

'Don't Risk Second Rate Safety'

Media background on reforming Australia's OHS laws

The harmonisation plan

All Australian Governments will soon introduce new health and safety laws so that we have consistent laws applying nationally and in each state and territory.

The Council of Australian Governments (COAG) agreed to review the OHS laws because business would like to cut costs and red tape. There was a pledge that laws would be strengthened, not weakened. Unions support harmonising laws too, but not if this means a compromise of the highest standards and rights for workers.

Safe Work Australia is drafting up the new laws and they are scheduled to be released for public comment over a six week period in September. The laws will be in place by December 2011. Unions have a number of concerns about the draft laws as they stand.

The facts

- Workplace injury and disease destroys quality of life, social and family activities, affects job prospects and career advancement.
- Every 2-3 minutes someone in Australia is injured seriously enough to lodge a workers compensation claim.
- There are almost 690,000 work-related incidents – including diseases, injuries and fatalities – each year. In 2007-08 there were 150 notified work-related fatalities. These official figures underestimate the true scale of the problem.
- The Australian Safety and Compensation Council stated in its March 2009 report *Cost of work related death, disease and injury* that: "Disease fatality estimates are considered to be a conservative estimate, with studies estimating that as many as 7000 fatalities may occur each year as a result of work-related disease." This is four times the annual national road toll.
- Injury death and illness comes at an enormous cost to the community. The total economic cost of work-related injuries and illnesses for the 2005-06 financial year was \$57.5 billion which was 5.9% of GDP.

Areas of concern

Unions have identified five key areas in the harmonization that need to be urgently addressed to protect Australian workers and their families.

Giving workers a say

Worker involvement in OHS, via their union has been shown to improve workplace safety. Workers must have the right to be consulted by their employer over all work related matters that affect health and safety and new laws in all states and territories must enshrine this right.

Making employers responsible

There should be an unqualified obligation on employers to provide a safe and healthy workplace and when something goes wrong, employers must prove they did not break the law.

Laws need to be toughened so that employers are legally required to find and fix problems. Employers pay only 3% of the cost of workplace death, injury and illness and there should be tough penalties on employers who break the law.

Laws in some states require an employer to show they have taken reasonable steps to provide a safe workplace. This is a common sense approach that should be maintained.

Empowering health and safety representatives

Health and safety representatives are the backbone of the system that protects workplace safety. Under current laws in most states employers must consult workers about health and safety issues in the workplace.

The proposed laws state that employers would only have to consult if it was “reasonably necessary”, and only then with workers who were “directly affected”.

Unions are concerned that this is loose language that could be abused. Health and safety issues affecting one group of employees may well impact on others in another part of the organisation.

Unions also want to ensure that there is no reduction to the rights, powers and protections of health and safety representatives. Reps should be able choose their training and get advice on health and safety.

Respecting the role of unions

There are too few workplace health and safety inspectors and this is why unions often raise the alarm on workplace health and safety breaches. Research shows that unionised workplaces in Australia are three times more likely to have an OHS committee and are twice as likely to have done an OHS audit.

International studies also confirm that there are reduced injuries where there are unionised health and safety representatives. We need laws that make it easier, not harder for unions to monitor and deal with health and safety at work.

The right to take court action

Trade unions have been able to prosecute breaches of workplace health and safety law in NSW since the 1940s. The right to prosecute should become a national standard.

Union prosecutions have been used sparingly, but have clearly improved workplace health and safety. If the proposed laws are introduced, unions will lose that power. It is critical that the entitlement to take court action goes beyond just regulatory authorities.

The Finance Sector Union began prosecuting banks in 2002 for failing to provide appropriate security in the event of an armed hold up. Those prosecutions prompted banks to spend more than \$100 million security measures. Public sector unions have successfully prosecuted government departments for failing to protect the safety of community workers and teachers. This court action has led to improvements in health and safety.