

## FACT SHEET

### ***WORKPLACES (PROTECTION FROM PROTESTORS) BILL 2014***

This legislation is designed to implement the Tasmanian Government's election policy commitment to introduce new laws to address illegal protest action in Tasmanian workplaces.

The Bill creates new indictable offences under Tasmanian law.

The Bill does not seek to prohibit the right to peaceful protest.

It does seek to regulate inappropriate protest activity that impedes the ability of businesses to lawfully generate wealth and create jobs

This Bill operates such that a person engaged in protest activity must not hinder, obstruct or prevent business activity on business premises.

Business activity covers those businesses that operate on a commercial basis with the intent to generate wealth and employment opportunities in Tasmania. This includes government owned businesses, as well as private for profit businesses.

The Bill also defines what businesses premises are. This covers a range of industry sectors within the economy, including forestry, mining, agriculture and manufacturing, as well as vehicles, vessels and aircraft. The coverage of this Bill does not extend to certain premises, including schools, hospitals and government offices.

The Bill provides that a protestor is a person engaging in protest activity on a road, footpath, public place, business premises or business access area. Importantly the Bill describes when a person is not engaging in protest activity.

Hence a person engaging in protected industrial action within the Commonwealth's *Fair Work Act 2009* or lawful industrial action undertaken by a State service officer or employee is not taken to be engaging in protest activity for the purposes of this Bill.

The Bill's offences also address protest action that hinders, obstructs or prevents the carrying out of business activity on a business access area. A business access area is an area of land outside of the business premises reasonably necessary to enable access to an entrance or exit from a business premises.

Under the Bill it will be an offence for a person engaging in protest activity to deliberately enter a business premises with the intent of preventing the carrying out of business activity on a business premises.

In addition, protestors undertaking an act with the intention of preventing, hindering or obstructing entry to, or exit, from a business premises or a business access area may also be guilty of an offence under this Act.

Additional offences are that a protestor must not do an act that would likely prevent, hinder or obstruct entry to, or exit from, the business premises or business access area related to that business premises.

Furthermore, a person must not do an act on a road, footpath, public place or another area of land that prevents, hinders and obstructs the movement of a vehicle, vessel or aircraft by a business occupier in relation to business premises.

There are further offences addressing damage to business premises or objects belonging to, and in possession of, the business that are used for the purposes of the business.

In addition it will be an offence to threaten damage to a business premises or a business related object.

Consistent with the Government's election policy statement it will be an offence to incite a person to commit offences under the Bill.

To implement the concept of an "on the spot" fine system for these new offences the Bill provides for the issuing of infringement notices. The penalties set for an infringement notice (set at \$2000 for an individual) provide an incentive for the person to pay the fine and elect not to take the matter to court. Should a person elect, however, to have the charge heard by a court they risk having a higher level of penalty applied if convicted (in the case of an individual the court penalty would be a minimum of \$5000).

The Bill also provides police with the necessary enforcement powers, including a clear power to demand proof of identity, to direct persons to leave a business premises or related business access area, to remove obstructions and persons, as well as the power to arrest (without warrant) and issue infringement notices.

In addition to providing that the offences are indictable, the Bill also requires that convictions must be recorded and also includes provision for a court to make compensation orders. Compensation extends to cover direct financial losses that might be incurred by a business impacted by protest action, as well as compensation for damage to business premises or equipment used by the business.

The court will also be able to order a convicted person to pay the Crown for the costs incurred by police in any activity required to arrest or remove a person under the Bill, or work that the police may have to undertake to make good any damage to any other non-business premises land caused by the committing of an offence under the Bill.

The penalty provisions in the Bill are significant and include the mandatory imposition of a minimum term of 3-months imprisonment for a second or subsequent offence of invasion of, or hindrance at, business premises. Also pursuant to provisions of this Bill, a court that finds a person guilty of an offence under the invading and damage provisions is compelled to convict the person of the offence.

This Bill regulates protest activity to ensure that businesses and employees can go about their legitimate commercial activities free from acts of obstruction, prevention or hindrance.

This Bill sends a strong message to protest groups that intentionally disruptive protest action that prevents or hinders lawful business activity is not acceptable to the broader Tasmanian community.

The new laws will come into operation in the second half of this year.