

FACT SHEET

Work Health and Safety Amendment Bill 2023

The Work Health and Safety Amendment Bill 2023 (the Bill) amends the *Work Health and Safety Act 2012* (the WHS Act) to align Tasmania's work health and safety laws with Australia's model work health and safety laws.

The Bill makes various amendments to the WHS Act so that Tasmania is up to date with the amendments to the model work health and safety laws and is consistent with achieving healthy and safe workplaces in Tasmania.

The amendments to the model work health and safety laws follow the recommendations made in the Marie Boland Review of the Model Work Health and Safety Laws Final Report dated December 2018.

Following extensive consultation by Safe Work Australia, the amendments were finalised and have been provided to all jurisdictions that are signatories to the Inter-Governmental Agreement on Regulatory and Operational Reform in Occupational Health and Safety (IGA), to implement in their respective jurisdictions.

The Bill makes 10 amendments to the WHS Act. These include:

- Introduction of the concept of "gross negligence" to Category 1 offences under section 31 of the WHS Act, as an alternative to the existing standard of recklessness. This means that if a person conducting a business or undertaking (PCBU) engages in conduct that is either grossly negligent or reckless and that conduct exposes an individual to a risk of death or serious injury or serious illness, then they are guilty of an offence and face a higher range of penalties.
- Amendments to section 53 to clarify that a work group is to be negotiated and agreed with the workers who are proposed to form the group.
- Amendment to section 72 to allow health and safety representatives to choose their training courses instead of making the decision in consultation with the relevant PCBU.
- Amendment to section 155 to clarify how a notice to produce documents issued by the regulator may be served on a person and clarify its requirements.
- Amendment to section 171 to allow an inspector to issue a written notice requiring the production of documents, written answers to specified questions, or attendance at an interview, within 30 days of entering a workplace and also to attend via audio-visual or audio link.
- Amendment to section 172 to clarify that abrogation of privilege against self-incrimination does not apply to answering a question or providing information or a document in response to a requirement made under a corresponding WHS law.
- Amendment to section 173 to clarify the warnings given to persons answering questions or providing information to inspectors relating to entry to premises.

- Amendment to section 231 to extend the timeframe for a person to make a request to the regulator to bring a prosecution for a category 1 or a category 2 offence from 12 to 18 months and the inclusion of a timeframe of six months to make such request following a coronial inquest or inquiry.
- Introduction of a new provision at section 271A regarding how the regulator may use and share information obtained under compulsion in certain circumstances and including sharing information with other state and territory regulators.
- Introduction of a new prohibition of insurance and indemnities for the payment of WHS penalties under sections 272A and 272B. These new provisions will prohibit a person entering into a contract of insurance which covers a liability for a monetary penalty under the WHS Act. The provision also prohibits a person providing insurance or indemnity for a liability for a monetary penalty under the WHS Act.

The amendments ensure that Tasmania's work health and safety laws are up to date and in keeping with model laws.

The amendments to the above sections will apply from the commencement day, which is the day the Bill receives the Royal Assent.