

Law Compliance Report – July 2022

Welcome to the July 2022 edition of the Law Compliance Report.

In this issue we:

- set out some of the current Bills we are tracking throughout Australia;
- discuss recent legislative changes occurring in each of the States and Territories;
- provide an overview of the amount of legislation passed in 2021;
- outline the recent upgrades we have made to our Comply Online system; and
- introduce our Client in the Spotlight.



Some of the Legislative Changes being tracked

Western Australia

- Animal Welfare and Trespass Legislation Amendment Bill 2021 (WA)
- Climate Change and Greenhouse Gas Emissions Reduction Bill 2021 (WA)
- Fair Trading Amendment Bill 2021 (WA)
- Firearms Amendment Bill 2021 (WA)
- Health and Disability Services (Complaints) Amendment Bill 2021 (WA)
- Health Services Amendment Bill 2021 (WA)
- Parliamentary Commissioner Amendment (Reportable Conduct) Bill 2021 (WA)
- Retail Trading Hours Amendment Bill 2021 (WA)
- Soil and Land Conservation Amendment Bill 2021 (WA)
- Statutes (Repeals and Minor Amendments) Bill 2021 (WA)

Northern Territory

- Burial and Cremation Bill 2022 (NT)
- Transport Legislation Amendment Act 2022 (NT)

Queensland

- Building and Other Legislation Amendment Bill 2022 (Qld)
- Working with Children (Indigenous Communities) Amendment Bill 2021 (Qld)
- Food (Labelling of Seafood) Amendment Bill 2021 (Qld)
- Inspector of Detention Services Bill 2021 (Qld)
- Evidence and Other Legislation Amendment Bill 2021 (Qld)
- Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022 (Qld)
- Land and Other Legislation Amendment Bill 2022 (Qld)
- Revenue Legislation Amendment Bill 2022 (Qld)
- Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill 2021 (Qld)
- Animal Care and Protection Amendment Bill 2022 (Qld)
- Industrial Relations and Other Legislation Amendment Bill 2022 (Qld)

Commonwealth

- Aged Care and Other Legislation Amendment (Royal Commission Response No. 2) Bill 2021 (Cth)
- Agriculture Biodiversity Stewardship Market Bill 2022 (Cth)
- Corporations (Aboriginal and Torres Strait Islander) Amendment Bill 2021 (Cth)
- Biosecurity Amendment (Enhanced Risk Management) Bill 2021 (Cth)
- COAG Legislation Amendment Bill 2021 (Cth)
- Crimes Legislation Amendment (Combating Corporate Crime) Bill 2019 (Cth)
- Crimes Legislation Amendment (Ransomware Action Plan) Bill 2022 (Cth)
- Customs Amendment (Controlled Trials) Bill 2021 (Cth)
- Education Legislation Amendment (2022 Measures No. 1) Bill 2022 (Cth)
- Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019 (Cth)
- Financial Sector Reform (Hayne Royal Commission Response No. 3) Bill 2021 (Cth)
- Higher Education Support Amendment (Australia's Economic Accelerator) Bill 2022 (Cth)
- Human Rights Legislation Amendment Bill 2021 (Cth)
- Public Sector Superannuation Legislation Amendment Bill 2022 (Cth)
- Regulator Performance Omnibus Bill 2022 (Cth)
- Religious Discrimination (Consequential Amendments) Bill 2021 (Cth)
- Religious Discrimination Bill 2021 (Cth)
- Telecommunications (Interception and Access) Amendment (Corrective Services Authorities) Bill 2022 (Cth)
- Transport Security Amendment (Critical Infrastructure) Bill 2022 (Cth)
- Treasury Laws Amendment (Enhancing Tax Integrity and Supporting Business Investment) Bill 2022 (Cth)
- Treasury Laws Amendment (Modernising Business Communications) Bill 2022 (Cth)

South Australia

- Ageing and Adult Safeguarding (Restrictive Practices) Amendment Bill 2021 (SA)
- Associations Incorporation (Miscellaneous) Amendment Bill 2021 (SA)
- Cannabis Legalisation Bill 2022 (SA)
- Children and Young People (Safety) (Miscellaneous) Amendment Bill 2020 (SA)
- Freedom of Information (Ministerial Diaries) Amendment Bill 2022 No. (SA)
- Freedom of Information (Miscellaneous) Amendment Bill 2020 (SA)
- Gender Equality Bill 2022 (SA)
- Gender Equality Bill 2021 (SA)
- OPCAT Implementation Bill 2021 (SA)
- Return to Work (Scheme Sustainability) Amendment Bill 2022 (SA)
- Work Health and Safety (Industrial Manslaughter) Amendment Bill 2022 (SA)

Tasmania

- Consent to Medical Treatment Bill 2020 (Tas)
- Electricity Safety Bill 2022 (Tas)
- Health Legislation (Miscellaneous Amendments) Bill 2022 (Tas)
- Occupational Licensing (Automatic Mutual Recognition Consequential Amendments) Bill 2022 (Tas)
- Residential Tenancy (Rental Market Reform) Amendment Bill 2021 (Tas)
- Retail Leases Bill 2022 (Tas)
- Right to Information Amendment (Public Protected Areas) Bill 2021 (Tas)
- Supply Chain (Modern Slavery) Bill 2020 (Tas)

Victoria

- Building, Planning and Heritage Legislation Amendment (Administration and Other Matters) Bill 2022 (Vic)
- Children and Health Legislation Amendment (Statement of Recognition and Other Matters) Bill 2022 (Vic)
- Children, Youth and Families Amendment (Child Protection) Bill 2021 (Vic)
- Children, Youth and Families Amendment (Out of Home Care Age) Bill 2020 (Vic)
- Commercial Passenger Vehicle Industry Amendment Bill 2019 (Vic)
- Drugs, Poisons and Controlled Substances Amendment (Decriminalisation of Possession and Use of Drugs of Dependence) Bill 2022 (Vic)
- Drugs, Poisons and Controlled Substances Amendment (Pill Testing Pilot for Drug Harm Reduction) Bill 2019 (Vic)
- Education Legislation Amendment (Adult and Community Education and Other Matters) Bill 2022 (Vic)

New South Wales

- Abortion Law Reform (Sex Selection Prohibition) Amendment Bill 2021 (NSW)
- Disability Inclusion Amendment Bill 2022 (NSW)
- Independent Commission Against Corruption Amendment (Property Developer Commissions to MPs) Bill 2020 (NSW)
- Museums of History NSW Bill 2022 (NSW)
- Ombudsman Legislation Amendment Bill 2022 No. (NSW)
- Prevention of Cruelty to Animals (Increased Penalties) Bill 2020 (NSW)
- Tax Administration Amendment (Combating Wage Theft) Bill 2021 (NSW)
- Waste Avoidance and Resource Recovery Amendment (Plastics Reduction) Bill 2021 (NSW)
- Work Health and Safety Amendment (Industrial Manslaughter) Bill 2021 (NSW)
- Workers Compensation Amendment Bill 2021 (NSW)

ACT

- Corrections Management Amendment Bill 2021 (ACT)
- Family Violence Legislation Amendment Bill 2022
- Financial Management Amendment Bill 2021 (No 2) 2021 (ACT)
- Health Legislation Amendment Bill ACT 2022 (ACT)
- Integrity Commission Amendment Bill 2022
- Justice and Community Safety Legislation Amendment Bill 2022 (ACT)
- Radiation Protection Amendment Bill 2022
- Workplace Legislation Amendment Bill 2022 (ACT)

If you would like details of these new Bills please contact our team on **1300 862 667** or visit our website www.lawcompliance.com.au

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Commonwealth Update

Corporations Amendment (Meetings and Documents) Act 2022 (Cth)

On 1 April 2022, the *Corporations Amendment (Meetings and Documents) Act 2022 (Cth)* (the **Amending Act**) commenced in full, amending the *Corporations Act 2001 (Cth)* (the **Act**). The Amending Act makes the temporary COVID-19 measures regarding meetings, communications, and the execution of documents permanent.

Signing and Sending Documents

The Amending Act has inserted a variety of new obligations where documents can or must be signed and sent from one person to another. These include obligations with regards to:

- complying with a members request to be sent documents in a particular form within a reasonable time;
- complying with a members request not to be sent particular documents;
- complying with a recipient's ad hoc request to be sent documents in a particular form; and
- giving notice of members' rights to make these requests.

Meetings

The amendments now allow companies to select the format for a meeting that is most appropriate for them, with additional changes made to the Act to facilitate these meetings. For example, section 249J of the Act has been amended to ensure that members can be electronically notified that a meeting is taking place. Additionally, under section 110D, annual reports and certain documents are taken to be sent if they are made readily available on an organisation's website.

In relation to the location of the meeting itself, the amendments allow companies to hold a meeting at:

- one or more physical locations;
- one or more physical locations and using technology to allow persons to attend virtually; or
- using technology to allow members to attend virtually if expressly permitted or required by a company's constitution.

Although the Amending Act allows for a greater use of technology, obligations concerning meetings have also been added. For instance, there is now a requirement that the time and venue at which meetings are held are to be reasonable, and members entitled to attend must be given a reasonable opportunity to participate.

Independent Reports on Polls

New obligations have been created for organisations whereby a member or group of members with at least five per cent of the votes can require a listed company to appoint an independent person to observe or report on a poll. If this is to occur, an organisation now has the obligation to:

- ensure that an independent person observes the conduct of the poll to which the request relates; and
- ensure that the independent person prepares a report on the conduct of the poll; and
- ensure that a copy of the report is made readily available to the members of the company within a reasonable time after the request is received.

Offences

Organisations should be aware that the amendments have added several new offences to the Act, inclusive of:

- Section 110F has made it an offence if a member requests for documents to be sent, for the sender to fail to take reasonable steps to send the relevant documents either within a reasonable time or if the member is permitted to state a particular time, within that time.
- Section 110G has made it an offence for a sender to send documents if a member requests documents to not be sent.

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- Section 110J has made it an offence if a member requests for particular documents to be sent, for the sender to fail to take reasonable steps to send the documents either within three business days after the sender receives the request or if permitted to send the documents by a particular time, within that time.
- Section 110K requires a public company or a disclosing entity, to give notice of members' rights to make elections and request ad hoc documents (amongst other requirements), at least once a year.

The punishment for the above offences is 30 penalty units (currently \$6,660).

There are additional new offences created under the Act:

- Under section 253UB, if a company receives a request to appoint an independent person to observe the conduct of a poll at a meeting and prepare a report on the conduct of that poll, and the company fails to take reasonable steps to ensure, for example, that an independent person observes the conduct of the poll.

- Under section 253UC, if a company receives a request to appoint an independent person to scrutinise the outcome of a poll and prepare a report on the outcome of that poll, and the company fails to take reasonable steps to ensure, for example, that an independent person scrutinises the outcome of the poll.
- Under section 253UF, if a company receives a request for information about a poll and fails to take reasonable steps to provide the information within a reasonable time.
- Under section 253UG, if a company receives a report on the conduct or outcome of a poll and fails to keep a copy of the report.

The punishment for the above offences is 40 penalty units (currently \$8,880).

Conclusion

Organisations that are governed by the *Corporations Act 2001* (Cth) should be aware of the above amendments to ensure that they comply with any new or amended obligations that have been created.

Cybersecurity and IT Management

Law Compliance is aware that everyone is constantly aiming to have the highest possible cybersecurity in place from spam and hackers, as we are too. Sometimes, unfortunately firewalls and spam filters are also preventing us from sending emails to our subscribers.

To ensure you receive all future communications promptly and avoid difficulties with our Law Compliance updates or alerts emails reaching you and/or your team (because of these varied spam filtering services falsely classifying emails as spam or going into junk folders), we ask that you please let your IT team know to whitelist the following Law Compliance addresses:

- info@mailgun.lawcompliance.com.au;
- lawcompliance.com.au;
- our account system accountright@apps.myob.com

Should you or your IT team have further questions regarding this, please feel free to contact us.

Client in the spotlight: Relationships Australia NSW



Relationships Australia NSW is an independent, not-for-profit organisation, dedicated to enhancing relationships. With centres located all around NSW, they offer a range of different support options for individuals, families and their communities; these include counselling, mediation, group workshops,

specialist programs and referrals. Their work directly enables people to make positive choices about their relationships and life situations, to strengthen bonds within families and communities, and manage conflict and change.

We spoke to Devin North, RANSW's Head of Risk and Governance to discuss their approach to legislative compliance and their successful use of Comply Online Premium.

1. How did you manage your legislative compliance before using Law Compliance (LC) products and services?

Prior to using Law Compliance, managing, and monitoring our legislative compliance obligations was done manually within a Microsoft Excel spreadsheet. Although this was working, we felt that it wasn't working well enough for where we wanted to be in terms of our overall Risk Appetite and Risk Management values. Most importantly, we wanted to ensure that nothing would detract us from providing valuable and timely services to our clients.

2. What problem(s) were you trying to solve with LC products and services?

There were two key issues we wanted to address. The first was the shift away from manual and complex processes to a simple, purpose-designed, and intelligent software system that would enable effective and seamless interaction, tracking, and interpretation of data. The second issue, and arguably the most crucial, was the issue of knowing the unknowns. Most organisations can easily identify and name the legislative obligations and relevant Acts which are common amongst all organisations, i.e., Privacy Act, Fair Work Act, Work Health and Safety Act, etc. The issue which we wanted to address was the legislative obligations we didn't know to think about, were considered 'Business as Usual' tasks that met compliance, and other factors with the potential to impact our ability to support and provide quality services to our clients.

3. What made Law Compliance stand out from other options?

It was clear to us that the model and system design by Law Compliance was a standout in the field and our immediate preferred option. Law Compliance provides a centralised system to monitor compliance that is reasonably priced. We get enormous value from the fact that it quickly determines which laws do and don't apply to us, allowing us to keep abreast of them. The consolidation of data into an accessible report was also a clear benefit over other providers, and we value the levels of internal customisation on risk ratings.

4. What are the most valuable features of LC products and services?

All features were designed to be valuable which makes choosing the most valuable quite difficult. However, the Questionnaire at the beginning of the setup process was a crucially important and simple to use tool that enabled Law Compliance to determine which legislative obligations applied to our organisation. It also enabled some internal reflection and answered one of the issues we had prior to engaging Law Compliance – the unknowns.

We are also due to undertake LC's "Baseline Review Audit". The Baseline Review Audit includes interviews with our staff led by a LC solicitor to achieve a baseline of current compliance against all existing legislative obligations. The goal is to provide a report on areas of non-compliance and recommendations for rectification. Having a qualified legal practitioner lead these discussions is especially beneficial as it removes the risk of misinterpretation of legislative obligations.

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5. What have you been able to achieve since using LC products and services?

We've been able to build into our organisation policy renewal and review cycle a dedicated link to our obligations identified within Law Compliance and embed specific and relevant references to areas we previously were not aware of. In addition, having now embedded these specific obligations into our Policy metadata, should any changes occur to the legislation, our internal governance controls will enable us to immediately identify which Policies are impacted and what changes are required to be made.

6. What tips or advice do you have for any organisation who need a hand with their legislative compliance?

The time and costs associated with establishing and embedding a system like Law Compliance to manage your organisation's compliance obligations and provide comfort to your Board, stakeholders and clients, will always outweigh the cost of non-compliance, as well as the always unacceptable answer of "we didn't know it applied". The level of confidence the Law Compliance system and products can provide to an organisation's Risk team will enable greater and more detailed analysis of internal governance controls and the ability to draw all links back to the obligation which mandates it.

Number of Acts and Regulations passed in 2021

The regulatory burden on organisations is always increasing. On top of all the existing legislative obligations that each organisation must comply with, there are constant changes and new laws that need to be kept up with. Law Compliance does the work for you.

The number of Bills introduced, Acts, Regulations and other Subordinate Legislation passed in 2021 are set out in the table below:

Jurisdiction	Bills introduced in 2021	Acts passed in 2021	Regulations and other Subordinate Legislation passed in 2021
Commonwealth	200	142	424 (Regulations & Rules only)
ACT	43	34	30
New South Wales	91	47	415
Northern Territory	29	29	23
Queensland	32	25	191
South Australia	131	58	198
Tasmania	55	32	135
Victoria	68	56	177
Western Australia	61	30	223

That's **710** Bills, **453** Acts and **1816** Regulations and Rules that the Law Compliance team reviewed!

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Australian Capital Territory Update

Fair Trading and Other Justice Legislation Amendment Act 2022 (ACT)

Please be advised that relevant parts of the *Fair Trading and Other Justice Legislation Amendment Act 2022 (ACT)* (the **Amending Act**) commenced on 1 July 2022. The Amending Act amends the *Agents Act 2003 (ACT)* (the **Act**) and the *Agents Regulation 2003 (ACT)* (the **Regulation**) to establish a new licensing framework for property agents in the ACT.

Real estate licensing framework

The new framework creates two categories of licenses, reflecting the different levels of qualifications required for varying levels of responsibility when acting as a property agent. These licensing changes are being implemented in line with a nationally agreed strategy to improve training requirements in the real estate industry to ensure that industry professionals have the skills and qualifications required to provide real estate services.

The Amending Act divides property agent licenses into class 1 and class 2 licenses, with a class 1 license required for agents responsible for the day-to-day management of a real estate agency business. A class 2 license is required by licensed business agents, real estate agents, and stock and station agents that are not responsible for the management of a real estate agency business.

The framework also introduces additional requirements for licensed agents to complete additional auctioneer training to obtain a land auctioneering license. The Amending Act creates an offence to carry on business as a land auctioneer or pretend to be a licensed land auctioneer if the person is not a licensed land auctioneer. The offence carries a maximum penalty of 100 penalty units (currently \$16,000 for an individual and \$81,000 for a corporation).

The framework provides transitional provisions to allow for the necessary time for existing agents to undertake any additional training to satisfy their license in the long term.

Class 1 agent license

The new framework increases the education requirements for each class of license, with the aim of clearly defining skills, roles and competencies and

ensuring that qualifications reflect the skills necessary to provide real estate services. A class 1 license is required for agents responsible for the day-to-day management of a real estate agency business. Failure to hold a class 1 license while performing the duties will attract a fine of up to 50 penalty units (currently \$8,000 for an individual and \$40,500 for a corporation). The Amending Act creates several offences, relating to class 1 agent licenses, including an offence for an unlicensed person to act as a class 1 agent (carrying a penalty of up to 100 penalty units, currently \$16,000 for an individual and \$81,000 for a corporation), and an offence for being responsible for the day-to-day management of 2 or more places of business (carrying a penalty of a fine of up to 50 penalty units, currently \$8,000 for an individual and \$40,500 for a corporation).

Note that if, before the commencement day, a person was a licensed agent under section 33 of the Act and was a licensed business agent, a licensed real estate agent, or a licensed stock and station agent, and they were at any time before the commencement day, responsible for the day-to-day management of a place of business of the same kind of licensed agent, they will be taken to be a class 1 licensed property agent on the commencement of the Amending Act.

Class 2 agent license

A class 2 license requires the holder to attain the prescribed Certificate IV in Real Estate Practice and covers licensed business, real estate and stock and station agents that are not responsible for the day-to-day management of a real estate agency business. Under the Amending Act, it is an offence for an unlicensed person to act as a class 2 licensed agent. This strict liability offence carries a maximum penalty of 100

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penalty units (currently \$16,000 for an individual and \$81,000 for a corporation).

Note that if, before the commencement day, a person was a licensed agent under section 33 of the Act and was a licensed business agent, a licensed real estate agent, or a licensed stock and station agent they will be taken to be a class 2 licensed property agent on the commencement of the Amending Act.

Assistant agents

The Amending Act also removes the unqualified salesperson registration pathway which previously allowed persons who have not completed any real estate agent training to be conditionally registered as a salesperson, provided they were enrolled in a specified training course. Real estate salespersons will now be required to be registered as assistant agents. The framework requires assistant agents to complete ten units from the prescribed Certificate IV in Real Estate

Practice to gain eligibility for registration. Further, the permitted activities of this registration are now restricted, as the Amending Act introduces offences for assistant property agents to sign an agency agreement, conduct auctions, and withdraw trust money. Each action carries a maximum penalty of 100 penalty units (currently \$16,000 for an individual and \$81,000 for a corporation).

Note that if, before the commencement day, a person was a registered salesperson under section 57 of the Act and was a registered business salesperson, a registered real estate salesperson, or a registered stock and station salesperson, they will be taken to be a registered assistant property agent on the commencement of the Amending Act.

Conclusion

Organisations that employ real estate agents in the ACT should update their procedures to ensure that they comply with the new requirements mentioned above.

What our clients say...

“The key risk is the unknown – Law Compliance takes away that fear”

James Rankin, Corporate Lawyer

“Great system with great staff”

Fiona Stevens, Quality Manager

“We could not keep up with our legislative compliance obligations without the Quarterly Updates and newsletters. Once we had a system in place it was very straightforward and easy to use. The difficulty is in doing all of the gap analyses initially to give you a solid baseline. Once you have done this, the system is very efficient.”

Annabel Brown, Quality & Risk Officer

“Access to legal advice and to cost-effective online tools for in-house legal teams is usually not found in a single service offering. The value of Comply Online for our team is that the service provides both the system for managing legislative compliance in-house, supported by the knowledge of Health Legal’s advisory team on the legislative content. Comply Online enhances the value our in-house legal services provides to the foundations of our organisation’s corporate governance framework.”

Tess Lye, General Counsel

“I can happily recommend the Law Compliance products to any organisation who is looking for an easier way to keep up with their legal obligations. I cannot see any way that you could conceivably replicate their service without massive cost.”

Jack Blythe, Contracts ERP Functional Lead

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New South Wales Update

Long Service Leave Amendment (Regulatory Reform) Regulation 2022 (NSW)

The *Long Service Leave Amendment (Regulatory Reform) Regulation 2022 (NSW)* (the **Amending Regulation**) commenced on 20 May 2022, amending the *Long Service Leave Regulation 2021 (NSW)* (the **Regulation**) to prescribe new record keeping requirements in relation to long service leave records for the purposes of section 8 of the *Long Service Leave Act 1955 (NSW)* (the **Act**).

Long service leave records

The Amending Regulation inserts new Part 3 into the Regulation to provide for record keeping requirements in relation to long service leave. Regulation 4B prescribes the relevant particulars to be included in a worker's long service leave record, including:

- the name of the employer; and
- the Australian Business Number (ABN) of the employer; and
- the name of the worker; and
- if any conditions of employment of the worker are set out by an industrial instrument - the classification of the worker under the instrument; and
- whether the worker is employed full-time or part-time; and
- whether the worker is employed on a permanent, temporary, or casual basis; and
- if the worker is an apprentice or trainee within the meaning of the Apprenticeship and Traineeship Act 2001 (NSW) - the date the worker became an apprentice or trainee; and
- the date the worker began employment with the employer; and
- the date of termination of employment, if applicable.

Regulation 4C also requires employers to include the following details in the worker's long service leave records, regarding long service leave entitlements:

- the dates of any long service leave taken by the worker and the gross amount paid to the worker for the long service leave; and

- the worker's entitlement to long service leave, both on the date after 10 years of service with the employer and after each 5 years of additional service with the employer; and
- the amount of any bonuses included in the calculation of the worker's ordinary pay; and
- any payment made to a worker upon termination of employment due to long-service leave; and
- a copy of any long service leave application made by the worker; and
- a copy or record of any agreement to take long service leave under the Act.

Keeping records

Regulation 4D prescribes the form in which records must be kept. In accordance with this new provision, the employer is required to:

- ensure that the record is in a legible form in English, or in an electronic or other form that is readily accessible and convertible into a legible form in English; and
- make available the record to an inspector or any other person authorised under the Act to inspect records, and to the worker to whom the long service record relates.

Transfer of records to successor employers

If records of a worker are transferred from one employer (the former employer) to another (the new employer):

- the former employer must transfer all records to the new employer; and
- the new employer must keep the transferred records of the worker; and

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- the former employer must keep a copy of the transferred records for at least 6 years after the records were made.

We note, however, that the new employer is not required to keep any records regarding anything occurring in the course of the transferred employee's employment with the former employer.

Conclusion

Organisations in New South Wales should be aware of the new requirements to keep records of certain information in relation to the long service leave of each of their employees, as outlined above.

New features available on Comply Online® Premium!

We are always looking for new ways to make compliance simpler for our subscribers. Part of this is adding new features and functionality to our Comply Online platform.

New features for Premium profiles are set out below:

- The ability to tailor Compliance Reports. By selecting the new “**customise**” button, you can filter your compliance data and select which parts of the report you want to generate.
- Report by:
 - Compliance Status
 - Category (i.e. OH&S, Finance)
 - Risk Rating
 - Assigned user
 - A custom selection of topics
 - Business Unit

The screenshot shows a 'Customise Report' dialog box with the following fields and options:

- Compliance Status:** A dropdown menu with 'Partially Compliant' selected.
- Category:** A text input field with 'Employment' and 'Superannuation' tags below it.
- Business Unit:** A text input field with 'Any' selected below it.
- Topic:** A text input field with 'Any' selected below it.
- Assigned User:** A text input field with 'Any' selected below it.
- Risk Rating:** A text input field with 'High' selected below it.
- Include Pie Chart:** A checked checkbox.
- Include Line Graph:** A checked checkbox.
- Buttons:** 'Download PDF' (green), 'Preview PDF' (blue), 'Reset' (red), and 'Close' (blue).

- The compliance status for a topic no longer reverts to "Review Required" when the topic is reassigned to another user (the compliance information now transfers across).
- Primary users can now select which users they wish to have **read-only access** via the My Teams page (read-only users will have this noted near their tier level). These users can view topics and generate reports but cannot edit any compliance information. Please note that in order to see all topics, read-only users must be assigned to the Primary tier.
- A new “**Internal Review Required**” compliance status – differentiating from the topics which are marked as Review Required by Law Compliance due to legislative changes.
- Where a “Next Review Date” has been set for a topic, once this date expires, the topic will automatically revert to Internal Review Required (the compliance history for the topic will indicate this).
- The Importance rating of an update (as determined by Law Compliance and included in the Quarterly Update Table) is now included on the individual topic page.

If you have any questions about any of these features, please don't hesitate to contact your Client Relationship Manager.

We value your input and thank the clients who have provided the feedback which has resulted in the above enhancements. If you have any suggestions on how we can enhance the functionality and usability of Comply Online, please contact our team at any time.

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Northern Territory Update

Surrogacy Act 2022 (NT)

Please be advised that the *Surrogacy Act 2022 (NT)* (the **Act**) passed the Northern Territory Parliament on 12 May 2022. The Act will commence on a day fixed by the Administrator by Gazette notice but, if it has not commenced in that manner by 21 March 2024, it will commence on that day.

Background

The purpose of the Act is to establish a regulatory framework for surrogacy arrangements for a non-commercial purpose, while expressly criminalising commercial surrogacy.

The Act provides that surrogacy arrangements are not legally enforceable, except for the recovery of reasonable costs of the surrogate mother associated with a surrogacy arrangement. Specifically, the Act states that a surrogacy arrangement, other than a commercial surrogacy arrangement, may provide for the payment or reimbursement of the reasonable costs associated with the following:

- the surrogate mother trying to become pregnant, being pregnant and giving birth;
- the surrogate mother and her partner, if any, entering into or being a party to the surrogacy arrangement;
- the surrogate mother and her partner, if any, being a party to proceedings under the Act.

Reasonable costs include medical expenses, counselling costs, legal costs, child costs etc incurred by the surrogate mother as a result of the surrogacy arrangement, which are not recoverable under Medicare, health insurance or any other scheme.

Surrogacy arrangement means an agreement, understanding or other arrangement entered into by a woman and one or more other persons under which:

- a child born as a result of the woman's pregnancy is to be treated as a child of the other person or persons instead of the woman; and
- the other person or persons are to become the parents of and assume custody of the child instead of the woman.

Requirements for surrogacy arrangements

The Act introduces requirements that will need to be met to establish a valid surrogacy arrangement. These requirements are inclusive of, but not limited to:

- the surrogacy arrangement must be in writing and entered into prior to the surrogate mother falling pregnant;
- the intended parent(s) must be at least 25 years of age and Australian citizens or permanent residents of Australia;
- the reason for entering the surrogacy arrangement is due to the intended parents being unlikely to become pregnant due to a medical reason or other circumstances (gender identity, sexuality etc);
- each party to the surrogacy arrangement must receive legal advice from a practitioner regarding the implications of entering into a surrogacy arrangement;
- each party to the surrogacy arrangement must receive counselling from a registered counsellor regarding the implications of entering into a surrogacy arrangement. This counselling must be undertaken prior to entering the surrogacy arrangement and also following the birth of the child.

Offences

Finally, the Act introduces a series of offences relating to surrogacy arrangements, including offences for persons who intentionally:

- enter into, or offer, a commercial surrogacy arrangement;
- provide, or offer, a service to assist with the arrangement in exchange for a payment, reward or other material benefit;

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- publish information that encourages a person to enter a commercial surrogacy arrangement or states/implies that a person is willing to do so;
- provide, or offer, fertility services to assist a woman to become pregnant that is party to a commercial surrogacy arrangement;
- publish information relating to the identification of the parties of a surrogacy arrangement, including the child itself and/or disclose this information for an improper purpose.

Conclusion

Organisations involved with surrogacy arrangements should review existing policies and procedures to ensure they comply with the upcoming requirements.

Compliance Alerts

In response to client demand, we have developed compliance alert services that complement our existing legislative compliance products and services. The alert services allow our clients to prepare for new legislation that will have a significant operational impact before it has commenced.

We offer two types of compliance alert services.

Alert Service

The Alert Service gives subscribers advanced warning of the commencement of new significant Acts and Regulations as soon as they have been passed by Parliament.

As part of this service, we provide a one to two page summary of the key changes, the likely implications for our subscribers and a link to the relevant legislation.

We provide this summary to our clients via email within 3 business days of the legislation passing.

Express Alert Service

We have recently introduced the Express Alert Service. This service notifies our subscribers of key Bills as they enter Parliament (rather than waiting until they have passed). This allows subscribers to advocate for change and/or have advanced warning of significant changes with time to prepare.

With the express alert service, we send subscribers a high-level summary of significant bills within 3 days of the Bill being introduced.

The summary, (approximately 100-200 words) outlines the new legislation, including its progress through Parliament and the intended impact it will have on subscribers.

For any further information about either of the alert services, please contact Law Compliance.

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Queensland Update

Justice and Other Legislation Amendment Act 2021 (Qld)

Please be advised that relevant parts of the *Justice and Other Legislation Amendment Act 2021 (Qld)* (the **Amending Act**) commenced on 30 April 2022, amending the *Oaths Act 1867 (Qld)* (the **Oaths Act**) and the *Powers of Attorney Act 1998 (Qld)* (the **Powers Act**), to make many of the emergency provisions covered under the QLD – Enduring Documents (COVID-19) topic permanent. The **Amending Act** also repeals the *Justice Legislation (COVID-19 Emergency Response - Documents and Oaths) Regulation 2020 (Qld)* (the **Repealed Regulations**). Additionally, the *Oaths Regulation 2022 (Qld)* (the **Oaths Regulations**) commenced on 29 April 2022.

Changes to Requirements for Enduring Documents

Part 4 of the Oaths Act has been amended to allow for electronic signatures on certain documents, including deeds, affidavits, statutory declarations and oaths. The definition of **accepted method for electronically signing a document** has been added to section 1B of the Oaths Act as:

Accepted method, for electronically signing an affidavit or a declaration, means:

- a method prescribed, or a method stated in a rule of court or practice direction made, given, issued or approved, under section 13A of the Act that is applicable to the affidavit or declaration; or
- if no method is prescribed, or no rule or practice direction is made, given, issued or approved, that applies to the affidavit or declaration—a method described in the paragraph below.

Accepted method, for electronically signing a document other than an affidavit or a declaration to which the first point in the paragraph above applies, means a method that:

- identifies the signatory for the document and the signatory's intention in relation to the contents of the document; and
- is either:
 - as reliable as appropriate for the purpose for which the document is signed, having regard to all the circumstances, including any relevant agreement; or

- proven in fact to have fulfilled the functions described in the point above by itself or together with further evidence.

Audio visual links

The new part 6A of the Oaths Act has been introduced to allow for witnessing most documents by audio visual links. Importantly, section 31P allows a signatory of a document, in the physical presence of a person, to direct them as a substitute signatory to sign documents witnessed through audio visual links. A person is excluded from being a substitute signatory if they are excluded under another Act or law from signing the document, or the person is witnessing the document, or the person is a party to a proceeding or a relation of a person party to a proceeding if the document is an affidavit or a declaration.

Additionally, Australian legal practitioners, some government legal officers and employees of the public trustee may direct someone to sign a document as a substitute signatory via audio visual link. Under sections 31R and 31S, documents signed by substitute signatories or witnessed through an audio visual link must be witnessed by a special witness, defined in section 12 of the Oaths Act and includes Australian legal practitioners and notaries public. Regulations 8, 9 and 10 of the Oaths Regulations also prescribe that a senior police officer can witness a relevant affidavit through an audio visual link if it is not reasonably practicable to witness the affidavit other than by audio visual link. A relevant affidavit is defined in regulation 2 of the Oaths Regulations and includes, for example, an affidavit made by a police officer for use in proceedings under the *Bail Act 1980 (Qld)*.

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Critically, under section 31T, an audio visual link may only be used to witness a document if:

- the witness observes the signatory direct the substitute signatory to sign the document, if applicable; and
- the audio visual link enables the witness to be satisfied, by the sounds and images made by the link, that the signatory or substitute signatory is signing the document; and
- the witness forms the satisfaction under the point above in real time; and
- the witness is satisfied that the signatory is freely and voluntarily signing the document or directing the substitute signatory to sign the document.

An audio visual recording of witnessing or signing of a document can only be done with the consent of the signatory, witness or substitute witness, as applicable.

Changes to the Powers Act

The new Part 3A of the Powers Act has created specific obligations for businesses in relation to general powers of attorney. Execution of general powers of attorney by corporations must be signed or, in the case where a seal is fixed onto the document, witnessed by at least two directors or one director and one secretary of the corporation. If the organisation is a proprietary company that has a sole director, the document must be signed or witnessed by the director if the director is also the sole company secretary, or the company does not have a company secretary.

A person may also sign a general power of attorney for a corporation without using a seal if they are a lawfully authorised agent or attorney; however, they must sign in a way that indicates that the person is an agent or attorney. Similarly, if a person is executing power of attorney on behalf of a partnership or unincorporated association, then they must indicate they are executing the power in such a manner. Importantly, the definition of **signing a document** in this Part includes both the signing of a physical document and electronically signing an electronic document.

Section 24H also allows for the witnessing of fixing a seal to a document by audio visual link and requires that the document includes a statement that the person has observed the fixing of the seal in such a manner.

A document lodged or deposited to the land registry or water allocation register may be done so in counterparts, and if it is in the form of an electronic document, then it must be printed, physically signed and certified on the last page of the copy by:

- 1 of the signatories;
- a lawyer;
- a justice;
- a commissioner for declarations;
- a notary public;
- a trustee company under the *Trustee Companies Act 1968* (Qld);
- a stockbroker.

Finally, the Powers Act has been amended to include the power of nurse practitioners to sign and date a certificate included in an advance care directive to state that a person making the advance care directive appears to have capacity.

Conclusion

Organisations that are involved in the making, signing, and witnessing of enduring documents should be aware that temporary provisions enacted under the Repealed Regulations have been enacted as part of the Oaths Act and the Powers Act, as set out above.



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South Australia Update

Statutes Amendment (Child Sexual Abuse) Act 2021 (SA)

On 1 June 2022 the *Statutes Amendment (Child Sexual Abuse) Act 2021 (SA)* (the **Amending Act**) commenced amending the *Criminal Law Consolidation Act 1935 (SA)*.

Background

The Amending Act introduces two new criminal offences prohibiting prescribed persons (defined below) from failing to report suspected child sexual abuse and failing to protect a child from suspected child sexual abuse.

These new offences will apply to employees of an institution. An institution means an entity (whether private or public) that operates facilities or provides services to children who are in the care, or under the supervision or control, of the institution and includes (without limitation) medical and religious institutions and any services or functions provided by persons as part of the duties of a medical practitioner or of a religious or spiritual vocation or an entity of a class prescribed by the Regulations (none have been prescribed at the time of writing).

Prescribed person is defined broadly as an adult who is an employee of an institution or provides out of home care, including a person who:

- is a self-employed person who constitutes, or who carries out work for, an institution; or
- carries out work for an institution under a contract for services; or
- carries out work as a minister of religion or as part of the duties of a religious or spiritual vocation; or
- undertakes practical training with an institution as part of an educational or vocational course; or
- carries out work as a volunteer for an institution; or
- is of a class prescribed by the Regulations.

Failure to report suspected child sexual abuse

A prescribed person commits an offence if they fail to report to the Police that they know, suspect, or should have suspected that another person (the abuser), who is an employee of an institution or is providing home care, had:

- previously engaged in the sexual abuse of a child while the abuser was an employee of the institution or, while providing out of home care; or
- the abuser is engaging, or is likely to engage, in the sexual abuse of a child.

To determine whether a prescribed person *should have suspected* the alleged abuse, the standard of whether a reasonable person in the prescribed person's circumstances would have held the relevant suspicion is applied.

The maximum penalty for a breach of this crime is 3 years of imprisonment.

Organisations should note that if a prescribed person reports the matter to the police, in good faith, believing that the report was required under the above paragraphs, no civil or criminal liability lies against the person for making the report nor will the person be held to have breached any code of professional etiquette, ethics or professional conduct.

Failure to protect child from sexual abuse

A prescribed person commits an offence if they know that there is a substantial risk that another person (the abuser), who is also an employee of an institution or is providing home care, will engage in the sexual abuse of a child and is in a position of authority in relation to the child, and the prescribed person negligently fails to reduce or remove that risk when they have the power or responsibility to do so.

The maximum penalty for a breach of this crime is 15 years of imprisonment.

Conclusion

The new offences discussed above carry significant penalties for prescribed persons and it is recommended that organisations make all relevant workers aware of the above obligations.

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Tasmania Update

Agricultural and Veterinary Chemicals (Control of Use) Regulations 2022 (Tas)

The *Agricultural and Veterinary Chemicals (Control of Use) Regulations 2022 (Tas)* (the **Regulations**) commenced on 20 April 2022. These regulations work in conjunction with the *Agricultural and Veterinary Chemicals (Control of Use) Act 1995 (Tas)* (the **Act**) to regulate the use of veterinary chemicals.

Background

Schedule 1 sets out the objectives of the Act whereby any person who has a power or function imposed under the Act must follow. The objectives relevant to veterinary practice are:

- To impose controls in relation to the handling of agricultural chemical products and veterinary chemical products for the purpose of:
 - protecting the health of the general public and the users of those products; and
 - protecting the environment; and
 - protecting the health and welfare of animals; and
 - promoting a clean and high-quality lifestyle for Tasmania.
- To impose controls over the conditions of storage for the sale, distribution or handling of agricultural chemical products and veterinary chemical products for the purpose of preventing or minimising the risks of:
 - the presence of chemical products in the environment; and
 - hazard to persons.

Interaction with the AgVet Code

Under the Act, a person must not deal with any chemical product unless it is registered and used in accordance with the *Agricultural and Veterinary Chemicals Code Act 1994 (Cth)* (The **Code**). However, veterinary surgeons may also use veterinary chemicals prepared by a veterinary surgeon or pharmaceutical chemist where the chemical has a notice or label which follows the form under Schedule 2 of the Regulations.

Licences, permits and certificates

Under section 21 of the Act and regulation 8 of the Regulations any use of a chemical product for fee or reward requires a **commercial operator licence**, unless, in terms of a veterinary chemical, only a small amount is being applied by handheld equipment for a purpose incidental to the person's main purpose, or it is used by a veterinary surgeon in the course of their profession. Importantly, the amount of a veterinary chemical which constitutes a **small amount** is either published in the Gazette or on the Department website.

For a veterinary surgeon to handle any veterinary chemical product for the delivery of a service for fee or reward, they must apply for a **certificate of competency** under regulation 10 of the Regulations.

Like the Code, section 23 of the Act also prohibits the use of a restricted chemical product unless the person is granted with a **restricted chemical product permit** under section 24 of the Act.

Use and storage of chemicals

Storage

Regulation 5 of the Regulations requires that all chemical products be kept out of reach to children and in a place where they do not contaminate any food or goods for sale, even if the container holding the chemical leaks or is damaged. Furthermore, it is prohibited for a person to transfer a chemical product from its container, in which it was supplied, unless the new container has the same label attached, or if the chemical is to be used immediately.

Schedule 6 and 7 poisons

The Regulations also prescribe specific obligations surrounding the use and storage of **Schedule 6 and 7**

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poisons, as defined in the Code. Importantly, Schedule 6 and 7 poisons must not be kept in a place where any person who is not authorised may have access to it.

There are specific obligations surrounding the use of protective clothing and equipment when handling Schedule 6 and 7 poisons under regulation 22.

Additionally, there are general duties of employers of people who handle Schedule 6 and 7 poisons, including the duties to provide proper protective clothing, facilities and equipment. Employers must also ensure that all employees are aware of the relevant provisions under Part 3 of the Regulations to ensure that employees comply with these obligations.

Organisations must also provide for washing facilities with enough soap and water so that all chemical operators that have any chemical product splash on their skin or clothing, may immediately remove their clothes and use the washing facilities to clean their skin or clothes.

Chemical operator means a person engaged in handling a chemical product.

Medical examinations

Importantly, if the Registrar of Chemical Products appointed under the Act has reason to believe that a chemical operator has had their health effected by the handling of a chemical product, then they may be required, by notice, to undergo a medical examination.

If this occurs, then the organisation must allow the chemical operator to attend this medical examination, pay them their usual remuneration and reimburse them for any reasonable cost they incur due to the medical examination.

A chemical operator may be prohibited from handling certain chemicals because of a medical examination, and in such circumstances the organisation must not allow the chemical operator to use the relevant chemicals unless given written consent of the Registrar.

Records

Veterinary surgeons are required to keep records for 2 years when they supply or give a prescription for a veterinary chemical product under regulation 41, including the name and address of the owner of the animal treated and description of the animal.

Conclusion

Organisations should be aware of the licences, permits and certificates required for the use of chemical products. In addition, organisations should have a system in place to ensure that they are compliant with obligations surrounding the storage, handling and record keeping requirements, including the specific provisions for Schedule 6 and 7 poisons for their veterinarians.

Organisations with employees undergoing a medical examination by notice should also ensure that they are aware of their obligations under the Act.

Comply Online Premium Trial

If you have been considering upgrading your organisation's subscription to the Premium version, (which allows you to allocate topics to users and produce compliance Board reports), take a look at the [Key Features fact sheet](#) and [Premium tour video](#).

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Victoria Update

Victoria's New Child Safe Standards

The Commissioner for Children and Young People has released new Child Safe Standards to set out the minimum requirements for the actions organisations must take to keep children and young people safe. These new Standards apply from 1 July 2022 and replace the current 7 standards and principles. The 11 new Standards are more detailed than the current standards and are also more consistent with the child safety requirements currently in place across other Australian jurisdictions.

The New Child Safe Standards

The newly released Child Safe Standards that must be adhered to by organisations from 1 July 2022 are as follows:

1. Organisations must establish a culturally safe environment in which the diverse and unique identities and experiences of Aboriginal children and young people are respected and valued
2. Child safety and wellbeing is embedded in an organisation's leadership, governance and culture
3. Children and young people are empowered about their rights, participate in decisions affecting them and are taken seriously
4. Families and communities are informed and involved in promoting child safety and wellbeing
5. Equity is upheld and the diverse needs of children and young people are respected in policy and practice
6. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice
7. Processes for complaints and concerns within the organisation are child focused
8. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training
9. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed
10. The implementation of the Child Safe Standards within the organisation is regularly reviewed and improved
11. The organisation's policies and procedures document how the organisation is safe for children and young people

A helpful comparison between the current and new Standards can be found [here](#).

Conclusion

Organisations should familiarise themselves with the new Child Safe Standards which are summarised above. Organisations should identify the changes required to be made by them to ensure they are compliant with the new Standards by 1 July 2022, including updating of systems, policies and procedures.

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Western Australia Update

Work Health and Safety Act 2020 (WA)

On 31 March 2022, relevant provisions of the *Work Health and Safety Act 2020 (WA)* (the **Act**) commenced, implementing a modernised legislative framework for work health and safety in Western Australia that is consistent with other Australian jurisdictions

Background

Based on national model work health and safety legislation, the Act works to harmonise Western Australia's work health and safety legislation with other Australian jurisdictions (with the exception of Victoria). The Act aims to protect the health and safety of workers, improve safety outcomes in workplaces, reduce compliance costs for national businesses and improve efficiency for regulatory bodies and agencies.

The Act is supported by general regulations, the *Work Health and Safety (General) Regulations 2022 (WA)*, as well as several sets of industry specific regulations to account for certain work conditions specific to Western Australia.

Industrial Manslaughter

Section 30A of the Act introduces a new offence relating to industrial manslaughter. This is a critical new provision aimed at ensuring workplace deaths that are the result of the conduct of persons conducting a business or undertaking (a **PCBU**) and their officers are met with substantial penalties. A person commits industrial manslaughter under the Act if they have a health and safety duty as a PCBU or an officer of a PCBU, and they engage in conduct constituting a failure to comply with that health and safety duty that causes the death of an individual. Importantly, the PCBU or officer must engage in the conduct knowing, and in disregard of, the likelihood of death or serious harm to the individual.

An offence under this provision attracts a penalty of 20 years imprisonment and a fine of \$5,000,000 for an individual, and a fine of \$10,000,000 in the case of a body corporate.

General Duties

The Act imposes a primary duty of care on PCBU's involving, in broad terms, ensuring the health and safety of workers so far as reasonably practicable. To enable enforcement, breaches of this duty are classified into three categories.

A PCBU or other person who has a health and safety duty commits a **Category 1 offence** if they fail to comply with the health and safety duty, and that failure causes the death of, or serious harm to, an individual. Commission of a Category 1 offence carries substantial penalties. If the offence is committed by an individual in their capacity as an officer of a PCBU, it will incur a penalty of imprisonment for 5 years and a fine of \$680,000. If the offence is committed by another individual, the associated penalty is imprisonment for 5 years and a fine of \$340,000. Commission of a Category 1 offence by a body corporate incurs a penalty of \$3,500,000.

For the purposes of a Category 1 offence, a failure causes **serious harm** if it causes an injury or illness to an individual that endangers or is likely to endanger the individual's life, or results in or is likely to result in permanent injury or harm to the individual's health.

A person commits a **Category 2 offence** if they have a health and safety duty that they fail to comply with, and the failure exposes an individual to the risk of death or of injury or harm to the individual's health. For an individual, if the offence is committed by the individual as a PCBU or an officer of a PCBU, this offence incurs a fine of \$350,000. For any other individual, this offence carries a fine of \$170,000. For a body corporate, a Category 2 offence carries a fine of \$1,800,000.

Finally, a person commits a **Category 3 offence** if the person fails to comply with their health and safety duty. The associated penalties include a fine of \$120,000 for a

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PCBU or an officer of a PCBU, a fine of \$55,000 for an individual, and \$570,000 for a body corporate.

Subscribers should be aware that volunteers and unincorporated associations are exempt from the above offences.

Other key provisions

In addition, the Act has introduced a series of key provisions of which subscribers should be aware, including:

- a requirement for officers of a PCBU to exercise due diligence in ensuring a PCBU's compliance with the work health and safety duties under the Act;
- reporting requirements in relation to notifiable incidents, such as the death or serious injury or illness of a person, or a dangerous accident;
- obligations relating to consultation on work health and safety matters, including a duty for PCBU's to consult with other duty holders and workers who are likely to

- be directly affected by a matter relating to work health and safety (failure to comply with these provisions carries substantial penalties, being \$25,000 in the case of an individual or \$115,000 in the case of a body corporate);
- the establishment of a general scheme for authorisations including licences, permits and registrations (for example relating to high-risk work or users of certain plant or substances);
- protections against discrimination for those who exercise or perform functions or rights under the Act (these provisions carry a penalty of a fine of \$115,000 in the case of an individual and \$570,000 in the case of a body corporate).

Conclusion

Organisations should be aware of Western Australia's new harmonised work health and safety legislative framework and begin work to implement new policies and procedures to ensure compliance.

Who is Law Compliance?

Law Compliance aims to simplify compliance, in a cost-effective way.

Our products allow organisations to have comfort that they are aware of all of the laws that apply to them and more importantly, that they know what they need to do in order to comply with those laws.

Designed to meet the different needs of each organisation our products include alerts of new Acts which will have a significant operational impact, self-assessment tools which allow organisations to test their level of legal compliance, as well as quarterly updates on new laws impacting on Australian businesses.










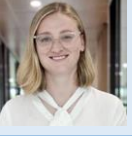
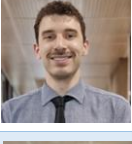
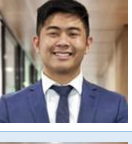

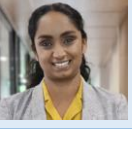


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*For more information please contact our team on **1300 862 667**
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