

Rural Workers Accommodation Amendment Bill 2005

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

Overview of Bill

The *Rural Workers Accommodation Act 1969* (**the Principal Act**) deals with the provision of accommodation for rural workers and certain other connected purposes. The object of this Bill is to amend the Principal Act to provide for a rural workers accommodation regulatory regime that is consistent with the regulatory regime of the *Occupational Health and Safety Act 2000* (**the OH&S Act**).

The Bill also makes a consequential amendment to the OH&S Act to provide that the Principal Act is no longer **associated occupational health and safety legislation** for the purposes of the OH&S Act.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the Principal Act in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendment to the OH&S Act in Schedule 2.

Schedule 1 Amendment of Rural Workers Accommodation Act 1969

Schedule 1 [6] amends the Principal Act to give effect to the Overview outlined above. A number of current sections of the Principal Act and the Schedule to that Act are to be omitted and replaced with proposed Parts 2–6 and proposed Schedule 1. Proposed Part 2 (Provision of accommodation) contains proposed sections 5–8.

Proposed section 5 provides that a person who has control of rural premises must provide suitable accommodation to a rural worker who works at the rural premises if due to the nature of the work, the rural worker must live for a period exceeding 24 hours at or near the rural premises.

Failure to comply with the provision is an offence that carries a maximum penalty of 250 penalty units (currently \$27,500).

Proposed section 6 provides that the accommodation provided for a rural worker under the Principal Act is, subject to any contrary provision of a Commonwealth or State industrial instrument applicable to the worker, to be provided free of cost to the worker.

Proposed section 7 makes it clear that nothing in the proposed Part gives rise to or affects civil proceedings.

Proposed section 8 provides for a defence for breaches of the Principal Act, or regulations under the Principal Act, that compliance was not reasonably practicable or that the cause of the breach was beyond the control of the person.

Proposed Part 3 (Codes of practice) contains proposed sections 9–15.

This proposed Part deals with the preparation, approval and effect of codes of practice for the purpose of providing practical guidance to persons who have control of rural premises with respect to the type and nature of accommodation that is suitable for rural workers for the purposes of the Principal Act.

Codes of practice are prepared by the WorkCover Authority and, after consultation, may be approved by the Minister administering the Principal Act. A code takes effect on its publication in the Gazette or on a later specified day. A failure to comply with a code is admissible in evidence in proceedings for an offence under the Principal Act or regulations for the purpose of establishing any relevant matter that the prosecution is required to prove in the proceedings.

Proposed Part 4 (Application of Occupational Health and Safety Act 2000) contains proposed sections 16–20.

This proposed Part deals with the relationship between the Principal Act and the OH&S Act. The provisions of this proposed Part deal with the following:

- (a) making it clear that the Principal Act adds to the protection provided by the OH&S Act (the proposed section provides that if a provision of the OH&S Act applies to rural premises to which the Principal Act applies, that provision continues to apply, and must be observed, in addition to the Principal Act),
- (b) providing that the OH&S Act will prevail if there is an inconsistency between the OH&S Act and the Principal Act,
- (c) making it clear that compliance with the Principal Act is not in itself a defence in any proceedings for an offence against the OH&S Act,
- (d) providing that evidence of a relevant contravention of the Principal Act is admissible in any proceedings for an offence against the OH&S Act,
- (e) preventing a person being punished twice in respect of an act or omission that constitutes an offence under both the Principal Act and the OH&S Act.

Proposed Part 5 (Enforcement) contains proposed section 21. This proposed Part provides that certain provisions of the OH&S Act that deal with the enforcement of that Act extend to the Principal Act and any regulations made under it.

Proposed Part 6 (Miscellaneous) contains provisions that deal with the following:

- (a) imposing liability on directors and managers of corporations for breaches of the Principal Act or its regulations by the corporation,
- (b) the making of regulations,
- (c) savings and transitional issues.

Proposed Schedule 1 provides that regulations may be made that contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [4] replaces section 3 (Definitions) of the Principal Act. The new proposed section 3 defines certain terms for the purposes of the Principal Act, including definitions of *rural premises* and *rural worker*.

Schedule 1 [1]–[3] and [5] make consequential omissions and amendments.

Schedule 2 Amendment of Occupational Health and Safety Act 2000

Schedule 2 makes the consequential amendment to the OH&S Act referred to in the Overview above.