

***Inquiries into ILO Convention No. 187:
Promotional Framework for Occupational
Safety and Health and
ILO Convention No. 191: Safe and Healthy
Working Environment (Consequential
Amendments)***

Submission by the Australian Council of Trade Unions to the
Joint Standing Committee on Treaties

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Introduction

About the ACTU

Since its formation in 1927, the ACTU has been the peak trade union body in Australia. The ACTU consists of affiliated unions and State and regional trades and labour councils. There are currently 43 ACTU affiliates. They have approximately 1.8 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

Fundamental principles and rights at work

The ACTU is the representative of Australian workers at the International Labour Organisation (ILO) and is proud to have voted in favour of including 'a safe and healthy working environment' in the ILO's framework of fundamental principles and rights at work at the 110th session of the International Labour Conference in 2022. Elevating 'safe and healthy working environment' to become the ILO's fifth fundamental principle and right at work means that ILO Member states, by virtue of their membership of the ILO, have an obligation to respect, promote and realise this right. The principles, as enshrined in the *ILO Declaration on Fundamental Principles and Rights at Work* are:

1. Freedom of association and the effective recognition of the right to collective bargaining;
2. The elimination of all forms of forced or compulsory labour;
3. The effective abolition of child labour;
4. The elimination of discrimination in respect of employment and occupation; and
5. A safe and healthy working environment.

The five principles each have 2 associated Conventions that elaborate on these rights:

1. Freedom of association and the effective recognition of the right to collective bargaining (Conventions 87 and 98)
2. The elimination of all forms of forced or compulsory labour (Conventions 29 and 105)
3. The effective abolition of child labour (Conventions 138 and 182)
4. The elimination of discrimination in respect of employment and occupation (Conventions 100 and 111)
5. A safe and healthy working environment (Conventions 155 and 187).

Given Australia has already ratified Convention 155, and has ratified the other eight fundamental ILO Conventions – most recently with the *Minimum Age Convention, 1973 (No. 138)*, which will enter into force for Australia on 13 June 2024 - ratification of Convention 187 would mean that

Australia will be among the first countries in the world to have ratified all ten fundamental Conventions.

Given the close relationship between the two Conventions currently being considered by the Joint Standing Committee on Treaties: *Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)*, and *Safe and Healthy Working Environment (Consequential Amendments) Convention 2023 (No. 191)* – where Convention 191 gives effect to the elevation of a safe and healthy working environment to a fundamental principle and right at work, and Convention 187 is one of the two Conventions that elaborates this new fundamental principle and right at work – this submission considers the two Conventions together.

The ACTU supports ratification of Conventions 187 and 191

The Australian Council of Trade Unions supports the ratification of ILO Conventions 187 and 191 and congratulates the Australian Government for its commitment to the implementation of International Labour Standards to protect the rights of workers and promote a safe and healthy working environment. Ratification of these Conventions demonstrates Australia's commitment to workplace health and safety in line with International Labour Standards and supports Australia playing a leading role in the Asia Pacific region to promote compliance with International Labour Standards. We urge JSCT to recommend ratification of both Conventions.

Convention 187

The *International Labour Organisation Convention No. 187: Promotional Framework for Occupational Safety and Health Convention* was adopted by the ILO in 2006. The aim of the Convention is for ILO Members to establish and implement national policies, systems and programmes, in consultation with workers' and employers' organisations, to promote a safe and healthy working environment and advance the right of workers to such an environment. The aim is to prevent occupational injuries, diseases and deaths.

Ratification of the Convention requires Members to promote continuous improvement of occupational safety and health (OSH) by developing a national policy, national system and national program on OSH, in consultation with the most representative workers' and employers' organisations. Australia has a well-developed system of Commonwealth, State and Territory WHS laws and policies.

Ratification of this Convention is consistent with the *Australian Work Health and Safety Strategy 2023-2033 (the Strategy)* which sets a national vision of ‘safe and healthy work for all’, with the goal to ‘reduce worker fatalities, injuries and illnesses. The Strategy includes 8 targets for measuring progress against this goal. The targets include quantitative measures designed to assess reduction in work-related fatalities and severe injuries or illnesses, and activity-based measures designed to increase preventative action in key areas. The Strategy, developed by Safe Work Australia in consultation with Unions and Employer Representatives, sets an ambitious vision for workplace health and safety outcomes in Australia.

Article 4.3 (a) of the Convention requires that a national system of occupational safety and health shall include, where appropriate, a national tripartite advisory body, or bodies, addressing occupational safety and health issues. Safe Work Australia is the tripartite national body that develops, reviews and administers model Work Health and Safety laws and undertakes a range of other WHS functions. We note, however, that in the Commonwealth regulated offshore oil and gas sector, as well as in some WHS jurisdictions, there is no tripartite body. We urge the Government to reform these bodies to ensure tripartite representation, in the spirit of the Convention.

We also note that Article 4.3 (d) requires a national system for occupational safety and health to include the provision of occupational health services in accordance with national law and practice. Attention should be given to ensuring that all workers can access immediate and comprehensive treatment at no cost for any injury or illness arising out of work, including workers who work remotely and migrant workers who may not have access to Medicare.

Convention 191

Convention 191 makes consequential amendments to seven ILO Conventions and 1 ILO Protocol necessary to reflect the amendment made in 2022 to the ILO Declaration on Fundamental Principles and Rights at Work to affirm that ‘a safe and healthy working environment’ is a fundamental principle and right at work. For Australia, ratification of Convention 191 would mean amendments to the preambles and operative articles of Conventions to which we are a party: the *Maritime Labour Convention, 2006 (MLC)* and the *Violence and Harassment Convention, 2019 (No. 190)* as follows:

- Article 1 (3) of the Convention provides for the words ‘a safe and healthy working environment’ to be added as a new subparagraph (e) of Article III of the MLC
- Article 1 (3) of the Convention provides for the words ‘a safe and healthy working environment’ be added to Article 5 of Convention 190 to the list of fundamental principles and rights at work ILO Members are required to ‘respect, promote and realise’.

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