SENATE STANDING COMMITTEE ON
EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS

QUESTIONS ON NOTICE
BUDGET ESTIMATES 2009-10

Outcome 5

DEEWR Question No. EW0011_10

Senator Cash provided in writing.

Question

OHS Review Recommendation – HSR power to stop work

What are the public policy elements that underpin and support Recommendation 106, dealing with the power for Health and Safety Representatives to stop work?

Answer

The National Review into Model Occupational Health and Safety (OHS) laws was conducted by an independent panel with OHS expertise and involved extensive consultation with a wide range of interested parties. The panel provided extensive rationale in its two reports for its recommendations. While Chapter 25 (paragraphs 25.71 to 25.85) of the panel's second report deals with the functions, rights and powers of Health and Safety Representatives (HSRs), the review panel's consideration of rights to cease unsafe work is dealt with in Chapter 28 (paragraphs 28.1 to 28.43) of the panel's second report.

Recommendation 106 (in Chapter 25) sets out the recommended functions, rights and powers of HSRs which includes that an HSR should have rights and powers to, "where an issue involves an immediate threat to the health and safety of any person to direct that work cease."

Recommendation 122 (in Chapter 28) deals with this matter in further detail and sets out the qualifications upon which the power may be exercised. In making its recommendation the review panel noted in paragraph 28.36 that enabling HSRs to direct the cessation of unsafe work "draws on the knowledge and training of the HSR in OHS matters and circumstances where workers may be placed in high risk situations. The HSR, given their training and operation on a day to day basis in the workplace, may be better placed than an individual worker to be able to progress discussions with the person conducting the business or undertaking and have more experience in the use of the issue resolution process."

The panel further noted in paragraph 28.37 that "Concerns raised in submissions and consultation about the potential for misuse by an HSR of the power to direct a cessation of work, can be met by the provisions that we recommend for the disqualification of an HSR." The panel also noted at paragraph 28.7 that "The NSW and Qld Acts are the only Acts that do not include any provisions for cessation of unsafe work either at the choosing of a worker or at the direction of an HSR."