

8 November 2002

JOINT COMMUNIQUÉ FROM COMMONWEALTH, STATE AND TERRITORY WORKPLACE RELATIONS MINISTERS

The Workplace Relations Ministers' Council (WRMC) met in Melbourne today.

The Council discussed a range of important developments in workplace relations, including Federal and State legislative developments and the progress of the Royal Commission into the Building and Construction Industry.

The Ministers are committed to achieving the ratification of ILO Convention 182 – 'Worst Forms of Child Labour 1999' by Easter 2003.

The Ministers discussed the Commonwealth's proposal for a Productivity Commission Inquiry into Workers' Compensation and Occupational Health and Safety. States questioned the need for the Inquiry but agreed to provide specific comments on the terms of reference for consideration by the Commonwealth within two weeks.

The Council agreed that officials would re-examine the purpose and objectives of the Benchmarking of the Federal and State advisory and compliance services.

The Council considered developments in Occupational Health and Safety (OHS) and workers' compensation. Of most significance is the decision by Ministers to endorse a set of five National Priority Action Plans that support the National OHS Strategy. Ministers also endorsed the National List of Exemptions from the chrysotile prohibition, including the arrangements for revising the list, and the declaration of a prohibition on the use of actinolite, anthophyllite and tremolite asbestos.

Ministers also noted a recommendation by the NOHSC that exposure to Environmental Tobacco Smoke (ETS) should be excluded in all Australian workplaces as soon as possible. Ministers requested NOHSC to monitor the progress of each jurisdiction in implementing passive smoking policies; and noted that Health Ministers have jurisdiction over specific legislative controls on exposure to ETS.

Ministers discussed an integrated approach to the International Labour Organisation's OHS standards. The Council also discussed progress aimed at improving State and Territory workers' compensation cross-border arrangements.

National Workplace Relations Policy Developments

Ministers noted the report "Agreement making in Australia under the Workplace Relations Act 2000 and 2001", which was tabled in Parliament on 28 August 2002. The report noted the developments in the Victorian Retail Case, and the intervention of the Commonwealth. The Commonwealth views their intervention as being in the public interest due to concerns it has about the loss of jobs that would result from the making of the proposed award.

The Commonwealth reported on current developments regarding the TCR test cases. The Commonwealth's view is that the existing TCR standard provides an appropriate award safety net and should be retained, so should the exemption from severance pay for small business with less than 15 employees.

There were discussions regarding the support of Ministers for action to progress the ratification of ILO Convention No. 182, *Worst Forms of Child Labour, 1999 (C182)*. Ratification of Convention 182 would help to demonstrate national commitment to the elimination of the worst forms of child labour. Ratification cannot proceed without the formal agreement of all governments and at least their commitments to achieve compliance, if not actual legislative change. It was agreed that each government would provide formal agreement so that the treaty-making process could occur no later than Easter 2003.

Ministers noted the progress regarding the Royal Commission into the Building and Construction Industry, particularly the establishment of an Interim Taskforce.

Legislative Developments

Minister Abbott reported on a number of Bills that have been introduced into the federal Parliament since the last WRMC meeting:

- Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002;
- Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002;
- Workplace Relations Legislation Amendment Bill 2002;
- Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002;
- Workplace Relations Amendment (Fair Dismissal) Bill 2002;
- Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002;
- Workplace Relations Amendment (Genuine Bargaining) Bill 2002;
- Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002;
- Workplace Relations Amendment (Emergency Services) Bill 2002.
- On 21 March 2002, the Federal Minister for Employment and Workplace Relations, the Hon Tony Abbott MP, introduced into the Federal Parliament the Workplace Relations Amendment (Improved Protection for Victorian Workers) Bill 2002;

Ministers noted that Parliament had passed the Workplace Relations (Registration and Accountability of Organisations) Bill 2002; and the Workplace Relations (Registration and Accountability of Organisations) (Consequential Provisions) Bill 2002.

Ministers noted two sets of regulations that have been made since the last WRMC meeting. These are as follows:

- The Seafarers Rehabilitation and Compensation Levy Regulations 2002 and the Seafarers Rehabilitation and Compensation Levy Collection Regulations 2002 took effect on 1 July 2002;

- The Workplace Relations Amendment Regulations 2002 (No. 2) took effect on 12 September 2002.

Ministers noted the Workplace Relations Amendment (Emergency Services Bill) 2002 and that Western Australia and Victoria would consider their own legislation to protect emergency services volunteers.

Ministers also noted recent developments regarding workplace relations legislation of the States:

- The Industrial Relations Amendment (Unfair Contracts) Act 2002 was passed by the NSW Parliament on 19 June 2002 and assented to on 24 June 2002;
- The Federal Awards (Unified System) Bill 2002 was introduced into the Victorian Legislative Assembly on 12 September 2002. The main purpose of the Bill is to refer to the Commonwealth Parliament the power to legislate to allow the Australian Industrial Relations Commission to order that federal awards apply as common rules in Victoria;
- The Crimes (Workplace Deaths and Serious Injuries) Bill 2001, which was introduced into the Victorian Parliament on 21 November 2001, failed to be passed in the Legislative Council and has not been re-introduced;
- A general election of Tasmania's House of Assembly was held on 20 July 2002. Following the election, which saw Labour retain Government, the Hon Judy Jackson MHA was appointed Tasmania's new Attorney-General and Minister for Justice and Industrial Relations;
- The *Labour Relations Reform Act 2002* (WA) (the Act) received Royal Assent on 8 July 2002. The Act amended the *Industrial Relations Act 1979* (WA) and the *Minimum Conditions of Employment Act 1993* (WA) and provides for the phasing out and expiry of the *Workplace Agreements Act 1993* (WA);
- Occupational Safety and Health Regulations 1996 - various changes have been made to the WA *Occupational Safety and Health Regulations 1996*. These changes are of a relatively minor nature with various regulations being repealed and some replaced, resulting in a general consolidation of the legislation;
- The *Occupational Safety and Health Amendment Bill 2002* was introduced into the Western Australian Parliament on 15 May 2002. The Bill amends the *Occupational Safety and Health Act 1984* to extend coverage of that Act to police officers;
- The Minister for Industrial Relations, the Hon Michael Wright MP is expected to release the report on the review of the SA Industrial Relations system next week, and the review of the OHS and workers' compensation systems will report on 20 December .
- Mr Nuttall introduced legislation to address specific cross border issues in workers' compensation. Mr Nuttall advised that there were Federal taxation issues in relation to structure of settlements and he will be writing to the Federal Treasurer and Mr Abbott shortly. Mr. Nuttall also advised the introduction of legislation to restructure the Queensland Industrial Relations Commission.
- Mr Corbell informed the meeting that the ACT was currently reviewing Occupational Health and Safety legislation and Dangerous Goods legislation, the latter in relation to the sale of fireworks. He advised the ACT will introduce legislation in relation to industrial manslaughter in December 2002.

Harmonisation of the Workplace Relations Framework

Ministers noted the progression on harmonisation of advisory and compliance services. It was agreed that officials would re-examine the purpose and objectives of the Benchmarking of the Federal and State advisory and compliance services.

The Ministers agreed to publish the report *Benchmarking of Commonwealth and State Workplace Relations Inquiry and Compliance Services: 1 July 2001 – 30 June 2002* following incorporation of revisions in relation to NSW data.

Ministers discussed moves to develop a uniform national approach in relation to the access casual employees have to unfair dismissal remedies.

Occupational Health and Safety and Workers' Compensation

Ministers approved the National OHS Strategy National Priority Action Plans to give effect to the National OHS Strategy – 2002 to 2012. The Action Plans are designed to support a substantial improvement in performance over the next three years. Ministers agreed that NOHSC could undertake scoping work on the need for national building industry standards. The Strategy establishes national targets for reducing the incidence of work-related fatalities (at least a reduction of 20% by 30 June 2012, with a reduction of 10% by 30 June 2007) and workplace injuries (at least a reduction of 40% by 30 June 2012, with a reduction of 20% by 30 June 2007).

Ministers endorsed the National List of Exemptions from the chrysotile prohibition, including the arrangements for revising the list; and the declaration of a prohibition on the use of actinolite, anthophyllite and tremolite asbestos.

Ministers noted the progress report on the revision of the *National Code of Practice for the Preparation of Material Safety Data Sheets*, in particular that NOHSC expects to declare the revised Code in early 2003.

Ministers also noted a recommendation by the NOHSC that exposure to Environmental Tobacco Smoke (ETS) should be excluded in all Australian workplaces as soon as possible. Ministers requested NOHSC to monitor the progress of each jurisdiction in the implementing passive smoking policies; and noted that Health Ministers have jurisdiction over specific legislative controls on exposure to ETS and that they are making progress on reducing exposure to ETS. Ministers also endorsed NOHSC revising its Guidance Note of Passive Smoking to assist parties in Australian Workplaces to exclude ETS.

Ministers discussed the draft terms of reference for the Productivity Commission inquiry into national workers' compensation and OHS arrangements.

Ministers noted the Commonwealth's approach at the 2003 International Labour Conference to streamline existing ILO OHS standards through the development of a single principles-based "head" Convention, with matters of detail included in non-binding instruments such as Recommendations and Codes of Practice. Ministers noted all States support the ratification of Convention 155.

Ministers agreed to establish a Departments of Workplace Relations Advisory Council Working Party to develop proposals on the scope for a nationally consistent approach to compliance and enforcement legislation. The proposals, and the measures that should be adopted to achieve this, will be considered by Ministers at the next WRMC meeting in 2003.

Ministers also reviewed the progress of complementary legislation being pursued by New South Wales, Victoria and Queensland regarding workers' compensation – state and territory cross border coverage.

Ministers agreed to meet again on 28 March 2003.

Attendees included: Federal Minister for Employment and Workplace Relations, Tony Abbott; Queensland Minister for Industrial Relations, Gordon Nuttall; New South Wales Minister for Industrial Relations, John Della Bosca; Western Australian Minister for Consumer and Employment Protection and Training, John Kobelke; ACT Minister for Education, Youth and Family Services, Planning and Industrial Relations, Simon Corbell.

The South Australian Minister for Industrial Relations, Michael Wright, was represented by Michele Patterson, Director Workplace Services. The Northern Territory Minister for Employment and Training was represented by John Kirwan, Commissioner for Public Employment. The Tasmanian Minister for Justice and Industrial Relations, Judy Jackson, was represented by Ms Kerrie Crowder, Advisor, Office of the Attorney General. As Victoria was in caretaker mode due to an election being called, Mr Paul Lorraine, Executive Director, Industrial Relations, Victoria and John Merritt, Executive Director, WorkSafe Victoria, also attended as observers.

Apologies were also received from: Tasmanian Minister for Justice and Industrial Relations, Judy Jackson; Tasmanian Minister for Infrastructure, Jim Cox; Northern Territory Minister for Employment and Training, Syd Stirling; South Australian Minister for Industrial Relations, Michael Wright; and New Zealand Minister for Labour, Margaret Wilson.