

30 January 2015



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Parliamentary Officer (Committees),
Standing Committee on Delegated Legislation,
Legislative Council,
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Dear Mr Driscoll,

UnionsWA submission to Inquiry into access to Australian Standards adopted in delegated legislation

UnionsWA is the governing peak body of the trade union movement in Western Australia, and the Western Australian Branch of the Australian Council of Trade Unions (ACTU). As a peak body we are dedicated to strengthening WA unions through co-operation and co-ordination on campaigning and common industrial matters. UnionsWA represents around 30 affiliate unions, who in turn represent approximately 140,000 Western Australian workers.

UnionsWA thanks the Committee for the opportunity to make a submission on access to Australian Standards. We agree with the Joint Committee's statement in its *Annual Report* of 2011 that the

Committee is concerned about its capacity to scrutinise the law when, through delegated instruments, a further delegation occurs in the calling up of standards. The Committee questions whether it is Parliament's intention to provide this level of scrutiny. Committee concerns are compounded when a standard calls up a number of further standards and documents.

UnionsWA also agrees the views of our affiliated union, the Shop, Distributive and Allied Employees' Association of Western Australia (SDAWA) in its submission to this inquiry. We note in particular their point that

Given that workers can be disciplined or even sacked for failure to comply with Standards, it is both logical and imperative that the information be publicly available and easily accessible.

UnionsWA is troubled by the excessive reliance of legislation on instruments that are difficult for the public to access in a convenient and timely manner. These difficulties threaten to make the legislative process increasingly unaccountable.

We outlined these concerns in our submissions to the 2014 Standing Committee on Legislation Report on the *Workforce Reform Bill 2013*. This particular Bill, giving the state government the power to impose forced redundancies on its own workforce, was described by the Inquiry Report as 'skeletal' because '*much of the relevant functional detail surrounding the 'enhanced' redundancy, retraining, redeployment and termination system is left to regulations.*'

Those (as then) unwritten regulations went to the heart of the operation of the legislation itself, since they would set out how to decide how someone would be made redundant, and under what circumstances it would occur. The absence of these regulations severely restrained informed debate about the Bill, which was of crucial significance for the job security of state public sector workers.

Given the importance of accessing such information for the accountability of the legislative process, UnionsWA is concerned to note the Joint Standing Committee's observation that

Delegated legislation (including government regulations, rules and local government local laws) frequently adopt Australian Standards but Australian Standards are not accessible at no charge to the public and to Parliament in the same way that primary legislation (Acts) and delegated legislation are publically available.

UnionsWA believes that public accountability of the legislative process will be eroded, if a trend develops that 'skeletal' Bills become the norm, with their required delegated legislation (regulations) being slow to be drafted, and those regulations then having at their core Australian standards, which are effectively unobtainable for many Western Australians except by way of a fee to a private organisation.

It is not good enough for the Premier, in his letter to the Committee Chair dated 10 June 2014, to simply say that such material is available in hardcopy versions for viewing at '*a number of local government offices and libraries*'. This material is not so accessible for people based in outer suburbs or in regional centres. As the SDAWA state in their submission

Notwithstanding that such access does exist, it is at odds with modern expectations of access to information through electronic means. For many workers, particularly those in retail and associated industries, it is not practical to physically attend libraries to access information which may have direct impact on their working lives.

UnionsWA notes that the company SAI Global, which provides the commercial database of Australian standards, was floated on the stock exchange in 2003 by Standards Australia. SAI and Standards Australia signed a 15-year contract whereby SAI publishes and sells 6900 standards that apply across hundreds of industries. In 2014 SAI-Global was almost bought out for \$1.1 billion by private equity firm Pacific Equity Partners. Given the importance of standards, and the commercial costs of accessing them, it would appear to be risky to leave those costs at the mercy of possible Private Equity buyers who will be mainly concerned with maximising their returns, rather than providing accessible information.¹

¹ *Financial Review* 'SAI Global appoints Peter Mullins as CEO' (5 November 2014)
http://www.afr.com/p/business/financial_services/sai_global_appoints_peter_mullins_lZGahm6tnLL8Pv7yGYk01l

By way of further example of the importance of access, UnionsWA itself provides wide range of accredited and quality occupational health and safety training through *Unity Training Services*. Units of Competency such as BSBWHS406A *Assist with responding to incidents*, requires for its 'critical aspects of assessment'

Knowledge of relevant commonwealth and state or territory WHS Acts, regulations, codes of practice, standards and guidance material.

While Unity as an organisation has access to standards, for an individual health and safety representative it is not necessarily easy or convenient to locate a 'viewable' version of a standard should the need arise. Given that governments across Australia have been making substantial changes to Work Health and Safety laws as part of a harmonisation process – including a 'Green Bill' currently being drafted in WA – access to relevant information such as that contained in Australian Standards becomes all the more important.

In conclusion, UnionsWA supports the Recommendation 1 of the Committee's Report 49, Annual Report 2011 that

... the Government requires departments, agencies and local governments to advise on their internet site where standards called up in subsidiary legislation can be accessed at no cost.

However, we would urge the Committee to go further and recommend legislative action to maximise public access to adopted Australian Standards, with an emphasis on access in metropolitan and regional WA.

Thank you for the opportunity to comment on this issue. Please contact me on 08 9328 7877 or MHammat@unionswa.com.au if you would like to discuss matters further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Meredith Hammat', with a large, sweeping flourish at the end.

Meredith Hammat

Secretary