



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 137 of 1972

An Act to provide for the Safety, Health and Welfare of persons employed or engaged in Industry; for the safety of persons affected by Industry, and for other purposes.

[Assented to 7th December, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Industrial Safety, Health and Welfare Act, 1972". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. This Act is divided as follows:—

Division of Act.

PART I—PRELIMINARY

PART II—ADMINISTRATION—

DIVISION I—THE BOARD

DIVISION II—INSPECTORS

PART III—NOTIFICATIONS, REGISTRATIONS, ETC.—

DIVISION I—INDUSTRIAL PREMISES

DIVISION II—CONSTRUCTION WORK

DIVISION III—WORK INJURIES AND ACCIDENTS

PART IV—DUTIES AND OBLIGATIONS

PART V—MISCELLANEOUS.

Repeal of
Construction
Safety Act.

4. The Construction Safety Act, 1967, is repealed.

Non-application
of Act.

5. Nothing in this Act shall apply to or in relation to—

(a) any mine, as defined for the purposes of the Mines and Works Inspection Act, 1920-1970, other than works as defined for the purposes of that Act that are not situated on or adjacent to such a mine;

or

(b) any activity carried on under and in accordance with the Petroleum (Submerged Lands) Act, 1967-1969.

Crown bound.

6. This Act binds the Crown.

Interpretation.

7. (1) In this Act, unless the contrary intention appears—

“building work” means work in constructing, erecting, adding to, altering, repairing, equipping, finishing, painting, cleaning, signwriting or demolishing which when done in relation to a building or structure, is done at or adjacent to the site thereof and which, when done in relation to a ship or other floating structure includes the construction of a ship or floating structure and all work which is done on or adjacent to a ship or other floating structure in a dock or on a ship or at a wharf:

“construction work” means—

(a) any building work;

(b) the demolition of any building or structure or part of a building or structure;

(c) work in or in connection with excavating, shaft sinking or tunnelling;

(d) work in or in connection with the construction or maintenance of any road works;

(e) work in or in connection with the construction or maintenance of the permanent way of any railway or tramway;

(f) work in or in connection with dredging;

- (g) work in or in connection with the placing, laying or maintenance of pipes or cables whether such pipes or cables are placed or laid above or below ground level;
 - (h) work in or in connection with earth moving by power driven equipment;
- and
- (i) any other work for the time being declared, by proclamation to be construction work for the purposes of this Act:

“constructor” in relation to construction work means—

- (a) a person who has undertaken or agreed to carry out the work;
- (b) if there is no such person as mentioned in paragraph (a) in relation to the work, a person who has undertaken or agreed to procure the carrying out of the work;
- (c) if there is no such person as mentioned in paragraphs (a) and (b) in relation to the work, a person who has arranged with or procured directly or indirectly any other person to carry out the work whether on behalf of that first named person or any other person;
- (d) if there is no such person as mentioned in paragraph (a), (b) and (c) in relation to the work, a person who employs any person to carry out the work:

“employer” includes any person or body whether corporate or unincorporate who or which on behalf of himself or itself employs one or more persons in an industry:

“industrial premises” means any building, structure or place that is for the time being declared by proclamation to be industrial premises for the purposes of this Act:

“industry” means any activity, that is for the time being declared by proclamation to be an industry for the purposes of this Act:

“Inspector” means any person appointed or deemed to be appointed—

- (a) Chief Inspector under section 17 of this Act;

or

- (b) an Inspector under section 18 of this Act,

for the time being in office:

“occupier” in relation to industrial premises, means the person or body, whether corporate or unincorporate employing, or causing persons to be engaged in, any industry carried on in or on those premises and includes any person acting, or apparently acting, in the general management or control of those premises:

“Permanent Head” means the Permanent Head as defined in the Public Service Act, 1967, as amended, of the Department of the Public Service which, under the Minister, is for the time being responsible for the administration of this Act:

“scaffolding” means any structure, framework, swinging stage, suspended scaffolding or boatswain’s chair of a temporary nature, used or intended to be used for the protection, support or safety of workers engaged in or in connection with construction work and includes any scaffolding constructed as such whether or not it is being used as scaffolding:

“shoring” means any material or equipment used for the temporary support of any building or structure or part thereof or any material or equipment used for temporary support in connection with excavating, shaft sinking or tunnelling:

“the Chief Inspector” means the Chief Inspector of Industrial Safety for the time being in office under section 17 of this Act:

“work injury” means—

(a) any physical injury, disease or disability that requires first aid, nursing or medical attention;

or

(b) any death,

that arises out of or in the course of any employment or engagement in any industry:

“worker” in relation to an industry, includes any person employed or engaged for reward in that industry, whether or not the person is so employed or engaged under a contract of employment:

“workers’ safety representative” means any person for the time being a workers’ safety representative under section 31 of this Act.

(2) The Governor may, from time to time, by proclamation declare—

(a) any work or any work of a class or kind to be construction work and may by proclamation revoke or amend any such declaration;

(b) any activity in which persons are employed or engaged for reward, whether or not that activity is carried on for or in the expectation of profit or gain, or any such activity of a class or kind to be an industry for the purposes of this Act and may by proclamation revoke or amend any such declaration;

and

(c) any building, structure or place in which or at which any industry is, or is intended to be, carried on or any such building, structure or place of a class or kind, to be industrial premises for the purposes of this Act and may by proclamation revoke or amend any such declaration.

PART II

PART II

ADMINISTRATION

DIVISION I—THE BOARD

DIVISION I

8. (1) For the purposes of this Act a board by the name of the "Industrial Safety, Health and Welfare Board" is hereby established.

The
Industrial
Safety, Health
and Welfare
Board.

(2) The Board shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) In the exercise and discharge of its powers, duties, functions and authorities, the Board shall, except where the Board makes or is required to make a recommendation to the Minister, be subject to the general control and direction of the Minister.

(4) Subject to this section, the Board shall consist of seven members, that is to say—

(a) the Permanent Head who shall also be the Chairman of the Board;

and

(b) six other members appointed by the Governor of whom—

(i) one shall be nominated by the South Australian Employers' Federation Incorporated;

- (ii) one shall be nominated by the South Australian Chamber of Manufactures Incorporated;
- (iii) one shall be nominated by the Master Builders Association of South Australia Incorporated;
- and
- (iv) three shall be nominated by the United Trades and Labour Council of South Australia.

(5) If the Minister has given to a body referred to in subparagraphs (i), (ii), (iii) or (iv) of paragraph (b) of subsection (4) of this section notice in writing requiring that body, within the time specified in the notice (being not less than two weeks) to nominate a person or, as the case may be, persons for appointment under subparagraphs (i), (ii), (iii) or (iv) of that paragraph and the body, to whom the notice is given, fails to nominate a person or persons, as the case requires, the Governor may, on the recommendation of the Minister, appoint a suitable person or suitable persons to be members of the Board and for all purposes the person or persons so appointed shall be deemed to have been appointed on the nomination of the body in respect of which the failure occurred.

(6) A member of the Board shall not, as such, be subject to the Public Service Act, 1967, as amended, but this provision does not affect the rights, duties and obligations under that Act of any member who is otherwise an Officer in the public service of the State.

(7) Every member of the Board appointed by the Governor shall be appointed as such for such term of office not exceeding three years as the Governor specifies in the instrument of his appointment, but a member appointed to fill a casual vacancy shall be appointed only for the balance of the term of office of the member in whose place he was appointed.

(8) Where a person, who is a member of the Board by virtue of paragraph (a) of subsection (4) of this section, is, for any reason, unable to perform his duties or functions as a member, he may, by notice in writing given to the Minister, appoint a person as his deputy to act for him during the period of such inability, and the person so appointed shall, while so acting, be deemed to be a member of the Board and to be the Chairman of the Board.

(9) On the expiration of his term of office as a member, a person appointed by the Governor shall, subject to subsection (4) of this section, be eligible for re-appointment.

Removal from
office of
member of
Board.

9. The Governor may by notice in writing served on a member of the Board appointed by the Governor remove him from office on grounds of misconduct or incapacity to perform his duties or functions as a member.

10. The office of a member of the Board appointed by the Governor shall become vacant if—

Casual vacancies.

- (a) he dies;
 - (b) he resigns by written notice given to the Minister;
 - (c) he is removed from office by the Governor pursuant to section 9 of this Act;
 - (d) he is absent without leave of the Minister from four consecutive meetings of the Board;
 - (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
 - (f) he is convicted of any indictable offence;
- or
- (g) he is convicted of any other offence and receives a notice in writing from the Minister discharging him from office on the ground of that conviction.

11. (1) The procedure for the calling of meetings of the Board and for the conduct of business at such meetings shall, subject to this Act, be as determined by the Board.

Common seal, meetings and quorum.

(2) Any four members of the Board, one of whom is the Chairman of the Board, shall constitute a quorum at any meeting of the Board and any duly convened meeting at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise and discharge all the powers, duties, functions and authorities of the Board.

(3) A decision carried by a majority of the votes cast by the members present at a meeting of the Board shall be the decision of the Board.

12. The Chairman shall preside at all meetings of the Board.

Chairman

13. No act, proceeding or determination of the Board shall be invalid on the ground only of any vacancy in the office of any member of the Board or of any defect in the appointment of any member of the Board.

Validity of acts of Board.

**PART II
DIVISION I****Remuneration
of members.**

14. A member of the Board shall, if the Governor thinks fit, be paid such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive such travelling and other expenses as are from time to time approved by the Minister.

**Acceptance of
office as
member of
Board not
to be bar to
holding other
office.**

15. Notwithstanding anything contained in any other Act, no person shall be disqualified by acceptance of office, or by appointment, as a member of the Board from holding the office of a member of the Board under this Act and also any other office, or from accepting and retaining any fees or other remuneration or payment payable to a member under this Act but no member of either House of Parliament shall be appointed or hold office as a member of the Board.

**Duties and
powers of
Board.**

16. (1) The Board shall investigate, report and make recommendations to the Minister on any matter referred to the Board by him in relation to the prevention of work injuries or to the safety, health or welfare of workers in any industry or of persons affected by any industry including, without limiting the generality of the foregoing, any proposals for regulations or proclamations to be made under this Act.

(2) In carrying out its investigations, the Board may collaborate with organizations of employers and of employees and authorities engaged in technical research, in relation to matters which have been referred to it by the Minister.

(3) The members of the Board may, at any reasonable time, enter and inspect any place in or at which any industry is being carried on, and may inspect any work being carried on therein.

(4) A person shall not hinder or obstruct any member of the Board in the exercise of the powers conferred by subsection (3) of this section.

Penalty: Two hundred dollars.

(5) A member of the Board shall not directly or indirectly communicate or divulge to a person other than the Minister or the Board, any information relating to any matter that comes to his knowledge in consequence of his position as a member of the Board, nor shall he make use of any information that so comes to his knowledge except for the purpose of the performance of his duties as a member of the Board.

Penalty: Two hundred dollars.

DIVISION II—INSPECTORS

17. (1) The Governor may appoint a person to be Chief Inspector of Industrial Safety under this Act. Chief Inspector.

(2) The person who was immediately before the commencement of this Act in office as Chief Inspector under section 205 of the Industrial Code, 1967-1972, shall be deemed to have been appointed Chief Inspector under this Act.

18. (1) The Governor may appoint any suitable person to be an Inspector of Industrial Safety under this Act. Inspectors.

(2) Any person who was, immediately before the commencement of this Act in office as an inspector under section 205 of the Industrial Code, 1967-1972, shall be deemed to have been appointed an Inspector under this Act.

19. (1) Any Inspector may at any time enter into or upon any premises, land, place, vehicle, ship or vessel or any thing for the time being thereon or therein for the purpose of exercising or performing any of his powers or functions under this Act or for the purposes of ascertaining whether or not any provision of this Act has been complied with. Powers of entry, etc., of Inspectors.

(2) In the exercise of his powers under subsection (1) of this section an Inspector may be accompanied by such other persons as to him seem necessary or desirable in the circumstances.

(3) Any Inspector may—

(a) inspect and take copies of any book, paper or document or any record of any description whether or not of the same kind as the foregoing which in his opinion may disclose information as to whether or not this Act is being complied with;

(b) require any person to answer any question put to him by the Inspector whether that question is put to him directly or through an interpreter;

and

(c) inspect, examine, photograph or otherwise make a record of, or make tests on, any matter or thing he finds in or on any premises, land, place, vehicle, ship, vessel or thing referred to in subsection (1) of this section or remove any such matter or thing for the purposes of making any such inspection or examination.

(4) The person for the time being in charge of any premises, land, place, vehicle, ship, vessel or thing or the person having the custody or control of any matter or thing shall not refuse or fail to do all things necessary to facilitate the exercise by an Inspector of the powers conferred on him by this section.

Penalty: Two hundred dollars.

(5) A person to whom a question is put pursuant to paragraph (b) of subsection (3) of this section shall not refuse or fail to answer that question to the best of his knowledge, information and belief.

Penalty: Two hundred dollars.

Directions by
an Inspector.

20. (1) Where it appears to an Inspector that any situation exists in or in connection with any industrial premises or construction work that, in his opinion—

(a) gives rise or may give rise to the risk of injury to any person;
or

(b) is or may be detrimental to the safety or health of any person,

the Inspector may by notice in writing require—

(c) the occupier or person apparently in charge of those industrial premises;
or

(d) the constructor in respect of that construction work or the person apparently in charge of that construction work,

to take such steps, as are specified in the notice, to remedy or alleviate the situation.

(2) Without in any way limiting the generality of the effect of subsection (1) of this section a notice under that subsection may require that any activity carried on in relation to the situation referred to in that subsection shall cease forthwith.

(3) There shall be an appeal to the Minister against any requirement of any Inspector under this section, and any such appeal shall be made to the office of the Minister within forty-eight hours of the making of the requirement by the Inspector.

(4) The Minister may hear an appeal made under subsection (3) of this section or may appoint some person to do so and the Minister or person appointed by him shall make such order as to the Minister or such other person seems fair and reasonable and the order when made shall be final.

(5) Any person who without reasonable excuse (proof of which shall lie upon him)—

(a) refuses or fails to comply with any requirement made by an Inspector that has not been appealed against in the manner set out in subsection (3) of this section;

or

(b) refuses or fails to comply with any order made by the Minister, or person appointed by him, pursuant to subsection (4) of this section,

shall be guilty of an offence and liable to a penalty not exceeding five hundred dollars.

21. (1) An Inspector, former Inspector or any person exercising any power or function under this Act shall not otherwise than in the course of his official duty make public any information that comes to his knowledge in the exercise of his powers and functions.

Obligation on
Inspectors, etc.

(2) An Inspector shall not have any direct or indirect financial interest, other than such an interest that has been disclosed in writing to the Permanent Head, in any premises or place subject to his inspection.

(3) Any person who is guilty of any contravention of this section shall be liable to a penalty not exceeding two hundred dollars.

22. No act, matter or thing done or omitted to be done by any Inspector or other person in good faith or in the exercise or purported exercise of any power or function conferred by or under this Act shall subject the Inspector, person or the Crown to any liability therefor.

Protection
of Inspectors,
etc.

PART III**PART III****NOTIFICATIONS, REGISTRATIONS, ETC.****DIVISION I****DIVISION I—INDUSTRIAL PREMISES**

Industrial
premises
not to be
erected
without
approval.

23. (1) In this section "industrial premises" means industrial premises or industrial premises of a class or kind for the time being declared by proclamation to be industrial premises to which this section applies.

(2) No person shall commence or cause to be commenced the erection of any building intended for use as industrial premises or for use as an extension to existing industrial premises unless the approval of the Permanent Head is first obtained.

(3) Application for the approval of the Permanent Head shall—

(a) be made by the owner of the industrial premises in the prescribed manner;

(b) be accompanied by two copies of a plan of the building and such particulars as may be prescribed;

and

(c) be accompanied by the prescribed fee.

(4) The Permanent Head shall consider every such application and particulars and the plan accompanying them and may approve the application, approve the application subject to conditions, or not approve the application.

(5) Where any application is approved subject to conditions, or not approved, the applicant may, if dissatisfied with such decision, appeal to the Minister and the decision of the Minister shall be final.

(6) The erection of every building intended for use as industrial premises or for use as an extension to existing industrial premises shall be carried out in conformity with the application, plans and particulars approved pursuant to this section for the erection of such building.

(7) If any owner does or causes to be done any work in connection with the erection of a building intended for use as industrial premises or for use as an extension to existing industrial premises without the approval required by this section, or not in conformity with such approval, he shall be guilty of an offence.

Penalty: Two hundred dollars.

(8) Upon conviction for an offence involving failure to obtain the approval required by this section, the court shall in addition to any other penalty that it imposes order—

(a) that the approval be sought in the manner provided for by this section;

and

(b) that the prescribed fee be paid.

(9) Where immediately before the commencement of this Act the Permanent Head had before him an application under section 163 of the Industrial Code, 1967-1972, that had not been dealt with, the Permanent Head may deal with that application in all respects as if it were an application under this section.

(10) The Governor may, from time to time, by proclamation declare any industrial premises or any industrial premises of a class or kind to be industrial premises to which this section applies and may by proclamation revoke or amend any such declaration.

24. (1) In this section "industrial premises" means industrial premises or industrial premises of a class or kind for the time being declared by proclamation to be industrial premises to which this section applies.

Registration
of industrial
premises.

(2) An occupier shall not occupy any industrial premises unless those industrial premises are for the time being registered in accordance with this Act.

Penalty: Five hundred dollars.

(3) An application for registration or the renewal of registration of industrial premises shall be made by the occupier of those premises to the Permanent Head in the prescribed manner, shall contain the prescribed particulars and shall be accompanied by the fee prescribed for the registration or renewal of registration of industrial premises of the class for which the registration or renewal of registration is applied for.

(4) On receipt of an application made in accordance with subsection (3) of this section the Permanent Head may register, or as the case may be, renew the registration of the industrial premises.

(5) The Permanent Head shall not register any industrial premises unless he is satisfied that—

(a) the industrial premises comply in all respects with the provisions of this Act that are applicable to them;

or

(b) if the requirements specified by the Permanent Head in relation to the industrial premises are complied with within the period specified in relation thereto, those industrial premises will comply in all respects with the provisions of this Act that are applicable to them.

(6) The registration of any industrial premises shall expire at the end of a period of one year next following the last day of the month in which the premises were registered or as the case may be the registration of the premises was last renewed and unless before the day of expiry the registration of the industrial premises is again renewed the industrial premises shall cease to be registered in accordance with this Act.

(7) Every factory, warehouse or shop that was immediately before the commencement of this Act, registered under the Industrial Code, 1967-1972, shall be deemed to have been registered in accordance with this Act until the end of a period of one year from the last day of the month in which it was last registered or, as the case may be, its registration was last renewed under the Industrial Code, 1967-1972.

(8) The Governor may, from time to time, by proclamation declare any industrial premises or any industrial premises of a class or kind to be industrial premises to which this section applies and may by proclamation revoke or amend any such declaration.

Change of occupier.

25. Every person who becomes the occupier of industrial premises registered, or deemed to be registered, under section 24 of this Act shall, as soon as possible after becoming the occupier of those premises, give notice to the Permanent Head in the prescribed form accompanied by the prescribed particulars.

Penalty: Two hundred dollars.

DIVISION II

DIVISION II—CONSTRUCTION WORK

Notice of intention to carry out construction work.

26. (1) In this section "construction work" means—

(a) any construction work,

or

(b) any construction work of a class or kind,

for the time being declared by the proclamation to be construction work to which this section applies.

(2) The constructor in respect of any construction work shall at least twenty-four hours before such work is commenced—

(a) give, either personally or through some other person acting on his behalf, notice in writing to the Permanent Head stating the place and date on which it is intended to commence such work and such other particulars as may be prescribed;

and

(b) pay to the Permanent Head the prescribed fee.

Penalty: Five hundred dollars.

(3) It shall be a defence to a charge of any offence against this section to prove that owing to emergency arising from damage caused by earthquake, lightning, explosion, collision, fire, rain, flood or storm it was not practicable to give the notice or pay the fee at least twenty-four hours before the work was commenced and that the notice was given and the prescribed fee was paid as soon as practicable.

(4) Upon conviction for an offence involving failure to pay the prescribed fee, the court shall order payment of the prescribed fee to the Permanent Head in addition to any penalty imposed.

(5) Notwithstanding anything hereinbefore contained, and notwithstanding that no notice as required by subsection (2) of this section was given, payment of the prescribed fee may be recovered by the Permanent Head in any court of competent jurisdiction.

(6) For the purposes of this section, a notice given under section 7 of the Construction Safety Act, 1967, in relation to work to which that Act applies shall, where immediately before the commencement of this Act that work has not been completed, be deemed to be a notice under this section.

(7) The Governor may, from time to time, by proclamation declare any construction work or any construction work of a class or kind to be construction work to which this section applies and may by proclamation revoke or amend any such declaration.

DIVISION III—WORK INJURIES AND ACCIDENTS

DIVISION III

27. (1) This section shall apply to every work injury that occurs in or about any industrial premises or in the course of any construction work.

**Work
injuries.**

(2) Whenever a work injury to which this section applies occurs, the employer of the person suffering the work injury shall keep for a period of not less than three years a record of the work injury containing such of the particulars referred to in subsection (3) of this section as are appropriate and in the case of any such work injury which causes loss of life or incapacitates a person for three clear days or more, the employer shall send or cause to be sent written notice thereof to the Permanent Head.

(3) A notice under subsection (2) of this section shall—

(a) if a death occurs as a result of the work injury, be sent immediately after the death occurs;

(b) if the work injury incapacitates a person for three clear days or more, be sent within twenty-four hours after the person responsible for sending the notice might be reasonably expected to have become aware of the fact that the incapacitated person has been or will be incapacitated for three clear days or more;

and

(c) state the cause of death or the cause and nature and extent of the injuries sustained by any person, the name and residence of any person killed or injured, and such other particulars as may be prescribed.

(4) Notwithstanding the provisions of subsection (2) of this section, whenever a work injury occurs as a result of electric shock or as a result of a person being overcome by any gas, vapour, dust or fumes, the employer of the injured person shall, irrespective of the period of incapacity, as soon as possible advise an Inspector and send or cause to be sent written notice of the work injury to the Permanent Head within twenty-four hours after the person responsible for the sending of the notice might be reasonably expected to have become aware of the occurrence of the work injury.

(5) In subsections (2) and (4) of this section a reference to an employer of a person shall in relation to a person employed on construction work not as an employee be read as a reference to the constructor in relation to that building work.

(6) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and be liable to a penalty not exceeding two hundred dollars.

Reports of
certain
accidents.

28. (1) Whenever in any industrial premises or in the course of any construction work an accident occurs, whether or not a work injury arises from that accident, in which any load bearing part of any scaffolding or shoring is broken, distorted or damaged, the person who at the time of the accident was controlling the use of the scaffolding or shoring in connection with which the accident occurred shall as soon as possible advise an Inspector and within twenty-four hours after the occurrence of the accident, send or cause to be sent written notice thereof to the Permanent Head.

(2) After the occurrence of an accident referred to in subsection (1) of this section a person shall not, except for the purpose of preventing injury to persons or damage to property, without the permission of an Inspector, use, remove, repair or alter the scaffolding or shoring in connection with which the accident occurred.

(3) Any person who contravenes or fails to comply with any of the provisions of this section shall be guilty of an offence and be liable to a penalty not exceeding two hundred dollars.

PART IV

PART IV

DUTIES AND OBLIGATIONS

29. Every employer in any industry, every occupier of industrial premises and every constructor in relation to any construction work shall—

Duty of employers, etc.

(a) do all things as are necessary to ensure that the provisions of this Act are complied with;

and

(b) take all reasonable precautions to ensure the health and safety of workers employed or engaged in that industry or in or on those premises or on or in connection with that work.

Penalty: Two hundred dollars.

30. A worker shall not by any act or omission render less effective any action taken by a person for the purposes of giving effect to section 29 of this Act.

Duty of workers.

Penalty: Ten dollars.

31. (1) Subject to subsection (2) of this section where ten or more workers are employed or engaged in any industrial premises or on or in connection with any construction work the employer of those workers or, as the case may be, the constructor shall, at the request of those workers, permit those workers to elect from time to time one of their number to be a workers' safety representative for the purposes of this Act.

Workers' safety representative.

Penalty: Two hundred dollars.

(2) Subsection (1) of this section shall not apply to or in relation to any industrial premises or construction work in relation to which the Permanent Head has certified in writing that he is satisfied that there is established a safety committee some or all of the members of which are workers.

(3) The Permanent Head may cancel any certificate given under subsection (2) of this section and upon that cancellation that certificate shall have no further force or effect.

32. (1) A person shall not sell, let on hire, offer to sell or let on hire, or advertise for sale or letting on hire, either as principal or agent—

Construction and sale of machinery.

(a) any machinery intended to be driven by mechanical power, unless—

(i) every set-screw, bolt or key on any revolving part of the machinery is so sunk, encased or otherwise effectively guarded as to prevent danger;

(ii) all spur and other toothed or friction gearing of the machinery is effectively guarded so as to prevent danger or is so situated as to be as safe as it would be if so guarded;

and

(iii) the machinery complies in all respects with the prescribed requirements applicable to it;

or

(b) any transmission machinery, any wheel or pulley of which does not have a solid wheel or disc centre, unless the wheel or pulley is effectively guarded so as to prevent danger or is so situated as to be as safe as it would be if so guarded.

Penalty: Five hundred dollars.

(2) Subsection (1) of this section shall not apply to or in relation to any machinery or transmission machinery (not being a machine or transmission machinery to which section 171 of the Industrial Code, 1967-1972, would have applied if that section were in force) manufactured before the first day of January, 1975.

PART V

PART V

MISCELLANEOUS

33. Notwithstanding any Act or law no person shall—

(a) be precluded or exempted by any contract or agreement from doing any act or thing as may be necessary to comply with the provisions of this Act;

or

(b) be liable under any contract or agreement to any penalty or forfeiture for doing any such act or thing.

Contracts or agreements not to preclude compliance with this Act.

34. (1) The Permanent Head shall once in each year prepare and forward to the Minister a report on the operation of this Act.

Annual reports to be laid before Parliament.

(2) The report shall be of a general character and shall not divulge the contents of any record of persons employed or of any work done except in compilation of general statistical information.

(3) The Minister shall cause every report of the Permanent Head made in accordance with subsection (1) of this section to be laid before each House of Parliament within fourteen days of his receipt thereof if Parliament is then in session or if Parliament is not then in session within fourteen days of the commencement of the next session of Parliament.

35. Proceedings in respect of offences against this Act shall be disposed of summarily.

Summary proceedings.

36. (1) Where a person is convicted of an offence against this Act and after that conviction the act or omission of that person that constituted the offence continues, that person shall be guilty of a further offence against this Act and shall, upon conviction, be liable for a penalty not exceeding five hundred dollars.

Continuing offences, etc.

(2) Where a person is convicted of an offence that involves non-compliance with a provision of this Act the court may in lieu of or in addition to imposing any other penalty order the person to take such steps as are specified in the order and within the time specified in the order to comply with the provision of this Act.

(3) Where upon the expiration of time specified in the order under subsection (2) of this section the person to whom the order was directed has not complied with the order the person shall be guilty of a further offence against this Act and shall, upon conviction, be liable for a penalty not exceeding five hundred dollars.

Evidentiary.

37. In proceedings in respect of an offence against this Act, an allegation in the complaint—

- (a) that a person is an Inspector;
- (b) that a building, structure or place is industrial premises or that any work is construction work;
- (c) that a person or body is the occupier of any industrial premises or the constructor in relation to any construction work or the employer in relation to any employee;

or

- (d) that in relation to any industry, any person is a worker,

shall, in the absence of proof by the defendant to the contrary, be deemed to be proved.

Modification of regulations.

38. (1) Where the Chief Inspector is satisfied that—

- (a) compliance with the provisions of any regulation by the occupier of any industrial premises or the constructor in relation to any construction work may not in all the circumstances be reasonably practicable;

and

- (b) a modification or variation of the provision would not adversely affect the safety, health or welfare of the workers concerned,

the Chief Inspector may by notice in writing to the occupier or constructor modify or vary the provision of the regulation in the manner set out in the notice and while any such notice remains in force compliance with the provision as modified or varied shall for the purposes of this Act be deemed to be compliance with the provision of the regulation as enacted.

(2) The Chief Inspector may, in his absolute discretion, revoke any notice under subsection (1) of this section and upon that revocation that notice shall cease to have any further force or effect.

Regulations.

39. (1) The Governor may make such regulations as are necessary or expedient for the purposes of this Act or for giving full effect to the provisions and objects of this Act and without limiting the generality of the foregoing may make regulations with respect to all or any of the matters mentioned in the schedule to this Act.

(2) The regulations may provide that all or any of the regulations shall apply to—

- (a) the whole State or any part thereof;

-
- (b) industry generally or to a specified industry or an industry of a class or kind;
 - (c) construction work generally or to specified construction work or to construction work of a class or kind;
 - (d) industrial premises generally or to specified industrial premises or to industrial premises of a class or kind.

(3) The regulations may provide for and impose a penalty not exceeding two hundred dollars for any breach of or failure to comply with any regulation or provision of a regulation.

(4) The regulations may refer to and incorporate any standard of the Standards Association of Australia for the time being in force or as from time to time in force.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor

THE SCHEDULE

1. The prevention or reduction of work injuries and the action to be taken on the occurrence of any work injury.
2. The construction, maintenance, access to, care and use of any building, structure or place comprised in any industrial premises or construction work.
3. Certificates of competency for persons engaged in prescribed work.
4. Compressed air.
5. The handling, prohibition of use, use and storage of dangerous, flammable and harmful substances.
6. Demolition work.
7. Electrical distribution and wiring.
8. Examination and testing of equipment.
9. Fire precautions and fire protection equipment.
10. The safety of workers engaged in isolated situations.
11. Machinery, power driven equipment and explosive powered tools including—
 - (a) safety standards to be complied with in respect of machinery, whether portable, movable or fixed, power driven equipment and explosive powered tools intended for use in or in connection with industry;
 - (b) the persons who may work, maintain or have charge of machinery, power driven equipment and explosive powered tools;
 - (c) the protection of persons in the vicinity of any machinery or power driven equipment and explosive powered tools;
 - (d) the maintenance and safeguarding of machinery, power driven equipment and explosive powered tools;and
 - (e) the installing, dismantling, cleaning, working and testing of machinery, power driven equipment and explosive powered tools.
12. The handling and storage of materials.
13. The protection of persons in industrial premises or on construction sites from areas of hazard.
14. Protective clothing, protective equipment and rescue equipment.
15. Safety supervisors.
16. Scaffolding and related equipment.
17. Shoring.
18. The carriage and handling of cash.
19. The protection of health of workers in industry, including:—
 - (a) the prevention and control of dust;
 - (b) the prevention of the escape of poisonous or deleterious vapours, fumes and gases;
 - (c) apparatus for collecting, filtering, and preventing the inhalation of dust, vapour, fumes and gasses;and
 - (d) mechanical appliances to assist ventilation.
20. First aid, medical and nursing facilities and arrangements.
21. Lighting.
22. Noise levels and protection from noise.
23. The medical examination of workers.
24. The protection of persons in the vicinity of industrial premises or construction work.
25. Maximum weights that may be lifted manually by any worker of a prescribed class or kind.

26. The employment of females and young persons.
27. Facilities and equipment for taking of meals by workers and the provision of meal breaks.
28. Facilities for storage of workers' tools.
29. Seating facilities for workers.
30. Ventilation, heating, cooling, air space and floor space.
31. Washing and toilet facilities, changing rooms, rest rooms and drinking water.
32. The fees for doing any act or thing under this Act.
33. The division of industrial premises into classes and the fixing of fees for the registration or renewal of registration of each class of industrial premises.
34. The powers and duties of Inspectors.
35. The inspection of industrial premises and construction work.
36. The service of notices under this Act.
37. The responsibilities and duties of owners or occupiers of industrial premises and constructors or persons in charge of construction work.
38. The form of records, returns, notices, documents to be used and information to be kept for the purposes of this Act.
39. Returns to be made for the purposes of this Act.
40. Workers' safety representatives.