

1988

THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

NATIONAL OCCUPATIONAL HEALTH AND SAFETY COMMISSION
AMENDMENT BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for
Industrial Relations, the Hon Ralph Willis MP)

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OUTLINE

The National Occupational Health and Safety Commission (the Commission) was first established by the Government in 1984. It became a statutory body on the proclamation of the National Occupational Health and Safety Commission Act 1985 (the "Principal Act") on 20 December 1985. The Commission is a tripartite body comprising representatives of Commonwealth, State and Territory governments, employers and trade unions.

The Commission's primary role is to facilitate government, employer and employee co-operation towards a uniform approach to occupational health and safety. It is responsible for the development and implementation of national occupational health and safety policies and strategies.

In 1987, a review was conducted with a view to improving the operations of the Commission and streamlining its administration. One of the recommendations which the Government accepted from the review was the separation of the functions of the Chairperson of the Commission and the Chief Executive Officer.

This was in recognition of the onerous nature of the duties of the combined position and the desirability of separating the management functions from the broader and more public role of the Chairperson.

The proposed amendments to the Principal Act separate these functions. The Chief Executive Officer will be responsible for the efficient conduct of the affairs of the Commission in accordance with policy determined by the Commission. Consequential changes are proposed to the composition of the Commission and Executive as the Chief Executive Officer will be a member of both bodies. The changes also allow the Chief Executive Officer to be the Director of the National Institute of Occupational Health and Safety so as to ensure maximum flexibility in the appointment of available and suitably qualified personnel.

The Bill further provides the Commission with a new function in relation to the evaluation of occupational hazards in workplaces and enables the Commission to constitute Committees comprising persons other than its members.

Financial Impact Statement

The financial impact of the proposed new arrangements will be small. The remuneration for the Chairman, to be determined by the Remuneration Tribunal under section 17 of the Principal Act, will change to reflect the duties of that position being of a part-time rather than a full-time nature.

There will be additional outlays for the remuneration of the person holding the proposed office of Chief Executive Officer. That remuneration will also be determined by the Remuneration Tribunal - see section 17 of the Principal Act as amended by clause 11 of the Bill.

It will be possible for the Chief Executive Officer to hold the office of Director of the National Institute of Occupational Health and Safety. If that were to occur, some savings in remuneration could be anticipated.

NOTES ON CLAUSES

Clause 1 : Commencement

This clause provides that the Bill will come into operation on the day on which it receives the Royal Assent.

Clause 2 : Short Title etc

Clause 1 provides for the short title of the Bill and defines the "Principal Act" for the purposes of the Bill to be the National Occupational Health and Safety Commission Act 1985.

Clause 3 : Interpretation

This clause makes amendments to the definition provisions of section 3 of the Principal Act. Also, new definitions of "Chief Executive Officer" and "occupational hazard" are added.

Clause 4 : Functions of Commission

Clause 4 amends section 8 of the Principal Act to provide the Commission with a new function of the evaluation of hazards in the workplace under arrangements made between the Commission and employers.

Clause 5 : Membership of Commission

Clause 5 amends section 10 of the Principal Act by:

- . providing the proposed new position of full time Chief Executive Officer to be a member of the Commission;
- . providing for the appointment of a full-time Chief Executive Officer to be for a period not exceeding 5 years, or until age 65, and on such terms and conditions (if any), in respect of matters not provided for in the Principal Act, as determined by the Governor-General;
- . providing the Chief Executive Officer with the responsibility for the conduct of the Commission consistent with policy determined by the Commission;
- . ensuring that the Chairperson is not subject to the vacancy arrangements applicable to other part-time members of the Commission who are nominated by various interest groups.

Clause 6 : Alternate Members of the Commission

Section 11 of the Principal Act is amended to remove the Chairperson from the ambit of the Minister's power to appoint alternate members to specified part-time members of the Commission.

Clause 7 : Leave of Absence

Clause 7 amends section 12 of the Principal Act by removing the part time Chairperson from the leave of absence requirements of the section and including the full time Chief Executive Officer instead.

Clause 8 : Termination of Appointments

This clause amends section 14 of the Principal Act so that the provision providing for termination on the grounds of accepting outside paid employment or for absence from duty to apply to the position of Chief Executive Officer.

Clause 9 : Disclosure of Interests of Members

Section 15 of the Principal Act is to be amended to require the Chief Executive Officer to advise the Minister of any direct or indirect pecuniary interests in a business or any body corporate carrying on a business.

Clause 10 : Acting Chief Executive Officer

A new section 16A is to be included into the Principal Act to enable the Minister to appoint a person to act in the position of Chief Executive Officer during a vacancy in the office or during absences from duty, or from Australia, or where the incumbent is unable to perform his or her duties for any other reason.

The new sub-section 16A(2) will protect the validity of any action taken by an acting Chief Executive Officer against claims of irregularities in his or her appointment or period of appointment.

Clause 11 : Remuneration

This clause amends section 17 of the Principal Act to provide the Remuneration Tribunal with a determination-making jurisdiction in respect of the Chief Executive Officer. Paragraph (b) will provide that allowances for the Chief Executive Officer may be prescribed in regulations.

Clause 12 : Expenses of Part-time Members of the Commission

Clause 12 amends section 18 of the Principal Act to ensure that the Chairperson is excluded from the operation of the section and that remuneration and allowances are determined for that office under section 17.

Clause 13 : The Executive

Clause 13 amends section 20 of the Principal Act to include the Chief Executive Officer as a member of the Executive of the Commission.

Clause 14 : Alternate Member of the Executive

This clause amends section 21 of the Principal Act to exclude the office of Chief Executive Officer from the power of the Commission to appoint an alternate member in respect of his or her membership of the Executive.

Clause 15 : Term of Office etc

This clause excludes the Chief Executive Officer from the vacant office provisions of section 22 of the Principal Act applicable to other members of the Executive other than the Chairperson.

Clause 16 : Resignation of Members of the Executive

This clause amends section 23 of the Principal Act to exclude the Chief Executive Officer from the resignation provisions applicable to other members of the Executive other than the Chairperson.

Clause 17 : Committees of Commission

Clause 17 amends section 25 of the Principal Act to enable Committees of the Commission to be constituted without a member of the Commission.

Clause 18 : Expenses of Members of the Executive, Committees and Working Parties

This clause amends section 28 of the Principal Act to provide that the Chief Executive Officer, as well as the Chairperson, is entitled to remuneration, unlike other members of the Executive Committee, its committees or working parties.

Clause 19 : Director of the Institute

Clause 19 amends section 30 of the Principal Act to provide that the office of the Director of the Institute may be filled by the person who is also the Chief Executive Officer.

A new sub-section 30(3) will provide that the Director of the Institute is to manage the day to day administration of the Institute, subject to directions of the Chief Executive Officer, where one person does not occupy both of those offices.

Clause 20 : Remuneration of Director

This clause amends section 37 of the Principal Act to ensure that no remuneration as Director of the Institute will be paid where the Director of the Institute is also the Chief Executive Officer.

Clause 21 : Staff

Clause 21 amends section 53 of the Principal Act to provide the Chief Executive Officer with the staffing powers exercised previously by the Chairperson.

Clause 22 : Arrangements Relating to Staff

Clause 22 amends section 54 of the Principal Act to provide the Chief Executive Officer with the responsibility for directing staff appointed under arrangements in accordance with that section.