

# Unions are calling on Government to adopt harmonised OHS laws that:

**1 Incorporate the highest health and safety standards to protect working Australians from death, injury and illness.**

*Workers have the most at stake...*

Workplace injury and disease destroys quality of life, social and family activities, relationships, job prospects and career advancement. These costs are borne by workers, their families and their communities. The only way to change this is by giving workers a major say over their own health and safety. Harmonised OHS law must enshrine the right of workers to do this. Worker involvement via their unions improves health and safety — it's been proven.

**Higher OHS standards are affordable for business. Occupational injury and disease costs the Australian economy about \$35 billion a year, or 5% of GDP. It's estimated that only 3% of the total cost is borne by the employer while workers and the community carry the other 97% of the burden.**

**2 Place the burden of proof on employers when they breach the law.**

*Employers have a legal duty to ensure workers' health and safety is protected...*

Employers are responsible for maintaining a safe workplace. If something goes wrong, it is logical and fair that employers bear the responsibility to prove they did everything possible to protect their workers. It shouldn't be up to prosecutors to prove that the employer didn't do enough to protect workers. This is what some employers are advocating. Harmonised OHS law must place the burden of proof onto the employer.

**3 Give the highest standards of rights, powers and protections to workplace health and safety representatives.**

*Elected health and safety representatives lift OHS standards...*

It is critical that worker-elected health and safety representatives (HSRs) have powers and protection to keep workers and workplaces safe and healthy. Currently, HSRs have different rights depending on which laws apply in their workplace. Harmonised OHS law must incorporate the best standards from each system in order to be effective.

**4 Ensure that unions can represent workers' rights.**

*Union workplaces are safer workplaces...*

Unions play a crucial role in securing safer, healthier workplaces. Research shows that unionised workplaces in Australia are three times more likely to have an OHS Committee; and are twice as likely to have done an OHS Audit. International studies also confirm that there is better compliance with OHS laws and reduced injuries where there are unionised HSRs. This is because unions train, resource and protect HSRs, enabling them to organise their workplace and deal with OHS issues. Union HSRs are also important as there are not enough workplace inspectors.

**In a six month trial conducted during 2006, union OHS officials made 114 visits to 71 building sites. Unions identified 1155 breaches of OHS laws, which may never have come to light without union right of entry on OHS issues.**

**5 Enable a worker's union to prosecute an employer for breaching OHS laws.**

*Unions can take positive steps to help improve health and safety when regulators fail...*

Since the 1940s, unions in New South Wales have had the power to prosecute employers in cases where regulators have been unable or unwilling to prosecute; and in the past 15 years unions have achieved a 100% success rate. In each case there have been significant improvements in OHS. There is no evidence that unions have abused this power. Harmonised OHS law needs to ensure that this practice continues. It's nothing new — ordinary people can start criminal or civil proceedings in other areas of the law.

**6 Implement tougher and more effective penalties for employers who break the law.**

*Tougher penalties will deter employers from causing death, injury or illness...*

Current penalties do not reflect the serious nature of breaches of OHS law that result in death and injury.

If someone dies because an employer has failed to provide a safe workplace, then that employer should face gaol. Effective workplace manslaughter laws will deter employers from breaking the law. These laws are already in place in the Australian Capital Territory.

New national OHS laws must be tough enough to act as a deterrent and ensure that employers can't avoid paying penalties by winding up a company.

**In NSW there were 89 unpaid fines in 2006 for serious workplace safety breaches, which totalled almost \$5 million.**

# Workplace health and safety – **worth fighting for**

## **WE NEED TO ACT NOW**

Employers are lobbying hard and workers need to do the same. The Panel reviewing the laws will produce a draft report at the end of October and a final report in early 2009. Over the next few months there are many ways you can campaign for the best harmonised OHS laws.

### **Things to do in your workplace and in your networks:**

- Display copies of the Union Charter of Workplace Rights in your workplace.
- Encourage people to sign the petition in support of the Union Charter of Workplace Rights. Download the petition at: [www.actu.asn.au/OccupationalHealthSafety/default.aspx](http://www.actu.asn.au/OccupationalHealthSafety/default.aspx)
- Get the Campaign Kit from ACTU website.
- Pass a resolution at your workplace meeting and send it to your union.
- Use existing forums to raise awareness of the need for the best possible harmonised OHS law, for example at tool box meetings, staff meetings or OHS meetings.
- Keep workers updated, collect stories and involve them in campaign actions.
- Talk about it within your OHS networks.
- Arrange a meeting with your local MP.
- Talk to and seek support from your family, co-workers and people in the broader community.
- Participate in the 'Your Rights at Work' campaign.

**Call the UNION HOTLINE on 1300 362 223 for updates.**

**ACTU**

**WORKPLACE  
health  
& safety**  
worth fighting for

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# **TIME TO DELIVER** Highest standards for your **health and safety at work**

**EVERY AUSTRALIAN HAS THE RIGHT TO GO TO WORK AND COME HOME SAFELY**

Occupational health and safety (OHS) laws exist to prevent workplace injury and illness. There are currently nine different OHS systems in Australia. As a result, some workers have less protection than others depending on the State or Territory they work in, or because they are covered by the weaker Commonwealth OHS system.

The Federal, State and Territory Governments have agreed to move towards a simpler, more harmonised approach to OHS law. Some State Governments have already started this process. Employers also want a more streamlined approach, but mainly to reduce "red tape" and make it cheaper to do business.

*An employer's perspective*

**'It is often suggested that OHS should be the top priority. While this is a worthy ideal every organisation should strive for, the reality is that making a profit will always be the highest priority of a business.'**

*Australian Industry Group, Workplace Health and Safety, Autumn 2008*

## **THE INCONVENIENT TRUTH**

- As many as 8000 Australians are estimated to die each year from work-related incidents or illnesses. That means 21 deaths every day. (Access Economics)
- There are 689,500 injuries and illnesses in Australian workplaces each year — that's 1890 every day. (ABS 2005-06)
- The Federal Government's own health and safety body estimated that one in seven Australian workers is exposed to at least one substance in their workplace that causes cancer.

## **HARMONISED WORKPLACE HEALTH AND SAFETY LAWS**

Unions support a harmonised approach to OHS law in Australia, provided that it delivers the highest standards in health and safety and that every worker is better off. That's why unions developed the 'Charter of Rights for OHS, Compensation and Rehabilitation'. Any new law must enshrine the rights and responsibilities that are set out in the Charter.

For more information, see [www.actu.asn.au/OccupationalHealthSafety/default.aspx](http://www.actu.asn.au/OccupationalHealthSafety/default.aspx)

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