



National Occupational Health and Safety Commission Act 1985

Act No. 35 of 1985 as amended

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The text of any of those amendments not in force
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An Act to establish the National Occupational Health and Safety Commission, and for related purposes

Part I—Preliminary

1 Short title [see Note 1]

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

2 Commencement [see Note 1]

This Act shall come into operation on a day to be fixed by Proclamation.

3 Interpretation

In this Act, unless the contrary intention appears:

adviser means a person appointed under subsection 40(1) to advise a Commissioner.

aircraft means a machine or apparatus that can derive support in the atmosphere from the reactions of the air or from buoyancy, but does not include an air-cushion vehicle.

appoint includes re-appoint.

Australia, when used in a geographical sense, includes the external Territories.

Australian aircraft means an aircraft that is in Australian control or is registered in accordance with the Air Navigation Regulations as an Australian aircraft.

Australian vessel means:

- (a) a vessel that is in Australian control;
- (b) a vessel that is registered under the *Shipping Registration Act 1981*; or

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- (c) a vessel that is not so registered but is permitted to be so registered (other than a vessel that, under the law of another country, is entitled to fly the flag of that country and is flying that flag).

award includes a determination or other instrument making provision with respect to terms and conditions of employment, being a determination or instrument of a kind similar to an award.

Chairperson means the Chairperson of the Commission.

Chief Executive Officer means the Chief Executive Officer of the Commission.

Commission means the National Occupational Health and Safety Commission established by this Act.

Commissioner means a Commissioner appointed under subsection 40(1).

disease includes any physical or mental ailment, disorder, defect or morbid condition whether of sudden onset or gradual development and whether of genetic or other origin.

Executive means the Executive established by section 20.

Fund means the National Occupational Health and Safety Research Fund established by section 58.

in Australian control means in the control or possession of one or more of the following:

- (a) the Commonwealth (including an arm of the Defence Force) or a State or Territory;
- (b) an authority of the Commonwealth;
- (c) a corporation established for a purpose of a State or Territory by or under a law in force in that State or Territory;
- (d) any other corporation in which a State or Territory, or a corporation referred to in paragraph (c), has a controlling interest.

injury means any physical or mental injury.

inquiry means an inquiry conducted pursuant to a direction under subsection 39(1).

Institute means the National Institute of Occupational Health and Safety referred to in subsection 29(1).

international instrument includes a declaration, proclamation or statement adopted or made (whether by the passing of a resolution, the issuing of an instrument or otherwise) by an international organization.

member means a member of the Commission, and includes the Chief Executive Officer and the Chairperson.

member of the staff of the Commission means:

- (a) a member of the staff referred to in subsection 53(1);
- (b) a person engaged as an employee or a consultant under section 55; or
- (c) a person whose services are being made available to the Commission in accordance with arrangements under subsection 54(1), (2) or (3).

Minister means:

- (a) in relation to the Australian Capital Territory—a person holding Office as Chief Minister or Minister under the *Australian Capital Territory (Self-Government) Act 1988*;
- (b) in relation to the Northern Territory—a person holding Ministerial Office under section 36 of the *Northern Territory (Self-Government) Act 1978*.

national standards and codes of practice means national standards and codes of practice declared under Part VI.

nominating authority means:

- (a) in relation to a member referred to in paragraph 10(1)(b)—the Australian Council of Trade Unions;
- (b) in relation to a member referred to in paragraph 10(1)(c)—the Confederation of Australian Industry;
- (c) in relation to a member nominated by the Premier of a State—the Premier for the time being of the State;

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- (d) in relation to the member referred to in paragraph 10(1)(e)—the Minister;
- (e) in relation to the member referred to in paragraph 10(1)(f)—the Minister for Health; and
- (f) in relation to the member referred to in paragraph 10(1)(g)—the Minister for Territories.

occupation means a full-time or part-time occupation, and includes an occupation as:

- (a) an employee under:
 - (i) a contract of service or a contract of apprenticeship; or
 - (ii) a law of the Commonwealth or of a State or Territory;
- (b) a person who performs work (including work of a professional nature) under a contract for or in relation to the performance of the work (whether with or without the supply of goods);
- (c) a person who holds or performs the duties of an appointment, office or position under the Constitution or under a law of the Commonwealth, a State or a Territory;
- (d) a person who is otherwise in the service of the Commonwealth, a State or a Territory (including service as a member of the Defence Force or as a member of a police force);
- (e) a member of the Parliament of the Commonwealth or of a State or of a prescribed legislative or advisory body of a Territory;
- (f) a self-employed person;
- (g) a voluntary worker;
- (h) a person who performs work for a business carried on by, or by a member of, the family of the person;
- (j) a director of an incorporated company;
- (k) a student at a school, university or college; or
- (m) a prisoner.

occupational hazard means any matter, thing, process or practice that may cause work-related death or work-related trauma.

occupational health and safety matters means matters relating to occupational health or occupational safety and, without limiting

the generality of the foregoing, includes matters relating to one or more of the following:

- (a) the physiological and psychological needs and well-being of persons engaged in occupations;
- (b) work-related death;
- (c) work-related trauma;
- (d) the prevention of work-related death or work-related trauma;
- (e) the protection of persons from, or from risk of, work-related death or work-related trauma;
- (f) the rehabilitation and re-training of persons who have suffered work-related trauma.

Office means the National Occupational Health and Safety Office referred to in subsection 29(1).

Parliament means:

- (a) in relation to the Australian Capital Territory—the Legislative Assembly of the Australian Capital Territory; or
- (b) in relation to the Northern Territory—the Legislative Assembly of the Northern Territory.

part-time member means a member other than the Chief Executive Officer.

Premier means:

- (a) in relation to the Australian Capital Territory—the Chief Minister of the Australian Capital Territory; or
- (b) in relation to the Northern Territory—the Chief Minister of the Northern Territory.

State includes the Australian Capital Territory and the Northern Territory.

Territory does not include the Australian Capital Territory or the Northern Territory.

vessel means a vessel or boat of any description, and includes:

- (a) an air-cushion vehicle; and
- (b) any floating structure.

work-related death means death that is or may be related to:

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- (a) the occupation of the deceased person; or
- (b) the occupational activities of another person.

work-related trauma means:

- (a) the injury of a person (including the aggravation, acceleration or recurrence of an injury of the person);
- (b) the contraction, aggravation, acceleration, or recurrence of a disease of a person;
- (c) the loss or destruction of, or damage to, an artificial limb or other artificial substitute, or a medical, surgical or other similar aid or appliance used by a person; or
- (d) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to a person that is or may be harmful or disadvantageous to, or result in harm or disadvantage to, the person or to the community;

that is or may be related to:

- (e) the occupation of the person; or
- (f) the occupational activities of another person.

working party means a working party constituted pursuant to section 26.

4 Application of Act

- (1) This Act extends to every external Territory and, except so far as the contrary intention appears, to acts, omissions, matters and things outside Australia, whether or not in a foreign country.
- (2) To the extent that a provision of this Act has effect in and in relation to any place or matters outside Australia, that provision applies only in relation to:
 - (a) Australian aircraft and Australian vessels; and
 - (b) an act, matter or thing to which this Act, in its application by virtue of subsection (3), applies.
- (3) The provisions of this Act apply in relation to the adjacent areas in respect of the States and Territories as if the adjacent areas were part of Australia.

- (4) The application of the provisions of this Act in relation to the adjacent areas in respect of the States and Territories by virtue of subsection (3) extends to and in relation to all acts, matters and things touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia or of an external Territory and, subject to subsection (2), not otherwise.
- (5) Without limiting the generality of subsection (4), the application of the provisions of this Act in relation to the adjacent areas in respect of the States and Territories by virtue of subsection (3) extends to and in relation to all acts done by or in relation to, and all matters, circumstances and things affecting, any person who is in the adjacent area in respect of a State or Territory for a reason touching, concerning, arising out of or connected with the exploration of, or the exploitation of the resources of, the continental shelf of Australia or of an external Territory.
- (6) In this section:

adjacent area, in relation to a State or Territory, has the same meaning as in the *Petroleum (Submerged Lands) Act 1967*, but does not include an area that is within Australia.

State does not include the Northern Territory.

Territory includes the Northern Territory.

5 Act to bind Crown

This Act binds the Crown in right of the Commonwealth, of each of the States and of Norfolk Island.

Part II—The National Occupational Health and Safety Commission

6 Establishment of Commission

- (1) There is established a Commission by the name of the National Occupational Health and Safety Commission.
- (2) The Commission:
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) may acquire, hold and dispose of real and personal property; and
 - (d) may sue or be sued in its corporate name.

Note: The *Commonwealth Authorities and Companies Act 1997* applies to the Commission. That Act deals with matters relating to Commonwealth authorities, including reporting and accountability, banking and investment, and conduct of officers.

- (3) All courts, judges and persons acting judicially shall take judicial notice of the imprint of the common seal of the Commission appearing on a document and shall presume that the document was duly sealed.

7 Objects

The objects of the establishment of the Commission are:

- (a) the development among the members of the community of an awareness of issues relevant to occupational health and safety matters and the facilitation of public debate and discussion on such issues;
- (b) the provision, in the public interest, of a forum by which representatives of the Government of the Commonwealth, the Governments of the States and of employers and employees may consult together in, and participate in the development and formulation of policies and strategies relating to, occupational health and safety matters; and

- (c) the provision of a national focus for activities relating to occupational health and safety matters.

8 Functions of Commission

- (1) The functions of the Commission are:
 - (a) to formulate policies and strategies relating to occupational health and safety matters;
 - (b) to consider, and to make recommendations in relation to, the action that should be taken by, and to facilitate co-operation between, the Government of the Commonwealth, the Governments of the States, employers, persons engaged in occupational activities and organizations of employers or of persons engaged in occupations on occupational health and safety matters;
 - (c) to consider, and to make recommendations in relation to, the action (if any) that needs to be taken by Australia in order to comply with the provisions of any international instrument relating to occupational health and safety matters;
 - (d) to review laws and awards relating to occupational health and safety matters;
 - (e) to consider, and to make recommendations in relation to, proposals for the making of laws and awards relating to occupational health and safety matters;
 - (f) to declare national standards and codes of practice;
 - (g) to encourage and facilitate the implementation of:
 - (i) policies and strategies formulated by the Commission;
 - (ii) recommendations made by the Commission with respect to the taking of action or the making or review of laws or awards; and
 - (iii) national standards and codes of practice;
 - (h) to evaluate the effectiveness and implementation of:
 - (i) policies and strategies formulated by the Commission;
 - (ii) action taken as a result of the recommendations of the Commission;
 - (iii) laws and awards made or reviewed as a result of the recommendations of the Commission; and
 - (iv) national standards and codes of practice;

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- (j) to act as a means of liaison between Australia and other countries or international organizations in occupational health and safety matters;
- (k) to collect, interpret and disseminate information relating to occupational health and safety matters;
- (m) to direct the conduct of inquiries in respect of occupational health and safety matters in accordance with Part VII;
- (n) to publish reports, periodicals and papers relating to occupational health and safety matters;
- (p) to provide, and assist in the provision of, training in knowledge and skills relevant to occupational health and safety matters;
- (q) to conduct educational and promotional programs relevant to occupational health and safety matters;
- (r) to consult and co-operate with other persons, organizations and governments on occupational health and safety matters;
- (s) to make grants of financial assistance for purposes relating to occupational health and safety matters;
- (t) to carry out, arrange for, or assist testing of matters and things relevant to occupational health and safety matters;
- (ta) by arrangement with particular employers, to carry out, arrange for, or assist in the evaluation of occupational hazards in places of work;
- (u) to carry out, arrange for, or assist research on occupational health and safety matters;
- (v) to encourage and facilitate the application or utilization of the results of that research or testing;
- (w) to establish and award fellowships and scholarships for training in the knowledge and skills relevant to, and for research on, occupational health and safety matters;
- (x) to administer the Fund;
- (y) to plan and establish the organization that will be required to enable the Commission to perform functions that the Minister, from time to time, declares are proposed to be conferred on the Commission by or pursuant to an arrangement or law, or a proposed arrangement or law, of the kind referred to in subsection (2);

- (z) of its own motion or when requested by the Minister to do so, to report to the Minister on any matter arising in the course of the performance of its functions; and
 - (za) to do anything incidental to or conducive to the performance of any of the preceding functions.
- (2) In addition to the functions conferred on the Commission by this Act, the Commission may perform:
- (a) any functions conferred on the Commission by any other law of the Commonwealth or by a law of a Territory;
 - (b) any functions conferred on the Commission pursuant to an arrangement in force under subsection (3); and
 - (c) any functions conferred on the Commission by a law of a State, being functions that are declared by the Minister, by notice in writing published in the *Gazette*, to be functions that should be conferred on the Commission.
- (2A) For the avoidance of doubt, it is also a function of the Commission to make such payments, and provide such staff, as are required for the effective operation of the national system of notification and assessment of industrial chemicals established under the *Industrial Chemicals (Notification and Assessment) Act 1989*, and for the administration of that Act, despite the fact that such payments are made, and such staff provided, for purposes not related to occupational health and safety matters.
- (3) The Minister may make an arrangement with a Minister of a State for or in relation to the performance by the Commission of functions on behalf of that State relating to occupational health and safety matters.
- (4) The Minister may arrange with the Minister of a State with whom an arrangement is in force under subsection (3) for the variation or revocation of the arrangement.
- (5) An arrangement under subsection (3), or the variation or revocation of such an arrangement, shall be in writing and the Minister shall cause a copy of each instrument by which such an arrangement under this section has been made, varied or revoked to be published in the *Gazette*.

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- (6) In the performance of its functions in relation to research and testing, the Commission shall pursue a policy directed towards the maintenance of scientific objectivity.
- (7) Where the Commission reports to the Minister in the performance of the function referred to in paragraph (1)(z), the Minister may cause a copy of the report to be laid before each House of the Parliament.
- (8) The Commission may perform the functions conferred on it by this Act to the extent only that they are not in excess of the functions that may be conferred on the Commission by virtue of any of the legislative powers of the Parliament and, in particular, may perform the first-mentioned functions:
 - (a) by way of the expenditure of moneys that are available for the purposes of the Commission in accordance with an appropriation made by the Parliament;
 - (b) by way of the collection, compilation, analysis and dissemination of statistics;
 - (c) for purposes in relation to any or all of the Territories;
 - (d) for purposes in relation to a Commonwealth place within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*;
 - (e) for purposes in connection with defence;
 - (f) in relation to the Australian Public Service, an authority or instrumentality of the Commonwealth or a body corporate over which the Commonwealth is in a position to exercise control;
 - (g) for purposes in relation to an award made under a law of the Commonwealth or a Territory;
 - (h) for purposes in relation to the provision of benefits and services to which paragraph 51(xxiiiA) of the Constitution is applicable; and
 - (j) in relation to occupational health and safety matters arising in the course of, or that concern:
 - (i) trade or commerce with other countries, or among the States;
 - (ii) the carrying on of:

- (A) postal, telegraphic, telephonic or other services to which paragraph 51(v) of the Constitution is applicable;
 - (B) banking to which paragraph 51(xiii) of the Constitution is applicable; or
 - (C) insurance to which paragraph 51(xiv) of the Constitution is applicable; or
 - (iii) the relevant activities of a corporation to which paragraph 51(xx) of the Constitution is applicable.
- (9) Without prejudice to its effect apart from this subsection, subparagraph (8)(j)(iii) also has, by force of this subsection, the effect it would have if the reference in that subparagraph to the relevant activities of a corporation were, in the case of a trading corporation or a financial corporation, a reference to any activities of a corporation.
- (10) In paragraphs (2)(a) and (8)(g) ***Territory*** includes the Australian Capital Territory and in paragraph (8)(c) ***Territories*** includes the Australian Capital Territory and the Northern Territory.
- (11) In subparagraph (8)(j)(iii), ***relevant activities***, in relation to a corporation, means:
- (a) in the case of a trading corporation to which paragraph 51(xx) of the Constitution is applicable:
 - (i) the trading activities of the corporation; or
 - (ii) any other activities of the corporation carried on for the purposes of its trading activities;
 - (b) in the case of a financial corporation to which paragraph 51(xx) of the Constitution is applicable:
 - (i) the financial activities of the corporation; or
 - (ii) any other activities of the corporation carried on for the purposes of its financial activities; or
 - (c) in the case of a foreign corporation to which paragraph 51(xx) of the Constitution is applicable—any activities of the corporation.

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9 Powers of Commission

- (1) Subject to this Act, the Commission has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- (2) Without limiting the generality of subsection (1), the powers of the Commission referred to in that subsection include power to charge for its services such fees as the Commission determines.
- (3) Notwithstanding anything contained in this Act, any money or other property held by the Commission upon trust or accepted by the Commission subject to a condition shall not be dealt with except in accordance with the obligations of the Commission as trustee of the trust or as the person who has accepted the money or other property subject to the condition, as the case may be.

Part III—Constitution and meetings of Commission**10 Membership of Commission**

- (1) The Commission shall consist of 18 members, namely:
 - (a) a Chairperson; and
 - (aa) the Chief Executive Officer; and
 - (b) 3 members nominated by the Australian Council of Trade Unions; and
 - (c) 3 members nominated by the Confederation of Australian Industry; and
 - (d) one member nominated by the Premier of each State; and
 - (e) one member nominated by the Minister; and
 - (f) one member nominated by the Minister for Human Services and Health.
- (2) A member shall be appointed by the Governor-General.
- (3) The Chief Executive Officer holds office on a full-time basis, subject to this Act, for such term, not exceeding 5 years, as is specified in the instrument of appointment.
- (4) The other members hold office on a part-time basis, subject to this Act, for such term, not exceeding 3 years, as is specified in the instruments of appointment.
- (5) The Chief Executive Officer is responsible for the efficient conduct of the affairs of the Commission in accordance with the policy determined by the Commission.
- (6) A person who has attained the age of 65 years shall not be appointed as the Chief Executive Officer and a person shall not be appointed as the Chief Executive Officer for a period that extends beyond the day on which the person will attain the age of 65 years.
- (7) The Chief Executive Officer holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

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- (8) If the office of a part-time member, other than the Chairperson, becomes vacant before the end of the term for which the member was appointed, the Governor-General may appoint a person nominated by the nominating authority in relation to the part-time member to hold that office for the remainder of that term.
- (9) Appointments of members should be such that the Commission consists of both men and women.
- (10) The performance of the functions, or the exercise of the powers, of the Commission is not affected by reason of there being a vacancy or vacancies in the membership of the Commission.

Note: For the manner in which the Chairperson may be referred to, see section 18B of the *Acts Interpretation Act 1901*.

11 Alternate members of the Commission

- (1) The Minister may appoint a person other than a member to be the alternate of a specified part-time member, other than the Chairperson.
- (2) A person appointed under subsection (1) to be the alternate of a part-time member (other than the member referred to in paragraph 10(1)(e)) shall be a person who is nominated for the purpose by the nominating authority in relation to the part-time member.
- (3) The Minister shall, at the request of the nominating authority in relation to a part-time member referred to in subsection (2), terminate the appointment of the alternate of the part-time member.
- (4) The Minister may terminate the appointment of the alternate of the part-time member referred to in paragraph 10(1)(e).
- (5) The alternate of a part-time member may resign the office of alternate member by writing signed by the alternate member and delivered to the Minister.
- (6) The alternate of a part-time member is entitled, in the event of the absence of the part-time member from a meeting of the Commission or, if the member is also a member of a committee of the Commission (other than the Executive) or of a working party, from a meeting of that committee or working party, to attend that

meeting and, when so attending, shall be deemed to be a member of the Commission, of that committee or of that working party, as the case may be.

12 Leave of absence

- (1) The Chief Executive Officer has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Chief Executive Officer leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.
- (3) The Minister may grant leave to a part-time member to be absent from a meeting of the Commission upon such conditions as the Minister thinks fit.

13 Resignation of members

A member may resign the office of member by writing signed by the member and delivered to the Governor-General.

14 Termination of appointments

- (1) The Governor-General shall, at the request of the nominating authority in relation to a part-time member, terminate the appointment of the part-time member.
- (2) The Governor-General may terminate the appointment of a member by reason of misbehaviour or physical or mental incapacity.
- (3) If:
 - (a) a member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (b) a member fails, without reasonable excuse, to comply with section 15 or 27 of this Act or section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*; or

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- (c) a part-time member is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Commission; the Governor-General shall terminate the appointment of the member.
- (4) If the Chief Executive Officer:
 - (a) engages in paid employment outside the duties of the office of Chief Executive Officer without the consent of the Minister; or
 - (b) is absent from duty, except on recreation leave or leave granted by the Minister, for 14 consecutive days or for 28 days in any period of 12 months;the Governor-General shall terminate the appointment of the Chief Executive Officer.
- (5) The Minister may terminate the appointment of an alternate of a part-time member by reason of misbehaviour or physical or mental incapacity.
- (6) If an alternate of a part-time member fails, without reasonable excuse, to comply with section 27 of this Act or section 27F or 27J of the *Commonwealth Authorities and Companies Act 1997*, the Minister shall terminate the appointment of the alternate of the part-time member.

15 Disclosure of interests of Chairperson and Chief Executive Officer

- (4) The Chairperson shall give written notice to the Minister of all direct and indirect pecuniary interests that the Chairperson has or may have in any business or in any body corporate carrying on a business.
- (5) The Chief Executive Officer shall give written notice to the Minister of all direct and indirect pecuniary interests that the Chief Executive Officer has or may have in any business or in any body corporate carrying on a business.

16 Acting Chairperson

- (1) The Minister may appoint a person to act in the office of Chairperson:
 - (a) during a vacancy in that office, whether or not an appointment has previously been made to that office; or
 - (b) during any period, or during all periods, when the person holding that office is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office.
- (2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (3) A person appointed under subsection (1) to act during a vacancy shall not continue so to act for more than 12 months.
- (4) Where a person is acting in the office of Chairperson in accordance with paragraph (1)(b) and the office becomes vacant while the person is so acting, then, subject to subsection (2), the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurs expires, whichever first happens.
- (5) While a person is acting in the office of Chairperson, the person has and may exercise all the powers, and shall perform all the functions, of the Chairperson under this Act or any other law.
- (6) The Minister may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting in the office of Chairperson; and
 - (b) terminate such an appointment at any time.
- (7) A person appointed under subsection (1) may resign the appointment by writing signed by the person and delivered to the Minister.
- (8) The validity of anything done by or in relation to a person purporting to act in the office of Chairperson shall not be called in question on the ground that the occasion for the appointment had

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not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

16A Acting Chief Executive Officer

- (1) The Minister may appoint a person to act in the office of Chief Executive Officer:
 - (a) during a vacancy in that office, whether or not an appointment has previously been made to that office; or
 - (b) during any period when the person holding that office is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office.
- (1A) A person appointed to act during a vacancy must not continue so to act for more than 12 months.
- (1B) Where the office of Chief Executive Officer becomes vacant when a person is acting in the office, the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurs ends, whichever first happens.
- (2) The validity of anything done by or in relation to a person purporting to act in the office of Chief Executive Officer shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

17 Remuneration

- (1) The Chairperson and the Chief Executive Officer shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration by the Tribunal is in operation, the Chairperson and the Chief Executive Officer shall be paid such remuneration as is prescribed.
- (2) The Chairperson and the Chief Executive Officer shall be paid such allowances as are prescribed.

- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

18 Expenses of part-time members of Commission

- (1) A part-time member is not entitled to remuneration.
- (2) The regulations may provide for the payment to all or any of the part-time members (other than a member who is a member of, or is a candidate for election to, the Parliament of the Commonwealth or of the Parliament of a State) of allowances for expenses.
- (3) A part-time member who is a member of, or is a candidate for election to, the Parliament of the Commonwealth or the Parliament of a State shall be reimbursed such expenses as the member reasonably incurs by reason of the member's attendance at meetings of the Commission or of the member's engagement, with the approval of the Commission, on the affairs of the Commission.
- (4) A reference in this section to a part-time member includes a reference to an alternate of a part-time member but does not include a reference to the Chairperson.

19 Meetings of Commission

- (1) Subject to this section, meetings of the Commission shall be held at such times and places as the Commission from time to time determines.
- (2) The Chairperson:
- (a) may convene a meeting of the Commission; and
 - (b) shall convene a meeting of the Commission on receipt of a written request signed by not less than 9 members.
- (3) The Commission shall hold not less than 3 meetings each calendar year.
- (4) At a meeting of the Commission, 12 members constitute a quorum if, of the members present at the meeting:
- (a) at least one is a member referred to in paragraph 10(1)(b) or the alternate of such a member;

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- (b) at least one is a member referred to in paragraph 10(1)(c) or the alternate of such a member; and
 - (c) at least one is the member referred to in paragraph 10(1)(e), (f) or (g) or the alternate of that member.
- (5) Questions arising at a meeting of the Commission shall be decided by the affirmative votes of not fewer than 12 members.
 - (6) The Chairperson shall preside at all meetings of the Commission at which he or she is present.
 - (7) If the Chairperson is not present at a meeting of the Commission:
 - (a) in a case where the member referred to in paragraph 10(1)(e) is present at the meeting—that member shall preside at the meeting; or
 - (b) in a case where the member referred to in paragraph 10(1)(e) is not present at the meeting—the members present at the meeting shall elect one of their number to preside at the meeting.
 - (8) The Chairperson or member presiding has a deliberative vote.
 - (9) The Commission shall keep minutes of its proceedings.
 - (10) Subject to the preceding provisions of this section, the procedure at meetings of the Commission shall be as determined by the Commission.
 - (11) The Commission may invite a person to attend a meeting of the Commission for the purpose of advising or informing the Commission on any matter.
 - (12) A person referred to in subsection (11) shall be paid such fees, allowances and expenses (if any) as the Minister determines in respect of his or her attendance at a meeting of the Commission.

19A Special rules for Commission decisions affecting bodies and people who nominate Commission members

- (1) This section applies where:
 - (a) a body that nominates a member of the Commission under paragraph 10(1)(b) or (c); or

- (b) a State; or
 - (c) a Minister who nominates a member of the Commission under paragraph 10(1)(e) or (f);
- has a direct or indirect pecuniary interest in a matter being considered by the Commission.
- (2) A Minister is not taken to have a direct or indirect pecuniary interest in a matter merely because the Commonwealth has or may have such an interest.
 - (3) The member or members nominated by that body, by the Premier of that State or by that Minister must not:
 - (a) be present during any deliberation of the Commission about the matter; or
 - (b) take part in any decision of the Commission about the matter.
 - (4) Where a member affected by subsection (3) was nominated under paragraph 10(1)(b) or (c), then, for the purposes of the Commission's deliberation and decision:
 - (a) paragraphs 19(4) and 19(5) do not apply; and
 - (b) the quorum is constituted by three-quarters of the number of members who are not affected by subsection (3); and
 - (c) questions arising in relation to the matter are to be decided by an affirmative vote of at least three-quarters of the number of members who are not affected by subsection (3).

Part IV—The Executive, committees and working parties

20 The Executive

- (1) There is established a committee of the Commission by the name of the Executive.
- (2) The Executive shall consist of:
 - (a) the Chairperson;
 - (aa) the Chief Executive Officer;
 - (b) the member referred to in paragraph 10(1)(e);
 - (c) one of the members referred to in paragraph 10(1)(b);
 - (d) one of the members referred to in paragraph 10(1)(c); and
 - (e) one of the members referred to in paragraph 10(1)(d).
- (3) The members of the Executive referred to in paragraphs (2)(c), (d) and (e) shall be appointed by the Commission.
- (4) The members of the Commission appointed as the members of the Executive referred to in paragraphs (2)(c) and (d) shall be nominated for the purpose by the appropriate nominating authority in relation to the members.
- (5) The member of the Executive referred to in paragraph (2)(e) shall be nominated for the purpose in accordance with a manner agreed on from time to time by the members of the Commission referred to in paragraph 10(1)(d).
- (6) The Chairperson of the Commission is the Chairperson of the Executive.
- (7) The performance of the functions, or the exercise of the powers, of the Executive is not affected by reason of there being a vacancy or vacancies in the membership of the Executive.

21 Alternate members of the Executive

- (1) The Commission may appoint a person other than a member of the Executive to be the alternate of a specified member of the Executive other than the Chairperson or the Chief Executive Officer.
- (2) The person appointed under subsection (1) to be the alternate of the member of the Executive referred to in paragraph 20(2)(b) shall be one of the members of the Commission referred to in paragraphs 10(1)(f) and (g) nominated for the purpose by the Minister.
- (3) The person appointed under subsection (1) to be the alternate of the member of the Executive referred to in paragraph 20(2)(c) shall be one of the members of the Commission referred to in paragraph 10(1)(b) nominated for the purpose by the nominating authority in relation to those members of the Commission.
- (4) The person appointed under subsection (1) to be the alternate of the member of the Executive referred to in paragraph 20(2)(d) shall be one of the members of the Commission referred to in paragraph 10(1)(c) nominated for the purpose by the nominating authority in relation to those members of the Commission.
- (5) The person appointed under subsection (1) to be the alternate of the member of the Executive referred to in paragraph 20(2)(e) shall be one of the members of the Commission referred to in paragraph 10(1)(d) nominated for the purpose in accordance with a manner agreed on from time to time by those members of the Commission.
- (6) The Commission shall, at the request of:
 - (a) in the case of the alternate of the member of the Executive referred to in paragraph 20(2)(e)—a majority of the members of the Commission referred to in paragraph 10(1)(d); or

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- (b) in the case of the alternate of the member of the Executive referred to in paragraph 20(2)(b), (c) or (d)—the Minister, the Australian Council of Trade Unions or the Confederation of Australian Industry, as the case may be;
terminate the appointment of the alternate of that member of the Executive.
- (7) The alternate of a member of the Executive may resign the office of alternate by writing signed by the alternate and delivered to the Chairperson.
- (8) The alternate of a member of the Executive is entitled, in the event of the absence of the member of the Executive from a meeting of the Executive, to attend that meeting and, when so attending, shall be deemed to be a member of the Executive.
- (9) A person who is the alternate of a member of the Executive ceases to hold the office of alternate if:
- (a) the person ceases to be a member of the Commission; or
 - (b) the member of the Executive in relation to whom the person is an alternate ceases to be a member of the Executive.

22 Term of office etc.

- (1) Subject to this Act, a part-time member of the Commission appointed as a member of the Executive, or the alternate of a member of the Executive, holds office as such a member or alternate for a term commencing on the day on which the person was appointed as such a member or alternate or such later day as the Commission determines and ending immediately before the anniversary of the day of commencement of this Act next succeeding that first-mentioned day.
- (2) A member of the Executive ceases to be a member of the Executive if he or she ceases to be a member of the Commission.
- (3) Whenever a vacancy occurs in the office of a member of the Executive (other than the Chairperson or the Chief Executive Officer) or in the office of the alternate of such a member before the end of the period for which the person was entitled to hold that office, the Commission may, in accordance with section 20 or 21,

as the case may be, appoint a member of the Commission to that office for the remainder of that period.

23 Resignation of members of the Executive

A member of the Executive, other than the Chairperson or the Chief Executive Officer, may resign the office of member of the Executive by writing signed by the member and delivered to the Chairperson.

24 Meetings of the Executive

- (1) Subject to this section, meetings of the Executive shall be held at such times and places as the Executive determines.
- (2) The Chairperson may at any time convene a meeting of the Executive.
- (3) At a meeting of the Executive, 4 members constitute a quorum.
- (4) The Chairperson shall preside at all meetings of the Executive at which he or she is present.
- (5) If the Chairperson is not present at a meeting of the Executive, the member referred to in paragraph 20(2)(b) shall preside at that meeting.
- (6) A question arising at a meeting of the Executive shall be decided by a majority of the votes of the members of the Executive present and voting.
- (7) The member of the Executive presiding at a meeting of the Executive has a deliberative vote and, in the event of an equality of votes, has a casting vote.
- (8) The Executive shall keep minutes of its proceedings.
- (9) Subject to the preceding provisions of this section, the procedure at meetings of the Executive shall be as determined by the Executive.
- (10) The Executive may invite a person to attend a meeting of the Executive for the purpose of advising or informing the Executive on any matter.

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- (11) A person referred to in subsection (10) shall be paid such fees, allowances and expenses (if any) as the Minister determines in respect of the attendance of the person at a meeting of the Executive.

25 Committees of Commission

- (1) The Commission may constitute such other committees as it thinks necessary for the purposes of this Act.
- (2) A committee may be constituted:
- (a) wholly by members of the Commission;
 - (b) wholly by persons other than members of the Commission;
 - or
 - (c) partly by members of the Commission and partly by other persons.
- (3) The Commission may determine, in relation to a committee constituted pursuant to this section:
- (a) the manner in which the committee is to perform its functions; and
 - (b) the procedure to be followed at or in relation to meetings of the committee, including matters with respect to:
 - (i) the convening of meetings of the committee;
 - (ii) the number of members of the committee that constitutes a quorum;
 - (iii) the selection of a member of the committee to preside at meetings of the committee at which the chairperson of the committee is not present; and
 - (iv) the manner in which questions arising at a meeting of the committee are to be decided.
- (4) A committee shall keep minutes of its proceedings.

26 Working parties

- (1) A committee of the Commission may, with the approval of the Commission, constitute such sub-committees, to be known as working parties, as it thinks necessary for the purpose of this Act.

- (2) A working party may be constituted wholly by members of the committee or partly by members of the committee and partly by other persons.
- (3) Where a committee constitutes a working party, the committee may determine:
 - (a) the manner in which the working party is to perform its functions; and
 - (b) the procedure to be followed at or in relation to meetings of the working party, including matters with respect to:
 - (i) the convening of meetings of the working party;
 - (ii) the number of members of the working party that constitutes a quorum;
 - (iii) the selection of a member of the working party to preside at meetings of the working party at which the chairperson of the working party is not present; and
 - (iv) the manner in which questions arising at a meeting of the working party are to be decided.
- (4) A working party shall keep minutes of its proceedings.

27 Disclosure of interests of members of the Executive, committees and working parties

- (1) A member of the Executive, another committee of the Commission or a working party who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Executive, the committee or the working party shall, as soon as practicable after the relevant facts have come to the knowledge of the member, disclose the nature of the member's interest at a meeting of the Executive, the committee or the working party, as the case requires.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Executive, the committee or the working party and the person shall not, unless the Minister, the Executive, the committee or the working party otherwise determines:
 - (a) be present during any deliberation of the Executive, the committee or the working party with respect to that matter;or

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- (b) take part in any decision of the Executive, the committee or the working party with respect to that matter.
- (3) For the purpose of the making of a determination by the Executive, the committee or the working party under subsection (2) in relation to a person who has made a disclosure under subsection (1), a person who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:
 - (a) be present during any deliberation of the Executive, the committee or the working party for the purpose of making the determination; or
 - (b) take part in the making by the Executive, the committee or the working party of the determination.

28 Expenses of members of the Executive, committees and working parties

- (1) A member of the Executive, another committee of the Commission or a working party (other than the Chairperson of the Commission or the Chief Executive Officer) is not entitled to remuneration.
- (2) The regulations may provide for the payment to all or any of the members of the Executive, another committee of the Commission or a working party (other than a member who is a member of, or is a candidate for election to, the Parliament of the Commonwealth or of the Parliament of a State) of allowances for expenses.
- (3) A member of the Executive, another committee of the Commission or a working party who is a member of, or is a candidate for election to, the Parliament of the Commonwealth or the Parliament of a State shall be reimbursed such expenses as the member reasonably incurs by reason of the member's attendance at meetings of the Executive, the committee or the working party or of the member's engagement, with the approval of the Executive, the committee or the working party, on the affairs of the Executive, the committee or the working party.
- (4) A reference in this section to a member of the Executive includes a reference to an alternate of a member of the Executive.

- (5) A reference in this section to a member of another committee of the Commission or a working party includes a reference to an alternate of a part-time member of the Commission.

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Part V—The National Occupational Health and Safety Office and the National Institute of Occupational Health and Safety

29 The National Occupational Health and Safety Office and the National Institute of Occupational Health and Safety

- (1) Members of the staff of the Commission shall be organized into 2 divisions to be known as the National Occupational Health and Safety Office and the National Institute of Occupational Health and Safety.
- (2) The Institute shall carry out such of the work of the Commission relating to:
 - (a) research;
 - (b) statistics;
 - (c) testing;
 - (d) training; and
 - (e) other matters (whether or not related to research, statistics, testing or training);as the Commission determines.
- (3) The Office shall carry out the remaining work of the Commission.

30 Director of the Institute

- (1) There shall be a Director of the Institute, who shall be appointed by the Governor-General.
- (2) The Governor-General may appoint the Chief Executive Officer as the Director of the Institute.
- (3) The Director of the Institute shall manage the day-to-day administration of the Institute and, where the Director of the Institute is not also the Chief Executive Officer, shall do so under the direction of the Chief Executive Officer.

31 Terms and conditions of appointment etc.

- (1) The Director of the Institute holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.
- (2) The Director of the Institute holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment.
- (3) A person who has attained the age of 65 years shall not be appointed as the Director of the Institute and a person shall not be appointed as the Director of the Institute for a period that extends beyond the day on which the person will attain the age of 65 years.

32 Leave of absence

- (1) The Director of the Institute has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Director of the Institute leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

33 Resignation

The Director of the Institute may resign the office of Director of the Institute by writing signed by the Director of the Institute and delivered to the Governor-General.

34 Termination of appointment

- (1) The Governor-General may terminate the appointment of the Director of the Institute by reason of misbehaviour or physical or mental incapacity.
- (2) If the Director of the Institute:
 - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
 - (b) fails, without reasonable excuse, to comply with section 35;

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(c) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months; or

(d) engages in paid employment outside the duties of the office of Director of the Institute without the consent of the Minister;

the Governor-General shall terminate the appointment of the Director of the Institute.

35 Disclosure of interests

The Director of the Institute shall give written notice to the Minister of all direct or indirect pecuniary interests that the Director of the Institute has or may have in any business or in any body corporate carrying on a business.

36 Acting Director

- (1) The Minister may appoint a person to act in the office of Director of the Institute:
 - (a) during a vacancy in that office, whether or not an appointment has previously been made to that office; or
 - (b) during any period, or during all periods, when the person holding that office is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office.
- (2) An appointment of a person under subsection (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (3) A person appointed under subsection (1) to act during a vacancy shall not continue so to act for more than 12 months.
- (4) Where a person is acting in the office of Director of the Institute in accordance with paragraph (1)(b) and the office becomes vacant while the person is so acting, then, subject to subsection (2), the person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurs expires, whichever first happens.

- (5) While a person is acting in the office of Director of the Institute, the person has and may exercise all the powers, and shall perform all the functions, of Director of the Institute under this Act or any other law.
- (6) The Minister may:
 - (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting in the office of Director of the Institute; and
 - (b) terminate such an appointment at any time.
- (7) A person appointed under subsection (1) may resign the appointment by writing signed by the person and delivered to the Minister.
- (8) The validity of anything done by or in relation to a person purporting to act in the office of Director of the Institute shall not be called in question on the ground that the occasion for the appointment had not arisen, that there was a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

37 Remuneration of Director

- (1) The Director of the Institute shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration is in operation, the Director of the Institute shall be paid such remuneration as is prescribed.
- (2) The Director of the Institute shall be paid such allowances as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.
- (4) This section does not apply in relation to a person who holds the offices of Director of the Institute and Chief Executive Officer.

Part VI—National Standards and Codes of Practice

38 National standards and codes of practice

- (1) The Commission may, by writing, declare national standards and codes of practice relating to occupational health and safety matters.
- (2) Except as otherwise provided by a law other than this Act or by an award or instrument made under such a law, a national standard or code of practice is an instrument of an advisory character.
- (3) When the Commission declares a national standard or code of practice, the Commission must publish, in accordance with the regulations, the title and objective of the standard or code and information as to how interested persons may obtain a copy of the terms of the standard or code.
- (4) Before declaring a national standard or code of practice, the Commission shall, by notice published in accordance with the regulations:
 - (a) set out the title and objective of the proposed standard or code and information as to how interested persons may obtain a copy of the terms of the proposed standard or code; and
 - (b) invite interested persons to make representations in connection with the proposed standard or code of practice by such date as is specified in the notice; and
 - (c) specify an address or addresses to which representations in connection with the proposed standard or code of practice may be forwarded.
- (5) A person may, not later than the date specified in the notice, make representations to the Commission in connection with the proposed standard or code of practice, and the Commission shall give due consideration to any representations so made and, if the Commission thinks fit, alter the proposed standard or code of practice.

- (6) The Commission shall, as soon as practicable after declaring a national standard or code of practice, give a copy of the national standard or code of practice to the Minister.

Part VII—Public inquiries

39 Commission may direct inquiries

- (1) The Commission may, by notice in writing published in the *Gazette*, direct that an inquiry be conducted in respect of an occupational health and safety matter specified in the notice.
- (2) Where the Commission has directed that an inquiry be conducted in respect of a matter, the Commission may, at any time before it has received a report under subsection 41(1), by notice in writing published in the *Gazette*, withdraw or vary the direction.

40 Appointment etc. of Commissioner and advisers

- (1) The Commission shall appoint a person to be a Commissioner for the purposes of conducting an inquiry and may appoint a person or persons to advise the Commissioner.
- (2) A prescribed officer holds office for such period as is specified in his or her instrument of appointment.
- (3) The Commission may:
 - (a) subject to this Act, determine the terms and conditions of appointment (including remuneration) of a person holding office as a prescribed officer; and
 - (b) terminate such an appointment at any time.
- (4) Subsection (3) has effect notwithstanding anything contained in the *Remuneration Tribunals Act 1973*.
- (5) A person holding office as a prescribed officer may resign the office by writing signed by the person and delivered to the Commission.
- (6) In this section, *prescribed officer* means a Commissioner or an adviser.

41 Report by Commissioner

- (1) A Commissioner shall report his or her findings and recommendations to the Commission and shall, after so reporting but subject to any direction under subsection 43(2):
 - (a) make public those findings and recommendations; and
 - (b) give a copy of those findings and recommendations to the Minister.
- (2) The Minister shall cause a copy of a report given under paragraph (1)(b) to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of the report.
- (3) Where the Commission directs that an inquiry be conducted in respect of a matter that relates to the exercise of a power conferred on it by this Act or any other law then, subject to this Act or that law:
 - (a) the Commission may exercise that power notwithstanding that it has not received the findings and recommendations of the Commissioner; and
 - (b) in the exercise of that power the Commission may have regard to matters other than those findings or recommendations.
- (4) Where the Commissioner or adviser has or acquires an interest, pecuniary or otherwise, that could conflict with the proper performance of his or her functions in relation to the conduct of an inquiry, the interest shall be disclosed in the report resulting from the inquiry.

42 Notice of inquiries

Before a Commissioner commences to hold an inquiry, the Commissioner shall give reasonable notice, by advertisement published in accordance with the regulations, of his or her intention to hold the inquiry, the subject of the inquiry and the time and place at which the inquiry is to be commenced.

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43 Procedure at inquiries etc.

- (1) Subject to this section, an inquiry by a Commissioner shall be held in public and evidence in the inquiry shall be taken in public on oath or affirmation.
- (2) Where a Commissioner is satisfied that it is desirable to do so in the public interest by reason of the confidential nature of any evidence or matter or for any other reason, the Commissioner may:
 - (a) direct that the inquiry or a part of the inquiry shall take place in private and give directions as to the persons who may be present; or
 - (b) give directions prohibiting or restricting the publication of evidence given before the inquiry or of matters contained in documents lodged with the Commissioner.
- (3) A Commissioner may, if he or she thinks fit, permit a person appearing as a witness before the inquiry to give evidence by tendering and, if the Commissioner so directs, by verifying by oath or affirmation, a written statement.
- (4) Where a Commissioner considers that the attendance of a person as a witness before the inquiry would cause serious hardship to the person, the Commissioner may permit the person to give evidence by sending to the Commissioner a written statement, verified in such manner as the Commissioner allows.
- (5) Where evidence is given to an inquiry by a written statement in accordance with subsection (3) or (4), the Commissioner shall make available to the public in such manner as the Commissioner thinks fit the contents of the statement other than any matter as to which the Commissioner is satisfied that its publication would be contrary to the public interest by reason of its confidential nature or for any other reason.
- (6) Subject to this section and the regulations:
 - (a) the procedure to be followed at an inquiry is within the discretion of the Commissioner; and
 - (b) a Commissioner is not bound by the rules of evidence.

- (7) Evidence of anything said or of the production of any document at an inquiry is not admissible in any court (whether exercising federal jurisdiction or not) or in any proceedings before a person authorized by a law of the Commonwealth or of a State or Territory, or by consent of parties, to hear evidence except in a prosecution for:
- (a) an offence against section 48 of this Act or section 35 of the *Crimes Act 1914* relating to the inquiry; or
 - (b) an offence against:
 - (i) section 6, 7 or 7A of the *Crimes Act 1914*; or
 - (ii) subsection 86(1) of that Act by virtue of paragraph (a) of that subsection;being an offence that relates to an offence of a kind referred to in paragraph (a) of this subsection.

44 Power to administer oath or affirmation and to summon witnesses

- (1) A Commissioner may administer an oath or affirmation to a person appearing as a witness before an inquiry.
- (2) A Commissioner may, by writing, summon a person to appear before an inquiry at a time and a place specified in the summons to give evidence and produce such documents (if any) as are referred to in the summons.

45 Powers of Commissioner in relation to documents produced

- (1) A Commissioner, an adviser, or a person authorized by a Commissioner to act under this section may inspect any documents produced to the Commissioner for the purposes of an inquiry and may make copies of, or take extracts from, the documents.
- (2) A Commissioner, an adviser, or a person authorized by a Commissioner to act under this section may, for the purposes of this Act, take, and retain for so long as is necessary for those purposes, possession of a document produced pursuant to a summons under this Part, but the person otherwise entitled to possession of the document is entitled to be supplied, as soon as

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practicable, with a copy certified by the Commissioner or the authorized person to be a true copy and the certified copy shall be received in all courts as evidence as if it were the original.

- (3) Where such a certified copy of a document is supplied, the person having possession of the document shall, at such times and places as the person thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorized by that person, to inspect and make copies of, or take extracts from, the document.

46 Failure of witness to attend

A person served with a summons to appear as a witness at an inquiry shall not, without reasonable excuse:

- (a) fail to attend as required by the summons; or
- (b) fail to attend and report from day to day unless excused, or released from further attendance, by the Commissioner conducting the inquiry.

Penalty: \$1,000 or imprisonment for 6 months, or both.

47 Refusal to be sworn or to answer questions

- (1) A person appearing as a witness at an inquiry shall not, without reasonable excuse:
 - (a) refuse or fail to be sworn or to make an affirmation;
 - (b) refuse or fail to answer a question that the person is required to answer by the Commissioner conducting the inquiry; or
 - (c) refuse or fail to produce a document that the person was required to produce by a summons served on the person.

Penalty: \$1,000 or imprisonment for 6 months, or both.

- (2) Without limiting the generality of the expression “reasonable excuse” in subsection (1), it is a reasonable excuse for the purposes of that subsection for a person to refuse or fail to answer a question or to refuse or fail to produce a document, that the answer or the production of the document might tend to incriminate the person.

48 False or misleading evidence

A person appearing as a witness at an inquiry shall not give evidence that, to the knowledge of the person, is false or misleading in a material particular.

Penalty: \$2,000 or imprisonment for one year, or both.

49 Contempt

A person shall not:

- (a) insult or disturb a Commissioner in the exercise of the Commissioner's powers or the performance of the Commissioner's functions or duties as a Commissioner;
- (b) interrupt an inquiry;
- (c) use insulting language towards a Commissioner;
- (d) create a disturbance, or take part in creating or continuing a disturbance, in a place where a Commissioner is holding an inquiry;
- (e) do any other act or thing that would, if an inquiry were a court of record, constitute a contempt in the face of that court; or
- (f) contravene a direction given under subsection 43(2).

Penalty: \$2,000 or imprisonment for one year, or both.

50 Protection of Commissioner and witnesses

- (1) A Commissioner has, in the performance of his or her duties as a Commissioner, the same protection and immunity as a Justice of the High Court.
- (2) Subject to this Act, a person appearing as a witness at an inquiry has the same protection, and is, in addition to the penalties provided by this Act, subject to the same liabilities, in any civil or criminal proceedings as a witness in proceedings in the High Court.

Section 51

51 Allowances to witnesses

A person served with a summons to appear as a witness at an inquiry is entitled to be paid by the Commonwealth such allowances for the person's travelling and other expenses as are prescribed.

52 Witness not to be prejudiced

- (1) A person shall not:
 - (a) use violence to or inflict injury on;
 - (b) cause or procure violence, damage, loss or disadvantage to; or
 - (c) cause or procure the punishment of;a person for or on account of the person's having appeared, or being about to appear, as a witness at an inquiry or for or on account of any evidence given by the person before an inquiry.
- (2) Without limiting the generality of subsection (1), an employer shall not:
 - (a) dismiss an employee from his or her employment, or prejudice an employee in his or her employment, because the employee has appeared as a witness, or has given any evidence, at an inquiry; or
 - (b) dismiss or threaten to dismiss an employee from his or her employment, or prejudice, or threaten to prejudice, an employee in his or her employment, because the employee proposes to appear as a witness or to give evidence at an inquiry.
- (3) A person who contravenes subsection (1) or (2) is guilty of an offence punishable on conviction:
 - (a) if the offender is a natural person—by a fine not exceeding \$2,000 or imprisonment for a period not exceeding one year, or both; or
 - (b) if the offender is a body corporate—by a fine not exceeding \$10,000.
- (4) In any proceedings arising out of subsection (2):

- (a) if it is established that the employee was dismissed from, or prejudiced in, his or her employment and that, before he or she was so dismissed or prejudiced, the employee appeared as a witness, or gave any evidence, at an inquiry—the employee shall be deemed, unless the contrary is proved, to have been so dismissed or prejudiced because the employee so appeared as a witness or gave evidence; or
- (b) if it is established that the employee was dismissed, or threatened with dismissal, from his or her employment, or was prejudiced, or threatened with prejudice, in his or her employment and that, before the employee was so dismissed, threatened with dismissal, prejudiced or threatened with prejudice, the employee proposed to appear as a witness, or to give evidence, at an inquiry—the employee shall be deemed, unless the contrary is proved, to have been so dismissed, threatened with dismissal, prejudiced or threatened with prejudice because the employee proposed so to appear as a witness or to give evidence.

Part VIII—Staff and Consultants

53 Staff

- (1) Subject to sections 54 and 55, the staff required to assist the Commission in its performance of its functions shall be persons engaged under the *Public Service Act 1999*.
- (2) For the purposes of the *Public Service Act 1999*:
 - (a) the Chief Executive Officer and the APS employees assisting the Chief Executive Officer together constitute a Statutory Agency; and
 - (b) the Chief Executive Officer is the Head of that Statutory Agency.

54 Arrangements relating to staff

- (1) The Commission may arrange with an Agency Head (within the meaning of the *Public Service Act 1999*) for the services of officers or employees in the Agency to be made available to the Commission.
- (2) The Commission may enter into an arrangement with the appropriate authority of a State for the services of officers or employees of the Public Service of the State, or of a body established for a public purpose by or under a law of the State (including a local governing body), to be made available to the Commission.
- (3) The Commission may arrange with a body (other than a body referred to in subsection (2)) for the services of officers or employees of the body to be made available to the Commission.
- (4) While a person is performing services for the Commission pursuant to an arrangement under this section, that person shall perform his or her functions and duties in accordance with the directions of the Chief Executive Officer and not otherwise.

55 Employees and consultants

- (1) The Commission may engage such employees as it thinks necessary for the performance of its functions and the exercise of its powers.
- (2) The Commission may engage as consultants to the Commission persons having suitable qualifications and experience.
- (3) The terms and conditions of employment of persons employed under subsection (1) are such as are determined by the Commission.
- (4) The terms and conditions of engagement of persons engaged under subsection (2) are such as are determined by the Commission.

Part IX—Finance

56 Money payable to Commission

- (1) There is payable to the Commission such money as is appropriated from time to time by the Parliament for the purposes of the Commission.
- (2) The Minister for Finance may give directions as to the amounts in which, and the times at which, money referred to in subsection (1) is to be paid to the Commission.

58 National Occupational Health and Safety Research Fund

- (1) There is established by this subsection a fund vested in the Commission, to be known as the National Occupational Health and Safety Research Fund.
- (2) Money standing to the credit of the Fund that is not immediately needed for the purposes of the Fund may be invested under subsection 18(3) of the *Commonwealth Authorities and Companies Act 1997*.
- (3) Income received from the investment of moneys standing to the credit of the Fund forms part of the Fund.
- (4) There shall be paid into the Fund:
 - (a) such amounts as are appropriated from time to time by the Parliament for the purposes of the Fund;
 - (b) such amounts, being gifts or bequests, as are given or made for the purposes of the Fund;
 - (c) such amounts as are paid or repaid to the Commission in accordance with an agreement under subsection (6); and
 - (d) such amounts as are received by the Commission from the disposal of property or interests acquired by the Commission in accordance with an agreement under subsection (6).

- (5) There shall be paid out of the Fund payments (including advances) made in accordance with an agreement under subsection (6) and no other amounts.
- (6) The Commission may, from time to time, agree, in writing, with a person for the carrying out by the person of a research project specified in the agreement.
- (7) Where an agreement under subsection (6) provides for the payment of advances, the Commission may, at such times as the Commission thinks fit, make advances of such moneys as the Commission thinks fit on account of an amount that may become payable under the agreement.
- (8) In this section:

research project means a project relating to research relevant to occupational health and safety matters.

58A Money appropriated for purposes related to amount of industrial chemicals

- (1) There are also payable to the Commission amounts equal to:
 - (a) any amount of registration charge or amount on account of registration charge paid under section 80F or 80K of the *Industrial Chemicals (Notification and Assessment) Act 1989*; and
 - (b) any registration charge actually paid on an assessment under section 80QA of that Act or on a reconsideration or review of such an assessment; and
 - (c) any fees received under subsection 110(1) of that Act.
- (2) Amounts payable under subsection (1) are available for application by the Commission only for the purposes of:
 - (a) enabling the Director of Chemicals Notification and Assessment to perform functions under the *Industrial Chemicals (Notification and Assessment) Act 1989*; and
 - (b) enabling the Director to make payments, on behalf of the Commonwealth, under Part 3A of the *Industrial Chemicals (Notification and Assessment) Act 1989*.

Section 59

- (3) The Minister for Finance may give directions as to the amounts in which, and times at which, money referred to in subsection (1) is to be paid to the Commission.
- (4) Amounts payable to the Commission under subsection (1) are payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

59 Application of money held by Commission

- (1) Money held by the Commission otherwise than upon trust, or for application as described in subsection 58A(2), shall be applied only:
 - (a) in payment or discharge of the costs, expenses and other obligations incurred by the Commission in the performance of its functions or the exercise of its powers under this Act or any other law;
 - (b) in payment of any remuneration and allowances payable to any person under this Act or any other law; and
 - (c) in making any other payments which the Commission is authorized or required to make under this Act or any other law.
- (2) Subsection (1) does not prevent investment of surplus money of the Commission under section 18 of the *Commonwealth Authorities and Companies Act 1997*.

61 Exemption from taxation

The Commission is not subject to taxation under a law of the Commonwealth or of a State or Territory.

Part X—Miscellaneous**62 Power to require persons to furnish information or produce documents**

- (1) Where the Commission has reason to believe that a person is capable of furnishing information or producing documents relating to a matter that is relevant to the performance of the functions of the Commission, the Commission may, by notice in writing served on the person, require the person:
 - (a) to furnish to the Commission, by writing signed by the person or, in the case of a body corporate, by a competent officer of the body corporate, within the time and in the manner specified in the notice, any such information; or
 - (b) to produce to the Commission, or to a person specified in the notice acting on its behalf, in accordance with the notice, any such document.
- (2) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under this section to the extent that the person is capable of complying with it.

Penalty:

- (a) if the offender is a natural person—\$1,000 or imprisonment for 6 months, or both; or
 - (b) if the offender is a body corporate—\$5,000.
- (5) Without limiting the generality of the expression *reasonable excuse* in subsection (2), it is a reasonable excuse for the purposes of that subsection for a person to refuse or fail to furnish information or to refuse or fail to produce a document that the information or the production of the document might tend to incriminate the person.
 - (6) Where information is furnished, or a document is produced, pursuant to this section, the information or the production is not admissible in any court (whether exercising federal jurisdiction or not) or in any proceedings before a person authorized by law of the Commonwealth or of a State or

Section 63

Territory, or by consent of parties to hear evidence except in a prosecution for an offence against section 137.1 or 137.2 of the *Criminal Code* that relates to this section.

- (7) A member of the staff of the Commission authorized by the Commission to act under this subsection may inspect a document produced pursuant to a notice under this section and may make copies of, or take extracts from, the document.
- (8) A member of the staff of the Commission authorized by the Commission to act under this subsection may, for the purposes of this Act, take, and retain for so long as is necessary for those purposes, possession of a document produced pursuant to a notice under this section but the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the authorized member of the staff of the Commission to be a true copy and the certified copy shall be received in all courts as evidence as if it were the original.
- (9) Where such a certified copy of a document is supplied, the authorized member of the staff of the Commission having possession of the document shall, at such times and places as the authorized member of the staff of the Commission thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorized by that person, to inspect and make copies of, or take extracts from, the document.
- (10) A notice served on a person under subsection (1) shall be accompanied by a statement to the effect that the Commission will, subject to section 63, before disseminating or publishing any information furnished, or contained in a document produced, pursuant to the notice, invite the person to give a notice to the Commission objecting to the dissemination or publication of the whole or any part of the information.
- (11) Any failure to comply with the requirements of subsection (10) in relation to a notice does not affect the validity of the notice.

63 Dissemination and publication of certain information etc.

- (1) Where:

- (a) the Commission proposes to disseminate or publish any information furnished, or contained in a document produced, pursuant to section 62; and
- (b) the dissemination or publication of the information would, or could reasonably be expected to:
 - (i) enable the identification of a particular person;
 - (ii) disclose a trade secret; or
 - (iii) adversely affect a person in respect of the lawful business, commercial or financial affairs of the person;

the Commission shall, if it is practicable to do so, before disseminating or publishing the information, cause to be served on:

- (c) the person who furnished the information or produced the document; and
- (d) any other person who:
 - (i) if the information is of a personal, domestic or business nature—would be, or could reasonably be expected to be, identified by the dissemination or publication of the information;
 - (ii) if the dissemination or publication of the information would, or could reasonably be expected to, disclose a trade secret—would be, or could reasonably be expected to be, adversely affected by the disclosure of the trade secret; or
 - (iii) would be, or could reasonably be expected to be, adversely affected by the dissemination or publication of the information in respect of the lawful business, commercial or financial affairs of the person;

a notice in writing:

- (e) inviting the person to give to the Commission, by such day as is specified in the notice, being a day not earlier than 14 days after the service of the notice, a notice objecting to the dissemination or publication of the whole or any part of the information; and
- (f) informing the person that, if the person does not make an objection in accordance with the invitation, the person will be taken to have consented to the dissemination or publication of the information.

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- (2) There shall be set out in the notice of objection the reasons for making the objection.
- (3) A person is not entitled to make an objection to the dissemination or publication of information except on the ground that to do so would be contrary to the public interest.
- (4) Where a person makes an objection to the Commission in accordance with such an invitation, the Commission shall consider the objection, and may either disallow it, or allow it in whole or in part, and shall serve on the person written notice of the decision on the objection.
- (5) A notice of a decision on an objection shall set out the reasons for the decision.
- (6) The Commission shall not disseminate or publish any information if there is in force an objection made under this section in relation to the dissemination or publication of the information but, where such an objection is in force, nothing in this section shall be taken to preclude a further invitation under subsection (1) being made in relation to the information.
- (7) Applications may be made to the Administrative Appeals Tribunal for review of a decision of the Commission under subsection (4).
- (8) Where the Commission makes a decision under subsection (4), the notice of the decision shall include a statement to the effect that a person affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with the decision, make application to the Administrative Appeals Tribunal for review of the decision.
- (9) Any failure to comply with the requirements of subsection (8) in relation to a decision does not affect the validity of the decision.

64 Delegation

- (1) The Commission may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a person or to the Executive all or any of its powers under this Act or any other law, other than this power of delegation.

- (2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or that law, be deemed to have been exercised by the Commission.
- (3) A delegate under subsection (1) is, in the exercise of a power so delegated, subject to the directions of the Commission.
- (4) A delegation under this section does not prevent the exercise of a power by the Commission.

65 Effect of this Act on State and Territory laws

This Act is not intended to affect the operation of a law of a State or Territory to the extent that that law is capable of operating concurrently with this Act.

66 Minister to table statement with annual report of the Commission

- (1) The Minister shall, as soon as practicable after each 30 June, cause to be prepared a statement setting out the action (if any) that has been, is being or is proposed to be taken as a result of recommendations made to the Minister by the Commission during the financial year ending on that 30 June.
- (2) The Minister must cause to be tabled in each House of the Parliament a copy of the statement prepared for a year under subsection (1) at the same time as the annual report for the Commission for that year is tabled under the *Commonwealth Authorities and Companies Act 1997*.

67 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Table of Acts**Notes to the *National Occupational Health and Safety Commission Act 1985*****Note 1**

The *National Occupational Health and Safety Commission Act 1985* as shown in this compilation comprises Act No. 35, 1985 amended as indicated in the Tables below.

The *National Occupational Health and Safety Commission Act 1985* was modified by the A.C.T. Self-Government (Consequential Provisions) Regulations as amended. The modifications made by those Regulations ceased to have effect on the commencement of Part 6 of the *Industrial Relations Legislation Amendment Act (No. 2) 1990*, which commenced on 18 December 1990. The modifications are not included in this compilation.

All relevant information pertaining to application, saving or transitional provisions prior to 24 November 2000 is not included in this compilation. For subsequent information see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>National Occupational Health and Safety Commission Act 1985</i>	35, 1985	27 May 1985	20 Dec 1985 (see <i>Gazette</i> 1985, No. S551)	
<i>National Occupational Health and Safety Commission Amendment Act 1989</i>	4, 1989	7 Mar 1989	7 Mar 1989	—
<i>Banking Legislation Amendment Act 1989</i>	129, 1989	7 Nov 1989	Part 1 (ss. 1, 2), ss. 3, 26, 29-33, 35, 38 and 40: Royal Assent S. 23(1): 4 May 1989 S. 39: 23 Jan 1988 Remainder: 28 Dec 1989 (see <i>Gazette</i> 1989, No. S383)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Industrial Relations Legislation Amendment Act (No. 2) 1990</i>	108, 1990	18 Dec 1990	Ss. 8, 13 and 21: 1 Feb 1991 (see s. 2(4) and <i>Gazette</i> 1991, No. S18) Ss. 22-24: 1 Mar 1989 S. 26: 1 Jan 1990 S. 33: 25 Mar 1991 (see <i>Gazette</i> 1991, No. S73) Remainder: Royal Assent	—
<i>Industrial Relations Legislation Amendment Act 1991</i>	122, 1991	27 June 1991	Ss. 4(1), 10(b) and 15-20: 1 Dec 1988 Ss. 28(b)-(e), 30 and 31: 10 Dec 1991 (see <i>Gazette</i> 1991, No. S332) Remainder: Royal Assent	S. 31(2)
<i>Prime Minister and Cabinet Legislation Amendment Act 1991</i>	199, 1991	18 Dec 1991	18 Dec 1991	—
<i>Industrial Relations Legislation Amendment Act (No. 2) 1992</i>	215, 1992	24 Dec 1992	Part 1 (ss. 1, 2) and Part 3 (ss. 9, 10): Royal Assent Parts 9-11 (ss. 34-40): 18 Feb 1991 Remainder: 21 Jan 1993	—
<i>Industrial Relations Legislation Amendment Act (No. 2) 1994</i>	158, 1994	15 Dec 1994	Schedule 3 (items 1-3): Royal Assent (a)	—
<i>Industrial Relations and other Legislation Amendment Act 1995</i>	168, 1995	16 Dec 1995	Ss. 1-12 and Schedules 5, 7-10: Royal Assent S. 13: 13 Jan 1996 Remainder: 15 Jan 1996 (see <i>Gazette</i> 1996, No. S16)	—
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (items 108, 109): Royal Assent (b)	—
<i>Industrial Chemicals (Notification and Assessment) Amendment Act 1997</i>	99, 1997	30 June 1997	Schedule 2: 9 July 1997 (see <i>Gazette</i> 1997, No. S278) (c)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 1018-1029): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) (d)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 659-664): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (e)	—
<i>Corporate Law Economic Reform Program Act 1999</i>	156, 1999	24 Nov 1999	Schedule 10 (items 104, 105): 13 Mar 2000 (see <i>Gazette</i> 2000, No. S114) (f)	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1-3 and Schedule 1 (items 1, 4, 6, 7, 9-11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]

Act Notes

- (a) The *National Occupational Health and Safety Commission Act 1985* was amended by Schedule 3 (items 1-3) only of the *Industrial Relations Legislation Amendment Act (No. 2) 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (b) The *National Occupational Health and Safety Commission Act 1985* was amended by Schedule 4 (items 108, 109) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (c) The *National Occupational Health and Safety Commission Act 1985* was amended by Schedule 2 only of the *Industrial Chemicals (Notification and Assessment) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Subject to subsection (3), the other items of Schedule 1, and Schedule 2, commence on a day or days to be fixed by Proclamation.
- (d) The *National Occupational Health and Safety Commission Act 1985* was amended by Schedule 2 (items 1018-1029) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (e) The *National Occupational Health and Safety Commission Act 1985* was amended by Schedule 1 (items 659-664) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.
- (f) The *National Occupational Health and Safety Commission Act 1985* was amended by Schedule 10 (items 104 and 105) only of the *Corporate Law Economic Reform Program Act 1999*, subsection 2(2)(c) of which provides as follows:
- (2) The following provisions commence on a day or days to be fixed by Proclamation:
 - (c) the items in Schedules 10, 11 and 12.

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 3	am. No. 4, 1989; No. 108, 1990
Note to s. 6(2).....	ad. No. 152, 1997
S. 8	am. No. 4, 1989; No. 108, 1990; No. 168, 1995
S. 10	am. No. 4, 1989; No. 158, 1994; No. 152, 1997
Note to s. 10.....	ad. No. 152, 1997
S. 11	am. No. 4, 1989
S. 12	am. No. 4, 1989 rs. No. 215, 1992 am. No. 146, 1999
S. 14	am. No. 4, 1989; No. 215, 1992; No. 152, 1997; No. 156, 1999
Heading to s. 15	am. No. 152, 1997
S. 15	am. No. 4, 1989; No. 152, 1997
S. 16A	ad. No. 4, 1989 am. No. 108, 1990
S. 17	am. No. 4, 1989; No. 43, 1996
S. 18	am. No. 4, 1989
S. 19A	ad. No. 158, 1994
Ss. 20-23	am. No. 4, 1989
S. 25	am. No. 4, 1989
S. 28	am. No. 4, 1989
S. 30	am. No. 4, 1989
S. 32	rs. No. 122, 1991 am. No. 146, 1999
S. 34	am. No. 122, 1991
S. 37	am. No. 4, 1989; No. 43, 1996
S. 38	am. No. 215, 1992
Ss. 53, 54	am. No. 4, 1989; No. 146, 1999
S. 55	am. No. 199, 1991
S. 57.....	rep. No. 152, 1997
S. 58	am. No. 129, 1989; No. 152, 1997
S. 58A	ad. No. 99, 1997
S. 59.....	am. Nos. 99 and 152, 1997
S. 60.....	rep. No. 152, 1997
S. 62.....	am. No. 137, 2000
S. 66.....	am. No. 152, 1997

Table A

Table A

Application, saving or transitional provisions

Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences)
Act 2000 (No. 137, 2000)

Schedule 2

418 Transitional—pre-commencement offences

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
 - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
 - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

419 Transitional—pre-commencement notices

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
 - (b) any or all of those other provisions are repealed by this Schedule; and
 - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

Table A
