

12 December 2024

Hon Jarrod Bleijie MP
Deputy Premier
Minister for State Development, Infrastructure and Planning
Minister for Industrial Relations

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Dear Deputy Premier

Proposed Amendments to Queensland's Work Health and Safety Laws

Thank you for acting urgently to pause the Best Practice Industry Conditions and committing to return productivity to worksites while also protecting safety of workers.

A large amount of work health and safety legislation was rushed through by the former government in the closing months of the parliamentary term. Much of this regulation was ill-considered in that it:

- Allows the CFMEU to use safety as an industrial weapon
- Does not add to positive safety outcomes
- Adds more red tape for construction site managers and business owners to comply with, and
- Moves Queensland's Work Health and Safety laws further away from national consistency with the Commonwealth *Fair Work Act 2009* and national model Work Health and Safety laws.

We appreciate your recent action to address these problems by making urgent amendments to Queensland's Work Health and Safety laws, which have:

- Removed automatic right of entry for permit holders except for immediate or imminent risks to the health and safety of a worker.
- Required Health and Safety Representatives (HSRs) to issue 'cease work' notices directly to workers, and not to a Person Conducting a Business or Undertaking (PCBU).
- Repealed recent changes which would have permitted HSRs and WHS entry permit holders (EPHs) to take photos, videos, measurements and conduct tests at the workplace when undertaking their roles.

While these amendments are beneficial, we believe they do not fully address problems created by the former government's amendments to Queensland's safety laws.

We have identified further changes we believe are necessary to address productivity and safety, and bring the Queensland laws back in line with the national model safety laws, which we have outlined below:

DESCRIPTION	PROPOSED CHANGE
requirement to notify workers in writing that they may request election of HSRs	Repeal Section 50B
defining who is a union, who is a suitable entity, and who is an excluded entity (“red unions”)	Repeal Part 5, Division 1AA
requirement for PCBU to provide any WHS notices to HSRs	Repeal section 70(1)(ca)
requirement for PCBU to inform HSR when an inspector enters	Repeal section 70(1)(ga)
allow HSRs to choose their own training provider, and pay any overtime, penalties or allowances they would have received if at work	Repeal amendment to section 72
if a WHS issue exists, and the workers are in a work group, the HSR becomes a party to the issue. If no HSR is elected, the workers or their union becomes a party. A union also becomes a party if they notify the PCBU that they want to be	Repeal sections 80(1) (ca) and (e)
if a union becomes a party they may enter and stay on site to assist in the resolution of the issue	Repeal section 81(3)
if an EPH exercises their right to enter, they may remain at the workplace for the time necessary to achieve the purpose of the entry	Repeal section 118(1)(f)

Resolving Disputes Over Right of Entry

There are also changes needed to achieve timely and effective resolution of disputes over right of entry between a Person Conducting a Business or Undertaking (PCBU) and union officials.

Despite the government’s efforts to provide fair and balanced legislation which supports both safety and productivity outcomes, if a PCBU had grounds to refuse entry to a union official, and the union official still entered or attempted to enter, there is no one that has the power to immediately resolve the matter for the PCBU.

Under section 141 of the Queensland Work Health and Safety Act (the Act), an inspector can assist to resolve such a dispute, but a union can ignore them.

Section 142 of the Act permits the Commission to decide disputes, but that process is not urgent or immediate, nor is it on site.

Dealing with right of entry disputes is further constrained in Queensland due to a Memorandum of Understanding (MoU) between Queensland Police Service (QPS) and the Office of Industrial Relations (OIR). The practical effect of the MoU is that police officers do not attend sites to resolve right of entry disputes or the offences that sometimes result (such as threats, violence, intimidation or assault).

In order to improve dispute resolution, two important changes are required:

- WHS inspectors should be well resourced, independent and unbiased, so they can intervene in right of entry disputes without unreasonable delays.
- QPS should support WHS Inspectors and uphold the rights of PCBU's refusing unauthorised and unlawful access to worksites. To support this, the MoU between QPS and the OIR should be amended.

Conclusion

The CFMEU's cultural practice of bullying and intimidation on Queensland worksites that our members continue to report must end.

We request that you urgently consider making these further amendments.

If you would like to discuss any of the issues raised above, please contact me on [redacted] or [redacted].

Regards,

Paul Bidwell
CEO