



14 Edmondstone Street
South Brisbane QLD 4101
PO Box 3573
South Brisbane QLD 4101
t (07) 3021 8800
f (07) 3021 8892
hia.com.au

22 June 2015

Ms Di Farmer MP
Chair
Finance and Administration Committee
Parliament House
George St Brisbane Qld 4000

Email: fac@parliament.qld.gov.au

Dear Ms Farmer,

Inquiry into Work Health and Safety and Other Legislation Amendment Bill 2015

In response to your request of 22 June I can confirm that HIA was advised by the Department of Justice and Attorney General that the legislation was being prepared.

You also sought examples of where HIA was aware of the right of entry provisions being misused. A recent example is summarised as follows:

- HIA was contacted by a HIA member in late 2014 (post introduction of the 24 hour notice provision in early 2014) regarding construction works being performed at a shopping centre redevelopment;
- The member and his employees were fitting out shelving in a store;
- The member advised that the CFMEU had been attending their site without providing any of the required 24 hour notices, and most recently advised them that they could not access the site until they completed a 'manual handling' course. The stop work order was not provided in writing, nor was the union delegate willing to put the stop work order in writing;
- The member advised that he and his employees had completed all necessary site inductions, as well as had the required white card to perform manual handling;
- The member had a lawful right to continue works on site, as there was no basis to stop such works being performed;
- The member subsequently attended the site the next day and the union was blocking them from accessing the site;

- Following this the member and his employees completed the manual handling course through a CFMEU recommended supplier, which enabled them to return to work; and
- The member was reluctant to place a complaint to Fair Work Building and Construction or escalate their concerns any further for fear of commercial repercussions.

In terms of prosecuted cases, many are on the public record, including:

- FWBC took the step of prosecuting in relation to right of entry: Australian Building and Construction Commissioner v Myles, Pearson, Treadaway, BLF, CFMEU & CFMEU Queensland branch <http://www.fwbc.gov.au/australian-building-and-construction-commissioner-v-myles-pearson-treadaway-blf-cfmeu-cfmeu-1>
- Other examples where a right of entry scenario resulted in far further consequences/actions <http://www.fwbc.gov.au/legal-cases/?sw=&status-all=true&state%5B%5D=7&alall=true>
- Laing O'Rourke Australia Pty Ltd v Construction, Forestry, Mining and Energy Union [2013] FCA 133 (25 February 2013) <http://www.austlii.edu.au/au/cases/cth/FCA/2013/133.html>
- Grocon Constructors (Queensland) Pty Ltd v Mason & Ors [2013] FCCA 2350 (19 July 2013) <http://www.austlii.edu.au/au/cases/cth/FCCA/2013/2350.html>

I hope this information is of assistance to the Inquiry.

Yours sincerely



Warwick Temby
Executive Director – Queensland