



New South Wales

Work Health and Safety Amendment (Digital Work Systems) Bill 2025

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Work Health and Safety Act 2011* (***the Act***) to make it a primary duty of care for a person conducting a business or undertaking to ensure that the health and safety of workers is not put at risk from the use of a digital work system.

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.

Schedule 1 Amendment of Work Health and Safety Act 2011 No 10

Schedule 1[1] inserts a definition of *digital work system*.

Schedule 1[2] gives effect to the object set out in the overview.

Schedule 1[3] inserts proposed section 21A to provide that a person conducting a business or undertaking must ensure that any digital work system used, including any work allocated by the digital work system, does not risk the health and safety of a worker. The proposed section sets out risks that a person conducting a business or undertaking must consider regarding the allocation of work by or using a digital work system.

Schedule 1[4] provides that a person who holds a WHS entry permit (a ***WHS entry permit holder***) has a right to require a person conducting a business or undertaking to provide the WHS entry

permit holder with reasonable assistance to access and inspect a digital work system relevant to a suspected contravention of the Act.

Schedule 1[5] and [7] make consequential amendments to provide for the following—

- (a) that a person conducting a business or undertaking is not required to provide a WHS entry permit holder with assistance to access and inspect a digital work system if to do so would contravene a law of the Commonwealth or a State,
- (b) that the penalty for a person conducting a business or undertaking refusing or failing to comply with a requirement to provide a WHS entry permit holder with assistance to access and inspect a digital work system is 121 penalty units for an individual or 607 penalty units for a body corporate.

Schedule 1[6] provides that a WHS entry permit holder's power to require a person conducting a business or undertaking to provide the WHS entry permit holder with assistance to access and inspect a digital work system is subject to guidelines made by the regulator. **Schedule 1[8]** requires the regulator to issue and publish on the regulator's website guidelines for this purpose.

Schedule 1[9] provides for a review of the amendments made by the proposed Act.



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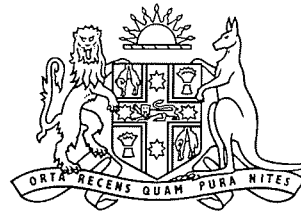
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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly

Clerk of the Legislative Assembly



New South Wales

Work Health and Safety Amendment (Digital Work Systems) Bill 2025

No , 2025

A Bill for

An Act to amend the *Work Health and Safety Act 2011* in relation to digital work systems.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.

Legislative Council

Clerk of the Parliaments

Tabling copy

The Legislature of New South Wales enacts—	1
1 Name of Act	2
This Act is the <i>Work Health and Safety Amendment (Digital Work Systems) Act 2025</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5

Schedule 1	Amendment of Work Health and Safety Act 2011	1
	No 10	2
[1] Section 4 Definitions		3
Insert in alphabetical order—		4
	<i>digital work system</i> means an algorithm, artificial intelligence, automation or online platform.	5
		6
[2] Section 19 Primary duty of care		7
Insert after section 19(3)(c)—		8
	(c1) the health and safety of workers is not put at risk from the use of digital work systems by the business or undertaking, and	9
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[3] Section 21A		11
Insert after section 21—		12
21A Duties of persons conducting businesses or undertakings involving digital work systems		13
		14
(1)	A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that the health and safety of a worker is not put at risk from the allocation of work by a digital work system used by the business or undertaking.	15
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(2)	A person conducting a business or undertaking must consider whether the allocation of work by or using a digital work system creates or results in any of the following risks—	19
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(a)	excessive or unreasonable workloads for workers at work in the business or undertaking,	22
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(b)	the use of excessive or unreasonable metrics to assess and track the performance of workers at work in the business or undertaking,	24
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(c)	excessive or unreasonable monitoring or surveillance of workers at work in the business or undertaking,	26
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(d)	discriminatory practices or decision-making in the conduct of the business or undertaking.	28
		29
[4] Section 118 Rights that may be exercised while at workplace		30
Insert after section 118(1)(a)—		31
(a1)	require the relevant person conducting a business or undertaking to provide the WHS entry permit holder with reasonable assistance to access and inspect a digital work system relevant to the suspected contravention,	32
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[5] Section 118(2)		36
Omit “subsection (1) (d) to allow”. Insert instead “subsection (1)(a1) or (d) to assist, or allow,”.		37
		38
[6] Section 118(2A)		39
Insert after section 118(2)—		40
(2A)	The WHS entry permit holder’s power under subsection (1)(a1) to require a relevant person conducting a business or undertaking to provide the WHS	41
		42

entry permit holder with reasonable assistance is subject to guidelines made by the regulator under section 118A.	1 2
[7] Section 118(3)	3
Omit “subsection (1) (d)”. Insert instead “subsection (1)(a1) or (d)”.	4
[8] Section 118A	5
Insert after section 118—	6
118A Guidelines about reasonable assistance to access or inspect digital work systems	7 8
For section 118(1)(a1) and (2A), the regulator must issue, and publish on the regulator’s website, guidelines about the power of WHS entry permit holders to require persons conducting a business or undertaking to provide reasonable assistance to access and inspect digital work systems relevant to suspected contraventions of this Act.	9 10 11 12 13
[9] Section 276D	14
Insert after section 276C—	15
276D Review of provisions about digital work systems	16
(1) If the Minister is satisfied the Model Work Health and Safety laws developed by Safe Work Australia deal with substantially the same subject matter as the relevant provisions, the Minister must review the relevant provisions to determine whether—	17 18 19 20
(a) the policy objectives of the relevant provisions remain valid, and	21
(b) the terms of the relevant provisions remain appropriate for achieving the objectives, and	22 23
(c) the Model Work Health and Safety laws provide a higher standard of health and safety for workers than the relevant provisions, and	24 25
(d) the relevant provisions are appropriate, having regard to the Model Work Health and Safety laws.	26 27
(2) The review must be undertaken as soon as practicable after the Minister is satisfied the Model Work Health and Safety laws developed by Safe Work Australia deal with substantially the same subject matter as the relevant provisions.	28 29 30 31
(3) In this section—	32
<i>relevant provisions</i> means the amendments made to this Act by the <i>Work Health and Safety Amendment (Digital Work Systems) Act 2025</i> .	33 34