

WESTERN AUSTRALIA

**ACTS AMENDMENT
(OCCUPATIONAL HEALTH, SAFETY
AND WELFARE) ACT**

No. 41 of 1987

AN ACT to amend the *Factories and Shops Act 1963*, and the *Shearers' Accommodation Act 1912*, to repeal the *Construction Safety Act 1972*, the *Machinery Safety Act 1974*, and the *Noise Abatement Act 1972*, and for connected purposes.

[Assented to 6 July 1987]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title

1. This Act may be cited as the *Acts Amendment (Occupational Health, Safety and Welfare) Act 1987*.

Commencement

2. This Act shall come into operation on the day on which the *Occupational Health, Safety and Welfare Amendment Act 1987* comes into operation.

Revocation of obsolete order

3. The *Alteration of Statutory Designations Order (No. 2) 1986* is revoked.

PART I—*FACTORIES AND SHOPS ACT 1963*

Principal Act

4. In this Part the *Factories and Shops Act 1963** is referred to as the principal Act.

[**Reprinted as approved 19 September 1984 and amended by Acts Nos. 98 of 1985 and 11 of 1986.*]

Long title amended

5. The long title to the principal Act is amended by deleting “**to Consolidate and Amend the Law**”.

Section 5 amended

6. Section 5 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the definition of “Chief Inspector” and substituting the following definition—

“ “Chief Inspector”, in or in relation to any provision of this Act, means the inspector appointed to perform the functions of the Chief Inspector under or in connection with that provision; ”;

- (ii) by deleting the definition of “inspector” and substituting the following definition—

“ “inspector”, in or in relation to any provision of this Act, means a person appointed to perform the functions of an inspector under or in connection with that provision; ”;

- (iii) by deleting the definition of “the Board”; and

- (iv) by deleting the definition of “the Under Secretary for Industrial Affairs” and substituting the following definition—

“ “the Permanent Head”, in or in relation to any provision of this Act, means the Permanent Head of the department of the government principally assisting the Minister in the administration of that provision; ”; and

- (b) in subsection (4), by deleting “Under Secretary for Industrial Affairs as defined in subsection (1) of this section” and substituting the following—

“ Permanent Head of the department of the government principally assisting the Minister in the administration of the provision concerned ”.

Section 6 repealed

7. Section 6 of the principal Act is repealed.

Section 7 amended

8. Section 7 of the principal Act is amended—

- (a) in subsection (2), by deleting “subsection (4)” and substituting the following—

“ subsections (4) and (6) ”; and

- (b) by repealing subsection (4) and substituting the following subsections—

“ (4) The Minister, with the approval of the Governor, may by order published in the *Gazette*, vary or revoke any order under subsection (1).

(5) The Minister shall cause a copy of an order under this section to be laid before each House of Parliament within 14 sitting days of such House next following publication of the order in the *Gazette*.

(6) Subsection (2) of section 42 of the *Interpretation Act 1984* applies in respect of an order under this section as if it were a regulation and the reference in that subsection to subsection (1) of that section were a reference to subsection (5) of this section. ”.

Section 8A repealed

9. Section 8A of the principal Act is repealed.

Section 9 amended

10. Section 9 of the principal Act is amended in subsection (1) by deleting “Part III or”.

Sections 11 to 14 repealed and a section substituted

11. Sections 11 to 14 of the principal Act are repealed and the following section is substituted—

Appointment of inspectors

“ 11. (1) The Permanent Head of a department of the government which is principally assisting the Minister in the administration of any of the provisions of this Act may, for the purposes of the administration of those provisions, appoint as inspectors such officers of the department as he considers appropriate and shall appoint one of them to perform the functions of the Chief Inspector in so far as they relate to the administration of those provisions.

(2) An appointment under subsection (1) shall specify the provisions of this Act for the purposes of which it is made.

(3) The Minister shall issue each inspector with a certificate of his appointment, signed by the Minister or a person authorized by the Minister to sign the certificate, and the inspector shall produce

the certificate for inspection upon being requested to do so by any person in relation to whom he has exercised, or is about to exercise, any power under this Act. ”.

Section 16 amended

12. Section 16 of the principal Act is amended in subsection (1)—

(a) in paragraph (h), by deleting “Under Secretary for Industrial Affairs” and substituting the following—

“ Permanent Head ”; and

(b) by deleting paragraph (j).

Section 20 amended

13. Section 20 of the principal Act is amended in subsections (1) and (2) by deleting “the department for the time being responsible for” and substituting the following—

“ a department for the time being assisting in ”.

Parts III, IV & V repealed

14. Parts III, IV and V of the principal Act are repealed.

Part VI, Division I repealed and a Division substituted

15. Part VI of the principal Act is amended by repealing Division I and substituting the following Division—

“ *Division I—Records to be kept*

Time and wages books

44. (1) The occupier of every factory, shop or warehouse shall keep or cause to be kept therein or at such other place as the Chief Inspector approves a record in the prescribed form, or such other form as may be approved by the Chief Inspector.

(2) The record shall be known as “the time and wages book” and there shall be entered therein the following particulars, showing in the case of each employee—

- (a) the name, place or residence and sex of the employee;
- (b) his age, if under 21 years of age;
- (c) the kind of work on which he is usually employed;
- (d) the award, if any, under which the employee is employed;
- (e) the hours of his employment during each week and the time he commences and finishes work;
- (f) the wages paid to him each week and the wages paid to him for overtime;
- (g) such other matters as the occupier is required to keep on record pursuant to any award; and
- (h) such other particulars as are prescribed.

(3) Notwithstanding subsections (2) and (4) the Chief Inspector may, by notice in writing, exempt any occupier of a factory, shop or warehouse—

- (a) from entering in the record all or any of the particulars referred to in subsection (2) that are specified in the notice; and
- (b) from complying with all or any of the provisions of subsection (4) that are so specified.

(4) The occupier shall, from day to day, enter up the time and wages book or cause it to be entered up and the book shall be signed each week by each employee if the entries therein relating to him are correct.

(5) Where the occupier of a factory, shop or warehouse engages out workers he shall, in addition to the record referred to in subsection (1), keep a record in the prescribed form or such other form as may be approved by the Chief Inspector, and shall enter therein—

- (a) the description and quantity of the work performed for the occupier by each out worker;

- (b) the name and address of each out worker;
- (c) the rate of payment and the amount received by each out worker for the work; and
- (d) such other matters as may be prescribed.

(6) Every record kept pursuant to this section and in use for the time being, and every such record used at any time within the 2 last preceding years, shall at all reasonable times be open to the inspection of an inspector.

(7) An inspector may at any time during ordinary working hours require the occupier of a factory, shop or warehouse to verify the entries in a record required to be kept by him under this section, by statutory declaration, or in such manner and form as may be prescribed, and the occupier shall comply with such requirement.

(8) An occupier who fails to comply with any provision of this section that is applicable to him is guilty of an offence against this Act.

Penalty: \$200.

(9) A person, not being an employee, who issues or gives out, or authorizes or permits to be issued or given out, articles for the purpose of being wholly or partially prepared or manufactured outside a factory, shop or warehouse for trade or for sale, shall be deemed to be the occupier of a factory, shop or warehouse for the purposes of this section.

(10) No person shall be convicted of an offence against this section who proves that—

- (a) he acted in good faith and without any intention to evade the provisions of this section; and
- (b) on demand made by an inspector, he gave to the inspector all information in his power with respect to the alleged offence.

(11) A reference to a record kept pursuant to this section includes a reference to a record kept pursuant to section 33 as in force before the coming into operation of the *Acts Amendment (Occupational Health, Safety and Welfare) Act 1987*. ”.

Section 55 amended

16. Section 55 of the principal Act is amended in subsection (2) (b) (i) by deleting “subsection (1) of section thirty-three” and substituting the following—

“ section 44 (1) ”.

Section 57 amended

17. Section 57 of the principal Act is amended in subsection (2) by deleting “subsection (1) of section thirty-three” and substituting the following—

“ section 44 (1) ”.

Part VII repealed

18. Part VII of the principal Act is repealed.

Section 83 amended

19. Section 83 of the principal Act is amended in subsection (2)(a) by deleting “person who for the time being holds the office of Under Secretary for Industrial Affairs” and substituting the following—

“ Permanent Head of the department of the government which is principally assisting the Minister in the administration of this Division ”.

Section 84 amended

20. Section 84 of the principal Act is amended in subsection (1) by deleting paragraph (b).

Heading deleted and a heading substituted

21. The heading before section 94 is deleted and the following heading is substituted—

“ *Division IIA—Auction Sales* ”.

Heading inserted

22. After section 94 of the principal Act the following heading is inserted—

“ *Division III—Miscellaneous Provisions Relating to Shops, Shop Assistants and Warehouses* ”.

Sections 97 and 98 repealed

23. Sections 97 and 98 of the principal Act are repealed.

Sections 102 and 103 repealed

24. Sections 102 and 103 of the principal Act are repealed.

Part X, Division I repealed

25. Part X of the principal Act is amended by repealing Division I.

Section 107 repealed

26. Section 107 of the principal Act is repealed.

Section 114 amended

27. Section 114 of the principal Act is amended in paragraph (b) by deleting “subsection (5) of section thirty-three” and substituting the following—

“ section 44 (5) ”.

Section 118 repealed

28. Section 118 of the principal Act is repealed.

Section 121 amended

29. Section 121 of the principal Act is amended in subsection (1)—
- (a) by deleting paragraph (a);
 - (b) in paragraph (d), by deleting “referred to in subsection (1) of section twelve” and substituting the following—
 “ appointed under, or assisting in the administration of, this Act ”; and
 - (c) in paragraph (e), by deleting “applications for and the effecting of registrations and renewals of registrations under this Act of places as factories, shops or warehouses and”.

PART II—*SHEARERS' ACCOMMODATION ACT 1912*

Principal Act

30. In this Part the *Shearers' Accommodation Act 1912** is referred to as the principal Act.

[**Reprinted as approved 28 November 1978.*]

Section 3 amended

31. Section 3 of the principal Act is amended by deleting the definition of “the Under Secretary”.

**“Under Secretary” changed to “Permanent Head”
in various provisions**

32. The provisions referred to in the Table to this section are amended by deleting “Under Secretary” and in each case substituting the following—

“ Permanent Head ”.

TABLE

Section 5 (2)
Section 12
Section 14A

PART III—REPEALS

Various Acts repealed

33. (1) The Acts referred to in the Table to this section are repealed.

TABLE

Construction Safety Act 1972

Machinery Safety Act 1974

Noise Abatement Act 1972

(2) Notwithstanding the repeal effected by subsection (1), the provisions of section 75 (1) of the *Machinery Safety Act 1974* and those of the Machinery Safety Regulations 1978, so far as each relates to the provision or otherwise of a protective cab or frame on a tractor manufactured later than September 1 1979, shall continue in force as if this Act had not been passed.
