

2004-2005

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Occupational Health and Safety
(Commonwealth Employment)
Amendment Bill 2005**

No. , 2005

(Employment and Workplace Relations)

***A Bill for an Act to amend the *Occupational Health
and Safety (Commonwealth Employment) Act 1991*,
and for related purposes***

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1 **A Bill for an Act to amend the *Occupational Health***
2 ***and Safety (Commonwealth Employment) Act 1991,***
3 **and for related purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Occupational Health and Safety*
7 *(Commonwealth Employment) Amendment Act 2005.*

8 **2 Commencement**

9 (1) Each provision of this Act specified in column 1 of the table
10 commences, or is taken to have commenced, in accordance with
11 column 2 of the table. Any other statement in column 2 has effect
12 according to its terms.
13

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	
2. Schedule 1	A day or days to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 2	The 28th day after the day on which this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by the Parliament and assented to. It will not be expanded to
3 deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table contains additional information that is not
5 part of this Act. Information in this column may be added to or
6 edited in any published version of this Act.

7 **3 Schedule(s)**

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9 repealed as set out in the applicable items in the Schedule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

1
2 **Schedule 1—Amendment of the Occupational**
3 **Health and Safety (Commonwealth**
4 **Employment) Act 1991**

5 **Part 1—Amendments**

6 **1 Subsection 5(1)**

7 Insert:

8 *association* means an association of employees, a principal
9 purpose of which is the protection and promotion of the
10 employees' interests in matters concerning their employment.

11 **2 Subsection 5(1)**

12 Insert:

13 *employee representative* means:

- 14 (a) in relation to an employee of an employer—a registered
15 organisation of employees, or an association, of which the
16 employee is a member, being an employee who is qualified
17 to be such a member by virtue of the work the employee
18 performs as an employee of the employer; or
19 (b) in relation to a designated work group—a registered
20 organisation of employees, or an association, of which an
21 employee included in the group is a member, being an
22 employee who is qualified to be such a member by virtue of
23 the work the employee performs as an employee included in
24 the group.

25 **3 Subsection 5(1)**

26 Insert:

27 *health and safety management arrangements* means the health
28 and safety management arrangements referred to in paragraph
29 16(2)(d).

30 **4 Subsection 5(1) (definition of *involved union*)**

31 Repeal the definition.

1 **5 Subsection 5(1)**

2 Insert:

3 *registered organisation* means:

- 4 (a) an organisation within the meaning of Schedule 1B to the
5 *Workplace Relations Act 1996*; or
6 (b) a body that is declared by the regulations to be a registered
7 organisation for the purposes of this Act.

8 **6 Subsection 5(1) (definition of *registered union*)**

9 Repeal the definition.

10 **7 At the end of paragraph 12(1)(b)**

11 Add “(including the matters that should be covered by health and safety
12 management arrangements)”.

13 **8 At the end of subsection 12(1)**

14 Add:

- 15 ; (h) to issue any directions that the Commission considers to be
16 appropriate to employers on the conduct of elections under
17 section 25A for health and safety representatives.

18 **9 Paragraph 16(2)(d)**

19 Repeal the paragraph, substitute:

- 20 (d) to develop, in consultation with the employees of the
21 employer, written health and safety management
22 arrangements that will:
23 (i) enable effective cooperation between the employer and
24 the employees in promoting and developing measures to
25 ensure the employees’ health, safety and welfare at
26 work; and
27 (ii) provide adequate mechanisms for informing the
28 employees about the arrangements; and
29 (iii) provide adequate mechanisms for reviewing the
30 effectiveness of the arrangements; and
31 (iv) provide adequate mechanisms for the variation of the
32 arrangements in consultation with the employees; and
33 (v) provide for a dispute resolution mechanism to deal with
34 disputes arising in the course of consultations held
-

- 1 under this Act (other than section 24) between the
2 employer and the employees; and
3 (vi) in the case of an employer who is required under
4 section 34 to establish a health and safety committee—
5 provide for the manner in which the health and safety
6 committee is to be constituted and to operate; and
7 Note: The establishment of health and safety committees is dealt with
8 in section 34.

9 **10 After subsection 16(2)**

10 Insert:

- 11 (2A) An instrument setting out health and safety arrangements
12 developed under subsection (1) is not a legislative instrument.

13 **11 Subsection 16(3)**

14 Repeal the subsection, substitute:

- 15 (3) Without limiting the matters that may be covered by health and
16 safety management arrangements developed by an employer as
17 mentioned in paragraph (2)(d), such arrangements may provide for
18 the following:
19 (a) a written occupational health and safety policy in respect of
20 the employer and the employees of the employer;
21 (b) arrangements relating to risk management;
22 (c) the making of agreements between the employer, the
23 employees of the employer and their employee
24 representatives in relation to:
25 (i) continuing consultation, between the employer, the
26 employees of the employer and their employee
27 representatives on occupational health and safety
28 matters; and
29 (ii) such other matters (if any) as are agreed between the
30 employer, the employees of the employer and their
31 employee representatives;
32 (d) training in relation to occupational health and safety.

33 **12 After section 16**

34 Insert:

1 **16A Development of health and safety management arrangements**

- 2 (1) In developing or varying health and safety management
3 arrangements, an employer must have regard to any advice of the
4 Commission on the matter (whether the advice has been given to
5 that employer, or to employers generally).
- 6 (2) An employee of an employer who is holding consultations to
7 develop or vary health and safety management arrangements may
8 be represented in the consultations by one of the following if the
9 employee so requests:
- 10 (a) another employee of the employer;
11 (b) an employee representative in relation to the employee.
- 12 (3) To avoid doubt, if an employee of an employer is represented
13 under subsection (2), this does not prevent the employee, an
14 employee mentioned in paragraph (2)(a) or any other employee of
15 the employer from being involved in the consultations.

16 **16B Certificate evidencing employee representative's entitlement to**
17 **be involved in consultations**

- 18 (1) If the Chief Executive Officer of Comcare is satisfied, on
19 application by an employee representative, that an employee in
20 relation to the employee representative has requested:
- 21 (a) that the employee representative represent the employee in
22 consultations held by an employer in the course of
23 developing or varying health and safety management
24 arrangements; and
25 (b) that the identity of the employee not be revealed;
26 the Chief Executive Officer may issue a certificate to the effect that
27 the employee representative is entitled to represent the employee in
28 such consultations.
- 29 (2) The application must be in the prescribed form.
- 30 (3) The certificate must not identify any of the employees concerned.
31 However, it must identify the employee representative, the
32 employer and the proposed consultations.
- 33 (4) An employee representative in relation to whom a certificate has
34 been issued must not reveal the identity of an employee whom the

1 employee representative is authorised by the certificate to
2 represent.

3 (5) The certificate ceases to have effect at the earlier of:

4 (a) the time when the Chief Executive Officer of Comcare
5 considers that each of the employees who requested to be
6 represented by the employee representative in consultations
7 identified by the certificate has requested that the certificate
8 cease to have effect; and

9 (b) the end of the 12 month period that started when the
10 certificate was issued.

11 (6) If a certificate ceases to have effect under paragraph (5)(a), the
12 Chief Executive Officer of Comcare must notify the employee
13 representative, and the employer, in writing.

14 (7) A notification under subsection (6) is not a legislative instrument.

15 (8) A certificate is, for all purposes of this Act, prima facie evidence of
16 the matters stated in it.

17 (9) The Chief Executive Officer of Comcare may delegate to the
18 Deputy Chief Executive Officer of Comcare his or her power under
19 subsection (1). The delegation must be in writing.

20 (10) Nothing in this section implies that an employee representative in
21 respect of whom a certificate has not been issued cannot represent
22 employees in consultations with the employer of those employees.

23 **13 Subsection 20(1)**

24 Repeal the subsection (including the note), substitute:

25 (1) A person who erects or installs any plant in a workplace for the use
26 of employees at work must take all reasonably practicable steps to
27 ensure that the plant is not erected or installed in such a manner
28 that:

29 (a) the plant is unsafe for, or constitutes a risk to the health of,
30 employees at the workplace where the plant is erected or
31 installed; or

32 (b) the process of erection or installation is unsafe for, or
33 constitutes a risk to the health of, employees at the workplace
34 where the plant is erected or installed.

1 consultations with an employee representative in relation to
2 the designated work group—that employee representative.

3 **16 After section 24**

4 Insert:

5 **24A Consultations on designated work groups are health and safety**
6 **management arrangement consultations**

7 For the purposes of this Act, consultations under section 24 are
8 taken to be consultations to develop health and safety management
9 arrangements. However, for the purposes of developing health and
10 safety management arrangements as described in paragraph
11 16(2)(d), it is not sufficient for an employer merely to hold
12 consultations under section 24.

13 **24B List of designated work groups**

- 14 (1) An employer must:
- 15 (a) prepare and keep up to date a written list of all designated
16 work groups comprising employees performing work for the
17 employer; and
- 18 (b) ensure that the list is available for inspection by investigators
19 and the employees at all reasonable times.
- 20 (2) The list must describe the categories of employees included in each
21 designated work group.
- 22 (3) The list is not a legislative instrument.

23 **17 Subsections 25(4) to (10)**

24 Repeal the subsections, substitute:

- 25 (4) If a person is selected as the health and safety representative for a
26 designated work group under paragraph (3)(a), the person must, by
27 written notice, inform the employer of the employees in the group
28 of this fact as soon as practicable after the selection is made.
- 29 (5) A notice under subsection (4) is not a legislative instrument.

30 Note: The heading to section 25 is replaced by the heading “**Selection of health and safety**
31 **representatives**”.

1 **18 After section 25**

2 Insert:

3 **25A Election of health and safety representatives**

4 (1) If:

5 (a) there is a vacancy in the office of health and safety
6 representative for a designated work group; and

7 (b) within a reasonable time after the vacancy occurs, a person
8 has not been selected under paragraph 25(3)(a);

9 the employer of the employees in the designated work group must
10 invite nominations from all employees in the group for election as
11 the health and safety representative of the group.

12 (2) If the office of health and safety representative is vacant and the
13 employer has not invited nominations within a further reasonable
14 time that is no later than 6 months after the vacancy occurred, the
15 Commission may direct the employer in writing to do so.

16 (3) A direction by the Commission under subsection (2) is not a
17 legislative instrument.

18 (4) If there is more than one candidate for election at the close of the
19 nomination period, the employer must conduct, or arrange for the
20 conduct of, an election at the employer's expense.

21 (5) An election conducted or arranged to be conducted under
22 subsection (4) must be conducted in accordance with regulations
23 made for the purposes of this subsection if this is requested by the
24 lesser of:

25 (a) 100 employees normally in the designated work group; or

26 (b) a majority of the employees normally in the designated work
27 group.

28 (6) If there is only one candidate for election at the close of the
29 nomination period, that person is taken to have been elected.

30 (7) A person cannot be a candidate in the election if he or she is
31 disqualified under section 32.

32 (8) All the employees in the designated work group are entitled to vote
33 in the election.

- 1 (9) An employer conducting or arranging for the conduct of an
2 election under this section must comply with any relevant
3 directions issued by the Commission.

4 **25B List of health and safety representatives**

- 5 (1) An employer must:
6 (a) prepare and keep up to date a written list of all the health and
7 safety representatives of designated work groups comprising
8 employees performing work for the employer; and
9 (b) ensure that the list is available for inspection by investigators
10 and the employees at all reasonable times.
11 (2) The list is not a legislative instrument.

12 **25C Employees must be notified of selection etc. of health and safety**
13 **representative**

- 14 (1) The employer of employees in a designated work group must, by
15 written instrument:
16 (a) notify those employees of a vacancy in the office of health
17 and safety representative for the designated work group
18 within a reasonable time after the vacancy arises; and
19 (b) notify those employees of the name of any person selected
20 (whether under paragraph 25(3)(a) or 25(3)(b)) as health and
21 safety representative for the designated work group within a
22 reasonable time after the selection is made.
23 (2) A notification under subsection (1) is not a legislative instrument.

24 **19 Section 26**

25 Repeal the section, substitute:

26 **26 Term of office**

- 27 (1) A health and safety representative for a designated work group
28 holds office for the period specified in the health and safety
29 management arrangements applying to the employees in the
30 designated work group, but is eligible to be selected for further
31 terms of office.

1 (2) If a period is not specified in health and safety management
2 arrangements applying to the designated work group, the term of
3 office is 2 years.

4 (3) This section is subject to sections 26A and 31.

5 **26A Casual vacancy**

6 If a person (the *retiring representative*) ceases to hold office as a
7 health and safety representative before the end of the person's term
8 of office, the person selected to fill the vacancy holds office:

9 (a) if the vacancy occurred more than 6 months before the
10 retiring representative's term of office ended—for the
11 remainder of the retiring representative's term; and

12 (b) if the vacancy occurred within the period of 6 months before
13 the retiring representative's term of office ended—for the
14 remainder of the retiring representative's term and for the
15 next term of office.

16 **20 Subsection 29(8)**

17 Omit "the Commission", substitute "Comcare".

18 **21 After paragraph 31(1)(b)**

19 Insert:

20 (ba) the designated work group is varied under subsection 24(6)
21 and the variation results in a change to the membership of the
22 group; or

23 **22 Subsections 31(2) to (4)**

24 Repeal the subsections, substitute:

25 (2) A person may resign as the health and safety representative for a
26 designated work group by notice in writing delivered to the
27 employer of the employees in the group.

28 (3) If a person resigns as the health and safety representative for a
29 designated work group, the person must notify the employees
30 included in the group of the resignation.

31 **23 Subsection 32(1)**

1 Omit “or by an involved union”, substitute “or, at the request of an
2 employee in the designated work group, by an employee
3 representative”.

4 **24 After subsection 33(2)**

5 Insert:

6 (2A) If an election for a deputy health and safety representative is to be
7 held, the employer of the employees in the designated work group
8 must invite nominations for the election from all the employees in
9 the designated work group.

10 (2B) Subsections 25A(3) to (8) apply to the election.

11 Note: Subsections 25A(1) and (2) do not apply in relation to deputy health
12 and safety representatives because the selection of a deputy is
13 optional, not required, for each designated work group.

14 (2C) The following provisions apply to a deputy health and safety
15 representative in the same way as they apply to a health and safety
16 representative:

- 17 (a) section 31 (resignation etc. of health and safety
18 representative);
19 (b) section 32 (disqualification of health and safety
20 representatives).

21 **25 Section 34**

22 Repeal the section, substitute:

23 **34 Health and safety committees**

24 (1) An employer must, by written instrument, establish a health and
25 safety committee in respect of the employer’s employees if the
26 number of the employer’s employees is normally not less than 50.

27 (2) An employer must also, by written instrument, establish a health
28 and safety committee in respect of the employer’s employees in a
29 particular workplace if:

- 30 (a) the number of the employer’s employees in the workplace is
31 normally not less than 50; and
32 (b) either:
33 (i) a health and safety representative of a designated work
34 group comprising employees performing work for the
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Employment) Act 1991

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1 employer in the workplace gives a written request to the
2 employer asking the employer to establish such a
3 committee; or

4 (ii) a majority of the employees in the workplace give a
5 written request to the employer asking the employer to
6 establish such a committee.

7 (3) Subject to subsection (4), a health and safety committee established
8 under subsection (1) or (2) is to be constituted and to operate in
9 accordance with the health and safety management arrangements
10 applying to the employer's employees.

11 Note: Subparagraph 16(2)(d)(vi) requires health and safety management
12 arrangements to provide for the manner in which the health and safety
13 committee is to be constituted and to operate.

14 (4) The number of members of a health and safety committee chosen
15 by the employer to represent the interests of the employer must not
16 exceed the number of members chosen by the employees to
17 represent the interests of the employees.

18 (5) Nothing in this section prevents an employer from establishing, in
19 consultation with its employees or any other persons, by written
20 instrument:

- 21 (a) subcommittees of a health and safety committee; or
22 (b) committees concerned with occupational health and safety in
23 relation to undertakings carried on by the employer; or
24 (c) other committees concerned, in whole or in part, with
25 occupational health and safety.

26 (6) An instrument establishing a health and safety committee under
27 subsection (1) or (2), or a subcommittee or other committee under
28 subsection (5), is not a legislative instrument.

29 **26 Subsection 37(3)**

30 Omit "the Commission", substitute "Comcare".

31 **27 Section 39**

32 Repeal the section, substitute:

1 **38A Comcare may advise employers etc.**

2 Comcare may advise employers, employees or contractors, either
3 on its own initiative or on request, on occupational health and
4 safety matters affecting those employers, employees or contractors.

5 **39 Referral of persons seeking advice to experts**

6 If:

- 7 (a) Comcare has been requested to advise an employer,
8 employee or contractor about an occupational health and
9 safety matter; and
10 (b) Comcare considers that a person other than a member of the
11 staff of, or a consultant to, Comcare has special knowledge or
12 experience relevant to the request;

13 Comcare may refer the employer, employee or contractor to the
14 person.

15 **28 Subsection 41(2)**

16 Omit “The Commission”, substitute “Comcare or the Commission”.

17 **29 Subsection 41(2)**

18 Omit all the words after “must”, substitute:

19 conduct an investigation accordingly, unless:

- 20 (d) in the case of a direction given by Comcare—Comcare or the
21 Commission revokes the direction; or
22 (e) in the case of a direction given by the Commission—the
23 Commission revokes the direction.

24 **30 Subsection 41(3)**

25 Omit “The Commission”, substitute “Comcare or the Commission”.

26 **31 Subsection 41(3)**

27 Omit all the words after “must”, substitute:

28 conduct an investigation accordingly, unless:

- 29 (a) in the case of a direction given by Comcare—Comcare or the
30 Commission revokes the direction; or
31 (b) in the case of a direction given by the Commission—the
32 Commission revokes the direction.

1 **32 Subsection 41(4)**

2 Omit “Before giving a direction under subsection (3), the Commission”,
3 substitute “Before Comcare or the Commission gives a direction under
4 subsection (3), the body about to give the direction”.

5 **33 Subsection 41(5)**

6 Repeal the subsection, substitute:

- 7 (5) An employee representative in relation to an employee may, if
8 requested by the employee, make a request to Comcare or to the
9 Commission that an investigation be conducted at a workplace at
10 which the employee performs work for an employer.

11 **34 At the end of section 43**

12 Add:

- 13 (3) If a person gives an investigator documents or copies of documents
14 under subsection (1), the investigator must return them to the
15 person as soon as practicable after:
16 (a) they are no longer needed in connection with the conduct of
17 the investigation; and
18 (b) either:
19 (i) a decision is made by the investigator not to use the
20 documents or copies in evidence for proceedings for an
21 offence against this Act or the regulations; or
22 (ii) the documents or copies have been used in such
23 proceedings.

24 **35 Subsection 47(7)**

25 Repeal the subsection.

26 **36 Paragraph 48(1)(k)**

27 Repeal the paragraph.

28 **37 Before paragraph 48(1)(m)**

29 Insert:

- 30 (l) an employee representative in relation to the designated work
31 group that includes an employee affected by the decision
32 who has requested the employee representative to make the
33 appeal; or
-

1 **38 Paragraph 48(1)(m)**

2 Repeal the paragraph, substitute:

- 3 (m) if there is no such designated work group and an employee
4 affected by the decision has requested an employee
5 representative in relation to the employee to make the
6 appeal—that employee representative; or

7 **39 Paragraphs 48(2)(d) and (e)**

8 Repeal the paragraphs, substitute:

- 9 (d) if an employee affected by the decision has requested an
10 employee representative in relation to the designated work
11 group to make the appeal—that employee representative; or
12 (e) if there is no such designated work group and an employee
13 affected by the decision has requested an employee
14 representative in relation to the employee to make the
15 appeal—that employee representative.

16 **40 Section 50**

17 Repeal the section, substitute:

18 **50 Notices not to be tampered with or removed**

19 A person must not:

- 20 (a) tamper with any notice, or copy of a notice, that has been
21 displayed under subsection 44(3), 45(3), 45(8), 46(9), 46(12),
22 47(8) or 47(11) while that notice is so displayed; or
23 (b) remove any notice, or copy of a notice, that has been so
24 displayed:
25 (i) in the case of a notice displayed under subsection
26 44(3)—until the plant or thing to which the notice
27 relates is returned to the workplace from which it was
28 removed; or
29 (ii) in the case of a notice displayed under subsection 45(3),
30 45(8), 46(9), 46(12), 47(8) or 47(11)—before the notice,
31 or direction to which the notice relates, as the case
32 requires, has expired or been revoked or a new notice
33 issued following the variation of the notice or direction.

34 Note: A person who breaches section 50 may be subject to a criminal
35 prosecution (see Schedule 2).

1 **41 Paragraphs 67C(a) and (c)**

2 Omit “*Commonwealth Employees’ Rehabilitation and Compensation*
3 *Act 1988*”, substitute “*Safety, Rehabilitation and Compensation Act*
4 *1988*”.

5 **42 Subsection 68(1)**

6 Omit “, and such a report concerning,”.

7 Note: The heading to section 68 is altered by omitting “**and reporting**”.

8 **43 Subsection 68(2)**

9 Repeal the subsection, substitute:

10 (2) Without limiting the provision that may be made by regulations
11 made for the purposes of this section, the regulations (not being
12 regulations made for the purpose of paragraph (1)(b)) may include
13 provisions relating to:

14 (a) the time within which notice of an accident or dangerous
15 occurrence must be given; and

16 (b) the manner in which the notice must be given; and

17 (c) the form of the notice.

18 **44 Subsection 70(7)**

19 Omit “the offices of the Commission”, substitute “each of the offices of
20 Comcare”.

21 **45 Paragraph 74(1)(c)**

22 Repeal the paragraph, substitute:

23 (c) the health and safety management arrangements of the Entity
24 or authority;

25 **46 Paragraph 74(1)(d)**

26 Omit “measures”, substitute “initiatives”.

27 **47 After paragraph 74(1)(d)**

28 Insert:

29 (da) health and safety outcomes (including the impact on injury
30 rates of employees and contractors of the Entity or authority)
31 achieved as a result of initiatives mentioned under
32 paragraph (d) or previous initiatives;

1 **48 Paragraph 74(1)(f)**

2 Repeal the paragraph, substitute:

- 3 (f) any investigations conducted during the year that relate to
4 undertakings carried on by the employer, including details of
5 all notices given to the employer under section 29, 46 or 47
6 during the year;

7 **49 Paragraph 74(1)(g)**

8 Repeal the paragraph, substitute:

- 9 (g) such other matters as are required by guidelines approved on
10 behalf of the Parliament by the Joint Committee of Public
11 Accounts and Audit.

12 **50 Subsections 77(1) and (2)**

13 Repeal the subsections, substitute:

- 14 (1) Proceedings for a breach of this Act or the regulations may be
15 instituted by Comcare or by an investigator.
- 16 (2) A health and safety representative for a designated work group
17 may request Comcare to institute proceedings for a breach of this
18 Act or the regulations in relation to the occurrence of an act or
19 omission if:
20 (a) a period of 6 months has elapsed since the act or omission
21 occurred; and
22 (b) the health and safety representative considers that the
23 occurrence of the act or omission constitutes a breach of this
24 Act or the regulations; and
25 (c) proceedings in respect of the breach have not been instituted.
- 26 (2A) An employee representative in relation to a designated work group
27 may request Comcare to institute proceedings for a breach of this
28 Act or the regulations in relation to the occurrence of an act or
29 omission if:
30 (a) a period of 6 months has elapsed since the act or omission
31 occurred; and
32 (b) the employee representative considers that the occurrence of
33 the act or omission constitutes a breach of this Act or the
34 regulations; and

Schedule 1 Amendment of the Occupational Health and Safety (Commonwealth
Employment) Act 1991

Part 1 Amendments

1 (c) proceedings in respect of the breach have not been instituted;
2 and

3 (d) an employee included in the group requests the employee
4 representative to request Comcare to institute the
5 proceedings.

6 (2B) A request under subsection (2) or (2A) must be in writing.

7 **51 Subsection 77(3)**

8 After “subsection (2)”, insert “or (2A)”.

9 **52 Subsection 77(3)**

10 Omit “involved union”, substitute “employee representative”.

11 **53 Paragraph 82(1)(c)**

12 Omit “25”, substitute “25A”.

13 **54 Paragraphs 82(1)(d) and (e)**

14 Repeal the paragraphs.

15 **55 Schedule 1**

16 Repeal the Schedule, substitute:

17 **Schedule 1—Government business**
18 **enterprises**

19 Note: See section 5 (definition of *Government business enterprise*).

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Australian Industry Development Corporation
Australian Government Solicitor
Australian Postal Corporation
Defence Housing Authority

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Part 2—Transitional, application and saving provisions

Division 1—Provisions relating to health and safety management arrangements

56 Definitions

In this Part:

commencement means the time at which item 9 of this Schedule commences.

OHS (CE) Act means the *Occupational Health and Safety (Commonwealth Employment) Act 1991*.

57 Health and safety management arrangements

- (1) This item applies for the period of 18 months after commencement.
- (2) An employer is not to be taken to breach subsection 16(1) of the OHS (CE) Act as in force after commencement by reason only of the employer having failed to develop health and safety management arrangements under paragraph 16(2)(d) of that Act.

58 Occupational health and safety policies

- (1) The amendment made by item 9 of this Schedule is not to be taken to affect the operation, after commencement, of an occupational health and safety policy that:
 - (a) was developed under paragraph 16(2)(d) of the OHS (CE) Act as in force before commencement; and
 - (b) applied to employees of an employer immediately before commencement.
- (2) However, the policy ceases to apply to the employees once health and safety management arrangements have been developed by the employer under paragraph 16(2)(d) of the OHS (CE) Act as in force after commencement, unless those arrangements provide for the policy to continue to apply.

59 Agreements between employers and involved unions

Schedule 1 Amendment of the Occupational Health and Safety (Commonwealth Employment) Act 1991

Part 2 Transitional, application and saving provisions

- 1 (1) The amendment made by item 11 of this Schedule is not to be taken to
2 affect the operation, after commencement, of an agreement of the kind
3 referred to in subsection 16(3) of the OHS (CE) Act as in force
4 immediately before commencement.
- 5 (2) However, the agreement ceases to have effect if the occupational health
6 and safety policy under which it is made ceases to apply.
- 7 (3) The amendment made by item 14 of this Schedule is not to be taken to
8 affect the operation, after commencement, of an agreement of the kind
9 referred to in paragraph 21(2)(a) of the OHS (CE) Act as in force
10 immediately before commencement.

11 **Division 2—Provisions relating to designated work**
12 **groups and health and safety representatives**

13 **60 Definitions**

14 In this Part:

15 *commencement* means the time at which item 15 of this Schedule
16 commences.

17 *OHS (CE) Act* means the *Occupational Health and Safety*
18 *(Commonwealth Employment) Act 1991*.

19 **61 Designated work groups**

20 A designated work group in existence immediately before
21 commencement continues in existence after commencement as if it had
22 been established under section 24 of the OHS (CE) Act as in force after
23 commencement.

24 **62 Consultations**

- 25 (1) This item applies for the period of 3 months after commencement.
- 26 (2) If consultations under section 24 of the OHS (CE) Act had begun but
27 had not been completed before commencement, the consultations are to
28 be completed as if the amendment made by item 15 of this Schedule
29 had not been made.

30 **63 Health and safety representative**

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Schedule 2—Consequential amendments of other Acts

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Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001

8

1 Subsection 2(3)

9

Repeal the subsection.

10

2 Schedule 1 (Act heading after item 88)

11

Repeal the heading.

12

3 Items 89 to 132 of Schedule 1

13

Repeal the items.