

**Future of Work**  
**Occupational Health and Safety**  
**Background Paper**  
***ACTU CONGRESS 2003***

***Quick Fact:***

*It is estimated that there are around 3,000 work-related deaths in Australia each year. In 2002 the national road toll was 1725 deaths.*

*It is estimated that the total number of asbestos-related deaths alone will reach at least 40,000 and perhaps as many as 60,000 people by 2020.*

## **CONGRESS 2000**

1. At Congress 2000 it was resolved that the union movement:
  - continue to participate in tripartite and industry-based OHS bodies;
  - promote the extension of the roles and powers of elected OHS representatives;
  - support union members to be active as health and safety representatives or on health and safety committees;
  - ensure, as far as possible, that unionised workplaces have trained health and safety representatives;
  - defend the right of union officials to enter and inspect workplaces, and to assist in negotiations with employers on OHS consultative arrangements;

- advocate for the right of OHS representatives to issue Provisional Improvement Notices (PINs) where that right does not exist, including the right to appeal against dismissal or variation of a PIN;
- support the development and implementation of national OHS standards and codes of practice through the National Occupational Health and Safety Commission (NOHSC);
- push for state and territory governments to broaden OHS penalties and conduct ongoing enforcement campaigns of OHS laws;
- campaign for the right of unions to initiate prosecutions for breaches of OHS laws;
- promote compliance by employers with their legal duties;
- campaign for adequate compensation for victims of workplace death, injury and disease, including access to common law remedies;
- advocate improvements in the collection and analysis of OHS statistics and data;
- advocate for an increased research capacity within NOHSC;
- promote integration of OHS into education and training
- pursue the priority issues of:
  - stress at work,
  - work-related violence and bullying,
  - OHS and labour market changes,
  - working hours,
  - chemicals at work,
  - electro-magnetic radiation (EMR),
  - smoke free workplaces, and
  - offshore safety in the oil and hydro carbon industry; and
- recognise that OHS is a key area of activity by delegates and activists in recruiting in the workplace.

## DEVELOPMENTS SINCE CONGRESS 2000

### Union Movement Achievements

2. Since the 2000 Congress, the union movement has helped to achieve:
  - the ban on the import and use of chrysotile and other forms of asbestos from December 2003, following the November 2000 ACTU Executive decision to conduct a campaign;
  - movement towards smoke-free workplaces, including the October 2002 NOHSC decision to support smoke-free working environments;
  - government support for an offshore oil and gas health and safety regulator;
  - support from NOHSC in October 2002 for the development of a national standard and codes of practice for the construction industry;
  - agreement from the Workplace Relations Ministers Council (WRMC) in March 2003 to support ratification of ILO Convention 155, *Occupational Health and Safety 1981*;
  - revision of the National Code of Practice for the Prevention of HIV/AIDS, Hepatitis B and C, to cover a range of occupations at risk of exposure;
  - reviews of OHS legislation, including enforcement in Queensland, WA, and SA with a similar review under way in the ACT and a further review promised in Victoria;
  - introduction of legislation with enhanced penalty provisions in Queensland and the ACT, including the *ACT Crimes (Industrial Manslaughter) Amendment Bill* which, for the first time in Australia, would create a new criminal offence of industrial manslaughter for the death of a worker caused by employer negligence or recklessness;
  - state and territory legislation and proposals for enhanced authority, protection and training of health and safety representatives;
  - the development of guidelines for health and safety in call centres;
  - the pursuit of health and safety protection through contract chain of supply responsibilities;

- the *Working Hours Case* which resulted in a decision of the Australian Industrial Relations Commission that:
  - accepted that the working of long hours is likely to give rise to a risk of fatigue and to adverse health consequences, that fatigued employees may be a risk to the public and that there are public health costs associated with disease which may arise from the working of long hours,
  - awarded a test case provision that an employee may refuse to work overtime in circumstances where the working of such overtime would result in a risk to the employee's health and safety; and
  - found that "*there are major gaps in Australia's working time laws - gaps of coverage and gaps of enforcement , .. and ... that the Australian system, in contrast to most regulatory systems ... provides many opportunities for extended hours and even very extended hours to be worked*".
- a memorandum of understanding between NOHSC and the Australian National Training Authority (ANTA) for integration of OHS into industry training packages;
- a broadening by NOHSC of sources of OHS data, including coroners', hospital and ABS survey data;
- the release in September 2000 of ACTU Health and Safety Guidelines for *Shift Work and Extended Working Hours*;
- the publication of 17 ACTU Digests of OHS Information, providing materials on international and Australian developments on asbestos, chemicals, electromagnetic radiation, stress, working hours, bullying and other health and safety issues;
- the 2000 national health and safety campaign under the banner *Being bossed around is bad for your health - the workplace is no place for bullying*;
- the 2001 national health and safety campaign - *Reactivate Health and Safety at Work*,
- the 2000 ACTU *Chemicals at Work* survey of 167 health and safety representatives,
- the Report of the 2001 National Survey of Health and Safety Representatives,

- commemorative events for Workers' Memorial Day on the 28 April each year;
- the hosting of the International Ceremony for the International Day of Mourning in 2001, which focussed on occupational cancer and asbestos-related diseases; and
- the convening of *Reactivate Health and Safety at Work*, a seminar for unionists, in May 2003, which focused on the links between health and safety, the future of work and union organising.

### State Labor Governments

3. The election of Labor governments in the states and territories has provided opportunities, which did not exist in the late 1990s, for improved health and safety outcomes at both the national and state and territory levels. As a result there have been or will be, reviews of OHS legislation in most of the states and territories.

### National OHS Strategy 2002-2012

4. In 1999, Commonwealth, state and territory ministers responsible for OHS endorsed a *National Improvement Framework for Occupational Health and Safety*. This Framework formed a basis for the *National OHS Strategy 2002-2012*, which was endorsed by all Australian governments, ACCI and ACTU in May 2002. In November 2002, the governments endorsed Priority Action Plans under the Strategy.

## ISSUES FOR POLICY AT CONGRESS 2003

### Work-Related Deaths, Injury and Disease in Australia

5. Australia has a poor record with regard to work-related death, injury and illness. It is estimated that there are around 3,000 work-related deaths in Australia each year. Work causes more fatalities than the national road toll, which in 2002 was 1725 deaths.
6. Around 440 of those work-related deaths, an average of almost *nine per week*, are the result of a traumatic incident at work, including work-related road deaths, and a further 150 deaths occur while persons are travelling to or from work. Another 200 people who are bystanders die each year as a result of someone else's work activity.
7. In 1996, NOHSC researchers arrived at a conservative estimate that at least 2,300 people died each year as a result of work-related exposure to

chemicals at work. This does not reflect the current extent of death from occupational disease. In the near future, this figure may rise due to the expected increase in asbestos-related deaths.

8. Australia has the highest incidence of asbestos-related disease in the developed world. The incidence in Australia has been rising steeply since 1970, and it is estimated that the total number of asbestos-related deaths will reach at least 40,000 and perhaps as many as 60,000 people by 2020.
9. Approximately 480,000 persons experience a work-related injury or illness each year. Approximately 2.8 million Australians suffer from work-related long-term health conditions.
10. Each year, there are around 140,000 compensated work-related injuries resulting in an absence from work of one or more weeks.
11. In comparison, excluding NSW (for which data is not available), there are around 13,500 road accidents involving casualties each year in Australia.
12. Workers' compensation is paid to only about 40% of persons who experience a work-related injury or illness.

### **Government Activity**

13. Most responsibility for the implementation of OHS legislation, standards and codes of practice is exercised by state and territory governments. The Commonwealth government is involved through WRMC, NOHSC, and in its role as an employer through the Commonwealth Safety Rehabilitation and Compensation Commission (SRCC).
14. NOHSC was established in 1985 to provide a national tripartite forum to develop national OHS policy and strategy and national standards, and to conduct and coordinate research. NOHSC comprises representatives of the Commonwealth, state and territory governments, and of the ACTU and ACCI.
15. Since 1991, through its tripartite committees and working groups, NOHSC has declared seven priority national standards and codes of practice, covering a range of workplace health and safety hazards. These have not always been adopted in a nationally consistent way in state and territory legislation.
16. In 1997, NOHSC reduced its activity with regard to the development of national standards and codes of practice, although there are a range of hazards still to be addressed, including working hours, stress and bullying. NOHSC has been reluctant to take national action on these issues.

17. Funding cuts to NOHSC by the Howard Government since 1996 were followed by the virtual cessation of NOHSC financial support for OHS research. The ACTU and health and safety professionals continue to advocate the reestablishment of national OHS research.
18. The Federal Government has advocated a move away from common standards for the entire workforce to a 'flexible' focus on the workplace.
19. Public concern about the extent of workplace death, injury and disease has not resulted in the level of effective, comprehensive and ongoing preventative action by the Commonwealth, state and territory governments needed to bring about significant improvement. OHS legislation is too limited in scope and enforcement.
20. Labour market changes, such as the growth in contract and casual employment, require new legislative frameworks. There is a need for more rigorous health and safety enforcement and stronger penalties. There is also a need for strengthened rights for health and safety representatives and committee members.

### **Union Health and Safety Representatives**

21. Elected union health and safety representatives and committee members play a crucial role in representing the interests of their fellow workers. They exercise their rights and powers under OHS law on a voluntary basis, often in difficult circumstances.
22. With the assistance of state and territory governments, there are opportunities to strengthen the rights, roles and training of health and safety representatives and committee members.
23. Health and safety issues provide important organising and recruitment potential. While the annual ACTU National OHS Campaign, and other state, territory and union health and safety campaigns provide a focus, health and safety must become integral to ongoing union organising and recruitment. Unions need to ensure that workplace industrial relations negotiations enhance health and safety.

### **OHS Hazards**

24. Psychosocial issues such as work-related stress, bullying and violence are receiving increased attention in the community, from the union movement, and from some governments, but still have not been addressed in a nationally coordinated way.

25. Following the 1999 National Health and Safety Campaign - *Don't Swallow Dangerous Hours - Reasonable Hours are Safer Hours*, the ACTU has continued to advocate the need for a national health and safety standard for safe working hours. The health and safety consequences of the increased 'spread' of ordinary hours, the growing use of annualised salaries, and the removal of penalty rates for shift work must be addressed. Night work and extended hours, particularly hours which extend into the night period, are more hazardous to health and safety than are 'normal' day hours.
26. Dangerous hours and work overload are in large part due to downsizing, contracting out and under-staffing in the public and private sectors. There is a growing body of evidence regarding the detrimental health and safety effects of these problems, which were recognised and acknowledged by the AIRC in its decision in the *Working Hours Case*.
27. Changes in the labour market, particularly home based work, casual work, call centres, contracting out and labour hire, have led to new health and safety hazards, which are still not being addressed in a nationally coordinated way.
28. Since 2000, NOHSC has initiated reviews of the national standards and codes of practice for chemicals (hazardous substances) and manual handling. The ACTU is advocating significant improvements to these standards.
29. Industrial chemicals are not subject to rigorous control and can continuously be used without testing. There are now between 30,000 and 70,000 chemical substances on the world market, the vast majority of which we know very little about. However, of the new substances that are tested, as many as 70% *are* deemed as dangerous.
30. NOHSC identified several deficiencies in the national standard and code of practice for occupational noise, but, despite urging from the ACTU, NOHSC to date has been reluctant to revise the standard to incorporate the new information.
31. In May 2002, the Australian Radiation Protection and National Safety Agency (ARPANSA) declared the *Radiation Protection Standard - Maximum Exposure Levels for Radiofrequency Fields 3kHz to 300 GHz*. The ACTU and representatives of community groups have been critical of the "*basic restrictions*" and other aspects of the standard.
32. Progress towards smoke-free workplaces needs to be expedited, despite some significant progress.



33. The Congress 2000 focus on women recognised that there are health and safety hazards which are of particular concern to women. Pregnant women and nursing mothers may face additional dangers to their health and safety at work. Continued union activity is required in this area.
34. The Congress 2000 focus on young people recognised that young people face a lack of:
- appropriate induction, training and supervision;
  - awareness of how to exercise their right to work in a safe and healthy environment; and
  - care in placement and supervision in work situations.