

2007

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Industrial Relations)

# Occupational Health and Safety Amendment Bill 2007

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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 **1 Name of Act**

2 This Act is the *Occupational Health and Safety Amendment*  
3 *Act 2007*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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

8 **3 Legislation amended**

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

10 *Note* This Act also amends the following legislation (see sch 1):

- 11 • *Dangerous Substances Act 2004*
- 12 • *Public Sector Management Act 1994*.

13 **4 Functions**  
14 **Section 12 (1) (a) (iii) and (b) (iii)**

15 *omit*

16 **5 Section 12 (1), new note**

17 *insert*

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

22 **6 Section 12 (2) (g), (h) and (i)**

23 *substitute*

24 (g) the provision of education and training in relation to workers  
25 compensation.

- 
- 1 **7 Powers**
- 2 **Section 13**
- 3 *omit*
- 4 **8 Membership**
- 5 **Section 14 (1) (c)**
- 6 *substitute*
- 7 (c) 4 other members appointed by the Minister; and
- 8 **9 Section 14 (1), new notes**
- 9 *insert*
- 10 *Note 1* For the making of appointments (including acting appointments), see
- 11 the Legislation Act, pt 19.3.
- 12 *Note 2* In particular, a person may be appointed for a particular provision of a
- 13 law (see Legislation Act, s 7 (3)) and an appointment may be made by
- 14 naming a person or nominating the occupant of a position (see
- 15 Legislation Act, s 207).
- 16 *Note 3* Certain Ministerial appointments require consultation with an Assembly
- 17 committee and are disallowable (see Legislation Act, div 19.3.3).
- 18 **10 Section 14 (2)**
- 19 *omit*
- 20 **11 Sections 15 to 17**
- 21 *substitute*
- 22 **15 Terms of appointment**
- 23 (1) The appointed members of the council must be appointed as
- 24 part-time members.

- 1 (2) An appointed member of the council must be appointed for not  
2 longer than 3 years.

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

- 6 (3) An appointed member of the council holds office on the conditions  
7 (if any) about matters not provided for by this Act that are  
8 determined in writing by the Minister.

9 **16 Appointment of chair and deputy chair**

10 The Minister must appoint a member of the council appointed under  
11 section 14 (1) (c) as chair of the council and another member as  
12 deputy chair of the council.

13 **17 Leave of absence**

- 14 (1) The Minister may grant leave of absence to the chair or deputy chair  
15 on the conditions (if any) about remuneration or other matters that  
16 the Minister determines.

- 17 (2) The council may grant leave of absence to a member (other than the  
18 chair or deputy chair) on the conditions (if any) about remuneration  
19 or other matters that the council determines.

20 **12 Resignation**  
21 **Section 19**

22 *omit*

23 **13 Section 20**

24 *substitute*

25 **20 Ending appointment of council member**

- 26 (1) This section applies to a member of the council other than the  
27 commissioner.

- 1 (2) The Minister must end the appointment of a member of the council  
2 if the Minister becomes aware that the member—
- 3 (a) has become bankrupt or executed a personal insolvency  
4 agreement; or
- 5 (b) has failed to comply with section 18 (Disclosure of interest)  
6 without reasonable excuse; or
- 7 (c) has at any time been convicted, in Australia, of an offence  
8 punishable by imprisonment for 1 year or longer; or
- 9 (d) has at any time been convicted, outside Australia, of an offence  
10 that, if it had been committed in the ACT, would be punishable  
11 by imprisonment for 1 year or longer.
- 12 (3) However, before ending the appointment of the member under  
13 subsection (2) (c) or (d) the Minister must be satisfied that the  
14 conviction affects the member's suitability as a member of the  
15 council.
- 16 (4) The Minister may end the appointment of a member of the  
17 council—
- 18 (a) if the member was appointed under section 14 (1) (a) and the  
19 Minister is satisfied that the member no longer represents the  
20 interests of employees; or
- 21 (b) if the member was appointed under section 14 (1) (b) and the  
22 Minister is satisfied that the member no longer represents the  
23 interests of employers; or
- 24 (c) if the member is absent from 3 consecutive meetings of the  
25 council, otherwise than on leave approved under section 17; or
- 26 (d) if the member contravenes a territory law; or
- 27 (e) for misbehaviour; or

1 (f) for physical or mental incapacity, if the incapacity substantially  
2 affects the exercise of the member's functions.

3 *Note* A person's appointment also ends if the person resigns (see Legislation  
4 Act, s 210).

5 **14 Acting members**  
6 **Section 21**

7 *omit*

8 **15 Calling meetings**  
9 **Section 22 (1) and (2)**

10 *omit*

11 chairperson

12 *substitute*

13 chair

14 **16 Procedure at meetings**  
15 **Section 23 (1), (2) and (3)**

16 *omit*

17 chairperson

18 *substitute*

19 chair

20 **17 Immunity from suit**  
21 **Section 24 (1)**

22 *substitute*

23 (1) An action, suit or proceeding does not lie against a person who is or  
24 has been a member of the council in relation to an honest act or  
25 omission in the exercise or purported exercise of a function under  
26 this Act.



1 **18 Failure to comply with safety duty—exposing people to**  
2 **substantial risk of serious harm**  
3 **New section 48 (3)**

4 *insert*

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

6 **19 Failure to comply with safety duty—causing serious**  
7 **harm to people**  
8 **New section 49 (3)**

9 *insert*

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

11 **20 Dictionary, definition of *chairperson***

12 *substitute*

13 *chair* means the chair of the council appointed under section 16.

14 **21 Dictionary, definition of *deputy chairperson***

15 *substitute*

16 *deputy chair* means the deputy chair of the council appointed under  
17 section 16.

1    **Schedule 1            Other amendments**  
2    (see s 3)

3    **Part 1.1            Dangerous Substances Act 2004**

4    **[1.1]            New section 43 (3)**

5                    *insert*

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

7    **[1.2]            New section 44 (3)**

8                    *insert*

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

10   **[1.3]            New section 45 (3)**

11                   *insert*

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

13   **[1.4]            New section 46 (3)**

14                   *insert*

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

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1 **Part 1.2** **Public Sector Management Act**  
2 **1994**

3 **[1.5] Schedule 3, modification 3.17, new section 88L**

4 *omit*

5 **[1.6] Schedule 3, modification 3.17, new section 88M (1)**

6 *omit*

7 A member of the council

8 *substitute*

9 The chief executive

10 **[1.7] Schedule 3, modification 3.17, new section 88Q (1) (b)**

11 *omit*

12 council's

13 *substitute*

14 chief executive's

15 **[1.8] Schedule 3, modification 3.17, new section 88S**

16 *omit*

- 1 **[1.9] Schedule 3, modification 3.17, new part 5A, further**  
2 **amendments, mentions of *council***
- 3 *omit*
- 4 council
- 5 *substitute*
- 6 chief executive
- 7 *in*
- 8 • sections 88B to 88D
- 9 • section 88E heading
- 10 • sections 88E to 88K
- 11 • section 88LA and note
- 12 • section 88M (1) (2nd mention) and (2)
- 13 • sections 88Q and 88R

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2007.

**2 Notification**

Notified under the Legislation Act on 2007.

**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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