



**THE AUSTRALIAN WORKERS' UNION QUEENSLAND BRANCH
SUBMISSION**

**Mineral and Energy Resources and Other Legislation
Amendment Bill 2020**

**State Development, Natural Resources and Agricultural
Industry Development Committee Inquiry**

27 February 2020

1. Overview

The Australian Workers' Union Queensland Branch (**AWU**) welcomes and appreciates the opportunity to provide feedback on the Mineral and Energy Resources and Other Legislation Amendment Bill 2020 (**Bill**) to the State Development, Natural Resources and Agricultural Industry Development Committee (**Committee**).

The AWU is Queensland's oldest trade union and represents thousands of workers across the state in the metalliferous mining, quarrying, oil and gas industries.

Ensuring that AWU Members have safe workplaces is our unions number one priority.

In the past twenty months, eight workers have tragically lost their lives while at work on mines and quarries in Queensland.

These incidents represent a crisis for the mining industry and must be addressed in the strongest way possible.

Any deaths in mines and quarries are unacceptable and have a profound impact on the workplaces and communities of affected workers, and workers across the industry as a whole.

For several years now, the AWU has strongly advocated for the inclusion of Industrial Manslaughter provisions in the Act and is pleased to support the proposed bill.

While acknowledging that these laws are just one step in what should be a significant cultural and structural change to improve safety in mines and quarries, they represent significant action to ensure that employers in the mining industry are held to the highest possible level of accountability when it comes to worker safety.

Accordingly, the AWU commends the work of the Queensland Government in taking these steps to ensure mine and quarry workers can return home safely at the end of every shift.

While recognising this vital work, the AWU also wishes to use this opportunity to stress the importance of further measures to improve workplace health and safety protections and culture in mines and quarries.

2. Inclusion of Offence of Manslaughter

The Bill proposes to introduce an offence of industrial manslaughter for the resource industry that would apply when the criminal negligence of a resource employer or senior officer results in the death of a mine worker.

It is the strong belief of the AWU that the inclusion of the proposed industrial manslaughter provisions consistent with those contained within the *Work Health and Safety Act 2011* (QLD) will drive organisational change within the mine and quarrying industry at the executive and senior management level to guarantee that worker safety is not sacrificed at the expense of operational capacity and efficiency.

It will also make clear to these officers and employers the expectations of the Queensland community, the Government and their workforce regarding the importance of worker safety.

Similar provisions were introduced in 2017 into the *Work Health and Safety Act* (WHS Act) as a result of repeated and tragic fatalities in non-resource industries in Queensland.

Unfortunately, mine and quarry workers do not have access to these protections, placing them at a disadvantage in comparison to other Queensland workers regarding the level of accountability that exists for their employers.

Given the high-risk nature of the mine and quarrying industry and the almost unparalleled importance of risk management to keep workers safe from harm or incident, there is no valid basis on which mine and resource workers should be excluded from such protections.

The AWU supports the inclusion of industrial manslaughter provisions into the Act in the strongest possible terms.

3. Accountability of Site Managers

While noting the general level of support recently expressed by the mining and quarry industry and peak representative bodies, the AWU is aware that concerns exist regarding the liability of senior site executives of employers within the bill.

Under the proposed bill, a senior officer is outlined as a person with substantial responsibility for an employee's functions and would be liable for prosecution for an industrial manslaughter.

It is the view of the AWU that senior site executives of mines and quarries remain the most appropriate people to be captured under proposed industrial manslaughter legislation.

Given senior site executives are ultimately responsible for the day-to-day safety on site, and in particular are generally tasked with identifying safety risks and instruct employees on safety matters the AWU believes they are best placed to assume responsibility for on-site safety.

The AWU would submit that the only way of ensuring that this legislation is appropriately enforced is to ensure those senior officers with direct responsibility for worker safety are held liable.

Should this not be the case, it is our view that the measures fail to provide the direct accountability to that the AWU believes is required to ensure that the bill achieves its purpose.

4. Definition of "Worker"

While noting our general support for the bill, the AWU submits that the bill should expand the definition of "worker" to ensure full and complete protections for all workers engaged in mines and quarries.

In particular, the AWU believes that contactors and labour-hire workers engaged on the lease and under the control of the operator should be included in this definition.

Such a definition would be consistent with Section 7 of the WHS Act which states:

1) A person is a "**worker**" if the person carries out work in any capacity ... including work as—

(a) an employee; or

(b) a contractor or subcontractor; or

(c) an employee of a contractor or subcontractor; or

(d) an employee of a labour hire company who has been assigned to work in the person's business or undertaking ..."

Such an approach would ensure that resource workers are not placed at a disadvantage relative to other Queensland workers employed in non-resource industries.

As stated previously, the AWU believes that there is no basis on which mine and quarry workers cannot be afforded the same level of workplace health and safety rights and protections as all other Queensland workers given the relatively high level of danger and risk associated with this work.

5. Reprisal and Coercion Laws

While acknowledging the work of the Government in commencing these essential reforms, the AWU is of the view that further regulation is required to further improve on-site safety and take even further steps to ensure mine safety.

AWU Members have in recent time reported their reluctance to raise safety issues due to a fear they might face reprisals for negatively effecting productivity and output.

This is particularly the case for casual, labour hire and other temporary employees whose insecure employment status and lack of guaranteed ongoing work leaves them at greater risk of reprisal.

Whether or not workers are at serious risk of repercussion for raising safety issues, it is evident that a very real fear exists amongst the mining and quarrying workforce that raising safety issues will result in an adverse impact on their employment, creating an environment in which hazards and risks can potentially remain unrectified.

Given this, the AWU submits that further protections should be implemented to ensure that mine workers who do raise safety issues do not face any adverse effects on their employment.

Specifically, the AWU believes that the prohibition of discriminatory, coercive or misleading conduct provisions contained within the Workplace Health and Safety Act should be replicated in the relevant resource legislation to foster a workplace health and safety culture by further empowering workers to raise safety issues with appropriate protections from any resulting adverse action.

These laws were enacted to ensure that Queensland workers could raise safety issues with the knowledge that doing so would place their employment at risk, and their application to the resource sector would further encourage an improved safety culture.

Such an amendment would also be consistent with the bill's goal of extending workplace health and safety protections that exist in non-resource sectors to mine and quarry workers.

6. Conclusion

To conclude, the AWU fully supports the implementation of industrial manslaughter laws for resource workers in Queensland and commends the implementation of the bill.

Notwithstanding this support, it is clear that there are further issues that must be addressed to build upon this work and create the safest possible workplaces for Queensland resource workers.

Accordingly, we would urge the committee to further consider matters such as:

- a) Implementing protections from coercion or reprisal; and,
- b) Strengthening the definition of worker;

7. Contact

Should you have any questions or require further information regarding this submission, please contact Mr. Benjamin Fullarton, AWU Policy Officer, on 07 3221 8844 or by email on ben.fullarton@awu.org.au (mailing address GPO Box 88, Brisbane, QLD, 4001).