



New South Wales

Work Health and Safety Amendment (Standalone Regulator) 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**) as follows—

- (a) to establish the SafeWork Advisory Council (the **Advisory Council**),
- (b) to provide for the functions, membership and procedures of the Advisory Council,
- (c) to require the SafeWork Commissioner to take into account the advice of the Advisory Council when exercising certain functions,
- (d) to establish the SafeWork Commissioner as regulator under the 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.

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

Schedule 1[3] inserts proposed Division 3 into the Act, Part 8. The proposed division establishes the Advisory Council and sets out certain functions of the Advisory Council, including functions in relation to advising the SafeWork Commissioner. Proposed section 155E(2) requires the SafeWork Commissioner to take into account the advice of the Advisory Council when determining the strategic direction and priorities of SafeWork NSW. Proposed section 155F

requires the Minister to review the operation of the proposed division after 3 years of the commencement of the division.

Schedule 1[4] inserts proposed Schedule 1A. The proposed schedule provides for the procedures and membership of the Advisory Council. Proposed clause 2 provides that the Advisory Council consists of the SafeWork Commissioner and certain other persons to be appointed by the Minister (*appointed members*). The proposed clause also sets out certain representative requirements in relation to appointed members.

Schedule 1[5] establishes the SafeWork Commissioner as the regulator for the Act by replacing references to the existing regulator in Schedule 2, clause 1 with references to the SafeWork Commissioner.

Schedule 1[1] and [2] make consequential amendments.



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Work Health and Safety Amendment (Standalone Regulator) Bill 2025

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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 (Standalone Regulator) Bill 2025

No. _____, 2025

A Bill for

An Act to amend the *Work Health and Safety Act 2011* in relation to the SafeWork Commissioner and SafeWork Advisory Council; and for related purposes.

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 *Work Health and Safety Amendment (Standalone Regulator) Act 2025*.

3

4

2 Commencement

5

This Act commences on 1 July 2025.

6

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>Advisory Council</i> , for Part 8, Division 3 and Schedule 1A—see section 155C.	5
	<i>SafeWork Commissioner</i> means the person employed in the Public Service as the SafeWork Commissioner.	6
		7
[2] Section 4, definition of “member of staff”, paragraph (a)		8
	Omit “Department of Customer Service”. Insert instead “SafeWork NSW Agency”.	9
[3] Part 8, Division 3		10
	Insert after Part 8, Division 2—	11
	Division 3 SafeWork Advisory Council	12
155C Definition		13
	In this division—	14
	<i>Advisory Council</i> means the SafeWork Advisory Council established by section 155D(1).	15
		16
155D Establishment of SafeWork Advisory Council		17
	(1) The SafeWork Advisory Council is established.	18
	(2) Schedule 1A contains provisions about the membership and procedures of the Advisory Council.	19
		20
155E Functions of Advisory Council		21
	(1) The Advisory Council has the following functions—	22
	(a) to monitor emerging risks and trends in the field of work health and safety,	23
		24
	(b) to advise the SafeWork Commissioner on the strategic direction and priorities of SafeWork NSW,	25
		26
	(c) to advise the SafeWork Commissioner or the Minister on any matters referred to the Council by the SafeWork Commissioner or the Minister,	27
		28
	(d) other functions conferred on the Council by or under this Act or the regulations, or another law.	29
		30
	(2) The SafeWork Commissioner must, when determining the strategic direction and priorities of SafeWork NSW, take into account the advice of the Advisory Council.	31
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		33
155F Review of division		34
	(1) The Minister must review the operation of this division to determine whether—	35
		36
	(a) the policy objectives of the division remain valid, and	37
	(b) the terms of the division remain appropriate for securing the policy objectives.	38
		39
	(2) The review must be undertaken as soon as practicable after 1 July 2028.	40

(3)	A report on the outcome of the review must be tabled in each House of Parliament no later than 1 July 2029.	1 2
[4]	Schedule 1A	3
	Insert after Schedule 1—	4
	Schedule 1A Provisions relating to Advisory Council	5
	section 155D	6
1	Definitions	7
	In this schedule—	8
	<i>Advisory Council</i> has the same meaning as in section 155C.	9
	<i>appointed member</i> means a member of the Advisory Council other than the SafeWork Commissioner.	10 11
	<i>member</i> means a member of the Advisory Council.	12
2	Membership of Advisory Council	13
(1)	The Advisory Council must consist of—	14
(a)	the SafeWork Commissioner, and	15
(b)	at least 8, but no more than 12, persons appointed by the Minister.	16
(2)	Of the members appointed under subclause (1)(b)—	17
(a)	3 must be persons nominated by a body that represents employers in New South Wales, and	18 19
(b)	3 must be persons nominated by Unions NSW, and	20
(c)	at least 1 must work in or be an expert in the field of work health and safety, and	21 22
(d)	at least 1 must be a representative of a work health and safety support, advocacy, or awareness group or organisation, or a person who has lived experience of workplace injury or death and represents the interests of injured workers and their families.	23 24 25 26
3	Term of office for appointed members	27
(1)	An appointed member holds office for a term not exceeding 3 years.	28
(2)	An appointed member is eligible for reappointment.	29
(3)	An appointed member, if otherwise eligible, may be appointed for a maximum of 3 consecutive terms.	30 31
4	Part-time appointments	32
	An appointed member holds office on a part-time basis.	33
5	Remuneration	34
	The Minister may determine the rate of remuneration for an appointed member.	35 36
6	Vacancy in office for appointed member	37
(1)	The office of an appointed member becomes vacant if the appointed member—	38 39

(a)	dies, or	1
(b)	completes a term of office and is not reappointed, or	2
(c)	resigns the office, or	3
(d)	is removed from office by the Minister, or	4
(e)	is absent from 3 consecutive meetings of the Advisory Council of which reasonable notice has been given to the member, unless the appointed member is granted leave or excused by the Council, or	5 6 7
(f)	becomes personally insolvent, or	8
(g)	becomes a mentally incapacitated person, or	9
(h)	is convicted of—	10
(i)	a New South Wales offence punishable by imprisonment for 12 months or more, or	11 12
(ii)	an offence of another jurisdiction that, if committed in New South Wales, would be an offence punishable by imprisonment for 12 months or more.	13 14 15
(2)	If the office of an appointed member becomes vacant, a person must, subject to this Act and the regulations, be appointed to fill the vacancy.	16 17
7	Chairperson	18
(1)	The Minister must appoint an appointed member as Chairperson of the Advisory Council.	19 20
(2)	The Chairperson must preside at an Advisory Council meeting.	21
(3)	If the Chairperson is absent from an Advisory Council meeting, an appointed member elected by the members present at the meeting must preside at the meeting.	22 23 24
(4)	The presiding member has a deliberative vote and, if there is an equality of votes, has a second or casting vote.	25 26
8	Disclosure of pecuniary and other interests	27
(1)	This clause applies if—	28
(a)	a member has a direct or indirect pecuniary or other interest in a matter being considered or about to be considered by the Advisory Council, and	29 30 31
(b)	the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter.	32 33
(2)	The member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Advisory Council.	34 35 36
(3)	Particulars of a disclosure made under this clause must be recorded by the Advisory Council and made available to a person on request.	37 38
(4)	It is sufficient disclosure of the nature of an interest relating to a specified company, body or person if the member has previously disclosed that the member—	39 40 41
(a)	is a member of, or employed by, the company or body, or	42
(b)	is a partner of, or employed by, the person, or	43
(c)	has another specified interest relating to the company, body or person.	44

(5)	After a member has disclosed the nature of an interest in a matter, the member must not, unless the Minister or Advisory Council otherwise determines—	1
	(a) be present during a deliberation of the Council about the matter, or	2
	(b) take part in a decision of the Council about the matter.	3
(6)	A member who has a direct or indirect pecuniary or other interest in a matter to which a disclosure relates must not—	4
	(a) be present when the Advisory Council is making a determination under subclause (5), or	5
	(b) take part in the making of the determination.	6
(7)	A contravention of this clause does not invalidate a decision of the Advisory Council.	7
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9	Effect of other legislation	12
	The provisions of the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service employees do not apply to an appointed member.	13
		14
		15
10	Procedure for Advisory Council meetings	16
(1)	The quorum for an Advisory Council meeting is a majority of its members.	17
(2)	Each appointed member is entitled to 1 vote in relation to a decision at an Advisory Council meeting.	18
		19
(3)	A decision supported by a majority of the votes cast by appointed members at an Advisory Council meeting is taken to be a decision of the Advisory Council.	20
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		22
(4)	The Advisory Council may, subject to this Act and the regulations, determine procedures in relation to the form and content of Advisory Council meetings.	23
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11	Subcommittees	25
(1)	The SafeWork Commissioner may approve the establishment of subcommittees of the Advisory Council for the purposes of enabling the Advisory Council to exercise its functions.	26
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(2)	The Advisory Council may appoint a person to be a member of a subcommittee if, in the Advisory Council’s opinion, the person is qualified to be a member of the subcommittee.	29
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(3)	The members of a subcommittee do not need to be members of the Advisory Council.	32
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[5]	Schedule 2 The regulator	34
	Omit “Secretary of the Department of Customer Service” wherever occurring in clause 1(1)(a) and (2).	35
		36
	Insert instead “SafeWork Commissioner”.	37