

National Occupational Respiratory Disease Registry Bill August 2023

ACTU Submission to Standing Committee on Community
Affairs – Legislation Committee

ACTU Submission, 14 August 2023
ACTU D. No 36/2023

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Introduction

About the ACTU

Since its formation in 1927, the ACTU has been the peak trade union body in Australia. It has played the leading role in advocating for, and winning the improvement of working conditions, including on almost every Commonwealth legislative measure concerning employment conditions and trade union regulation. The ACTU has also appeared regularly before the Fair Work Commission and its statutory predecessors, in numerous high-profile test cases, as well as annual national minimum and award wage reviews.

The ACTU is Australia's sole peak body of trade unions, consisting of affiliated unions and state and regional trades and labour councils. There are currently 43 ACTU affiliates who together have over 1.7 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

As submitted to the consultation on the NORDR Bill 2022, the ACTU and affiliates have represented workers on health and safety at work since our formation. Union submissions to the 2005 Senate Inquiry into Toxic Dusts called for significant reforms to our reporting, recording and prevention measures. The Senate Committee made the following recommendation:

That the Australian Safety and Compensation Council extend the Surveillance of Australian Work-Based Respiratory Events (SABRE) program Australia-wide and that the program provide for mandatory reporting of occupational lung disease to improve the collection of data on dust-related disease.¹

Consistent with our position in 2005, the ACTU and affiliates welcome the long overdue proposal to establish a National Occupational Respiratory Disease Registry.

Support for NORDR

The ACTU and affiliates welcome the establishment of a National Occupational Respiratory Disease Registry. The purposes of the National Registry outlined in Section 13 are

¹ Senate Community Affairs Reference Committee, Workplace exposure to toxic dust, Recommendation 2, May 2006.

comprehensive and appropriate and have the potential to dramatically improve our collective response to preventing occupational lung disease.

The expansion of purposes of the National Registry to assist with compliance and enforcement activities in relation to occupational health and safety matters is particularly pleasing. This is an important change and provides an opportunity to implement the National Dust Disease Taskforce Recommendation 1.b that:

*Greater priority be given to **work health and safety monitoring and compliance** activities where workers are at risk of exposure to respirable crystalline silica.²*

The requirement on the Commonwealth Chief Medical Officer (CCMO) to publish annual reports on certain statistical information will provide access to data previously unavailable to the public including those with duties of care e.g. employers and those who are responsible for ensuring compliance with relevant laws, i.e. state and territory regulatory agencies.

The recommendations we make are to strengthen the Bill and ensure that the purposes of the Bill are able to be realised.

Recommendation 1

Initially, prescribed diseases include all those respiratory diseases associated with exposures to dust at work.

Recommendation 2

Over time, all occupational respiratory diseases found in the Safe Work Australia List of Deemed Diseases in Australia, be prescribed and require notification to the National Registry on diagnosis. In taking this approach the register will have formed a logical linkage to occupational diseases.

² National Dust Diseases Taskforce Final Report to Minister for Health and Aged Care, June 2021, page 11

Recommendation 3

The inclusion of multiple exposures in “additional notification information” should be included in the “minimum notification information”. This shortcoming is exacerbated because mandatory notification is limited to silicosis.

Recommendation 4

Broaden the content of the annual public reporting by the CCMO to include, as a minimum, occupation, main job task, industry, and state. Broader demographics need to be included in more detailed reporting to State/Territory regulatory bodies and Departments of Health.

Recommendation 5

A national oversight body be established to provide independent review of the functioning of the NORDR.

Recommendation 6

Remove the restriction, subject to worker consent and ethics approval, on researchers’ access to information contained in section 21.

Little change from 2022 NORDR Bill

The ACTU and affiliates provided detailed comment to the 2022 version of the Bill.³

Our comment on this Bill is consistent with those expressed in our submission⁴ to the 2022 version of the NORDR Bill. These include:

- limited scope of prescribed diseases to silicosis
- minimum notification information regarding exposure
- disclosure of information for research and treatment purposes
- failure to appoint a national representative oversight body.

³ ACTU Submission, MEU submission

⁴ ACTU Submission to Department of Health and Aged Care, National Occupational Respiratory Disease Registry Bill 2022, 07 December 2022

Limited scope

It is essential that the definition of prescribed diseases is broad at the outset. At a minimum, for the commencement of the NORDR, prescribed diseases need to include all diseases linked with exposures to dusts – the more expansive approach in the Queensland and NSW Lung Disease Registries should be replicated. This would ensure the coverage of diseases like silicosis, coal workers pneumoconiosis, pneumoconiosis associated with exposures to hard metal, Chronic Obstructive Lung diseases etc.

The narrow scope of the proposed Registry fails to recognise the contribution of exposure to silica dust to lung cancers. The lack of any proposals for data linkages to Cancer Registries is regrettable.

Recommendation 1

Initially, prescribed diseases include all those respiratory diseases associated with exposures to dust at work.

Recommendation 2

Over time, all occupational respiratory diseases found in the Safe Work Australia List of Deemed Diseases in Australia, be prescribed and require notification to the National Registry on diagnosis. In taking this approach the register will have formed a logical linkage to occupational diseases.

Exposure information

Most occupational respiratory diseases generally develop because of exposure over time. Single one-off exposures to particular agents may lead to sensitization or irritant responses by the body but many others require repeated exposures before symptoms or diseases appear.

If minimum notification information is limited to, at most, the details of two worksites where exposure has occurred, there is a strong possibility that multiple other worksites will not be identified or recorded. As many individuals work across multiple sites and industries, a more detailed exposure history is particularly important.

Limiting to “last and main exposure” as a mandatory field will inevitably miss and is likely to incorrectly attribute disease to limited exposure sites. This is of great importance as many

workers are not informed about all potential exposures and some groups of workers are mobile and move between work sites. All exposures are essential for any preventative action.

This shortcoming is exacerbated because mandatory notification is limited to silicosis.

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Regular Reporting

The data collected by the NORDR will be essential in guiding policy and interventions for both prevention and treatment of occupational respiratory diseases. Comprehensive and informative data is required to enable those activities. The requirement for the CCMO to report annually is supported, however the content is very limited. Section 26 only requires the published reports of the CCMO to include the number of notifications for prescribed and non-prescribed occupational respiratory disease.

The reporting should be broadened to include the occupation, main job task and industries where exposures have occurred. This detail will be collected via the minimum notification information. It should therefore be easy to collate such data and would not divulge any individual medical information or site of exposure, thus protecting the privacy of both workers and individual employers.

Failure to publicly disclose this information will limit the usefulness of the NORDR in meeting some of the purposes listed in Section 13(2), e.g. to enable the application of timely and targeted interventions and prevention activities to reduce worker exposure and diseases, monitor the quality and effectiveness of policy and regulatory arrangements in relation to occupational respiratory disease etc.

Section 13 has been expanded from the 2022 Draft Bill to include assistance with compliance and enforcement policies. The public reporting of information will be essential to promoting transparency and accountability. It is of little use if the NORDR becomes little more than a postal service.

Recommendation 4

Broaden the content of the annual public reporting by the CCMO to include, as a minimum, occupation, main job task, industry, and state. Broader demographics need to be included in more detailed reporting to State/Territory regulatory bodies and Departments of Health.

National representative oversight body

The 2023 Bill is silent on an oversight body. The ACTU supports the independent review of the Registry to review and provide input into the tracking of exposures and the industries and occupations where there is a risk for occupational respiratory diseases. This body could also provide expert guidance on the collection of comprehensive exposure histories.

The Ministers second reading speech made reference to other work underway by government, including initiatives by the Minister for Employment and Workplace Relations. There was no mention of any proposals to create a national oversight body or to assume such functions into the remit of existing or proposed bodies. This is an omission.

Recommendation 5

A national oversight body be established to provide independent review of the functioning of the NORDR.

Access to data for research purposes.

The 2023 Bill does not mention linkages to workers health records, or data linkages with other agencies and appears to restrict access to information about exposure sites for the purposes of research.

The quality of information will be an important determinant of the usefulness of research. The ACTU is unclear why there is a restriction on the disclosure of exposure information in Section 21. Presumably if researchers obtain ethics approval which would include worker consent, it appears counter intuitive to exclude exposure information including industry, job task and occupation. These are all included in the minimal information notification and should be available, subject to ethics approval, to researchers.

Recommendation 6

Remove the restriction, subject to worker consent and ethics approval, on researchers' access to information contained in section 21.

Conclusion

The establishment of a National Occupational Respiratory Registry is long overdue. This initiative has the potential to improve how we as a nation protect worker health. The recommendations contained in this submission go to strengthening that initiative for the benefit of those workers.

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