

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Budget Estimates 2010-2011**

**Agency - Safe Work Australia**

**DEEWR Question No.EW0253\_11**

**Senator Abetz asked on 1/06/2010, Hansard page 46.**

***JURISDICTIONAL NOTES***

**Question**

Ms Ross—That some jurisdictions allow for the deleting of a clause? Senator ABETZ—Yes. Ms Ross—Yes, they do, and in most cases this would only be where there would be duplication with existing laws operating within the jurisdiction. Senator ABETZ—Mainly, but not only? Ms Ross—I might need to take that on notice. I would have to analyse all the jurisdictional notes.

**Answer**

Safe Work Australia has provided the following response.

The current version (May 2010) of the model Work Health and Safety Bill (model WHS Bill), contains nine jurisdictional notes that allow for jurisdictions to omit clauses or parts of clauses. Four of these allow for content to be omitted only if it duplicates other laws in the jurisdiction (at clauses 38(2), 160, 187 and 244).

The other instances in which jurisdictional notes in the model WHS Bill allow for content to be omitted are:

- the words 'without paying for it' may be omitted from subclause 165(1)(e) if they are inconsistent with other laws and will raise constitutional issues concerning the acquisition of property without just terms,
- the offence at subclause 185(4) may be omitted if the requirements to provide a name and address and evidence of those details to an inspector upon request are inconsistent with police powers in that jurisdiction,
- subclauses 231(3) to (6) may be omitted if the process they provide for and the role of the Director of Public Prosecutions is inconsistent with prosecutorial policy and practice in that jurisdiction,
- Schedule 1 and references to high risk plant and dangerous goods in clause 3 are optional and may be adopted if high risk plant and dangerous goods or both are to be regulated under the model WHS Bill in that jurisdiction, and
- Schedule 2 is optional and may be used by a jurisdiction to establish a regulator and to provide for local consultation arrangements and local arrangements for the collection of money and provision of data by the regulator.