

# Submission

to

Senate Employment, Workplace Relations and Education  
Legislation Committee

## **Inquiry into the provisions of the OHS and SRC Legislation Amendment Bill 2005**

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## **Introduction**

The FSU represents 60,000 members employed in the finance sector across Australia and exists for the purposes of providing a collective forum for them in pursuing fairness in their employment and improvements to their working conditions. Consequently, the FSU has a real interest in the proposed legislation.

## **The Health and Safety of Employees at Work should not be sacrificed for profit**

*The OHS and SRC Legislation Amendment Bill 2005* seeks to capture eligible corporations, including Commonwealth Authorities, existing Commonwealth Authorities about to be privatised and private sector corporations operating in competition with existing or former Commonwealth Authorities.

The Bill proposes that private sector corporations who are licensed (or who seek to be licensed) under the *Safety, Rehabilitation and Compensation Act 1988* will also be covered by the *Occupational Health and Safety (Commonwealth Employment) Act 1991* and therefore the amendments contained in the *Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005*.

The earlier amendments proposed to the *Occupational Health and Safety (Commonwealth Employment) Amendment Bill 2005* already removes the recognition of the proactive role that Unions play in promoting and securing worker's health and safety.

The problem with this cost driven, ideological rationale is that it does not take into account the health and safety effect it will have on employees. These proposed regulatory arrangements will provide a haven for big business, including large financial institutions. The FSU believes these proposals will not enhance the health and safety of finance sector employees – they will erode it.

## **Health and Safety Issues for Finance Sector workers**

Finance sector workers across the industry are already facing health and safety hazards such as increasing violence and bullying, escalating workloads and targets, acoustic shock in call centres, asbestos findings and removal processes in workplaces and decreased staffing.

Finance sector workers who work in retail branches are also exposed to the extreme safety risks of armed hold-ups and other robbery events.

FSU has undertaken successful prosecutions in NSW for health and safety breaches against the Commonwealth Bank, ANZ and Westpac. These are large corporations and the prosecutions have resulted in subsequent safety improvements in consultation with FSU throughout their branch networks.

To the best of FSU's knowledge no Authorities have ever taken prosecutorial action for robbery events despite similar design problems and workplaces practices existing for other robbery events.

After the ANZ and more recently, Westpac prosecutions, both employers have publicly stated that investments will or have been made though branch safety upgrades (ANZ \$40 million and FSU understands for Westpac a similar outcome). This action has also had a beneficial ripple effect for the health and safety of other employees in other financial institutions.

### **The Need for Strong Compliance**

The ACTU submission<sup>1</sup> on this issue appropriately referenced the Royal Commission into the Building and Construction Industry, Final Report conclusions that:

*There is persuasive support for the view that the extent of compliance with occupational health and safety obligations is strongly influenced by a reasonable expectation of the likelihood of being inspected, prosecuted, and convicted and having a meaningful penalty imposed. The presence of occupational health and safety inspectors is important.* (Royal Commission, Final Report, vol.6, p.83).

Further, that the Commonwealth's systems overall enforcement capacity is extremely limited, with the recent WRMC Comparative Performance Monitoring Seventh Report (Nov 2005) for 2003/2004 noting that the number of safety inspectors/investigators was **16** and the number of prosecutions was **0** for a workforce of around **286,000** employees.

In the finance industry, the four major banks have the following branch level of service throughout Australia:<sup>2</sup>

- Commonwealth Bank of Australia – 1,006
- Westpac – 814
- NAB – 786
- ANZ – 734

Combined, thousands of finance workers are employed in these branches. The FSU fails to see how the health and safety of finance workers will be enhanced by enabling their employers to opt to a system of virtual voluntary compliance.

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1. <sup>1</sup> **ACTU Submission:** *to the Senate Employment, Workplace Relations and Education Legislation Committee Inquiry into the provisions of the OHS and SRC Legislation Amendment Bill 2005, 24 March, 2006 pages 3-4, as updated.*

2. <sup>2</sup> APRA Statistics June 2005 ADI Points of Presence, page 7.

## **ILO Convention 155**

These legislative moves also fail to give effect to Australia's obligation to **ILO Convention 155**, particularly having regard to the requirements of **Article 4** concerning the prevention of accidents and injury to health at work by minimising as far as is reasonably practicable causes of hazards inherent in the working environment and **Article 9** concerning the enforcement of laws and regulations for health and safety in the working environment by an adequate and appropriate system of inspection, including the provision of adequate penalties for violations of these laws.

## **Market Considerations**

Furthermore, the objective of competitive neutrality will not be met as it will only be the large multi-state employers who self insure and who have obtained or will obtain approval to enter the Comcare system that will reap any gains.

The ACCC has already found that each state represents a distinct finance market. If this Bill is approved, it will destroy competitive neutrality that exists in each market in relation to OHS and Workers Compensation by providing a cost disadvantage to those ineligible employers.

## **Conclusion**

The alternate regulatory haven proposed for big business including large financial institutions, may save money and may satisfy the ideological need of the Federal Government to sideline Union influence on working conditions.

It will also increase risk to the health and safety of finance sector workers, particularly those workers exposed to extreme risk in armed hold-ups and other robbery events.

When this inevitably occurs, the Federal Government and those financial institutions that reduce their commitment to their employee's health and safety for profit and ideological imperatives will be held responsible by their employers, their families and the communities they live in.

| The Finance Sector Union of Australia opposes this Bill.