

Passed by both Houses



New South Wales

# Work Health and Safety Amendment (Standalone Regulator) Bill 2025

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney,*

*, 2025*



New South Wales

## **Work Health and Safety Amendment (Standalone Regulator) Bill 2025**

Act No \_\_\_\_\_, 2025

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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.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts—**

**1 Name of Act**

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

**2 Commencement**

This Act commences on 1 July 2025.

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

### **[1] Section 4 Definitions**

Insert in alphabetical order—

*Advisory Council*, for Part 8, Division 3 and Schedule 1A—see section 155C.  
*SafeWork Commissioner* means the person employed in the Public Service as the SafeWork Commissioner.

### **[2] Section 4, definition of “member of staff”, paragraph (a)**

Omit “Department of Customer Service”. Insert instead “SafeWork NSW Agency”.

### **[3] Part 8, Division 3**

Insert after Part 8, Division 2—

## **Division 3      SafeWork Advisory Council**

### **155C Definition**

In this division—

*Advisory Council* means the SafeWork Advisory Council established by section 155D(1).

### **155D Establishment of SafeWork Advisory Council**

- (1) The SafeWork Advisory Council is established.
- (2) Schedule 1A contains provisions about the membership and procedures of the Advisory Council.

### **155E Functions of Advisory Council**

- (1) The Advisory Council has the following functions—
  - (a) to monitor emerging risks and trends in the field of work health and safety,
  - (b) to advise the SafeWork Commissioner on the strategic direction and priorities of SafeWork NSW,
  - (c) to advise the SafeWork Commissioner or the Minister on any matters referred to the Council by the SafeWork Commissioner or the Minister,
  - (d) other functions conferred on the Council by or under this Act or the regulations, or another law.
- (2) The SafeWork Commissioner must, when determining the strategic direction and priorities of SafeWork NSW, take into account the advice of the Advisory Council.

### **155F Review of division**

- (1) The Minister must review the operation of this division to determine whether—
  - (a) the policy objectives of the division remain valid, and
  - (b) the terms of the division remain appropriate for securing the policy objectives.
- (2) The review must be undertaken as soon as practicable after 1 July 2028.

- (3) A report on the outcome of the review must be tabled in each House of Parliament no later than 1 July 2029.

**[4] Section 276C**

Insert after section 276B—

**276C Supervision of operation of work health and safety scheme by Parliamentary Committee**

- (1) As soon as practicable after the commencement of this section and the commencement of the first session of each Parliament, a committee of the Legislative Council must be designated by resolution of the Legislative Council as the designated committee for this section.
- (2) The resolution of the Legislative Council must specify the terms of reference of the committee, which must relate to supervising the operation of the work health and safety scheme established under this Act.
- (3) On the commencement of this section and until a committee is designated under subsection (1), the Standing Committee on Law and Justice is taken to be the designated committee.

**[5] Schedule 1A**

Insert after Schedule 1—

**Schedule 1A Provisions relating to Advisory Council**

section 155D

**1 Definitions**

In this schedule—

*Advisory Council* has the same meaning as in section 155C.

*appointed member* means a member of the Advisory Council other than the SafeWork Commissioner.

*member* means a member of the Advisory Council.

**2 Membership of Advisory Council**

- (1) The Advisory Council must consist of—
- (a) the SafeWork Commissioner, and
- (b) at least 8, but no more than 12, persons appointed by the Minister.
- (2) Of the members appointed under subclause (1)(b)—
- (a) 3 must be persons nominated by a body that represents employers in New South Wales, and
- (b) 3 must be persons nominated by Unions NSW, and
- (c) at least 1 must work in or be an expert in the field of work health and safety, and
- (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.

**3 Term of office for appointed members**

- (1) An appointed member holds office for a term not exceeding 3 years.
- (2) An appointed member is eligible for reappointment.
- (3) An appointed member, if otherwise eligible, may be appointed for a maximum of 3 consecutive terms.

**4 Part-time appointments**

An appointed member holds office on a part-time basis.

**5 Remuneration**

The Minister may determine the rate of remuneration for an appointed member.

**6 Vacancy in office for appointed member**

- (1) The office of an appointed member becomes vacant if the appointed member—
  - (a) dies, or
  - (b) completes a term of office and is not reappointed, or
  - (c) resigns the office, or
  - (d) is removed from office by the Minister, or
  - (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
  - (f) becomes personally insolvent, or
  - (g) becomes a mentally incapacitated person, or
  - (h) is convicted of—
    - (i) a New South Wales offence punishable by imprisonment for 12 months or more, or
    - (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.
- (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.

**7 Chairperson**

- (1) The Minister must appoint an appointed member as Chairperson of the Advisory Council.
- (2) The Chairperson must preside at an Advisory Council meeting.
- (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.
- (4) The presiding member has a deliberative vote and, if there is an equality of votes, has a second or casting vote.

**8 Disclosure of pecuniary and other interests**

- (1) This clause applies if—

- (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
  - (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.
- (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.
- (3) Particulars of a disclosure made under this clause must be recorded by the Advisory Council and made available to a person on request.
- (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—
  - (a) is a member of, or employed by, the company or body, or
  - (b) is a partner of, or employed by, the person, or
  - (c) has another specified interest relating to the company, body or person.
- (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—
  - (a) be present during a deliberation of the Council about the matter, or
  - (b) take part in a decision of the Council about the matter.
- (6) A member who has a direct or indirect pecuniary or other interest in a matter to which a disclosure relates must not—
  - (a) be present when the Advisory Council is making a determination under subclause (5), or
  - (b) take part in the making of the determination.
- (7) A contravention of this clause does not invalidate a decision of the Advisory Council.

## **9 Effect of other legislation**

The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.

## **10 Procedure for Advisory Council meetings**

- (1) The quorum for an Advisory Council meeting is a majority of its members.
- (2) Each appointed member is entitled to 1 vote in relation to a decision at an Advisory Council meeting.
- (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.
- (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.

## **11 Subcommittees**

- (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.

- (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.
- (3) The members of a subcommittee do not need to be members of the Advisory Council.

**[6] Schedule 2 The regulator**

Omit "Secretary of the Department of Customer Service" wherever occurring in clause 1(1)(a) and (2).

Insert instead "SafeWork Commissioner".

**[7] Schedule 2 The Regulator**

Insert after clause 1(2)—

(3) **Reporting Requirements**

The SafeWork Commissioner will report every 6 months (including in an Annual Report) on the achievements, challenges, program management and regulatory engagement governance of SafeWork NSW. These reports will be posted on the SafeWork NSW website and include—

- (a) the High-Risk Workplaces and Repeat Offenders program list, and
  - (b) a summary of action under the High-Risk Workplaces and Repeat Offenders program, and
  - (c) a summary of completed investigations and their outcomes, and
  - (d) in circumstances where the regulator considers it appropriate, a list of current investigations, and
  - (e) a summary of the number and type of complaints by industry received by SafeWork NSW, and
  - (f) a summary of any action taken following advice received from the Safework Advisory Council.
- (4) No liability is incurred by the State in respect of anything done in good faith for the purpose of publishing information under this section.
  - (5) No liability is incurred by a person publishing in good faith information that has been published under this section.
- (5A) In this section—  
*liability* includes liability in defamation.