



Senate Education, Employment and Workplace Relations Committee

via email: eewr.sen.aph.gov.au

Thursday, 28 July 2011

Dear Sir/Madam

The Community and Public Sector Union (CPSU) welcomes the opportunity to make a brief submission regarding the Work Health and Safety (Transitional and Consequential Provisions) Bill 2011 and the Work Health and Safety (WHS) Bill.

The PSU Group of the CPSU represents workers in the Australian Public Service (APS), the ACT and Northern Territory Public Services, the telecommunications sector, call centres, employment services and broadcasting. We are a national union with members in every state and territory. CPSU members work in the areas of administration, sales, engineering, communications, information technology, legal, technical, scientific research, broadcasting and many other fields. We are the principal union covering employees who are covered by the Commonwealth Occupational Health and Safety Act 1991.

Consultation Arrangements

Consultative arrangements on work health and safety for Commonwealth employees have been an issue that has been raised by the ACTU and unions with the Commonwealth over many years. CPSU welcomes the proposal in the Model WHS Bill that there be local consultative arrangements for Commonwealth employees.

CPSU supports the proposed amendment to the Safety, Rehabilitation and Compensation Act that the ACTU representation on the Safety Rehabilitation and Compensation Commission be increased to three. This will ensure that the SRCC is a genuine tripartite forum.

CPSU also supports the proposed amendment to the Safety Rehabilitation and Compensation Act to include a new section 104(2A). This meets the CPSU and ACTU request that the SRCC, when considering any applicant for a self-insurance licence, take into account the OHS record of the applicant including their compliance with any Commonwealth, State or Territory OHS laws and meeting their obligations in relation to OHS, rehabilitation and claims management when considering whether or not to grant a self-insurance licence.

Consideration of the applicant's past conduct and their record in meeting obligations under the law of the Commonwealth or of a State or of a Territory with respect to the safety and health of employees, should include consideration of their recorded injury rates, provision of notifications and reports, investigations/inspections, audits and any breaches, prosecutions or pending prosecutions. This should be included in the SRCC Regulations or at least in the SRCC Guidelines on Licence Application evaluation.

The SRCC should retain an ability to issue general policy guidelines to the Comcare CEO, as is currently available under s. 73A of the SRC Act, as it will consider and grant extensions of licences.

General Comments

The ACTU has made a comprehensive submission regarding the Commonwealth Work Health and Safety Bill. The CPSU has had input into that submission and generally supports it except for the comments on the definition of “non-Commonwealth licensee” in the para below. The comments in this submission add to the ACTU submission.

CPSU supports the transfer of OHS coverage of non-Commonwealth licensees to state and territory jurisdictions following the implementation of uniform OHS laws in all jurisdictions. This will return the Commonwealth scheme to one which only applies to Commonwealth employees. CPSU supports the definition of ‘non-Commonwealth licensee’ in the Commonwealth Bill as it applies to all Comcare licensees except for the Australian Post Corporation, the Reserve Bank of Australia and the National Broadband Network Company (NBN Co).

Sec 12(9) of the Bill states that both the Commonwealth Act and a corresponding WHS law may apply in relation to a worker or a workplace. CPSU can identify situations where two WHS laws may apply to a workplace but not to a worker. This section needs clarification as to which law will apply and when or else be removed.

Sec 65 of the Bill states that an application to disqualify a HSR is to be made to a Court. CPSU believes that an application to disqualify a HSR should go to Fair Work Australia (FWA) as FWA is the external reviewing authority and seeks that the Bill be amended to this effect.

The words “and photographic identification” in section 125 should be deleted so that this provision is consistent with the Fair Work Act 2009.

Sec 243 (2) of the Bill states that Infringement Notices must be given within 12 months after the day on which the contravention is alleged to have taken place. CPSU is concerned that this may mean that a person who an inspector believes, on reasonable grounds, has contravened an enforceable provision under Division 3 of the WHS Act, may not be able to be served with an Infringement Notice as the Inspector has not able to form that view within 12 months. CPSU believes that the period should be 24 months.

For any queries, please contact Sue Powell, CPSU Senior Industrial Officer via email
or on

Yours sincerely

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