

Work Health and Safety and other Legislation Amendment Bill 2023

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19 January 2024

Committee Secretary
Education, Employment and Training Committee
Parliament House
George Street
Brisbane Qld 4000

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

Dear Committee Secretary

Re: *Work Health And Safety And Other Legislation Amendment Bill 2023*

In late 2023 the Parliamentary Committee considering the Work Health And Safety And Other Legislation Amendment Bill 2023 (Bill) called for any written submissions by 10 January 2024. These are the written submissions of the Construction, Forestry, Maritime and Employees Union (CFMEU) upon the Bill.

Regrettably, due to the holiday season and the ongoing absence of the CFMEU's OHS Coordinator on leave, the written submissions of the CFMEU were not able to be prepared by 10 January 2024. I apologise for the late provision of this written submission.

Background

The CFMEU has approximately 20,000 members and employs 26 right of entry permit holders issued under s.134 of the WHS Act. The CFMEU represents workers who perform a diverse range of work, including (but not limited to) form workers, steel fixers, concreters, plant operators (including cranes, forklift, piling rigs, earth moving equipment and other types of mobile and fixed plant), riggers, dogman, scaffolders, painters, labourers, water proofers, carpenters, and glaziers.

The CFMEU was heard from as a part of the Review of the Work Health and Safety Act 2011 – Final Report 2022.

The CFMEU has a considerable interest in the Bill, particularly given the inherently dangerous nature of the industries in which its members work and the shocking statistics regarding workplace fatalities and serious incidents in those industries.

Written Submissions

The CFMEU does not agree with a number of aspects of the Review of the Work Health and Safety Act 2011 – Final Report 2022 (**Review Report**). However, the CFMEU notes that the Minister has accepted the Review Report's recommendations. That being the case, the CFMEU appreciates that it is therefore necessary and appropriate that the Bill adhere closely to the outcome of the Review Report.

The CFMEU has numerous concerns with the Bill. The primary concern of the CFMEU, which arises on multiple occasions, is that the Bill is not consistent with the Review Report. The inconsistencies include matters recommended in the Review Report but not taken up in the Bill, matters taken up in the Bill that were not recommended in the Review Report and matters recommended in the Review Report being taken up in the Bill in a manner that is not faithful to the recommendation in the Review Report.

These discrepancies are too numerous to address individually. For the purpose of this submission the CFMEU will focus only on what it considers to be the two most important matters. The CFMEU expects that the remainder will be identified and addressed prior to the passage of the Bill.

First issue: recommendation 18A from the Review Report

The Review Report recommended that (registered) unions be made a *party* principal to a safety dispute in certain circumstances. The Review Report did not recommend that the existing avenue, for a union to become a *representative* of a party to a safety dispute, be repealed. It is apparent that the Review Report intended for the party principal avenue to be included in addition to, rather than instead of, the existing avenue as a representative. The drafters of the Bill have not adhered to recommendation 18A which will have unintended and adverse consequences for workers and unions.

If the reviewers had intended that this change be made, they would have said so.

The Bill should be re-drafted to adhere to recommendation 18A.¹

Second issue: recommendation 5 from the Review Report

The Bill adds a new section that prescribes requirements of cease work notice. This was not recommended in the Review Report. This adds further administrative requirements for HSRs and opens up technical arguments that are contrary to the objects of the WHS Act and the Bill that are likely to frustrate the processes such that the true objectives of the amendments will not be achieved.

If the reviewers had intended that this change be made, they would have said so.

The Bill should be re-drafted to adhere to recommendation 5.

Public Hearing

The CFMEU intends to participate in the public hearing on 30 January 2024 through OHS Coordinator Kurt Pauls and Ms Kris Birch of Hall Payne Lawyers. The CFMEU welcomes the opportunity to discuss this submission on that occasion.

If you have any queries, please contact CFMEU OHS Coordinator Kurt Pauls on [REDACTED]

Yours faithfully

[REDACTED]
Michael Ravbar
State Secretary

¹ The CFMEU has no difficulty with such drafting being undertaken in a manner which excludes "red unions".