

FACT SHEET

Workplace Health and Safety Amendment Bill 2009

- The purpose of this Bill is to amend the *Workplace Health and Safety Act 1995* (the WHS Act) to include provisions allowing authorised officers of employee organisations to enter workplaces for occupational health and safety (OHS) purposes.
- Such provisions further the interests of occupational health and safety and contribute to improved cooperation and consultation between employers and employees and employee organisations.
- Right of entry for OHS purposes is recognised in the Commonwealth *Fair Work Act 2009* (the FW Act). However, the Commonwealth's provisions are dependent on there being right of entry provisions in State or Territory occupational safety and health laws that are called up in the *Fair Work Regulations 2009*.
- With the exception of Tasmania and South Australia, all Australian States and mainland Territories now have such provisions.
- The Bill provides an application and assessment process for officers of employee organisations seeking entry authorisation, which is called an OHS access card in the Bill.
- Requirements for an OHS access card holder include that he or she:
 - a) holds an entry permit issued under the FW Act, unless the employee organisation does not provide services to 'national system employees' and is not an 'organisation' under that Act; and

- b) has the knowledge, qualifications, experience or training appropriate to an OHS access card holder, to the satisfaction of the Director of Industry Safety (a position under the WHS Act).
- OHS access card holders will be permitted to enter workplaces, subject to the requirements specified in the Bill, where workers eligible to be members of the relevant employee organisation (whether or not they are actual members) work.
 - The purpose of entry will be to discuss health and safety issues during breaks, or to enquire into and facilitate the resolution of a health and safety matter at the workplace.
 - OHS access card holders will not undertake the role of inspectors and they will have no enforcement powers. They will have a role in resolving issues at the workplace and they will have powers to assist them.
 - Powers of OHS access card holders will include making enquiries, observing work, interviewing relevant people, and consulting with relevant duty holders and inspectors.
 - The Bill provides that an OHS permit holder must not hinder or obstruct a person in the workplace. A card holder may only enter a workplace for the purposes stated in the Act.
 - Confidentiality provisions are included, based on provisions in the FW Act. A person must not use or disclose information obtained for another purpose, except under specified circumstances.
 - Sanctions included in the Bill include fines, disqualification and imposition of conditions on the card.