

Law Compliance Report – November 2024

Welcome to the November 2024 edition of the Law Compliance Report.

In this issue we:

- set out some of the [current Bills](#) we are tracking throughout Australia;
- outline recent legislative changes occurring in each of the States and Territories:
 - [Commonwealth](#)
 - [Australian Capital Territory](#)
 - [New South Wales](#)
 - [Northern Territory](#)
 - [Queensland](#)
 - [South Australia](#)
 - [Tasmania](#)
 - [Victoria](#)
 - [Western Australia](#); and
- provide Comply Online® tips including [how to use the Quarterly Update Table](#).

Click on the blue links above to go directly to the article.



Some of the legislative changes being tracked

Western Australia

Associations and Co-operatives Legislation Amendment Bill 2024 (WA)
 Climate Change and Greenhouse Gas Emissions Reduction Bill 2021 (WA)
 Community Protection (Offender Reporting) Amendment Bill 2024 (WA)
 Education and Care Services National Law Application Bill 2024 (WA)
 Evidence Bill 2024 (WA)
 Family Court Amendment (Commonwealth Reforms) Bill 2024 (WA)
 Gambling Legislation Amendment Bill 2024 (WA)
 Industrial Relations Legislation Amendment Bill 2024 (WA)
 Information Commissioner Bill 2024 (WA)
 Mining Amendment (Transfer of Royalty Administration) Bill 2024 (WA)
 Privacy and Responsible Information Sharing Bill 2024 (WA)
 Retail Trading Hours Amendment Bill 2021 (WA)
 Retirement Villages Amendment Bill 2024 (WA)
 Statutes (Repeals and Minor Amendments) Bill 2021 (WA)
 Towing Services Bill 2024 (WA)

Northern Territory

(No bills)

Queensland

(No bills)

New South Wales

24-Hour Economy Legislation Amendment (Vibrancy Reforms) Bill 2024 (NSW)
 Anti-Discrimination and Crimes Legislation Amendment (Disability) Bill 2024 (NSW)
 Automated External Defibrillators (Public Access) Bill 2024 (No 2) (NSW)
 Biodiversity Conservation Amendment (Biodiversity Offsets Scheme) Bill 2024 (NSW)
 Equality Legislation Amendment (LGBTIQ+) Bill 2023 (NSW)
 Marine Safety Amendment Bill 2024 (NSW)
 Protection of the Environment Operations Amendment (Balloons) Bill 2024 (NSW)
 Public Health (Tobacco) Amendment Bill 2024 (NSW)
 Residential Tenancies Amendment (Animals in Residential Premises) Bill 2024 (NSW)
 Residential Tenancies Amendment (Prohibiting No Grounds Evictions) Bill 2024 (NSW)
 Residential Tenancies Amendment Bill 2024 (NSW)
 Revenue Legislation Further Amendment Bill 2024 (NSW)
 State Emergency and Rescue Management Amendment Bill 2024 (NSW)
 Surveillance Devices Amendment (Public Interest Exemptions) Bill 2023 (NSW)
 Water Legislation Amendment Bill 2024 (NSW)
 Witness Protection Amendment Bill 2024 (NSW)

Commonwealth

Aged Care Bill 2024 (Cth)
 Aged Care Legislation Amendment Bill 2024 (Cth)
 Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024 (Cth)
 Better and Fairer Schools (Information Management) Bill 2024 (Cth)
 Building and Construction Industry (Restoring Integrity and Reducing Building Costs) Bill 2024 (Cth)
 Building and Construction Industry (Restoring Integrity and Reducing Building Costs) Bill 2024 (No. 2) (Cth)
 Commonwealth Electoral Amendment (Lowering the Donation Disclosure Threshold) Bill 2023 (Cth)
 Commonwealth Electoral Amendment (Voter Protections in Political Advertising) Bill 2023 (Cth)
 Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2024 (Cth)
 Crimes and Other Legislation Amendment (Omnibus No. 1) Bill 2024 (Cth)
 Customs Amendment (Banning Goods Produced By Forced Labour) Bill 2022 (Cth)
 Cyber Security Bill 2024 (Cth)
 Education Services for Overseas Students Amendment (Quality and Integrity) Bill 2024 (Cth)
 Electoral Legislation Amendment (Fair and Transparent Elections) Bill (No. 2) 2024 (Cth)
 Environment Protection and Biodiversity Conservation Amendment (Climate Trigger) Bill 2022 (No. 2) (Cth)
 Fair Work Amendment (Right to Disconnect) Bill (No. 2) 2023 (Cth)
 Family Law Amendment Bill 2024 (Cth)
 Future Made in Australia (Guarantee of Origin) Bill 2024 (Cth)
 Future Made in Australia Bill 2024 (Cth)
 Nature Positive (Environment Information Australia) Bill 2024 (Cth)
 Nature Positive (Environment Law Amendments and Transitional Provisions) Bill 2024 (Cth)
 Nature Positive (Environment Protection Australia) Bill 2024 (Cth)
 Privacy and Other Legislation Amendment Bill 2024 (Cth)
 Security of Critical Infrastructure and Other Legislation Amendment (Enhanced Response and Prevention) Bill 2024 (Cth)
 Taxation (Multinational—Global and Domestic Minimum Tax) Bill 2024 (Cth)
 Treasury Laws Amendment (Mergers and Acquisitions Reform) Bill 2024 (Cth)
 Treasury Laws Amendment (Multinational—Global and Domestic Minimum Tax) (Consequential) Bill 2024 (Cth)
 Treasury Laws Amendment (Responsible Buy Now Pay Later and Other Measures) Bill 2024 (Cth)
 Truth and Justice Commission Bill 2024 (Cth)
 Universities Accord (National Student Ombudsman) Bill 2024 (Cth)
 Universities Accord (Student Support and Other Measures) Bill 2024 (Cth)
 Wage Justice for Early Childhood Education and Care Workers (Special Account) Bill 2024 (Cth)

South Australia

Animals Welfare Bill 2024 (SA)
 Biosecurity Bill 2024 (SA)
 Cannabis Legalisation Bill 2022 (SA)
 Children and Young People (Safety and Support) Bill 2024 (SA)
 Climate Change and Greenhouse Emissions Reduction (Miscellaneous) Amendment Bill 2024 (SA)
 Construction Industry Commissioner Bill 2024 (SA)
 Conversion Practices Prohibition Bill 2024 (SA)
 Dog and Cat Management (Breeder Reforms) Amendment Bill 2024 (SA)
 Education and Children's Services (Parental Primacy) Amendment Bill 2024 (SA)
 Fair Trading (Lifespan of Electrical Products) Amendment Bill 2022 (SA)
 Freedom of Information (Miscellaneous) Amendment Bill 2023 (SA)
 Government Advertising Bill 2024 (SA)
 Health Care (Ambulance Response Targets) Amendment Bill 2023 (SA)
 Independent Commission Against Corruption (ICAC Recommendations) Amendment Bill 2024 (Connie Bonaros MLC) (SA)
 Independent Commission Against Corruption (ICAC Recommendations) Amendment Bill 2024 (Robert Simms MLC) (SA)
 Independent Commission Against Corruption (ICAC Recommendations) Amendment Bill 2024 (Sarah Game MLC) (SA)
 Motor Vehicles (Motor Driving Instructors and Authorised Examiners) Amendment Bill 2024 (SA)
 Office for Early Childhood Development Bill 2024 (SA)
 Pet Food (Marketing and Labelling) Bill 2024 (SA)
 Planning, Development and Infrastructure (Gas Infrastructure) Amendment Bill 2022 (SA)
 Plastic Shopping Bags (Waste Avoidance) Repeal Bill 2024 (SA)
 Public Finance and Audit (Cash Payments) Amendment Bill 2024 (SA)
 Residential Tenancies (Minimum Standards) Amendment Bill 2024 (SA)
 Retirement Villages (Miscellaneous) Amendment Bill 2024 (SA)
 Return to Work (Employment and Progressive Injuries) Amendment Bill 2024 (SA)
 Statute Amendment (Personal Mobility Devices) Bill 2024 (SA)
 Statutes Amendment (Animal Welfare Reforms) Bill 2022 (SA)
 Statutes Amendment (National Energy Laws) (Data Access) Bill 2024 (SA)
 Statutes Amendment (Personal Mobility Devices) Bill 2024 (SA)
 Surveillance Devices (Prescribed Residential Premises) Amendment Bill 2024 (SA)
 Tobacco and E-Cigarette Products (E-Cigarette and Other Reforms) Amendment Bill 2024 (SA)

Tasmania

Charities and Associations Law (Miscellaneous) Amendment Bill 2024 (Tas)
 Disability Inclusion and Safeguarding Bill 2024 (Tas)
 Electoral Disclosure and Funding Amendment Bill 2024 (Tas)
 Historic Cultural Heritage Amendment Bill 2024 (Tas)
 Industrial Hemp Amendment Bill 2024 (Tas)
 Justice and Related Legislation (Miscellaneous Amendments) Bill 2024 (Tas)
 Residential Tenancy Amendment Bill 2024 (Tas)
 Tasmanian Civil and Administrative Tribunal (Additional Jurisdictions) Act 2024 (Tas)
 Work Health and Safety Amendment (Industrial Manslaughter) Bill 2024 (Tas)

ACT

(No bills)

Victoria

Building Legislation Amendment and Other Matters Bill 2024 (Vic)
 Children, Youth and Families Amendment (Home Stretch) Bill 2023 (Vic)
 Children, Youth and Families Amendment (Raise the Age) Bill 2022 (Vic)
 Disability and Social Services Regulation Amendment Bill 2024 (Vic)
 Drugs, Poisons and Controlled Substances Amendment (Pill Testing) Bill 2024 (Vic)
 Hemp Industry Bill 2024 (Vic)
 Offshore Petroleum and Greenhouse Gas Storage Amendment Bill 2024 (Vic)
 Planning and Environment Amendment (Soil Protection) (Solar Power Generation Facilities) Bill 2023 (Vic)
 Public Health and Wellbeing Amendment (Health Services Performance Transparency and Accountability) Bill 2023 (Vic)
 Residential Tenancies Amendment (Rent Freeze and Caps) Bill 2023 (Vic)
 Roads and Road Safety Legislation Amendment Bill 2024 (Vic)
 Transport Infrastructure and Planning Legislation Amendment Bill 2024 (Vic)

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

Crimes Legislation Amendment (Combatting Foreign Bribery) Act 2024 (Cth)

On 8 September 2024, relevant parts of the *Crimes Legislation Amendment (Combatting Foreign Bribery) Act 2024 (Cth)* (the **Amending Act**) amended the *Criminal Code Act 1995 (Cth)* (the **Code**).

Overview

To further prevent foreign bribery and corruption, the Amending Act has:

- introduced section 70.5A to the Code which is a new offence for corporations that fail to prevent the bribery of a foreign public official;
- extended the existing foreign bribery offence in the Code to include bribery conducted to obtain a *personal advantage*; and
- amended the definition of 'foreign public official' to ensure that the existing foreign bribery offences in the Code also extend to bribes made to candidates for public office.

These new changes are discussed in further detail below.

New offence of failing to prevent the bribery of a foreign public official

New section 70.5A has been introduced to the Code, which is a new criminal offence for corporations where a corporation will be held criminally liable in the event that an *associate* of the corporation has committed foreign bribery for the profit or gain of the corporation. This new offence applies in relation to conduct engaged in, on or after 8 September 2024.

The new definition of *associate* in the Code is very broad. A person will be an **associate** of a corporation if they are an officer, employee, agent, contractor, subsidiary of, or are controlled by, the corporation, or otherwise perform services for or on behalf of the corporation.

The maximum penalty for the new offence in section 70.5A is significant, and is the greatest of the following:

- 100,000 penalty units (currently, **\$31,300,000**);
- if the value of the benefit the associate obtained through the contravention of section 70.2 of the Code can be determined, three times the value of that benefit;
- if the value of the benefit cannot be determined, 10% of the annual turnover of the corporation for the 12 months ending at the end of the month in which the associate committed or began committing the offence against section 70.2 of the Code.

The new offence in section 70.5A is an *absolute liability* offence which means that an associate does not need to be convicted of bribing a foreign public official under section 70.2 of the Code, nor does the corporation need to be aware of, or have authorised the bribery, for the corporation to be liable under newly introduced section 70.5A of the Code.

However, it is important to be aware that the new offence in section 70.5A of the Code *will not apply* if the corporation can prove it had adequate procedures in place that were designed to prevent the commission of an offence against section 70.2 of the Code; and any associate of the corporation engaging in conduct outside Australia that, if engaged in in Australia, would constitute an offence against section 70.2. (Under the Code, corporations will be required to bear the legal burden of proving this defence).

While the Code does not define 'adequate procedures', organisations should be aware that the Attorney-General's Department have published a guidance document designed to assist corporations, entitled '**Guidance on adequate procedures to prevent the commission of foreign bribery**'.

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This guidance document outlines the various steps corporations can take to establish an effective anti-bribery compliance program and suggests types of controls to consider when implementing such a program.

[Extension of the existing foreign bribery offence to include bribery conducted to obtain a personal advantage](#)

Organisations should be aware that the existing foreign bribery offence in section 70.2 of the Code has been extended to now also include bribery conducted to obtain a *personal advantage* (the previous offence in section 70.2 prior to 8 September 2024 was simply restricted to bribery conducted to obtain or retain a business advantage).

As a result of this change, the offence in section 70.2 of the Code now applies to both bribes made to obtain a personal, as well as business advantage. **Advantage** in the Code is defined to mean an advantage of any kind and is not limited to property.

[Amended definition of 'foreign official'](#)

Finally, we note that the definition of **foreign public official** in section 70.1 of Code has been amended to include an individual standing, or nominated, (whether formally or informally) as a candidate to be a foreign public official covered by any of paragraphs (a) to (k) of the existing definition of

foreign public official in section 70.1 of the Code. As a result of this change, the foreign bribery offences in the Code now extend to bribes made to candidates for public office.

Conclusion

Organisations should ensure executive and senior leadership staff are made aware of the new offence of failing to prevent the bribery of a foreign public official, as discussed above, and as outlined in the new **NATIONAL – Corporate Criminal Responsibility** topic.

Importantly, and as mentioned above, corporations will not be liable under the new 'failure to prevent' offence in section 70.5A of the Code if the corporation can prove it had 'adequate procedures' in place to prevent foreign bribery. As such, organisations should amend their current policies and procedures relating to foreign bribery to ensure they are robust and to that end, corporations should implement appropriate measures and controls to prevent foreign bribery, paying particular attention to the suggested measures outlined in the Attorney-General's Department '[Guidance on adequate procedures to prevent the commission of foreign bribery](#)' which is available for download by clicking the link.



[\(AICD\) Practice Statement: Directors' Oversight of Company Compliance Obligations](#)

The Australian Institute of Company Directors (AICD) *Practice Statement: Directors' Oversight of Company Compliance Obligations*, released in October 2024, provides crucial guidance for management teams and board members.

It emphasises a proactive approach to risk and compliance management, detailing key actions and considerations that all Australian organisations should take into account.

[Click here](#) for further detail and to see how this may impact your organisation.

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Australian Capital Territory Update

Voluntary Assisted Dying Act 2023 (ACT)

The *Voluntary Assisted Dying Act 2023 (ACT)* (the **Act**) passed the ACT Parliament on 5 June 2024 and will commence on 3 November 2025. The Act will make it lawful for health practitioners to assist eligible individuals in accessing voluntary assisted dying.

Operationally Significant Changes

The most significant changes (from an operational perspective), include:

- prescribing eligibility criteria for individuals who wish to access voluntary assisted dying;
- detailing the process to access voluntary assisted dying;
- prescribing the obligations when administering voluntary assisted dying substances;
- outlining notification requirements regarding deaths as a result of voluntary assisted dying; and
- establishing the Voluntary Assisted Dying Oversight Board (**Board**) to monitor the operation of the Act and requests for voluntary assisted dying.

Further Information

Eligibility criteria for voluntary assisted dying

To be eligible to access voluntary assisted dying, an individual must:

- be an adult; and
- have been diagnosed with a condition that, either on its own or in combination, is advanced, progressive and expected to cause death (the **relevant conditions**); and
- be suffering intolerably in relation to the relevant conditions; and
- have decision-making capacity in relation to voluntary assisted dying; and
- have decided to access voluntary assisted dying voluntarily and without coercion; and
- have lived in the ACT for at least the previous 12 months or been granted an exemption under

section 151 of the Act (regarding an individual with a substantial connection to the ACT).

However, under section 11(2) of the Act, a person is not eligible solely because the person has a mental disorder, mental illness or a disability that substantially impairs their communication, learning or mobility and requires services to support them to live.

Requirements for access to voluntary assisted dying

Part 3 of the Act outlines the requirements for an eligible individual to access voluntary assisted dying and the assessment of eligibility. Before being considered for voluntary assisted dying, the individual needs to make at least three requests (including a final request). If a health practitioner accepts the first request made by the individual, the health practitioner becomes the coordinating practitioner for the individual. The coordinating practitioner must conduct several assessments and produce written reports before being able to administer voluntary assisted dying substances to the individual.

Coordinating practitioner, for an individual, means:

- the health practitioner who accepts the first request pursuant to section 14(4) of the Act; or
- if the functions of the coordinating practitioner are transferred to another health practitioner under section 37 or section 38—that health practitioner.

Administration of voluntary assisted dying substance

After the coordinating practitioner has prepared a final assessment report, the individual can decide to self-administer a voluntary assisted dying substance (a **self-administration decision**) or request an administering practitioner to administer a

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voluntary assisted dying substance (a **practitioner administration decision**). The decision must be clear and unambiguous and made personally by the individual. The individual's coordinating practitioner must record the decision in the individual's health record and give the Board written notice of the decision within 4 business days after the individual makes the decision.

Prescribing voluntary assisted dying substance

First prescription

For the first prescription, a coordinating practitioner may prescribe one or more approved substances that, either alone or in combination, are of a sufficient dose to cause the death of the individual. The prescription must include any information prescribed by regulation and the coordinating practitioner must give the Board written notice of the prescription within 4 business days.

Subsequent prescriptions

For subsequent prescriptions, the coordinating practitioner may prescribe the approved substances if, among other things:

- the coordinating practitioner is satisfied that it is appropriate to issue another prescription; and
- the coordinating practitioner has undertaken a new assessment and decided that the individual meets the final assessment requirements.

Under section 31 of the Act, an individual meets the **final assessment requirements** if the individual has decision-making capacity in relation to voluntary assisted dying, and their decision to access voluntary assisted dying is made voluntarily and without coercion.

Similarly, the prescription must include any information prescribed by regulation and the coordinating practitioner must give the Board written notice of the prescription within 4 business days.

Receiving, possessing and administering approved substances—administering practitioner

If a practitioner administration decision is in effect for an individual and the individual's coordinating practitioner has prescribed an approved substance under section 58 or section 59 of the Act, the individual's administering practitioner may receive, possess, prepare and administer the approved substance to the individual. However, the administering practitioner must ensure the individual has:

- decision-making capacity in relation to voluntary assisted dying; and
- is acting voluntarily and without coercion.

Notifications about death

Under section 74 of the Act, the individual's coordinating practitioner must give written notice to the Board and the Director-General within 4 business days after becoming aware of the individual's death. Similarly, the administering practitioner must prepare a written certificate (an **administration certificate**) and give the Board a copy of the administration certificate within 4 business days after the day the administering practitioner administers the approved substance to the individual.

Compliance 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 1-2-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.

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New South Wales Update

Work Health and Safety Amendment (Industrial Manslaughter) Act 2024 (NSW)

On 16 September 2024, relevant provisions of the *Work Health and Safety Amendment (Industrial Manslaughter) Act 2024 (NSW)* (the **Amending Act**) commenced and amended the *Work Health and Safety Act 2011 (NSW)* (the **Act**).

Background

The Amending Act has introduced section 34C into the Act which contains the new offence of industrial manslaughter.

Industrial manslaughter

The offence of industrial manslaughter applies to the person conducting a business or undertaking (**PCBU**) or an officer of a PCBU who has a health and safety duty. Relevantly, **health and safety duty** means a duty imposed under Division 2, 3 or 4 of Part 2 of the Act (currently, sections 19 to 29).

Under section 34C of the Act, a person (being a PCBU or an officer of a PCBU) is guilty of industrial manslaughter if the person engages in conduct (meaning an act or an omission to perform an act) with gross negligence that:

- for a PCBU:
 - constitutes a failure to comply with the person’s health and safety duty; and
 - causes the death of a worker or another individual to whom the duty is owed; or

- for an officer of a PCBU:
 - constitutes a failure to comply with the officer’s health and safety duty; and
 - causes the death of a worker or another individual to whom the PCBU owes a health and safety duty.

The maximum penalty for an individual liable for industrial manslaughter is imprisonment for 25 years or, for a body corporate, is a fine of **\$20,000,000**.

Conclusion

The Amending Act has introduced the offence of industrial manslaughter which carries severe penalties. Organisations should review and update their policies, processes, and systems to include this offence.

The Law Compliance Team have updated the **NSW - OH&S - General Duties** topic where the obligations are set out in detail.

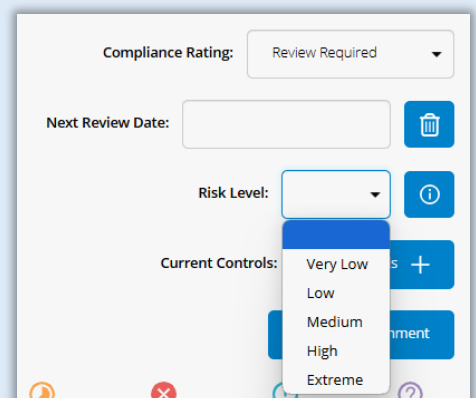
Comply Online® – Tip

Risk Rating Information

Premium clients have the ability to include their internal risk matrix or rating information on their profiles. This can assist users in providing an accurate and uniformed risk assessment for their assigned topics.

A new blue “i” button has been added next to the Risk Level drop-down which opens a window containing your chosen information or images.

To include your organisation’s risk matrix here, please contact your Client Relationship Manager.



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Northern Territory Update

Portable Long Service Leave (Community Services Sector) Act 2024 (NT)

On 23 May 2024, the *Portable Long Service Leave (Community Services Sector) Act 2024 (NT)* (the **Act**) passed the Northern Territory Parliament and is due to commence on a day to be fixed by Gazette notice or 16 March 2026. The Act establishes a scheme for the portability of long service leave (the Scheme) in the community services sector and provides the ability to extend the scheme to employees in other sectors in the future.

The types of services that are included under the Scheme are specified in Schedule 2 of the Act. These include, crisis assistance and accommodation support services, disability services, health and wellbeing services provided to an Aboriginal community by an Aboriginal-controlled health service, community legal services and residential and community-aged care services.

Operationally Significant Changes

The Scheme provides for a continuity of service for employees who move between employers in the relevant sector. Meaning designated workers can accrue and access long service leave based on their years of service to the sector, rather than to a single employer.

The most significant changes (from an operational perspective), include:

- applying for registration with the new community services long service leave scheme;
- payment of levies by employers within a designated sector to the relevant industry board;
- lodgement of quarterly returns;
- record-keeping requirements; and
- several offence provisions including, prohibition of adverse action against an employee, failure to provide quarterly returns or failure to pay levies, and the disclosure of certain information.

Further Information**Establishment of industry boards**

The Act provides the mechanisms for the establishment of industry boards. These industry boards are to administer the Scheme as it applies to members of the designated sector and establish an industry fund. Members are appointed by the Minister and must include one member who represents the interests of employers in that sector.

Please [click here](#) to access the full Act.



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Follow us for current news and updates.

Interested in trialling Comply Online Premium?

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), simply get in touch with our team who can provide a demonstration or even access for a trial. For further information, you can also take a look at the [Key Features fact sheet](#) and [Premium tour video](#).

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Queensland Update

Environmental Protection (Powers and Penalties) and Other Legislation Amendment Act 2024 (Qld)

On 18 June 2024, relevant provisions of the *Environmental Protection (Powers and Penalties) and Other Legislation Amendment Act 2024 (Qld)* (the **Amending Act**) commenced and amended the *Environmental Protection Act 1994 (Qld)* (the **Act**). The Amending Act has introduced an offence for the general environmental duty and a new duty to restore the environment, as well as the new regulatory tool Environment Enforcement Orders and related offences, among other changes.

All references to sections, chapters or parts in this article are references to the Act.

Offence for the general environmental duty

The general environmental duty, in section 319, requires that a person or organisation does not to carry out any activity that causes, or is likely to cause, environmental harm unless the person or organisation takes all reasonably practicable measures to prevent or minimise the harm (the **general environmental duty**). The Amending Act has introduced an offence that a person or organisation will commit if they contravene the general environmental duty and the contravention causes, or is likely to cause, **serious environmental harm** or **material environmental harm**. The maximum penalty for this offence is, in the event of a wilful contravention, 4,500 penalty units (currently, **\$725,850**) or 2 years imprisonment, or otherwise, 1,655 penalty units (currently, **\$266,951.50**).

Notably, **environmental nuisance** is now included within the remit of the general environmental duty as amendments to sections 16 and 17 have removed **environmental nuisance** (e.g. noise, odour, smoke, etc.) as an exemption from the definitions of **material environmental harm** and **serious environmental harm**. There have been no further changes to these existing definitions.

Duty to restore the environment

Section 319C introduces a new duty to restore the environment if a person or organisation causes, or permits, an incident involving contamination of the environment which results in unlawful

environmental harm. The person or organisation must, as soon as reasonably practicable after the incident occurs, take measures, as far as reasonably practicable, to rehabilitate or restore the environment to its condition before the harm.

A person or organisation will commit an offence if there is a contravention of the duty to restore the environment and the contravention relates to harm that is **serious environmental harm** or **material environmental harm**. The penalty for this offence is, in the event of an offence committed wilfully, 4,500 penalty units (currently, **\$725,850**) or 2 years imprisonment, or otherwise, 1,655 penalty units (currently, **\$266,951.50**).

Relevantly, the Amending Act has introduced a new definition of **contamination incident**, which is:

- an incident involving contamination of the environment that the administering authority is satisfied has caused or is likely to cause serious or material environmental harm; or
- the carrying out of an activity on contaminated land, an event on contaminated land, or a change in the condition of contaminated land that the administering authority is satisfied has caused or is likely to cause other land to become contaminated land; or
- a combination of the two matters above.

Environmental enforcement orders

Chapter 7, Part 5 (which previously dealt with Environmental Protection Orders) has been

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replaced and introduces the new regulatory tool of Environment Enforcement Orders (EEO). EEOs may be issued for a range of prescribed grounds, including, for example, if it is necessary to issue an EEO to secure an organisation’s compliance with the general environmental duty or the duty to restore the environment. There are a range of obligations and offences related to EEOs, including:

- Section 369A requires a recipient of an EEO to not contravene the requirement of the order without reasonable excuse. The maximum penalty for a wilful contravention of this offence is, if the order was issued on a prescribed ground or under section 362(2)(a), 6,250 penalty units (currently, **\$1,008,125**) or 5 years imprisonment, or otherwise, 1,655 penalty units (currently, \$266,951.50). The maximum penalty for a contravention of this offence is, if the order was issued on a prescribed ground or under section 362(2)(a), 4,500 penalty (currently, **\$725,850**) or otherwise, 600 penalty units (currently, **\$96,780**).
- Section 369C applies if the recipient of an EEO proposes to dispose of the place or business to which the EEO relates. Before agreeing to dispose of the place or business, the recipient must give written notice to the buyer of the existence of the EEO and within 10 business days after agreeing to dispose of the place or business, the recipient must give written notice of the disposal to the

administering authority. The maximum penalty for this offence is 50 penalty units (currently, **\$8,065**).

- Section 369D requires that the recipient of an EEO gives notice within 10 business days to the administering authority of ceasing to carry out an activity which relates to the relevant matter of an EEO. The maximum penalty for this offence is 50 penalty units (currently, **\$8,065**).
- Section 369I introduces an offence for a person or organisation who obstructs a recipient of an EEO in the taking of action to comply with the order, unless the person or organisation has a reasonable excuse. The maximum penalty for this offence is 165 penalty units (currently, **\$26,614.50**).

Conclusion

The Act contains new obligations and offences relating to the general environment duty, the duty to restore the environment and EEOs. Organisations should review and update their policies, processes and systems to reflect the changes. All relevant staff should be made aware of the changes.

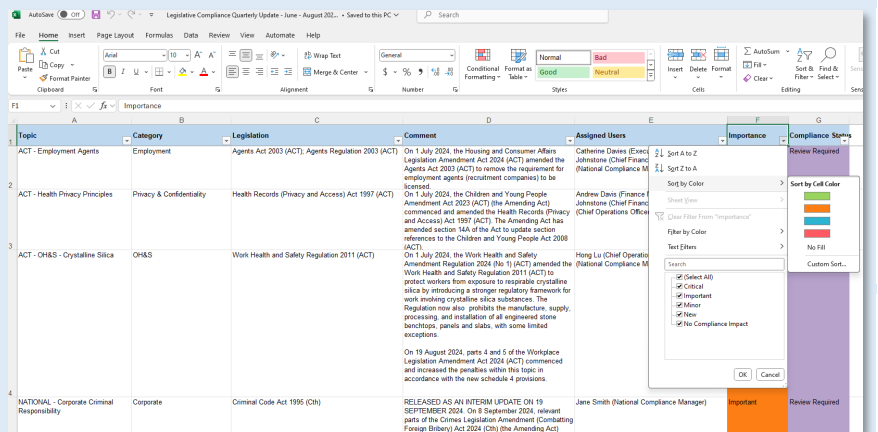
The Law Compliance team have amended the topics **QLD - Environment Protection** and **QLD - Environment Protection (General Offences)** which set out the new and amended obligations and offences in detail.

Comply Online® – Tip

How to sort the Quarterly Update Table by Importance rating

The updates in the Quarterly Update Table are listed alphabetically by topic name. If you would prefer to have them listed by their importance rating, follow these simple steps:

1. Click on the header drop-down filter menu in the “Importance” column and select the “Sort by Colour” ratings in reverse order:
 - a. Sort by blue (New)
 - b. Sort by green (Minor)
 - c. Sort by orange (Important)
 - d. Sort by red (Critical)
2. This will sort the list with “Critical” at the top, then “Important”, “Minor”, “New” and finally “No Compliance Impact” at the bottom.



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South Australia Update

Controlled Substances (Poisons) (Miscellaneous) Amendment Regulations 2024 (SA)

On 18 July 2024, the *Controlled Substances (Poisons) (Miscellaneous) Amendment Regulations 2024 (SA)* (the **Amending Regulations**) were released and came into operation on the same day.

Operationally Significant Changes

The Regulations inserts a range of amendments into the *Controlled Substances (Poisons) Regulations 2011 (SA)* (the **Regulations**). The most significant change (from an operational perspective) includes new requirements for the supply or administration of monitored drugs.

Further Information

Currently, the Regulations require prescribers giving a prescription for the supply of a monitored drug for human use to take all reasonable steps to check relevant information held in the monitored drugs database. The Amending Regulations extend these requirements.

Under the new Part 4A of the Regulations, a registered health practitioner acting in the ordinary course of their profession must not supply or administer monitored drugs to a person unless the practitioner has taken all reasonable steps to check

the relevant information held in the monitored drugs database relating to the person.

In addition, a registered health practitioner acting in the ordinary course of their profession must not instruct or otherwise cause another person to supply or administer a monitored drug unless the practitioner has taken all reasonable steps to check relevant information held in the monitored drugs database relating to the person.

New Regulation 35C(3) sets out the circumstances where the above new requirements do not apply, such as where a registered health practitioner (being a prescriber) gives a prescription for a monitored drug, or where a monitored drug is dispensed on a prescription.

Failure to comply with the above requirements carries a maximum penalty of **\$5,000**.

Please [click here](#) to access the full Amending Regulations.

Staff News

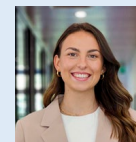
We are very pleased to welcome new members to our team:



Serena Waterworth
Compliance Solicitor



Fatuma Jacob
Compliance Solicitor



Dana Popovic
Compliance Solicitor

...and congratulate staff on their recent promotions:



David McKessey
Solicitor – Client Success Manager



Filomena Rosella
Specialist Compliance Solicitor

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Tasmania Update

Disability Rights, Inclusion and Safeguarding Act 2024 (Tas)

On 17 October 2024, the *Disability Rights, Inclusion and Safeguarding Act 2024 (Tas)* (the **Act**) passed the Tasmanian Parliament. This Act will replace the *Disability Services Act 2011 (Tas)* and *Disability Services Regulations 2015 (Tas)* and will commence on a day to be proclaimed.

Operationally Significant Changes

The Act introduces several provisions that advance and safeguard the rights of people with disability and further advance the full and effective inclusion of people with disability. The most significant changes (from an operational perspective), include:

- the introduction of Disability Inclusion Action Plans to be prepared by Defined Entities;
- new requirement for disability services providers to prepare Behaviour Support Plans;
- new provisions on appointed program officers (for disability services providers); and
- the appointment of independent persons.

Further Information

Requirement for Disability Inclusion Action Plan

Division 2, of Part 2 includes provisions on amending, reviewing and then registering a disability inclusion action. The Act will introduce section 12 which sets out that a Defined Entity must ensure that a disability inclusion action plan is prepared for the entity within 6 months after the publication of the initial Tasmanian Disability Inclusion Action plan prepared under section 9 (1)(a) of the Act on a 4-yearly basis thereafter. The section further provides that a Disability Inclusion Action plan for a Defined Entity must include:

- strategies and measures for the defined entity to promote disability inclusion; and
- actions to be taken and outcomes to be measured by the defined entity to advance disability inclusion.

In preparing a Disability Inclusion Action plan, a Defined Entity must have regard to the following matters:

- the objects of the Act;
- the principles;
- the priorities, outcomes and measures in the current Tasmanian Disability Inclusion Plan;
- any guidelines issued under section 30 of the Act (i.e., complying with the principles and objects of the Act, etc.);
- any prescribed matters.

The Act further establishes that in preparing a Disability Inclusion Action Plan, a Defined Entity must consult with:

- people with disability; or
- the Disability Inclusion Advisory Council; or
- disability advocacy organisations, disability peak bodies and disability representative organisations; and
- may consult with any other persons whom the entity considers relevant.

Section 14 provides that a Defined Entity must prepare a progress report on the implementation of the Defined Entity's Disability Inclusion Action Plan:

- within 12 months after the publication of a Disability Inclusion Action Plan under section 12(6)(a) of the Act; and
- on a yearly basis thereafter.

Behaviour Support Plan to be prepared

Under section 57 of the Act, the disability services provider must ensure that a Behaviour Support Plan is prepared for the person by a behaviour support practitioner, if a disability services provider that is

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providing a disability service to a person with disability proposes to use a restrictive practice. There are many requirements of what the plan should include under this section (an example, the plan should state the circumstances in which the restrictive practice is to be used for behaviour support, etc.).

Appointed program officers

Section 60 will require appointed program officer to ensure that their functions are carried out in accordance with any guidelines issued by the Senior Practitioner. Section 62 of the Act further provides for a disability services provider who proposes to appoint an appointed program officer must apply to the Senior Practitioner for approval of the proposed appointment. An application for approval must include:

- the name of the proposed appointed program officer; and
- the qualifications of the proposed appointed program officer; and
- such other information as the Senior Practitioner requires.

Appointment of independent persons

The Act establishes section 66 that relates to the appointment of an independent person to provide assistance to a person with a disability if required under a provision of the Act. This submission in relation to a person with disability must be in a form approved by the Senior Practitioner. Additionally, section 66 sets out the criteria of who is, or isn't suitable to be appointed as an independent person for a person with disability (i.e., a person would not be suitable if that person is a disability services provider for the person with disability, etc.).

The Act establishes that an appointed program officer must notify the Senior Practitioner if a person with disability who requires the assistance or support of an independent person under the Act:

- does not, in the opinion of the appointed program officer, have a person who is suitable to be appointed as an independent person for the person with disability; or
- advises the appointed program officer that they do not consider that the person who is appointed as an independent person for the person with disability is suitable to be so appointed.

Comply Online® – Tip

If you're looking for more information about the importance rating in the Quarterly Update Table and what criteria is used to determine an update's significance, please refer to the Significance Ratings Guide, available on the Resources page on your Comply Online profile.

Significance Ratings—Guide

Legislative changes on Comply Online are ranked in order of importance for your convenience.

Critical change example

These changes result in **major operational changes** for subscribers, i.e. where new reporting obligations are imposed on subscribers. Critical changes present a significant risk to the organisation if they are not dealt with. New regulatory regimes such as a new privacy or child safety scheme would be considered critical. Substantial penalty increases would also be classed as critical.

On 1 July 2020 the Workplace Safety Legislation Amendment (Workplace Manslaughter and Other Matters) Act 2019 No. 50 (Vic) amended the Occupational Health and Safety Act 2004 (Vic) (the Act). As a result, new workplace manslaughter laws have been introduced which are designed to deter persons who owe certain duties under the Act from breaching those duties, and to reflect the severity of conduct that places life at risk in the workplace.

Important change example

Important changes are changes that would affect an organisation's operations and would require a **change to the organisation's policies, systems or procedures.**

On 15 October 2020, section 312 of the Migration Act 1958 (Cth) was amended to require a registered migration agent to notify the Migration Agents Registration Authority if the agent has paid the non-

Significance Ratings—Guide

Significance Ratings Guide

Legislative changes on Comply Online are ranked in order of importance and colour coded for your convenience. This chart explains what they are with examples of how they are used.

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Victoria Update

Fundraising Amendment (National Fundraising Principles) Regulations 2024 (Vic)

On 3 July 2024, the *Fundraising Amendment (National Fundraising Principles) Regulations 2024 (Vic)* commenced, amending the *Fundraising Regulations 2019 (Vic)* (the **Regulations**) to require deemed registered fundraisers to comply with the National Fundraising Principles.

Background

The National Fundraising Principles (the **National Principles**) are a set of 16 principles agreed to by the States and Territories that intend to provide greater clarity and national consistency to fundraising laws in Australia. Australian jurisdictions are gradually enacting the principles, with Victoria outlining them in the new Schedule 2 of the Regulations.

The National Principles apply to the conduct of fundraising appeals by **deemed registered fundraisers**. **Deemed registered fundraisers** are entities registered under Part 2-1 of the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* and therefore taken to be registered fundraisers in Victoria.

The National Principles

Deemed registered fundraisers must comply with the National Principles in accordance with regulation 9A. As outlined in Schedule 2 of the Regulations, Principles 1 through 10 relate to the compliance of employees, volunteers, contractors, and anyone else who these fundraisers engage or arrange to raise funds on their behalf.

These Principles include:

- Always explain the purpose of their charity and the purpose to which the funds raised will be applied in ways that are appropriate for the audience;
- Are always clearly, and individually, identifiable by the public (including by ensuring that each employee, volunteer, contractor or other person who raises funds displays identification that contains the individual's name, states whether they are a volunteer, an employee or acting in

some other capacity for a deemed registered fundraiser or commercial fundraising organisation, and provides the name and contact details of the deemed registered fundraiser or commercial organisation);

- Always make and keep written records of the fundraising appeal that can be easily read and understood.

Principles 11 to 16 apply to deemed registered fundraisers at all times when conducting an appeal and relate to the fundraiser's own compliance. Examples of these Principles include:

- Conduct all reasonable due diligence when engaging third parties to assist, support or deliver fundraising activities on its behalf.
- Make and keep written records of the total funds raised and the purposes for which funds are applied.
- Take all reasonable measures to protect the health, safety and wellbeing of fundraisers employed or directly engaged by them, as well as members of the public, when fundraising.

Conclusion

Organisations that are deemed registered fundraisers in Victoria should familiarise themselves with the National Fundraising Principles as outlined in Schedule 2 of the Regulations, and ensure that appropriate systems and controls are in place to maintain the organisation's compliance, as well as compliance of employees, volunteers, contractors and anyone else who they engage or arrange to raise funds on their behalf.

These obligations are outlined in full in the **VIC – Registered Fundraisers** topic.

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Western Australia Update

Workers Compensation and Injury Management Act 2023 (WA)

On 1 July 2024, the *Workers Compensation and Injury Management Act 2023 (WA)* (the **Act**) commenced. The Act provides a new framework in Western Australia for both employers and employees in relation to workers compensation and injury management. The Act repeals and replaces the *Workers' Compensation and Injury Management Act 1981 (WA)* and the *Workers' Compensation and Injury Management Regulations 1982 (WA)*.

Definition of 'worker'

Among a variety of key changes that have been introduced, the Act introduces a new definition of **worker**. Section 12 of the Act states that an individual is a **worker** if:

- the individual has entered into, or works under, a contract of service with a person, whether the contract is express or implied, oral or written; or
- the individual:
 - has entered into a contract with a person to work as an apprentice, or works under a contract with a person as an apprentice, whether the contract is express or implied, oral or written; and
 - has entered into a training contract that specifies the individual is undertaking an apprenticeship; or
- the individual has contracted with a person for the performance of work by the individual and:
 - the work is not work in the course of or incidental to a trade or business regularly carried on by the individual in the individual's own name or under a business or firm name; and
 - the individual does not sublet the contract; and
 - if the individual employs a worker, the individual performs part of the work personally.

Additionally, the person with whom the worker has entered into the contract, or for whom the worker works under the contract, is the worker's **employer** for the purposes of the Act.

This simplifies the application of the scheme to contractors, as it clarifies the test for whether a contractor is a worker for the purposes of workers compensation, or if the person is an independent contractor.

Worker's treating medical practitioner

The Act has also introduced a new process relating to the right of workers to choose their treating medical practitioner. In accordance with section 170 of the Act, an injured worker is entitled to attend a medical practitioner (a **treating medical practitioner**) of the worker's own choice to perform the functions set out in section 170, including to diagnose the nature of the worker's injury, to provide primary medical treatment to the worker and to coordinate medical treatment in relation to the worker's injury, and to issue certificates of capacity.

Additionally, an injured worker is longer required to choose or attend a medical practitioner chosen or nominated by the worker's employer or the employer's insurer to perform any of those listed functions.

Further, section 171 of the Act now prohibits a worker's employer, the employer's insurer or an agent of the insurer from being present while a worker is being physically or clinically examined, or treated, by the worker's treating medical practitioner.

Calculation of income compensation payments

Part 2, Division 3, Subdivision 3 of the Act has also simplified the method for calculating income compensation payments for compensation that is payable to workers.

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To the extent that the payment of income compensation is for a period within the first 26 weeks in which income compensation is payable to the worker, the amount is calculated at the worker's pre-injury weekly rate of income except as otherwise provided in section 56 or 57 of the Act.

Additionally, to the extent that the payment of income compensation is for a period after the first 26 weeks in which income compensation is payable to the worker, the amount is calculated at 85% of the worker's pre-injury weekly rate of income except as otherwise provided in section 56 or 57.

A worker's **pre-injury weekly rate of income** is:

- unless the below point applies – the worker's average weekly rate of earnings in the position the worker held on the day on which the worker's injury occurred; or
- if, on the day on which the worker's injury occurred, the worker concurrently held 2 or more positions as a worker, whether in the employment of the same or different employers – the weekly rate obtained by aggregating the worker's average weekly rates of earnings in the positions the worker held.

Under the new framework, a worker's average weekly rate of earnings in a position the worker held on the day on which the worker's injury occurred is calculated over:

- the period of 1 year ending on the day before the day on which the worker's injury occurred; or

- if the worker had been employed in that position for less than 1 year when the injury occurred – the period beginning on the day on which the worker commenced to be employed in that position and ending on the day before the day on which the worker's injury occurred.

Disclosure of claim information for pre-employment screening

The Act has introduced a new provision regarding the disclosure of claim information for pre-employment screening.

Under section 506 of the Act, a person must not disclose information about a worker's claim for compensation to another person for the purpose of providing information to that person about the worker's suitability for employment with a prospective employer. A breach of this provision will result in a fine of **\$10,000**.

Further to this, a person cannot, for the purpose of selection for employment, be required to disclose information about any claim for compensation by the person.

Conclusion

Organisations should be aware of the new workers compensation and injury management framework in place as discussed above and outlined in the **WA – Workers Compensation** topic and update their policies and procedures accordingly.

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 / 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:















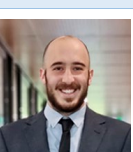

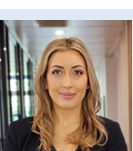
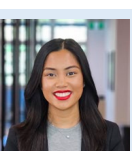
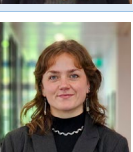
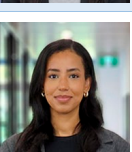
- info@mailgun.lawcompliance.com.au;
- lawcompliance.com.au;
- our account system accountright@apps.myob.com

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

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Contact us

For further information please contact:

<p>Natalie Franks CEO and Legal Counsel Direct: 03 9865 1324 Email: natalie.franks@lawcompliance.com.au</p>		<p>Chris Martin Head of Strategy & Third Party Relationships Direct: 03 9865 1341 Email: chris.martin@lawcompliance.com.au</p>	
<p>Teresa Racovalis Chief Product Officer Direct: 03 9865 1340 Email: teresa.racovalis@lawcompliance.com.au</p>		<p>Sue Allen Senior Consultant Direct: 03 9865 1335 Email: sue.allen@lawcompliance.com.au</p>	
<p>Astrid Keir-Stanley Chief Legislative Advisor Direct: 1300 862 667 Email: astrid.keir-stanley@lawcompliance.com.au</p>		<p>Melissa Knoll Compliance Associate Direct: 1300 862 667 Email: melissa.knoll@lawcompliance.com.au</p>	
<p>Ksandra Palinic Head of Client Services Direct: 03 9865 1345 Email: ksandra.palinic@lawcompliance.com.au</p>		<p>Andrew Gill Head of Content Development Direct: 03 9865 1322 Email: andrew.gill@lawcompliance.com.au</p>	
<p>Caitlin Nixon Senior Compliance Solicitor Direct: 1300 862 667 Email: caitlin.nixon@lawcompliance.com.au</p>		<p>Jillian Britton Senior Compliance Solicitor Direct: 1300 862 667 Email: jillian.britton@lawcompliance.com.au</p>	
<p>Lauren Heyward Senior Compliance Solicitor Direct: 1300 862 667 Email: lauren.heyward@lawcompliance.com.au</p>		<p>David McKessy Solicitor – Client Success Manager Direct: 1300 862 667 Email: david.mckessy@lawcompliance.com.au</p>	
<p>Filomena Rosella Specialist Compliance Solicitor Direct: 1300 862 667 Email: filomena.rosella@lawcompliance.com.au</p>		<p>James Low Compliance Solicitor Direct: 1300 862 667 Email: james.low@lawcompliance.com.au</p>	
<p>Adriano Stenta Compliance Solicitor Direct: 1300 862 667 Email: adriano.stenta@lawcompliance.com.au</p>		<p>Amanda Roberts Compliance Solicitor Direct: 1300 862 667 Email: amanda.roberts@lawcompliance.com.au</p>	
<p>Maria Toma Compliance Solicitor Direct: 1300 862 667 Email: maria.toma@lawcompliance.com.au</p>		<p>Margarette Natividad Compliance Solicitor Direct: 1300 862 667 Email: margarette.natividad@lawcompliance.com.au</p>	
<p>Serena Waterworth Compliance Solicitor Direct: 1300 862 667 Email: serena.waterworth@lawcompliance.com.au</p>		<p>Fatuma Jacob Compliance Solicitor Direct: 1300 862 667 Email: fatuma.jacob@lawcompliance.com.au</p>	

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Dana Popovic
Compliance Solicitor

Direct: 1300 862 667

Email: dana.popovic@lawcompliance.com.au



William Snowdon
Law Clerk

Direct: 1300 862 667

Email: william.snowdon@lawcompliance.com.au



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