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Version No. 061
Occupational Health and Safety Act 1985
Act No. 10190/1985

Version incorporating amendments as at 5 April 2005


BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

PART I—PRELIMINARY

1. Short title

This Act may be cited as the Occupational Health and Safety Act 1985.

2. Commencement

The several provisions of this Act (including the several items in Schedule Two) shall come into operation on the day or the respective days to be fixed by proclamation or successive proclamations of the Governor in Council published in the Government Gazette.

3. Repeals, amendments and savings

(1) On the coming into operation of an item in Schedule Two, the Act referred to in that item to the extent to which it is in that item expressed to be amended or repealed shall be amended or repealed accordingly.
(2) Except as expressly or by necessary implication provided in this Act or the regulations—

(a) all persons things and circumstances appointed or created by or under any Act which is amended or repealed by this Act or existing or continuing under any such Act immediately before the commencement of the item in Schedule Two amending or repealing that Act, shall under and subject to this Act and the regulations continue to have the same status operation and effect as they respectively would have had if that Act had not been so amended or repealed;

(b) in particular and without limiting the generality of paragraph (a), the amendment or repeal shall not disturb the continuity of status operation or effect of any proclamation regulation by-law order rule application determination declaration petition direction registration licence permit certificate exemption approval nomination appointment notice fee transfer record proceeding liability or right made issued granted given presented passed fixed accrued incurred or acquired or existing or continuing by or under any Act which is amended or repealed by this Act before the commencement of the item in Schedule Two amending or repealing that Act.

4. Definitions

In this Act, unless inconsistent with the context or subject-matter—

"Authority" means the Victorian WorkCover Authority established under section 18 of the Accident Compensation Act 1985;
"designated work group" means a group of employees at a workplace determined to be a designated work group under section 29;

"employee" means a person employed under a contract of employment or under a contract of training;

"employer" means a person who employs one or more other persons under contracts of employment or under contracts of training;
"inspector" means an inspector appointed under this Act;

"occupier", in relation to a workplace, means a person who has the management or control of the workplace;

"plant" includes any machinery equipment appliance implement and tool, any component thereof and anything fitted connected or appurtenant thereto;

"practicable" means practicable having regard to—

(a) the severity of the hazard or risk in question;

(b) the state of knowledge about that hazard or risk and any ways of removing or mitigating that hazard or risk;

(c) the availability and suitability of ways to remove or mitigate that hazard or risk; and

(d) the cost of removing or mitigating that hazard or risk;

"prescribed" means prescribed by this Act or the regulations;
"self-employed person" means a person who works for gain or reward otherwise than under a contract of employment or apprenticeship, whether or not that person employs one or more other persons;

"substance" means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

"supply" in relation to any plant or substance, includes supply and resupply by way of sale, exchange, lease, hire or hire-purchase, whether as principal or as agent;

"workplace" means any place, whether or not in a building or structure, where employees or self-employed persons work.

5. Act to bind Crown

This Act binds the Crown not only in right of Victoria but also, so far as the legislative power of Parliament permits, the Crown in all its other capacities.

6. Objects of Act

The objects of this Act are—

(a) to secure the health, safety and welfare of persons at work;

(b) to protect persons at work against risks to health or safety;
(c) to assist in securing safe and healthy work environments;

(d) to eliminate, at the source, risks to the health, safety and welfare of persons at work;

(e) to provide for the involvement of employees and employers and associations representing employees and employers in the formulation and implementation of health and safety standards.
8. Functions of the Authority

(1) The functions of the Authority under this Act are—

(a) to inquire into and report to the Minister within the time specified by the Minister upon any matters referred to it by the Minister;

(b) to make recommendations to the Minister with respect to—

(i) the operation and administration of this Act and the regulations; and

(ii) regulations or codes of practice which it or the Minister proposes should be made or approved;

(c) to examine review and make recommendations in relation to existing and proposed registration or licensing schemes relating to occupational health safety and welfare;

(d) to provide advice to and co-operate with Government departments, public authorities, trade unions, employer organizations and other interested persons in relation to occupational health safety and welfare;
(e) to formulate standards specifications or other forms of guidance for the purpose of assisting employers self-employed persons and employees to maintain appropriate standards of occupational health safety and welfare;

(f) to promote education and training and approve courses in occupational health and safety;

(g) to devise in co-operation with educational authorities or bodies courses in relation to occupational health safety and welfare and to recommend that such courses be integrated into programmes in educational institutions;

(h) to recommend to the Minister the establishment of public inquiries into any matter relating to occupational health and safety;

(i) to collect and disseminate information on occupational health safety and welfare; and

(j) to commission and sponsor research into occupational health safety and welfare—

and include any other functions assigned to it by or under this Act.

(2) The Authority shall issue for public review and comment any codes of practice with respect to which it proposes under sub-section (1)(b)(ii) to make any recommendations to the Minister.

(3) The Authority shall ensure, as far as possible, that any information it provides is in such languages and form as are appropriate for the persons to whom the information is directed.
(4) Sub-section (2) does not apply to codes of practice which the Minister considers, in the public interest, should be made as soon as is practicable.

9. Obtaining of information by the Authority

The Authority may in writing require any person to furnish to it such information relating to occupational health safety and welfare as it reasonably requires for the purposes of this Act.

10. Restrictions on disclosure of information by the Authority

(1) This section applies to and in relation to any information obtained by the Authority under section 9, being—

(a) information—

(i) furnished by any person involved in any business commercial or financial undertaking;

(ii) relating to trade secrets or other matters of a business commercial or financial nature; and

(iii) disclosure of which would be likely to expose that undertaking to competitive disadvantage; or

(b) information disclosure of which would involve the unreasonable disclosure of information relating to the personal affairs of any person.

S. 8(4)
amended byNo. 67/1992s. 66(2)(c), substituted byNo. 78/1993s. 3(2), amended byNo. 78/1995s. 8(2).

S. 9

S. 10(1)
Part II—Functions and Powers

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s. 10

(2) The Authority shall not except in accordance with this section disclose any information to or in relation to which this section applies.

(3) Where the Authority determines that the public interest in favour of disclosure of any information to or in relation to which this section applies outweighs considerations of competitive disadvantage to an undertaking or of privacy, it may disclose that information.

(4) In making a determination under sub-section (3), the Authority shall consider whether or not disclosure of the information is necessary for protecting or promoting occupational health and safety.

(5) Where the Authority has determined under sub-section (3) to disclose any information, it shall give notice in writing of its determination to the person who furnished the information and subject to sub-section (7) shall not disclose that information until the expiration of 60 days after the person has received that notice.

(6) A person who receives a notice under sub-section (5) may apply to the Victorian Civil and Administrative Tribunal, within 60 days after receiving the notice, for review of the determination of the Authority.

(7) After receiving notice of an application for review, the Authority must not disclose information in respect of which the application was made before the Tribunal has determined the review.
(9) Any Director of the Board of Management of the Authority or officer or employee of the Authority who discloses any information to or in relation to which this section applies in a manner that is not in accordance with this section shall be guilty of an offence against this Act.

(10) In this section—

"disclose" means divulge or communicate to any person or publish; and

(11) Section 243 of the Accident Compensation Act 1985 does not apply to any information furnished to the Authority under section 9 of this Act.
PART III—GENERAL PROVISIONS RELATING TO OCCUPATIONAL HEALTH AND SAFETY

21. Duties of employers

(1) An employer shall provide and maintain so far as is practicable for employees a working environment that is safe and without risks to health.

(2) Without in any way limiting the generality of subsection (1), an employer contravenes that subsection if the employer fails—

(a) to provide and maintain plant and systems of work that are so far as is practicable safe and without risks to health;

(b) to make arrangements for ensuring so far as is practicable safety and absence of risks to health in connexion with the use, handling, storage and transport of plant and substances;

(c) to maintain so far as is practicable any workplace under the control and management of the employer in a condition that is safe and without risks to health;

(d) to provide adequate facilities for the welfare of employees at any workplace under the control and management of the employer; or

(e) to provide such information, instruction, training and supervision to employees as are necessary to enable the employees to perform their work in a manner that is safe and without risks to health.
(3) For the purposes of sub-sections (1) and (2)—

(a) "employee" includes an independent contractor engaged by an employer and any employees of the independent contractor; and

(b) the duties of an employer under those sub-sections extend to such an independent contractor and the independent contractor's employees, in relation to matters over which the employer—

(i) has control; or

(ii) would have had control but for any agreement between the employer and the independent contractor to the contrary.

(4) An employer shall so far as is practicable—

(a) monitor the health of the employees of the employer;

(b) keep information and records relating to the health and safety of the employees of the employer;

(c) employ or engage persons who being suitably qualified in relation to occupational health and safety are able to provide advice to the employer in relation to the health and safety of the employees of the employer;

(ca) nominate a person with, or persons each with an appropriate level of seniority (not being a health and safety representative) to be the employer's representative or representatives under sections 26 and 31;

(d) monitor conditions at any workplace under the control and management of the employer; and

S. 21(4)(ca) inserted by No. 11/1990 s. 4(1).
(e) provide information to the employees of the employer, in such languages as are appropriate, with respect to health and safety at the workplace, including the names of persons to whom an employee may make an inquiry or complaint in relation to health and safety.

22. Duties of employers and self-employed persons

Every employer and every self-employed person shall ensure so far as is practicable that persons (other than the employees of the employer or self-employed person) are not exposed to risks to their health or safety arising from the conduct of the undertaking of the employer or self-employed person.

23. Duties of occupiers of workplaces

An occupier of a workplace shall take such measures as are practicable to ensure that the workplace and the means of access to and egress from the workplace are safe and without risks to health.

24. Duties of manufacturers etc.

(1) A person who designs, manufactures, imports or supplies any plant for use at a workplace shall—

(a) ensure, so far as is practicable, that the plant is so designed and constructed as to be safe and without risks to health when properly used;

(b) carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed by paragraph (a); and
(c) take such action as is necessary to ensure that there will be available in connexion with the use of the plant at the workplace adequate information about the use for which it is designed and has been tested, and about any conditions necessary to ensure that when put to that use it will be safe and without risks to health.

(2) A person who erects or installs any plant for use at a workplace shall ensure, so far as is practicable, that nothing about the way in which it is erected or installed makes it unsafe or a risk to health when properly used.

(3) A person who manufactures, imports or supplies any substance for use at a workplace shall—

(a) ensure, so far as is practicable, that the substance is safe and without risks to health when properly used;

(b) carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed by paragraph (a); and

(c) take such action as is necessary to ensure that there will be available in connexion with the use of the substance at the workplace adequate information about the results of any relevant tests which have been carried out on or in connexion with the substance and about any conditions necessary to ensure that it will be safe and without risks to health when properly used.

(4) For the purposes of this section, any plant or substance is not to be regarded as properly used where it is used without regard to any relevant information or advice that is available relating to its use.
Part III—General Provisions Relating to Occupational Health and Safety

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25. Duties of employees

(1) While at work, an employee must—
   (a) take reasonable care for his or her own health and safety and for the health and safety of anyone else who may be affected by his or her acts or omissions at the workplace; and
   (b) co-operate with his or her employer with respect to any action taken by the employer to comply with any requirement imposed by or under this Act.

(2) An employee shall not—
   (a) wilfully or recklessly interfere with or misuse anything provided in the interests of health safety or welfare in pursuance of any provision of this Act or the regulations; or
   (b) wilfully place at risk the health or safety of any person at the workplace.

26. Provisions for dealing with health and safety issues

(1) If any issue concerning health and safety arises at a workplace—
   (a) the employer or the employer's representative; and
   (b) the health and safety representative for the designated work group in relation to which the issue has arisen or, if there is no such representative, the employees in that group—

shall attempt to resolve the issue in accordance with the relevant agreed procedure or, if there is no such procedure, the relevant prescribed procedure.
(2) Where the issue concerns work which involves a threat to the health and safety of any person and—

(a) the threat is immediate; and

(b) given the nature of the threat and degree of risk, it is not appropriate to adopt the processes set out in sub-section (1)—

the employer and the health and safety representative for the designated work group in relation to which the issue has arisen may after consultation jointly direct or, if the consultation does not lead to agreement between them, either of them may direct that the work shall cease.

(3) During any period during which any work has ceased pursuant to sub-section (2), the employer may assign the employee or employees to suitable alternative work.

(4) If the issue is not resolved within a reasonable time or if there has been a direction that work shall cease, any one of the parties to the attempt at resolution may require an inspector to attend at the workplace.

(5) The inspector shall attend as soon as possible and may take such action under this Act as the inspector considers necessary.

(6) If the inspector—

(a) issues a prohibition notice; or

(b) otherwise determines that there was reasonable cause for employees to be concerned for their health and safety—

any employee who, as a result of the issue arising at the workplace, does not work for any period pending the resolution of the issue shall be entitled to be paid for that period.
(7) Any dispute in respect of an entitlement under sub-section (6) may be referred to the Industrial Division of the Magistrates' Court or to such other tribunal having jurisdiction in relation to the matter.

27. Compliance with regulations is compliance with Part 3

Where the regulations make provision for or in relation to any duty, obligation, act, matter or thing to which this Part applies, a person who complies with the regulations in relation to that duty, obligation, act, matter or thing shall be deemed to have complied with this Part in relation to that duty, obligation, act matter or thing.

28. Civil liability not affected by Part 3

Nothing in this Part shall be construed as—

(a) conferring a right of action in any civil proceedings in respect of any contravention, whether by act or omission, of any provision of this Part;

(b) conferring a defence to an action in any civil proceedings or as otherwise affecting a right of action in any civil proceedings; or

(c) affecting the extent (if any) to which a right of action arises or civil proceedings may be taken with respect to breaches of duties imposed by the regulations.
PART IV—OCCUPATIONAL HEALTH AND SAFETY REPRESENTATIVES AND COMMITTEES

29. Designated work groups

(1) An employee may ask the employer to establish designated work groups of employees in respect of the workplace.

(2) The composition of the designated work groups is to be determined by negotiation between the employer and the employees.

(3) The employer must do everything that is reasonably possible to ensure that negotiations to determine the composition of the designated work groups start within 14 days after a request is made under sub-section (1).

(4) The employer may initiate negotiations for the establishment of designated work groups at a workplace.

(5) If agreement cannot be reached on the composition of the designated work groups, the employer or the employees may apply to the Authority to determine the composition of the groups.

(6) In determining the composition of designated work groups (or whether the composition should be varied), regard must be had to—

(a) the number of employees at the workplace; and

(b) the nature of each type of work performed at the workplace; and

(c) the number and grouping of employees who perform the same or similar types of work; and
(d) the areas at the workplace where each type of work is performed; and

(e) the nature of any hazards at the workplace; and

(f) any overtime or shift working arrangements at the workplace.

(7) All the employees at a workplace may be determined to be one designated work group.

(8) The composition of designated work groups may be varied at any time by negotiation between the employer and the employees.

(9) If agreement cannot be reached on any proposal to vary the composition of designated work groups, the employer or the employees may apply to the Authority to determine whether the proposal should be adopted.

(10) The employer must ensure—

(a) that a written list of the designated work groups at the workplace is prepared and kept up to date; and

(b) that a copy of the list is displayed in a prominent place at the workplace.

(11) A reference to an employee in this section includes a reference to any person authorised by the employee to act as his or her representative for the purposes of this section.

30. Election of health and safety representatives etc.\(^5\)

(1) The members of a designated work group may elect one of the members of the group to be the group's health and safety representative.

(2) All employees in a designated work group are entitled to vote in an election.
(3) If the members of a designated work group cannot agree on how an election is to be conducted, any member of the group may ask the Authority to appoint a person to conduct the election.

(4) The Authority may appoint any person to conduct the election.

(5) If at any election there is only one candidate—
(a) it shall not be necessary to conduct a ballot; and
(b) that candidate shall be the health and safety representative for the designated work group.

(6) There shall be only one health and safety representative for each designated work group.

(7) A person shall cease to be a health and safety representative upon—
(a) ceasing to be an employee in the designated work group;
(b) resigning as a health and safety representative;
(c) upon the designated work group in respect of which the person was elected being varied under section 29;
(d) failing to be re-elected; or
(e) being disqualified under section 36.

(8) A health and safety representative shall perform a function or duty under this Part only in respect of the designated work group in respect of which the health and safety representative is elected.
31. Functions etc. of health and safety representatives

(1) A health and safety representative may for the purpose of health and safety at a workplace—

(a) inspect any part of the workplace at which a member of the representative's designated work group works—

(i) at any time after giving reasonable notice to the employer or employer's representative; and

(ii) immediately in the event of any accident, hazardous situation, dangerous occurrence or immediate risk to the health and safety of any person;

(b) after consultation with the employer's representative or representatives accompany any inspector during an inspection of the workplace;

(c) after consultation with the employer's representative or representatives require the establishment of a health and safety committee in accordance with section 37; and

(d) after consultation with the employer's representative or representatives with the consent of the employee, be present at any interview between an employee and an inspector concerning health and safety.

(2) An employer shall—

(a) subject to sub-section (3), permit a health and safety representative to have access to such information as the employer possesses relating to—

(i) actual or potential hazards arising at any workplace under the control and management of the employer, the
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conduct of the undertaking of the employer or the plant or substances used for the purposes of that undertaking; and

(ii) the health and safety of the employees of the employer;

(b) subject to sub-section (5), permit a health and safety representative to be present at any interview concerning occupational health and safety between the employer or a representative of the employer and an employee;

(c) if practicable, consult the health and safety representative of a designated work group on all proposed changes to the workplace, the plant or substances used at the workplace or the conduct of work at the workplace that may affect the health or safety of any member of the designated work group;

(d) permit health and safety representatives to take such time off work with pay as is necessary or prescribed for the purposes of performing their functions or duties or taking part in any course of training relating to occupational health and safety which is approved by or conducted by the Authority; and

(e) provide such other facilities and assistance to health and safety representatives as are necessary or prescribed to enable them to perform their functions and duties.

(3) An employer shall not pursuant to sub-section (2)(a)(ii) supply to a health and safety representative any medical information in respect of an employee unless—
(a) the employee has consented to the supply of the information to the health and safety representative; or
(b) the information is in a form which does not identify the employee.

(4) An employer shall not prevent or obstruct the attendance of a health and safety representative at a course of training of the type referred to in sub-section (2)(d).

(5) A health and safety representative shall not be present at any interview of a kind referred to in sub-section (2)(b) without the consent of the employee.

(6) No provision of this Act shall be construed as imposing any duty upon a health and safety representative in the capacity of health and safety representative.

32. Provisions concerning assistants of health and safety representatives

(1) A health and safety representative may for the purposes of performing a function or duty under this Part seek whenever necessary the assistance of any person.

(2) An employer shall allow a person assisting a health and safety representative access to the workplace unless the employer considers that the person by reason of a lack of knowledge of occupational health and safety is not a suitable person to assist a health and safety representative.
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(3) Where an employer does not allow a person assisting a health and safety representative access to the workplace, the health and safety representative may apply to the Industrial Division of the Magistrates’ Court for an order directing the employer to allow that access and specifying the terms and conditions of that access.

* * * * *

33. Provisional improvement notices

(1) Where a health and safety representative is of the opinion that any person—

(a) is contravening any provision of this Act or the regulations; or

(b) has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated—

the health and safety representative may issue to the person a provisional improvement notice requiring the person to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.

(1A) Before issuing a provisional improvement notice, the health and safety representative must consult with the person to whom the notice is to be issued.
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(2) A provisional improvement notice shall—

(a) state that the health and safety representative is of the opinion that the person—

   (i) is contravening a provision of this Act or the regulations; or

   (ii) has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated;

(b) state the reasons for that opinion;

(c) specify the provision in this Act or the regulations in respect of which that opinion is held; and

(d) specify the day (being a day more than seven days after the day on which the notice is issued) before which the person is required to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.

(3) A person—

(a) to whom a provisional improvement notice is issued in relation to which an inspector has not been required under section 35 to attend at the workplace; and

(b) who does not comply with the provisional improvement notice—

shall be guilty of an offence against this Act.

34. Provisional notices may include directions

(1) A health and safety representative may include in a provisional improvement notice directions as to the measures to be taken to remedy the contravention, likely contravention, matters or activities to which the notice relates.
(2) Any direction under sub-section (1) may—
   (a) refer to any approved code of practice; and
   (b) offer the person to whom it is issued a choice
       of ways in which to remedy the
       contravention, likely contravention, matters
       or activities.

35. Employer may require inspector to attend at
workplace

(1) A person to whom a provisional improvement
notice is issued or, where that person is an
employee, that person's employer may within
seven days after the notice is issued require an
inspector to attend at the workplace.

(2) After receiving a requirement to attend at a
workplace, an inspector shall so attend as soon as
possible but before the day specified in the notice
as being the day before which the notice shall be
complied with.

(3) An inspector shall inquire into the circumstances
relating to the notice and may—
   (a) affirm the notice;
   (b) affirm the notice with such modifications as
       the inspector thinks fit; or
   (c) cancel the notice.

(4) Where an inspector has affirmed a notice with or
without modifications, the notice as so affirmed
shall be deemed to be a notice issued by the
inspector under section 43.
36. Disqualification of health and safety representatives

(1) Any employer may apply to the Industrial Division of the Magistrates' Court to have a health and safety representative disqualified on any one or more of the following grounds—

(a) that the health and safety representative has performed any function or duty under this Part with the intention only of causing harm to the employer or the employer's undertaking;

(b) that the health and safety representative has issued a provisional improvement notice to the employer or an employee of the employer in circumstances where the representative could not reasonably have held the opinion referred to in section 33 and the health and safety representative intended to cause harm to the employer or the employer's undertaking;

(c) that the health and safety representative has used any information, acquired from the employer by the representative, for a purpose which is not connected with the performance of any function or duty under this Part and the health and safety representative intended to cause harm to the employer or the employer's undertaking.

(2) Where the Industrial Division of the Magistrates' Court is satisfied that a health and safety representative has acted in the manner referred to in sub-section (1)(a)(b) or (c) it may disqualify the health and safety representative for a specified period or permanently.
(3) For the purpose of determining what (if any) action it should take under sub-section (2), the Industrial Division of the Magistrates' Court shall take into account—

(a) what (if any) harm was caused to the employer or the employer's undertaking by or as a result of the action of the health and safety representative;

(b) the past record of the health and safety representative in performing any functions and duties under this Part; and

(c) whether the action of the health and safety representative was contrary to the public interest—

and may take into account any other matters it considers relevant.

37. Health and safety committees

(1) Upon being requested to do so by a health and safety representative or when required by regulation to do so, an employer shall within three months after the date of the request or in accordance with the regulation establish a health and safety committee in accordance with this section.

(2) Where an employer has been requested by a health and safety representative to establish a health and safety committee, the employer shall consult with the health and safety representative as to the composition and functions of the committee.

(3) At least half of the members for the time being of a health and safety committee shall be employees.
Part IV—Occupational Health and Safety Representatives and Committees

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(4) The functions of a health and safety committee are—

(a) to facilitate co-operation between an employer and the employees of the employer in instigating developing and carrying out measures designed to ensure the health and safety at work of the employees; and

(b) to formulate, review and disseminate (in such languages as are appropriate) to the employees the standards rules and procedures relating to health and safety which are to be carried out or complied with at the workplace—

and include such other functions as are prescribed or agreed upon by the employer and the health and safety committee.

(5) Subject to this section, health and safety committees shall meet at intervals not exceeding three months.

(6) Half of the members of a health and safety committee may require a meeting of the committee to be held at any time.

(7) Subject to this Act and the regulations, a health and safety committee may regulate its own procedures.
PART V—INSPECTIONS

38. Appointment of inspectors

(1) The Authority may appoint any officer or employee of the Authority to be an inspector for the purposes of this Act.

(1A) The Authority may appoint any person who is employed in the Department of Primary Industries under the Public Administration Act 2004 to be an inspector for the purposes of this Act in respect of activities carried out under the Petroleum Act 1998, the Extractive Industries Development Act 1995 or the Mineral Resources Development Act 1990.

(2) The Authority must furnish every inspector with a certificate of appointment.

(3) A certificate of appointment of an inspector is conclusive proof of the inspector's appointment under this section.

(4) The Authority must furnish every inspector with an identification card which an inspector must produce—

   (a) if practicable, on each occasion before he or she proceeds to act pursuant to this Act; and

   (b) on demand.

(5) Any person who forges or counterfeits an identification card or makes use of any forged, counterfeited or false identification card or personates the inspector named in an identification card or falsely pretends to be an inspector is guilty of an offence.
39. Powers of inspectors

(1) An inspector may for the purpose of the execution of this Act or the regulations—

(a) enter inspect and examine at all reasonable times by day or night any workplace which the inspector considers it necessary to enter inspect and examine for that purpose;

(b) enter any workplace at any time when the inspector is under this Act or the regulations requested or required to attend at the workplace;

(c) take such equipment or materials as may be required;

(d) make such examination and inquiry as may be necessary to ascertain whether or not this Act or the regulations have been complied with;

(e) examine any plant substance or other thing whatsoever at the workplace;

(f) take or remove without payment such samples of any such substance or thing as may be required for analysis;

(g) take possession of any such plant or thing for further examination or testing or for use as evidence;

(h) take photographs or measurements or make sketches or recordings;

(i) require the production of examine and take copies of any document or any part of any document;

(j) direct that the workplace or any part of the workplace be left undisturbed for as long as the inspector considers necessary; and
(k) exercise such other powers as may be necessary or as are conferred upon the inspector by this Act or the regulations.

(2) An inspector may for the purposes of subsection (1) seek whenever necessary the assistance of any person and the occupier of or employer at a workplace shall permit any such person access to the workplace.

(3) An inspector is authorised to take affidavits for any purpose relating to or incidental to the exercise of the inspector's powers or the performance of the inspector's duties.

40. Further provisions in relation to inspections

(1) Upon entering any workplace an inspector shall take all reasonable steps to notify the employer and any health and safety representative of the entry.

(2) Upon concluding an inspection an inspector shall give to the employer and any health and safety representative or, if there is no such representative, the health and safety committee information with respect to the inspector's observations and any action the inspector proposes to take in relation to the workplace.

(3) Where an inspector proposes to take and remove a sample from any workplace for the purposes of analysis the inspector shall so notify the employer and any health and safety representative or, if there is no such representative, the health and safety committee and after having taken the sample the inspector shall—

(a) divide the sample taken into as many parts as are necessary and mark and seal or mark and fasten up each part in such manner as its nature will permit;
(b) if required by the employer, representative or committee, deliver one part each to the employer, representative or committee;

(c) retain one part for future comparison—

and if it is determined that an analysis of the sample is to be made the inspector shall submit another part to an analyst for analysis.

(4) Where under section 39(1)(g) an inspector takes possession of any plant or thing, the occupier of or employer at the workplace may appeal against that seizure by notice in writing given to the inspector.

(5) The Industrial Division of the Magistrates' Court shall determine an appeal under sub-section (4) and may—

(a) affirm the seizure; or

(b) order that the plant or thing be returned to the occupier or employer (as the case requires) and give directions for that return.

(6) Where under section 39(1)(h) an inspector takes photographs or makes sketches or recordings the inspector shall forthwith notify the employer and any health and safety representative of that fact and the address of a place where the photographs sketches or recordings are or will be available for inspection.

(7) Where an inspector uses the assistance of an interpreter, any inquiry or requisition to any person made on behalf of such inspector by the interpreter shall for all purposes be deemed to have been actually made by the inspector, and any answer thereto made to the interpreter shall be deemed to have been actually made to the inspector.
(8) No person shall be required under section 39 to answer any question or give any evidence tending to self incrimination.

41. Employers etc. to assist inspector

The owner or occupier of or employer at any workplace and the agents and employees of the owner occupier or employer shall provide such assistance as an inspector may require for any entry inspection examination or inquiry or for the exercise of the powers of the inspector under this Act or the regulations.

42. Offences in relation to inspections

(1) Any person who—

(a) refuses access to a workplace to an inspector or person assisting an inspector;

(b) obstructs an inspector in the exercise of the powers of the inspector under this Act or the regulations or induces or attempts to induce any other person to do so;

(c) fails to produce any document required under this Act or the regulations by an inspector;

(d) conceals the location or existence of any other person or any plant or substance from an inspector;

(e) prevents or attempts to prevent any other person from assisting an inspector; or

(f) in any other way, hinders impedes or opposes an inspector in the exercise of the powers of the inspector under this Act or the regulations—

shall be guilty of an offence.
(2) The occupier of and employer at any workplace at which an offence under sub-section (1) occurs shall be guilty of the same offence unless the occupier or employer proves that the act or omission constituting the offence took place without the knowledge of the occupier or employer and that the occupier or employer did not know and could not reasonably have known thereof.

(3) Any person who assaults or directly or indirectly intimidates or threatens or attempts to intimidate or threaten an inspector or a person assisting an inspector shall be guilty of an offence.

(4) Any person who is guilty of an offence against this section shall be liable—

(a) where that person is a body corporate, to a penalty of not less than 50 penalty units nor more than 2500 penalty units; or

(b) in any other case, to a penalty of not less than 10 penalty units nor more than 500 penalty units or to imprisonment for not more than five years or both.
PART VI—IMPROVEMENT AND PROHIBITION NOTICES

43. Inspector may issue improvement notice

(1) Where an inspector is of the opinion that any person—

(a) is contravening any provision of this Act or the regulations; or

(b) has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated—

the inspector may issue to the person an improvement notice requiring the person to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.

(2) An improvement notice shall—

(a) state that the inspector is of the opinion that the person—

(i) is contravening a provision of this Act or the regulations; or

(ii) has contravened such a provision in circumstances that make it likely that the contravention will continue or be repeated;

(b) state the reasons for that opinion;

(c) specify the provision in this Act or the regulations in respect of which that opinion is held; and

(d) specify the day (being a day more than seven days after the day on which the notice is issued) before which the person is required to remedy the contravention or likely contravention or the matters or activities occasioning the contravention or likely contravention.
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section 44

occasioning the contravention or likely contravention.

(3) A person—

(a) to whom an improvement notice is issued in relation to which an appeal has not been made under section 46; and

(b) who does not comply with the improvement notice—

shall be guilty of an offence against this Act.

44. Inspector may issue prohibition notice

(1) Where an inspector is of the opinion that at any workplace there is occurring or may occur any activity which involves or will involve an immediate risk to the health and safety of any person, the inspector may issue to the person who has or may be reasonably presumed to have control over the activity a prohibition notice prohibiting the carrying on of the activity until an inspector certifies in writing that the matters which give or will give rise to the risk are remedied.

(2) A prohibition notice shall—

(a) state that the inspector is of the opinion that in the workplace there is occurring or may occur an activity which involves or will involve an immediate risk to the health and safety of any person;

(b) state the reasons for that opinion;

(c) specify the activity which in the inspector's opinion involves or will involve the risk and the matters which give or will give rise to the risk; and
(d) where in the inspector's opinion the activity involves a contravention or likely contravention of any provision of this Act or the regulations, specify that provision and state the reasons for that opinion.

(3) A person—

(a) to whom a prohibition notice is issued in relation to which an appeal has not been made under section 46; and

(b) who does not comply with the prohibition notice—

shall be guilty of an offence against this Act and shall be liable—

(c) where that person is a body corporate, to a penalty of not less than 50 penalty units nor more than 2500 penalty units; or

(d) in any other case, to a penalty of not less than 10 penalty units nor more than 500 penalty units or to imprisonment for not more than five years or both.

(4) Where an appeal has been made under section 46, an inspector shall not give a certificate under subsection (1) until after the appeal is withdrawn or decided.

45. Notices may include directions

(1) An inspector may include in an improvement notice or a prohibition notice directions as to the measures to be taken to remedy any contravention, likely contravention, risk, matters or activities to which the notice relates.
(2) Any direction under sub-section (1) may—

(a) refer to any approved code of practice; and

(b) offer the person to whom it is issued a choice of ways in which to remedy the contravention, likely contravention, risk, matters or activities.

46. Appeals against notices

(1) A person to whom an improvement notice or a prohibition notice is issued, or where that person is an employee, that person's employer may within seven days after the notice is issued appeal in writing against the notice to the Industrial Division of the Magistrates' Court.

(2) The Industrial Division of the Magistrates' Court shall inquire into the circumstances relating to the notice and may—

(a) affirm the notice;

(b) affirm the notice with such modifications as it thinks fit; or

(c) cancel the notice.

(3) Pending the decision under sub-section (2) of the Industrial Division of the Magistrates' Court, the operation of the notice shall—

(a) in the case of an improvement notice, be suspended; and

(b) in the case of a prohibition notice, continue, subject to any decision to the contrary made by the Industrial Division of the Magistrates' Court.
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Part VI—Improvement and Prohibition Notices

(4) Where—

(a) the Industrial Division of the Magistrates' Court affirms an improvement notice or a prohibition notice or affirms such a notice with modifications; and

(b) the person to whom the improvement notice or prohibition notice was issued does not comply with the notice as so affirmed—

that person shall be guilty of an offence against this Act and shall be liable to the penalty applying in the case of an offence against section 43 or 44 (as the case requires).

S. 46
S. 46(4) amended by No. 74/2000 s. 3(Sch. 1 item 91).
S. 46(4)(a) amended by Nos 83/1992 s. 184(Sch. 6 Item 15.7), 59/1996 s. 10(Sch. 2 item 16.6(a)).
PART VII—LEGAL PROCEEDINGS

47. General

(1) Any person who contravenes or fails to comply with any provision of this Act or the regulations shall be guilty of an offence against this Act.

(2) Any person who is guilty of an offence against this Act for which no penalty is expressly provided shall be liable to a penalty of not more than—

(a) where that person is a body corporate, 400 penalty units if the offence is not an indictable offence, and 2500 penalty units if the offence is an indictable offence; or

(b) in any other case, 100 penalty units if the offence is not an indictable offence, and 500 penalty units if the offence is an indictable offence.

(3) An offence against this Act (not being a contravention of or failure to comply with a provision of the regulations) shall be an indictable offence.

47A. Infringement notices

(1) Regulations under section 59 may provide for a person to be served with an infringement notice specifying a fixed penalty of not more than 10 penalty units for an offence against this Act as an alternative to a prosecution for the offence.

(2) The regulations must specify—

(a) the offences to which this alternative applies; and

(b) the fixed penalty for each of the offences; and

(c) the form of infringement notices; and
(d) the person or class of persons who may issue infringement notices; and

(e) the person to whom a fixed penalty must be paid; and

(f) the period within which a fixed penalty must be paid in order to avoid prosecution.

(3) An infringement notice must state—

(a) the name of the alleged offender; and

(b) the nature, in general terms, of the offence alleged to have been committed; and

(c) the date, time and place of the alleged offence; and

(d) the amount of the fixed penalty; and

(e) the period within which and the place where the fixed penalty may be paid; and

(f) that the alleged offender is entitled to disregard the infringement notice and defend the prosecution for the alleged offence in court.

(4) A person who issued an infringement notice may withdraw it within 28 days after service by serving a withdrawal notice in the prescribed form on the person on whom the infringement notice was served.

(5) If the person pays the penalty before the infringement notice is withdrawn, the person is entitled to a refund of the penalty.

(6) If the person pays the penalty within the time specified in the infringement notice or, if the person who issued the notice allows, before proceedings are commenced against the person in respect of the alleged offence—
(a) further proceedings are not to be taken against the person; and

(b) a conviction must not be recorded against that person for the offence.

(7) A penalty paid under this section is to be dealt with in the same way as a penalty paid as a result of a conviction.

(8) If—

(a) a person served with an infringement notice has not paid the penalty within the time specified in the notice; or

(b) an infringement notice is withdrawn—proceedings may still be taken or continued for the alleged offence.

48. Proceedings may be brought by inspectors etc. 10

(1) Proceedings for an offence against this Act may be brought by the Authority or an inspector.

(2) No proceedings for an offence against this Act shall be brought by an inspector without the authority in writing of the Authority given generally or in any particular case.

(3) An authority under sub-section (2) shall be sufficient authority to continue proceedings in any case where the Court amends the charge, warrant or summons.

(4) An inspector may conduct before the Court any proceedings brought by the inspector.

(5) The Authority must issue general guidelines for or with respect to the prosecution of offences under this Act.
(6) The Authority must publish guidelines under sub-section (5) in the Government Gazette.

49. Procedure where prosecution is not brought\footnote{S. 49(1) amended by No. 13/1996 s. 57(2).}

(1) Where in any particular case a prosecution has not been brought within six months after the occurrence of any act matter or thing which in the opinion of any person constitutes an offence against this Act, the person may in writing request the Authority to bring a prosecution and the Authority shall respond in writing to such a request within three months after the request is made indicating whether a prosecution has been or will be brought or giving reasons why a prosecution will not be brought.

(2) Where under sub-section (1) the Authority has indicated that a prosecution will not be brought, the Authority shall upon a written request from the person who made the request under sub-section (1) refer the matter to the Director of Public Prosecutions.

(3) The Director of Public Prosecutions shall consider the matter and shall advise the Authority whether or not in the Director's opinion a prosecution should be brought and the Authority shall cause a copy of that advice to be sent to the person who made the request under sub-section (1).

50. Judicial notice of signature of Minister etc.\footnote{S. 50 amended by Nos 67/1992 s. 66(3)(b)(i), (ii), 13/1996 s. 58.}

All courts shall take judicial notice of the signature of the Minister or the Chief Executive of the Authority on every document authorized or required to be signed by the Minister or the Chief Executive of the Authority for the purposes of this Act or the regulations.
51. Provisions as to certain evidence

In any proceedings for an offence against this Act—

(a) it shall be sufficient to allege that any building structure ship boat site or place is a workplace within the meaning of this Act without further allegation;

(b) it shall be sufficient to state the name of the ostensible occupier of or employer at any workplace or the name or title by which the occupier or employer is usually known; and

(c) where the age of any person is material and there is insufficient evidence of the actual age of the person the court may have regard to the apparent age of the person.

52. Offences by bodies corporate

(1) Where an offence against this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any wilful neglect on the part of, an officer of the body corporate or person purporting to act as such an officer, that officer or person is also guilty of that offence and liable to the penalty for that offence.

(2) When in any proceedings under this Act it is necessary to establish the intention of a body corporate it is sufficient to show that a servant or agent of the body corporate had that intention.

(3) In sub-section (1) "officer" in relation to a body corporate means—

(a) a director secretary or executive officer of the body corporate;

(b) any person in accordance with whose directions or instructions the directors of the body corporate are accustomed to act; or
(c) a person concerned in the management of the body corporate.

53. Further penalties for subsequent offences

In any case where a person convicted of an offence against this Act has previously been convicted of an offence against this Act (whether the same offence or another), the Court may, if it considers it appropriate to do so, impose in addition to the penalty it imposes for the present offence—

(a) in the case of an indictable offence—

(i) if the person is a body corporate, a further penalty of not less than 50 penalty units and not more than 2500 penalty units; or

(ii) in any other case, a further penalty of not less than 10 penalty units and not more than 500 penalty units or imprisonment for not more than five years or both;

(b) in the case of a summary offence—

(i) if the person is a body corporate, a further penalty of not less than 50 penalty units and not more than 400 penalty units; or

(ii) in any other case, a further penalty of not less than 10 penalty units and not more than 200 penalty units or imprisonment for not more than two years or both.
PART VIII—GENERAL

54. Discrimination against employees etc.

(1) An employer shall not dismiss an employee or injure an employee in the employment of the employer or alter the position of an employee to the detriment of the employee by reason only that the employee—

(a) performs or has performed any function or duty as a health and safety representative or as a member of a health and safety committee; or

(b) assists or has assisted or gives or has given any information to an inspector, health and safety representative or health and safety committee; or

(c) makes or has made a complaint in relation to health and safety to the employer, a fellow employee, inspector, health and safety representative or health and safety committee.

(2) An employer or prospective employer shall not refuse or deliberately omit to offer employment to a prospective employee or treat a prospective employee less favourably than another prospective employee would be treated in relation to the terms on which employment is offered by reason only that the first-mentioned prospective employee—

(a) has been a health and safety representative or member of a health and safety committee;
(b) has performed any function or duty as such a representative or member;

(c) has assisted or given information to an inspector, health and safety representative or health and safety committee; or

(d) has made a complaint in relation to health and safety to a former employer, former fellow employee, inspector, health and safety representative or health and safety committee.

(3) Any person who is guilty of an offence against this section shall be liable—

(a) where that person is a body corporate, to a penalty of not less than 50 penalty units nor more than 2500 penalty units; or

(b) in any other case, to a penalty of not less than 10 penalty units nor more than 500 penalty units or to imprisonment for not more than five years or both.

(4) In proceedings for an offence against this section, if all the facts constituting the offence other than the reason for the defendant's action are proved, the onus of proving that the act of discrimination was not actuated by the reason alleged in the charge shall lie on the defendant.

(5) Where a person is convicted of an offence against this section, the court may in addition to imposing a penalty upon the offender make one or both of the following orders:

(a) It may order the offender to pay within a specified period to the person against whom the offender discriminated such damages as it thinks fit to compensate that person;
(b) It may order that the employee be reinstated or re-employed in the employee's former position or, where that position is not available, in a similar position or that the prospective employee be employed in the position for which the prospective employee had applied or a similar position.

55. **Codes of practice**

1. For the purpose of providing practical guidance to employers, self-employed people, employees, occupiers, designers, manufacturers, importers, suppliers or any other person who may be placed under an obligation by or under this Act, the Minister may approve any code of practice.

2. A code of practice may consist of any code, standard, rule, specification or provision relating to occupational health or safety and may apply incorporate or refer to any document formulated or published by any body or authority as in force at the time the code of practice is approved or as amended formulated or published from time to time.

3. The Minister may approve any revision of the whole or any part of a code of practice or revoke the approval of a code of practice.

4. The Minister shall cause to be published in the Government Gazette notices of—
   (a) the approval of a code of practice;
   (b) the approval of a revision of the whole or any part of a code of practice; and
   (c) the revocation of approval of a code of practice.
(5) The Minister shall cause a copy—

(a) of every approved code of practice;

(b) where an approved code of practice has been revised and that revision has been approved, of every approved code of practice as so revised; and

(c) where an approved code of practice applies incorporates or refers to any other document, of every such document—

to be made available for inspection by members of the public without charge at the office of the Authority during normal office hours.

(6) An approved code of practice shall come into effect—

(a) on the day on which notice of approval of the code of practice is published in the Government Gazette or on such later day as may be specified in the notice; and

(b) where the code of practice has been revised in whole or in part, to the extent of that revision on the day on which notice of approval of that revision is published in the Government Gazette or on such later day as may be specified in the notice.

(7) An approved code of practice shall cease to be of effect at the end of the day on which notice of the revocation of approval of the code of practice is published in the Government Gazette.

(8) A person shall not be liable to any civil or criminal proceedings by reason only that the person has failed to observe any provision of an approved code of practice.
56. Use of codes of practice in proceedings

Where in any proceedings under this Act it is alleged that a person contravened or failed to comply with a provision of this Act or the regulations in relation to which an approved code of practice was in effect at the time of the alleged contravention or failure—

(a) the approved code of practice shall be admissible in evidence in those proceedings; and

(b) if the court is satisfied in relation to any matter which it is necessary for the prosecution to prove in order to establish the alleged contravention or failure that—

(i) any provision of the approved code of practice is relevant to that matter; and

(ii) the person failed at any material time to observe that provision of the approved code of practice—

that matter shall be taken as proved unless the court is satisfied that in respect of that matter the person complied with that provision of this Act or the regulations otherwise than by way of observance of that provision of the approved code of practice.

57. Minister may delegate powers etc.

(1) The Minister may delegate to any person any of the powers, authorities, duties or functions of the Minister under this Act or the regulations other than this power of delegation.

(2) The instrument of delegation shall specify the period of time during which the delegation of power may be exercised or where the Minister has determined that the delegation shall be exercisable
for an unlimited period of time, the instrument shall so specify.

(3) The Minister may vary or revoke a delegation made under this section.

(4) A power, authority, duty or function delegated by the Minister shall be exercised or performed in accordance with the instrument of delegation and shall be subject to the conditions and limitations specified in the instrument of delegation.

(5) The delegation of a power, authority, duty or function by the Minister does not prevent the exercise of the power or authority or the performance of the duty or function by the Minister.

(6) Any act or thing done in the performance of a duty or function or the exercise of an authority or power by the delegate under sub-section (1) has the same force and effect as if it had been done by the Minister.

(7) No act of a delegate done within the scope of a delegation under this section during the period in which that delegation remains in force shall be invalidated by reason of a later revocation or variation of the delegation.

59. Regulations

(1) The Governor in Council may make regulations for or with respect to the safety, health and welfare of persons at workplaces.
(2) Without in any way limiting the generality of sub-section (1), regulations may be made for the purposes of that sub-section for or with respect to any of the matters specified in Schedule One.

(3) Any regulations made under this section may—

(a) be general or may be restricted in operation as to time place persons or circumstances whether any such time place person or circumstance is determined or ascertainable before at or after the making of the regulations;

(b) incorporate adopt apply or make prescriptions by reference to, with or without modification, any document formulated or published by any body or authority as in force at the time the regulation is made or as amended formulated or published from time to time;

(c) make different prescriptions or impose different requirements in respect of different classes, sub-classes or kinds of plant, substances, workplaces, activities, work, persons or circumstances;

(d) leave any matter or thing to be from time to time determined applied or approved by the Authority, an inspector, a Board of Examiners or any other prescribed person or body of persons;

(e) provide that the Authority may grant exemptions in respect of any requirement of or prohibition in the regulations upon such terms and conditions as are prescribed; and

(f) confer powers or impose duties in connexion with the regulations on the Authority, an inspector, a Board of Examiners, any government department, any public
authority, the council of any municipality or any other prescribed person or body of persons.

(4) A regulation made under this section may provide that a person thing or circumstance appointed or created by or under a provision of an Act referred to in Schedule Two (as that provision was in force before it was amended or repealed pursuant to section 3 of this Act)—

(a) shall under and subject to the regulation continue to have the same status operation and effect as it would have had if that provision had not been amended or repealed; and

(b) may be dealt with in accordance with the regulation in all respects as if it had been appointed or created by or under the regulation.

(5) The Authority shall cause a copy of any document which has been incorporated adopted or applied by a regulation made under this section or by reference to which a prescription is made by such a regulation to be made available for inspection by members of the public without charge at the office of the Authority during normal office hours.

(6) Where any regulations are made pursuant to clause 8, 14A, 14B or 16 of Schedule One, those regulations shall provide that any person who may be affected by a decision of any other person or body of persons in relation to—

(a) the refusal to grant or renew certificates of competency;

(b) the refusal to grant renew or transfer the registration of or a licence in respect of any plant substance or workplace;
(ba) the refusal to grant or renew a registration or licence in respect of the carrying out of specified work or activities; or

(c) the variation of the terms and conditions applying to certificates of competency or the registration of or a licence in respect of any plant substance or workplace; or

(ca) the variation of the terms and conditions applying to a registration or licence in respect of the carrying out of specified work or activities; or

(cb) the cancellation or suspension of a registration or licence in respect of the carrying out of specified work or activities; or

(d) the cancellation or suspension of certificates of competency or the registration of or a licence in respect of any plant substance or workplace—

shall be entitled—

(e) to be heard by that other person or body of persons in relation to that decision and to be given reasons for that decision; and

(f) to appeal against that decision to such court tribunal person or body of persons as is prescribed—

and those regulations shall also provide that where a person has appealed against a decision the operation of that decision shall be stayed pending the determination of that appeal.

* * * * * *
(7) Where a provision of any Act is repealed pursuant to section 3, any regulation made under any power contained in that provision and any regulation continued in force in relation to that provision by that Act—

(a) shall continue in force under this Act;

(b) shall be deemed to be a regulation made under this section; and

(c) may be amended or revoked by a regulation made under this section.

(8) Regulations made for the purposes of section 47A may be disallowed in whole or in part by resolution of either House of Parliament in accordance with the requirements of section 6(2) of the Subordinate Legislation Act 1962.

(9) Disallowance under sub-section (8) is deemed to be disallowance by Parliament for the purposes of the Subordinate Legislation Act 1962.

60. Transfer of responsibilities

(1) In this section—

"relevant Department" means the Department of Energy and Minerals, the Department of Agriculture, Energy and Minerals or the Department of Natural Resources and Environment;

"relevant Minister" means the Minister for the time being administering the Petroleum (Submerged Lands) Act 1982;

"relevant Secretary" means the Secretary to the Department of Energy and Minerals, the Secretary to the Department of Agriculture, Energy and Minerals or the Secretary to the Department of Natural Resources and Environment.
Part VIII—General

Occupational Health and Safety Act 1985
Act No. 10190/1985

§ 60

(2) Despite anything to the contrary in this Act, the relevant Minister has direct and primary concern and responsibility for the administration of this Act and may exercise for that purpose all the powers and functions of the Minister or the Authority under this Act or the regulations with respect to activities carried out under—

(a) the Petroleum (Submerged Lands) Act 1967 of the Commonwealth; and

(b) the Petroleum (Submerged Lands) Act 1982.

(3) For the purposes of sub-section (2) and only for those purposes, this Act applies as if—

(a) any reference in this Act or the regulations to the Minister or to the Authority (including any reference deemed to be a reference to the Authority) or to the relevant Secretary or to the relevant Department were a reference to the Minister; and

(b) any reference to an officer or employee of the Authority were a reference to an officer or employee of the public service.

(5) Sub-section (2) does not apply to any power or function or responsibility of the Minister relating to codes of practice or to the making of regulations.
(6) On and after the commencement of section 61 of the Accident Compensation (Occupational Health and Safety) Act 1996—

(a) any delegation or other instrument or other document made, issued or given under this Act or the regulations before that commencement by the relevant Secretary or the relevant Department is deemed to have been made, issued or given by the relevant Minister;

(b) any action taken or decision made under this Act or the regulations before that commencement by the relevant Secretary or the relevant Department is deemed to have been taken or made by the relevant Minister;

(c) any application made or notification given to the relevant Secretary or the relevant Department under this Act or the regulations before that commencement is deemed to be an application made or notification given to the relevant Minister;

(d) the relevant Minister may continue and complete any other continuing matter or thing commenced by or against the relevant Secretary or the relevant Department under this Act or the regulations and existing immediately before that commencement.

(7) Nothing in this section or any other section of this Act affects the appointment of or any notice given by or proceedings begun under this Act or the regulations by or against or in relation to an inspector appointed by the relevant Minister before the commencement of section 61 of the Accident Compensation (Occupational Health and Safety) Act 1996.
SCHEDULES

SCHEDULE ONE

SUBJECT-MATTER FOR REGULATIONS

1. Regulating or prohibiting—
   (a) the manufacture supply or use of any plant;
   (b) the manufacture supply storage transport or use of any
       substance; and
   (c) the carrying on of any process or the carrying out of any
       operation.

2. Regulating the design guarding siting construction installation
   bringing into operation examination repair maintenance alteration
   dismantling or testing of any plant.

3. Requiring employers or other prescribed persons at such times and
   in such manner as are prescribed to examine test dismantle repair
   alter or adjust any plant.

4. Regulating the examination testing analysis labelling or marking of
   any substance.

5. Requiring employers or other prescribed persons at such times and
   in such manner as are prescribed to examine test analyse label or
   mark any substance.

6. Regulating the siting examination repair alteration adjustment
   dismantling maintenance care or use of and the conditions at any
   workplace.

7. Inspections by inspectors.

8. Requiring any plant substance or workplace to be registered or
   licensed by the Authority or by any other prescribed person or body
   of persons.

9. Prohibiting the use of any plant substance or workplace unless it is
   registered or licensed.

10. Prescribing the persons who may apply for registration of or any
    licence in respect of any plant substance or workplace.
11. Prescribing the terms and conditions of registration of any plant substance or workplace or of any licence in respect of any plant substance or workplace.

12. Prescribing the circumstances in which registration of or any licence in respect of any plant substance or workplace may be cancelled or suspended.

13. Providing for the variation of the terms and conditions of registration of or any licence in respect of any plant substance or workplace.

14. Prescribing the manner of application for the granting renewal or transfer of registration of or any licence in respect of any plant substance or workplace.

14A. Prohibiting the carrying out of specified work or activities at workplaces, or in relation to specified plant or substances, except by an employer or other specified person who is registered or licensed by the Authority or any other specified person or body.

14B. In relation to the registration or licensing of people to carry out specified work or activities—
   (a) specifying who may apply and how the applications are to be made, processed and determined;
   (b) imposing, or providing for the imposition of, terms and conditions in relation to registrations and licences, and for the variation of those terms and conditions;
   (c) specifying the circumstances in which a registration or licence may be cancelled or suspended;
   (d) specifying how a registration or licence may be renewed.

15. Prohibiting the carrying on of prescribed activities at workplaces or the performance of prescribed work at workplaces except under the supervision of or by persons with prescribed qualifications or experience.

16. Requiring the holding of certificates of competency by persons engaged in prescribed work or activities.

17. Providing for the examination of applicants for certificates of competency.

18. Requiring applicants for certificates of competency to possess prescribed qualifications or experience.

19. Providing for the recognition of prescribed qualifications or experience held by applicants for certificates of competency in lieu of those applicants passing an examination for such certificates.
20. Prescribing the terms and conditions upon which certificates of competency may be granted.

21. Providing for the variation of the terms and conditions of any certificate of competency.

22. Prescribing the circumstances in which certificates of competency may be cancelled or suspended.

23. Prescribing the manner of application for granting or renewal of certificates of competency.

24. Providing for the establishment of Boards of Examiners to conduct examinations of applicants for certificates of competency.

25. Providing for the composition of any Board of Examiners, the terms and conditions of membership of such a Board and the fees and travelling allowances to be paid to the members of such a Board.

26. Providing for the procedures of any Board of Examiners.

27. Conferring upon any Board of Examiners the power to grant or renew, refuse to grant or renew, cancel or suspend any certificate of competency.

28. Requiring in prescribed circumstances employers to employ or appoint persons, whether or not persons with prescribed qualifications or experience, to perform prescribed functions and imposing duties or conferring powers on such persons.

29. Regulating or prohibiting the employment in prescribed activities or work of all persons or any class of persons.

30. Regulating or requiring the instruction training and supervision of persons at work.

31. Requiring employers to bring to the notice of their employees such of the provisions of this Act or the regulations as are prescribed.

32. Regulating or requiring the taking of any action or precautions to avoid, or in the event of, any accident or dangerous occurrence.

33. Prohibiting or requiring the taking of any action in the event of any accident or dangerous occurrence.

34. Regulating or requiring in prescribed circumstances the provision and use of protective clothing or equipment and rescue equipment.

35. Prescribing standards in relation to the use of, including standards of exposure to, any physical biological chemical or psychological hazard.

36. Regulating or requiring the monitoring by employers or occupiers of conditions at any workplace.
37. Regulating or requiring the monitoring by employers of the health of their employees.

38. Regulating or requiring the provision by employers or occupiers of prescribed facilities for the welfare of persons at the workplace.

39. Requiring the keeping and preservation by employers or other prescribed persons of records of prescribed activities matters or things.

40. Requiring notice to be given of prescribed activities matters or things to the Authority, an inspector or other prescribed person.

41. Regulating the conduct of elections for health and safety representatives.

42. Requiring employers to establish health and safety committees and regulating such committees and committees under section 37.

43. Prescribing the fees chargeable or payable for doing any act or providing any service for the purposes of the regulations and prescribing the person or persons or body of persons to which the fees are payable and providing for the distribution of those fees and for the refund of fees in prescribed circumstances.

* * * * *

44. Prescribing the manner of serving notices under this Act.

45. Prescribing forms for the purposes of this Act and the regulations.

46. Providing for contravention of or failure to comply with a provision of a regulation to be an indictable offence or a summary offence.

47. Prescribing penalties for any contravention of or failure to comply with the regulations not exceeding the penalties set out in section 47(2).

48. Prescribing any matter or thing which by this Act is required or permitted to be prescribed for the purposes of this Act.
**Occupational Health and Safety Act 1985**  
**Act No. 10190/1985**

### SCHEDULE TWO

Section 3

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Number of Act</th>
<th>Title of Act</th>
<th>Extent of Amendment or Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>8004</td>
<td>Boilers and Pressure Vessels Act 1970</td>
<td>In section 3 the interpretations of &quot;Chief Inspector&quot; and &quot;Inspector&quot; shall be repealed.</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td>After section 3 there shall be inserted the following section: &quot;3A. References to inspectors&quot;</td>
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<tr>
<td></td>
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<td></td>
<td>A reference in this Act or in the regulations to the Chief Inspector or to an inspector shall be deemed and taken for all purposes to be a reference to an inspector under the Occupational Health and Safety Act 1985.&quot;</td>
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<td>3</td>
<td></td>
<td></td>
<td>Sections 5 and 5A shall be repealed.</td>
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<td>4</td>
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<td></td>
<td>Division 1 of Part II shall be repealed.</td>
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<td>5</td>
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<td>Division 2 of Part II shall be repealed.</td>
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<td>6</td>
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<td></td>
<td>Division 3 of Part II shall be repealed.</td>
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<td>7</td>
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<td>Part III shall be repealed.</td>
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<td>8</td>
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<td>Part IV shall be repealed.</td>
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<td>9</td>
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<td>Part V shall be repealed.</td>
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<td>10</td>
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<td>Division 1 of Part VI shall be repealed.</td>
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<td>11</td>
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<td></td>
<td>Division 2 of Part VI shall be repealed.</td>
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<td>12</td>
<td></td>
<td></td>
<td>Division 1 of Part VIII shall be repealed.</td>
</tr>
<tr>
<td>Item No.</td>
<td>Number of Act</td>
<td>Title of Act</td>
<td>Extent of Amendment or Repeal</td>
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<td>13</td>
<td></td>
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<td>So much of the Act as has not already been repealed shall be repealed.</td>
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<td>14</td>
<td>9720</td>
<td>Building Control Act 1981</td>
<td>In item 18 of the Schedule for paragraph (b) there shall be substituted the following paragraph:</td>
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<td></td>
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<td>&quot;(b) paragraph (h) shall be repealed.&quot;.</td>
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<td>15</td>
<td>9271</td>
<td>Construction Safety Act 1979</td>
<td>Whole Act shall be repealed.</td>
</tr>
<tr>
<td>23</td>
<td>6283</td>
<td>Labour and Industry Act 1958</td>
<td>Paragraph (d) of section 10 shall be repealed.</td>
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<tr>
<td>24</td>
<td></td>
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<td>In section 17(2)(c) the words &quot;factories and&quot; shall be repealed.</td>
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<td>25</td>
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<td>In section 49(1)—</td>
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<td>(a) in paragraphs (a) and (b) the words &quot;factory or&quot; (wherever occurring) shall be repealed; and</td>
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<td></td>
<td>(b) paragraph (aa) and the word &quot;or&quot; (where occurring immediately after that paragraph) shall be repealed.</td>
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<td>26</td>
<td></td>
<td></td>
<td>Paragraph (c) of section 49(2) shall be repealed.</td>
</tr>
</tbody>
</table>

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items 16–21 repealed by No. 48/1988 s. 47.
<table>
<thead>
<tr>
<th>Item No.</th>
<th>Number of Act</th>
<th>Title of Act</th>
<th>Extent of Amendment or Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>27</td>
<td></td>
<td></td>
<td>In section 49(3) and (4) the word &quot;factory&quot; (wherever occurring) shall be repealed.</td>
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<td>28</td>
<td></td>
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<td>Sub-section (3A) of section 49 shall be repealed.</td>
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<td>29</td>
<td></td>
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<td>In section 49(5) the words &quot;factory or&quot; and the expression &quot;(except in accordance with a permit issued under sub-section (3A) of this section)&quot; shall be repealed.</td>
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<td>30</td>
<td></td>
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<td>Section 51 shall be repealed.</td>
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<td>31</td>
<td></td>
<td></td>
<td>In section 52(1) the word &quot;factory&quot; shall be repealed.</td>
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<tr>
<td>32</td>
<td></td>
<td></td>
<td>In section 52(2) the words &quot;factory or&quot; (wherever occurring) and &quot;factories or&quot; shall be repealed.</td>
</tr>
<tr>
<td>33</td>
<td></td>
<td></td>
<td>In section 53(1) and (2) the words &quot;factory or&quot; (wherever occurring) shall be repealed.</td>
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<td>34</td>
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<td>Section 176 shall be repealed.</td>
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<td>35</td>
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<td>In section 192(1)(e) the words &quot;factories&quot; and &quot;factory&quot; shall be repealed.</td>
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<td>36</td>
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<td></td>
<td>Paragraph (e) of section 206(1) shall be repealed.</td>
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</tbody>
</table>
| 37      |              |              | In the Fourth Schedule—  
(a) the expression "FACTORY," shall be repealed; and  
(b) the words "factory or" (where twice occurring) shall be repealed. |
<table>
<thead>
<tr>
<th>Item No.</th>
<th>Number of Act</th>
<th>Title of Act</th>
<th>Extent of Amendment or Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>7629</td>
<td>Lifts and Cranes Act 1967</td>
<td>In section 3 the interpretations of &quot;Chief Inspector&quot; and &quot;Inspector&quot; shall be repealed.</td>
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<tr>
<td>39</td>
<td></td>
<td></td>
<td>After section 3 there shall be inserted the following section:</td>
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<tr>
<td></td>
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<td></td>
<td>&quot;3A. References to inspectors&quot;</td>
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<td></td>
<td></td>
<td></td>
<td>A reference in this Act or in the regulations to the Chief Inspector or an inspector shall be deemed and taken for all purposes to be a reference to an inspector under the Occupational Health and Safety Act 1985.&quot;.</td>
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<td>40</td>
<td></td>
<td></td>
<td>Sections 5, 5A and 5B shall be repealed.</td>
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<td>41</td>
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<td>Part I shall be repealed.</td>
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<td>42</td>
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<td>Part II shall be repealed.</td>
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<td>43</td>
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<td>Part IIA shall be repealed.</td>
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<td>44</td>
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<td>Section 18 shall be repealed.</td>
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<td>45</td>
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<td>Sections 18A, 18B, 18C and 18D shall be repealed.</td>
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<td>46</td>
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<td>Section 19 shall be repealed.</td>
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<td>47</td>
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<td>Section 20 and paragraph (a) of section 21(1) shall be repealed.</td>
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<td>48</td>
<td></td>
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<td>So much of the Act as has not already been repealed shall be repealed.</td>
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</tbody>
</table>
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**Occupational Health and Safety Act 1985**  
**Act No. 10190/1985**

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Number of Act</th>
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</tr>
</thead>
<tbody>
<tr>
<td>49</td>
<td>8146</td>
<td>Scaffolding Act 1971</td>
<td>In section 3—</td>
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<td></td>
<td></td>
<td></td>
<td>(a) in the interpretation of</td>
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<td>&quot;Inspector&quot; in sub-section</td>
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<td>(1) for paragraphs (a) and</td>
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<td>(b) there shall be</td>
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<td>substituted the following</td>
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<td>paragraph:</td>
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<td>&quot;(a) an inspector under the</td>
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<td>Occupational Health</td>
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<td></td>
<td></td>
<td>and Safety Act 1985,&quot;;</td>
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<td>(b) in sub-section (3) for the</td>
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<td>expression &quot;(other than the</td>
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<td></td>
<td>Supervisor of Scaffolding</td>
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<td>Inspection and any</td>
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<td>Assistant Supervisor of</td>
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<td>Scaffolding Inspection)</td>
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<td>appointed under section 5&quot;</td>
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<td>there shall be substituted</td>
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<td>the expression &quot;under the</td>
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<td>Occupational Health and Safety</td>
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<td>Act 1985&quot;.</td>
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<td>50</td>
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<td>In section 5—</td>
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<td>(a) sub-sections (1) and (2)</td>
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<td>shall be repealed;</td>
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<td>(b) for sub-section (3) there</td>
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<td>shall be substituted the</td>
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<td>following sub-sections:</td>
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<td>&quot;(3) The Director-General of</td>
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<td>Employment and Industrial</td>
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<td>Affairs shall report to the</td>
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<td>Minister as to the manner in</td>
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<td>which the functions of</td>
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<td>inspectors and proper</td>
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<td>officers are carried out in</td>
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<td>the municipal districts not</td>
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<td>mentioned in the Schedule and</td>
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</tbody>
</table>
the areas defined in notices under section 6(3) and for that purpose may cause to be made such inspection as are necessary.

(3A) The Director-General of Employment and Industrial Affairs shall when so directed by the Minister cause to be exercised or performed by an inspector under the Occupational Health and Safety Act 1985 any power or duty conferred or imposed on the council of a municipality or a public statutory corporation by this Act or the regulations.

and

(c) in sub-section (4) for the words "the Supervisor of Scaffolding Inspection" there shall be substituted the words "the Director-General of Employment and Industrial Affairs".

51 In section 7(2) for the expression "shall be furnished by the Secretary for Labour and Industry or by the Council (as the case may be)" there shall be substituted the words "appointed by a council shall be furnished by the council".
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<table>
<thead>
<tr>
<th>Item No.</th>
<th>Number of Act</th>
<th>Title of Act</th>
<th>Extent of Amendment or Repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>52</td>
<td></td>
<td></td>
<td>Section 9 shall be repealed.</td>
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<tr>
<td>53</td>
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<td></td>
<td>Sections 10 and 11 shall be repealed.</td>
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<td>54</td>
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<td>Section 11 shall be repealed.</td>
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<td>55</td>
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<td>Sections 12 and 13 shall be repealed.</td>
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<td>56</td>
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<td>Section 14 shall be repealed.</td>
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<td>57</td>
<td></td>
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<td>In section 15(1) for the words &quot;of such persons as desire to qualify themselves to be appointed inspectors&quot; there shall be substituted the words &quot;for persons desiring to be appointed as municipal scaffolding inspectors or to be authorized to exercise the powers duties and functions of an inspector by a public statutory corporation&quot;.</td>
</tr>
<tr>
<td>58</td>
<td></td>
<td></td>
<td>Sub-sections (3), (4), (5), (6) and (7) of section 15 shall be repealed.</td>
</tr>
<tr>
<td>59</td>
<td></td>
<td></td>
<td>Section 16 shall be repealed.</td>
</tr>
<tr>
<td>60</td>
<td></td>
<td></td>
<td>Section 18 shall be repealed.</td>
</tr>
<tr>
<td>61</td>
<td></td>
<td></td>
<td>So much of the Act as has not already been repealed shall be repealed.</td>
</tr>
<tr>
<td>62</td>
<td>8947</td>
<td>Shearers Accommodation Act 1976</td>
<td>The whole Act shall be repealed.</td>
</tr>
</tbody>
</table>
ENDNOTES

1. General Information

The Occupational Health and Safety Act 1985 was assented to on 30 July 1985 and came into operation as follows:


Schedule 2 items 1–12, 36, 38–47, 49–52, 54–60 not yet proclaimed.
2. Table of Amendments

This Version incorporates amendments made to the Occupational Health and Safety Act 1985 by Acts and subordinate instruments.

Health (General Amendment) Act 1988, No. 48/1988
Assent Date: 24.5.88
Commencement Date: S. 47 on 1.9.94: Government Gazette 18.8.94 p. 2240
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

State Superannuation Act 1988, No. 50/1988
Assent Date: 24.5.88
Commencement Date: S. 93(3) on 1.7.87: s. 2(1); s. 93(4) on 27.11.87: s. 2(2); Pt 1, Div. 2 of Pt 6, s. 91 on 1.1.88: s. 2(3); rest of Act on 1.7.88: Government Gazette 1.6.88 p. 1487
Current State: All of Act in operation

Magistrates’ Court (Consequential Amendments) Act 1989, No. 57/1989
Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Assent Date: 24.4.90
Commencement Date: 1.9.90: Government Gazette 15.8.90 p. 2473
Current State: All of Act in operation

Assent Date: 19.6.90
Commencement Date: S. 115 on 1.7.91: Government Gazette 19.12.90 p. 3745 and Special Gazette (No. 9) 31.1.91 p. 3
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Accident Compensation (Further Amendment) Act 1992, No. 37/1992
Assent Date: 16.6.92
Commencement Date: 16.6.92: s. 2
Current State: All of Act in operation

Assent Date: 23.6.92
Commencement Date: 1.8.92: Government Gazette 22.7.92 p. 1874
Current State: All of Act in operation
Occupational Health and Safety Act 1985  
Act No. 10190/1985

Assent Date: 19.11.92  
Commencement Date: S. 66 on 1.12.92: s. 2(1)  
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Assent Date: 24.11.92  
Commencement Date: S. 184(Sch. 6 item 15) on 1.3.93: Special Gazette (No. 63) 27.11.92 p. 1.  
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Occupational Health and Safety (Miscellaneous Amendments) Act 1993, No. 78/1993  
Assent Date: 3.11.93  
Commencement Date: Ss 1–4, 7–11 on 3.11.93: s. 2(1); ss 5, 6 on 4.3.94: Special Gazette (No. 6) 4.3.94 p. 1—see Interpretation of Legislation Act 1984  
Current State: All of Act in operation

Equipment (Public Safety) Act 1994, No. 21/1994  
Assent Date: 17.5.94  
Commencement Date: Ss 1, 2 on 17.5.94: s. 2(1); rest of Act on 1.12.94: s. 2(3)  
Current State: All of Act in operation

Assent Date: 28.11.95  
Commencement Date: All of Act (except s. 3) on 28.11.95: s. 2(1); s. 3 on 15.4.96: s. 2(3)  
Current State: All of Act in operation

(as amended by No. 60/1996)  
Assent Date: 28.6.96  
Commencement Date: Ss 1, 2, 9 on 28.6.96: s. 2(1); rest of Act on 2.7.96: s. 2(4)  
Current State: All of Act in operation

Assent Date: 12.12.96  
Commencement Date: S. 10(Sch. 2 items 16.1–16.6) on 1.1.97: Special Gazette (No. 146) 23.12.96 p. 15  
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Endnotes
Endnotes

Accident Compensation (Miscellaneous Amendment) Act 1997, No. 107/1997
Assent Date: 23.12.97
Commencement Date: S. 73 on 23.12.97: s. 2(1); s. 74 on 1.7.98: s. 2(7)
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 item 67) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Assent Date: 17.11.98
Commencement Date: S. 33 on 17.11.98: s. 2(1)
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Statute Law Revision Act 2000, No. 74/2000
Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 91) on 22.11.00: s. 2(1)
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Accident Compensation (Amendment) Act 2001, No. 82/2001
Assent Date: 11.12.01
Commencement Date: Ss 35, 36 on 12.12.01: s 2(1)
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 143) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the Occupational Health and Safety Act 1985
3. Explanatory Details

1 S. 4 def. of "Authority": Sections 62–70 of the Accident Compensation (Occupational Health and Safety) Act 1996, No. 13/1996 provide as follows:

62. Definitions

In this Division—

"Department" has the same meaning as it has in the Principal Act as in force at any time before the commencement of Division 1 of this Part, having regard to any Order made under the Administrative Arrangements Act 1983 but does not include the relevant Department within the meaning of section 60 of the Principal Act;

"former inspector" means an inspector appointed under section 38 of the Principal Act as in force immediately before the commencement of Division 1 of this Part but does not include an inspector appointed by the relevant Minister within the meaning of section 60 of the Principal Act;

"Secretary" has the same meaning as Secretary or Director-General has or had in the Principal Act as in force at any time before the commencement of Division 1 of this Part, having regard to any Order made under the Administrative Arrangements Act 1983, but does not include the relevant Secretary within the meaning of section 60 of the Principal Act.

63. Interpretation of Legislation Act 1984 not affected

Nothing in this Division affects or takes away from the Interpretation of Legislation Act 1984.
64. Superseded references

(1) Subject to sub-sections (2) and (3), on the commencement of this section, a reference in the regulations made under the Principal Act or any instrument or other document made, issued, served or given under the Principal Act or the regulations made under that Act—

(a) to the Minister is deemed to be a reference to the Authority; and

(b) to the Department is deemed to be a reference to the Authority; and

(c) to the Secretary is deemed to be a reference to the Authority.

(2) On the commencement of this section, in the following regulations, a reference to the Minister is deemed to be a reference to the Administrative Appeals Tribunal—

(a) regulation 36 of the Occupational Health and Safety (Asbestos) Regulations 1992;


(3) Sub-section (1) does not apply to—

(a) any guidelines issued by the Minister under section 48(5) of the Principal Act; or

(b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 55 of the Principal Act.

65. Proceedings in relation to the Minister

(1) On the commencement of this section, the Authority is substituted for the Minister as a party in any proceedings commenced or made by or against or in relation to the Minister under the
Principal Act or the regulations made under that Act and existing immediately before that commencement.

(2) On the commencement of this section, any application made or notification, notice or request given to the Minister, the Secretary or the Department under the Principal Act or the regulations made under that Act is deemed to be an application made or notification, notice or request given to the Authority.

(3) On and after the commencement of this section, the Authority may continue and complete any other continuing matter or thing commenced by or against or in relation to the Minister under that Principal Act or the regulations made under that Act and existing immediately before that commencement.

66. Documents etc. issued by Minister, Secretary and Department

(1) On and after the commencement of this section—

(a) any notice, requirement, determination, approval, exemption, recommendation, authorisation, confirmation, registration, direction, certificate, guideline, delegation or other instrument or document issued, served, granted, made or given under the Principal Act or the regulations made under the Principal Act by the Department, the Secretary or the Minister is deemed to have been issued, served, granted, made or given by the Authority; and

(b) any action taken or decision made under the Principal Act or the regulations made under the Principal Act by the Department, the Secretary or the Minister is deemed to have been taken or made by the Authority.
(2) This section does not apply to—
   
   (a) any guidelines issued by the Minister under section 48(5) of the Principal Act; or
   
   (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 55 of the Principal Act.

67. Information under section 9

On the commencement of this section, all information furnished to the Department under section 9 of the Principal Act is deemed to be furnished to the Authority under that section.

68. Inspectors deemed to be inspectors appointed by Authority

On and after the commencement of this section—

(a) any former inspector holding office immediately before that commencement is deemed to be an inspector appointed by the Authority under section 38 of the Principal Act as amended by Division 1 of this Part; and

(b) a certificate of appointment furnished by the Minister under section 38 of the Principal Act in respect of the appointment of a former inspector is deemed to be a certificate of appointment furnished by the Authority under section 38 as amended by Division 1 of this Part; and

(c) an identification card furnished to a former inspector by the Minister under section 38 of the Principal Act is deemed to be an identification card furnished to an inspector by the Authority under section 38 as amended by Division 1 of this Part.
69. Proceedings in relation to inspectors

On and after the commencement of this section, an inspector appointed by the Authority may continue and complete any proceedings under the Principal Act or the regulations made under that Act commenced or made by or against or in relation to a former inspector and existing immediately before that commencement.

70. Documents etc. issued by inspector

On and after the commencement of this section—

(a) any notice, requirement, direction or other instrument or document issued, served, made or given by a former inspector under the Principal Act or the regulations made under that Act is deemed to have been issued, served, made or given by an inspector appointed by the Authority; and

(b) any action taken or decision made under the Principal Act or the regulations made under that Act by a former inspector is deemed to have been taken or made by an inspector appointed by the Authority.

2 S. 4 def. of "Department" (repealed): See note 1.
3 Pt 2: See note 1.
4 S. 29: See note 1.
5 S. 30: See note 1.
6 S. 31: See note 1.
7 S. 38: See note 1.
8 S. 38: Sections 8(2)(3), 11 of the Accident Compensation (Further Amendment) Act 1992, No. 37/1992 read as follows:


(2) The appointment or purported appointment of a person as an inspector under section 38(1) of the Occupational Health and Safety Act 1985, as in force immediately before the commencement of this section is to be taken always to have been valid and anything done by such a person as an inspector under that Act before that commencement is not invalid by reason only of a doubt arising as to the validity of the person's appointment as an inspector.

(3) On and from the commencement of this section—

(a) all inspectors holding office or purporting to hold office under section 38(1) of the Occupational Health and Safety Act 1985 immediately before that commencement are to be taken to be inspectors appointed under section 38(1) of that Act as amended by this section; and

(b) a certificate of appointment furnished under section 38(2) of the Occupational Health and Safety Act 1985 in respect of the appointment of an inspector referred to in paragraph (a) is to be taken to be a certificate of appointment of that inspector furnished under section 38(2) of that Act as amended by this section.
11. Existing proceedings

A question concerning the validity of the appointment of an inspector arising in any proceedings commenced under the Occupational Health and Safety Act 1985, the Dangerous Goods Act 1985 or the Liquefied Gases Act 1968 before the commencement of this Act must be determined as if this Part (other than this section) had not been enacted.

9 S. 39: See note 1.
10 S. 48: See note 1.
11 S. 49: See note 1.
12 S. 50: See note 1.
14 S. 59: See note 1.
15 S. 60: See note 1.
16 S. 60: The amendments made to section 60 by section 7 (Schedule 1) of the Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998 were repealed, as from 26 May 1998, by section 35 of the Accident Compensation (Amendment) Act 1998, No. 81/1998.
18 Sch. 1: See note 1.
19 Sch. 1(item 43A) (repealed): Sch. 1 item 43A was repealed on 1 December 1995, twelve months after the coming into operation of section 3 of the Equipment (Public Safety) Act 1994, No. 21/1994, in accordance with section 38(4) of that Act.
20 Table of Amendments (Public Sector Reform (Miscellaneous Amendments) Act 1998): See note 16.