



New South Wales

Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to ensure that any person who is an **authorised industrial officer** within the meaning of Part 7 (Entry and inspection by officers of industrial organisations) of Chapter 5 of the *Industrial Relations Act 1996* in respect of an industrial organisation of employees is also an **authorised representative** of that industrial organisation of employees for the purposes of Division 3 (Entry and inspection powers of authorised employees' representatives) of Part 5 of the *Occupational Health and Safety Act 2000*, and
- (b) to provide that a person who was an authorised industrial officer but not an authorised representative before the commencement of the proposed Act is taken to have been an authorised representative and to validate certain acts or omissions of such a person.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

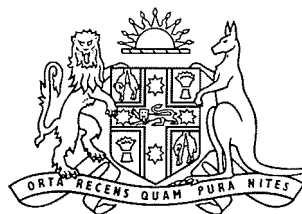
Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Occupational Health and Safety Act 2000 No 40

Schedule 1 [1] substitutes the definition of *authorised representative* in section 76 of the *Occupational Health and Safety Act 2000* (the *Principal Act*) to provide that, for the purposes of Division 3 (Entry and inspection powers of authorised employees' representatives) of Part 5 of the Principal Act, an authorised representative of an industrial organisation of employees means a person who is an *authorised industrial officer* within the meaning of Part 7 (Entry and inspection by officers of industrial organisations) of Chapter 5 of the *Industrial Relations Act 1996* in respect of that industrial organisation of employees. This means that a person who is an employee of an industrial organisation of employees and who is an authorised industrial officer is now also an authorised representative who is able to carry out entry and inspection functions under the Principal Act.

Schedule 1 [2] permits regulations under the Principal Act to contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [3] validates any previous entry and inspection carried out under the Principal Act by a person who, at the time of the entry or inspection, was an employee of an industrial organisation of employees and an authorised industrial officer. This is done by providing that any such person is taken to have been an authorised representative and that any act or omission of such a person is validated if it would have been valid had Schedule 1 [1] commenced before the act or omission. The validation applies for the purposes of the Principal Act or for any other Act or law and will therefore flow through to other Acts that rely on the definition in the Principal Act (for example, section 173 of the *Coal Mine Health and Safety Act 2002*).



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Occupational Health and Safety Amendment (Authorised Representatives) Bill 2009

No , 2009

A Bill for

An Act to amend the *Occupational Health and Safety Act 2000* in relation to authorised representatives of industrial organisations who may exercise investigation powers under that Act.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Occupational Health and Safety Amendment (Authorised Representatives) Act 2009*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Occupational Health and Safety Act 2000 No 40

[1] Section 76 Definition

Omit the definition of *authorised representative*. Insert instead:

authorised representative of an industrial organisation of employees, means a person who is an authorised industrial officer within the meaning of Part 7 of Chapter 5 of the *Industrial Relations Act 1996* in respect of that industrial organisation of employees.

[2] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Occupational Health and Safety Amendment (Authorised Representatives) Act 2009

[3] Schedule 3, Part 6

Insert after Part 5:

Part 6 Provision relating to Occupational Health and Safety Amendment (Authorised Representatives) Act 2009

23 Authorised representatives

(1) In this clause:

amending Act means the *Occupational Health and Safety Amendment (Authorised Representatives) Act 2009*.

authorised representative has the same meaning as in Division 3 of Part 5 of this Act.

(2) Before the commencement of Schedule 1 [1] to the amending Act, a person who for any period was an authorised industrial officer within the meaning of Part 7 of Chapter 5 of the *Industrial Relations Act 1996* is taken, for the purposes of this or any other Act or law, to have been an authorised representative during that same period.

Occupational Health and Safety Amendment (Authorised Representatives)
Bill 2009

Schedule 1 Amendment of Occupational Health and Safety Act 2000 No 40

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| (3) | Any act or omission of a person referred to in subclause (2), that would have been valid had Schedule 1 [1] to the amending Act commenced before the act or omission, is validated. | 1
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| (4) | Subclauses (2) and (3) do not affect any decision of a court made before the commencement of this clause. | 4
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