

Summary of Recommendations

CHAPTER FIVE - AN APPROPRIATE LEGISLATIVE FRAMEWORK

Recommendation 1: The Committee recommends that the NSW Government fully implement the recommendations contained in the Committee's *Interim Report* of December 1997 for the comprehensive overhaul of the *Occupational Health and Safety Act*, so as to return NSW to the forefront of occupational health and safety regulation in Australia and ensure that the legislative framework is able to meet the challenges posed by the changes in the workplace over the last twenty years.

Recommendation 2: The Committee recommends that the objects of the *Occupational Health and Safety Act* be amended to ensure that particular attention is given to the occupational health and safety needs of vulnerable workers. [Refer to *Interim Report* - Recommendation 1.]

Recommendation 3: The Committee recommends that the *Occupational Health and Safety Act* be amended to enhance and develop mechanisms for consultation in the workplace, including the establishment of positions of health and safety representative (elected by employees) and health and safety officer (appointed by the employer). [Refer to *Interim Report* - Recommendations 21, 22, 23 & 24.]

Recommendation 4: The Committee recommends that the *Occupational Health and Safety Act* be amended to enhance the status of Codes of Practice. [Refer to *Interim Report* - Recommendation 29.]

Recommendation 5: The Committee recommends that the *Occupational Health and Safety Act* be amended to provide that an employer who complies with a Code of Practice is deemed to comply with the relevant law covered by the Code of Practice.

CHAPTER SIX - OHS MANAGEMENT SYSTEMS, RISK MANAGEMENT AND SMALL BUSINESS

Recommendation 6: The Committee recommends that the *Occupational Health and Safety Act* be amended to give statutory recognition to the use of OHS management systems and risk management as key tools in meeting the general

duties requirements imposed upon employers in section 15 of the Act.

Recommendation 7: The Committee recommends that the *Occupational Health and Safety Act* be amended to impose a duty upon employers to adopt a systematic approach to the management of occupational health and safety. This systematic approach could be as simple as the application of the six-step approach to OHS being promoted by WorkCover NSW in its community awareness campaign, or it could be as complex as the application of an accredited OHS management system.

Recommendation 8: The Committee recommends the development of a Code of Practice on a systematic approach to occupational health and safety, including the application of an accredited OHS management system.

Recommendation 9: The Committee recommends that the *Occupational Health and Safety Act* be amended to require employers to consult with their employees at all stages of the implementation of a systematic approach to the management of occupational health and safety. There must be an explicit requirement for consultation in relation to the organisation of work.

Recommendation 10: The Committee recommends the development of a Code of Practice containing guidance on consultation in the implementation of a systematic approach to the management of occupational health and safety, and specifically in relation to consultation about the organisation of work.

Recommendation 11: In developing the Code of Practice referred to in Recommendation 10 and in establishing a system for the accreditation of OHS management systems, considerable attention should be given to the extent to which an OHS management system provides for genuine employee participation in decision making about the organisation of work.

Recommendation 12: The Committee recommends that the amendment of the *Occupational Health and Safety Act* and the development of the Codes of Practice referred to in Recommendations 6-10 be followed by a major community awareness campaign about the rights and duties of employees and employers in relation to consultation about the organisation of work in the implementation of a systematic approach to the management of occupational health and safety.

Recommendation 13: The Committee recommends that the community awareness campaign referred to in Recommendation 12 be followed by the provision of resources by Government to enable authorised trade union officers and employer associations to assist to energise consultation in workplaces.

Recommendation 14: The Committee recommends that the Industry Reference Groups established under the provisions of the *Workplace Injury Management and Workers Compensation Act* develop industry specific guidance material, to assist small and medium sized enterprises to implement a systematic approach to the management of occupational health and safety. The Committee recommends a focus upon the 5 or 6 most serious hazards or OHS issues in each industry and the provision of clear advice about how these hazards or

issues can be addressed.

Recommendation 15: The Committee recommends that WorkCover provide funding to employer associations, Chambers of Commerce and other networks to which small and medium sized enterprises belong and, in effect, channel its advisory and educative activities through these bodies. The Committee recommends that consideration be given to the placement of WorkCover staff within employer associations, Chambers of Commerce etc for periods of up to 12 months at a time.

Recommendation 16: The Committee recommends that WorkCover work together with other Government agencies which provide advice (or undertake regulatory functions in relation) to small and medium sized enterprises (SMEs), with a view to developing complimentary guidance material which can be integrated into existing management systems of SMEs. The Committee also recommends that WorkCover utilise the networks and contacts which other Government agencies have with SMEs to enable guidance material to be effectively channelled to SMEs.

Recommendation 17: The Committee recommends the implementation of the two track enforcement model recommended by Professor Gunningham. That is, organisations which adopt accredited OHS management systems should be freed of some regulatory burdens, and enforcement activity and prescriptive regulatory requirements should be targeted at those organisations which do not adopt accredited OHS management systems.

Recommendation 18: The Committee recommends the development of appropriate financial incentives within the workers compensation premium structure, such as bonus/malus schemes, to encourage the adoption of OHS management systems.

Recommendation 19: The Committee recommends the development of performance indicators for employers adopting OHS management systems, including performance indicators to measure and assess the level of consultation about the organisation of work.

Recommendation 20: The Committee recommends that WorkCover NSW undertake careful monitoring, and commission a detailed review after three years, of the outcomes from the introduction of the requirement for a systematic approach to the management of occupational health and safety.

CHAPTER SEVEN - SOCIAL AND ECONOMIC COSTS

Recommendation 21: The Committee recommends that the *Occupational Health and Safety Act* be amended to ensure that Victim Impact Statements are admissible in the sentencing process for offences under the *Occupational Health and Safety Act*. [Refer to *Interim Report* - recommendation 18.]

Recommendation 22: The Committee recommends that the *Occupational Health and Safety Act* be amended to require the publication by WorkCover NSW of a "State of the Workplace" report, (based upon the model of the "State of the Environment" reports published by the Environment Protection Authority) providing a detailed assessment of occupational health and safety, once every two years.

Recommendation 23: The Committee recommends that WorkCover NSW provide sponsorship for the establishment of an award to recognise excellence in disclosure of occupational health and safety performance in annual reports. This sponsorship should initially be offered to Annual Report Awards Australia Inc.

Recommendation 24: The Committee recommends that, in the implementation of Recommendation 11, concerning the accreditation of OHS management systems, WorkCover NSW give attention to the extent to which OHS management systems require the disclosure of occupational health and safety performance information to shareholders and the community.

Recommendation 25: The Committee recommends that WorkCover NSW become a collaborating centre in the International Labour Organisation's Collaborating Safety and Health information (CIS) network, as a means of developing relationships and sharing information with occupational health and safety regulators in the Asian region.

CHAPTER EIGHT - PUTTING THE PIECES TOGETHER

Recommendation 26: The Committee recommends that the Occupational Health, Safety and Rehabilitation Council consult with members of the Brethren Assembly to develop a suitable mechanism under which provision could be made for a limited conscientious objection to the right of entry to a workplace by authorised officers of a trade union under the *Occupational Health and Safety Act*.

Recommendation 27: The Committee recommends that the Workers Compensation Advisory Council and the Workers Compensation Premiums Rating Bureau undertake a detailed investigation of the German workers compensation experience rating system and bonus/malus scheme, with a view to identifying the elements of the German system which are able to be applied in NSW.

Recommendation 28: The Committee recommends that, in order to avoid “reinventing the wheel”, the Workers Compensation Advisory Council and Industry Reference Groups establish information sharing networks with the Danish Working Environment Council and Sector Safety Councils, the United Kingdom Health and Safety Commission and industry advisory committees, and the Central Federation of the German Berufsgenossenschaften.

Recommendation 29: The Committee recommends that the NSW Government prepare and publish, within twelve months, an occupational health and safety vision statement and action programme, along the lines of the Danish *Clean Working Environment 2005*.