



“Have your say on workplace safety laws.”



## **Submission on the exposure draft for a Model (Occupational Health & Safety) Act and Stage 1 Model Regulations**

**The proposed new 'harmonised' laws must raise OHS standards and not reduce any, so that all workers have their health, safety and welfare protected and improved to world's best practice. The Act must prevent injury, physical and psychological disease and also facilitate improvements in job content, with the aim being for the working environment to yield a positive return in the form of job diversity, job satisfaction, social participation and personal development.**

**Towards this end, the new OHS laws must ensure as a minimum:**

### ***1. Absolute right to OHS consultation***

That all workers have the right to be fully and genuinely consulted by their employer and workplace controller over all matters that potentially affect their health and safety and welfare as under the current NSW OHS legislation.

### ***2. Ensuring our human right to avoid unsafe work***

For all workers to have the unfettered right to refuse work they consider unsafe without loss of pay.

### ***3. Make employers and workplace controllers responsible***

An unqualified duty on employers and workplace controllers to provide a safe and healthy workplace and when this duty is not met, the employer and workplace controllers must prove they did not break the law.

### ***4. Election and powers of health and safety representatives***

Allow only workers to directly elect and dismiss health and safety representatives (HSRs) - without management interference. That HSRs have the highest standards of rights, powers and protections to do their job, including the right to issue provisional improvement notices (PINs) and stop work notices with immediate effect. Rectifications demanded by any HSR in the PIN not to be prevented from being enacted by employer or regulator appeal processes. All HSR powers to be available on election and not reliant on the employer providing training. HSRs and OHS committee members to have access the training of their choice on paid time at the cost of the employer within reasonable timeframes.

### ***5. The role of unions***



Unions to have unrestricted right of entry powers to consult workers over OHS issues and inspect suspected breaches. Union representatives to have the power to immediately copy all available relevant documents, take photographs and make audio and video recordings of incidents and take witness statements in connection with suspected breaches as is currently available in NSW and ACT law to protect workers. That upon application by union representatives OHS right of entry permits are issued in all jurisdictions in a quick and uncomplicated manner.

#### ***6. Enable workers and unions to take court action***

Workers and their unions to have the right to take court action against employers and workplace controllers for breaching health and safety laws. The right to notify OHS disputes to state industrial relations commissions (or where not available tribunals with OHS powers) for conciliation and if necessary arbitration over all safety matters in order to prevent breaches of safety.

#### ***7. Employer and workplace controllers penalties & prosecutions***

Penalties for incidents that negligently expose workers, to the risk of (or actual) fatality, serious injury or disease, to include the option of lengthy gaol sentences for company directors (including government CEO's). For corporate fines to be based on a significant percentage of turnover or profit (similar to Trade Practices Act), with compulsory victim compensation and corporate rehabilitation orders - three million dollars as the proposed top fine means nothing to a large employer, or workplace controllers or government agencies.

**Labor promised to improve 'Your Rights At Work'.**

**Julia Gillard promised no reductions in safety standards.**

**Workers have the human right to go to work and come home safely again.**

**The Model (Occupational Health & Safety) Act must make this happen without compromise.**