

LEGISLATIVE ASSEMBLY

OCCUPATIONAL HEALTH AND SAFETY BILL

(Amendments and New Clause to be moved by Mr. Hulls)

1. Clause 9, after line 20 insert—

"() A notice under sub-section (1) directed to a natural person must inform the person that he or she may refuse or fail to give any information if giving the information would tend to incriminate him or her."
2. Clause 16, after line 21 insert—

"() Neither the Authority nor an inspector may bring a proceeding for an offence against this Act or the regulations constituted by the contravention or alleged contravention to which the undertaking relates."
3. Clause 19, line 7, omit "Chair" and insert "Chairperson".
4. Clause 19, line 9, omit "Chair nominates, is to be the Chair" and insert "Chairperson nominates, is to be the Chairperson".
5. Clause 19, line 13, omit "Chair" and insert "Chairperson".
6. Clause 19, page 20, line 2, after "Safety" insert "Advisory".
7. Clause 19, page 20, line 15, after "Safety" insert "Advisory".
8. Clause 21, line 24, after "provide" insert ", so far as is reasonably practicable,".
9. Clause 21, line 25, after "employees" insert "at any workplace under the management and control".
10. Clause 30, lines 20 to 23, omit all words and expressions on these lines.
11. Clause 30, lines 30 and 31, omit all words and expressions on these lines.
12. Clause 69, page 69, after line 34 insert—

"Note: An employer must not discriminate against an employee, or subject or threaten to subject an employee to any detriment, because the employee is acting or has acted as a health and safety representative (see Division 9)."
13. Clause 69, page 70, before line 1 insert—

"70. Obligation to persons assisting health and safety representatives".
14. Clause 69, page 70, line 1, omit "(3)" and insert "(1)".

15. Clause 69, page 70, line 8, omit "(4)" and insert "(2)".
16. Clause 69, page 70, lines 16 to 20, omit all words and expressions on these lines.
17. Clause 70, omit this clause.
18. Clause 72, page 73, line 2, after "employees" insert "(and, so far as practicable, health and safety representatives or deputy health and safety representatives)".
19. Clause 83, page 82, line 14, omit "Part." and insert "Part; or".
20. Clause 83, page 82, after line 14 insert—
 - "(iii) the person has been convicted or found guilty of any indictable offence within the previous 5 years."
21. Clause 83, page 82, lines 19 to 23, omit all words and expressions on these lines.
22. Clause 88, lines 17 and 18, omit "occupier or apparent occupier for the time being of" and insert "employer who has, or a person who on behalf of the employer has, the management and control of the work at".
23. Clause 89, line 31, omit "and examine".
24. Clause 89, page 87, lines 15 and 16, omit "occupier for the time being of" and insert "employer who has, or a person who on behalf of the employer has, the management and control of the work at".
25. Clause 90, line 6, omit "only".
26. Clause 90, lines 20 and 21, omit "occupier for the time being of the place" and insert "employer who has, or a person who on behalf of the employer has, the management and control of the work".
27. Clause 90, lines 23 to 32, omit sub-clause (3) and insert—
 - "() Nothing in sub-section (2) prevents an authorised representative who reasonably believes that there is an immediate and significant risk of serious injury or death to one or more employees from warning the employee or employees of that risk."
28. Clause 90, line 33, omit "or (3)".
29. Clause 100, line 25, omit "inspector must produce" and insert "inspector—".
30. Clause 100, line 26, before "his" insert "(a) must produce".
31. Clause 100, line 29, omit "offence." and insert "offence; and".
32. Clause 100, after line 29 insert—
 - "(b) must inform the person that he or she may refuse or fail to answer any question if answering the question would tend to incriminate him or her."

33. Clause 128, page 121, after line 7 insert—
- "() The Authority must make a decision on an application for a stay within 24 hours after the making of the application.
- () If the Authority has not made a decision in accordance with sub-section (7), the Authority is taken to have made a decision to grant a stay."
34. Clause 132, line 17, omit "3" and insert "2".
35. Clause 143, omit this clause.
36. Clause 144, lines 13 to 15, omit all words and expressions on these lines and insert "(1) If a body corporate (including a body corporate representing the Crown) contravenes a provision of this Act or the regulations and the contravention is".
37. Clause 144, line 17, omit "also".
38. Clause 144, line 18, omit "the offence and liable" and insert "an offence and liable to".
39. Clause 144, lines 19 and 20, omit "the offence that applies to a natural person" and insert "an offence constituted by a contravention by a natural person of the provision contravened by the body corporate".
40. Clause 144, after line 20 insert—
- "() An offence against sub-section (1) is summary or indictable in nature according to whether the offence constituted by the contravention by the body corporate is summary or indictable."
41. Clause 144, line 30, omit "commission of the offence" and insert "contravention by the body corporate".
42. Clause 144, page 136, line 4, after "offence" insert "committed by it".
43. Clause 164, line 2, before "A" insert "(1)".
44. Clause 164, after line 12 insert—
- "() Despite the repeal of the old Act, the duty imposed by section 31(2)(c) of the old Act on an employer continues in existence on and after that commencement until the commencement of Part 4 of this Act as though the old Act had not been repealed.
- () For the purposes of sub-section (2), any other provision of the old Act (including, but not limited to, Part VII) necessary to give effect to the provision continued in existence by force of that sub-section also continues to apply in relation to that provision until the commencement of Part 4 of this Act."

NEW CLAUSE

45. Insert the following New Clause before clause 144—

"AA. Imputing conduct to bodies corporate

For the purposes of this Act and the regulations, any conduct engaged in on behalf of a body corporate by an employee, agent or officer (within the meaning given by section 9 of the Corporations Act) of the body corporate acting within the actual or apparent scope of his or her employment, or within his or her actual or apparent authority, is conduct also engaged in by the body corporate."