



New South Wales

Work Health and Safety Amendment (Industrial Manslaughter) Bill 2024

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Work Health and Safety Act 2011* (***the Act***) to create an offence of industrial manslaughter and to provide for matters relating to gross negligence,
- (b) to make consequential amendments to the *Industrial Relations Amendment Act 2023*.

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[2] inserts proposed Part 2A to create the offence of industrial manslaughter.

Proposed section 34B inserts a definition of ***conduct*** for the proposed part.

Proposed section 34C creates the offence of industrial manslaughter. A person commits the offence if the person—

- (a) has a health and safety duty, and
- (b) is a person, or an officer of a person, conducting a business or undertaking, and

- (c) engages in certain conduct that causes the death of a worker or another individual to whom the person's health and safety duty is owed, and
- (d) engages in the conduct with gross negligence.

The maximum penalty for the offence is imprisonment for 25 years for an individual or \$20,000,000 for a body corporate.

Proposed section 34D exempts volunteers from the offence of industrial manslaughter. Proposed section 34E provides that there is no limitation period for commencing proceedings for an industrial manslaughter offence. Proposed section 34F provides for alternative verdicts, allowing a court or jury to find a person charged with industrial manslaughter guilty instead of a Category 1 offence, if proven. **Schedule 1[1]** makes a consequential amendment.

Schedule 1[3] provides that a regulator cannot accept a written undertaking for a contravention or alleged contravention involving an offence under proposed section 34C.

Schedule 1[4] provides for court proceedings for an offence under proposed section 34C.

Schedule 1[6] provides for circumstances in which a body corporate has engaged in conduct with gross negligence. **Schedule 1[5]** makes a consequential amendment.

Schedule 1[7] provides for the Minister to review and report on certain provisions inserted or amended by the proposed Act to determine whether the policy objectives of the provisions remain valid and the terms appropriate for achieving the objectives. The review must be undertaken as soon as possible after 18 months from the commencement of the provisions, and a report on the outcome must be tabled in each House of Parliament within 3 months after the review is completed.

Schedule 1[8] contains a transitional provision consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Industrial Relations Amendment Act 2023 No 41

Schedule 2 make consequential amendments to the *Industrial Relations Amendment Act 2023*.