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28 May 2015

The Finance and Administration Committee
Parliament House
Alice & George Streets
Brisbane Qld 4002

Email: fac@parliament.qld.gov.au.

Dear Sir / Madam

Re: Inquiry into the *Work Health and Safety and Other Legislation Amendment Bill 2015*

The Australian Industry Group (Ai Group) welcomes the opportunity to make a submission to the Finance and Administration Committee review of the Queensland *Work Health and Safety and Other Legislation Amendment Bill 2015*.

Ai Group is a peak industry association in Australia which, along with its affiliates, represents the interests of more than 60,000 businesses in an expanding range of sectors including manufacturing, engineering, construction, automotive, food, transport, information technology, telecommunications, call centres, labour hire, printing, defence, mining equipment and supplies, airlines and other industries. The businesses which we represent employ more than 1 million employees.

As a member of Safe Work Australia, in November 2013, Ai Group had the opportunity to comment on the proposed amendments to the Queensland *Work Health and Safety (WHS) Act*, which were implemented with the passing of the *Work Health and Safety and other Legislation Amendment Act 2014* (2014 amendments). Ai Group's position on the amendments relating to union right of entry and the rights and powers of health and safety representatives (HSRs) have not changed since that time.

Our position on the amendments to these provisions is summarised below:

Right of entry to inquire into a suspected contravention - Removal of 24 hour notice requirement

The requirement to provide 24 hours' notice in order to exercise a *right of entry* power is consistent with the *Fair Work Act 2009* and should not be removed. As outlined in our submission to the National OHS Review (2008) and reiterated in our response to the 2014 amendments, it is our view that "an appropriate relationship

between the permit holder and the PCBU would lead to better outcomes and this could be best achieved by some level of notice”.

It has been our experience that union officials from construction industry unions have frequently misused WHS entry powers to access sites for industrial purposes, as has been well-documented in Court decisions relating to prosecutions pursued by Fair Work Building and Construction and its predecessor the ABCC. The widespread misuse by construction unions of WHS entry rights for industrial purposes creates WHS risks because it understandably leads to employer cynicism about safety issues raised by unions.

If an employee has a concern about an urgent safety matter then this concern should of course be raised immediately with the employer and if the matter is not addressed then the employee should raise the issue with a WHS inspector.

Ai Group does not support the removal of the 24 hour notice period for union right of entry to inquire into a suspected contravention.

Assistance to health and safety representatives - Removal of 24 hour notice requirement

Ai Group has consistently argued that entry to assist HSRs is adequately addressed in the “consult and advise” provisions of the WHS Act, making the “assistance” provision superfluous. Entry without notice to assist HSRs can avoid the 24 hour notice requirement for entry to “consult and advise”. Therefore, notice requirements for entry to “assist HSRs” and entry to “consult and advise” should be consistent.

Ai Group does not support the removal of the 24 hour notice period for an HSR to seek the assistance of another person.

Empowering health and safety representatives to direct a cessation of work

Ai Group considers the right to issue PINs and direct a cessation of work can be appropriate functions for trained HSRs to exercise. We acknowledge however that these are significant powers and must be accompanied by appropriate safeguards; particularly at worksites where ‘unsafe work’ is work performed by a company other than the HSR’s employer. The comparable provision in the Victorian OHS Act (s74) has been in place for many years with no major issues, and some benefit, experienced.

If these powers are reinstated it is essential that appropriate safeguards are included.

Amending current incident notification requirements

If passed, the Bill will modify the definition of *serious injury* to include one that causes “the person to be absent from the person’s voluntary or paid employment for more than 4 days”. This will require the employer to:

- notify the regulator immediately after becoming aware that a notifiable incident arising out of the conduct of the business or undertaking has occurred (section 38); and
- to preserve the incident site until an inspector arrives at the site or any earlier time that an inspector directs (section 39).

It is Ai Group's view that this will:

- create unnecessary regulatory burden and potential unintended breaches of section 39 in circumstances that do not warrant immediate notification and/or non-disturbance of the site; and
- establish duplicating of reporting, without clear benefits, when employers are already required to submit workers' compensation claims to WorkCover Queensland within 8 days of an employer receiving a claim.

Ai Group does not support the inclusion of these additional reporting requirements.

Reinstatement of the Electrical Safety Commissioner, Electrical Safety Education Committee, Electrical Equipment Committee.

Ai Group has no view on these amendments.

Thank you for the opportunity to make a submission to the Committee on this review. Should you wish to discuss this submission further please do not hesitate to contact Ai Group's Manager National Safety Work Cover Policy and Membership Services, Tracey Browne, on telephone [REDACTED]

Yours sincerely



Jemina Dunn
Director - Queensland