



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

**SUBMISSION BY
THE ELECTRICAL TRADES UNION OF EMPLOYEES
QUEENSLAND**

The Electrical Trades Union of Employees Queensland (the ETU) is a union of over 14,000 members representing employees employed in or in connection with the electrical industry.

This submission has been prepared by the ETU in response to the Work Health and Safety and Other Legislation Amendment Bill 2015. The ETU has a strong interest in the proposed amendment and we welcome the opportunity to provide a submission.

The ETU has participated in discussions with the QCU and other Unions and supports and adopts the submissions of the QCU in relation to the proposed bill.

The ETU supports broad based legislation that provides for health and safety of people in the performance of their work. The provisions of such an Act should provide a robust approach to health and safety, including an entrenched approach to risk management, a requirement for meaningful consultation with all the affected parties and strong enforcement provisions.

In addition to such broad based legislation, the ETU believes that it is necessary to maintain a separate and distinct legislative framework dealing specifically with electrical safety. Historically, having separate legislation to deal with electrical safety has provided better safety outcomes for the electricity industry as a whole, providing protection for both workers and consumers.

Safety in the Electricity Industry in Queensland

In Queensland, Electrical Safety has been achieved by the interaction of the specialised Electrical Safety Act and the Work Health and Safety Act.

The Work Health and Safety Act provides broad obligations for employers in terms of providing a safe and healthy work environment. The Electrical Safety Act provides obligations to a broader range of people taking into account the needs that are relevant to this specialised industry

Background

In 2001 the Queensland State Government set up a Taskforce to investigate and make recommendations on “the manner in which electrical incidents can be prevented, investigated and

dealt with.”¹ Mr Ray Dempsey was appointed as the Chair of the Taskforce. The Taskforce included a number of industry representatives who participated in the review. Following extensive consultation and feedback from various stakeholders, including the ETU, the Taskforce issued its final report in April 2001.

As a result of that consultation and feedback, the Task Force recommended a stand-alone Electrical Safety Act that dealt with the issue of health and safety across the whole of the Electricity Industry.

The ETU was actively involved in the review of electrical safety legislation in 2001 and strongly endorsed the introduction of the Electrical Safety Act 2002 (the ESA), legislation that focussed specifically on the electricity industry and the subsequent changes to the monitoring, enforcement and investigation of safety in the electricity industry. Following the introduction of the ESA there was an improvement in the safety record of the electrical industry in Queensland.

The Electrical Safety Act

The Electrical Safety Act (the ESA) had much broader coverage than traditional Work Health and Safety Legislation as it recognised the right of all people to safe access to electricity and electrical goods, as well as imposing obligations on people providing electrical services or equipment. This included not only electrical workers, installers and repairers of electrical equipment and persons in control of electrical equipment, but also designers, manufacturers, importers and suppliers of electrical equipment.

The ESA created of the position of Commissioner for Electrical Safety. The Commissioner for Electrical Safety was a Statutory Office that was responsible for providing independent advice to the Minister for Industrial Relations about all matters pertaining to electrical safety. The Commissioner for Electrical Safety was required to hold either an electrical trade or qualification and to have had experience in electrical safety. This meant that the person fulfilling this role had a combination of the necessary skills, qualifications and experience to provide such advice.

¹ Electrical Safety Bill – Explanatory notes

The Commissioner for Electrical Safety chaired all boards and committees set up under the ESA thereby ensuring that they were fully conversant with the current and future needs of the industry, and also ensuring that the advice provided to the Minister was up to date, relevant and supported by the industry and the community alike.

The ESA provided for more active involvement of the electricity industry through the creation of the Electrical Safety Board and various Committees - the Electrical Licensing Committee, the Electrical Safety Education Committee and the Electrical Equipment Committee. As well as providing for the involvement of the industry this brought an increased level of awareness and expertise to these bodies. In addition to industry representation, the ESA also provided for community representation on these bodies.

These changes led to a decrease in the number of electrical incidents and the number of fatalities in the industry.

However, despite the positive results that occurred as a result of the introduction to this legislation, in 2012 the LNP led Queensland Government decided to abolish the position of Commissioner for Electrical Safety as well as the Electrical Safety Education Committee and the Electrical Equipment Committee. This was done, under the guise of “removing red tape” and without any consultation with non-government groups².

The ETU had concerns at the time and opposed the changes. Our concerns included the failure to consult with the electrical industry and the broader community in relation to the proposed changes, particularly given the positive results that had been achieved under the structures set up under the ESA. By removing the position of Commissioner for Electrical Safety and abolishing the various standing committees the government’s response to safety in the electricity industry became more reactive than proactive.

The current government should be commended for reversing those changes and taking positive steps not just to maintain but to improve safety for all involved in the electrical industry.

² Guardianship and Administration and Other Legislation Amendment Bill 2012 Explanatory Notes

Proposed Amendments to the Work Health and Safety Act

As stated above the ETU supports the submissions of the QCU in relation to the proposed amendments to the Work Health and Safety Act to allow for health and safety representatives to direct that unsafe work cease and to remove the requirements for union officials to provide at least 24 hours' notice of entry to a workplace, in limited circumstances.

In 2011 the Queensland Government introduced work health and safety legislation that "harmonised" the legislation around the country. This move was designed to provide equal protection for employees, while providing consistency (and thereby minimising confusion) to employers, around Australia. The Act allowed for the specially trained Work Health and Safety Representative on site to direct work to cease where that work was considered to be unsafe. It also allowed for entry permit holders to enter site to investigate a suspected contravention, without the need to give 24 hours' notice, where the contravention presented a serious risk to workers on site.

Both of these provisions were removed by the LNP government in 2014. The amendments to the legislation were a retrograde step for both employers and employees in Queensland. For employees it reduced safety at work and for employers it meant inconsistent legislation applying across different jurisdictions.

The proposal to re-align the Work Health and Safety Act in Queensland with other, similar, legislation around the country is strongly supported by the ETU.

Empowering appropriately trained Work Health and Safety Representatives to direct work to cease when it is unsafe is, by definition, a step towards improving the safety of workers on site.

There are many benefits associated with WHS permit holders being able to enter a workplace to investigate a suspected contravention without providing a minimum 24 hours' notice, not least of which is to prevent serious workplace incidents and/or fatalities. WHS permit holders undergo training, which provides skills and expertise to identify risks to workers' health and safety.

Allowing a WHS permit holder to enter site to investigate suspected contraventions, without the requirement for 24 hours' notice, will increase the protection for workers, as it can only be used in

circumstances where there is an immediate or serious risk to workers safety, and in those circumstances waiting for 24 hours could result in a serious injury or fatality, as demonstrated in the examples below.

Many members of the ETU work in the construction industry – one of the most dangerous industries in Australia. There are frequent accidents on construction site, with 11 of these accidents resulting in a fatality in 2011/2012³. It is clear that there are workplaces that are unsafe and allowing access to site, without the need to provide 24 hours' notice is likely to improve health and safety.

Example 1:

At the Brookfield Multiplex Indooroopilly Shopping Centre Redevelopment, two workers fell through a concrete slab while it was being poured. The slab that the workers fell through was one of two that were scheduled to be poured that day. They fell 4.5 metres. In this instance it did not result in a fatality. Upon notification of the incident Union Officials attended site and investigated suspected contraventions.

The investigation identified that there was a range of non-compliance issues relating to the incident including:

- The slab did not have adequate support for the form work;
- There was no sign off by the engineer prior to the pour commencing; and
- There was no exclusion zone under the area, which in itself had the potential to seriously injure or kill other workers working in the area.

All of these non-compliance issues existed with the other slab that was in preparation to be poured.

Had the Union Officials been required to provide 24 hours' notice the second pour may have gone ahead, with the possibility of further injuries, and even fatalities, to workers on site.

³ <https://www.worksafe.qld.gov.au/forms-and-resources/statistics/queensland-performance-against-national-strategy-targets>

Example 2:

At the Matrix Construction Mosaic Fortitude Valley Project a worker fell out the building. He managed to grab hold of some bunting tape to stop himself from falling to his death. Union Officials immediately attended site and investigated the incident.

The investigation established that this incident had occurred because there was inadequate edge protection. As a result of this all work on the perimeter/edge ceased until the necessary protection was in place and work could be performed safely.

While investigating the suspected contraventions that had led to this near fatality, a further 45 breaches to the OHS standards were identified. Had the officials not been able to attend site immediately, a similar incident could have occurred but with more serious consequences.

Conclusion

The ETU supports the Work Health and Safety and Other Legislation Amendment Bill 2015.

The Bill proposes amending the Electrical Safety Act to create the position of Commissioner for Electrical Safety and form the Electrical Safety Education Committee and the Electrical Equipment Committee, as standing committees. The ETU strongly supports those proposed amendments.

The Bill also proposes amendments to the Work Health and Safety Legislation to:

- Allow Health and Safety Representatives to direct that work cease if it is unsafe;
- To allow Entry Permit Holders to enter site, in certain, limited circumstances without the need to provide 24 hours' notice; and
- Re-align the Queensland Work Health and Safety legislation with the National standard to provide consistent legislation across all States and Territories.

The ETU supports these proposals and strongly endorses the submissions made by the QCU in that regard.