Work Health and Safety and Other Legislation Amendment Bill 2017

MASTER BUILDERS QUEENSLAND SUBMISSION

Contact

Melanie Roberts, Manager Workplace Health, Safety and Environment Policy

Phone: 0498 498 480 or (07) 3225 6444

Email: melanie.roberts@mbqld.com.au

Master Builders Queensland, 417 Wickham Terrance, Spring Hill, QLD 4000.

EXECUTIVE SUMMARY

Master Builders welcomes the opportunity to provide feedback on the *Work Health and Safety and Other Legislation Amendment Bill 2017* (the Bill).

Master Builders believes that a death in the workplace is one too many. Workplace safety is a key priority for our organization and the businesses we represent. To this end, we support initiatives which will genuinely increase safety in workplaces throughout Queensland, resulting in less workplace injuries and deaths.

It must be highlighted that worker fatality rates have fallen substantially over the last 15 years both at the national and state level. We believe this trend has been a result of better education, assistance and advice on creating safer workplaces. On this basis, we support initiatives that will assist, empower and encourage employers and workers to not only improve safety in the workplace, but also improve the safety culture and attitude in their businesses. Historically this has been achieved through proactive measures such as improvements in education and training, sound safety programs, targeted compliance campaigns and safety leadership mentoring. We do not believe that the punitive and reactive nature of the proposed amendments will improve safety in workplaces.

Our submission outlines our feedback and concerns on the following elements of the Bill:

- Introducing the offence of industrial manslaughter;
- Prohibiting of WHS undertakings (enforceable undertakings) for circumstances involving fatalities;
- establishing an independent statutory office for work health and safety prosecutions;
- referring WHS disputes to the Queensland Industrial Relations Commission;
- restoring the status of codes of practice;
- requiring a mandatory review of codes of practice in operation in Queensland every five years;
- mandating training for health and safety representatives (HSRs);
- PCBUs will be required to provide HSR lists and copies of provisional improvement notices (PINs) issued by HSRs to the regulator;
- allowing the discretionary appointment of a work health and safety officer (WHSO);

Our most critical concern is the proposal of the new offence of Industrial Manslaughter. It is understood that this is to target the senior decision makers in large businesses and hold them to account for their failures when a fatality occurs. The *Work Health and Safety Act 2011 (QLD)* (the WSH Act) offences and the offence of Criminal Manslaughter can already punish any person within the workplace who is responsible for causing a workplace injury or fatality. We are of the firm view that the creation of the new offence of Industrial Manslaughter is not necessary, and such an extreme punitive amendment will have little to no direct impact on workplace safety.

We believe that one of the outcomes of this Bill will be a decline in competitiveness, productivity and profitability of businesses, as well as an increase in unnecessary paperwork, policies and involvement of lawyers, which will only increase the internal business compliance measures for health and safety without any real impact on practical safety solutions.

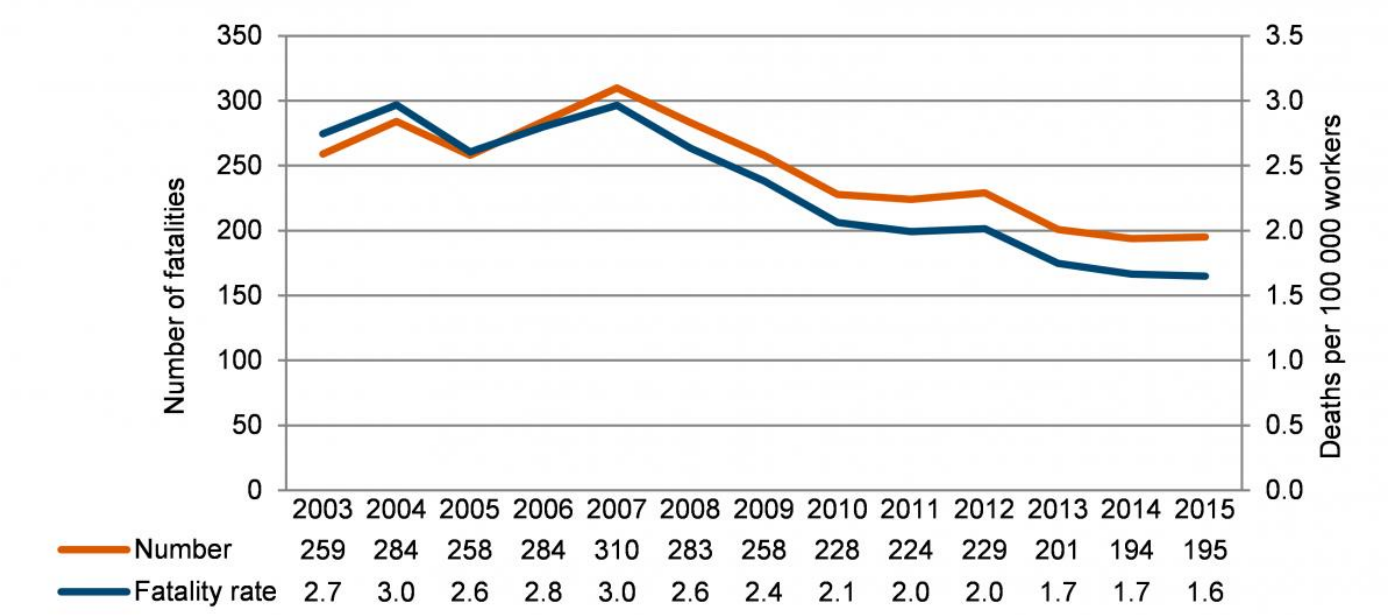
The Government already has the ability to penalize all of those people who do not take safety seriously and whose workplaces are unsafe. These proposals do not add to these powers, but rather shift the focus of safety improvement from practical safety solutions and education to one of punitive action, fear and retribution. In an era where improving safety culture is proven to be the key to safer workplaces, and where industries are seeing the benefits of better safety leadership, we cannot understand why the Government is so intent on stifling this progress.

PUNITIVE ACTION IS NOT A DETERRANT TO NON-COMPLIANCE

Workplace deaths and injuries are largely caused by a failure of a person to carry out work in accordance with the laws, standards, company policy and direction. Master Builders is seriously concerned that the shift towards hard compliance and punitive measures as evidenced by this Bill, will result in a shift in focus away from education, advice and awareness which are the key elements of achieving a safer and more productive workplace.

In the early 2000s there was a substantial shift across all jurisdictions' regulators towards an educative and advisory approach to safety compliance rather than taking hard punitive actions. Since this shift there has been substantially improved safety culture across all industries which has resulted in a decline in workplace incidents. More specifically, the Best Practice Review, highlighted that Queensland had one of the highest decreases in traumatic injury fatalities between 2010 and 2015.

Further to this, the worker fatality rates nationally have dropped substantially over the last 15 years, as highlighted in the table below from the Safe Work Australia Comparative Monitoring Report (18th Edition) - Worker Fatalities 2003 – 2015.



In further support of this approach, and in support of the harmonisation model, in 2012 the Queensland Government adopted the "tall" work health and safety enforcement pyramid, with many levels, which provides scope for proper escalation of enforcement responses by regulators. It provides a framework to facilitate an Regulator's efforts to promote prevention. It also creates incentives, including through enforcement action, to address systematic failures before they result in injury.

There is a long history of reviews, including those that brought about the establishment of the National Model Workplace Health and Safety legislation that have confirmed that increasing the punitive approaches to achieve better compliance is not an effective deterrent. Better education, accurately focused compliance campaigns, keeping codes of practice and guidance material up to date, having an active and experienced inspectorate and providing a balance of advice and punitive options are a far more effective deterrent, and is more likely to result in improved safety outcomes. The results over the last decade supports the effectiveness of that approach.

The Best Practice Review Report provided many recommendations about improving the effectiveness of the inspectorate, the compliance activities and educational campaigns. In addition, the Department has commissioned a three-year research project with QUT Professor Jeremy Davey, which also looks at the inefficiencies of the inspectorate, their skills and expertise and ways in which the inspectorate and department can improve their performance and provide more consistency out in the field.

On this basis, before the department even considers adding an additional unnecessary layers of offences and penalties to the enforcement framework and additional red tape, they must first improve those areas which provide much more benefit to

achieving better safety outcomes for workplaces, such as improving training and education of WHS inspectors and delivering more safety compliance and education campaigns. Above everything the Regulator needs to better understand the needs of employers in terms of education and advisory assistance, and ensure the correct balance between enforcement and education that will result in improved compliance. Such punitive responses as the one being proposed should only be considered when the Regulator, and more importantly the enforcement arm, is working at its optimal capability, because only then is there a clear and accurate representation of whether the current system has failings.

At this point the Government has not shown any evidence that suggests that the current enforcement and compliance framework, if implemented and executed effectively, fails in delivering better safety outcomes.

SPECIFIC COMMENTS - AMENDMENTS TO THE WORK HEALTH AND SAFETY ACT 2011 (QLD)

Clause 4 – Insertion of Part 2A Industrial Manslaughter

Master Builders strongly opposes the new proposed offence of Industrial Manslaughter. We believe that the introduction of such an offence fails on the following grounds:

- *The current offences under the WHS Act and the Criminal Code are sufficient.*
- *Failure to prosecute or unsuccessful prosecutions does not justify legislative change.*
- *There are consequences for all industries not just priority industries that must be considered.*
- *Definitions of "officer", "senior officer" and "executive officer" and are not consistent.*
- *Changing the enforcement framework will undermine national consistency.*

In addition to these issues, we believe that the way in which the provisions of the offence are drafted, including the current provisions that compel people to give interviews and restrict the right to silence, give WHS inspectors and investigators greater powers than the Police. For example, a Police officer must obtain a warrant to inspect a premises when there is a belief of criminal activity, whereas a WHS inspector has an automatic right to inspect. This is not appropriate as these offences hold criminal charges and should be subject to the same legal procedures and fairness. This is of particular concern given that inspectors and investigators are currently considered to be lacking in competence and ability to execute the current enforcement framework accurately and effectively.

There is no "gap" in the current offences framework

The current legislation takes a graduated enforcement approach to breaches of the legislation. There is a range of enforcement options, which provides the regulator with the flexibility to match their responses to the facts of the case. These enforcement options include provisional improvement notices, prohibition notices, non-disturbance notices, enforceable undertakings as well as the three categories of penalties. In addition to these enforcement options held by the regulators, the DPP also have the ability to charge a person/s with the criminal offence of "Manslaughter" under the Queensland Criminal Code. It must also be noted that the penalties have been increased substantially in the last 12 years including the introduction of gaol time.

The current categories (1,2 and 3) have been in the WHS legislation since the 2011, in addition there has been a shift from a system based on causation, to one based on presence of a risk, thus implicating more people (being those responsible for risk) in a prosecution. Since 2012, there have been a number of category 2 and 3 prosecutions, some largely due to the evidence and facts of the case, and others due to public policy decisions. The majority of these decisions have resulted in monetary retribution on the lower end of the penalty scale for that offence. Queensland has only this year commenced its first Category 1 prosecution, which begs the question as to why a system that is largely untested could be considered a failure.

In addition to the offences under the WHS Act, there are several criminal duties under the Criminal Code that could be used to prosecute persons for workplace deaths or serious incidents, and which result in a criminal charge and potential gaol time. These provisions include (but may not be limited to, depending on the facts of the case):

- Section 289 Duty of persons in charge of dangerous things.
- Section 286 Duty of a person who has care of a child.
- Section 328 Negligent acts causing harm.
- Section 328A Dangerous operation of a vehicle.

It must be noted also, that Manslaughter under the Criminal Code is a charge against any person, therefore a director of a company, a "senior officer", a supervisor, or a worker can be held to account for a death irrespective of the introduction of Industrial Manslaughter.

Finally in addition to the offences outlined above, in 2011 officers of a company were allocated a duty in their own right and must exercise due diligence to ensure that the person conducting the business or undertaking complies with their duties and obligations.

Master Builders' view is that a positive duty which makes company officers culpable for failing to meet their corporate governance responsibilities by preventing corporate misconduct is a more effective approach to work health and safety regulation than introducing an Industrial Manslaughter offence.

The liability of company officers shifts the emphasis to ensuring that those people in the best position to demonstrate safety leadership do so, rather than focusing solely on punishing the corporate failure. Ex post facto punishment is less likely to lead to better safety outcomes than a duty to take positive action based on operational feedback.

Similarly, there have been very few cases where the due diligence criteria has been tested in a court of law, again raising the question of whether there are in fact any failings with the current system which necessitate imposing an additional layer of legal consequence.

The breadth of offences across the WHS legislation and the Criminal Code does not leave any gap by which a person is unable to be held to account for their negligent acts or their recklessness that results in a workplace death or serious incident.

Failure to prosecute does not justify legislative change

Master Builders does not believe that the current framework of offences has been properly tested in order to establish that it in fact is not sufficient in penalising culpable persons.

To date there has been no completed category 1 prosecutions, with the first in Queensland launched in February this year. In addition, there are three criminal Manslaughter charges on foot for industrial fatalities, two against business owners and one against a plant operator, however these are yet to be bought before the courts.

In 2014-2015 there have been over 22,000 proactive workplace visits by inspectors, 768 reactive workplace visits, over 5000 workshop/ seminars/ education activities and only 2541 notices given (inc. prohibition, improvement and infringement). In this same period, however, only 54 prosecutions have been finalised, and 42 of those have had a successful conviction (resulting in an order or agreement).[1] Queensland has had 30 deaths in this period and in the period of 2013-14 (newer data not yet available) Queensland had 61,000 nonfatal workers compensation claims.[2]

[1] Comparative Performance Monitoring Report – Comparison of Work Health and Safety and Workers Compensation schemes in Australia and New Zealand, 18th Edition (March 2017), Safe Work Australia, pp15-17.
[2] Queensland Workplace Health and Safety Board, Key Statistical Indicators, 1/2014 quarterly update.

Since the introduction of the harmonised laws and the introduction of the tiered offences, most Australian jurisdictions recorded an increase in both the number of legal proceedings finalised and the number of legal proceedings resulting in a conviction, order or agreement, however for Queensland specifically, this increase was very small.

Even through the success rate of prosecutions has Queensland is one of the highest, and the department has significant amounts of contact with workplaces, the number of notices being given and the rate of prosecutions has been in decline. This can suggest several things:

- That the advisory processes being implemented in workplace visits is effective, thus negating the need to give notices.
- That the inspectors are not giving notices out where warranted, due to fear of retribution, uncertainty in their knowledge of the laws or incompetence in their skills and understanding of the industries to which they are assigned.
- That the department only prosecutes matters that they know will get a conviction. Whilst this is a sound policy, it certainly does not push the legal boundaries and test the full breadth of the laws; and/or
- That there is some failings of the investigative process that is hindering the ability of the prosecutors to get a successful conviction, or run a positive case.

If the above is correct, then the Regulator needs to:

- provide better support, education and training to their inspectorate to create a better balance between advisory and hard compliance;
- to be less risk adverse when considering the merits of prosecutions;
- improve on the accuracy of their investigations to ensure prosecutions are not hindered due to procedural error; and
- consider the effectiveness of the regulations and codes of practice to ensure that they are accurately representative of the ways in which work is carried out.

Just because in a particular case (or number of cases) prosecution fails, or the grounds for prosecution are narrow, or investigative procedures are not followed, or the inspectors are nervous about giving notices, does not mean the current offences are failing or do not provide adequate coverage, it simply means that the Regulator needs to reassess their, inspectorate, investigative and prosecution functions. Until such time as those function are operating appropriately there is no justification for an additional offence.

Unintended consequences

It must be brought to the attention of the Government that the affect of the industrial manslaughter provisions will reach much farther than simply the average “big business”. Unlike the term “officer” as defined by the current Act and to which specific and definable duties apply, the term “senior officer” captures a much broader class of person.

Currently there is a public expectation that industrial manslaughter is necessary to punish big business executives for killing people at work. However it is clear that these provisions will apply to, for example:

- The State and private hospital boards of directors, their senior clinicians and doctors;
- Directors General, Deputy Directors General and senior executives of all government departments;
- Boards of private and independent schools, principals and senior executives.

Further to this, whilst the intention is to “punish big business”, such businesses will simply respond by increasing their internal compliance measures mounting further pressure on contractors to manage safety by system rather than practice and requiring additional paperwork and reporting . As a consequence this will increase businesses compliance cost without any practical safety improvements and decreased productivity.

Definition of 'Officer' v 'senior officer' v 'executive officer'

The Bill proposes two new definitions, being 'executive officer' and 'senior officer' in addition to the current definition of 'officer' under the WHS Act.

Under the WHS Act, the definition of an 'officer' is closely aligned to the definition of an 'officer' under Corporations Law. An officer has duties under the WHS Act, in particular a duty to exercise due diligence in relation to health and safety within their businesses or undertakings. Section 34A(1)(b) of the definition of 'senior officer' in the proposed Bill further aligns the definitions as it describes a person who would be an officer under Section 9 of the corporations Act and similarly under the WHS Act.

However part 34(1)(a) with the addition of the definition of 'executive officer' expands the list of persons who may be guilty of an industrial manslaughter offence to those 'concerned in the management' of the corporation. This is a much lower level of person than are already defined by the 'officer' provisions under the current laws, and is likely to extend to middle manager, supervisors, project managers and safety directors. This is likely to create some confusion when trying to establish negligence when these people do not have as clearly defined duties under the legislation other than those as 'workers'.

National Inconsistency

At the time of harmonisation, which was developed and introduced under a Federal Labour Government, the Queensland Government were in full support of the move to harmonise, hence making significant amendments to the WHS legislation in 2011 and changing the entire enforcement structure.

If the Queensland government takes the step to introduce the new offence into WHS legislation they will not only be in breach of their national agreement and undertaking to participate in harmonisation of WHS laws, but they will have undermined all of their arguments, that harmonisaiton would create a more economically competitive and attractive environment to attract new national and local businesses.

Such a move will decrease the state's attractiveness to businesses, not only because we are no longer harmonised but due to the potential for duplicate offences under WHS legislation and Criminal legislation if a death occurs, unlike any state in the country. This coupled with a clear shift towards hard compliance without the requisite balance of increasing education and awareness, is likely to impact over time the competitiveness, profitability and productivity of Queensland businesses.

Clause 39 – Section 216 Regulator May Accept WHS Undertakings (Enforceable Undertakings)

The Bill proposes to prohibit the use of WHS undertakings (enforceable undertakings) as an alternative to prosecution where a fatality occurs.

Master Builders supports this proposal except for Category 2 offences involving a fatality.

At the Category 2 offence level there are circumstances where an enforceable undertaking will be appropriate for a fatality, such as in the cases of suicide, deaths of family members or partners, and the removal of the prosecutor's discretion to allow an enforceable undertaking could stifle safety improvements. We strongly recommend that this option not be removed for Category 2 fatalities as its use often results in direct improvements to safety within businesses and industries that would not occur if prosecution was the only option.

The current process and approval for these undertakings is at the discretion of the Regulator, therefore the Regulator can deny such a request for already. Removing this discretion creates an absolute prohibition and leaves no flexibility for those cases that may benefit from such an option.

Clause 50 - Part 4 WHS Prosecutor

Master Builders welcomes the establishment of the Office of the WHS Prosecutor and the separation of responsibility and powers over prosecutions that it will bring.

Clause 32 – Division 7A Work Health and Safety Disputes

Master Builders strongly opposes the proposed changes to the health and safety dispute resolution process and its transferal from the Queensland Civil and Administrative Tribunal (QCAT) to the Queensland Industrial Relations Commission (QIRC).

We are opposed to this amendment, as we do not believe that the current review arrangements are ineffective or "broken". Given the following, we do not believe there is a case for such an extreme change:

- Since 2012 QCAT has heard 14 matters in relation to their external review functions under work health and safety laws;
- In the last three calendar years, there have been no requests to QCAT for reviews in relation to any improvement notices or prohibition notice in relation to cessation of work;
- During 2016 no reviews of notices were sought in relation to requests for assistance regarding work health and safety issues.

The most concerning element of the proposed new procedure is the 24 hour limit for inspectors to attend a dispute. We believe that this will result in many more disputes ending up in the QIRC due to lack of departmental resources, as there has been no commitment to significantly increase inspectorate resources to date.

In addition, having the QIRC as the first party to consider a dispute over an inspector not only undermines the role of the inspector but takes the resolution of complex onsite safety issues away from the workplace and into a courtroom to be decided by a Commissioner who has never attended the site, further exacerbating disputation around safety issues rather than fostering resolution at the workplace level. We also believe this change will expose workplaces to shut downs whilst safety disputes are resolved in a courtroom, putting businesses and jobs at risk, increasing business costs and decreasing productivity.

Jurisdictional Issues

The expansion of the jurisdiction of the QIRC to new matters was first raised in the review of the Industrial Relations Bill 2016. In our response to that review, Master Builders indicated why the expansion of the QIRC jurisdiction would result in a diminishment or interference with the rights of national system parties under the FW Act.

The proposal in the Bill fails on the same grounds as it lacks acknowledgement of the jurisdiction of the FW Act and the FWC in the regulation of industrial disputes, including determination of what is, or is not, industrial action.

The Best Practice Review report that recommended this proposal, in fact, does not even acknowledge the obvious conflict the transferal of jurisdiction from QCAT to the QIRC will create with the FW Act.

QIRC has no capacity under the FW Act to review or interfere with the performance and payment of national system employees. Further, it should not be misrepresented, by extension of workplace health and safety issues, that it does have the capacity. If the Government was to adopt the proposals, unchecked, it is very likely the QIRC will engage in settling a dispute that is, at its heart, an industrial issue for national system employers and employees.

Clause 14 – Section 26A Codes of Practice

Master Builders opposes the proposal to reinstate the legislative status of Codes of Practice to their standing under the Workplace Health and Safety Act 1995 (QLD). The current requirements and legal standing are sufficient and effective if interpreted and exercised correctly by the industry, inspectors, employers and unions.

The provisions do not have the same effect as the 1995 provisions and we are concerned that they impose a reverse onus of proof on the employer. We are also concerned that making the Codes mandatory will result in them becoming extremely prescriptive which will stifle innovation and could result in a drop-off of businesses striving to improve their safety practices.

The proposed provisions (unlike the 1995 Act provisions) do not allow for abrogation where businesses are unable to follow the procedures prescribed by a Code of Practice because the work activity they are undertaking is not exactly as prescribed by the

Code. Such circumstance may result in a business implementing a safe workplace/ procedure in a way that is not considered "equivalent" to the Code, and therefore they would be would breaching the Code of Practice and being negligent.

The unions have expressed a concern about the legislative standing of Codes of Practice since the changes to the Workplace Health and Safety Act in 2012. The unions' view is that Codes of Practice are no longer "enforceable" as the individual codes of practice are no longer specifically referenced in the Regulations.

Section 275 of the WHS Act allows Codes of Practice to be used in proceedings and as evidence of what is known about a risk and in determining what is reasonably practicable for controlling that risk. It also highlights that Codes of Practice provide a standard of work that should be followed for that particular risk or where an alternate control is used, that it must be to the same or better standard than that control specified in the Code.

On this basis, it is our view that the Codes of Practice still hold relevant legal standing for employers and workers to rely on a Code of Practice, both from a practical and a legal perspective. Additionally, it is not evident that there is an overwhelming gap in the law that would suggest that the provisions at section 275 of the WHS Act should be amended or that the Codes themselves need to be referred in the Regulations or called up in their entirety.

As a result of the union concerns, the Regulator has set about reviewing the Codes of Practice in the building and construction industry to identify those elements of the Codes that are appropriate for inclusion in regulation, with the intent to amend the Regulations accordingly. This was done without full industry participation and consultation. Industry has not received any undertaking from the Government that this review will cease as a result of this proposal. We believe that continuing with this review will result in a duplication of regulatory requirements, increasing red-tape for businesses and again stifling innovation and safety improvement by mandating prescriptive practices by regulation .

In addition to this, the Department recently made a direction to the inspectorate to encourage inspectors to make reference in compliance notices to relevant Codes of Practice. Master Builders' welcomes this development as it assists industry with identifying and implementing better risk mitigation and management strategies.

Clause 12 – Section 274 Approved Codes of Practice

The Bill proposes that approved Codes of Practice be reviewed every 5 years. *Master Builders supports this proposal as a way of ensuring that the Codes of Practice remain relevant to the work practices and the innovations within industry.*

Given that this is likely to be an ongoing and time-consuming process requiring relevant and balanced expertise, we recommend that the Regulator develop a policy to address the following:

- The mechanism for reviewing the Codes of Practice, whether it be by public comment or via committee.
- If via committee, how that committee will be established and the rule for appointing participants including a chairperson.
- The standard format for the process of the review, including a guideline on timeframes and a style guide.
- Management of requests to create additional Codes of Practice.

Previous experiences with reviewing codes of practice is that they are long, drawn-out processes, due to a lack of procedures around balancing expertise and interests and a perceived lack of control and ownership by the Regulator. Whilst this has improved with more recent reviews, the Regulator would likely benefit from having a more formal policy in place.

Clause 6 – Section 71 Lists of Health and Safety Representatives to the Regulator

The current legislation requires that the PCBU display list of Health and Safety Representatives at the workplace. This has not always been practical on construction sites due to the number of PCBUs present on one project and the transient nature of the industry resulting in regular changes to the appointed HSR. Requiring the PCBU to provide a list of HSRs to the Regulator will be a similarly futile process and is simply an unnecessary increase in red tape.

It is unclear as to how this information will be collected (online or written) and to what purpose the information will be used. Given the Bill also mandates that HSRs are required to be trained through approved providers, there will always be a training record of who the Heath and Safety Representatives are within the industry. Therefore the PCBU reporting requirement to the Regulator is a duplication of information.

Whilst Master Builders does not oppose the Regulator's desire to know who is undertaking the HSR roles in the workplace, we are opposed to the additional red tape this imposes on the PCBU.

List of Provisional Improvement Notices (PINS) issued by Health and Safety Representatives to the Regulator

The details of this provision, although referred to in the Explanatory Notes, are not included in the Bill, therefore our feedback and comments are based only on the concept of this requirement. Further detail is required.

Master Builders does not support a requirement for a PCBU to provide all Provisional Improvement Notices (PINs) issued by a Health and Safety Representative (HSR) to the regulator.

The purpose of PINs is to ensure safety is managed appropriately at the workplace level. If a HSR issues a PIN and it is not complied with then the HSR or the employer has the right to involve the Regulator at that point. Providing all PINs to the Regulator is unnecessary red-tape and achieves no practical safety outcomes. It is also unclear as to how this information will be collected (online or otherwise) and for what purpose the information will be used.

Clause 15 - Section 72 Obligation to Train Health and Safety Representatives

Master Builders supports the proposal for mandatory training of Health and Safety Representatives (HSRs), provided that the training content is improved to include practical health and safety skills, communication skills and conflict resolution skills.

Currently the training only covers information about the roles, responsibilities and powers of a HSR under the legislation. Despite the HSRs have safety responsibilities and broad powers about directing of safety controls and ceasing of work due to safety issues, there is no obligation for any of these people to have any formal health and safety experience or formal training. If provided with more practical health safety and communication training, HSRs would be more effective, health and safety on site would be improved and there would be less disputes and productivity loss.

If a PCBU is required to pay for the cost of the course and the time for which it takes the worker to complete the training, there is a reasonable expectation that the Employer should be satisfied and confident with the extent of the skills that person will obtain throughout the training and that those skills will be beneficial in improving safety within their businesses. The current training does not instil that confidence.

Clause 20 - Part 5A Work Health and Safety Officers

Master Builders does not support the reintroduction of non-mandatory Workplace Health and Safety Officers.

We see little to no value in having such a requirement as most businesses who have the work load and business size to warrant such a role already engage designated health and safety managers, and would be unlikely to voluntarily appoint these people as WHSOs due to the additional red-tape attached to having such a role.

In a time when safety culture is important and when industry is trying to encourage all persons at the workplace to take responsibility for safety, having a dedicated WHSO can lead to worker attitude of "we have a WHSO, so safety is his/her problem, not mine". Again, this prescriptive proposal may not actually achieve better safety outcomes, but rather shift the responsibility for safety to one person within the company.

Despite the voluntary nature of this provision, we would not be encouraging our members to appoint WHSOs, but rather keep their current health and safety management arrangements.