

Work Health and Safety and other Legislation Amendment Bill 2023

Submission No: 12
Submitted by: Australian Workers' Union
Publication: Making the submission and your name public
Attachments:
Submitter Comments:

12 January 2024

The Committee Secretary
Education, Employment and Training Committee
Parliament House
By email: eetc@parliament.qld.gov.au

Dear Secretary,

Re: Submission to the Education, Employment and Training Committee

The Australian Workers' Union ("**AWU**") makes this submission to the Education, Employment and Training Committee ("**Committee**") in response to the Committee's call for submissions in respect of the Work Health and Safety and Other Legislation Amendment Bill 2023 ("**Bill**").

Broadly, the AWU is supportive of the Bill as introduced to Parliament, and wishes to make the following submissions.

The AWU

The AWU is a large union representing members in a diverse range of industries employed in both the Queensland and Commonwealth industrial relations systems. Those members are predominantly covered by Queensland work health and safety legislation.

Health and Safety Representatives

The AWU has a significant number of members who perform the role of Health and Safety Representative ("**HSR**") in their workplace. We support clause 19 of the Bill providing a positive duty for PCBUs to advise workers about:

- their ability to request the election of an HSR and establishment of a work group;
- the role, powers and functions of an HSR;
- the process for electing HSRs; and
- who may represent workers in negotiations about work groups.

Work groups

The AWU supports clause 20 of the Bill requiring PCBUs to negotiate and agree with the relevant unions and workers as to the scope of the work group being established. We also support clause 21 of the Bill, which will assist when the relevant actors have failed to make or vary an agreement as to the scope of a work group.

Powers of Health and Safety Representatives

Stacey Schinnerl, Secretary

The Australian Workers' Union of Employees, Queensland

Stacey Schinnerl, Branch Secretary

The Australian Workers' Union, Queensland Branch

We support the right provided within clause 24 of the Bill for HSR's to accompany a WHS entry permit holder whilst entering a workplace. We also support the clause 25 right for HSRs to be notified about a right of entry notice and the entry of a right of entry permit holder. We also agree that a PCBU should be obliged to pay an HSR for work performed in that role.

Provisional Improvement Notices

The AWU notes the shortened timeframes for dealing with Provisional Improvement Notices ("**PIN**") provided for in clauses 34 and 36 of the Bill, and supports those shortened timeframes as a necessary and practical step to improve the PIN process.

HSR Training

We support clause 27 of the Bill as a practical step to encourage part-time workers and shift workers to become HSRs by ensuring that they will be properly compensated for attending HSR training.

Entry to workplaces for issue resolution

We support the clause 31 codification of the common law right for parties to remain in a workplace so as to hold discussions for the purpose of resolving issues. Similarly, we support the clause 45 right for WHS entry permit holders to remain in a workplace for the time necessary to effect the purpose of the entry.

Clause 37 of the Bill provides for a greater range of matters that can form part of a WHS dispute that can be dealt with by way of application to the Queensland Industrial Relations Commission. The AWU supports this amendment.

Cease work directions

The AWU supports the duty arising from clause 32 for PCBUs to direct workers to cease work, or not to commence work, if the PCBU has been issued with a cease work notice by an HSR.

Discriminatory or coercive conduct

The additional terminology from 'discriminates 'treating a worker less favourably' provided by clause 42 will provide added protections the *Work Health and Safety Act 2011* (Qld) s 105(1)(a) ("**WHS Act**"). The amendment is to be commended.

Representation rights

The AWU supports the amendments provided to Part 5 of the WHS Act to set appropriate boundaries so that only a 'suitable entity representing a 'worker', as compared to an 'excluded entity', as defined in new sections 45A and 45B of the WHS Act respectively, can represent workers. Excluding entities that are not registered under the *Industrial Relations Act 2016* (Qld) ("**IR Act**") and/or whose eligibility rules do not cover particular workers ensures such workers are not subject to misrepresentation. Workers can then be confident that only an entity that is registered and eligible to enrol

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them as members has legal standing to represent the interests of those workers in tribunals and other processes under the WHS Act and the IR Act. These are appropriate amendments to ensure workplace relationships are maintained. The AWU supports these amendments.

Negligent conduct

Clause 16 of the Bill, which amends section 31 of the WHS Act to include 'negligent' conduct, is an important step in protecting the welfare of workers. The AWU supports this amendment.

Insurance Contracts

The AWU supports the amendments resulting from clause 13 of the Bill. The criminalising of contracts of insurance and indemnity arrangements so as to limit liability of persons for monetary penalties under the WHS Act. This is a commendable amendment to discourage non-compliance with the WHS Act.

Conclusion

For the above reasons, the AWU commends the Bill to the Committee.

Please do not hesitate to contact Mr Mark Raguse from our office on mobile [REDACTED] or email [REDACTED] if we can assist further with the Committee's work.

Kind Regards

[REDACTED]

Stacey Schinnerl

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