



Community & Public Sector Union
Civil Service Association of WA

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Mr Lex McCulloch
WorkSafe Western Australia Commissioner/Executive Director
WorkSafe Western Australia
Department of Commerce
Locked Bag 14
CLOISTERS SQUARE WA 6850

31 August 2016

Dear Mr McCulloch

CPSU/CSA Submission on the WHS Regulations Discussion Paper

The Community and Public Sector Union/Civil Service Association of Western Australia Incorporated (**CPSU/CSA**) is a large Union representing nearly 14,000 Western Australian workers. We are dedicated to improving workplace conditions for our members and advocating for and contributing to a fair and just society. Workplace health and safety (**WHS**) is a vital area for workers, employers and the broader community. The CPSU/CSA thanks WorkSafe Western Australia (**WorkSafe WA**) for this important opportunity to comment on the 'Work Health and Safety Regulations for Western Australia: Discussion Paper' by WorkSafe WA, Department of Commerce (**Discussion Paper**).

Narrow focus of Discussion Paper and process

It is disturbing that the WA Government's main focus of modifying the model WHS Regulations for WA is to minimise cost for employers and 'to minimise prescription and reduce red tape, keeping the burden of compliance at an acceptable level'.¹ This narrow focus has been continuously repeated in multiple materials over several years. It was the basis of the 'Regulation Impact Statement: Model Work Health and Safety Regulations and Codes of Practice in Western Australia' (December 2012), undertaken by Marsden Jacob Associates (**WA RIS**). It appears that this repeated, narrow focus has clouded the process and the proposed outcomes and limited discussion around improving safety outcomes.

Like all areas of legislative reform, the interests and needs of various stakeholders must be appropriately assessed and balanced to provide an acceptable position that addresses these needs as much as possible. It is proposed that a one-sided focus, without a balanced assessment and consideration of the needs of all stakeholders in WHS, provides an unbalanced and unacceptable position that ultimately does not help employers or workers, the two key

¹ Department of Commerce, Government of Western Australia, *Update on Work Health and Safety laws consultation* (18 March 2016) <https://www.commerce.wa.gov.au/worksafe/update-work-health-and-safety-laws-consultation>.

stakeholders in WHS. The main purpose of WHS legislation (to promote and improve WHS standards and provide protection from harm for workers) has been insufficiently addressed due to the repeated and consistent focus on reducing the cost and burden of compliance for employers.

It is essential that the WA Government adopts a broadened focus and pays appropriate attention to improving safety standards and outcomes. This will enable the Government to make a truly fully informed decision.

Consistency with WA laws

The Discussion Paper states that the recommendations seek to 'align the requirements as closely as possible to the current OSH regulations'², which is demonstrated by 'consistency with current WA laws'³ being the rationale for the majority of recommendations. The process has strayed away from the objectives of harmonisation and brings into question the purpose of current legislative changes.

At best, the current approach to safety appears to be one of maintenance rather than improvement. There are exceptions to this, such as Recommendation 91 which proposes an additional provision requiring de-energising the main switch before entering a roof space to combat electrocution deaths. However these additional safety measures are few and far between in the Discussion Paper and the overall impression is of decreased regulation. This is obviously problematic for employees, who bear the safety risk in their workplaces.

Incomplete legislative framework

It is disappointing that the reform process in WA has taken a considerable number of years and is still only partly complete. We note that the WHS Bill has not been finalised, which makes it impossible to fully comment on the proposed WHS Regulations, which provide detail to the Act's provisions. The new codes of practice have also not been developed and there is a risk that, without appropriate transitional provisions, the existing codes will cease to be legally binding when the new WHS Act comes into effect. We fully support and echo UnionsWA's submissions in this regard and urge WorkSafe WA to take the necessary steps to protect safety standards.

Importance of investing in WHS

It is acknowledged that an increase in safety requirements under the WHS regulations will require additional resources for WorkSafe WA and employers. WorkSafe WA's 'Submission Concerning the Costs of Implementing the Model Work Health and Safety Regulations and Codes of Practice' dated October 2012 outlines many barriers to successful implementation of the model WHS regulations which can be easily resolved with adequate funding. We encourage the WA Government to make the investments required for WHS. This includes providing additional FTE to WorkSafe WA and additional resources for employers if required. The cost of unsafe work is too high.

The short-term investment required to improve WA's safety standards is a long-term investment in WA's future. Current statistics publicly available from both WorkSafe WA and WorkCover WA show that current levels of workplace illness, injury and death are still unacceptably high and

² WorkSafe WA, Department of Commerce, Government of Western Australia, *Work Health and Safety Regulations for Western Australia: Discussion Paper* (1 June 2016), 5.

³ WorkSafe WA, Department of Commerce, Government of Western Australia, *Work Health and Safety Regulations for Western Australia: Discussion Paper* (1 June 2016), 81.

more needs to be done to protect workers from harm. For example, WorkSafe WA's most recent State of the Work Environment report states that '19 days – [is] the average number of days a person is fatally injured in a workplace in Western Australia – a negative fall from the 22 days recorded previously'.⁴ We cannot simply maintain existing standards when workplace deaths are increasing in WA.

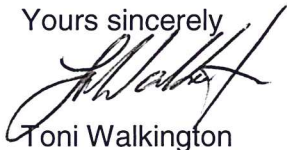
Please find our comments on the recommendations for consideration at Attachment A.

In addition to our submissions, the CPSU/CSA fully supports and endorses UnionsWA's Submission on the Discussion Paper.

The CPSU/CSA again thanks you for the opportunity to provide feedback on the recommended amendments to the WHS Regulations. We look forward to working with you in future to continuously improve safety standards and protection for workers with a fair and balanced legislative framework.

If you have any questions or would like to discuss this further, please do not hesitate to contact Miss Danielle Arntzen, Workers' Compensation Officer, on (08) 9323 3800 or via email at Danielle.Arntzen@cpsucsa.org.

Yours sincerely



Toni Walkington

WA Branch Secretary / General Secretary

Att.

⁴ WorkSafe WA, Department of Commerce, Government of Western Australia, *State of the Work Environment: Work-related traumatic injury fatalities, Western Australia 2006-2007 to 2014-2015* (October 2015), 5.