

Work Health and Safety and other Legislation Amendment Bill 2023

Submission No: 10
Submitted by: Master Builders Queensland
Publication: Making the submission and your name public
Attachments:
Submitter Comments:

Submission to the Education, Employment and Training Committee: *Work Health and Safety and Other Legislation Amendment Bill 2023*

Committee Secretary

Education, Employment and Training Committee

via email: eetc@parliament.qld.gov.au

Introduction

Thank you for the opportunity to make a submission to this review.

Master Builders provided a written submission to the independent review on 23 September 2022, and met the reviewers in person on 14 October 2022, and are pleased to make this submission on this important Bill.

Explanatory speech

We refer to the Minister's speech introducing the Bill on 30 November 2023.

We support the Minister's statement that *"We must do all we can to ensure workers are protected in the workplace and that employers comply with health and safety laws"*.

HSR's requesting information from the Regulator

According to the Bill, an HSR or WHS entry permit holder can request relevant notices that relate to "a workplace". However, the Bill does not clarify what workplaces this applies to, or is restricted to, and for how long such notices can be requested.

In any case, section 97 of the Act requires PIN's to be displayed at the workplace, and section 210 requires notices issued by the Regulator to be displayed at the workplace, therefore there is no reason why a relevant person would need to request these notices at any time for an indefinite period.

We do not support allowing HSR's and WHS entry permit holders with access to notices indefinitely for matters that may have occurred years earlier, and in the case of our industry, at workplaces where the HSR has not worked, and/or workplaces where a WHS entry permit holder has not visited, and for which the workplace that the notice related to no longer exists (as it is no longer a construction site).

HEAD OFFICE

417 Wickham Tce, Brisbane Qld 4000

T (07) 3225 6444

F (07) 3225 6545

mbqld.com.au

We do not support the amendments in the Bill as the current Act ensures that all relevant persons are aware of notices and have access to them at the workplace.

The changes create an additional administrative burden and cost to PCBUs for no identified benefit.

We submit in the alternative that the protections included in the Bill, whilst ensuring that any personal and confidential commercial information cannot be disclosed, should be amended as they do not protect PCBU's against relevant persons obtaining notices that are irrelevant in providing them with an avenue of awareness of health and safety issues that have been found by the inspectors at a workplace, especially when the workplace no longer exists.

Cease work direction / cease work notice support

According to the Bill's explanatory note:

Training for health and safety representatives will cover the cease work notice direction to ensure they understand and have the confidence to exercise these powers if the need arises. My department will develop straightforward templates for use by health and safety representatives exercising this power.

Master Builders support the development of templates, and would be pleased to support the development of such templates. We welcome the opportunity to advise and assist the Department with this initiative.

Imminent and immediate exposure to a hazard

Further to the above regarding templates we note that the new section 80(1) expands the powers of an HSR to direct work cease where they have a reasonable concern "that to carry out the work would expose a worker to a serious risk to the worker's health or safety, emanating from an immediate or imminent exposure to a hazard" (our emphasis).

Whilst "immediate or imminent exposure" is not defined in the Bill, nor is it defined in the Act despite being used in multiple sections, it has been the subject of case law in the State and Federal jurisdictions.

Whilst we do not propose to recite that case law, we submit that guidance should be given to HSR's regarding what is immediate or imminent exposure, including that a reasonable concern to an immediate or imminent risk can cease, and work recommence, after the risk is addressed, either by rectification of the hazard or isolating the area and directing work to occur elsewhere.

This guidance should ensure that there is no misuse of powers due to any ambiguity.

10 January 2024