Friday, 28 February 2014

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The Research Director
Finance and Administrative Committee
Parliament House
Alice & George Streets
Brisbane, Qld 4000

Dear Research Director

Re: Workplace Health and Safety and Other Legislation Amendment Bill 2014

The Shop, Distributive and Allied Employees Association (SDA) is the largest trade union in Australia, with more than 230,000 members. The SDA promotes the interests and defends the rights of its members in the workplace and further assists its members in negotiating for better conditions and ensuring members receive their entitlements.

In regard to their objective to ensure that their member's interests and rights are upheld in the workplace, particularly within the retail, fast food and warehouse industries, the SDA cannot support the introduction of a number of new amendments outlined within the *Work Health and Safety and Other Legislation Amendment Bill 2014.*

In particular SDA do not support the following changes:

1) **The removal of the power for health and safety representatives to direct workers to cease unsafe work;**

As raised by the Office of the Queensland Parliamentary Counsel (**OQPC**) the removal of the power of health and safety representatives (**HSR)** to direct workers to cease unsafe work removes an existing protection for all Queensland individual workers.

The *Work Health and Safety Act 2011* (Qld) as it currently stands specifically states under section 85, that a HSR cannot give a worker a direction to cease work without first raising the matter with the business person or where the risk is so serious and immediate or imminent that it is not reasonable to consult the business person before giving the direction. In light of this, it is not reasonable to remove such a power which can only be exercised after consultation with the business person or where the business person has failed to resolve the problem or in circumstances where the risk is so **serious** and **immediate** or **imminent**.

The removal of this power will therefore expose workers to a heightened risk of injury because the onus of discovering and monitoring unsafe work practices will be shifted from a qualified worker, who regularly oversees and monitors safe work practices to Management. In this event the Business/Employer must first be notified of the risk/s before they can act, which would most likely occur at the time the worker is injured which is unreasonable.

An example of a heightened risk may be evidenced in that of the duties performed by a Deli worker who readily uses dangerous equipment such as a meat slicer on a daily basis. If a meat slicers' mechanism is faulty due to a high volume of work, a manager may simply indicate the

worker 'to be careful while operating it'. A HSR on the other hand would however be able to view the machine, tag and issue an improvement notice on it if she/he believes it to be unsafe. In effect, this power should not be removed from HSR's as it acts as a proactive system, by preventing injuries before they occur, rather than acting as a reactive system and waiting for injuries to occur before something is done.

The proposed changes as mentioned above further erode a workers ability to ensure that they can work free from injury and in a safe work environment. The removal of the protection of HSR to cease unsafe work places a heightened risk of injury on all workers in Queensland with no or little protection moving forward in light of the above and the recent changes to the *Workers' Compensation and Rehabilitation Act 2011* (Qld). The latter is in respect to recent changes to the Workers' Compensation Act as of October 2013, which affects a workers' ability to sue their employer for any negligent act/ actions which caused their injury.

Further, workers should have an essential right to HSR's as they act as the voice for all workers in the workplace. We submit that this voice is an imperative part of creating safe workplaces in Queensland, as the majority of today's workers do not hold secondary or tertiary qualifications and are increasingly from non-English speaking backgrounds. Worker's such as these are likely to be unaware of their workplace rights and are unlikely to raise and report safety issues to their superiors. In this regard we stress that a qualified representative such as a HSR is invaluable in ensuring that a vulnerable worker is informed and aware of their workplace rights and are protected from workplace health and safety risks within their place of employment.

The ongoing support provided to vulnerable workers by all HSR's ultimately reinforces the message that a safe workplace for all employees should be an issue which overshadows the need for business' to "turbocharge the Queensland economy" as suggested by Hon. JP Bleijie.[1]

We dispute Hon. JP Bleijie assertion that these proposed changes will "restore the balance to the system and foster safety, fairness and productivity in Queensland's Workplace".[2] We are of the opinion that the protections contained in section 85 of the current Act are adequate and the system as it currently stands does exactly what the Hon. JP Bleijie asserts it does not, that being upholding a balance to the system and fostering a safe, fair and productive workplace for the workers.

We submit that as this policy is targeted (mistakenly in our view) at a niche market of the Queensland workforce, such as the construction industry, greater consideration must be given to the future implications which will affect all Queensland workers.

2) The removal of the requirement under the WHS Act for a person conducting a business or undertaking to provide a list of health and safety representatives to the WHS regulator; and

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[1] *Work Health and Safety and Other Legislation Amendment Bill 2014*, dated 13 February 2014.
[2] Ibid.

In today's workplace a HSR may be used as a helpful indicator to determine the extent in which a person engaged and conducting a business is committed to Workplace Health and Safety. By removing the role and requirement to list HSR's, the government is in effect removing their own ability to monitor whether or not WHS is being upheld.

The removal of the requirement for persons conducting a business or undertaking to provide a list of HSR's to the WHS regulator ultimately diminishes the transparency and regulation of business to ensure that safe work practices are being observed and upheld in respect to their employees.

Should this requirement be displaced as a result of the changes proposed under this Bill, if the Employer is confronted as to their commitment to WHS measures they need only demonstrate that a WHS measure is in place at that time. This means that following these changes to the Act there will be no regular supervision of a business' commitment to safe work practices which may lead to fewer adherences to safe workplace practices in the future and an increase in workplace injuries within all Queensland industries.

3) The requirement to provide at least 24 hours' notice before any person assisting a health and safety representative can have access to the workplace.

In regard to the proposed changes regarding the introduction of a 24 hour notice period under sections 68, 119, 122 and 143(A) we agree with the concerns raised by the OQPC that this notice requirement period will directly affect a HSR's entry or other rights to access and address an unsafe workplace with the intent to protect the work health and safety of the workers. Further by introducing a 24 hour notice period under section allowing a business a 24 hour grace period to react to notices of potential concern or breaches in their workplace, the element of 'surprise' and the ability to expose apparent risks and negligent activities will be diminished.

The further drawback of introducing a mandatory 24 hour grace period which affects a HSR's ability to bring in an assistant and/or for a WHS entry permit holder to enter the business regarding a suspected contravention in the workplace, will be that a workers right to work in a safe work environment will be largely diminished. By introducing this 24 hour notice requirement in conjunction with the changes to remove the powers of HSR's to cease unsafe work once it has been identified, a worker will be exposed to a greater period of risk of injury. This is because the grace period allows for an unsafe place of work to continue unabated until such time as the 24 hour period is observed. This 24 hour notice period in effect serves to extend the time in which a worker will be at risk of incurring a possible/ probable injury.

Take for example in reference to the abovementioned Deli worker, following the introduction of the 24 hour notice period a meat slicer, within the Deli worker's area, was identified by a HSR as faulty and that the continued use of this slicer would result in serious harm to the worker. In this instance instead of the HSR being able to stop the worker from engaging in this dangerous workplace activity immediately the Deli worker is told by his/her manager that the store is very busy and to just 'be careful' while operating it. Whilst the HSR waits assistance having regard to the 24 hour notice period, five hours later the slicer machine

malfunctions and the worker slices off all fingers on their dominant hand. In effect this 24 hour notice period has exposed our client to a greater risk of serious injury which would have been prevented if the HSR was still able to exercise a power to cease unsafe work and if the requirement to observe a 24 hour time period was not in place and the worker removed from the unsafe work area in a more timely manner.

Summary

Whilst the SDA has not gone on to address every change proposed under the *Work Health and Safety and Other Legislation Amendment Bill 2014,* it strongly maintains its overall position that the introduction of these proposed changes will not only serve to disadvantage all Queensland workers across all types of industries but will also serve to shift the balance between what is good for business and what is good for the Queensland worker to the business.

The changes regarding the removal of the power for health and safety representatives to direct workers to cease unsafe work, to remove the requirement of business persons to provide a list of health and safety representatives to the WHS and the introduction of the 24 hour notice period will all in effect remove existing protections for all Queensland individual workers to work freely, safe from harm and injury in the Australian workforce.

By allowing this Bill to go through, workers can be certain that the goal to foster safety, fairness and productivity in the Queensland's Workplace as referred to by Hon. JP Bleijie, will be overshadowed by the interests of the business and their financial objectives. For this reason and for those highlighted above, the SDA cannot agree with the changes which have been proposed under the *Work Health and Safety and Other Legislation Amendment Bill 2014* and hope in good faith that these changes will not be brought into effect upon your further consideration.

Yours Faithfully