

PARLIAMENT OF VICTORIA

Accident Compensation (Occupational Health and Safety) Act 1996

Act No.

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PARLIAMENT OF VICTORIA

Initiated in Assembly 29 May 1996

A BILL

to further amend the **Accident Compensation Act 1985**, to amend the **Dangerous Goods Act 1985**, the **Equipment (Public Safety) Act 1994**, and the **Occupational Health and Safety Act 1985** and for other purposes.

Accident Compensation (Occupational Health and Safety) Act 1996

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The main purposes of this Act are—

- (a) to transfer various responsibilities in relation to the administration of the **Dangerous**

Goods Act 1985, the Equipment (Public Safety) Act 1994 and the Occupational Health and Safety Act 1985 to the Victorian WorkCover Authority; and

- (b) to provide for the transfer of staff involved in administering those Acts to the Victorian WorkCover Authority; and
- (c) to amend the **Accident Compensation Act 1985, the Dangerous Goods Act 1985, the Equipment (Public Safety) Act 1994 and the Occupational Health and Safety Act 1985.**

2. Commencement

- (1) This Part and section 9 come into operation on the day on which this Act receives the Royal Assent.
 - (2) Subject to sub-section (2), the remaining provisions of this Act come into operation on a day to be proclaimed.
 - (3) If a provision referred to in sub-section (2) does not come into operation within a period of 6 months beginning on and including the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.
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**PART 2—AMENDMENTS TO THE ACCIDENT
COMPENSATION ACT 1985**

**Division 1—Amendments to the Accident Compensation Act
1985**

3. *Principal Act*

In this Part the **Accident Compensation Act 1985** is called the Principal Act.

Act No. 10191.
Reprinted to
No. 42/1995
and
subsequently
amended by
Nos 85/1995,
98/1995 and
100/1995.

4. *Amendment of powers of Authority*

In section 18(2) of the Principal Act —

- (a) in paragraph (d), after "under this Act" **insert**
"or any other Act"; and
- (b) in paragraph (e), after "under this Act" **insert**
"or any other Act".

5. *Amendment of Authority's objectives*

In section 19(b) of the Principal Act, after "the **Workers Compensation Act 1958**" **insert** ", the **Occupational Health and Safety Act 1985**, the **Equipment (Public Safety) Act 1994**, the **Dangerous Goods Act 1985**".

6. *Amendment of section 20C*

In section 20C(1) of the Principal Act, for "or the **Accident Compensation (WorkCover Insurance) Act 1993**" substitute ", the **Accident Compensation (WorkCover Insurance) Act 1993**, the **Occupational Health and Safety Act 1985**, the **Equipment (Public Safety) Act 1994**, the **Dangerous Goods Act 1985**, the **Mines Act**

1958 and the Road Transport (Dangerous Goods) Act 1995".

7. Amendment of section 21

After section 21(9) of the Principal Act **insert—**

"(10) A delegation must not be made under this section to any person, other than an officer or employee of the Authority, in respect of any power, function, authority or discretion to which section 14 of the **Dangerous Goods Act 1985** applies."

8. Amendment of section 32

(1) After section 32(3)(b) of the Principal Act **insert—**

"(ba) any amount —

- (i) recovered as a penalty for an offence against the **Occupational Health and Safety Act 1985**, the **Equipment (Public Safety) Act 1994**, the **Dangerous Goods Act 1985**, the **Mines Act 1958** or the **Road Transport (Dangerous Goods) Act 1995** or the regulations made under any of those Acts if the proceedings were brought by or on behalf of the Authority or by an inspector appointed by the Authority under any of those Acts; or
- (ii) received as payment for a penalty for an offence against any of the Acts specified in sub-paragraph (i) or the regulations made under any of those Acts for which an infringement notice has been issued;

(bb) any fee payable under—

- (i) the **Occupational Health and Safety Act 1985** or the **Equipment (Public**
-

Safety) Act 1994 or regulations made under either of those Acts, unless the regulations made under either of those Acts provide that those fees are otherwise payable; and

(ii) the **Dangerous Goods Act 1985** or the **Road Transport (Dangerous Goods) Act 1995** and the regulations made under those Acts;

(bc) any amount certified by the Treasurer, after consultation with the Minister, as a contribution from the Consolidated Fund to the costs and expenses of or incidental to the administration by the Authority of the **Occupational Health and Safety Act 1985**, the **Equipment (Public Safety) Act 1994**, the **Dangerous Goods Act 1985**, the **Mines Act 1958** and the **Road Transport (Dangerous Goods) Act 1995**;"

(2) In section 32(4) of the Principal Act—

(a) in paragraph (a), after "other Act" **insert** "or any regulation made under this or any other Act";

(b) paragraph (c) is **repealed**.

(3) In section 32(7) of the Principal Act, after "this Act" **insert** "or any other Act".

Division 2—Transitional Provisions Relating to Staff

9. Determination of staff to be transferred

The Minister administering the Principal Act must designate in writing the officers and employees of the public service who are employed in the administration and enforcement of the **Occupational Health and Safety Act 1985**, the

Dangerous Goods Act 1985 or the Equipment (Public Safety) Act 1994 who are to become officers and employees of the Authority under section 10.

10. *Transfer of staff*

- (1) On and from the commencement of this section, any officer or employee designated under section 9—
 - (a) is deemed to have been appointed by the Authority under section 22 of the Principal Act; and
 - (b) is entitled to remuneration, terms and conditions determined by the Minister administering the Principal Act to be no less favourable than those which he or she received or was entitled to receive immediately before that commencement as such an officer or employee; and
 - (c) retains any entitlement to long service leave, annual leave, sick leave or maternity leave accrued or accruing to that person immediately before that commencement; and
 - (d) ceases to be an officer or employee of the public service.
- (2) Section 22(3) of the Principal Act applies to a person deemed under sub-section (1) to have been appointed by the Authority.
- (3) A person is not entitled to any compensation as a result of the person ceasing to be an officer or employee of the public service by virtue of this section.

11. *Supreme Court—limitation of jurisdiction*

It is the intention of section 10(3) to alter or vary
section 85 of the **Constitution Act 1975**.

**PART 3—AMENDMENTS TO THE DANGEROUS GOODS
ACT 1985**

Division 1—Amendments to the Dangerous Goods Act 1985

12. *Principal Act*

In this Part the **Dangerous Goods Act 1985** is
called the Principal Act.

Act No. 10189.
Reprinted to
No. 31/1995
and
subsequently
amended by
Nos 67/1995,
78/1995 and
82/1995.

13. *Amendment of definitions*

In section 3(1) of the Principal Act—

(a) **insert—**

"Authority" means the Victorian
WorkCover Authority established under
section 18 of the **Accident
Compensation Act 1985**;

(b) the definition of **"Director-General"** is
repealed.

14. *Amendment of section 11*

In section 11 of the Principal Act—

(a) in sub-section (1)—

(i) for "Minister" **substitute** "Authority";
and

(ii) for "public service" **substitute**
"Authority";

(b) in sub-section (2), for "Minister" **substitute**
"Authority";

(c) in sub-section (3), for "Director-General"
substitute "Authority".

15. Amendment of powers of delegation

In section 14 of the Principal Act, for
"Director-General" (wherever occurring),
substitute "Authority".

16. Section 16 repealed

Section 16 of the Principal Act is **repealed**.

17. Amendment of section 40

- (1) In section 40(1) of the Principal Act, for
"Minister" **substitute** "Authority".
- (2) In section 40(2) of the Principal Act, for "to
inspectors," **substitute** "to the Authority, to
inspectors".

18. Amendment of section 42

- (1) In section 42 of the Principal Act—
 - (a) for "Director-General" (where first
occurring) **substitute** "Chief Executive of the
Authority"; and
 - (b) for "Director-General" (where secondly
occurring) **substitute** "Chief Executive".
- (2) In section 42(b) and (c) of the Principal Act, for
"Director-General" (wherever occurring)
substitute "Authority".

19. Amendment of section 58

In section 58(2) of the Principal Act, for "his or
her Department" **substitute** "the Authority".

20. New section 61 inserted

After section 60 of the Principal Act **insert—**

'61. Transfer of responsibilities

(1) In this section—

"relevant Director-General" means the Secretary to the Department of Energy and Minerals, the Secretary to the Department of Agriculture, Energy and Minerals or the Secretary to the Department of Natural Resources and Environment;

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

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

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

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

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

(a) any reference in any other section of this Act or the regulations to the Minister or to the Authority (including any reference deemed to be a reference to

the Authority) or to the relevant Director-General were a reference to the relevant Minister; and

(b) any reference in any other section of this Act or the regulations to an officer or employee of the Authority were a reference to an officer or employee of the public service.

(4) Sub-section (2) does not apply to any power or function or responsibility of the Minister relating to codes of practice or the making of regulations.

(5) On and after the commencement of section 20 of the **Accident Compensation (Occupational Health and Safety) Act 1996—**

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

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

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

- (d) the relevant Minister may continue and complete any other continuing matter or thing commenced by or against the relevant Director-General under this Act or the regulations and existing immediately before that commencement.
- (6) Nothing in this section or any other section of this Act affects the appointment of or any notice given by or proceedings begun under this Act or the regulations by or against or in relation to an inspector appointed by the relevant Minister before the commencement of section 20 of the **Accident Compensation (Occupational Health and Safety) Act 1996**.

21. Amendment of references to Director-General

In the Principal Act—

- (a) in section 10(2), for "Director-General" **substitute** "Authority";
 - (b) in section 10A(1), for "Director-General" (where twice occurring) **substitute** "Authority";
 - (c) in section 13(1), for "Director-General" **substitute** "Authority";
 - (d) in section 15, for "Director-General" **substitute** "Authority";
 - (e) in section 17A(1), for "Director-General" **substitute** "Authority";
 - (f) in section 18, for "Director-General" (wherever occurring) **substitute** "Authority";
 - (g) in section 21, for "Director-General" (wherever occurring) **substitute** "Authority";
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- (h) in section 22, for "Director-General" (where twice occurring) **substitute** "Authority";
 - (i) in section 23, for "Director-General" (wherever occurring) **substitute** "Authority";
 - (j) in section 24, for "Director-General" (wherever occurring) **substitute** "Authority";
 - (k) in section 25, for "Director-General" (where twice occurring) **substitute** "Authority";
 - (l) in section 26, for "Director-General" **substitute** "Authority";
 - (m) in section 27, for "Director-General" (where twice occurring) **substitute** "Authority";
 - (n) in section 28, for "Director-General" (where twice occurring) **substitute** "Authority";
 - (o) in section 29, for "Director-General" **substitute** "Authority";
 - (p) in section 33, for "Director-General" (where twice occurring) **substitute** "Authority";
 - (q) in section 48(2), for "Director-General" **substitute** "Authority";
 - (r) in section 51, for "Director-General" (where twice occurring) **substitute** "Authority";
 - (s) in section 54—
 - (i) for "Director-General" (where twice occurring) **substitute** "Authority"; and
 - (ii) in sub-section (5), for "Director-General's" **substitute** "Authority's";
 - (t) in Schedule 2—
 - (i) in clause 23, for "Director-General" **substitute** "Authority"; and
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- (ii) in clause 26, for "Director-General"
substitute "Authority".

22. Statute law revision

In the Principal Act—

- (a) in section 9(e), **omit** "applies" where
secondly occurring;
- (b) in section 20(1)—
- (i) for "(a)" (where secondly occurring)
substitute "(h)"; and
- (ii) for "(b)" (where secondly occurring)
substitute "(i)";
- (c) in section 45A(a)(ii), for "of both" **substitute**
"or both".

Division 2—Transitional Provisions

23. Definitions

In this Division—

"Director-General" has the same meaning as it
has in the Principal Act as in force at any time
before the commencement of Division 1 of
this Part, having regard to any Order made
under the **Administrative Arrangements**
Act 1983 but does not include the relevant
Director-General within the meaning of
section 61 of the Principal Act;

"former inspector" means an inspector appointed
under section 11 of the Principal Act as in
force immediately before the commencement
of Division 1 of this Part but does not include
an inspector appointed by the relevant
Minister within the meaning of section 61 of
the Principal Act;

"Minister" does not include the relevant Minister within the meaning of section 61 of the Principal Act.

24. *Interpretation of Legislation Act 1984 not affected*

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

25. *Superseded references to Minister and Director-General*

- (1) On the commencement of this section, a reference in the regulations made under the Principal Act or any instrument or other document made, issued, served or given under the Principal Act or the regulations made under that Act—
 - (a) to the Minister is deemed to be a reference to the Authority; and
 - (b) to the Director-General is deemed to be a reference to the Authority.
- (2) Sub-section (1) does not apply to—
 - (a) any guidelines issued by the Minister under section 40(2) of the Principal Act; or
 - (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 56 of the Principal Act.

26. *Proceedings in relation to Minister and Director-General*

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

Act and existing immediately before that commencement.

- (2) On the commencement of this section, any application made or notification given to the Director-General under the Principal Act or the regulations made under that Act before that commencement is deemed to be an application made or notification given to the Authority.
- (3) On and after the commencement of this section, the Authority may continue and complete any other continuing matter or thing commenced by or against or in relation to the Director-General under the Principal Act or the regulations made under that Act and existing immediately before that commencement.

27. Documents etc issued by Director-General

- (1) On and after the commencement of this section—
 - (a) any notice, licence, certificate, requirement, request, direction, determination, declaration, specification, registration, authorisation, endorsement, waiver, approval, delegation, condition, consent, exemption or other instrument or document issued, served, made or given under the Principal Act or the regulations made under the Principal Act by the Director-General or the Minister is deemed to have been issued, served, made or given by the Authority; and
 - (b) any action taken or decision made under the Principal Act or the regulations made under the Principal Act by the Director-General or the Minister is deemed to have been taken or made by the Authority.

- (2) This section does not apply to —
- (a) any guidelines issued by the Minister under section 40(2) of the Principal Act; or
 - (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 56 of the Principal Act.

28. Registers

- (1) On the commencement of this section, the register established by the Director-General under section 54 of the Principal Act is deemed to be the register established under that section by the Authority.
- (2) On the commencement of this section, any other register established by the Director-General under the Principal Act or the regulations made under that Act is deemed to be a register established by the Authority.

29. *Inspectors deemed to be inspectors appointed by Authority*

On and after the commencement of this section—

- (a) each former inspector holding office immediately before that commencement is deemed to be an inspector appointed by the Authority under section 11 of the Principal Act as amended by Division 1 of this Part; and
- (b) a certificate of appointment furnished by the Minister under section 11 of the Principal Act in respect of the appointment of a former inspector is deemed to be a certificate of appointment furnished by the Authority under section 11 as amended by Division 1 of this Part; and

- (c) an identification card issued to a former inspector by the Director-General under section 13 of the Principal Act is deemed to be an identification card issued to an inspector by the Authority under that section as amended by Division 1 of this Part.

30. *Proceedings in relation to inspectors*

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

31. *Documents etc issued by inspector*

On and after the commencement of this section—

- (a) any notice, direction, authorisation, request, requirement, prohibition, exemption, approval, permission or other instrument or document issued, served, made or given by a former inspector under the Principal Act or the regulations made under that Act is deemed to have been issued, served, made or given by an inspector appointed by the Authority; and
 - (b) any action taken or decision made under the Principal Act or the regulations made under that Act by a former inspector is deemed to have been taken or made by an inspector appointed by the Authority.
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**PART 4—AMENDMENTS TO THE EQUIPMENT (PUBLIC
SAFETY) ACT 1994**

**Division 1—Amendments to the Equipment (Public Safety)
Act 1994**

32. *Principal Act*

In this Part the **Equipment (Public Safety) Act 1994** is called the Principal Act.

**Act No.
21/1994.**

33. *Definition inserted*

In section 3(1) of the Principal Act, **insert—**

"Authority" means the Victorian WorkCover Authority established under section 18 of the **Accident Compensation Act 1985**;

34. *Amendment of section 12*

- (1) In section 12 of the Principal Act, for "Minister" (wherever occurring) **substitute** "Authority".
- (2) In section 12(1) of the Principal Act, for "public service" **substitute** "Authority".

35. *Amendment of section 28*

In section 28 of the Principal Act—

- (a) in sub-section (1), for "Minister" **substitute** "Authority";
- (b) in sub-section (2), for "Minister" **substitute** "Authority";
- (c) in sub-section (5) after "must issue" **insert** "to the Authority and".

36. *Amendment of section 29*

In section 29 of the Principal Act—

- (a) for "the Secretary to the Department of Business and Employment" **substitute** "the Chief Executive of the Authority";
- (b) for "the Secretary" (where secondly occurring) **substitute** "the Chief Executive of the Authority".

37. Amendment of section 33

In section 33(5) of the Principal Act, for "Department of Business and Employment" **substitute** "Authority".

38. Amendment of section 36

- (1) In section 36(4) of the Principal Act—
 - (a) in paragraph (d), for "Minister, the Secretary to the Department of Business and Employment" **substitute** "Authority";
 - (b) in paragraph (e), for "Minister" **substitute** "Authority";
 - (c) in paragraph (f), for "Minister, the Secretary to the Department of Business and Employment" **substitute** "Authority".
- (2) In section 36 of the Principal Act, sub-section (7) is **repealed**.

39. Amendment of Schedule

In the Schedule to the Principal Act, in clause 9, for "Minister" **substitute** "Authority".

Division 2—Transitional Provisions

40. Definitions

In this Division—

"former inspector" means an inspector under section 12 of the Principal Act as in force

immediately before the commencement of
Division 1 of this Part.

41. *Interpretation of Legislation Act 1984 not affected*

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

42. *Superseded references*

- (1) On the commencement of this section, a reference in the regulations made under the Principal Act or any instrument or other document issued, served, made or given under the Principal Act or the regulations made under that Act to the Minister is deemed to be a reference to the Authority.
- (2) Sub-section (1) does not apply to—
 - (a) any guidelines issued by the Minister under section 28(5) of the Principal Act; or
 - (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 33 of the Principal Act.

43. *Proceedings in relation to Minister*

- (1) On the commencement of this section, the Authority is substituted for the Minister as a party in any proceedings commenced or made by or against or in relation to the Minister under the Principal Act or the regulations made under that Act and existing immediately before that commencement.
- (2) On the commencement of this section, any application made or notification, notice or request given to the Minister under the Principal Act or the regulations made under that Act is deemed to be an application made or notification, notice or request given to the Authority.

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

44. *Documents etc issued by Minister*

- (1) On and after the commencement of this section—
- (a) any confirmation, condition, exemption, notice, requirement, determination, approval or other instrument or document issued, served, granted, made or given under the Principal Act or the regulations made under the Principal Act by the Minister is deemed to have been issued, served, granted, made or given by the Authority; and
 - (b) any action taken or decision made under the Principal Act or the regulations made under the Principal Act by the Minister is deemed to have been taken or made by the Authority.
- (2) This section does not apply to—
- (a) any guidelines issued by the Minister under section 28(5) of the Principal Act; or
 - (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 33 of the Principal Act.

45. *Inspectors deemed to be inspectors appointed by Authority*

On and after the commencement of this section—

- (a) any former inspector holding office immediately before that commencement is deemed to be an inspector appointed by the
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Authority under section 12 of the Principal Act as amended by Division 1 of this Part; and

- (b) a certificate of appointment provided by the Minister under section 12 of the Principal Act in respect of the appointment of a former inspector is deemed to be a certificate of appointment provided by the Authority under that section as amended by Division 1 of this Part; and
- (c) an identification card provided to a former inspector by the Minister under section 12 of the Principal Act is deemed to be an identification card provided to an inspector by the Authority under that section as amended by Division 1 of this Part.

46. *Proceedings in relation to inspectors*

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

47. *Documents etc issued by inspector*

On and after the commencement of this section—

- (a) any notice, requirement, direction or other instrument or document issued, served, made or given by a former inspector under the Principal Act or the regulations made under that Act is deemed to have been issued, served, made or given by an inspector appointed by the Authority; and
 - (b) any action taken or decision made under the Principal Act or the regulations made under
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*Accident Compensation (Occupational Health and Safety) Act
1996*

s. 47

Act No.

that Act by a former inspector is deemed to
have been taken by an inspector appointed by
the Authority.

**PART 5—AMENDMENTS TO THE OCCUPATIONAL
HEALTH AND SAFETY ACT 1985**

**Division 1—Amendments to the Occupational Health and
Safety Act 1985**

48. *Principal Act*

In this Part the **Occupational Health and Safety Act 1985** is called the **Principal Act**.

Act No. 10190.
Reprinted to
No. 78/1993
and
subsequently
amended by
Nos 21/1994
and 78/1995.

49. *Definition inserted*

In section 4 of the Principal Act—

(a) **insert—**

"Authority" means the Victorian
WorkCover Authority established under
section 18 of the **Accident
Compensation Act 1985**;

(b) the definition of **"Department"** is **repealed**.

50. *Amendment of section 8*

In section 8 of the Principal Act, for **"Department"**
(wherever occurring) **substitute** **"Authority"**.

51. *Amendments relating to obtaining information*

- (1) In section 9 of the Principal Act, for **"Department"**
substitute **"Authority"**.
- (2) In section 10(9) of the Principal Act, for **"member
of the Department"** **substitute** **"Director of the
Board of Management of the Authority or officer
or employee of the Authority"**.

- (3) In section 10 of the Principal Act, for "Department" (wherever occurring) **substitute** "Authority".
- (4) After section 10(10) of the Principal Act **insert—**
"(11) Section 243 of the **Accident Compensation Act 1985** does not apply to any information furnished to the Authority under section 9 of this Act."

52. Amendments relating to designated work groups and health and safety representatives

- (1) In section 29 of the Principal Act, for "Minister" (where twice occurring) **substitute** "Authority".
- (2) In section 30 of the Principal Act—
 - (a) in sub-section (3), for "Minister to appoint an officer of the public service" **substitute** "Authority to appoint a person";
 - (b) in sub-section (4), for "Minister may appoint an officer of the public service" **substitute** "Authority may appoint any person".
- (3) In section 31(2)(d) of the Principal Act, for "approved by the or conducted by the Department" **substitute** "approved by or conducted by the Authority".

53. Amendment of section 38

- In section 38 of the Principal Act—
- (a) for "Minister" (wherever occurring) **substitute** "Authority";
 - (b) in sub-section (1), for "public service" **substitute** "Authority".

54. Amendments relating to proceedings for offences

- (1) In section 48 of the Principal Act—

- (a) in sub-section (1), for "Minister" **substitute** "Authority";
 - (b) in sub-section (2), for "Minister" **substitute** "Authority";
 - (c) in sub-section (5) after "shall issue" **insert** "to the Authority and".
- (2) In section 49 of the Principal Act, for "Minister" (wherever occurring) **substitute** "Authority".

55. Amendment of section 50

In section 50 of the Principal Act, for "the Secretary to the Department" (where twice occurring) **substitute** "the Chief Executive of the Authority".

56. Amendment of section 55

In section 55(5) of the Principal Act, for "Department" **substitute** "Authority".

57. Amendments relating to regulations

- (1) In section 59 of the Principal Act—
- (a) in sub-section (3)(d), for "Minister, the Secretary to the Department, the Department" **substitute** "Authority";
 - (b) in sub-section (3)(e), for "Minister" **substitute** "Authority";
 - (c) in sub-section (3)(f), for "Minister, the Secretary to the Department" **substitute** "Authority";
 - (d) in sub-section (5)—
 - (i) for "Minister" **substitute** "Authority";
and
 - (ii) for "Department" **substitute** "Authority";

(e) sub-section (6A) is **repealed**.

(2) In Schedule One to the Principal Act—

(a) in clause 8, for "Minister" **substitute**
"Authority"; and

(b) in clause 40, for "Minister" **substitute**
"Authority".

58. New section 60 inserted

After section 59 of the Principal Act **insert—**

'60. Transfer of responsibilities

(1) In this section—

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

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

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

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

Act or the regulations with respect to activities carried out under—

- (a) the Petroleum (Submerged Lands) Act 1967 of the Commonwealth; and
 - (b) the **Petroleum (Submerged Lands) Act 1982**; and
 - (c) if an Order under sub-section (4) so specifies, the **Extractive Industries Development Act 1995**.
- (3) For the purposes of sub-section (2) and only for those purposes, this Act applies as if—
- (a) any reference in this Act or the regulations to the Minister or to the Authority (including any reference deemed to be a reference to the Authority) or to the relevant Secretary or to the relevant Department were a reference to the Minister; and
 - (b) any reference to an officer or employee of the Authority were a reference to an officer or employee of the public service.
- (4) The Governor in Council may, by Order published in the Government Gazette, specify the **Extractive Industries Development Act 1995** as an Act to which sub-section (2) applies.
- (5) Sub-section (2) does not apply to any power or function or responsibility of the Minister relating to codes of practice or to the making of regulations.
- (6) On and after the commencement of section 58 of the **Accident Compensation**

**(Occupational Health and Safety) Act
1996—**

- (a) any delegation or other instrument or other document made, issued or given under this Act or the regulations before that commencement by the relevant Secretary or the relevant Department is deemed to have been made, issued or given by the relevant Minister;
 - (b) any action taken or decision made under this Act or the regulations before that commencement by the relevant Secretary or the relevant Department is deemed to have been taken or made by the relevant Minister;
 - (c) any application made or notification given to the relevant Secretary or the relevant Department under this Act or the regulations before that commencement is deemed to be an application made or notification given to the relevant Minister;
 - (d) the relevant Minister may continue and complete any other continuing matter or thing commenced by or against the relevant Secretary or the relevant Department under this Act or the regulations and existing immediately before that commencement.
- (7) Nothing in this section or any other section of this Act affects the appointment of or any notice given by or proceedings begun under this Act or the regulations by or against or in relation to an inspector appointed by the relevant Minister before the commencement of section 58 of the **Accident Compensation**

**(Occupational Health and Safety) Act
1996.'**

Division 2—Transitional Provisions

59. Definitions

In this Division—

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

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

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

60. Interpretation of Legislation Act 1984 not affected

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

61. *Superseded references*

- (1) Subject to sub-sections (2) and (3), on the commencement of this section, a reference in the regulations made under the Principal Act or any instrument or other document made, issued, served or given under the Principal Act or the regulations made under that Act—
 - (a) to the Minister is deemed to be a reference to the Authority; and
 - (b) to the Department is deemed to be a reference to the Authority; and
 - (c) to the Secretary is deemed to be a reference to the Authority.
- (2) On the commencement of this section, in the following regulations, a reference to the Minister is deemed to be a reference to the Administrative Appeals Tribunal—
 - (a) regulation 36 of the Occupational Health and Safety (Asbestos) Regulations 1992;
 - (b) regulation 16 of the Occupational Health and Safety (Noise) Regulations 1992.
- (3) Sub-section (1) does not apply to —
 - (a) any guidelines issued by the Minister under section 48(5) of the Principal Act; or
 - (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 55 of the Principal Act.

62. *Proceedings in relation to the Minister*

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

- (2) On the commencement of this section, any application made or notification, notice or request given to the Minister, the Secretary or the Department under the Principal Act or the regulations made under that Act is deemed to be an application made or notification, notice or request given to the Authority.
- (3) On and after the commencement of this section, the Authority may continue and complete any other continuing matter or thing commenced by or against or in relation to the Minister under that Principal Act or the regulations made under that Act and existing immediately before that commencement.

63. *Documents etc issued by Minister, Secretary and Department*

- (1) On and after the commencement of this section—
 - (a) any notice, requirement, determination, approval, exemption, recommendation, authorisation, confirmation, registration, direction, certificate, guideline, delegation or other instrument or document issued, served, granted, made or given under the Principal Act or the regulations made under the Principal Act by the Department, the Secretary or the Minister is deemed to have been issued, served, granted, made or given by the Authority; and
 - (b) any action taken or decision made under the Principal Act or the regulations made under the Principal Act by the Department, the

Secretary or the Minister is deemed to have been taken or made by the Authority.

(2) This section does not apply to —

- (a) any guidelines issued by the Minister under section 48(5) of the Principal Act; or
- (b) any code of practice approved by the Minister or notice caused to be published by the Minister under section 55 of the Principal Act.

64. *Information under section 9*

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

65. *Inspectors deemed to be inspectors appointed by Authority*

On and after the commencement of this section—

- (a) any former inspector holding office immediately before that commencement is deemed to be an inspector appointed by the Authority under section 38 of the Principal Act as amended by Division 1 of this Part; and
- (b) a certificate of appointment furnished by the Minister under section 38 of the Principal Act in respect of the appointment of a former inspector is deemed to be a certificate of appointment furnished by the Authority under section 38 as amended by Division 1 of this Part; and
- (c) an identification card furnished to a former inspector by the Minister under section 38 of the Principal Act is deemed to be an identification card furnished to an inspector

by the Authority under section 38 as
amended by Division 1 of this Part.

66. *Proceedings in relation to inspectors*

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

67. *Documents etc issued by inspector*

On and after the commencement of this section—

- (a) any notice, requirement, direction or other instrument or document issued, served, made or given by a former inspector under the Principal Act or the regulations made under that Act is deemed to have been issued, served, made or given by an inspector appointed by the Authority; and
 - (b) any action taken or decision made under the Principal Act or the regulations made under that Act by a former inspector is deemed to have been taken or made by an inspector appointed by the Authority.
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*Accident Compensation (Occupational Health and Safety) Act
1996*

Act No.

NOTES

By Authority. Government Printer for the State of Victoria.