

Submission by TROY Smart 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, 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, 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 workers have the right to be fully and genuinely consulted by their employer and site head contractor over all matters that potentially affect their health and safety and welfare. For workers to have the unfettered right to refuse work they consider unsafe without loss of pay.

2. Make employers and site head contractors responsible

An unqualified obligation on employers and site head contractors to provide a safe and healthy workplace and when something goes wrong, they must prove they did not break the law.

3. 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). For rectifications demanded by any HSR PIN not to be prevented by employer or regulator appeal processes. All HSR powers to be available on election. HSRs to access the training of their choice on paid time.

4. 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. That upon application by union representatives OHS right of entry permits are issued in all jurisdictions in a quick and uncomplicated manner.

5. Enable workers and unions to take court action

Workers and their unions to have the right to take court action against employers and site head contractors for breaching health and safety laws. Also to prevent breaches, 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.

6. Employer and site head contractor 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. For corporate fines to be based on a significant percentage of turnover or profit, with compulsory victim compensation and corporate rehabilitation orders - three million dollars as the proposed top fine means nothing to a large employer or head contractor.

Labor promised to improve 'Your Rights At Work'.

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

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