

## Work Health and Safety and Other Legislation Amendment Bill 2014

### Recommendations

Standing Order 132 states that a portfolio committee report on a bill is to indicate the Committee's determinations on:

- Whether to recommend that the Bill be passed
- Any recommended amendments
- The application of fundamental legislative principles and compliance with the requirements for explanatory notes.

The Committee has made the following recommendations:

Rec	Committee Recommendation	Government Response
1.	The Committee recommends that the <i>Work Health and Safety and Other Legislation Amendment Bill 2014</i> be passed.	The Government thanks the Committee for its consideration of the Bill and notes the Committee's recommendation that the Bill be passed.
2.	The Committee recommends that the impacts of the proposed amendments be monitored for their effectiveness and a review completed not more than two years after commencement.	This recommendation is supported.
3.	The Committee recommends that the legislation be amended to include provision for the regulator, or inspector by reason of delegation, to be authorised to provide consent for a WHSR to have assistance provided within the 24 hour notice period.	The recommendation is supported in part. Inspectors appointed under the WHS Act are available to assist and advise a Health and Safety Representative on safety matters when required. Section 166 of the WHS Act provides that a person may accompany the inspector on to a workplace to provide assistance if the inspector considers the assistance necessary. For example, assistance may be sought by an inspector from a technical expert in relation to a specific hazardous substance. There is no time limitation on a person assisting an inspector from entering a workplace.
4.	The Committee recommends that compliance with section 74 be monitored and the revision of the appropriateness of penalty units is included in the review of the proposed amendments.	This recommendation is supported.
5.	The Committee recommends that section 85 not be omitted but amended so that WHSR may direct a worker to cease work only after receiving authorisation from the regulator.	The recommendation is consistent with current operational arrangements under the WHS Act. If the regulator is contacted in relation to a serious and imminent or immediate risk to the health and safety of a worker, an inspector will be assigned. If the inspector agrees there is an immediate risk they can issue a prohibition notice requiring the work activity to cease until the inspector is satisfied that

		the risks have been adequately addressed. The Government considers this the appropriate response from the Regulator rather than attending the workplace to authorise a HSR to direct a worker to cease work.
6.	The Committee recommends that larger, higher risk workplaces be required to fund additional government inspectors who would be responsible for and located at these larger, higher risk workplaces.	<p>Not supported. The Government considers the current regulatory focus on priority high risk industries where the injury and fatality rates are higher, are adequate. It ensures inspector resources are allocated to areas where they are most needed and avoids regulatory capture where there is the potential for an inspector to become accustomed to the workplace.</p> <p>The priority industries are:</p> <ul style="list-style-type: none"> <li>• Agriculture, forestry and fishing;</li> <li>• Construction;</li> <li>• Manufacturing; and</li> <li>• Transport and storage.</li> </ul> <p>By focusing on priority high risk industries, Queensland has recorded an 18.9% reduction in incidence of serious work-related injuries in the five years from 2007-08 to 2011-12. That is, those injuries where the injured worker has greater than five days off work.</p> <p>In addition, businesses with high injury rates are provided with assistance through the Injury Prevention and Management Program, which is a joint initiative between Workplace Health and Safety Queensland and WorkCover Queensland aimed at preventing and reducing the number and severity of work-related injuries and associated costs for targeted businesses.</p>
7.	The Committee recommends that the regulator set performance indicators and monitor response times for all complaints and these performance indicators and monitoring should be included as a subject in the review of the proposed amendments.	This recommendation is supported.
8.	The Committee recommends that the regulator ensure that inspectors receive industry specific training where required.	This recommendation is supported. Inspectors currently receive industry specific training where required.
9.	The Committee recommends that the regulator undertake an extensive marketing campaign to	This recommendation is supported in part. Information will be prominently placed on the Workplace Health and Safety Queensland's website

	inform workers of the contact details and new arrangements of government inspectors.	on contacting the regulator to seek the assistance of an inspector on health and safety matters.
10.	The Committee recommends that the regulator investigate the development of a workplace health and safety mobile application to increase access for workers, particularly vulnerable workers.	This recommendation is supported. Workplace Health and Safety Queensland currently has a project team working to expand the use of mobile technology for use by inspectors in ensuring compliance and creating awareness to workplace health and safety issues. The use of mobile apps can be considered as part of this project.
11.	The Committee recommends that the regulator include changes to work place inductions to inform workers of their right to cease work if the worker has a reasonable concern that to carry out the work would expose the worker to a serious risk to the workers' health or safety, emanating from an immediate or imminent exposure to a hazard.	This recommendation is supported in part. The content of induction training is a matter for employers to provide. However, information can be included on the Workplace Health and Safety Queensland internet site for use in workplaces.
12.	The Committee recommends that the regulator ensure that any details of workers who report issues to the regulator remain strictly confidential.	Noted. Under section 271(4) of the WHS Act a person is prohibited from disclosing the name of an individual who has made a complaint to the person the complaint relates to. A maximum penalty of 100 penalty units applies.
13.	The Committee recommends that the regulator maintain records where the regulator considers there has been a misuse of provisions by any party and this information is included as a subject in the review of the proposed amendments.	This recommendation is supported. Records are currently maintained where Workplace Health and Safety Queensland is notified of union right of entry issues. These records can be used in a future review of the WHS legislation.
14.	The Committee recommends that legislation be amended to include provision for the regulator, or inspector by reason of delegation, to be authorised to provide consent for a WHS entry permit holder to have access to a workplace within the 24 hour notice period.	<p>Where a worker has a concern about their health and safety they can contact the regulator and request the assistance of an inspector. An inspector can provide immediate assistance over the phone if necessary.</p> <p>Inspectors have significant powers under the WHS Act including the power to stop work activities, require answers to questions, require the production of documents, and the ability to seize items for use as evidence of an offence. A WHS entry permit holder is not an inspector and can only provide advice on health and safety matters to workers and others at the workplace.</p>

		The recommendation is not supported as the Government cannot foresee a situation in which the regulator or an inspector would authorise a WHS entry permit holder access to the workplace within 24 hours. Rather an inspector would address health and safety issues where this had not been resolved between the parties.
15.	The Committee recommends that the Minister comment on the concerns of stakeholders that the proposed amendment puts Queensland out of step with the rest of Australia.	Following a review of the Work Health and Safety legislation, the Government decided to progress the amendment Bill, which includes changes that will align Queensland right of entry arrangements with Western Australia.