



New South Wales

Work Health and Safety Amendment (Digital Work Systems) Bill 2026

Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Work Health and Safety Act 2011 No 10	3

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

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

, 2026



New South Wales

Work Health and Safety Amendment (Digital Work Systems) Bill 2026

Act No , 2026

An Act to amend the *Work Health and Safety Act 2011* in relation to digital work systems.

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

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Work Health and Safety Amendment (Digital Work Systems) Act 2026*.

2 Commencement

- (1) This Act commences as follows—
 - (a) for Schedule 1[7], [9] and [11]—on the date of assent to this Act,
 - (b) otherwise—on a day or days to be appointed by proclamation.
- (2) The day or days appointed by proclamation under subsection (1)(b) for the commencement of a provision of this Act, other than Schedule 1[1]–[3], must not be earlier than a day that is one month after the day on which the first guidelines issued under the *Work Health and Safety Act 2011*, section 118A are published as required under that section.

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

[1] **Section 4 Definitions**

Insert in alphabetical order—

digital work system means an algorithm, artificial intelligence, automation or online platform.

[2] **Section 19 Primary duty of care**

Insert after section 19(3)(c)—

- (c1) the health and safety of workers is not put at risk from the use of digital work systems by the business or undertaking, and

[3] **Section 21A**

Insert after section 21—

21A Duties of persons conducting businesses or undertakings involving digital work systems

- (1) A person conducting a business or undertaking must ensure, so far as is reasonably practicable, that the health and safety of a worker is not put at risk from the allocation of work by a digital work system used by the business or undertaking.
- (2) A person conducting a business or undertaking must consider whether the allocation of work by or using a digital work system creates or results in any of the following risks—
- (a) excessive or unreasonable workloads for workers at work in the business or undertaking,
- (b) the use of excessive or unreasonable metrics to assess and track the performance of workers at work in the business or undertaking,
- (c) excessive or unreasonable monitoring or surveillance of workers at work in the business or undertaking,
- (d) unlawful discriminatory practices or decision-making in the conduct of the business or undertaking.

Note— If a dispute arises about the exercise or purported exercise by a WHS entry permit holder of a right of entry, Part 7, Division 6 provides for how to deal with the dispute. In particular, section 142 provides that the Industrial Relations Commission may deal with the dispute in any manner the Commission thinks fit.

[4] **Section 117 Entry to inquire into suspected contraventions**

Insert at the end of the section—

Note— At least 48 hours, but no more than 14 days, notice must be given if a WHS entry permit holder proposes to exercise the power under section 118(1)(a1) to require a person conducting a business or undertaking to provide the WHS entry permit holder with reasonable assistance to access and inspect a digital work system. See section 118(2A)(a).

[5] **Section 118 Rights that may be exercised while at workplace**

Insert after section 118(1)(a)—

- (a1) require the relevant person conducting a business or undertaking to provide the WHS entry permit holder with reasonable assistance to access and inspect a digital work system relevant to the suspected contravention,

[6] Section 118(2)

Omit “subsection (1) (d) to allow”. Insert instead “subsection (1)(a1) or (d) to assist, or allow,”.

[7] Section 118(2A)

Insert after section 118(2)—

- (2A) The WHS entry permit holder’s power under subsection (1)(a1) to require a relevant person conducting a business or undertaking to provide the WHS entry permit holder with reasonable assistance—
- (a) may be exercised only if the WHS permit entry holder has, during business hours, given the relevant person notice of the proposed entry at least 48 hours, and not more than 14 days, before the entry, and
 - (b) is subject to guidelines made by the regulator under section 118A.

[8] Section 118(3)

Omit “subsection (1) (d)”. Insert instead “subsection (1)(a1) or (d)”.

[9] Section 118A

Insert after section 118—

118A Guidelines about reasonable assistance to access or inspect digital work systems

- (1) For section 118(1)(a1) and (2A), the regulator must issue, and publish on the regulator’s website, guidelines about the power of WHS entry permit holders to require persons conducting a business or undertaking to provide reasonable assistance to access and inspect digital work systems relevant to suspected contraventions of this Act.
- (2) Guidelines issued under subsection (1) may—
 - (a) be issued on an ongoing basis or an interim basis, and
 - (b) apply generally or be limited in application to a particular class of persons, work or workplaces.
- (3) Before issuing guidelines under subsection (1), the regulator must—
 - (a) conduct public consultation about the proposed guidelines, and
 - (b) consider any feedback received about the proposed guidelines.
- (4) The power to issue guidelines under subsection (1) includes the power to—
 - (a) amend guidelines issued under the subsection, or
 - (b) substitute new guidelines for guidelines previously issued under the subsection.

[10] Sections 276D and 276E

Insert after section 276C—

276D Review of provisions about digital work systems

- (1) If the Minister is satisfied the Model Work Health and Safety laws developed by Safe Work Australia deal with substantially the same subject matter as the relevant provisions, 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, and
 - (c) the Model Work Health and Safety laws provide a higher standard of health and safety for workers than the relevant provisions, and
 - (d) the relevant provisions are appropriate, having regard to the Model Work Health and Safety laws.
- (2) The review must be undertaken as soon as practicable after the Minister is satisfied the Model Work Health and Safety laws developed by Safe Work Australia deal with substantially the same subject matter as the relevant provisions.
- (3) In this section—
relevant provisions means the amendments made to this Act by the *Work Health and Safety Amendment (Digital Work Systems) Act 2026*.

276E Review of amendments made by Work Health and Safety Amendment (Digital Work Systems) Act 2026

- (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, and
 - (c) the operation of the relevant provisions has resulted in any adverse outcomes.
- (2) The review must be undertaken as soon as practicable after the period of 12 months from the commencement of this section.
- (3) A report on the outcome of the review must be tabled in each House of Parliament within 18 months after the commencement of this section.
- (4) In this section—
relevant provisions means the amendments made to this Act by the *Work Health and Safety Amendment (Digital Work Systems) Act 2026*.

[11] Schedule 4 Savings, transitional and other provisions

Insert at the end of the schedule, with appropriate part numbering—

Part Provision consequent on enactment of Work Health and Safety Amendment (Digital Work Systems) Act 2026

1 Phased application of section 118(1)(a1)

- (1) Despite the commencement of the relevant provision, a WHS entry permit holder may exercise a power under that provision to require a relevant person conducting a business or undertaking to provide the WHS entry permit holder with reasonable assistance only if guidelines relevant to the exercise of the power have been published under section 118A.
Example— Guidelines have not been issued under section 118A about the exercise of powers in relation to a particular class of workplace. A WHS entry permit holder cannot exercise a power under section 118(1)(a1) in relation to a person conducting a business or undertaking at a workplace that is within that class of workplace.
- (2) In this clause—

relevant provision means section 118(1)(a1), as inserted by the *Work Health and Safety Amendment (Digital Work Systems) Act 2026*, Schedule 1[5].