



EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE

Members present:

Ms KE Richards MP—Chair
Mr JP Lister MP
Mr MA Boothman MP
Mr N Dametto MP
Ms JC Pugh MP
Mr DJ Brown MP

Staff present:

Mr R Hansen—Committee Secretary
Mr L Melia—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL 2023

TRANSCRIPT OF PROCEEDINGS

Tuesday, 30 January 2024

Brisbane

TUESDAY, 30 JANUARY 2024

The committee met at 3.01 pm.

CHAIR: Good afternoon. I declare this public briefing open. I am Kim Richards, the member for Redlands and chair of the Education, Employment and Training Committee. I would like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. We are very fortunate in this country to have two of the world's oldest continuing living cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share.

With me here today are: Mr James Lister, member for Southern Downs and the deputy chair; Mr Mark Boothman, member for Theodore; Mr Nick Dametto, member for Hinchinbrook; Ms Jess Pugh, member for Mount Ommaney, who is standing in for the member for Rockhampton, Mr Barry O'Rourke; and Don Brown, member for Capalaba .

Today's briefing forms part of the committee's consideration of the Work Health and Safety and Other Legislation Amendment Bill 2023. This meeting of the committee is a proceeding of the Queensland parliament and subject to the parliament's standing rules and orders. Witnesses are not required to give evidence under oath or affirmation, but I remind you that intentionally misleading the committee is a serious offence.

FOX, Ms Andrea, Executive Director, WHS Engagement and Policy Services, Office of Industrial Relations, Department of State Development and Infrastructure

McCARROLL, Ms Renee, Manager, Work and Electrical Safety Policy, Office of Industrial Relations, Department of State Development and Infrastructure

McKAY, Mr Peter, Deputy Director-General, Office of Industrial Relations, Department of State Development and Infrastructure

CHAIR: Welcome. Before I turn to questions from the committee, would you like to make a short opening statement to the submissions that we have just heard?

Ms Fox: Thank you for the opportunity to provide further assistance in considering the bill. We reviewed the public submissions provided to the committee. We thank all organisations for taking the time to consider the bill and provide feedback. If I may, Chair, I would like to make a brief opening statement that provides some context around some of the issues that have been raised today.

As the committee is aware, the bill implements recommendations from Queensland's 2022 act review as well as the 2018 Boland review conducted nationally. Both of these reviews were focused on ensuring the legislative framework is operating as intended, with the objective of enabling parties at the workplace to achieve better health and safety outcomes. In particular, this particular Queensland review adopted a problem-solving approach to the matters covered by the terms of reference. What that meant is that, at the outset, the independent reviewers sought input from a wide range of industry and worker representatives. The reviewers were keen to learn about any areas of concern or perceived barriers with how the legislative framework was operating, particularly in practical situations. Where industry and worker representatives raised issues, these were analysed by the reviewers within the context of their terms of reference and with the support of some academic researchers that were provided to them.

It is fair to say that the reviewers carefully weighed up these views, as well as the evidence, and then considered it from multiple perspectives before formulating recommendations. The review's findings have been made in an environment where, increasingly, the breadth and complexity of work health and safety issues emerging at workplaces is significant—and we have heard some of that today from all parties. The reviewers were looking for ways to alleviate pressure on workplace parties and the regulator. In this environment, it is important for the regulatory framework to facilitate timely and effective resolution of health and safety issues, minimise disputation and ensure workers and their representatives can participate in their roles and processes, which are ultimately, of course, aimed at protecting workers and others against harm to their health and safety. Complex processes

for resolving and clarifying health and safety concerns can lead to conflict in itself. As noted by the minister in her introductory speech, this bill simplifies and fast-tracks problem-solving for issues that can lead to that conflict.

One of the review's core findings was that safety performance is improved where there is effective worker representation on work health and safety matters. The reviewers also noted research that found safe workplaces are more productive workplaces. Consequently, there are benefits for both employers and workers in the review's recommendations which are being implemented in this bill. The bill goes across three broad categories: promote and strengthen the role of HSRs in the workplace; as you have heard, clarify the rights of HSRs and worker representatives to enable them to perform their role effectively; and clarify and streamline the issue and dispute resolution procedures in the act which is beneficial to all workplace parties.

The bill does not make substantial changes to the functions of the HSR. It does not make substantial changes to the role of worker representatives. These elements of worker consultation remain as they have long been in the act—core features for ensuring work health and safety concerns are resolved and that everyone is able to fulfil their safety duties. We again thank you for allowing us to provide a brief statement. I note that we have provided written responses to the issues you had raised through your public submissions.

CHAIR: Thank you very much.

Mr LISTER: You referred a great deal to the review of the act that was done by the independent reviewers. I think it was completed last year. I read here from page 23 of the report—

Matters that met the [terms of reference] were explored further through a series of targeted face-to-face consultation meetings with a cross-section of stakeholders, including both employer and worker representatives. Stakeholders were advised that consultations were conducted on a confidential basis and that the source of submissions, both written and oral, would remain confidential regardless of whether or not they were referenced in the report.

That is a long way of saying that we do not know who provided the responses here. Given that is the case, how can the department be certain that the evidence they speak of being abundant in the report is truly reflective of the environment out there?

Ms Fox: It is a truly independent review, so it is at arms-length from the department. I think one must have faith in the fact that the review was not undertaken by government. There was a cross-section of reviewers around. There has been consultation with stakeholders at multiple points. If there had been widespread deviation from what people thought they had provided in summarising employer views or worker views then there would have been a response to that. It has been a path with multiple points of consultation.

Mr BOOTHMAN: Many of the people who came here today to express their views on this legislation spoke about the education levels of permit holders—people coming onto sites. They suggested there should potentially be higher levels of education. Do you have any comments on those points of view?

Ms Fox: I note that two angles were discussed around training: one was entry permit holders and one was HSRs. I will clarify that entry permit holders do go through training to get their permits. That is outside of the work health and safety space. There is a vested interest by unions in having well-trained permit holders so that they can fully utilise the act. I am somewhat surprised that people were concerned on behalf of unions about the level of training their permit holders get. As some of the unions themselves said, they put a lot of energy into ongoing, continual training with their workers.

Mr DAMETTO: My question is about the cost of implementing this legislation if it is passed. If the bill is passed, has the department investigated what cost this will have to industry?

Ms Fox: I will note from several perspectives. One is that it was considered that the recommendations in this report had received a lot of consultation, so there was not the sense that cost and benefits were hidden or that there were a lot of unintended costs and benefits that had not been considered. The other element I would note from this is that this bill, like I said earlier, does not substantially change the roles and functions of existing parts of the act like HSRs and entry permit holders. It is a bill of clarification. It is a bill of resolving things that were becoming contentious even though the intention already existed in the act. I think for that reason government would consider that there is not a huge increase in costs for business in the implementation of this legislation. There is obviously always some cost in learning and becoming familiar with new legislation. The department will put a lot of energy into making sure this bill is supported with lots of guidance material for both workers and PCBUs.

Mr DAMETTO: The Urban Development Institute of Australia cited earlier that this could have some significant cost impacts for the building industry. Has that been considered by the department during a housing shortage crisis?

Ms Fox: The department is very mindful of whole-of-government issues such as housing crises and such when it works on any element of new policy development. There are two elements I would like to touch on. It costs business when work health and safety disputes become protracted and extended. A lot of goodwill is damaged with workers in that space. That is a cost in itself. A big part of this bill is about streamlining conflict resolution, being able to get quick and decisive answers for people.

The other thing I would note is that obviously there are huge costs involved in work health and safety incidents and injuries when they occur. It must always be balanced with that. I would also note that employers have multiple ways within this bill to circumvent a work health and safety issue that they are finding difficult to resolve with their workers. If anything, this bill has allowed you to go much quicker towards the commission for an answer on it.

CHAIR: The process of issuing a cease work order has changed but not the parameters as to why you would issue a cease work order?

Ms Fox: Yes. I would really like to clarify that point, so thank you for the question. I detected some anxiety today around the cease work changes. I would just note that HSRs already have this power. It is an important power for obvious reasons. If anything, I think probably PCBUs benefit from some of these changes as well because it means that there is an avenue for it to come to a PCBU. I would have thought they would like to be directly involved in that discussion. I would note also that, unless there is an emergency situation, HSRs do need to attempt to resolve it through consultation with that PCBU. That remedy exists. I hope people understand that that has not—

CHAIR: The parameters have not changed. For example, if someone is shabbily pouring a slab, it does not change the fact that—the process of reporting and how you deal with the PCBU is the changed piece. Under these proposed changes, it would stop as much as it would have before.

Ms Fox: Correct.

CHAIR: A number of submitters have talked about training and a need for an increased amount of training. Could you talk to the specifics of what you think is required? As a result of this legislative change, what additional training would be required for HSRs?

Ms Fox: That would definitely be a decision above me. I would note that there is a review currently happening at the moment around HSR training in the department around the delivery method and ways of improving that training. I did note lots of interest today from various parties in industry-specific training. The department has long had a view that there would be potential merit in that. That is something that has been discussed and explored in the department.

Mr BROWN: Would that also be the case for industry-specific inspectors? Has the department ever thought about going down that path for specific industries to make sure HSRs and health and safety officers have less points of contact and more consistency?

Ms Fox: I will just clarify if I have heard that question correctly. Yes, it is probably an operational question.

Mr McKay: There are a couple of elements. One is that we will be developing significant guidance material in consultation with stakeholders, PCBUs, representative organisations and unions on the changes should the bill pass. That will in turn become part of the training package that the department supports for the delivery of training for HSRs.

In terms of our own inspectors, there is also an inspector capability program that is underway within the Office of Industrial Relations. A strong focus of that is around the core capabilities and core competencies of inspectors so that they properly understand the legislation that they are implementing. That would include bringing them up to speed on any of the changes and the issuing of guidance material—not just guidance material for HSRs but also guidance material for our own inspectors in how they might go about their compliance and enforcement activity.

CHAIR: With regard to the HSR providing written notice to the PCBU and the department's response in terms of developing a template, can you talk about what that will look like? What sort of information is that going to provide to HSRs in terms of process?

Ms Fox: Yes, there is an undertaking by the department to provide a template for what that may look like and guidance material around that to support all parties. I think PCBUs, workers and HSRs would like to know more about what that will look like. I would note that HSRs receive training

currently in their course around what a serious and imminent risk looks like. That is not a new concept for them. Again, obviously cease work is itself not a new concept for them. However, I do note the valid point that has been raised by one of the unions today around ensuring that anything like this is not unnecessarily difficult for workers who may have literacy issues or access to material. I think there is work there for the department to consider how best we support all workers in being able to use templates.

CHAIR: In terms of that template, it could be something that is digital. Whether the HSR has access to printers and offices is a fair question. If you are out on a site providing that digital response, with the onus on the PCBU to display that somewhere prominent within that workplace, will that all be part of those considerations?

Ms Fox: I think we have to be innovative in looking at how to support them. I think it is a really valid point that was raised. In terms of the onus on HSRs to display that, that drafting—

CHAIR: It could be difficult in some workplace situations.

Ms Fox: Yes, but it does allow the HSR to have some control here in knowing that there was not a delay in letting other workers know about the cease work.

CHAIR: There being no further questions, thank you very much for appearing before us today. That concludes today's public briefing.

The committee adjourned at 3.20 pm.