance or thing; or (b) an employer whose undertaking is adversely affected by the seizure
8	revoking, or refusing to revoke, a compliance agreement under section 75H (3)	(a) a responsible person for contravention to which the compliance agreement relates; or (b) an employer whose undertaking is adversely affected by the agreement
9	giving an improvement notice under section 76A	(a) a responsible person for the contravention to which the improvement notice relates; or (b) an employer whose undertaking is adversely affected by the notice
10	refusing to extend the compliance period for an improvement notice, or extending the period for less than the period asked for, under section 76D	(a) the relevant responsible person for the compliance notice; or (b) an employer whose undertaking is adversely affected by the notice

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
11	revoking an improvement notice under section 76G	<p>(a) the health and safety representative for a designated work group in which there is an employee whose work is affected by the notice; or</p> <p>(b) if there is no health and safety representative for an employee whose work is affected by the notice—an employee whose work is affected by the notice; or</p> <p>(c) an involved union in relation to an employee whose work is affected by the notice</p>
12	refusing to revoke an improvement notice under section 76G	<p>(a) the relevant responsible person for the improvement notice; or</p> <p>(b) an employer whose undertaking is adversely affected by the notice</p>
13	giving a prohibition notice under section 77A	<p>(a) the relevant responsible person for the prohibition notice; or</p> <p>(b) an employer whose undertaking is adversely affected by the notice</p>
14	extending the relevant period for a prohibition notice under section 77D	<p>(a) the relevant responsible person for the prohibition notice; or</p> <p>(b) an employer whose undertaking is adversely affected by the notice</p>
15	refusing to reinspect a situation or circumstances under section 77H	the relevant responsible person for the prohibition notice

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
16	refusing under section 77H (3) to agree to inspect a vehicle or equipment at a place other than where it was originally inspected	(a) the owner of, or a person with a property interest in, the vehicle; or (b) an employer whose undertaking is adversely affected by the refusal
17	revoking a prohibition notice under section 77I	(a) the health and safety representative for a designated work group in which there is an employee whose work is affected by the notice; or (b) if there is no health and safety representative for an employee whose work is affected by the notice—an employee whose work is affected by the notice; or (c) an involved union in relation to an employee whose work is affected by the notice
18	refusing to revoke a prohibition notice under section 77I	(a) the relevant responsible person for the prohibition notice; or (b) an employer whose undertaking is adversely affected by the notice

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
19	refusing to allow a longer period to make an application under section 83 for review of a decision	an eligible person for the decision
20	a decision on reconsideration under section 83A (2)	the applicant for reconsideration

### **Part 1.3                      Reviewable decisions of chief executive**

<b>column 1 item</b>	<b>column 2 decisions</b>	<b>column 3 eligible person</b>
1	refusing to accept a safety undertaking under section 78B	the person who gave the undertaking
2	refusing to agree to the relevant person for an enforceable undertaking withdrawing from, or amending, the undertaking under section 78C	the relevant person for the undertaking

column 1 item	column 2 decisions	column 3 eligible person
3	ending, or refusing to end, an enforceable undertaking under section 78D	the relevant person for the undertaking

## 27 New dictionary

*insert*

## Dictionary

(see s 4)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1 defines the following terms:

- chief executive
- found guilty
- under.

***alleged contravention***, for division 6.6 (Enforceable undertakings)—see section 78A (3) (b) (Making of safety undertakings).

***analysis***, of a substance or other thing, includes examining or testing the thing.

***at*** premises includes in or on the premises.

***authorised analyst*** means a person appointed as an authorised analyst under section 93J.

***authorised representative***, for division 4.3A (Entry to workplaces by authorised representatives)—see section 57A.

**basis**, for giving a prohibition notice, for division 6.5 (Prohibition notices)—see section 77.

**compliance agreement**—see section 75G (2).

**connected**, for part 5 (Enforcement powers)—see section 61.

**data**, for part 5 (Enforcement powers)—see section 61.

**data storage device**, for part 5 (Enforcement powers)—see section 61.

**eligible person**, for part 7 (Review of decisions)—

(a) for an internally reviewable decision—see section 82 (b);

(b) for a reviewable decision—see section 82 (d).

**employee organisation**, for division 4.3A (Entry to workplaces by authorised representatives)—see section 57A.

**enforceable undertaking**, for division 6.6 (Enforceable undertakings)—see section 78.

**examine** includes inspect, weigh, count, test and measure.

**hazard**—a thing (including an intrinsic property of a thing), or a situation is a **hazard** if it has the potential to kill or injure a person.

**improvement notice**—see section 76A.

**inspector**—

(a) means an inspector under section 84R; and

(b) for division 7.2 (Reconsideration and review of decisions)—see section 81.

**internally reviewable decision**, for part 7 (Review of decisions)—see section 82 (a).

- 1                    ***occupier***—
- 2                    (a) of a workplace, includes a person believed, on reasonable
- 3                    grounds, to be the person in charge of the performance of work
- 4                    at the workplace and a person apparently in charge of the
- 5                    performance of the work;
- 6                    (b) of premises, includes a person believed, on reasonable
- 7                    grounds, to be the occupier or person in charge of the premises
- 8                    and a person apparently in charge of the premises.
- 9                    ***offence***, for part 5 (Enforcement powers)—see section 61.
- 10                  ***office***, in an organisation, for division 4.3A (Entry to workplaces by
- 11                  authorised representatives)—see section 57A.
- 12                  ***person assisting***, in relation to a search warrant, for part 5
- 13                  (Enforcement powers)—see section 61.
- 14                  ***plant*** includes—
- 15                  (a) machinery, equipment or a tool; and
- 16                  (b) a component of, or accessory to machinery, equipment or a
- 17                  tool.
- 18                  ***prohibition notice***—see section 77A.
- 19                  ***relevant person***, for an enforceable undertaking, for division 6.6—
- 20                  see section 78.
- 21                  ***relevant responsible person***—
- 22                  (a) for division 6.3 (Compliance agreements)—see section 75F;
- 23                  (b) for division 6.4 (Improvement notices)—see section 76;
- 24                  (c) for division 6.5 (Prohibition notices)—see section 77.
- 25                  ***responsible person***, for a contravention of a provision of this Act,
- 26                  for part 6 (Compliance measures)—see section 75.



- 1           **reviewable decision**, for part 7 (Review of decisions)—see  
2           section 82 (c).
- 3           **risk** means the likelihood of death or harm to a person from a  
4           hazard.
- 5           **safety duty**, for division 3.2 (Failure to comply with safety duties)—  
6           see section 35B.
- 7           **safety undertaking**, for division 6.6 (Enforceable undertakings)—  
8           see section 78A (2).
- 9           **search warrant**, for part 5 (Enforcement powers)—see section 61.
- 10          **serious harm**, to a person—see the Criminal Code, dictionary.
- 11          **substance** includes a matter, material or thing, whether solid, liquid  
12          or gas or in a mixture.
- 13          **vehicle** means any kind of vehicle on wheels (including a vehicle  
14          used on railways or tramways), and includes an aircraft or vessel  
15          used on water.

## Schedule 1      Technical amendments

(see s 3)

### [1.1]      Section 1

*substitute*

#### 1      Name of Act

This Act is the *Occupational Health and Safety Act 1989*.

#### Explanatory note

This amendment brings the naming provision of the Act into line with current drafting practice.

### [1.2]      New section 4

*insert*

#### 4      Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1*      The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

*Note 2*      For example, the signpost definition '*compliance agreement*—see section 75G (2).' means that the term 'compliance agreement' is defined in that subsection.

*Note 3*      A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

#### 4A      Notes

A note included in this Act is explanatory and is not part of this Act.

*Note*      See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

**4B Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 35C
- s 35D
- s 35E
- s 51
- s 57I
- s 57J
- pt 5
- pt 6
- pt 7A

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

**Explanatory note**

This amendment adds standard dictionary and notes provisions. The amendment also adds a standard provision about other legislation applying to offences against this Act.

**[1.3] Section 5 (1), definitions of *administering authority*, *authorised person*, *commencement date*, *Crimes Act*, *date of service***

*omit*

**Explanatory note**

This amendment omits certain definitions from section 5 (1).

**Schedule 1**            Technical amendments

Amendment [1.4]

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1    The definitions of *administering authority*, *authorised person* and *date of service* are omitted  
2    consequentially on the omission of part 5A by an amendment in the body of the bill.

3    The definition of *commencement date* is made redundant by amendments in this section.

4    The definition of *Crimes Act* is no longer needed, because the term is no longer used in the Act.

5    **[1.4]        Section 5 (1), definition of *designated work group*,**  
6    **paragraph (a)**

7                *omit*

8                37 (1) or (2)

9                *substitute*

10              37 (2)

11    **Explanatory note**

12    This amendment is consequential on the omission of section 37 (1) by another amendment.

13    **[1.5]        Section 5 (1), definitions of *infringement notice*,**  
14    ***infringement notice offence*, *infringement notice penalty*,**  
15    ***inspector*, *occupier*, *plant*, *prohibition notice* and**  
16    ***reminder notice***

17              *omit*

18    **Explanatory note**

19    This amendment omits certain definitions from section 5 (1).

20    The definitions of *infringement notice*, *infringement notice offence*, *infringement notice*  
21    *penalty* and *reminder notice* are omitted consequentially on the omission of part 5A by an  
22    amendment in the body of the bill.

23    The definitions of *inspector*, *occupier*, *plant* and *prohibition notice* are replaced by definitions  
24    included in the dictionary inserted into the Act by an amendment in the body of the bill.

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**[1.6] Section 5 (1), definitions (as amended)***relocate to dictionary***Explanatory note**

This amendment relocates the remaining definitions in section 5 (1) to the dictionary inserted into the Act by an amendment in the body of the bill.

**[1.7] Section 5***substitute***5 Employee taken to be at work for Act**

For this Act, an employee is taken to be at work at all times while the employee is at his or her workplace for the purpose of performing work in relation to an undertaking carried on by his or her employer.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

**5A References to employee of employer at workplace**

A reference in this Act to an employee of an employer at a particular workplace is a reference to an employee who works at the workplace in the capacity of an employee of the employer.

**Explanatory note**

This amendment omits the remainder of section 5 (1) and remakes section 5 (2) and (3) as separate clauses. The amendment also omits section 5 (4) consequentially on amendments in the body of the bill.

**[1.8] Section 29 heading***substitute***29 Duties of people in control of workplaces****Explanatory note**

This amendment brings the heading more closely into line with current drafting practice.

1    **[1.9]      Section 30 (3) and (4)**

2                    *omit*

3                    commencement date

4                    *substitute*

5                    9 April 1990

6    **Explanatory note**

7    This amendment substitutes the actual commencement date for the section.

8    **[1.10]      Section 31 heading**

9                    *substitute*

10   **31            Duties of self-employed people**

11   **Explanatory note**

12   This amendment brings the heading more closely into line with current drafting practice.

13   **[1.11]      Section 34 heading**

14                    *substitute*

15   **34            Duties of people erecting or installing plant in workplace**

16   **Explanatory note**

17   This amendment brings the heading more closely into line with current drafting practice.

18   **[1.12]      Section 37 (1)**

19                    *omit*

20   **Explanatory note**

21   This amendment omits a redundant transitional provision.

**[1.13] Section 37 (2)***omit*

, after the commencement date,

**Explanatory note**

This amendment is consequential on the omission of section 37 (1) by another amendment.

**[1.14] Section 37 (3) and (10)***omit*

(1) or

**Explanatory note**

This amendment is consequential on the omission of section 37 (1) by another amendment.

**[1.15] Section 38 (1)***omit*

(1) or

**Explanatory note**

This amendment is consequential on the omission of section 37 (1) by another amendment.

**[1.16] Act—renumbering***renumber provisions when Act next republished under Legislation Act***Explanatory note**

This amendment provides for the renumbering of the Act to take account of the amendments made by the bill.

## Schedule 2 Occupational Health and Safety Regulations 1991

(see s 3)

### [2.1] Regulation 2A

*omit everything before paragraph (a), substitute*

### 2A Matters that are a dangerous occurrence

For the Act, dictionary, definition of *dangerous occurrence*, each of the following is declared to be a dangerous occurrence:

### [2.2] Part 3A

*omit*

### [2.3] New part 4

*insert*

## Part 5 Miscellaneous

### 11 Time for decision on internal review—Act, s 83A (2)

(1) The time for making a decision on an application for internal review of an inspector's decision is—

(a) 10 business days after the day the application is made under the Act, section 83; or

(b) if the commissioner tells the applicant in writing within the 10 business days that the commissioner is satisfied that a longer period than the 10 business days is necessary to adequately review the decision—20 business days after the day the application for internal review is made under the Act, section 83; or



1 (c) if the commissioner asks the applicant in writing for further  
2 information in relation to the application—10 business days  
3 after the day the commissioner receives the further  
4 information.

5 (2) The commissioner must tell the applicant in writing if the  
6 information given in response to a request mentioned in  
7 subregulation (1) (c) is not the further information asked for, or not  
8 all the further information asked for.

9 **[2.4] Schedule 1**

10 *omit*

1 **Schedule 3 Public Sector Management**  
2 **Act 1994**

3 (see s 3)

4 **[3.1] Section 249**

5 *substitute*

6 **249 Occupational health and safety**

7 The provisions of the *Occupational Health and Safety Act 1989*  
8 (including the regulations under that Act) apply in relation to public  
9 employees—

10 (a) with the modifications in schedule 3; and

11 (b) as if—

12 (i) a reference in that Act as modified by schedule 3 to an  
13 employee included a reference to a public employee; and

14 (ii) a reference in that Act as modified by schedule 3 to an  
15 employer included a reference to the Territory and each  
16 Territory instrumentality.

17 **[3.2] Schedule 3 heading**

18 *substitute*

19 **Schedule 3 Modifications of Occupational**  
20 **Health and Safety Act 1989**

21 **[3.3] Schedule 3, modifications 3.1–3.3**

22 *omit*

**[3.4] Schedule 3, modification 3.7***substitute***[3.7] Work groups designated by employers  
Section 37 (2)–(4)***substitute*

- (2) A request to an employer to enter into consultations to establish designated work groups in relation to employees of the employer, or to vary designated work groups that have already been established by the employer, may be made by—
- (a) if there are involved unions in relation to employees of the employer—any involved union; or
- (b) if there is no involved union in relation to any employee of the employer—any employee of the employer.
- (3) The employer may, at any time, and must, within 14 days after the day the employer receives a request, enter into consultations with—
- (a) if there are any involved unions in relation to employees of the employer—each involved union; or
- (b) if there is no involved union in relation to any employee of the employer—the employee who made the request.
- (4) If an employer believes that designated work groups should be varied, the employer may, at any time, enter into consultations about the variation of the designated work groups with—
- (a) if there are involved unions in relation to employees of the employer—each involved union; or
- (b) if there is no involved union in relation to any employee of the employer—the health and safety representative of each designated work group proposed to be varied.

Amendment [3.5]

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- 1 (4A) If in the course of consultations under subsection (3) or (4), there  
2 is disagreement between any of the parties to the consultation  
3 about establishing or varying a designated work group, any party  
4 may, for the purposes of facilitating the consultation, refer the  
5 issue of disagreement to the review authority for resolution as it  
6 considers appropriate.
- 7 (4B) If an issue is referred to the review authority, the parties to the  
8 disagreement must finish the consultation in accordance with the  
9 resolution of the issue by the authority.
- 10 (4C) Within 14 days after the day consultation about the establishment  
11 of the designated work groups is finished, the employer must, by  
12 notice in accordance with subsection (10), establish the  
13 designated work groups in accordance with the outcome of the  
14 consultations.
- 15 (4D) Within 14 days after the day consultation about the variation of  
16 designated work groups that have already been established is  
17 finished, the employer must, if it has been decided that the  
18 variation of some or all of the designated work groups is  
19 justified, by notice in accordance with subsection (10), vary the  
20 designated work groups in accordance with the outcome of the  
21 consultations.

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**[3.5] Schedule 3, modification 3.10***substitute***[3.10] Section 37 (10)***omit*

subsection (1)

*substitute*

subsection (4C)

**[3.6] Schedule 3, modification 3.11***substitute***[3.11] Section 37 (10)***omit*

subsection (4B)

*substitute*

subsection (4D)

**[3.7] Schedule 3, modification 3.19***omit everything before subsection (1), substitute***[3.19] New section 58A***in division 4.4, insert***58A Health and safety committees****[3.8] Schedule 3, modification 3.20***omit everything before section 60B, substitute***[3.20] New part 4A***insert***Part 4A****Inquiries and reports in  
relation to matters affecting  
public employees****60A Application of pt 4A**

This part does not apply to a Territory owned corporation.

- 1 **[3.9] Schedule 3, modification 3.20, section 60C (4) (b)**  
2 *substitute*  
3 (b) if an improvement or prohibition notice has been given by an  
4 inspector in relation to work being performed for the  
5 employer—any action taken, or proposed to be taken, in  
6 relation to the notice;
- 7 **[3.10] Schedule 3, modification 3.20, section 60Q (1)**  
8 *omit*  
9 in respect of a notice issued under section 76 or 77  
10 *substitute*  
11 in relation to an improvement or prohibition notice
- 12 **[3.11] Schedule 3, modification 3.20, section 60R**  
13 *substitute*
- 14 **60R Report to be given to Minister of failures to comply with**  
15 **certain notices**  
16 (1) If the council forms the opinion that an employer has failed to  
17 comply with an improvement or prohibition notice, the council may  
18 give the Minister a report about the failure.  
19 (2) The Minister must present a copy of the report to the Legislative  
20 Assembly within 5 sitting days after the day the report is given to  
21 the Minister.

**[3.12] Schedule 3, modification 3.21***substitute***[3.21] General powers of inspectors for premises  
New section 62C (2) and (3)***insert*

- (2) An inspector is entitled, in the exercise of his or her powers, to be assisted by a consultant and the consultant may accompany an inspector during any inspection of a workplace by the inspector.
- (3) The exercise by an inspector of powers under this section in relation to anything affecting a public employee is taken, for part 4A (Inquiries and reports in relation to matters affecting public employees), to be an investigation by the inspector.

**[3.13] Schedule 3, modification 3.22***substitute***[3.22] New section 62CA***insert***62CA Request for investigation**

An involved union may ask an inspector for an investigation at a workplace where an employee who is a member of the union performs work for an employer.

1 **[3.14] Schedule 3, modification 3.23**

2 *substitute*

3 **[3.23] New section 84RA**

4 *insert*

5 **84RA Arrangements with Commonwealth or States for**  
6 **services of officers**

7 If the commissioner considers that it is in the public interest to do  
8 so, arrangements may be made in accordance with the *Public*  
9 *Sector Management Act 1994*, section 120 for officers or  
10 employees of the public service of the Commonwealth, a State or  
11 another Territory to exercise the functions of inspectors in  
12 relation to the investigation of matters affecting public  
13 employees.

14 **[3.15] Schedule 3, modification 3.25, section 91A (d) (ii) and (iii)**

15 *substitute*

- 16 (ii) improvement notices, prohibition notices and notices of  
17 noncompliance given to the relevant employer; and  
18 (iii) compliance agreements and enforceable undertakings  
19 involving the relevant employer;

20 **[3.16] Schedule 3, modifications 3.26–3.33**

21 *substitute*

22 **[3.26] Schedule 1, part 1.1, item 2, column 3, new paragraph (aa)**

23 *insert*

- 24 (aa) an involved union in relation to an employee whose work is  
25 affected by the notice; or



**[3.27] Schedule 1, part 1.1, item 3, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the seizure; or

**[3.27A] Schedule 1, part 1.1, item 4, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the agreement; or

**[3.28] Schedule 1, part 1.1, item 5, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the notice; or

**[3.29] Schedule 1, part 1.1, item 8, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the refusal; or

**[3.29A] Schedule 1, part 1.1, item 9, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the notice; or

- 1 **[3.29B] Schedule 1, part 1.1, item 10, column 3, new**  
2 **paragraph (aa)**
- 3 *insert*
- 4 (aa) an involved union in relation to an employee whose work is  
5 affected by the notice; or
- 6 **[3.29C] Schedule 1, part 1.1, item 13, column 3, new**  
7 **paragraph (aa)**
- 8 *insert*
- 9 (aa) an involved union in relation to an employee whose work is  
10 affected by the refusal; or
- 11 **[3.30] Schedule 1, part 1.2, item 6, column 3, new paragraph (aa)**
- 12 *insert*
- 13 (aa) an involved union in relation to an employee whose work is  
14 affected by the refusal; or
- 15 **[3.31] Schedule 1, part 1.2, item 7, column 3, new paragraph (aa)**
- 16 *insert*
- 17 (aa) an involved union in relation to an employee whose work is  
18 affected by the seizure; or
- 19 **[3.31A] Schedule 1, part 1.2, item 8, column 3, new**  
20 **paragraph (aa)**
- 21 *insert*
- 22 (aa) an involved union in relation to an employee whose work is  
23 affected by the agreement or refusal; or

**[3.32] Schedule 1, part 1.2, item 9, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the notice; or

**[3.33] Schedule 1, part 1.2, item 12, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the refusal; or

**[3.33A] Schedule 1, part 1.2, item 13, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the notice; or

**[3.33B] Schedule 1, part 1.2, item 14, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the notice; or

**[3.33C] Schedule 1, part 1.2, item 18, column 3, new paragraph (aa)***insert*

(aa) an involved union in relation to an employee whose work is affected by the refusal; or

1 **[3.17] Schedule 3, new modifications**

2 *insert*

3 **[3.34] Dictionary, new definition of *annual report***

4 *insert*

5 *annual report* means the annual report (if any) of an  
6 administrative unit or Territory instrumentality under the *Annual*  
7 *Reports (Government Agencies) Act 2004*.

8 **[3.35] Dictionary, definition of *designated work group***

9 *substitute*

10 *designated work group* means—

11 (a) a group of employees established as a designated work group  
12 by an employer under section 37 (4C); and

13 (b) such a group as varied by an employer under  
14 section 37 (4D);

15 and, in relation to an employer, means such a group that consists  
16 entirely of employees of the employer.

17 **[3.18] Schedule 3—renumbering**

18 *renumber modifications when Act next republished under*  
19 *Legislation Act*

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2004.

**2 Notification**

Notified under the Legislation Act on 2004.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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