

Submission

to

Senate Employment, Workplace Relations and Education
Legislation Committee

Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005

Submission no: 3

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Submitter: Mr Graham Rodda
Division Secretary – Public Sector and Policy Division

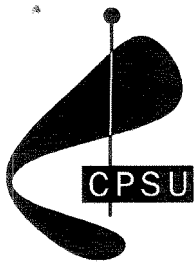
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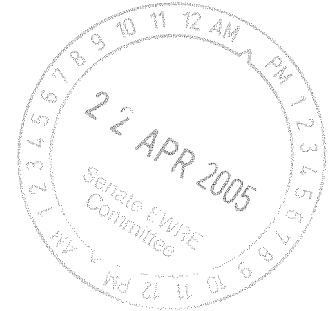
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22nd April 2005



Mr John Carter
Committee Secretary
Senate Employment, Workplace Relations and Education Committee
The Senate
Parliament House
Canberra ACT 2600

Dear Mr Carter,

**Inquiry into the Occupational Health and Safety (Commonwealth Employment)
Amendment (Promoting Safer Workplaces) Bill 2005**

Please find attached a submission from the Community and Public Sector (PSU Group) to the Senate Employment, Workplace Relations and Education Committee Inquiry into the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005.

CPSU (PSU Group) does not seek to appear as a witness in this inquiry.

The contact person for this submission is Jane Mulligan, CPSU Parliamentary Liaison Officer who can be contacted on (02) 6220 9630.

Yours sincerely,

Graham Rodda
CPSU Division Secretary – Public Sector and Policy Division

**Senate Employment, Workplace Relations and
Education Committee**

**Inquiry into the Occupational Health and Safety
(Commonwealth Employment) Amendment (Promoting Safer
Workplaces) Bill 2005**

CPSU (PSU Group) Submission

22nd April 2005

Inquiry into the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005

CPSU (PSU Group) Submission

Introduction

1. Community and Public Sector Union (PSU Group) welcomes this opportunity to make a submission to the Senate Employment, Workplace Relations and Education Committee Inquiry into the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005 (the Cth bill).
2. CPSU has read the submission of the ACTU and supports that submission.
3. CPSU (PSU) is a federal union with regions and sections in each State and Territory. CPSU's coverage is predominantly in the Commonwealth public sector, but also includes ACT and NT public sectors, and public and private sector employers in the communications, education, aviation, broadcasting, health and pharmaceutical industries.
4. This bill is a Commonwealth response to the Australian Capital Territory (ACT) legislation *Crimes (Industrial Manslaughter) Amendment Act 2002*.
5. As this ACT legislation specifically excludes Australian Public Service employees from its application, CPSU members who will be affected by the Commonwealth bill are those employed in Government Business Enterprises, such as Telstra and Australia Post.
6. CPSU places the health and safety of its members as one of the main priorities of its work and CPSU has made a significant contribution to the Health and Safety of commonwealth employees over many years but particularly since it was given a recognised role by the 1991 Act.
7. CPSUs contribution has included:
 - provision of advice to health and safety representatives
 - provision of advice to members
 - representation on issues to management
 - training of health and safety representatives
 - training of Delegates and activists in OH@S
 - seminars on topics of interest
 - ensuring elected representatives are in place
 - negotiating agreements with Commonwealth employers
 - negotiating agreements with Government Business Enterprises
 - participation in consultative committees at national level

- participation in consultative committees at the state level
 - participation in consultative committees at the workplace level
 - advising and otherwise supporting reps at all levels
 - membership of the Safety Rehabilitation and Compensation Commission SRCC
 - regular consultation with Comcare
 - regular lobbying of Comcare and the SRCC
 - maintaining and supplying information on hazards
 - publishing a manual for Health and Safety Representatives
 - publishing booklets on issues such as air conditioning, office standards and computer equipment
8. As workplace leaders in OH&S matters, CPSU supports the ACT Legislative Assembly initiative in bringing into operation legislation to increase the penalties for employers found liable for reckless or negligent actions leading to workplace death.
9. CPSU therefore submits that the Senate Employment, Workplace Relations and Education Committee should reject the bill before them.

The ACT Bill

10. The ACT *Crimes (Industrial Manslaughter) Amendment Act* complements other occupational health and safety laws and initiatives which seek to protect the health and safety of workers in the ACT.
11. CPSU agrees with the rationale for the enactment of the ACT Act, that, if a worker dies at work and that death was the result of a reckless or negligent action of an employer, the offence should be treated as more than an occupational health and safety breach; it should be treated as a crime under the Crimes Act.
12. With work-related deaths in Australia numbering around 3,000 each year it is hard to dispute that employers should be held more responsible for the death of employees in those few extreme cases where the actions of the employer are found by a court to be negligent or reckless.
13. It is important to consider that the ACT Act does not extend manslaughter laws as they apply to an individual, but has addressed gaps in the ACT criminal legislation as it relates to the prosecution of corporate entities for manslaughter. CPSU supports this and believes that this is an entirely proper and principled extension of OH&S legislation.

Right of the ACT Legislative Assembly to enact legislation

14. As the major representative of ACT public service employees, CPSU supports the right of the ACT Legislative Assembly to properly enact

legislation that relates to the rights of employees in the Territory, and rejects Commonwealth attempts to override this legislation.

15. CPSU also believes that ACT territorians, like all Australians, have the democratic right to vote for their chosen representatives to sit in the ACT Legislative Assembly and to enact legislation that best represents the policies of that government. The spirit of this Cth Bill is contrary to that democratic position.

Conclusion

16. CPSU supports the development of improved health and safety legislation, regulation and enforcement, including the development of Federal and State Industrial Manslaughter legislation, with a broadened range and scope of penalties for health and safety offences.
17. CPSU also supports the push for state and territory governments to broaden OHS penalties and conduct ongoing enforcement campaigns of OHS laws.
18. It is of regret that public concern about the extent of workplace death, injury and disease has not resulted in a higher level of effective, comprehensive and ongoing preventative action by the Commonwealth.
19. Labour market changes, such as the growth in contract and casual employment, require expanded legislative frameworks that capture the gaps in criminal manslaughter legislation and OH&S frameworks. There is clearly a need for more rigorous health and safety enforcement and stronger penalties.
20. CPSU therefore believes the Occupational Health and Safety (Commonwealth Employment) Amendment (Promoting Safer Workplaces) Bill 2005 should be rejected by the Committee.