

2013

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

WORK HEALTH AND SAFETY AMENDMENT REGULATION 2013 (No 1)

SL2013-33

EXPLANATORY STATEMENT

Circulated with the authority of  
Simon Corbell MLA  
Minister for Workplace Safety and Industrial Relations

## **Overview**

This Work Health and Safety Amendment Regulation 2013 is made under the provisions of Section 306 of the *Work Health and Safety Act 2011* that provides:

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the Act, and*
- (2) A regulation may modify this part (including in relation to any other territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.*
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.*

## **Background**

The purpose of the Work Health and Safety Amendment Regulation 2013 is to provide certainty that inspectors authorised under the provisions of the *Work Health and Safety Act 2011* are also authorised to commence, continue or complete an investigation into an offence committed under the *Work Safety Act 2008*.

Part 20 of the *Work Health and Safety Act 2011* provides transitional provisions for this Act. Section 305 provides that an inspector under the *Work Safety Act 2008* continues to be an inspector under the *Work Health and Safety Act 2011*.

### **Clause 1 Name of regulation**

The clause sets out the name of the regulation.

### **Clause 2 Commencement**

This regulation will commence on 1 January 2014. This regulation does not have a prejudicial operation as referred to in section 76 of the *Legislation Act 2001*. It reflects an intention to enable past conduct to be investigated in accordance with the law as the law stood at the time.

This allows open investigations to continue and new investigations to begin as intended and as is expected by the community. This goes to ensuring the integrity of a scheme that is in place to protect the health, safety and wellbeing of workers and the general public.

### **Clause 3 – Legislation amended**

The clause sets out what regulation is amended.

### **Clause 4 – New part 20.4B**

Clause 4 inserts a new part to the regulation. The clause provides that inspectors appointed under the *Work Health and Safety Act 2011* can continue to exercise powers under the *Work Safety Act 2008* to investigate offences that occurred prior to commencement of the *Work Health and Safety Act 2011*. This is essential to ensure the integrity of the regime so inspectors can investigate offences that occurred under the previous legislation.

This is important, as investigations and prosecutions into work safety breaches can take some time to complete or do not come to the knowledge of the inspectorate for a period of time.