



INFRASTRUCTURE, PLANNING AND NATURAL RESOURCES COMMITTEE

Members present:

Mr J Pearce MP (Chair)
Mr CD Crawford MP
Ms AM Leahy MP
Mr AJ Perrett MP

Staff present:

Dr J Dewar (Committee Secretary)
Ms C Furlong (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE MINES LEGISLATION (RESOURCE SAFETY) AMENDMENT BILL 2017

TRANSCRIPT OF PROCEEDINGS

MONDAY, 25 SEPTEMBER 2017

Brisbane

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Committee met at 8.32 am

CHAIR: I declare open the public briefing for the inquiry into the Mines Legislation (Resource Safety) Amendment Bill 2017. Thank you for your attendance here today. I am Jim Pearce the member for Mirani and chair of the committee. The other committee members with me here today are Ms Ann Leahy, deputy chair and member for Warrego; Mr Tony Perrett, member for Gympie; and Mr Craig Crawford, member for Barron River. Mrs Brittany Lauga, member for Keppel, and Mr Shane Knuth, member for Dalrymple, are apologies for today's briefing. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of parliament. Witnesses should be guided by schedules 3 and 8 of the standing orders. Those here today should note that these proceedings are being broadcast to the web and transcribed by Hansard. Media may be present so you may be filmed or photographed. Before we commence, could we all make sure we have our phones turned off or on silent. I now welcome officers from the Department of Natural Resources and Mines. Do you have an opening statement?

HINRICHSEN, Mr Lyall, Acting Executive Director, Mineral and Energy Resources Policy, Department of Natural Resources and Mines

DJUKIC, Mr Robert, Director, Compliance and Regulatory Policy, Department of Natural Resources and Mines

Mr Hinrichsen: Good morning Mr Chair and committee members. I thank you for this opportunity to provide a briefing to the committee on the Mines Legislation (Resource Safety) Amendment Bill 2017. With me today are officers from the department who have been involved in the bill's development.

The Coal Mining Safety and Health Act 1999 and the Mining and Quarrying Mining and Safety Health Act 1999 establish Queensland's legislative framework to provide for the safety and health of the state's mining sector workers. The bill proposes changes to these two acts and their respective regulations to improve safety and health outcomes for mine workers. I will now provide a brief outline of the 15 reform initiatives contained within the bill.

The bill addresses 15 reform initiatives which will provide for greater transparency and accountability, improved safety and health systems, and stronger enforcement and compliance powers within the mining safety and health framework. Seven of the reforms will improve transparency and accountability within the mining industry. The first of these reforms relates to the role of ventilation officers in underground mines. The ventilation officers play a crucial role in health and safety of underground coal miners and it is absolutely vital that a rigorous framework is in place to ensure they hold and maintain appropriate levels of competency. The proposed amendment will ensure that there are people with sufficient experience, expertise, status and understanding of their statutory obligations working at operational level as ventilation officers in the complex and hazardous underground mining process. It will also improve labour mobility for ventilation officers and increase consistency in relation to competency requirements for ventilation officers across the major mining states in Queensland, NSW and Western Australia.

Secondly, the bill proposes amendments to strengthen the accountability of mine operators by imposing a proactive executive officer obligation. Under the existing framework, if the mines inspectorate also prosecutes executive officers as a result of an offence committed by the corporation, executive officers have the onus of proving in their defence that they were reasonably diligent in ensuring the corporation complied with the legislation or that they were not in a position to influence the corporation in relation to the offence. The bill will change that current reverse onus of proof that applies to executive officers to a proactive obligation. This will require an executive officer to take positive steps at all times to ensure compliance with health and safety obligations. The introduction of this proactive obligation for executive officers will bring the Coal Mining Safety and Health Act and the Mining and Quarrying Safety and Health Act into line with the Work Safety and Health Act 2011.

The bill also provides for the expansion of who is responsible to notify reportable diseases. These changes will mean that persons prescribed in a regulation will be required to notify the department when a worker is diagnosed with a reportable disease such as coal mining dust lung

disease. Further initiatives will provide for improved transparency and accountability and include requiring manufacturers and suppliers to mine sites to notify of hazardous or defective equipment or substances supplied to a mining operation, improve mines inspectorate representation on the statutory advisory committees to balance tripartite obligations, provide for a public register of certificate holders and, lastly, strengthen the regulator's powers to release relevant safety information about incidents where this information will provide important learnings to industry.

Three of the reforms will improve safety and health management systems. These three reforms will improve contractor management safety by providing for the inclusion of contractor safety management systems into a single safety and health management system at a mine site. It will include health surveillance of current and former miners as an objective in the mining safety legislation, and upgrade safety and health standards for small mines by removing safety and health management system exemptions for small mine operators.

The remaining five of the 15 reforms will provide improved enforcement and compliance powers for the mines inspectorate. These provisions significantly strengthen the enforcement powers available to the regulator. The bill proposes a high level of competency for statutory positions and creates a head of power to require holders of statutory certificates to maintain high standards of professional competence throughout their careers. The bill will also provide the chief executive with new powers to suspend or cancel statutory certificates and other competencies held by individuals, including senior site executives at a mine site if they fail to meet their statutory obligations or do not meet their continuing professional development requirements.

The bill also proposes to increase maximum penalties under the mining safety legislation, clarifies the entry powers of inspectors to sites that could reasonably be considered a workplace associated with a mining operation and, finally, the bill proposes that the chief executive will be able to impose civil penalties of up to 1,000 penalty units, a monetary penalty of just over \$126,000, against corporations who are mine operators or contract companies that fail to comply with certain obligations or requirements under the mining safety legislation.

Many of the initiatives in this bill have had a long gestation period, undergoing consultation from 2013 via the release of a consultation RIS titled 'Queensland's mine safety framework'. Given the passage of time since the extensive consultation undertaken from 2013 to 2016, the department formed tripartite working groups consisting of industry, unions and mines inspectorate participants in February 2017. During the consultation in February and March this year, tripartite in-principle support was provided for the majority of the proposals to be delivered through the legislative amendment proposed by the bill. Further targeted consultation was undertaken with industry representatives on proposals in August this year with particular focus on the new departmental powers to suspend or to revoke statutory certificates and to impose civil penalties. These provisions had not previously been consulted on.

Overall, stakeholders were broadly supportive of the amendments contained in the bill; however, industry indicated reservations about proposals to increase penalties and for imposing administrative monetary penalties. I now invite any questions that committee members might have in relation to the bill.

CHAIR: How long have these recommendations and amendments been in the making?

Mr Hinrichsen: As I mentioned, 13 of the 15 amendments were included in a regulatory impact statement consultation draft released in 2013 and were the subject of significant consultation over that period. The remaining two, which are about suspending or cancellation of the statutory certificates held by those operating on mine sites and the civil penalties, came about this year as a result of significant concerns about safety and health obligations on mine sites not being complied with.

CHAIR: Can you give the committee some idea as to why it has taken so long, because we are looking at pretty important legislation for Queensland, the workforce and mining companies?

Mr Hinrichsen: That is a really good question. The bill, particularly in relation to the 13 longstanding provisions, had been ready to progress some time ago. This is probably a point the minister might wish to further elaborate on, but given the significant work being done with the review associated with the re-emergence of coal workers' pneumoconiosis the minister was reluctant to progress a bill that might be seen as pre-empting that committee's recommendations. Once that committee report had been finalised and indeed a draft bill which I understand this committee is also reviewing was tabled, there was a clear distinction between the recommendations that came about as a result of that committee's work which are very much focused on the governance and the overall framework associated with administering these two bills. The provisions in these bills are very much

about changing the detail of the operation, the way in which regulation is undertaken, so hence the minister was keen to introduce this bill as soon as it became clear that he would not be pre-empting the work of that committee.

CHAIR: Given the period of time that this bill has been around and the consultation that has taken place, should the committee be aware of any issues that are of a significant concern to either party? Even though you have an agreement, there still would be areas where all parties would not agree unanimously with regard to those particular parts?

Mr Hinrichsen: Absolutely. This is a little bit unusual for the committee process. By now we would usually have seen the submissions so we would be in a position to talk in more detail about those concerns. As I mentioned, there was in-principle support for the 13 reform initiatives that have been around since 2013. There is detail in there that various parties do not agree on. No doubt, the committee will be hearing more about those.

In regard to the other two reforms, there is certainly a significant distance between the parties on some of those provisions—for example, increasing the offence penalties. In that space, the offences are already established in the act. The amendment brings them into line with equivalent offences under workplace health and safety legislation. There are some differences there, but they are more commensurate with those offences and then there are the civil penalties. No doubt, you will be hearing more from other witnesses later about concerns in that space.

CHAIR: What about the monitoring of the management at mine sites to ensure that they are following the requirements of the legislation? Is there any auditing process to ensure that that is happening? I speak from experience. I know that it all sounds good, it looks good, it reads well, but a lot of times it is not happening at the mine site itself. Is there anything in place to make sure that the management at a mine is carrying out their responsibilities and obligations?

Mr Hinrichsen: I will hand over to my colleague. In his role as director, compliance and regulatory policy he would be in a better position to answer those questions.

Mr Djukic: As I understand it, the inspectorate is currently reviewing its audit and inspection program. In addition, it is working on updating its compliance policy. Obviously, those measures do not form part of this bill—they are operational matters—but I would suggest that it is something that the inspectorate is refining constantly, or it is at least regularly refining its audit and inspection program to ensure that it is capable of delivering on the legislation's objectives.

CHAIR: You talked about the competency of a ventilation officer. What do you mean by the experience and competency of these ventilation officers? Where do they get their experience from? Who decides they are competent?

Mr Djukic: Ventilation officers are already required in underground mines under the coal act. Those competencies are currently decided by CSMHAC—the advisory committee under the act—and, similarly, for the mining and quarrying act, MSHAC will decide the competencies for ventilation officers under that act.

This bill will turn the ventilation officer position under the coal act into a statutory position with a certificate of competency, which means that the board of examiners will now review the requirements for a ventilation officer. They will issue those requirements themselves and decide whether an individual meets those requirements. They will, of course, have to sit an exam, as with any board of examiners' process.

CHAIR: That is a big improvement on the current situation. Could you tell me how the process will work with regard to an inspector going to a mine site to carry out an inspection? Under the current act, the inspector can undertake an inspection without notification to the mine. I do not think that has been operating in the way it is supposed to operate. Are there any changes with regard to an inspector being able to go to a mine without notification?

Mr Djukic: I understand you are referring to changing the frequency of unannounced inspections, for example. That would have to happen at an operational level. Again, as part of the inspectorate's review of its audit and inspection program, it will assess the adequacy of the current number of unannounced inspections that are taking place with the potential of adjusting that.

The provisions in the bill expand those powers of entry to places other than mine sites. For example, we have an increase in remote operations, or activities related to the operations of the mine happening off lease at remote locations. This will allow inspectors to enter those places as well as the places on the lease itself.

CHAIR: What does that mean with regard to the current situation? Does that make the whole operation a lot safer? I presume you are talking about workshops that could be on a mine site.

Mr Djukic: And off a mine site as well.

CHAIR: They could go into an off-site workshop?

Mr Djukic: That is correct.

CHAIR: To see the standard of work that is being undertaken?

Mr Djukic: Or as part of an investigation of an incident, if evidence is likely to be located off site it will allow them to enter that site without having to obtain warrants and, if necessary, seize that evidence, take evidence, interview people off site.

CHAIR: That is good.

Ms LEAHY: Is there a defined list of where inspectors can enter? Can the inspector walk into the head office of the company and seize documents?

Mr Djukic: There is not a definitive list. It is not an exhaustive list, because it will depend upon the situations. Generally, if there is a connection to the operation of the mine site, that will extend that ability for the inspector to enter that place. For example, it could include the head office. As Mr Chair said, it could include workshops. I understand that some mines have places off the lease where they might be using technology to monitor, or do other activities at the mine. There must be a connection, obviously, to the operations for them to be able to enter there and a connection to safety and health.

Ms LEAHY: What sort of connection? How is that connection determined?

Mr Djukic: It is difficult to come up with an example on the spot. If I could take that on notice and consult with the inspectorate I could probably give you a more concrete example. Generally, I would expect that you would have to demonstrate that there is a relationship between the activity that is happening off site and whatever is happening on site.

Ms LEAHY: Can inspectors walk into the head office of a company and seize documents?

Mr Djukic: Possibly, yes.

Ms LEAHY: With no notice?

Mr Djukic: Possibly. It depends upon the circumstances.

Ms LEAHY: Could you take that on notice and give us some examples of what the circumstances might be?

Mr Djukic: Sure.

Ms LEAHY: In relation to the ventilation officers' competencies and also the inspector's powers, how does this legislative profile that is being proposed in the bill compare with that of other states?

Mr Hinrichsen: The intent is to align with the framework that exists in other major mining states, particularly New South Wales, which is the other state with a significant underground coal industry as well as Western Australia, but more in terms of the metalliferous mines in that state. As I mentioned in my opening address, that will provide for the better mobility of ventilation officers with those particular skills. If they have a certificate of competency, that is recognised with reciprocal arrangements across those jurisdictions. It is the equivalent of the board of examiners in Queensland issuing a competency in one of those other jurisdictions that is recognised in Queensland. It is very much about having consistency across the major mining jurisdictions in Australia.

Ms LEAHY: What is proposed in this bill pretty much mirrors what is in New South Wales and Victoria?

Mr Hinrichsen: I cannot comment in relation to Victoria but, certainly, New South Wales and Western Australia are the other major jurisdictions that have this regulatory framework in place.

Mr CRAWFORD: In relation to contractors, how will we see any improvement in contractor safety at mine sites through this bill?

Mr Hinrichsen: The recent history has shown that the involvement of contractors in workplace injuries and, for that matter, fatalities, has been disproportionate with their representation in the mining workforce. Under the existing framework, contractors are required to have a safety management system. That recognises the specialist expertise that contractors have in relation to the work that they are undertaking.

The identified gap is that they are not necessarily intermeshed with the overall safety management system for the mine and, as a consequence, getting quite alarming inconsistencies in some cases between the requirement of effectively multiple safety management systems for a site. This change will make the senior site executive for a mine site ultimately accountable for the safety of a site through an integrated safety management system.

It still will rely very much on the particular expertise from contractors where they are using specialist equipment, but their safety management system will then need to be reconciled with the overall safety management system. Ultimate accountability will then reside with the senior site executive for the mine site. Effectively, there is one point of reference for safety management systems on that site.

Mr CRAWFORD: Currently, who holds that accountability if it is not the SSEs out there now?

Mr Hinrichsen: It is a contractor.

Mr CRAWFORD: A contractor. Thank you.

Mr PERRETT: In terms of the RIS, you mentioned that 13 of the various sections were included. A couple were not. Which were they? Why were they not included as part of the regulatory impact statement?

Mr Hinrichsen: The regulatory impact statement, which was issued in 2013, covered 13 of the 15. The two that were not included were in relation to the powers of the regulator to cancel or suspend the certificates of competency for statutory position holders, including senior site executives, and imposing civil penalties on corporations that breached their safety and health obligations.

Those two issues are really a more contemporary manifestation of problems on mine sites. Certainly, there has been a frustration that safety and health obligations have not been executed properly on a number of sites and most recently in relation to the monitoring and reporting respirable dust levels within underground coalmines.

In relation to senior site executives and the requirement for ongoing competency, if there is an individual who has ongoing disregard for their statutory obligations as a senior site executive the current process really means that they have got a certificate for life and it is very, very difficult to have that revoked. This will either give the chief executive the power to suspend, and that might be to suspend while they undertake some further training to demonstrate their ongoing competency, or it will cancel their certificate. That is obviously in pretty serious circumstances where they are showing a disregard on an ongoing basis for their obligations under the safety and health framework in the acts.

Mr PERRETT: How are those penalty units determined? What was the basis for establishing those?

Mr Hinrichsen: The penalty units associated with the civil penalties are on a sliding scale. They go from 1,000 penalty units for what are considered the most serious of breaches through to 750 for a second tier and 500 for a lower tier. They were based on an assessment by the inspectorate as to the seriousness of those and how that aligns with the penalties that are otherwise proposed in the act which would apply through the normal course of a prosecution process. They are somewhat less than they would be for a normal prosecution through the Industrial Magistrates Court but they are for those things that are very much black or white in terms of whether compliance has been achieved in terms of reporting and monitoring of respirable dust levels. You either have or have not done that. This would give the chief executive the power to impose those penalties where there are those clear breaches of those obligations.

Mr PERRETT: I have a couple of queries in and around workplace entry to get a greater understanding of the issues there and why it is important that these inspectors be able to enter without permission or without warrant. If you could just provide an example to the committee of what that would entail.

Mr Hinrichsen: Member for Gympie, I can probably give a very specific example. There was an investigation that was undertaken in association with a fatality on a mine site where it was identified that the fault in the equipment was as a result of some off-site work in a workshop that was not on the actual mine site. In that case the inspectorate was not able to, through its normal powers, gain access to that off-site workshop. If that workshop had been on the mining lease under the existing framework they would have had the powers, but with increasing outsourcing and contracting an off-site facility is just as relevant as something on site. There was no ability through the normal powers that exist for the inspectorate to gain access to that worksite to gather evidence to conduct interviews with those who had been conducting the work on that site.

Mr PERRETT: I accept that, but what process is there then to make certain that these inspectors do not abuse the power? If it is possible for them to go into head offices and seize documents, what regulates that process so these inspectors do not abuse this power? Who oversees that and keeps check on that part of the process?

Mr Hinrichsen: The inspectorate are obviously part of the department and report through a regulatory framework. Ultimately their conduct is subject to the normal oversight processes within government from the CCC through to the ombudsman. We also have the role of the Commissioner for Mine Safety and Health who is absolutely independent from the inspectorate in that space. The legislation does outline the limits to that entry ability. Clause 24, for example limits that. You cannot access a residential dwelling. The inspectorate needs to have reasonable grounds, needs to satisfy him or herself that there is no reasonable alternative in terms of accessing the site and it needs to be at reasonable times, it cannot be in the dead of night, it needs to be considered to be an appropriate time of entry in the circumstances. They are very broad powers, but it is often the case that the inspectors are investigating what might be a pretty serious incident as well. It mirrors the powers that otherwise exist in terms of entering a mine site and extends those to any related facility.

CHAIR: You might have to pull me back into line because the question I am asking may not be relevant

Mr Hinrichsen: I will seek the guidance of the chair.

CHAIR: I am happy to be pulled into line if I am out of line, do not worry about that.

Mr Hinrichsen: I might need to call on the deputy chair.

CHAIR: She will pull me into line. This is something that is becoming very evident in the coal industry at the moment and it has been happening for quite a few years, where a worker finds the courage to step up to management and notify the management, a supervisor or manager, of a risk in the workplace. A lot of people I talk to today are not prepared to do it simply because they feel as though they are being targeted and potentially they have shortened their working career within the industry. Is there anything in place to protect those workers from stepping forward and raising these safety issues without fear of being targeted at a later date?

Mr Hinrichsen: I might get my colleague Robert to elaborate, but there certainly are existing provisions within the two mining safety and health acts which makes it an offence to threaten or to apply reprisals in that type of scenario. Whether that provision is adequate, if there are still the concerns that you are expressing, is something we would be happy to consider further. Certainly there are existing provisions there. If our inspectorate was to become aware of anyone threatening a worker with reprisals if they are raising legitimate health and safety concerns that would be viewed very, very, very, very dimly. Robert, did you want to elaborate?

Mr Djukic: I think in the coal act, I would have to confirm this, it is around about section 275AB, it does make it an offence to take reprisal action, but also in addition to that, a worker who considers that they have been subject to reprisal can sue in the district or any court for damages that they suffer as a result of that reprisal action. There is an offence provision, but also a right to sue as well.

CHAIR: I accept that that is in place. I think there has to be a lot of work done to give these workers the ability for them to know that they have the ability to be able to step up and draw the attention to management of a risk factor or a potential incident. But they are just not going to do it. The workforce is under so much pressure that they are not prepared to step forward because they need their job. I think these amendments do put some responsibility back on labour hire in that management have to accept responsibility for the way that safety is delivered on the mine site. Am I right there?

Mr Djukic: Yes, that's correct.

CHAIR: I still think we need to be looking at some way of ensuring that workers do have that protection. Something that came to mind is that if a worker wants to make a complaint to the manager he should do that with a witness and that be recorded so that it can be traced back to the way the manager perceived the behaviour of that particular worker. It is rampant out there. You guys have to know about it. I am happy to do whatever I can to bring it forward, but I still cannot protect workers in the workplace from losing their jobs because they have the guts to step forward and raise a safety issue. I might leave it go there. Sometimes I speak outside the rules.

I want to talk about officer obligations. The provisions in these amendments reflect a deliberate policy shift away from applying accessorial or attributed liability to officers to a requirement for officers to be proactive to ensure compliance with duties and obligations under the legislation. Could you just talk to us a bit more about that?

Mr Djukic: Under the current provisions, as you say, Mr Chair, an officer of a company is in effect automatically liable for shortcomings at an operational level if there was a safety and health incident and they would bear the onus of proof of disproving that they are liable. What the proposed amendments do is they now impose a positive obligation on office holders. Rather than making them

automatically liable, they have an obligation like other statutory office holders within the mining company at an operational level, to ensure that safety and health measures are prioritised. Behaviours that would be consistent with discharging that obligation might be making safety and health a standing agenda item at board meetings and having regular reviews of incidents in the workplace to ensure that it is given appropriate priority within the corporate culture. I think that recognises that corporate culture has the potential to impact safety and health. A bad corporate culture which focuses too much on production at any cost will obviously impact it. It is intended, by imposing that positive obligation at that level, to drive that behaviour throughout the corporation.

Ms LEAHY: In relation to the membership of the advisory committees and the board of examiners, the bill proposes to increase the number of departmental Mines Inspectorate members of the committee. Why did the department feel it was necessary to have additional departmental officers on the advisory committees?

Mr Djukic: At the time the commissioner role was inserted into the Coal Mining Safety and Health Act in about 2009, the commissioner was at that time simultaneously the commissioner and a departmental employee, the executive lead for Mine Safety and Health. At that time there was equal membership for unions, government and industry on the advisory committees. Now that the commissioner sits outside the safety and health arm of the department it effectively means that the commissioner as an independent chair of the committee still sits, but it means that the department's membership has effectively diminished, it now only has two inspectors along with the three members from unions and industry. This amendment will ensure that the numbers are balanced across the tripartite membership and then you still have the independent chair who, of course, being the commissioner, has and is intended to have no alignment with any of those members of the tripartite membership.

Ms LEAHY: There is an exemption currently for the opal and gem mines with fewer than 11 workers. That exemption is going to be removed by this legislation. Can you perhaps explain to the committee what additional costs and paperwork will be placed on the opal and gem mining sector with the removal of these exemptions?

Mr Djukic: That might be something I would have to take on notice, Deputy Chair. I just do not have that to hand, sorry.

Ms LEAHY: Surely the department would know what additional paperwork requirements might be placed on that particular sector. I know some of the ones in my electorate are still doing it with a pick and shovel. Surely we would know what the additional paperwork requirement would be on them.

Mr Hinrichsen: That issue was certainly assessed as part of the regulatory impact statement and we can provide those details to the committee. Our metalliferous mines inspectorate has been working closely with that sector in developing, if you like, template safety management systems. They will be fit for purpose. Obviously a safety management system for a small operation that might have one, two, three or up to ten people would be much different to one associated with a site employing hundreds of people. It will be fit for purpose but I guess the concerning point is that fatalities in those mines are totally disproportionate with the workforce involved in recent years. The lack of effective safety management systems that are fit for purpose are considered important to protect the safety and health of workers on those smaller mine operations.

Ms LEAHY: And you will be able to provide us with details of any additional costs as well?

Mr Hinrichsen: That has been assessed as part of the RIS process. Yes, we certainly are able to provide that information.

CHAIR: I cannot let you go too early. Given that pneumoconiosis is a big issue at the moment, when we talk about notification of diseases, could you give us a run-down on what that means and what the changes in legislation will do from what we currently have?

Mr Djukic: Currently the legislation requires that occupational diseases such as pneumoconiosis be reported by the SSE for a site to the department.

Mr Hinrichsen: The SSE being the senior site executive.

Mr Djukic: The problem with that is that the site senior executive will not always know about a confirmed case within their workforce. That might be because the worker does not wish to disclose it to the SSE and that is their right. It may be that the diagnosis is not recorded on the health assessment that is done under the health scheme under the act. This amendment will allow for other individuals such as doctors to be prescribed as persons who must notify the department of cases of occupational disease, for example the nominated medical adviser of the worker. Of course the purpose there is so that the department can have a complete data set in terms of cases of diseases in the workforce for the purposes of health surveillance and monitoring.

CHAIR: A nominated medical adviser; I love these people. In recent years there has been a bit of concern with regard to the link between the nominated medical advisers and the mining companies themselves. Many of the mining companies sponsor them in local communities. There is certainly a need for that process to be more transparent. There is a lack of transparency there. Is there anything in this legislation that ensures that that transparency is there so that workers have the privacy that they desire?

Mr Djukic: Not in this legislation, but it is part of the significant reform work that the Monash team at the department is doing. There will be criteria introduced, for example for medical advisers working within the scheme. Ultimately, that will be implemented through new regulations; that is my understanding. I cannot speak to them comprehensively to date but certainly that is being addressed as part of those Monash reforms.

CHAIR: In terms of the chief executive power to suspend or cancel certificates of competency or SSE notices, we have a pretty good run-down of what it is about here but can you talk to us about that as well?

Mr Djukic: Currently an SSE does not require a statutory certificate from the board of examiners for that position. These amendments will allow the board of examiners to issue a notice to an SSE to say that they are an SSE and that they hold the competencies that CSMHAC have decided. As Mr Hinrichsen indicated before, if we have instances where an SSE's conduct has contributed or been seen to contribute to substandard safety practice at the mine, or if there is a pattern of conduct which over time has demonstrated that they are not fulfilling their important duties as an SSE, the chief executive can take that action to either suspend or cancel their notice which they need in order to be employed as an SSE. It is another compliance tool. If a person's conduct for example is not captured by prosecution, it still can be addressed through this mechanism. It does involve a natural justice process, so certainly the chief executive could not summarily revoke someone's notice or ticket. They would be given the opportunity to make submissions about why that should not occur and they will also have the right to appeal it to the industrial magistrate's court. For example, if the chief executive's decision were to cancel the notice, the industrial magistrate could substitute a different outcome such as suspension or suspension for a shorter period. Of course, they could overturn or uphold the decision.

CHAIR: I turn to contractor and service provider management. The amendment targets improvement in contractor and service provider safety and health at mine sites by requiring contractors and service providers to provide their safety and health management information to be considered as part of a single integrated safety and health management system for all mine workers. Could you tell us more about that? What is different to how it is currently?

Mr Djukic: What it means, I suppose, in practise is where a contractor is coming on to the site and their work procedures might be different to or inconsistent with the site's safety and health management system, they will have to go through a process where they will with the site senior executive or management at the mine site ensure that their processes, work practices and procedures are appropriately adjusted if need be to ensure that they can meet the same levels of safety and health required at the site. If they cannot achieve that, then obviously the work cannot proceed. It means that before work proceeds, before the person can come on to the site, that has to happen between the mine and the contractor to ensure that there is proper coverage across the contract workers.

CHAIR: Will this ensure that we have standards across the industry at the same level? I am aware that we have some that set very high standards and they should be good players in the whole process of mining and outside of mine sites, but there are others whose standards are not so high because they are competing all the time to submit the lowest price for a contract. Does this mean that now we should have some set of standards that are the same across the industry?

Mr Djukic: It will ensure that, if you are a contractor going to work at a mine site, you will be on the same standard as an employee of the mine site. You will be subject to the same systems, procedures and level of oversight from the mine.

CHAIR: That is one company, but down the road you have another company. We should be pushing to get the standards all the same. If this mining company has a lower set of standards, what happens in that situation?

Mr Djukic: That comes down to appropriate auditing, inspection and enforcement from the inspectorate looking at the mine sites themselves rather than the contractors to ensure they are doing their job properly. Auditing their safety and health management systems or their practices appropriately will ensure that.

CHAIR: That is what I was hoping you would say. Thank you very much for your attendance here today. It is always a pleasure to see a smiling face, especially on Monday mornings. We have questions on notice. Could we have those back by Tuesday?

Mr Hinrichsen: Noting that we are making a reappearance later this afternoon, we might be able to deal with them then as well. Thank you.

CHAIR: All right. Thank you for your time.

Committee adjourned at 9.31 am