

c2019-248A
OPP--OPPOSITION

LEGISLATIVE COUNCIL

Work Health and Safety Amendment (Review) Bill 2019

First print

Proposed amendment

No. 1 **Industrial manslaughter**

Page 3. Insert after line 27—

[6] Part 2A

Insert after Part 2—

Part 2A Industrial manslaughter

34B Definitions for Part 2A

(1) In this Part—
conduct means—

- (a) an act, or
- (b) an omission to perform an act.

executive officer, of a body corporate, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

senior officer, of a person conducting a business or undertaking, means—

- (a) if the person is a body corporate—an executive officer of the body corporate, or
- (b) otherwise—the holder of an executive position (however described) in relation to the person who makes, or takes part in making, decisions affecting all, or a substantial part, of the person's functions.

(2) For this Part, a person's conduct *causes* death if it substantially contributes to the death.

34C Exceptions

- (1) A volunteer does not commit an offence under this Part.
- (2) Despite section 34(2), a senior officer of an unincorporated association (other than a volunteer) may commit an offence under this Part.

34D Industrial manslaughter—person conducting business or undertaking

A person conducting a business or undertaking (the *first person*) commits an offence if—

- (a) a worker or other person—
 - (i) dies at a workplace at which work is carried out for the business or undertaking, whether or not in the course of carrying out work for the business or undertaking, or
 - (ii) is injured at a workplace at which work is carried out for the business or undertaking, whether or not in the course of carrying out work for the business or undertaking, and later dies, and
- (b) the first person's conduct causes the death of the worker or other person, and
- (c) the first person is negligent or reckless about causing the death of the worker or other person by the conduct.

Maximum penalty—

- (a) for an individual—25 years imprisonment, or
- (b) for a body corporate—100,000 penalty units.

Note. See section 244 or 251 in relation to imputing to a body corporate or public authority particular conduct of employees, agents or officers of the body corporate or public authority.

34E Industrial manslaughter—senior officer

A senior officer of a person conducting a business or undertaking commits an offence if—

- (a) a worker or other person—
 - (i) dies at a workplace at which work is carried out for the business or undertaking, whether or not in the course of carrying out work for the business or undertaking, or
 - (ii) is injured at a workplace at which work is carried out for the business or undertaking, whether or not in the course of carrying out work for the business or undertaking, and later dies, and
- (b) the senior officer's conduct causes the death of the worker or other person, and
- (c) the senior officer is negligent or reckless about causing the death of the worker or other person by the conduct.

Maximum penalty—25 years imprisonment.