



Occupational Health Society of Australia (WA)

Comment on Draft - Work Health and Safety Bill 2014

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The Occupational Health Society of Australia (WA) submits its comments on the draft Work Health and Safety Bill 2014 for your consideration.

Page/Clause	OHSWA Comment
Page 1	<p>The title of the Act does not include 'welfare' although the Act provides for the health, safety and welfare of persons at work or affected by work.</p> <p>The Society considers that <u>well-being</u>, rather than welfare, is a more relevant concept, described in the literature as the ability of people to live their lives independently and optimally.</p> <p>(The term 'welfare' is generally associated with benefits given to an individual)</p>
Page 3, Division 3, Interpretation	<p>The term 'welfare' is not defined in the Act.</p> <p>We note that 'welfare' is not included in many clauses of the Act which appear to warrant its inclusion.</p> <p>Some examples are:</p> <p>Page 2 Division 2, Object – Sub-clauses (b), (c) and (g).</p> <p>Page 15 Title of Part 2 – Health and Safety Issues</p> <p>Page 17 Management of Risks – sub-clause 1(a).</p> <p>Page 17 Primary Duty of Care clauses 19(1), (2), 3(a) (f).</p> <p>Page 27 Clause 27, 5(a).</p> <p>Pages 29-31 Division 5 – Offences and Penalties. 'Welfare' does not appear throughout this division.</p> <p>Page 57 Functions of Committees, Sub-clauses (a) & (b).</p> <p>Page 138 Schedule 3 – Regulation Making Powers, Sub-clause 4(c)</p>

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<p>Page 5 Definition of Health</p>	<p>The Society considers that the definition should be augmented to also include "and functional and psycho-social well-being"</p>
<p>Pages 16-17 Primary Duty of Care Clause 19(3)(e)</p>	<p>This clause requires clarification as to the meaning of 'adequate facilities' for the welfare at work of workers.</p> <p>The definition of 'welfare' has already been commented on and this is another example of the need to re-define it.</p>
<p>Page 17 Clause 19(3)(g)</p>	<p>The Society considers that the monitoring of workers' health – both physical and psychological - is an essential measure which warrants expert planning and design in order to be genuinely effective. To achieve this, the monitoring will need to be incorporated into an ongoing management cycle of planning, designing and implementation. Regular evaluation and assessment would be essential to enable timely modification when necessary with records maintained for <u>at least</u> 30 years.</p> <p>A general duty that employers monitor their workers' health and workplace conditions without specific and clear requirements will <u>not</u> achieve the objectives of the legislation.</p>
<p>Page 38 Part 5, Consultation, Representation and Participation</p>	<p>The Society considers that the requirement to consult with workers should not be compromised by the 'as far as reasonably practicable' qualification.</p> <p>It is difficult to justify a failure to consult on those grounds, particularly when the requirement is fundamental to the maintenance of physical and psychological health and the capacity to communicate is simplified by the communication options available today.</p> <p>Direct worker involvement is demonstrably effective and has been responsible for the significant advancements in occupational health and safety so evident today.</p>
<p>Page 102 Part III, Enforceable Undertakings</p>	<p>The Society does not support the removal of the regulator's ability to issue enforceable undertakings.</p> <p>This ability is used effectively in other jurisdictions and is an ideal alternative to the issue of prosecution notices as it enables prompt and appropriate changes to be made in the workplace.</p> <p>The fact that this option has not been exercised in the past is no defence for its abolition.</p>



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Page 138 Schedule 3, Regulation Making Powers	Clause 4, Protection and Welfare of Workers (b) regulating or requiring the provision of specified facilities for the welfare of workers at the workplace. The Society is concerned with the identification of specified facilities. What will be the process for identifying them and who is to be responsible to do so?

Conclusion

The Society believes that the passage of this legislation will result in an increased emphasis on the occupational health of the workforce provided its application reflects its main object, which is to secure the health and safety of workers and workplaces.

The principal purpose of the occupational health discipline is the primary prevention of circumstances that result in harm to the health of workers.

This legislation, applied conscientiously, can achieve this objective.

PATRICK B GILROY AM
SECRETARY