



**Legislative Assembly for the
Australian Capital Territory**

Standing Committee on Public Accounts

Inquiry into the Work Health and Safety Amendment Bill 2022

Legislative Assembly for the Australian Capital Territory
Standing Committee on Public Accounts

Approved for publication

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March 2023

About the committee

Establishing resolution

The Assembly established the Standing Committee on Public Accounts on 2 December 2020.

The Committee is responsible for the following areas:

- ACT Auditor-General
- Office of the Legislative Assembly
- Accounts of the receipts and expenditure of the ACT and its authorities
- All reports of the Auditor-General which have been presented to the Assembly
- Treasury including taxation and revenue

You can read the full establishing resolution [on our website](#).

Committee members

Mrs Elizabeth Kikkert MLA, Chair

Mr Michael Pettersson MLA, Deputy Chair

Mr Andrew Braddock MLA

Secretariat

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About this inquiry

The Work Health and Safety Amendment Bill 2022 was presented in the Assembly on 20 October 2022. It was then referred to the Standing Committee on Public Accounts as required by clause 5 of the establishing resolution. This clause allows committees to inquire into and report on bills within two months of their presentation.

The Committee decided to inquire into the Bill on 2 November 2022. On 24 November 2022 the Assembly agreed to allow the Committee three months from the date of publication of the report by the Select Committee on Privileges 2022 (the Privileges Committee) to report on the Bill. The Privileges Committee tabled their report on 1 December 2022, therefore setting the tabling date for this report to be 1 March 2023.

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Acronyms

Acronym	Long form
ACT	Australian Capital Territory
AFP	Australian Federal Police
COVID-19	Coronavirus Disease 2019, caused by the novel coronavirus SARS-CoV-2.
The Bill	Work Health and Safety Amendment Bill 2022
MLA	Member of the Legislative Assembly
MOU	Memorandum of Understanding
Privileges Committee	Select Committee on Privileges 2022
Scrutiny Committee	Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)
WHS	Work health and safety
WHS Act	<i>Work Health and Safety Act 2011</i>

Recommendations

Recommendation 1

The Committee recommends that the Assembly pass the Work Health and Safety Amendment Bill 2022 with further amendment to ensure absolute clarity that the Assembly is a workplace.

Recommendation 2

The Committee recommends that the Assembly pass the Speaker's amendment, without the words 'or otherwise interrupt', to ensure there is no diminution of abrogation of the powers, privileges and immunities of the Assembly.

Recommendation 3

The Committee recommends that the ACT Government amend the Work Health and Safety Amendment Bill 2022 to clarify the role of Members of the Assembly as officers under the Act.

Recommendation 4

The Committee recommends that the Legislative Assembly for the ACT develop a memorandum of understanding with WorkSafe ACT on how it will exercise its regulatory functions within the Assembly precincts, acknowledging the parliamentary privilege issues engaged.

1. Conduct of the inquiry

- 1.1. Under the Assembly's resolution of establishment, committees have two months in which to conduct inquiries on bills, unless the bill is presented during the last sitting week of the year in which case the committee has three months.¹
- 1.2. The Work Health and Safety Amendment Bill 2022 (the Bill) was presented to the Assembly on 20 October 2022 and was referred to the Standing Committee on Public Accounts (the Committee) on the same day. On 24 November 2022 the Assembly agreed to allow the Committee three months from the date of publication of the report by the Select Committee on Privileges 2022 (the Privileges Committee).² The Privileges Committee tabled their report on 1 December 2022.³
- 1.3. The Committee received four submissions and held a public hearing on 2 February 2023.

¹ ACT Legislative Assembly, *Minutes Of Proceedings No 2*, 2 December 2020, p 17.

² ACT Legislative Assembly, *Minutes Of Proceedings No 68*, 24 November 2022, p 944.

³ ACT Legislative Assembly, *Minutes Of Proceedings No 71*, 1 December 2022, p 981.

2. Background

- 2.1. The Work Health and Safety Amendment Bill 2022 was introduced after a matter of parliamentary privilege was brought to light during the budget inquiry of the Legislative Assembly's Select Committee on Estimates 2022-2023 (the Estimates Committee).
- 2.2. Public hearings were scheduled to begin on Monday, 15 August 2022. In the week prior, correspondence between Ministerial offices and the Estimates Committee discussed possible arrangements for remote hearings. An individual from the office of the Minister for Industrial Relations raised concerns about the COVID-19 safety of in-person hearings with WorkSafe ACT, and WorkSafe ACT inspectors visited the Legislative Assembly building on Friday, 12 August 2022.⁴
- 2.3. A WorkSafe ACT prohibition notice was served on the Speaker on 12 August 2022 which prohibited 'any hearings or committee meetings at the Legislative Assembly of the Australian Capital Territory.'⁵ The prohibition notice stated that the Assembly had contravened section 19 of the *Work Health and Safety Act 2011* (the WHS Act). This was then withdrawn and a second notice was issued on 15 August 2022, which only prohibited in-person committee hearings. This second prohibition notice was lifted on 19 August 2022 after the Assembly met certain requirements as required by said notice.
- 2.4. On the morning of 15 August 2022, the Speaker advised the Assembly that she believed that the prohibition notices may have been a breach of privilege, and the Assembly established a select committee to inquire into the matter (the Privileges Committee).
- 2.5. It is not the intention of this report to provide a comprehensive account of the events of August 2022. For a detailed review, refer to the [report](#) of the Select Committee on Privileges 2022.
- 2.6. Rather, this inquiry has as its Terms of Reference the Work Health and Safety Amendment Bill 2022. Subsequently, this report will examine the balance between parliamentary privilege and statutory law which informs the necessity of the Bill (and its proposed amendment).

Findings and recommendations of the Privileges Committee

- 2.7. Parliamentary privilege refers to the special legal status which certain legislatures hold to perform their functions free from outside interference. As explained by the House of Representatives:

The term parliamentary privilege refers to the special rights and immunities which apply to the Houses, their committees and their Members, and which are considered essential for the proper operation of the Parliament. These rights and immunities allow the House to meet and carry out their proper constitutional

⁴ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, pp 6–14.

⁵ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 41.

roles, for committees to operate effectively, for Members to discharge their responsibilities to their constituents, and for others properly involved in the parliamentary processes to carry out their duties and responsibilities with obstruction or fear of prosecution.⁶

- 2.8. Parliamentary privilege is necessary to maintain the separation of powers of the legislative, the executive, and the judiciary, which is itself an essential feature of Australia's democratic system.⁷
- 2.9. The Privileges Committee made 10 recommendations and four findings, including the following finding of a breach of parliamentary privilege:

Finding 1:

The Committee **finds** that the first WorkSafe ACT prohibition notice improperly interfered with the free exercise of the Assembly and its committees and therefore **was a breach of the privileges of the Assembly** by WorkSafe ACT.⁸

About this finding, the report stated:

[W]ithout there being clear and unambiguous statutory authority to do so, no entity outside of the Assembly should be capable of trespassing upon the exclusive cognisance of the Assembly or its committees to manage its own affairs.⁹

- 2.10. The *Australian Capital Territory (Self Government) Act 1988* (Cth) provides the Legislative Assembly with the same inherent parliamentary privileges as the House of Representatives, which itself inherits its parliamentary privileges from the House of Commons according to section 49 of the Australian Constitution.¹⁰
- 2.11. As detailed in the above pieces of legislation, if either of these parliaments wishes to abrogate its privileges, it must do so through express statutory provision. As no such provision exists in the WHS Act, the Legislative Assembly retained its inherent powers and immunities to manage its own affairs and protect its proceedings from outside interference, i.e. that of WorkSafe ACT.¹¹ This is what led the Privileges Committee to find that the prohibition notice from WorkSafe ACT improperly interfered with the free exercise of the Assembly and its committees, and was a breach of privilege.¹²

⁶ Department of the House of Representatives, *House of Representatives Practice, Seventh Edition*, p 733.

⁷ Legislative Assembly for the Australian Capital Territory, *The Westminster system* (<https://www.parliament.act.gov.au/visit-and-learn/resources/factsheets/the-westminster-system#:~:text=Parliamentary%20privilege%20refers%20to%20special,the%20Assembly%20from%20outside%20interference,> (accessed 24 February 2023)).

⁸ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 23.

⁹ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 23.

¹⁰ Legislative Assembly for the Australian Capital Territory, *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory, Second Edition*, p 21.

¹¹ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, pp 19–20.

¹² Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 23.

- 2.12. In order to prevent future misunderstanding of the role of parliamentary privilege in interactions between the Legislative Assembly and the WHS Act, the Privileges Committee made the following recommendation:

Recommendation 3

The Committee recommends that the *Work Health and Safety Act 2011* be amended to:

- (1) provide clarity that the Assembly is a workplace; and
- (2) provide that nothing in the Act:
 - (a) abrogates or derogates from the powers, privileges and immunities of the Legislative Assembly, its committees or its members; or
 - (b) gives an inspector or any other person the power to prohibit the proceedings of the Assembly or its committees.¹³

¹³ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 24.

3. The Bill

The Bill

- 3.1. The Chief Minister presented the Work Health and Safety Amendment Bill 2022 to the Assembly on 20 October 2022. It would insert the following section 273A into the *Work Health and Safety Act 2011*:

Members of the Legislative Assembly

To remove any doubt, work carried out by a member of the Legislative Assembly in the exercise of the member's functions, and work carried out by other people to support the member in the exercise of the member's functions, is work carried out in an undertaking for this Act.

- 3.2. The explanatory statement stated that the Bill is not a significant bill, and is a 'narrow clarifying amendment':

to confirm the longstanding policy view about the application of the WHS Act to the Legislative Assembly as a workplace where work is carried out as an undertaking of the Territory.¹⁴

- 3.3. The Minister for Industrial Relations reiterated this view at the public hearing on 2 February 2023.¹⁵
- 3.4. Clause 2 of the Bill states that, should it be passed, the Act would come into effect on the day that the Bill was presented to the Assembly, in effect giving the Act the feature of retrospectivity.¹⁶

Proposed amendment to the Bill

- 3.5. The Speaker of the Legislative Assembly provided the Committee with a copy of her proposed amendment to the Bill, which would insert the following to section 273A:

(2) Nothing in this Act limits any power, privilege or immunity given under the Self-Government Act, section 24 to—

- (a) the Legislative Assembly; or
- (b) a committee of the Legislative Assembly; or
- (c) a member of the Legislative Assembly.

(3) Without limiting subsection (2), nothing in this Act gives the regulator or anyone else exercising a function under this Act the power to prohibit or

¹⁴ Work Health and Safety Amendment Bill 2022, Explanatory Statement and Human Rights Compatibility Statement, p 1.

¹⁵ *Proof Committee Hansard*, 2 February 2023, p 19.

¹⁶ Work Health and Safety Amendment Bill 2022, clause 2.

otherwise interrupt a proceeding of the Legislative Assembly or any of its committees.¹⁷

- 3.6. During the public hearing on 2 January 2023, the Speaker explained that her amendment is necessary to clarify balance the powers of the WHS Act with the privilege of the Legislative Assembly:

[The Work Health Safety Act] applies, but the matter of parliamentary privilege also needs to be recognised, understood and not interfered with. They are almost two parts of the same whole, for the purpose of clarity.¹⁸

- 3.7. The Clerk of the Legislative Assembly also noted that the *Integrity Commission Act 2018* contains similar wording which circumscribes parliamentary privilege in relation to the powers of the Integrity Commission.¹⁹ Section 7 of the *Integrity Commission Act 2018* states as follows:

7 Application of Act—Parliamentary privilege

(1) This Act does not affect the law relating to the privileges of—

(a) the Legislative Assembly; or

(b) any Australian Parliament; or

(c) any house of any Australian Parliament.²⁰

- 3.8. Noting in a supplementary submission that the words ‘or otherwise interrupt’ do not appear in the recommendation of the Privileges Committee, the Speaker proposed to omit them from her amendment.²¹

Scrutiny comment

- 3.9. The Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Scrutiny Committee) considered the Bill and the proposed amendment in its report No 23 of 15 November 2022. The report raised concerns about the retrospective aspect of the Bill, which is stated to commence on the day it was presented to the Assembly. The usual procedure is that an Act commences on the day of its notification. The report said:

It is [...] possible that the amendments included in the Bill will extend the operation of the Act. In this way, the retrospective operation of the Bill may affect rights and liberties and require a more substantive justification than that provided in the explanatory statement.²²

¹⁷ Work Health and Safety Amendment Bill 2022: Amendments to be moved by the Speaker, 20 October 2022, p 1.

¹⁸ *Proof Committee Hansard*, 2 February 2023, p 10.

¹⁹ *Proof Committee Hansard*, 2 February 2023, p 11.

²⁰ *Integrity Commission Act 2018*, s 7.

²¹ *Speaker, Supplementary submission 2.1*, p 2.

²² Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Report No 23*, p 9.

- 3.10. The Scrutiny Committee requested that the Chief Minister respond to the concerns before the Bill is debated in the Assembly.
- 3.11. When considering the Speaker's proposed amendment to the Bill, the Scrutiny report noted that the clarification would not extend the powers of the WHS Act beyond the exclusive cognisance of the Legislative Assembly, and would 'alleviate some of the concerns raised in the Committee's above comments' of the retrospectivity of the Bill.²³
- 3.12. The Chief Minister's response to the Scrutiny Committee claimed that the Bill would not 'alter or expand the current scope of the WHS Act.'²⁴ He further stated:

While the Bill would technically commence retrospectively from the date of passage through the Assembly, this is not considered to be materially impactful on obligation bearers because the commencement is from the date of introduction in the Assembly, when the amendment in the Bill became publicly known.²⁵

²³ Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Report No 23*, p 10.

²⁴ Chief Minister to Chair of the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Correspondence*, 23 February 2023, p 2.

²⁵ Chief Minister to Chair of the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Correspondence*, 23 February 2023, p 2.

4. Committee comment

4.1. From the beginning, this inquiry has been conducted in the context of the conclusions of the Privileges Committee, and of the support and endorsement of the Legislative Assembly of these conclusions.

4.2. As explained by Mr Brett Walker AO SC and Mr Jackson Wherrett in their joint opinion on the matter of the prohibition notices:

For the purposes of parliamentary law, the determination of the Select Committee will have legal significance. That is because parliamentary law includes law that the Houses of Parliament make themselves by the way that they act.²⁶

4.3. It is significant that the Legislative Assembly adopted the report of the Privileges Committee at its presentation.²⁷ The Companion to the Standing Orders explains the meaning of this motion:

Motions are rarely moved to agree to – that is to adopt – particular recommendations of the committee reports. A motion in those terms in effect throws the weight of the Assembly behind the committee’s findings and is a much stronger statement by the Assembly than is expressed by noting the report. Reports from the administration and procedure committee proposing specific changes to the Assembly’s procedures or management, which the Assembly wishes to endorse, are commonly adopted, whereas reports from the same committee that discuss general issues are simply noted.²⁸

4.4. It is also significant that the principal officer of the Legislative Assembly, the Speaker, in her evidence to this inquiry, supports the intention of the Bill. As stated in her submission:

I support the intention of the Bill to make clear that the *Work Health and Safety Act 2011* applies to MLAs, and those workers who support MLAs in the exercise of their functions. It has been my consistent view that the Act does apply in such a way but the intention to add additional clarity is welcomed.²⁹

4.5. In addition, the Speaker stated the importance of an amendment which would ‘ensure that there is no diminution or abrogation of the powers, privileges and immunities of the Assembly, its committees, and its members.’³⁰

4.6. The Committee was aware of the weight which these statements carried during its examination of the Bill and its proposed amendment.

²⁶ Select Committee on Privileges 2022, Legal Advice – ACT Legislative Assembly – Validity of Prohibition Notice, *Submission 4.5*, p 4.

²⁷ ACT Legislative Assembly, *Minutes Of Proceedings No 71*, 1 December 2022, p 981.

²⁸ Legislative Assembly for the Australian Capital Territory, *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory, Second Edition*, p 538.

²⁹ Speaker, *Submission 2*, p 1.

³⁰ Speaker, *Submission 2*, p 1.

Recommendations

- 4.7. To reiterate the explanation of the Privileges Committee, the legislative change in the Bill would remove any ambiguity that workers in the Legislative Assembly precincts are protected by the powers of the WHS Act.
- 4.8. It is of note that it has been understood by both the Territory's legislature and executive that the Legislative Assembly has always operated on the principle that the WHS Act applies to the Assembly, its Members, and its staff.³¹ However, in their advice to the Legislative Assembly, Mr Brett Walker AO SC and Mr Jackson Wherrett were of the opinion that the Assembly does not, in fact, fall under the definition of a 'workplace' under the Act. They argue that the important constitutional functions which the Assembly performs would be improperly described as a 'business', an 'undertaking', or 'activities' as defined by the Act. They note:

Even if the Legislative Assembly is a "workplace", in our opinion, the better view is that the conduct of parliamentary debates or committee proceedings are not "activities" within the meaning of the Work Health and Safety Act. Although the word "activities" is broad, we consider that it is highly unlikely that the Legislative Assembly, in using such a general word, intended to include its core constitutional functions, such that they would be capable of being shut down by an inspector appointed under the Act.³²

Their submission further states:

If the Assembly had intended that it would be treated as a workplace in the same way as any other workplace that exists within the Territory, it is likely that intention would have been made more clear in the legislation.³³

- 4.9. This difference of interpretation highlights the necessity of the removal of any ambiguity that the WHS Act does, indeed, apply to the Legislative Assembly, and that its staff can be ensured a safe workplace by the Act's functions and powers. It is for this reason that the Committee supports the passing of the Bill.
- 4.10. The Committee also notes that the Bill clarifies the definition of 'work' under the Act, but does not define a 'workplace' as recommended by the Privileges Committee. Due to this, the Committee is of the view that the Bill should be amended to further clarify that the precincts of the Legislative Assembly are defined as a workplace under the *Work Health and Safety Act 2011*.

³¹ Speaker of the Legislative Assembly, *Submission 2*, p 1. ACT Government, *Submission 3*, p 1.

³² Select Committee on Privileges 2022, Legal Advice – ACT Legislative Assembly – Validity of Prohibition Notice, *Submission 4.5*, p 11.

³³ Select Committee on Privileges 2022, Legal Advice – ACT Legislative Assembly – Validity of Prohibition Notice, *Submission 4.5*, p 11.

Recommendation 1

The Committee recommends that the Assembly pass the Work Health and Safety Amendment Bill 2022 with further amendment to ensure absolute clarity that the Assembly is a workplace.

- 4.11. As discussed above in paragraph 2.11., the Legislative Assembly retains its inherent privileges 'to the extent that it has not made specific laws in relation to its privileges.'³⁴
- 4.12. The legislative change proposed by the Bill, if enacted alone, risks abrogating the privileges of the Assembly in respect to the WHS Act.³⁵ Therefore it is also necessary to also remove any ambiguity that the Bill would not diminish parliamentary privilege.³⁶
- 4.13. As per the recommendation of the Privileges Committee, the Committee is of the view that the Bill and its proposed amendment are equally necessary to clarify the interaction between the power of the executive (as expressed by WorkSafe ACT) and parliamentary privilege.
- 4.14. The Committee also agrees with the Speaker's proposal to omit the words 'or otherwise interrupt' from her amendment, in order to bring it into line with the recommendation of the Privileges Committee.

Recommendation 2

The Committee recommends that the Assembly pass the Speaker's amendment, without the words 'or otherwise interrupt', to ensure there is no diminution of abrogation of the powers, privileges and immunities of the Assembly.

- 4.15. WorkSafe ACT is of the view that a further amendment be made to the WHS Act to clarify that Members of the Assembly (MLAs) are officers under the Act. This clarification has already been made in Commonwealth legislation, following a recommendation by the Australian Human Rights Commission.³⁷ As explained by the WorkSafe ACT Commissioner:

A similar step was recently taken by the Commonwealth parliament to confirm parliamentary officer duties under the *Work Health and Safety Act 2011* (Cth) (Commonwealth Act) – which is also based on the national model WHS adopted by the Territory.

Similar to its original view that the Legislative Assembly is a workplace with the meaning of the Act, WorkSafe ACT is of the view that MLAs have a duty to

³⁴ Legislative Assembly for the Australian Capital Territory, *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory, Second Edition*, p 21.

³⁵ Speaker, *Submission 2.1*, p 1.

³⁶ Standing Committee on Justice and Community Safety (Legislative Scrutiny Role), *Report No 23*, p 9; Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 24.

³⁷ Recommendation 17 reads: 'The Australian Government should [...] (c) clarify that, for the avoidance of any doubt, that *Work Health and Safety Act 2011* (Cth) applies to member, Senator or officer in their capacity as employers of staff under the *Members of Parliament (Staff) Act 1984* (Cth).' Australian Human Rights Commission, *Set the Standard: Report on the Independent Review into Commonwealth Parliamentary Workplaces*, November 2021, p 215.

exercise due diligence to ensure their workplaces comply with their WHS obligations and views them as officers under the Act.³⁸

- 4.16. The Committee endorses this view and supports the suggested amendment.

Recommendation 3

The Committee recommends that the ACT Government amend the Work Health and Safety Amendment Bill 2022 to clarify the role of Members of the Assembly as officers under the Act.

- 4.17. The Privileges Committee hoped that their report would serve an educational purpose:

It is hoped that the issues raised in this report serve as a reminder to ACT executive agencies that important constitutional and parliamentary principles may arise when engaging with the Legislative Assembly. Collaboration, negotiation and mutual respect should be key drivers in future interactions.³⁹

- 4.18. Their first recommendation advised that WorkSafe ACT develop a memorandum of understanding (MOU) with the Legislative Assembly, which would set out a series of protocols to facilitate cooperation between the two bodies.⁴⁰

- 4.19. It is noted that the Australian Federal Police (AFP) have an MOU with the Assembly which is designed to assist officers in carrying out policing functions with the understanding that the Speaker has authority for control and management of the Assembly under the *Legislative Assembly Precincts Act 2001*.⁴¹

- 4.20. Paragraph 5.1 of that MOU, for example, states:

It is understood that, in carrying out ordinary policing functions, police may enter the Assembly precincts when exercising their powers which they possess under the law.⁴²

- 4.21. Schedule 1 of the MOU, which sets out the AFP's standard operating procedure when interacting with the Assembly's parliamentary privilege and protocols, defines the concept of 'contempt of the Assembly':

Conduct (including the use of words) constitutes an offence against the Legislative Assembly when it amounts, or is intended or likely to amount, to an improper interference with the free exercise by the Legislative Assembly, a committee of its

³⁸ WorkSafe ACT, *Submission 1*, p 3.

³⁹ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 22.

⁴⁰ Select Committee on Privileges 2022, *Imposition of a prohibition notice by WorkSafe ACT*, November 2022, p 23.

⁴¹ Australian Federal Police, *Memorandum of Understanding Between The Speaker of the Legislative Assembly for the Australian Capital Territory AND The Minister for Police and Emergency Services for the Australian Capital Territory AND The Chief Police Officer for the Australian Capital Territory*, Schedule 1, 19 September 2017, p 1 (tabled 31 July 2018).

⁴² Australian Federal Police, *Memorandum of Understanding*, Schedule 1, 19 September 2017, p 2 (tabled 31 July 2018).

authority or functions, or with the free performance by a member of their duties as a member of the Legislative Assembly.⁴³

- 4.22. The document proceeds to set out specific instructions for police work on Assembly precincts, for example, that a search warrant on the premises must not be carried out on a sitting day, and a Member cannot be questioned during the time in which they are required to perform parliamentary duties.⁴⁴
- 4.23. The Committee agrees that the presence of a similar MOU could prevent another unfortunate breach of parliamentary privilege by comprehensively setting out protocols for WorkSafe ACT when engaging with Assembly members, its staff, or its precincts, while also allowing for Assembly workers to enjoy the full protection of the WHS Act in ensuring a safe and fair workplace.

Recommendation 4

The Committee recommends that the Legislative Assembly for the ACT develop a memorandum of understanding with WorkSafe ACT on how it will exercise its regulatory functions within the Assembly precincts, acknowledging the parliamentary privilege issues engaged.

⁴³ Australian Federal Police, *Memorandum of Understanding*, Schedule 1, 19 September 2017, p 2 (tabled 31 July 2018).

⁴⁴ Australian Federal Police, *Memorandum of Understanding*, Schedule 1, 19 September 2017, p 5 and 7 (tabled 31 July 2018).

5. Conclusion

- 5.1. The Committee wishes to thank the Minsters, the WorkSafe ACT Commissioner, the Speaker and the Office of the Legislative Assembly for their participation in this inquiry.
- 5.2. The Committee makes four recommendations.

Mrs Elizabeth Kikkert
Chair
1 March 2023

Appendix A: Submissions

No.	Submission by	Received	Published
1	WorkSafe ACT	17/01/2023	20/01/2023
2	Speaker of the Legislative Assembly	19/01/2023	20/01/2023
2.1	Speaker of the Legislative Assembly	22/02/2023	01/03/2023
3	ACT Government	25/01/2023	26/01/2023

Appendix B: Witnesses

Thursday, 2 February 2023

Office of the Legislative Assembly for the ACT

- **Mr Tom Duncan**, Clerk of the Legislative Assembly
- **Ms Joy Burch**, Speaker
- **Mr David Skinner**, Senior Director, Office of the Clerk

Work Safe ACT

- **Ms Jacqueline Agius**, ACT Work Health and Safety Commissioner

ACT Government

- **Mr Mick Gentleman MLA**, Minister for Industrial Relations and Workplace Safety
- **Dr Damian West**, Deputy Director-General, WCAG, CMTEDD
- **Mr Michael Young**, Executive Group Manager, Workplace Safety and Industrial Relations, CMTEDD
- **Ms Ellen Lukins**, Senior Director, Workplace Safety and Industrial Relations, CMTEDD