



FINANCE AND ADMINISTRATION COMMITTEE

Members present:

Mr SW Davies MP (Chair)
Mrs EA Cunningham MP
Dr B Flegg MP
Mr R Gulley MP
Mrs FK Ostapovitch MP
Mr CW Pitt MP

Staff present:

Ms D Jeffrey (Research Director)
Dr M Lilith (Principal Research Officer)
Ms L Whelan (Executive Assistant)

PUBLIC BRIEFING—INQUIRY INTO THE WORK HEALTH AND SAFETY AND OTHER LEGISLATION AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 5 MARCH 2014

Brisbane

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Committee met at 9.58 am

BICK, Mr Bradley, Director, Workplace and Electrical Safety Policy, Office of Fair and Safe Work Queensland, Department of Justice and Attorney-General

GOLDSBROUGH, Mr Paul, Senior Director, Workers Compensation and Policy Services, Office of Fair and Safe Work Queensland, Department of Justice and Attorney-General

CHAIR: Good morning, ladies and gentlemen. I declare this public departmental briefing of the Finance and Administration Committee's inquiry into the Work Health and Safety and Other Legislation Amendment Bill 2014 open.

I am Steve Davies, the chair of the committee and the member for Capalaba. The other members of the committee are: Mr Curtis Pitt MP, deputy chair and member for Mulgrave; Mrs Liz Cunningham MP, member for Gladstone; Dr Bruce Flegg MP, member for Moggill; Mr Reg Gulley MP, member for Murrumba; and Mrs Freya Ostapovitch MP, member for Stretton. Mr Mark Stewart is an apology. He had to duck out for a little while on parliamentary duties.

The purpose of this hearing is to receive information from the department about the bill, which was referred to the committee on 13 February 2014. This hearing is a formal proceeding of the parliament and is subject to the Legislative Assembly's standing rules and orders. The committee will not require evidence to be given under oath, but I remind you that intentionally misleading the committee is a serious offence. Thank you for your attendance here today. The committee appreciates your assistance.

You have previously been provided with a copy of the instructions for witnesses, so we will take those as read. Hansard will record the proceedings and you will be provided with the transcript. This hearing will also be broadcast. In order to assist Hansard, could witnesses please state their name and the agency they are representing when they speak. Could I also remind witnesses to speak into the microphones.

I remind all those in attendance at this hearing that these proceedings are similar to parliament to the extent that the public cannot participate in the proceedings. In this regard I remind members of the public that under the standing orders the public may be admitted or excluded from the hearing at the discretion of the committee.

I remind committee members that officers are here to provide factual or technical information. They are not here to give opinions about the merits or otherwise of the policy behind the bill or alternative approaches. Any questions about the government or opposition policy that the bill seeks to implement should be directed to the responsible minister or shadow minister, or left to debate on the floor of the House. Could I also request that all mobile phones be turned off or switched to silent mode and I remind all that no calls are to be taken inside the hearing room. Mr Goldsbrough, would you now like to make an opening statement?

Mr Goldsbrough: I thank you for the opportunity to make an opening statement today. Queensland implemented the national model WHS laws when the Work Health and Safety Act 2011 commenced on 1 January 2012. Currently all states and territories, with the exception of Victoria and Western Australia, have implemented the laws, with Queensland being the first jurisdiction to pass the WHS Act through its parliament on 26 May 2011, and members may recall that that was during the Mackay regional sitting of parliament.

Victoria has made the decision not to implement the national model work health and safety laws due to the potential cost on Victorian businesses as identified by a state based regulatory impact statement. Western Australia has indicated that it remains committed to the principle of harmonisation and is continuing to progress implementation of the laws. However, the union right-of-entry provisions in the national model laws are one of four areas that will not be adopted in Western Australia. In Western Australia, union right of entry for work health and safety is provided under the industrial relations legislation, and the government considers that this is the most appropriate location for those provisions.

During the debate on the Work Health and Safety Bill 2011, the Liberal National Party, then in opposition, raised a number of issues and reserved the right to bring the bill back to parliament and put forward any necessary amendments. One of the issues raised was concern with the misuse of union right-of-entry provisions for industrial rather than safety purposes. In April 2012, the Queensland government commenced a review of the laws to consider their impact on business. In particular, the review was to identify any aspects of the laws that were considered to be unworkable or had unintended consequences, including any anticipated or inequitable compliance or cost burdens. The Attorney-General and Minister for Justice, the Hon. Jarrod Bleijie, chaired two industry round table meetings on 29 August 2012 and 11 July 2013 to discuss the operation of the laws with business, legal representatives and unions. Stakeholders were generally supportive of the model laws but raised a number of issues, in particular in relation to the construction industry.

To address the lack of data on the financial impacts of the new laws, a state-wide survey of small business was undertaken followed by focus groups across the state during February and March 2013. Most businesses indicated that implementation of the new laws accounted for a low proportion of business costs. However, a quarter of respondents indicated that requirements in the legislation to fill out forms and keep records, as well as understanding the application of the new laws to their business, represented a high proportion of total business costs. However, in general, businesses agreed that complying with the laws had not resulted in any adverse impacts on their business. Those businesses that indicated there were adverse impacts identified reduced labour productivity and impeded changes to work practices as the main impacts.

During the review, the construction industry representatives raised serious concerns about the misuse of right-of-entry powers for suspected contraventions of the WHS Act, which they indicated did not constitute an imminent or immediate exposure to a hazard, and the impact that this kind of disruption had on their business. These concerns primarily related to the various construction stakeholders. They noted the inconsistency between right-of-entry provisions under the WHS Act and the Fair Work Act resulting in complexity and confusion for business.

Under the Fair Work Act at least 24 hours written notice must be given before entering a workplace. Under the Work Health and Safety Act immediate entry without notice is allowed for suspected contraventions. However, 24 hours notice must be given by a WHS entry permit holder before entering a workplace to consult with workers on health and safety matters or to inspect documents relevant to the suspected contravention.

In 2011-12 and 2012-13, WHSQ inspectors responded to 57 right-of-entry disputes at construction workplaces. Most disputes related to entry without prior notice to inquire into suspected contraventions of the WHS Act. Inspectors found that, while some notices were issued, overall none of the issues identified were considered to be an immediate or imminent risk to workers or others.

The amendments to the right-of-entry provisions in the Work Health and Safety and Other Legislation Amendment Bill 2014 are aimed at providing certainty for workplace parties while ensuring the worker representatives continue to have the capacity to make a positive contribution to health and safety at workplaces. It will also provide business with the opportunity to address and resolve health and safety issues in the first instance in consultation with their workers prior to the involvement of an external party such as a WHSQ inspector or a WHS entry permit holder.

The bill amends the WHS Act to require the entry permit holders to provide at least 24 hours notice before they enter a workplace to inquire about a suspected WHS contravention. This will reduce complexity for business by making notification requirements consistent with the Fair Work Act.

To align with union right-of-entry notification requirements, the bill also amends the WHS Act to require at least 24 hours notice before a person assisting a health and safety representative can have access to the workplace. The amendments to the right-of-entry provisions are supported by more robust enforcement tools, enabling the regulator to deal with breaches in this area. The bill increases penalties for noncompliance with WHS entry permit conditions and introduces penalties for failure to comply with entry notification requirements.

These amendments complement the recently established Building and Construction Industry Compliance Branch that is responsible for monitoring, auditing and reporting on compliance with industrial relations laws—for example, right of entry and freedom of association on state government infrastructure projects. The Building and Construction Compliance Branch targets behaviours and response to notifications of complaints or interruptions to work site productivity through unlawful industrial action.

The bill also amends the WHS Act to remove the power of a HSR to direct workers to cease unsafe work. This power is a duplication as individual workers have the statutory rights to cease work on safety grounds. Where a worker has a reasonable concern that there is an immediate or serious risk to their safety, they are best placed to make that decision to cease work.

The general powers of the HSR remain intact. They are available to investigate health and safety complaints from members of their work group, raise issues through the mandatory issues resolution process established in each workplace and issue provisional improvement notices if they reasonably believe that a person is contravening the WHS Act. However, the right to cease work remains with the worker as the person who is most likely to need it in an emergency.

The bill makes a technical amendment to the Electrical Safety Act to increase the maximum penalty for offences in the Electrical Safety Regulation 2002 from 40 penalty units to 300 penalty units. This will ensure the Electrical Safety Act is consistent with the maximum penalty for regulations made under the Work Health and Safety Act 2011 and that nationally consistent penalties apply to offences in the Electrical Safety Regulation. The amendments in the bill are aimed at improving safety outcomes while reducing regulatory burden and costs on industry and are supported by business.

CHAIR: Mr Bick, would you like to make comment?

Mr Bick: I will not make any further statement from what has been said.

Mrs CUNNINGHAM: You talked about the removal of the power of the health and safety representative to direct workers to cease unsafe work. I come from a heavily industrialised area, including the use of workers under 457 visas. You have said that workers have a statutory right to cease unsafe work. In a circumstance of disempowerment—not only is a worker disempowered if the employer takes offence at their ceasing work but a 457 visa holder is beholden to the employer to be able to even work—how is that employee or a similar employee who may have a lack of understanding of their statutory rights going to be able to know and have the self-confidence to actually cease work?

Mr Goldsbrough: Thanks for the question. In the scenario you present, it is clearly not a small workplace. The workplace will generally have a broad range of consultative arrangements. The act includes health and safety committees and health and safety representatives from designated work groups. As I mentioned in my opening address, the health and safety rep has the power to issue a provisional improvement notice where they have health and safety concerns at the workplace. I would have thought that in a larger workplace those matters would be raised with the employer, or project manager on site or site safety manager, and responded to accordingly. The decision to cease work where there is an imminent risk may in fact be taken by a safety manager when they realise, for example, there is not adequate barricading and people could fall from a height or so on. I think the importance of the engagement in the workplace is central there.

Mr PITT: Good morning, gentlemen. Thanks very much for your time today. The explanatory notes talk about 57 disputes. I note that you have mentioned those in your opening statement as well. Can I go to a submission that was put forward by the Queensland Council of Unions which looks at the 57 complaints about union right of entry. They say—

Even if all of the 57 complaints were around right of entry without notice, this only amounts to about one complaint per fortnight, compared with 9,919 total complaints (95 per week) and 140,099 accepted compensation claims (1,347 per week) in the same period.

Could the department confirm that these are figures submitted by the QCU are correct? Also, is data collated in terms of these 57 breaches that you have talked about and will you provide that information to the committee, whether that be today or on notice?

Mr Goldsbrough: Sorry, Mr Pitt, could you mention the number of claims per year again?

Mr PITT: Yes, 9,919 total complaints—95 per week—and 140,099 accepted compensation claims—1,347 per week.

Mr Goldsbrough: Can I come back to the committee on that data? My understanding was there are about 100,000 workers compensation claims a year in the Queensland scheme, so I would like to check that data.

Mr PITT: Sure. The second part of the question related to the data around the 57 complaints. Is that data collated and is there further information around those 57 complaints that can be provided to the committee?

Mr Goldsbrough: I am happy to get Mr Bick to speak on that. As a first statement, it is important to say that many of the right-of-entry disputes do not necessarily get raised with Workplace Health and Safety Queensland. We only have a record of those disputes where one of our inspectors has been called on. I expect it would be more than 57.

Mr PITT: Sure.

Mr Bick: Thanks, Mr Pitt. Just in terms of the 57 right-of-entry disputes, approximately 84 per cent of those actually relate to the construction industry. Of those 57 disputes, there were five prohibition notices issued by inspectors for matters. Prohibition notices are an immediate stop work to an activity that might be an imminent risk to someone's work health and safety. The key issues of those five prohibition notices related to crane related incidents or crane failures. Then there were an additional 12 improvement notices issued by our inspectors across those 57. Of the 57 disputes themselves, approximately 36 per cent of those related to general workplace management issues. We are talking about things like toilets, kitchen facilities, site access and lighting. The bulk of those related to those general workplace management issues.

CHAIR: I have a question for Mr Goldsbrough regarding the Workplace Health and Safety Queensland inspectors. Firstly, how many are there of those? Are they industry specific? How do they operate? Ms Cunningham talked about a 457 person or someone who is disempowered potentially. What ability have they got to contact an inspector anonymously so there would not be necessarily any fallback on them?

Mr Goldsbrough: I thank the chair for the question. The total number of field active inspectors at the 2012-13 year was 259, which consisted of 210 Workplace Health and Safety Queensland inspectors and a further 49 electrical safety inspectors. Within the range of the Workplace Health and Safety Queensland inspectors, we have a broad range of technical skills, occupational hygienists, chemical engineers, ergonomists, construction inspectors and so on. In addition to the actual inspectors in workplaces, we have had a program in place for a few years now called the injury prevention management program, where we have a range of advisers who go in and work with poor-performing businesses. These are usually ones that are capped at twice the industry rate by WorkCover Queensland. We have recently put on an additional 13 people in that area. We see that as very important, as well as the day-to-day proactive audits and inspections that we are actively working on with a range of companies that could improve their performance to achieve the desired outcomes.

CHAIR: The second issue that I raised was regarding the ability to contact the workplace health and safety inspectors or get one to come to your site. Let us say a guy is working on a farm and there is an unsafe practice but his boss is not listening to him or whatever; what recourse does he have?

Mr Goldsbrough: We do respond to a broad range of complaints. We have an advisory and assessment area that actually works as a triaging process, so we are able to get our inspectors out to the areas of greatest need and that has been an important consideration. I think we have approximately five people who work in that area, who take the phone calls and break it up in terms of getting an appropriate inspector on-site. If I can go on and add, audits and versus proactive: where we have reactive visits to workplaces where you have a complaint, for example, of right of entry into construction versus an audit where our inspectors go out because we know there are particular hazards and risks in industry, in 2012-13 there were 4,225 reactive visits and 31,217 proactive visits.

CHAIR: Can you give us those numbers again?

Mr Goldsbrough: Yes: 4,225 reactive visits and 31,217 proactive visits making a total of 35,442. That has been a business model we have been going to for the last few years. What we have done since 2004 as an organisation is move to an evidence base to our work, so we are targeting those industries that have the highest risks. Do you put inspectors in to look at clerical work or construction work and so on? If I can say, since we have been moving to this model, in the last five years we have had an 18.9 per cent reduction in the incidents of serious work-related injuries, which has made Queensland the second most improved jurisdiction over this period in Australia. Only the Northern Territory recorded a larger reduction. The priority industry sectors that our inspectors have targeted in that are agriculture, forestry and fishing. Their injury rates in 2007-08 were 35 injuries per 1,000 workers. In 2011-12, which is the latest available national data, it is 27.4 per 1,000 workers, which has seen a percentage reduction in serious injury rates of 21.7 per cent.

CHAIR: Mr Goldsbrough, you mentioned forestry and fishing. What was the other industry that you mentioned?

Mr Goldsbrough: Of that group, it is agriculture, forestry and fishing. In terms of construction, in 2007-08, there were 28.2 injuries per 1,000 workers. In 2011-12, it is 21.1 with an overall reduction of 25.2 per cent. Manufacturing in 2007-08, it was 37.5 per 1,000 workers. It is now down to 26.4 or a reduction of 29.6 per cent. Transport and storage was 29.3 in 2007-08. It is now down to 22.6, a reduction of 22.6 per cent. We believe that through the model of targeting the high-risk industries where they are having serious injuries, this process has been very successful for us. In overall terms, we are the second most improved jurisdiction in Australia since we have had this model. We have a big focus on priority auditing, proactive auditing, and also having systems in place to support those poor-performing employers that need longer term assistance rather than one-off visits from inspectors.

Mr GULLEY: Thank you, Chairman. I have a question for Mr Goldsbrough. Continuing the conversation about your inspectors, I noted that you have 250-odd inspectors across a variety of backgrounds. Can you describe to me, is there a regional distribution of them as well? Also, what is the training and the mentoring and the upskilling process of those inspectors during their career?

Mr Goldsbrough: I thank the member for the question. The department has inspectors based from Cairns down to the New South Wales border. Currently we have four regional offices, from memory, that they are based out of. I think it used to be five, but it is now four. We have them in locations such as Mackay, Rockhampton, Townsville, Cairns, Sunshine Coast, Gold Coast and, of course, north and south Brisbane. We run extensive training for our people. We run mentoring systems within our offices. People work also within particular disciplines. For example, most recently we had all the construction inspectors from around Queensland down to a forum in Brisbane where we presented on the data from the industry, what the latest findings were and we will again have them down in the next couple of months. We also have various leader forums where we engage the people from our regions and state office to look at training and development and a whole range of things across the organisation. I think some of the results that you see in the data over the last five years are reflected in the emphasis we are putting on training and drilling down through an evidence based approach through the organisation.

Mr GULLEY: A further question: when it comes to training of the employer based workplace health and safety officers, is that an industry process, is it a uniform process, is there an RTO organisation available for that training?

Mr Goldsbrough: Under the workplace Work Health and Safety Act, there are no specific requirements for employers to have people trained themselves. However, most do, given that they have a range of obligations under the act. Health and safety reps are entitled to be trained and have leave to attend that training. That training is required to be given by an RTO to an agreed national training course. The health and safety reps in workplaces where they nominate and get elected receive nationally accredited training.

Mr Bick: Mr Gulley, can I just add to that: it is a five-day course based on a national curriculum that takes them through all the facets of the legislation; also, in particular, what their functions are at the workplace which is representing the interests of the workforce.

CHAIR: Is that industry specific, Mr Bick?

Mr Bick: No, it is not industry specific, that course.

Mr PITT: Currently, section 85 of the act allows an HSR to direct a worker in their work group to cease work if the HSR has a reasonable concern that doing the work could expose or would expose the worker to a serious risk emanating from an immediate or imminent exposure to a hazard. The question is: does the department recognise that on many work sites across Queensland, despite training and WHS guidelines on laws, there are many circumstances where work sites or particular activities within a workplace can pose a serious and immediate threat?

Mr Goldsbrough: How I would answer that is that up until the parliament passed the 2011 act, there had been no legislative capacity for a health and safety rep to direct that work should cease. It was introduced with the act. We recognise there are a broad range of issues where there can be serious incidents at workplaces. We know now through our data the sorts of injuries that you can have in different types of workplaces.

Mr PITT: What could some of those threats or risks include: possible collapse of a building or a structure, gas or a toxic fluid, electrical risk?

Mr Goldsbrough: That is correct.

Mr PITT: Risk of burns, risk of explosion, inappropriate use of machinery that poses harm? Is it advice from the department that these kinds of circumstances would not pose an immediate or imminent exposure to hazard? I am just looking for clarification.

Mr Goldsbrough: Where we have been called in to workplaces on 57 occasions, there was not identified an immediate or imminent risk to health and safety where it involved the union right-of-entry person. The act is really predicated around good communications in work places. Workers, their employers and supervisors are best placed to identify the hazards and risks and address them. That is one of the key reasons for health and safety committees and having health and safety reps, so that you have people with powers that can engage to resolve issues. All workplaces are different. While I accept that you are saying those issues could be imminent or immediate risks, it would depend on the nature of the circumstances in the workplaces, how the workers are trained, how they are able to respond, whether they are from non-English speaking backgrounds and so on. That is why it is so important to have those matters addressed in the workplace.

Mr PITT: Some of these issues are emerging issues and they can just come without notice, of course, so then the contrast there is of course the right-of-entry notice provision versus these potential imminent threats happening without notice, as can be the nature of what happens with them. If there is a threat of an imminent hazard, would not that pose a threat to the safety of those if the unsafe practices or circumstances were not remedied within 24 hours?

Mr Goldsbrough: What I would say to a worker where there is a machine that is unguarded and their employer is saying they should use it unguarded—that is, the guard is off for some reason—and clearly there is a potential risk there, that they should decline to do that work and call in a workplace health and safety inspector or their health and safety representative. The importance of calling on an inspector who can assist the parties resolve an issue in that situation is very important and we do that every day.

Mr PITT: We have heard about the number of inspectors we have and the safety inspectors who were sacked in 2012 based on the provision that the federal workplace health and safety area covered the private area so they were not perhaps needed. I have a broad question. This committee examined the workers compensation scheme in Queensland. Given that we have seen a move to have the impairment threshold increased to five per cent and a decrease in the number of safety inspectors, is there a responsibility from the department's point of view to keep that balance right? At the moment there seems that there is a significant imbalance. We are talking about workplace health and safety as the primary motivator for this bill, apparently.

Mr Goldsbrough: My response to that would be that the Queensland's serious, non-fatal inquiry rates by industry per thousand workers over the last five years have reduced from 18.2 to 14.8. That is a reduction of 18.9 per cent or roughly 19 per cent.

Mr PITT: Under the current legislation?

Mr Goldsbrough: That is under both the previous legislation and the current legislation. It is a longer period under the previous legislation. A reduction of 19 per cent and being the second best performing state over the period would suggest to me that we have got the balance right in terms of the number of health and safety inspectors and others we have available to workplaces.

Mr PITT: The balance I am referring to is the bigger picture balance of workers being able to seek compensation if they are indeed injured in a workplace. If we are talking about these provisions opening up potential risk for imminent threat—

Mr Goldsbrough: I cannot comment on that. I am here to discuss the workplace health and safety bill.

Mr PITT: With respect, you are also a senior officer within the department which oversees that area. You are here as a representative of the department today. I am just asking that broader question. Has that been taken into consideration in the department's advice to government on this issue?

CHAIR: Mr Goldsbrough, I do not think you need to answer that question if you do not want to, given the scope of the committee inquiry today. It is up to you.

Mr Goldsbrough: Thank you, Chair. I do not think it is appropriate to stray beyond the bill.

CHAIR: I have a question regarding how soon an inspector would go on site. Again we have the situation of a guard being off a piece of machinery and a person being asked to operate that machinery. He is not comfortable operating it and his workplace representative sees that. The

representative then goes to his supervisor and the supervisor says, 'There is no problem; I want him to do it.' If the representative is not comfortable with that he can ring one of your inspectors at that point. If this is in the CBD or Marsden, say, how quickly can an inspector respond?

Mr Goldsborough: Very quickly. As I have said, we have an assessment centre which triages these complaints or requests for information. They will talk about the situation with the person and then make some judgements about how quickly and the type of inspector we need to get out there. If it is a western or regional or remote area an inspector may ring the employer and the worker and talk to both of them as an immediate response so that we are not waiting for three or four hours for someone to get to the site. It would be very much determined on the circumstances of the particular incident. We generally respond promptly.

Mrs OSTAPOVITCH: Before I ask a question, in doing my research for this bill and from what I have been hearing, I must commend the work of Workplace Health and Safety. That is an incredible result due to prevention through education. I commend Workplace Health and Safety for that. An almost 19 per cent reduction is incredible. Results speak volumes.

Mr Goldsborough: Could I say that the employers and workers of Queensland probably deserve a pat on the back there too. We are one small part of it.

Mrs OSTAPOVITCH: Absolutely. It comes down to personal responsibility, I think. That is a good point. If you see a ladder in front of a doorway for goodness sake get somebody to move it if it is posing a threat to you and your fellow workers. It is very important that everybody take personal responsibility. Could you please explain the quantum of increase in penalties and why it is considered necessary to increase these penalties?

Mr Goldsborough: I will ask Mr Bick to answer that.

Mr Bick: In Queensland we have a Work Health and Safety Act and a separate Electrical Safety Act. Under the model legislation for other jurisdictions they have electrical safety under the same act. Unfortunately, at the time when we amended the Electrical Safety Act to align it with the new Work Health and Safety Act in Queensland the penalty levels under the Electrical Safety Act were not made consistent with that act. So it is essentially fixing up a drafting error. Increasing those penalties will now allow us to align some electrical safety penalties with those nationally agreed penalty levels.

Mrs CUNNINGHAM: In relation to the 24-hour notice of entry provision, I am wondering what provisions or obligations are embedded either in the legislation or in the proposed regulation to ensure that employers or others in the workplace do not remove or destroy evidence of a breach of workplace health and safety during that 24-hour period or remove faulty equipment? How would that removal or destruction be verified?

Mr Goldsborough: I will ask Mr Bick to talk about the non-disturbance notice.

Mr Bick: Under the legislation there is a provision where there is an incident for the site to be preserved. There is some ability to move to save life or to prevent further danger from happening. If there was an incident at a workplace, they would call us and let us know of the fatality or the serious injury. There is a duty on that employer or business to preserve the site of that injury until it is actually released by our inspectorate.

Mrs CUNNINGHAM: Sorry, a step back. Currently, a person who feels that the job that they are required to do has a level of risk to it can, if they have the fortitude, say, 'I don't want to do it.' If there is not any incident—we do not want deaths or serious injuries in the workplace—what is the preventative action? Take a step back from the actual event where there is an injury, but there is an imminent risk of injury, it is 24-hours notice before anyone can come in.

Mr Goldsborough: Can I be clear on that. Someone in the work group or anyone can anonymously call Workplace Health and Safety Queensland at any time. What you are talking about there is a WHS permit holder entering the workplace. So inspectors will, if there is an issue that is assessed as requiring an immediate response, go to the workplace straight away. What Mr Bick was referring to is that if there is an incident at a workplace which is important—someone is seriously injured—then we have the power, even verbally over the phone, to direct them not to move anything at the site unless it is to cut up a machine to get someone who is entrapped out, for example. The situation is that inspectors will come in and will continue to come in. What this provision does is seek to have the health and safety representatives liaise with the person conducting the business they are undertaking to resolve health and safety issues in accordance with the issues resolution process in the legislation.

As I said before, it really is predicated around engagement in the workplace to resolve health and safety issues. I would add, one big change in the Work Health and Safety Act 2011 from the former act is that there is now an obligation on workers to take care for their own health and safety and the health and safety of others. So you may have a situation where a supervisor or a manager wants a worker to operate a particular piece of plant in an area around other people and on the basis that they have to take care for other workers they decline to do that and anonymously call us or someone in that work group does.

Dr FLEGG: I just wanted to ask about the ministerial round tables, Mr Goldsborough. Can you tell us who was involved in that consultation process and tell us a little bit about how they were conducted?

Mr Bick: There were two industry round tables. The first one was held in August 2012. There were approximately 18 employer and employee representatives. Did you want me to list some of the organisation, Mr Flegg?

Dr FLEGG: That would be helpful, thanks.

Mr Bick: The Queensland Council of Unions, the Australian Workers Union, the Australian Industry Group, the Queensland Chamber of Commerce and Industry, AgForce Queensland, the Queensland Law Society, Timber Queensland, the Queensland Farmers Federation, the Queensland Master Builders Association, the Queensland Major Contractors Association. They are the ones that I can think of off the top of my head. I can provide the rest of the names to the committee. In terms of how those forums were run, the department circulated a discussion paper to members before the meeting. The Attorney-General and Minister for Justice actually chaired that meeting and walked everyone through those issues. People got to raise their concerns or to voice their views on the particular issues raised.

Dr FLEGG: Which word would apply best 'consensus' or 'acrimony'?

Mr Bick: There was a lot of agreement that things were issues and that things needed to be addressed. From both sides there was consensus on the issue anyway.

Dr FLEGG: Can I draw from that that both sides felt that the present system could be improved?

Mr Goldsborough: As I said in my opening address, generally people were satisfied with the operation of the laws. The WHS permit right of entry was an issue that was consistently raised in both forums. When we surveyed small business they were generally satisfied with the laws as well. In the actual forums the worker representatives from the QCU and, I think, the CFMEU and the Australian Workers Union were not supportive of any proposal to alter the WHS right of entry permit system.

Mr PITT: That leads into my questioning quite well—that is, talking about WHS permit holders. Would the department acknowledge that there is a legitimate and important role for them to play given that government inspectors can be stretched quite thinly and there is no way that they can be feasibly attending every single site where there are safety concerns?

Mr Goldsborough: The way in which the act has been developed since Lord Robens first put contemporary health and safety legislation together in 1974 seeks the resolution of health and safety issues in the workplace because they are best placed to do it. What you have is your trained health and safety representatives. The employer has an obligation under the act to have an understanding of the key hazards and risks in their workplaces and, importantly, to do something about those. Where you have a serious incident occurring at a workplace or there is a dispute between the parties in the workplace, it is appropriate to call on Workplace Health and Safety Queensland to intervene or provide advice or guidance.

The issue resolution procedures within the legislation clearly set out that the parties should endeavour to resolve an issue in the workplace and then call on an inspector where they cannot. Our people are trained. We have a number of trained investigators. It is right and appropriate that those people enter workplaces where there have been incidents.

Mr PITT: I again take Mrs Cunningham's point before in that we are not talking about where there is a dispute or there is an incident; we are talking about before that. These people have a very important role to play in the scheme, but you do not have enough WHS departmental officers who are able to be at every place. That is why I believe that these people have a very important role to play. Maybe I can ask this in another way.

Mr Goldsbrough: If I could respond to that, I think the member for Stretton made the point about education and awareness. We now have an extensive electronic database where we mail information out to health and safety reps, safety officers in business and so on. We are constantly doing that. We see it as a critical part of our core business because, at the end of the day, there are about 160,000 workplaces that employ people in Queensland. We need to get messages out to those workplaces on the key hazards and risks for them so that they can engage and talk on them. In health and safety week each year we run a series of toolbox talks and encourage people to get online with deal with them. So education and awareness is the primary way we are going to get that information out, and I think that is reflected through the data in terms of the push in that area.

Mr PITT: I have two other questions that relate and follow on. Employers currently have the ability under section 138 to have a WHS holder's permit revoked if they believe there has been a contravention. Is the department aware of how many permits have been revoked for inappropriate use of the permit?

Mr Goldsbrough: I am advised that there is one matter before the Queensland Industrial Relations Commission. I do not know anything about it, but there is one matter.

Mr PITT: If there is a dispute about whether a particular worker or group of workers should cease unsafe work or risky work, there are already mechanisms to resolve those matters or disputes at a workplace level. I guess the question is: why is this under the guise of workplace health and safety and the right of entry? I think we are muddying the waters between some of these areas where there are other mechanisms to deal with some of these matters that do not relate to, I think, weakening our workplace health and safety approaches in the state.

Mr Goldsbrough: I am sorry, but I am not understanding the actual question.

Mr PITT: The concern I have is that there are other mechanisms that already exist and it seems that these new laws are trying to deal with something that perhaps can already be dealt with in other ways. I am wondering is this an element of duplication in terms of the way that these laws are being brought in?

Mr Goldsbrough: I think the general view of the industry round tables was that there would be certainty provided by an alignment between the Fair Work Act requirements and the Work Health and Safety Act requirements.

Mr PITT: But there is not true harmonisation though in that sense when we look at that however, with respect. There are still provisions which allow entry within that 24-hour period under the Fair Work Act whereas these seem to be pretty straight up and down in that you must provide 24-hours notice and very little correspondence can be entered into.

CHAIR: Is that a comment or is that a question?

Mr PITT: It is a comment, but I would certainly be looking for a response.

Mr Goldsbrough: We believe that it does reflect the intent of the Fair Work Act or is largely consistent with the Fair Work Act in terms of the notification requirements in that legislation.

CHAIR: Mr Goldsbrough, with regard to permit holders, what do you see, firstly, as their role? There seems to be a bit of duplication in that they are seen to be doing the role of the inspectors. We have 250-odd inspectors across the state, yet often it seems to be that the permit holders coming in are sort of duplicating that role. So what do you see as the role of those people who are permit holders?

Mr Goldsbrough: The representatives of workers or trade unions play an important role under the act. They are referenced in the objects of the act to provide advice to their members in terms of health and safety matters. So that is important. For example, all of the health and safety rep training in Queensland, as I understand it, is done through an RTO operated by the Queensland Council of Unions which is Safe Work Queensland or the Safe Work College. So they do play an important role. They may have a different point of view to advice that people are getting from other sources. They can put it necessarily in a form that the workers can understand. So on that basis they do play an important role in providing advice to members. But if there is an imminent risk or hazard, then it is appropriate for a Workplace Health and Safety Queensland inspector to be the one going to the workplace and dealing with the obligation holders, whether they be a person conducting a business or undertaking, or a worker.

CHAIR: Could you see that causing some confusion? If we are talking about 457 visa holders or people who do not really understand, they could be calling someone in who is not really totally qualified like your inspectors would be, so it could actually be counterintuitive to safety in the sense that your guys are the experts and they are the ones with years and years of training. Do you think that there is an issue there at all?

Mr Goldsbrough: There is the potential for that. If a permit holder was called into the workplace and an inspector was not called and their respective roles and responsibilities were not clarified with the people in that environment, most definitely.

Mrs OSTAPOVITCH: Just pardon my ignorance; I do not come from an industrial background. Could you tell me what a permit holder is and how much training these permit holders have?

Mr Bick: The permit holders actually go through a nationally agreed union right of entry or permit holder course. I think it is three days, but I can come back to you and confirm that. Basically that course covers their rights as health and safety entry permit holders and it also covers all of the consultation arrangements under legislation in terms of how they might interact with the health and safety representative and the role of an inspector as well.

Mrs OSTAPOVITCH: So a permit holder is a union representative, are they?

Mr Bick: A work health and safety entry permit holder is a union official, yes.

Dr FLEGG: Can you just clarify for us how much training your officers would have by comparison?

Mr Goldsbrough: That depends on the occupation. For example, most of our hygienists probably have two university degrees, or I think they are required to, as do our ergonomists. It would depend on the occupation. We recruit people with extensive industry experience in things like construction and so on, but we would not be expecting them to have university degrees. Our engineers and chemical engineers of course have university degrees.

CHAIR: In-house training though?

Mr Goldsbrough: We have extensive in-house training for our staff.

CHAIR: So comparing the three or five for the representatives, would it be 10 days or would it be 50 days?

Mr Bick: I actually am an inspector under the Work Health and Safety Act and the training that we did actually went over a whole year. It was done in different blocks over six months and then for the next six months you actually are partnered with an inspector and they mentor you through that workplace. At the end of that 12-month process you actually get your warrant as an inspector which allows you to exercise the powers under the act.

CHAIR: So basically two years on-the-job training almost?

Mr Goldsbrough: We can come back with the actual number in terms of the blocks of weeks where they are in dedicated training as well. We can come back to you on that, but it is extensive.

Mr PITT: Just following on from that, my earlier question related to the inspectors or the officers from the department being able to be at all places at once. One of the benefits of the current system is that there is a safety net, if you like, of having others who can get there. I am from Far North Queensland. It is a very big regional area and it is a big coverage area, particularly when you start going up into the cape and other places. Are you telling me that there are sufficient numbers of the departmental officers who can do this work if the safety net of having permit holders was not there?

Mr Goldsbrough: As I said before, we prioritise our involvement. I think it needs to be clear on the roles of the different parties. Permit holders under the act are not inspectors. They are there to provide advice to their members. Where there is an incident or there is a dispute, then it is appropriate to call on a trained inspector to seek resolution of that health and safety dispute.

Mrs CUNNINGHAM: I want to give you a scenario and we will go from there. The scenario is a young man working as a plumber on an island who was sent to do some renovation work and found that he was being required without proper PPE to remove asbestos. A phone call was made not by the gentleman but by an acquaintance of the gentleman to Workplace Health and Safety as the incident was occurring for them to respond. They refused. Under this new regime that is proposed in the bill, where does the worker go from there?

Mr Goldsbrough: I am not sure of the particular circumstances of that one case. One of the things that I can say in terms of asbestos is that it is a significant issue and a significant issue across the country. We are endeavouring to work better with the other agencies that are involved in the management of asbestos, whether that is local governments or other departments. If it is out to sea it may have involved the maritime safety people, but I am not sure. We are endeavouring to improve the flow of communication and the response in those sectors.

Mrs CUNNINGHAM: But just in that circumstance the factor that made it imminently concerning was that it was asbestos. It could have been anything. Where Workplace and Health Safety make an instant judgement that it is not worthy of their attention, where does that worker go? They will not be able to get an instant response.

Mr Goldsbrough: I am not sure how long ago it was, but one of the reasons why we introduced the triaging model that we have is to overcome situations such as the one you mention. From our end an asbestos issue is an absolute priority under our arrangements, so we respond to those, and respond quickly.

CHAIR: How long has the triaging program been going then—the new system?

Mr Goldsbrough: It is the last two or three years, because we recognised that was one of the areas that we did need to get better at and to make sure that we were deploying resources appropriately.

CHAIR: Under the legislation as I understand it, that young plumber was obliged almost to stop work anyway because he is responsible for his safety and other's safety. So if he is working in an area where he is creating asbestos dust, it might not just be himself.

Mr Goldsbrough: That is right.

CHAIR: In that sense there might not have been a workplace representative or even a permit holder in that case, but he has an obligation under the current legislation to stop work because that was creating an imminent danger for others.

Mr Goldsbrough: He is protected under the legislation where he stops work in that situation, yes.

Mrs CUNNINGHAM: He would have lost his job.

CHAIR: If he lost his job, what would have been the process?

Mr Goldsbrough: If he had been sacked, there are a range of remedies that are available.

Mr Bick: Mrs Cunningham, in the legislation under part 6 we also have provisions around discrimination, coercive and misleading conduct. The provisions generally say that anyone who raises a health and safety matter at a workplace or intends to become a member of a health and safety committee or intends to become a health and safety rep cannot be disadvantaged in their roles, and there are provisions around protecting their jobs and making sure people are not disadvantaged for raising health and safety issues at work.

Mrs CUNNINGHAM: Thank you.

Mrs OSTAPOVITCH: Would that not come back to the education of people, realising that they cannot be dismissed for something like that? In terms of health and safety being of imminent importance and the education of people who may have English as their second language, measures need to be taken so that they understand their rights and how important safety is. Would that be correct?

Mr Bick: That is correct as well. The legislation is specific for training information and instruction for workers, and that includes providing in a readily understandable form, which would include if you have workers where English is their second language, information that is understandable to them. That is correct.

CHAIR: Our time has expired. There are a couple of questions that we had which we were not able to get to, but if we write to you could you take those on notice? If you could respond to those questions, we really would appreciate that.

Mr Goldsbrough: Yes, Chair.

CHAIR: The time allocated for the public departmental briefing has expired. If members require any further information, we will contact you, as I have said. Thank you for your attendance today. We really do appreciate it. The committee appreciates your assistance. I declare this briefing closed. Is it the wish of the committee that evidence given here before it today be authorised for publication pursuant to section 50(2)(a) of the Parliament of Queensland Act? There being no objection, it is so authorised. Thank you very much, gentlemen. We appreciate your time.

Mr Goldsbrough: Thank you.

Committee adjourned at 11.00 am