



**Submission: Work Health and Safety and Other Legislation Amendment Bill
2015**

Introduction

IEUA-QNT welcomes the opportunity to provide feedback regarding the Finance and Administration Committee's inquiry into the Work Health and Safety and Other Legislation Amendment Bill 2015.

IEUA-QNT is an industry union representing ~17,500 teachers, support staff and ancillary staff in non-government education institutions in Queensland and the Northern Territory. As an industry union, IEUA-QNT regularly participates in education and industrial debate at both State and National levels through a system of committees comprised of members and union officers.

Introduction

IEUA-QNT commends the Government for recognising that the former LNP Government's changes to workplace health and safety and industrial relations legislation represented a simplistic, ideological attack on unions rather than a genuine attempt to improve workplace conditions.

We welcome the return of a positive, collaborative and consultative approach where employers, employees, union representatives and WHS officials work together to achieve improvement and acknowledge the significance of the Work Health and Safety and Other Legislation Amendment Bill 2015 as a mechanism for restoration of fundamental clauses and provisions.

We do note that the explanatory notes refer to some initial cost of implementation, particularly in the case of changes to incident notification procedures [1]. It is however, important to recognise that the costs of implementation are likely to be offset by a reduction in incidents and injury.

Specific points in relation to each of the proposed amendments, and a number of other issues, are made below.

Reinstatement of the role of a Commissioner for Electrical Safety and specific committees to promote community awareness and participate in developing requirements for the electrical safety of electrical equipment

IEUA-QNT commends the decision to reinstate the role of Commissioner for Electrical Safety, and their role as chairperson of the Electrical Safety Board. The amendment to limit the civil liability of the individual occupying this position is also appropriate.

Change to the definition of injury or illness to accommodate notification requirements

We note the intention to reintroduce the requirement for employers to notify the regulator when a worker is absent for four days or more and agree that maintaining records of workplace injury and illness is fundamental to identifying and addressing risks and hazards. This is significant because the seriousness of an injury is not

something that can always be quantified by the period of absence, particularly as many acute injuries can be serious but may not require an absence of four or more days.

In light of technological advances that can make the reporting very simple, we suggest that a more effective, less burdensome, approach might be to invest in systems that support automatic, electronic lodgement of incident reports and/or compensation claims.

This will allow the gathering of important data to show injury trends by industry or employer, and will assist in developing preventative measures.

Further, given current social and cultural interest in psychological injuries, we suggest that the proposal to amend the current legislation also represents an opportunity to contemporise the definition of injury or illness.

Work-related mental health issues represent a significant cost to government and business, with the annual cost to the Australian economy estimated to exceed \$14.81 billion [2]. While it may be impractical to seek notification for all injuries, it is nonetheless appropriate that the relevant legislation reflect the contemporary status of work-related mental health issues as a health and safety issue, and identify an extreme psychological or psychiatric injury as a serious injury or illness.

Reinstate the power of a health and safety representative to direct a worker to cease unsafe work

In responding to the Workplace Health and Safety Amendment Bill 2014, we provided several examples of workplaces where the power to issue cease work orders in response to health and safety risks is an essential mechanism for protection of workers.

In the absence of explicit information about arising risks, and direct instructions to cease work, the reality is that many employees would continue working, unaware of the risks they may be facing. Further, trained health and safety representatives often have a better working knowledge of health and safety issues and are, therefore, better able to identify and assess risk.

The National Work Health and Safety Strategy [3] indicates that a primary aim of any WHS framework should be to encourage unions and employer organisations to take a constructive role in promoting improvements in work health and safety practices, and to assist businesses and workers to achieve a healthier and safer working environment. Restoration of the rights of Health and Safety Representatives to direct workers to cease unsafe work is a critical reform that protects workers' right to access support and advice, respond to urgent safety risks in a timely fashion and, where necessary, challenge unscrupulous employers.

Restore the right for work health and safety entry permit holders and health and safety representative assistants to gain immediate access to a workplace

Within any workplace, health and safety representatives are elected, from the employee body, with the specific aim of ensuring that there is someone who is officially responsible for raising health and safety concerns with management. The inclusion of workers in necessary WHS consultation therefore depends upon those WHS representatives having unfettered access to appropriate support and advice.

Restoration of representatives' access to support and advice is essential to ensure that workers are able to respond constructively to health and safety challenges

through accurate, and timely, assessment of the magnitude and extent of risk. Further, the changes also reduce the likelihood of employer liability in the event of harm to a worker that could have been avoided.

Decrease the maximum penalty that can be prescribed for offences in the Electrical Safety Regulation

The increase in maximum penalty for prescribed offences introduced in the Workplace Health and Safety Amendment Bill 2014 was essentially arbitrary and a reduction is appropriate.

Additional Points

In addition to the points above, which relate to restoration of specific clauses and provision, we would also like to draw the Finance and Administration Committee's attention to a number of changes instigated by the former LNP government that remain unaddressed by the proposed amendments.

We urge the government to consider these when revising the current Amendment Bill.

Reinstate 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

Prior to the 2014 revision, the WHS Act required a list of health and safety representatives to be provided to the WHS regulator. This was an invaluable resource for the Department of Justice and Attorney-General. As a professional network of individuals who had been through appropriate formal training, this group was able to disseminate information from government departments with a high degree of efficiency, ensuring that information reaches all employees.

Within a school context, it is particularly important to note that administrative staff are, necessarily, focussed primarily on day-to-day issues and have little time to monitor government communications and/or health and safety directives. This widely recognised impediment to health and safety, which is replicated in numerous industries, was in fact one of the main reasons why arrangements for alternative health and safety representatives were established.

The merger of various other pieces of legislation into the Workplace Health and Safety Act 1989, and subsequent revisions in 1995 and 2011, had the specific aim of fostering "cooperation and consultation between employers and employees and associations representing employers and employees and to provide for the participation of those persons and associations in the formulation and implementation of health and safety standards" [4].

Current processes are designed to enhance the consultation process and give workers a voice. Their reversal was not only inefficient, it contradicted an underlying premise of contemporary workplace health and safety culture, as articulated in The Australian Work Health and Safety Strategy 2012-2022: That all workers should contribute to identification and management of risk [3].

Repeal and/or Reinstatement of Previous Code of Practice for the Prevention of Workplace Harassment

In relation to this point, we would also like to draw the Committee's attention to the fact that, under the prior government, Queensland ceased to operate under its own Code of Practice for the Prevention for Workplace Harassment, a comprehensive

Code designed to prevent psychological injuries. Instead, the LNP Government adopted the federal schemata, which relies on guidelines, rather than an enforceable Code of Practice. This was a significant move, undertaken without consultation and resulted in a transfer from a relatively comprehensive definition of psychological injury [5] to a more narrow conceptualisation within a less prescribed regulatory framework [6].

Allow for codes of practice adopted in Queensland to be varied or revoked without requiring national consultation as required by the WHS Act

In establishing a provision to allow the Minister to vary and revoke approved codes of practice without consultation, the 2014 legislation set a dangerous precedent that should be corrected at the first available opportunity.

The purpose of the consultation process is to identify, enact and preserve the maximum practicable level of protection for all workers. To retain the ability of the state government to remove or modify Codes of Practice without input from other parties has potentially disastrous consequences.

Codes of Practice, and enhanced roles of employee representatives, have formed the focus of much legislative change in the past decade and evidence suggests that they have had a significant, positive impact on workplace health and safety: Safe Work Australia report a national, 28% decline in work-related injuries between 2001 and 2012 [7].

Although we assume that the new government would engage in consultation at a state level before a Code of Practice is revoked, it is unnecessary and counter-productive to prevent employers and employees from being able to contribute, and respond, to national information and/or perspectives.

Status of Industry Sector Standing Committees

While a consequence of the harmonisation process, rather than the 2014 Amendments, the loss of legal status of the Industry Sector Standing Committees is an issue that should be addressed.

These committees, established under the Workplace Health and Safety Act 1995 [8] provided an invaluable forum for consultation with stakeholders including medical representatives, unions and employer groups. The committees were maintained administratively after legislative harmonisation took effect in 2012, and this continued under the LNP government. However, when their terms expired in June 2014, the nomination process was not followed up with appointments. As a result, the committees are no longer active.

IEUA-QNT urges re-establishment of the Industry Sector Standing Committees as an initiative in line with the broader, restorative purpose of the Work Health and Safety and Other Legislation Amendment Bill 2015 and to ensure practical and regular consultation with stakeholder groups.

Concluding Comment

IEUA-QNT is committed to working with members, their employers and relevant regulatory authorities to enhance the safety and well-being of workers in all fields of endeavour.

Our general position is that we oppose any changes that dilute the consultative process and we welcome the Work Health and Safety and Other Legislation

Amendment Bill 2015 as an important mechanism for restoration of vital provisions removed by the prior government.

While we support all of the proposed changes, we also propose that the government extend the changes to address the points noted above.



Terry Burke

General Secretary

Independent Education Union of Australia

Queensland and Northern Territory Branch

9th June 2015

References

1. *Work Health and Safety and Other Legislation Amendment Bill 2015 Explanatory Notes*. 2015.
2. *Safe_Work_Australia, The Incidence of Accepted Workers' Compensation Claims for Mental Stress in Australia*. 2013, Safe Work Australia: Canberra.
3. *Safe_Work_Australia, Australian Work Health and Safety Strategy 2012-2022*, in *Healthy, safe and productive working lives*. 2012, Safe Work Australia: Canberra.
4. *Parliament, Q., Workplace Health and Safety Act 1989*. 1989.
5. *Queensland_Government, Prevention of Workplace Harassment Code of Practice 2004, Amended 2006*, Department of Employment and Industrial Relations. 2006, The State of Queensland: Brisbane.
6. *Safe_Work_Australia, Dealing with Workplace Bullying - A Worker's Guide*. 2013, Safe Work Australia: Canberra.
7. *Safe_Work_Australia, National OHS Strategy 2002-2012: Progress Against Targets*. 2012, Safe Work Australia: Canberra.
8. *Queensland_Government, Workplace Health and Safety Act 1995*. 1995: Brisbane.