



# **Safe Work Australia Amendment (Role and Functions) Act 2017**

**No. 86, 2017**

**An Act to amend the *Safe Work Australia Act 2008*,  
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)



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# Safe Work Australia Amendment (Role and Functions) Act 2017

No. 86, 2017

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**An Act to amend the *Safe Work Australia Act 2008*,  
and for related purposes**

[Assented to 16 August 2017]

The Parliament of Australia enacts:

## **1 Short title**

This Act is the *Safe Work Australia Amendment (Role and Functions) Act 2017*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after this Act receives the Royal Assent.	17 August 2017

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Main amendments**

#### ***Safe Work Australia Act 2008***

##### **1 Section 3**

Omit:

This Act creates a body called Safe Work Australia to improve occupational health and safety outcomes and workers' compensation arrangements in Australia.

substitute:

This Act creates a body called Safe Work Australia to improve work health and safety outcomes and workers' compensation arrangements in Australia.

##### **2 Section 3**

Omit:

It has various functions relating to occupational health and safety and workers' compensation (see section 6). For example, one of its functions is to prepare model OHS legislation for adoption as a law of the Commonwealth, each of the States and each of the Territories.

The Ministerial Council (a body that consists of Ministers from the Commonwealth, States and Territories) has some oversight of Safe Work Australia's activities. For example, the Council considers whether to approve the model OHS legislation that Safe Work Australia has prepared.

substitute:

It has various functions relating to work health and safety and workers' compensation (see section 6). For example, one of its

functions is to develop and evaluate a model WHS legislative framework.

The Ministers of the Commonwealth, the States and the Territories who are responsible for WHS (collectively known as the WHS Ministers) have some oversight of Safe Work Australia's activities. For example, the WHS Ministers consider whether to approve the model WHS legislative framework developed by Safe Work Australia for adoption by the Commonwealth, the States and the Territories.

### 3 Section 4

Repeal the following definitions:

- (a) definition of *approved model OHS codes of practice*;
- (b) definition of *approved model OHS legislation*;
- (c) definition of *approved OHS compliance and enforcement policy*;
- (d) definition of *Ministerial Council*;
- (e) definition of *model OHS codes of practice*;
- (f) definition of *model OHS legislation*.

### 4 Section 4

Insert:

*model WHS legislative framework* means any model Act, model regulations or model codes of practice relating to WHS, as amended from time to time, developed by Safe Work Australia for adoption by the Commonwealth, the States and the Territories.

Note: The model WHS legislative framework is developed by Safe Work Australia for approval by the WHS Ministers (see item 2 of the table in section 6).

### 5 Section 4 (definition of OHS)

Repeal the definition.

### 6 Section 4

Insert:

*WHS* means work health and safety.



**WHS Ministers** means the Minister of the Commonwealth, and the Minister of each State and Territory, who is responsible, or principally responsible, for matters relating to WHS.

## 7 After section 5

Insert:

### 5A Object

The object of the establishment of Safe Work Australia is to improve national WHS outcomes and workers' compensation arrangements by providing an inclusive tripartite forum for representatives of governments, workers and employers to:

- (a) collaborate on national WHS and workers' compensation matters; and
- (b) lead the development of evidence-based national WHS and workers' compensation policies and strategies; and
- (c) promote consistency in WHS and workers' compensation arrangements across Australia.

## 8 Section 6 (table)

Repeal the table, substitute:

<b>Functions of Safe Work Australia</b>		
<b>Item</b>	<b>Topic</b>	<b>The functions of Safe Work Australia are:</b>
1	National policy and strategy	to develop, evaluate and, if necessary, revise national WHS and workers' compensation policies and supporting strategies, including the following: <ul style="list-style-type: none"> <li>(a) a national WHS strategy, to be developed for approval by the WHS Ministers;</li> <li>(b) a national compliance and enforcement policy, to be developed for approval by the WHS Ministers, for the model WHS legislative framework; and</li> </ul>
2	Model WHS legislative framework and other WHS material	(a) to develop, evaluate and, if necessary, revise: <ul style="list-style-type: none"> <li>(i) a model WHS legislative framework, to be developed for approval by the WHS Ministers for adoption by the Commonwealth, the States and the Territories; and</li> </ul>

**Schedule 1** Amendments  
**Part 1** Main amendments

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**Functions of Safe Work Australia**

<b>Item</b>	<b>Topic</b>	<b>The functions of Safe Work Australia are:</b>
		(ii) other material relating to WHS; and (b) to monitor the adoption by the Commonwealth, the States and the Territories of the model WHS legislative framework approved by the WHS Ministers; and
3	Workers' compensation	to develop proposals to improve workers' compensation arrangements, and to promote national consistency in such arrangements; and
4	Evidence	to: (a) collect, analyse and publish relevant data; and (b) undertake and publish research; to inform the development and evaluation of WHS and workers' compensation policies and strategies; and
5	Education and communication	to develop and implement national education and communication strategies and initiatives: (a) to support improvements in WHS outcomes and workers' compensation arrangements; and (b) to promote national consistency in such strategies and initiatives; and
6	Collaboration	to collaborate with the Commonwealth, the States and the Territories, and other national and international bodies, on WHS and workers' compensation policy matters of national importance; and
7	Advising the WHS Ministers	to advise the WHS Ministers on national policy matters and initiatives relating to WHS and workers' compensation; and
8	Other conferred functions	such other functions that are conferred on it by, or under, this Act or any other Commonwealth Act.

**9 Transitional provision—things done by, or in relation to, the Ministerial Council**

Anything done by, or in relation to, the Ministerial Council under the *Safe Work Australia Act 2008* before the commencement of this item has effect after that commencement as if the thing had been done by, or in relation to, the WHS Ministers.

## **Part 2—Consequential amendments**

### ***Safe Work Australia Act 2008***

#### **10 Subsection 11(2) (heading)**

Repeal the heading, substitute:

*Consultation of WHS Ministers*

#### **11 Subsection 11(2)**

Omit “Ministerial Council has”, substitute “WHS Ministers have”.

#### **12 Subsection 12(2) (heading)**

Repeal the heading, substitute:

*Consultation of WHS Ministers*

#### **13 Subsection 12(2)**

Omit “Ministerial Council has”, substitute “WHS Ministers have”.

#### **14 Section 26 (paragraph relating to Division 2)**

Omit “Ministerial Council for approval. Once the Ministerial Council approves”, substitute “WHS Ministers for approval. Once the WHS Ministers approve”.

#### **15 Section 26 (paragraph relating to Division 3)**

Omit “Ministerial Council for approval. Once the Ministerial Council approves”, substitute “WHS Ministers for approval. Once the WHS Ministers approve”.

#### **16 Section 26 (paragraph relating to Division 4)**

Omit “Ministerial Council”, substitute “WHS Ministers”.

#### **17 Subsection 27(1)**

Omit “Ministerial Council”, substitute “WHS Ministers”.

**18 Subsection 28(1) (heading)**

Repeal the heading, substitute:

*WHS Ministers to approve or refuse plan*

**19 Subsection 28(1)**

Omit “Ministerial Council, the Council”, substitute “WHS Ministers, the WHS Ministers”.

**20 Subsection 28(1) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give approvals or refusals by resolution of the WHS Ministers: see section 69.

**21 Subsection 28(2) (heading)**

Repeal the heading, substitute:

*WHS Ministers’ directions to alter plan*

**22 Subsection 28(2)**

Omit “Ministerial Council refuses to approve the draft plan, the Council”, substitute “WHS Ministers refuse to approve the draft plan, the WHS Ministers”.

**23 Subsection 28(2) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give directions by resolution of the WHS Ministers: see section 69.

**24 Subsection 28(4) (heading)**

Repeal the heading, substitute:

*CEO to comply with WHS Ministers’ directions*

**25 Subsection 28(5) (heading)**

Repeal the heading, substitute:

*When WHS Ministers must approve plan*

**26 Subsection 28(5)**

Omit “Ministerial Council” (first occurring), substitute “WHS Ministers”.

**27 Paragraph 28(5)(a)**

Omit “Council”, substitute “WHS Ministers”.

**28 Subsection 28(5)**

Omit “Ministerial Council” (second occurring), substitute “WHS Ministers”.

**29 Subsection 28(5) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give approvals or refusals by resolution of the WHS Ministers: see section 69.

**30 Subsections 28(6) and (8) and 29(1)**

Omit “Ministerial Council”, substitute “WHS Ministers”.

**31 Subsection 30(1) (heading)**

Repeal the heading, substitute:

*WHS Ministers to approve or refuse plan*

**32 Subsection 30(1)**

Omit “Ministerial Council, the Council”, substitute “WHS Ministers, the WHS Ministers”.

**33 Subsection 30(1) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give approvals or refusals by resolution of the WHS Ministers: see section 69.

**34 Subsection 30(2) (heading)**

Repeal the heading, substitute:

*WHS Ministers' directions to alter plan*

**35 Subsection 30(2)**

Omit "Council refuses to approve the draft plan, the Council", substitute "WHS Ministers refuse to approve the draft plan, the WHS Ministers".

**36 Paragraph 30(2)(b)**

Omit "Council", substitute "WHS Ministers".

**37 Subsection 30(2) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give directions by resolution of the WHS Ministers: see section 69.

**38 Subsection 30(4) (heading)**

Repeal the heading, substitute:

*CEO to comply with WHS Ministers' directions*

**39 Subsection 30(5) (heading)**

Repeal the heading, substitute:

*When WHS Ministers must approve plan*

**40 Subsection 30(5)**

Omit "Ministerial Council" (first, second and third occurring), substitute "WHS Ministers".

**41 Subsection 30(5) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give approvals or refusals by resolution of the WHS Ministers: see section 69.

**42 Subsection 30(6)**

Omit "Ministerial Council approves", substitute "WHS Ministers approve".

**43 Subsection 30(8)**

Omit "Ministerial Council", substitute "WHS Ministers".

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**44 Division 4 of Part 4 (heading)**

Repeal the heading, substitute:

**Division 4—WHS Ministers’ directions to alter corporate  
or operational plans**

**45 Section 31 (heading)**

Repeal the heading, substitute:

**31 WHS Ministers’ directions to alter corporate plan**

**46 Subsection 31(1) (heading)**

Repeal the heading, substitute:

*WHS Ministers’ directions*

**47 Subsection 31(1)**

Omit “Ministerial Council” (first occurring), substitute “WHS Ministers”.

**48 Paragraph 31(1)(b)**

Omit “Council”, substitute “WHS Ministers”.

**49 Subsection 31(1) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give a direction by resolution of the WHS Ministers: see section 69.

**50 Subsection 31(3) (heading)**

Repeal the heading, substitute:

*CEO to comply with WHS Ministers’ directions*

**51 Subsection 31(4) (heading)**

Repeal the heading, substitute:

*When WHS Ministers must approve alterations to plan*

**52 Subsection 31(4)**

Omit “Ministerial Council” (first, second and third occurring), substitute “WHS Ministers”.

**53 Subsection 31(4) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give approvals or refusals by resolution of the WHS Ministers: see section 69.

**54 Subsections 31(5) and (7)**

Omit “Ministerial Council”, substitute “WHS Ministers”.

**55 Section 32 (heading)**

Repeal the heading, substitute:

**32 WHS Ministers’ directions to alter operational plan**

**56 Subsection 32(1) (heading)**

Repeal the heading, substitute:

*WHS Ministers’ directions*

**57 Subsection 32(1)**

Omit “Ministerial Council” (first occurring), substitute “WHS Ministers”.

**58 Paragraph 32(1)(b)**

Omit “Council”, substitute “WHS Ministers”.

**59 Subsection 32(1) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give a direction by resolution of the WHS Ministers: see section 69.

**60 Subsection 32(3) (heading)**

Repeal the heading, substitute:

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*CEO to comply with WHS Ministers' directions*

**61 Subsection 32(4) (heading)**

Repeal the heading, substitute:

*When WHS Ministers must approve alterations to plan*

**62 Subsection 32(4)**

Omit "Ministerial Council" (first, second and third occurring),  
substitute "WHS Ministers".

**63 Subsection 32(4) (note)**

Repeal the note, substitute:

Note: The WHS Ministers give approvals or refusals by resolution of the  
WHS Ministers: see section 69.

**64 Subsection 32(5)**

Omit "Ministerial Council approves", substitute "WHS Ministers  
approve".

**65 Subsection 32(7)**

Omit "Ministerial Council", substitute "WHS Ministers".

**66 Section 33 (paragraph relating to Division 2)**

Omit "model OHS legislation or model OHS codes of practice",  
substitute "model WHS legislative framework".

**67 Subsections 37(3) and 38(2)**

Omit "model OHS legislation or model OHS codes of practice",  
substitute "model WHS legislative framework".

**68 Subsection 42(2) (heading)**

Repeal the heading, substitute:

*Decisions about model WHS legislative framework*

**69 Subsection 42(2)**

Omit "model OHS legislation or model OHS codes of practice",  
substitute "model WHS legislative framework".

**70 Section 69**

Repeal the section, substitute:

**69 How WHS Ministers give directions etc.**

The WHS Ministers are to give a direction, an approval or a refusal for the purposes of a provision of this Act by resolution of the WHS Ministers passed in accordance with the procedures determined by the WHS Ministers.

**71 Section 70**

Omit “Ministerial Council”, substitute “WHS Ministers”.

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*[Minister’s second reading speech made in—  
House of Representatives on 31 May 2017  
Senate on 10 August 2017]*

(88/17)

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