

South Australia

Work Health and Safety (Review Recommendations) Amendment Act 2024

An Act to amend the *Work Health and Safety Act 2012* and to make related amendments to the *Fair Work Act 1994*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Work Health and Safety (Review Recommendations) Amendment Act 2024*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Work Health and Safety Act 2012*

3—Amendment of section 4—Definitions

- (1) Section 4—before the definition of *approved code of practice* insert:

advisory committee means the *SafeWork SA Advisory Committee* established under Division 5;

- (2) Section 4, definition of *Consultative Council*—delete the definition

- (3) Section 4, definition of ***employer organisation***—delete the definition and substitute:
employer organisation means—
- (a) an employer organisation that is registered, or taken to be registered, under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth; or
 - (b) an association of employers that is registered or recognised as such an association (however described) under a State or Territory industrial law;
- (4) Section 4, definition of ***Executive Director***—delete "of that part of the Department that is directly involved in the administration and enforcement of this Act" and substitute:
under Schedule 5 clause 3
- (5) Section 4, definition of ***representative***—delete the definition and substitute:
representative—
- (a) in relation to a person conducting a business or undertaking, means—
 - (i) an employer organisation representing the person conducting the business or undertaking; or
 - (ii) any other person that the person conducting the business or undertaking authorises to represent them; and
 - (b) in relation to a worker, means—
 - (i) the health and safety representative for the worker; or
 - (ii) a union entitled to represent the industrial interests of the worker; or
 - (iii) any other person that the worker authorises to represent them;

4—Amendment of section 10—Act binds the Crown

Section 10—after subsection (3) insert:

- (4) Section 7(2) of the *Crown Proceedings Act 1992* does not apply in respect of proceedings before SAET under Part 5 Division 7A.

5—Insertion of Part 1 Division 5

After section 12 insert:

Division 5—SafeWork SA Advisory Committee

12A—Establishment of committee

- (1) The *SafeWork SA Advisory Committee* is established.
- (2) The advisory committee consists of 15 members of whom—
 - (a) the following will be ex officio members:

- (i) the Minister;
 - (ii) the regulator;
 - (iii) the person for the time being holding, or acting in, the position of Chief Executive of the Department;
 - (iv) the person for the time being holding, or acting in, the position of Chief Executive Officer of RTWSA; and
- (b) the following will be appointed by the Minister:
- (i) the presiding member;
 - (ii) 4 members who, in the opinion of the Minister, are suitable to represent the interests of employees (following consultation with the United Trades and Labour Council of South Australia);
 - (iii) 4 members who, in the opinion of the Minister, are suitable to represent the interests of employers (following consultation with the South Australian Employer's Chamber of Commerce and Industry and other associations representing the interests of employers);
 - (iv) 1 member who, in the opinion of the Minister, is suitable to represent the interests of victims and their families;
 - (v) 1 member who, in the opinion of the Minister, is suitable to represent the interests of work health and safety professionals.
- (3) Subject to subsection (4), a member of the advisory committee may appoint a suitable person to act as an alternate member and a person so appointed may, in the member's absence, act as a member of the committee.
- (4) A member of the advisory committee (other than the Minister) may only appoint someone under subsection (3) with the approval of the Minister.

12B—Terms and conditions of office

- (1) Subject to this section, an appointed member of the advisory committee will be appointed for a term not exceeding 3 years and will, on the expiration of a term of office, be eligible for reappointment.
- (2) A member of the advisory committee is entitled to fees, allowances and expenses approved by the Governor.
- (3) A member may be removed from office by the Minister if the member—
 - (a) becomes mentally or physically incapable of carrying out satisfactorily their functions; or

- (b) is guilty of neglect of duty or dishonourable conduct; or
 - (c) having been appointed as an officer or employee of an organisation representing the interests of a particular class of person, ceases to be an officer or employee of that organisation.
- (4) The office of an appointed member becomes vacant if the member—
- (a) dies; or
 - (b) completes a term of office and is not reappointed; or
 - (c) resigns by written notice addressed to the Minister; or
 - (d) is removed from office under subsection (3).
- (5) On the office of an appointed member becoming vacant, a person must be appointed in accordance with this Act to the vacant office.

12C—Functions

- (1) The advisory committee has the following functions:
- (a) to provide advice and recommendations on work health and safety matters to the regulator and the Minister, either on its own initiative or on request;
 - (b) to consider and advise on ways to improve communication, consultation and collaboration between work health and safety stakeholders;
 - (c) to consider and advise on compliance and education campaigns by the regulator;
 - (d) to make recommendations in relation to approved codes of practice;
 - (e) any other functions determined by the Minister or prescribed by the regulations.
- (2) For the purpose of performing its functions, the advisory committee may, with the approval of the Minister—
- (a) establish subcommittees (which may, but need not, consist of or include members of the advisory committee) to advise the advisory committee on any aspects of its functions, or to assist in the performance of its functions; and
 - (b) conduct public meetings, discussions and inquiries on questions arising before the committee,

and may do any other thing that is necessary for, or incidental to, the performance of its functions.

12D—Procedures at meetings

- (1) The presiding member (or their alternate member appointed under section 12A(3)) will preside at meetings of the advisory committee or, in their absence, a member chosen by those present will preside.

- (2) Subject to subsection (3), the advisory committee may act notwithstanding vacancies in its membership.
- (3) Subject to subsection (4), 8 members constitute a quorum of the advisory committee and no business may be transacted at a meeting of the committee unless a quorum is present.
- (4) A quorum will only be taken to be present if—
 - (a) at least 1 member present is a member described in section 12A(2)(b)(ii); and
 - (b) at least 1 member present is a member described in section 12A(2)(b)(iii).
- (5) Each member present at a meeting of the advisory committee is entitled to 1 vote on a matter arising for decision at the meeting and, in the event of an equality of votes, the person presiding is entitled to a second, or casting vote.
- (6) A decision carried by a majority of the votes cast by the members present at a meeting of the advisory committee is a decision of the committee.
- (7) Subject to this Act, the advisory committee may determine its own procedures.

12E—Conflict of interest

A member of the advisory committee will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with employees generally or employers generally, or a substantial section of employers or employees.

12F—Confidentiality

A member of the advisory committee who, as a member of the committee, acquires information that—

- (a) the member knows to be of a confidential nature; or
- (b) the committee classifies as confidential information,

must not disclose the information without the approval of the Minister.

12G—Use of staff and facilities

- (1) The advisory committee may, with the agreement of the Minister, make use of the services of the staff, equipment or facilities of the Department.
- (2) The advisory committee may, with the agreement of a relevant agency or instrumentality, make use of the services of staff, equipment or facilities of any other agency or instrumentality of the Crown.

6—Amendment of section 85—Health and safety representative may direct that unsafe work cease

Section 85—after subsection (2)(b) insert:

Note—

Notification of a dispute to SAET under Division 7A does not affect the operation of paragraph (b).

7—Insertion of section 85A

After section 85 insert:

85A—Reasonable concern

In determining whether or not a worker or a health and safety representative had a *reasonable concern* for the purposes of sections 84 and 85, the availability of dispute resolution processes under Division 7A, and whether or not a notice has been given to SAET under that Division, are not relevant considerations.

8—Insertion of Part 5 Division 7A

After section 102 insert:

Division 7A—Work health and safety disputes

102A—Definitions for Division

In this Division—

dispute means a dispute about a WHS matter that exists between any of the following persons:

- (a) a person conducting a business or undertaking;
- (b) a worker affected by the WHS matter (or the personal representative of a deceased worker who was affected by the WHS matter);
- (c) a health and safety representative affected by the WHS matter;
- (d) a relevant union for the WHS matter;

relevant union for a WHS matter, means a union—

- (a) of which a worker who works at the workplace is a member or eligible to be a member; and
- (b) whose rules entitle the union to represent the worker's industrial interests;

WHS matter means any of the following matters:

- (a) access to information by a health and safety representative under section 70(1)(c);

- (b) a request by a health and safety representative for an assistant to have access to the workplace under section 70(1)(g);
- (c) a matter about work health and safety that is an issue to which Division 5 applies;
- (d) an issue about cessation of work under Division 6.

102B—Notice of dispute may be given to SAET

- (1) This section applies if a dispute remains unresolved at least 24 hours after any of the parties to the dispute has, under another provision of this Part, asked the regulator to appoint an inspector to assist in resolving the dispute.
- (2) A party to the dispute may give SAET written notice of the dispute.
- (3) The notice must state each of the following matters:
 - (a) the names of the parties to the dispute;
 - (b) the workplace where the dispute exists;
 - (c) the WHS matter the subject of the dispute;
 - (d) if, under this Part, an inspector has been appointed to assist the parties reach an agreement or resolve the dispute—whether a decision made by the inspector to exercise, or not to exercise, compliance powers under Part 10 is being reviewed under Part 12.
- (4) On receiving the notice, SAET must publish it on a website prescribed by rules made under the *South Australian Employment Tribunal Act 2014*.
- (5) If a relevant union for a worker affected by the WHS matter is not named as a party to the dispute in the notice, the union may notify SAET, in writing, that the union wants to participate in the resolution of the dispute.
- (6) A relevant union that gives notice under subsection (5) is taken to be a party to the dispute for the purposes of this Division.

102C—Action for settling dispute

- (1) This section applies if notice of a dispute has been given under section 102B.
- (2) SAET (constituted as an industrial relations commission) may deal with the dispute in any way it thinks fit for the prompt settlement of the dispute, including—
 - (a) by means of mediation, conciliation or arbitration; or
 - (b) by making a recommendation or expressing an opinion; or
 - (c) if there are reasonable grounds to believe that an offence has been committed under this Act, by referring a matter to the regulator for potential investigation.

- (3) Without limiting subsection (2), if SAET deals with the dispute by arbitration, SAET may make any order it considers appropriate for the prompt settlement of the dispute.
- (4) A person must not contravene an order made under subsection (3).
WHS civil penalty provision.
Maximum penalty:
 - (a) in the case of an individual—\$10 000;
 - (b) in the case of a body corporate—\$100 000.

102D—Review of particular decisions made by inspector

- (1) In dealing with the dispute, SAET (constituted as an industrial relations commission) may review a decision (a *compliance decision*) made by an inspector to exercise, or not to exercise, compliance powers under Part 10 to assist in resolving the dispute.
- (2) If SAET reviews a compliance decision under subsection (1), SAET—
 - (a) may decide to—
 - (i) confirm or vary the compliance decision; or
 - (ii) set aside the compliance decision and substitute another decision that SAET considers appropriate; or
 - (iii) set aside the compliance decision and return the matter to the inspector who made it with directions that SAET considers appropriate; and
 - (b) must give the regulator notice of—
 - (i) SAET's decision to review the compliance decision; and
 - (ii) any decision made by SAET under paragraph (a) (the *review decision*).
- (3) A notice mentioned in subsection (2)(b)(i) must state that any review of the compliance decision, or any stay of the operation of the compliance decision, under Part 12 ends on the making of SAET's decision to review the compliance decision under this section.
- (4) Despite section 102C(3), SAET must not make an order staying the operation of the compliance decision.
- (5) A compliance decision reviewed by SAET under this section is, from the time SAET decides to review the decision, taken not to be a reviewable decision under section 223.

- (6) If the compliance decision is or has been the subject of review proceedings under Part 12—
 - (a) any review of the compliance decision, or any stay of the operation of the compliance decision, under that Part ends when SAET decides to review the compliance decision; and
 - (b) subsection (5) does not affect the validity of any action taken under Part 12 before the making of SAET's decision to review the compliance decision.

102E—Decision not to deal with dispute

- (1) SAET (constituted as an industrial relations commission) may decide not to deal with a dispute about a WHS matter if—
 - (a) notice of the dispute was not given in accordance with section 102B; or
 - (b) SAET considers the WHS matter the subject of the dispute is frivolous, vexatious, misconceived or lacking in substance.
- (2) Subsection (1) does not limit the grounds on which SAET may decide not to deal with the dispute.
- (3) SAET may make a decision under subsection (1) on its own initiative.

102F—Costs

- (1) A party to a dispute notified to SAET under this Division must bear the party's own costs in relation to the dispute.
- (2) However, SAET may order a party (the *first party*) to pay costs incurred by another party in relation to the dispute if SAET is satisfied—
 - (a) the WHS matter the subject of the dispute is frivolous, vexatious, misconceived or lacking in substance; and
 - (b) the first party notified the dispute to SAET or has otherwise acted without reasonable cause in relation to the dispute.
- (3) If SAET orders the payment of costs, the amount ordered may be recovered in a court of competent jurisdiction as a debt.

9—Amendment of section 117—Entry to inquire into suspected contraventions

- (1) Section 117(6)—delete "under subsection (5)" and substitute:
in accordance with a policy under subsection (4)
- (2) Section 117(6)(a)—delete "must" and substitute:
may
- (3) Section 117(6)(b)—delete paragraph (b) and substitute:
 - (b) on the receipt of a report under paragraph (a), the regulator must—

- (i) give consideration to what action (if any) should be taken on account of any suspected contravention of this Act outlined in the report; and
- (ii) if any such action is taken—advise the WHS entry permit holder of the action taken.

10—Amendment of section 118—Rights that may be exercised while at workplace

- (1) Section 118(1)—after paragraph (a) insert:
 - (ab) during the inspection—
 - (i) take measurements or conduct tests directly relevant to the suspected contravention; and
 - (ii) take photos and videos directly relevant to the suspected contravention;
- (2) Section 118—after subsection (1) insert:
 - (1a) In taking measurements and conducting tests under subsection (1)(ab), the WHS entry permit holder—
 - (a) may bring to the workplace and use equipment and materials that are reasonably necessary for the measurements or tests; and
 - (b) must take account of the need to take the measurements and conduct the tests in compliance with this Act and other relevant laws.
 - (1b) Despite subsection (1)(ab)—
 - (a) insofar as is reasonably practicable, a photo or video must not be taken that records the image or voice of a person other than—
 - (i) a relevant worker; or
 - (ii) a worker at the workplace whose actions are directly affecting a relevant worker; or
 - (iii) an inspector or emergency services worker attending the workplace; or
 - (iv) a WHS entry permit holder attending the workplace; and
 - (b) a photo or video must not be live streamed.
 - (1c) Nothing in this section prevents a photo or video being taken for the purpose of documenting a person hindering or obstructing another person in contravention of this Part.
- (3) Section 118(2)—delete "However" and substitute:

Despite subsection (1)

- (4) Section 118—after subsection (2) insert:

Note—

See also section 148 and the *Privacy Act 1988* of the Commonwealth in relation to limits on the disclosure and use of information collected under this section.

11—Amendment of section 143—Contravening order made to deal with dispute

- (1) Section 143, penalty provision, (b)—delete "\$50 000" and substitute:

\$100 000

- (2) Section 143—at the foot of the section insert:

Note—

In relation to liability of a body corporate see also sections 244 and 256.

12—Insertion of section 152A

After section 152 insert:

152A—Right of regulator to intervene in proceedings

- (1) The regulator is entitled to intervene in any proceedings before SAET under this Act.
- (2) If the regulator has intervened in proceedings, another party to the proceedings cannot be ordered to pay costs incurred by the regulator as a result of that intervention.

13—Amendment of section 223—Which decisions are reviewable

Section 223—after subsection (1) insert:

- (1a) A reference in the table in subsection (1) to a person conducting a business or undertaking or to a worker includes a representative of such a person or worker.

14—Amendment of section 231—Procedure if prosecution is not brought

- (1) Section 231(1)—delete subsection (1) and substitute:

- (1) This section applies if—
 - (a) a person—
 - (i) reasonably considers that the occurrence of an act, matter or thing constitutes an industrial manslaughter offence, a Category 1 offence or a Category 2 offence; or
 - (ii) reasonably considers, from a coronial report or the proceedings at a coronial inquiry or inquest, that an industrial manslaughter offence, a Category 1 offence or a Category 2 offence has been committed; and
 - (b) no prosecution for the offence has been brought.

- (1a) The person may make a written request to the regulator that a prosecution be brought.
- (1b) The request may only be made—
 - (a) if subsection (1)(a)(i) applies—at least 6 months, but no more than 24 months after the act, matter or thing occurs; or
 - (b) if subsection (1)(a)(ii) applies—within 12 months after the report is made or the inquiry or inquest ends.

Note—

See section 232 in relation to the limitation period for prosecutions.

- (2) Section 231(2)(a)(ii)—after "will not be brought" insert:
(which must include sufficient detail that the basis for the decision can be readily understood)
- (3) Section 231—after subsection (2) insert:
 - (2a) If, under subsection (2)(a)(i), the regulator advises the person that the investigation is not complete, the regulator must—
 - (a) until the investigation is complete, give the person a written update about the investigation at least every 3 months; and
 - (b) when the investigation is complete, give the person a written notice stating—
 - (i) whether a prosecution will be brought; and
 - (ii) if a prosecution will not be brought—the reasons why (which must include sufficient detail that the basis for the decision can be readily understood).
- (4) Section 231(3)—after "advises the person" insert:
under subsection (2) or (2a)

15—Amendment of section 232—Limitation period for prosecutions

Section 232(1)—after paragraph (b) insert:

- (ba) if a matter has been referred to the Director of Public Prosecutions under section 231(3)(b), within 1 month after the Director provides the regulator with advice under section 231(4) as to whether the Director considers that a prosecution should be brought;

16—Amendment of section 254—When is a provision a WHS civil penalty provision

- (1) Section 254(1)—delete "of Part 7 (or a section of Part 7" and substitute:
of this Act (or a section
- (2) Section 254(1)(b)—delete "Part 7" and substitute:
this Act

17—Amendment of section 260—Proceeding may be brought by the regulator or an inspector

Section 260—delete "Proceedings" and substitute:

Except as provided in section 260A, proceedings

18—Insertion of section 260A

After section 260 insert:

260A—Proceeding may be brought by a party for contravention of certain orders relating to arbitrations

- (1) If an order made for the purposes of arbitration under section 102C(3) or 142(3) is contravened, proceedings may be brought in SAET against a person for the contravention of the relevant WHS civil penalty provision by a person affected by the contravention of the order.
- (2) Proceedings under this section must be instituted within 1 month after the day on which the contravention of the order first occurred.
- (3) The Registrar of SAET must ensure that a copy of an application made under this section is provided to the regulator.
- (4) If, in proceedings under this section, SAET finds that a party has contravened an order under section 102C(3) or 142(3), SAET should (in addition to any monetary penalty imposed) also order that the contravening party pay the applicant's reasonable costs in relation to the proceedings unless SAET is satisfied that it would be contrary to the interests of justice to make such an order.
- (5) If SAET orders the payment of costs, the amount ordered may be recovered in a court of competent jurisdiction as a debt.

19—Amendment of section 262—Recovery of a monetary penalty

- (1) Section 262(a) and (b)—delete paragraphs (a) and (b) and substitute:
 - (a) the penalty is payable to the State; and
 - (b) the penalty may be recovered in a court of competent jurisdiction as a debt; and
 - (c) the order is enforceable, and any action may be taken in respect of the order, as if it were a judgment or order of the appropriate court.
- (2) Section 262—after its present contents (now to be designated as subsection (1)) insert:
 - (2) In this section—

appropriate court means—

 - (a) in relation to an order for an amount that does not exceed the jurisdictional limit of the Magistrates Court for a monetary claim founded on contract—the Magistrates Court; or
 - (b) in any other case—the District Court.

20—Insertion of section 271A

After section 271 insert:

271A—Additional ways that regulator may disclose information

- (1) Subject to this section, the regulator or a person authorised by the regulator may disclose information relating to an incident to—
 - (a) a person injured in the incident, or their representative; or
 - (b) a family member of a person who is deceased as a result of the incident who is seeking to understand the circumstances of the death of the person; or
 - (c) a family member or other person who is empowered to make decisions on behalf of a person who is incapacitated due to serious injury as a result of the incident who is seeking to understand the circumstances of the serious injury of the person; or
 - (d) an interested party who has a direct connection to the incident to which the information relates, if the regulator reasonably believes that disclosing the information would assist in the administration or enforcement of this Act.
- (2) Subsection (1) does not apply to information that—
 - (a) is subject to legal professional privilege; or
 - (b) is commercial information of a confidential nature; or
 - (c) is subject to a confidentiality requirement under any other Act or law; or
 - (d) relates to an ongoing investigation which may be jeopardised if the information were to be disclosed.
- (3) Subject to subsection (4), a disclosure under subsection (1)—
 - (a) may not be made to a person who is, or who may reasonably be expected to be, required to give evidence as part of an investigation or prosecution relating to the incident; and
 - (b) may only be made in relation to information which relates to an incident that occurs after the commencement of this section.
- (4) Subsection (3)(b) does not apply in relation to a disclosure made to a family member of a person who is deceased as a result of the incident.
- (5) The regulator must establish and maintain a policy, published on the regulator's website, that relates to the circumstances in which information may be released under subsection (1).
- (6) In this section—

family member in relation to a person means the following:

 - (a) a spouse of the person;

- (b) a domestic partner of the person within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (c) a parent, step-parent or grandparent of the person;
- (d) a sibling or step-sibling of the person;
- (e) a child, step-child or grandchild of the person;
- (f) a person who, according to Aboriginal or Torres Strait Islander kinship rules, is a member of a culturally recognised family group of the person;

interested party in relation to an incident means the following:

- (a) the person conducting the business or undertaking or their representative;
- (b) the worker or workers affected by the incident or their representative;
- (c) if the worker or workers affected by the incident are in a work group, the health and safety representative for the work group;
- (d) the person bringing the incident to the attention of the regulator.

21—Insertion of sections 272A and 272B

After section 272 insert:

272A—Insurance or other indemnity against penalties

- (1) A person must not, without reasonable excuse—
 - (a) enter into a contract of insurance or other arrangement that purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act; or
 - (b) provide a contract of insurance or an indemnity for a liability for all or part of a monetary penalty under this Act; or
 - (c) take the benefit of a contract of insurance or other arrangement, or an indemnity, that purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act.

Maximum penalty: \$50 000.

- (2) Subsection (1) places an evidential burden on the accused to show a reasonable excuse.
- (3) A term of a contract of insurance or other arrangement, or an indemnity, is void to the extent it purports to insure or indemnify a person for a liability for all or part of a monetary penalty under this Act.

272B—Officer may be taken to have committed offence against section 272A

- (1) If a body corporate commits an offence against section 272A, each officer of the body corporate is taken to have also committed the offence if—
 - (a) the officer authorised or permitted the body corporate's conduct constituting the offence; or
 - (b) the officer was, directly or indirectly, knowingly concerned in the body corporate's conduct constituting the offence.
- (2) The officer of the body corporate may be proceeded against for, and convicted of, the offence against section 272A whether or not the body corporate has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following:
 - (a) the liability of the body corporate for the offence against section 272A;
 - (b) the liability of any person, whether or not the person is an officer of the body corporate, for the offence against section 272A.

22—Amendment of section 274—Approved codes of practice

Section 274—delete "Consultative Council" wherever occurring and substitute in each case:

advisory committee

23—Amendment of Schedule 2—Local tripartite consultation arrangements

- (1) Schedule 2, clause 12(2)(a)—delete "'Consultative Council" and substitute:
advisory committee
- (2) Schedule 2, clause 12(17)—delete "the Department" and substitute:
RTWSA

24—Amendment of Schedule 5—Provisions of local application

- (1) Schedule 5, clause 1(1)—delete "'Consultative Council" and substitute:
advisory committee
- (2) Schedule 5—after clause 2 insert:

3—Executive Director

- (1) There will be an Executive Director.
- (2) The Executive Director is to be an employee in the Public Service of the State appointed to the office of Executive Director by the Governor.

- (3) The Minister may assign an employee in the Public Service to act as the Executive Director—
 - (a) during a vacancy in the office of the Executive Director; or
 - (b) when the Executive Director is absent from, or unable to discharge, official duties.
- (4) Subject to subclause (5), the Minister may give directions to the Executive Director.
- (5) The Minister may not give directions to the Executive Director in respect of the exercise of powers and functions under this Act.

Schedule 1—Related amendments, transitional provisions and review

Part 1—Related amendment of *Fair Work Act 1994*

1—Amendment of section 218A—Functions and powers of Consultative Council

Section 218A(1)(a) and (b)—delete paragraphs (a) and (b) and substitute:

- (a) to assist the Minister in formulating, and advise the Minister on implementing, policies affecting industrial relations and employment in the State; and
- (b) to advise the Minister on legislative proposals of industrial significance; and

Part 2—Transitional provisions and review

2—Interpretation

In this Schedule—

principal Act means the *Work Health and Safety Act 2012*.

3—Notices under new Part 5 Division 7A

A notice may only be given to SAET under Part 5 Division 7A of the principal Act (as inserted by this Act) in respect of a WHS matter (within the meaning of that Division) arising after the commencement of that Division.

4—Applications to SAET under new section 260A

An application may only be made to SAET under section 260A of the principal Act (as inserted by this Act) in respect of an issue or alleged contravention occurring after the commencement of that section.

5—Executive Director

The person who was, immediately before the commencement of section 24(2) of this Act, the Executive Director under the principal Act will, on the commencement of that subsection, be taken to have been appointed as the Executive Director under Schedule 3 clause 3 of the principal Act (as in force after the commencement of section 24(2) of this Act) for the remainder of their term of office (and subject to the same terms and conditions of appointment).

6—Review

- (1) The Minister to whom administration of the principal Act is committed must cause a review of the amendments effected by this Act to be conducted.
- (2) The review must—
 - (a) be commenced 2 years after the commencement of this clause and be completed within a period of 6 months; and
 - (b) include an assessment of the following matters:
 - (i) the extent to which amendments have contributed to improved health and safety of workers and workplaces;
 - (ii) the extent to which there has been an improvement in communication between the regulator and parties affected by workplace incidents, including victims and their families;
 - (iii) the extent to which dispute resolution processes have assisted in the settlement of disputes over health and safety issues;
 - (iv) any other matter the Minister considers to be relevant to the review.
- (3) A report on the results of the review must be provided to the Minister and the Minister must—
 - (a) cause a copy of the report to be laid before each House of Parliament within 12 sitting days after receiving the report; and
 - (b) publish a copy of the report on a website determined by the Minister.