

2026 - BCA1
OPP--Opposition

LEGISLATIVE COUNCIL

Work Health and Safety Amendment (Digital Work Systems) Bill 2025

Second print

Proposed amendments

No. 1 Commencement

Page 2, Section 2, line 5. Omit section 2. Insert instead—

2 Commencement

(1) This Act commences on the later of the following—

(a) a day or days to be appointed by proclamation,

(b) the day that is 30 days after the regulator publishes the guidelines required under section 118A of the *Work Health and Safety Act 2011*, as inserted by this Act.

No. 2 Definitions of key terms

Page 3, Schedule 1[1], lines 5 and 6. Omit all words on the lines. Insert instead—

algorithm means a set of instructions that guide a computer in performing specific tasks or solving problems.

artificial intelligence system means a machine-based system that, for explicit or implicit objectives, infers, from the input it receives—

(a) how to generate outputs including predictions, content and recommendations, or

(b) decisions that can influence physical or virtual environments.

digital work system means a machine-based system involving an algorithm, artificial intelligence system, automation or online platform that is used to allocate work to a worker on an automated basis by a person conducting a business or undertaking.

online platform means an online enabled application, website or system operated to arrange, allocate or facilitate the provision of work by workers.

No. 3 Rights that may be exercised while at workplace

Page 3, Schedule 1[4], lines 36–39. Omit the lines. Insert instead—

(a1) subject to an order by the Industrial Court that it is reasonable and necessary, require the relevant person conducting a business or undertaking to provide the regulator with reasonable assistance to inspect the components of a digital work system which are directly relevant to the suspected contravention but excluding confidential source code, proprietary algorithms, other confidential information and personal information (as defined in the *Privacy Act 1988* (Cwth))

No. 4 Rights that may be exercised while at workplace

Page 3, Schedule 1[5], lines 40-42. Omit Schedule 1[5].

No. 5 Rights that may be exercised while at workplace

Page 4, Schedule 1[6], line 1. Omit "WHS entry permit holder's". Insert instead—
regulator's

No. 6 Rights that may be exercised while at workplace

Page 4, Schedule 1[6], lines 2-3. Omit "WHS entry permit holder". Insert instead—
regulator

No.7 Defence for failure or refusal to provide reasonable assistance

Page 4, Schedule 1[7], lines 5-6, after section 118(3). Insert—

(3A) It is a defence to a proceeding alleging a contravention against section 118(3) for refusal or failure to provide reasonable assistance under section 118(1)(a1) if the refusal or failure to comply was based on a reasonable belief that compliance with the requirement would compromise cybersecurity or compliance with legal or contractual obligations including, but not limited to, obligations relating to confidentiality or privacy.

No. 8 Guidelines about reasonable assistance to inspect digital work systems

Page 4, Schedule 1[8], line 9. Omit "access or".

No. 9 Guidelines about reasonable assistance to inspect digital work systems

Page 4, Schedule 1[8], line 12. Omit "WHS entry permit holders". Insert instead –
regulator

No. 10 Guidelines about reasonable assistance to inspect digital work systems

Page 4, Schedule 1[8], line 14. Omit “access and”

No. 11 Guidelines about reasonable assistance to inspect digital work systems

Page 4, Schedule 1[8], line 15. Insert after the line –

118B Content of guidelines

Without limiting the matters that may be covered by the guidelines required to be issued under 118A, the guidelines must include requirements relating to—

- (a) the limitation of inspection to system components directly relevant to the suspected contravention;
- (b) the protection of confidential, proprietary, and personal information;
- (c) criteria for determining reasonable assistance;
- (d) the secure handling, storage and non-disclosure of any information obtained as a result of the inspection;
- (e) minimum notice requirements; and
- (f) processes for dispute resolution prior to access being granted.

118C Draft guidelines

Before publishing the guidelines required under section 118A the regulator must—

- (a) prepare draft guidelines, and
- (b) publish the draft guidelines on the regulator's website, and
- (c) invite public submissions on the draft guidelines for a period of not less than 30 days, and
- (d) consider all submissions received during the public consultation period.

Industrial Court oversight of inspection of digital work systems

Page 4, Schedule 1[8], line 15. Insert after the line as new section [9]:

[9] Section 118B

118B Industrial Court oversight of inspection of digital work systems

(1) The Industrial Court must not grant an application for an order under section 118 (1)(a1), unless the Court—

(a) has first provided the relevant person conducting a business or undertaking with an opportunity to be heard in relation to the application, and

(b) is satisfied that granting the application will not compromise the security or privacy of any data accessed in relation to any person.

(2) A person conducting a business or undertaking may apply to the Industrial Court to review or vary an order made under subsection (1)(a1) if the person has concerns about—

(a) the scope or nature of inspection of the digital work system as granted by the order, or

(b) the potential compromise of cybersecurity, confidentiality or privacy in the implementation of the order.

(3) The Industrial Court may, on an application under subsection (1B), make orders—

(a) limiting the scope of access to specific components of the digital work system,

(b) imposing additional conditions on how access is to be provided or exercised,

(c) varying the terms of the original order, or

(d) revoking the order if satisfied that it is not reasonable and necessary having regard to the suspected contravention.

No. 13 Functionally equivalent access to digital work systems

Page 4, Schedule 1[8], line 15. Insert after the line as new section [9]:

[9] Functionally equivalent inspections

Insert after section 118

118A Functionally equivalent inspections

A person conducting a business or undertaking may comply with a requirement under section 118 (1)(a1) by providing reasonable assistance to inspect audit logs, output data, redacted interfaces, demonstrations or supervised secure environments, if such inspection would be functionally equivalent to an inspection of the components of a digital work system and sufficient to enable the regulator to inquire into the suspected contravention.

No. 14 Review of provisions about digital work systems

Page 4, Schedule 1[9], lines 16–36. Omit Schedule 1[9]. Insert instead—

[9] Section 276D

Insert after section 276C—

276D Review of provisions about digital work systems

(1) The Minister must review the relevant provisions to determine whether—

(a) the policy objectives of the relevant provisions remain valid,
and

(b) the terms of the relevant provisions remain appropriate for
achieving the objectives.

(2) The review must be undertaken as soon as possible after the period of one year from the commencement of the relevant provisions.

(3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of one year.

(4) In this section—

relevant provisions means the amendments made to this Act by the *Work Health and Safety Amendment (Digital Work Systems) Act 2025*.