



LEGISLATIVE ASSEMBLY

FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

**Zed Seselja MLA (Chair), Mary Porter AM MLA (Deputy Chair), Chris Bourke MLA,
Brendan Smyth MLA**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Inquiry into 2011–12 Annual reports

Workplace safety and industrial relations portfolio (IR responsibilities)

Responses to questions taken on notice at public hearing of 23 April 2013



Simon Corbell MLA

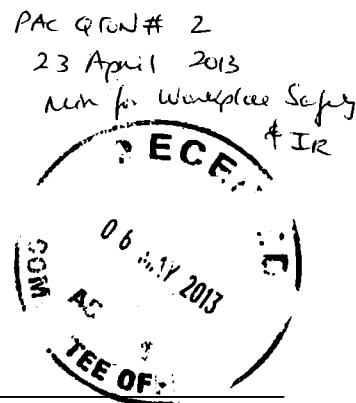
ATTORNEY-GENERAL

MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

MINISTER FOR POLICE AND EMERGENCY SERVICES

MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS

MEMBER FOR MOLONGLO



Authorised for publication

Answer to Question Taken on Notice

Ms Mary Porter MLA asked **the Minister for Workplace Safety and Industrial Relations**, in the Standing Committee on Public Accounts Inquiry into Annual and Financial Reports 2011-12 - Work Safety and Industrial Relations Portfolio hearing on 23 April 2013.

On page 23, under the national harmonisation of the work health and safety laws, reference is made to the development of a new code of practice and guidance material. Could you talk to us a little more about where that is up to?

Mr Simon Corbell MLA – the answer to the Member's question is as follows

I am advised that, in 2011-12, the ACT was involved in developing a range of nationally harmonised model Codes of Practice and guidance in accordance with the *Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety* (IGA). As required by the IGA, the Codes of Practice and guidance have been developed through national stakeholder and public consultation, including consultation with the ACT Work Safety Council.

As the process of developing these materials is ongoing, Codes have been developed in stages or groups. All first stage model Codes of Practice have been finalised, together with most second stage model Codes of Practice, and the majority have been adopted under the *Work Health and Safety Act 2011* in the Territory.

A further second stage Code of Practice together with a package of 11 draft third and fourth stage model Codes of Practice are under development. The ACT has formally agreed to these Codes. Following approval by other Members of the Select Council on Workplace Relations (Ministerial Council), these Codes will be finalised and will become model WHS Codes of Practice under the IGA. It is anticipated the ACT will adopt the model Codes.

The ACT has also been involved in the development of Guidance Material on a range of health and safety subjects. While Guidance Material cannot be legally enforced, its purpose is to help people understand the law and how to comply with it and to provide technical advice on specific issues of concern. The WorkSafe ACT website (www.worksafe.act.gov.au) links to a number of Guidance Materials published by Safe Work Australia as they become available.

Attachment A lists the model Codes of Practice adopted in the ACT under the WHS Act and the dates on which this occurred, as well as those Codes of Practice currently in progress.

Approved for circulation to the Member

Simon Corbell MLA

Minister for Workplace Safety and Industrial Relations

6.5.13

Date:.....

Codes of Practice and guidance adopted under the *Work Health and Safety Act 2011*

The model Codes of Practice are practical guides to achieving standards of health, safety and welfare required under the *Work Health and Safety Act 2011* (WHS Act) and Work Health and Safety Regulation. Under the WHS Act, an approved code of practice is admissible in court proceedings as evidence of whether or not a duty or obligation under the Act has been met.

First Stage Codes of Practice – commenced 1 January 2012

- Managing the risk of falls at workplaces
- Preventing falls in housing construction
- Hazardous manual tasks
- Managing noise and preventing hearing loss at work
- Confined spaces
- How to manage work health and safety risks
- Managing the work environment and facilities
- Work health and safety consultations, cooperation and coordination

Second Stage Codes of Practice – commenced 24 August 2012

- First aid in the workplace
- Construction work (replaced former version introduced on 1 January 2012)
- Preventing falls in housing construction (replaced former version introduced on 1 January 2012)
- Managing electrical risks in the workplace
- Managing risks of plant in the workplace
- Safe design of structures
- Excavation work
- Demolition work
- Spray painting and powder coating
- Abrasive blasting
- Welding process

Remaining Second Stage Code of Practice – awaiting approval from the Ministerial Council

- Tree trimming and removal work (crane access method)

Third Stage Codes of Practice – awaiting approval from the Ministerial Council

- Traffic management in workplaces
- Working in the vicinity of overhead and underground electric lines;
- Safe design, manufacture, import and supply of plant
- Scaffolds and scaffolding work
- Formwork and falsework

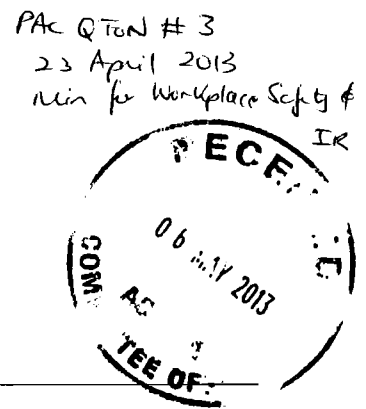
Fourth Stage Codes of Practice – awaiting approval from the Ministerial Council

- Managing cash-in-transit security risks
- Managing risks in forestry operations
- Managing risks of plant in rural workplaces
- Cranes
- Industrial lift trucks
- Amusement devices



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MEMBER FOR MOLONGLO

Answer to Question Taken on Notice

Dr Chris Bourke MLA asked the **Minister for Workplace Safety and Industrial Relations**, in the Standing Committee on Public Accounts Inquiry into Annual and Financial Reports 2011-12 - Work Safety and Industrial Relations Portfolio hearing on 23 April 2013.

How many prosecutions [occurred] under the Act with respect to failure to pay workers' compensation premium?

Mr Simon Corbell MLA – the answer to the Member's question is as follows

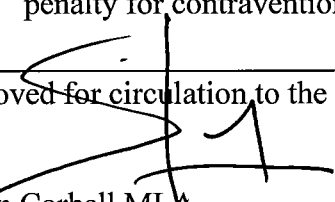
The *Workers Compensation Act 1951* requires all ACT employers to hold a current workers' compensation insurance policy covering all of their employees, except where the employer is an approved self insurer.

Punitive measures are available for employer offences including failure to hold a policy (non-insurance), failure to accurately declare the number of employees/amount of wages to be covered by the policy (under insurance) and failure to produce evidence of coverage (certificate of currency).

The regulatory framework features an integrated hierarchy of sanctions that respond to the degree of employer culpability, including:

- recovery of up to double the amount of any avoided premium from the employer;
- for failing to maintain a policy of insurance - on the spot fines of \$1,100 for an individual or \$5,500 for a corporation;
- for failing to maintain a policy of insurance – court awarded penalties of up to \$27,500 for individuals and \$137,500 for corporations;
- for giving false statements to cause lower premiums – maximum penalties of \$11,000 and imprisonment of up to one year for individuals and \$55,000 for corporations;
- default notices where failure to hold a compulsory insurance policy is evident;
- cease business orders for failure to pay judgement amounts and for persistent failure to secure workers' compensation coverage;
- suspension from hiring workers in the Territory for five years for repeat offences (maximum penalty for contravention is up to five years imprisonment).

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Prosecution is **only one of the mechanisms** available to secure compliance with workers' compensation laws and are only undertaken in the most extreme cases, where other measures have failed. No prosecution actions have been initiated by WorkSafe ACT since 2009.

Employer premium compliance activity by the WorkSafe inspectorate in 2011-12 included:

- investigation of 1,920 reported cancelled or 'lapsed' policies;
- 33 cases of non-insurance identified;
- \$280,481 in premium recoveries sought on the 33 identified non-insurance cases;
- 34 default notices issued;
- two infringement notices issued.



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MINISTER FOR POLICE AND EMERGENCY SERVICES
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS

MEMBER FOR MOLONGLO

Plc QTON # 4
23 April 2013
Min for Workplace Safety & IR



Answer to Question Taken on Notice

Mr Zed Seselja MLA asked **the Minister for Workplace Safety and Industrial Relations**, in the Standing Committee on Public Accounts Inquiry into Annual and Financial Reports 2011-12 - Work Safety and Industrial Relations Portfolio hearing on 23 April 2013.

[In relation to the shortfall in the total net cost of services?

On page 88, looking at the triple bottom line reporting, in the operating statement under "Economic", the total net cost of services for 2011-12 is minus \$5.59 million. Are you able to explain that shortfall?

Mr Simon Corbell MLA – the answer to the Member's question is as follows

I am advised that the shortfall is primarily due to increased liability in the long service leave provision as calculated by the Long Service Leave Authority's actuary. (This is mostly in the construction scheme: at 30 June 2011 the long service leave provision in the construction scheme was \$8.6 million and at 30 June 2012 it had risen to \$14.9 million.) I am advised that this is due to the increase in membership over the last five years and the subsequent increase in members now being eligible to receive long service leave entitlements.

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Minister for Workplace Safety and Industrial Relations

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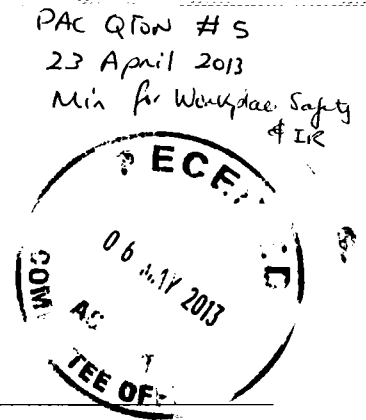
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MEMBER FOR MOLONGLO



Answer to Question Taken on Notice

Mr Zed Seselja MLA asked **the Minister for Workplace Safety and Industrial Relations**, in the Standing Committee on Public Accounts Inquiry into Annual and Financial Reports 2011-12 - Work Safety and Industrial Relations Portfolio hearing on 23 April 2013.

[In relation to LSL Board members Mr Mathews and Mr Pender]

In relation to LSL Board members Mr Mathews and Mr Pender, what was the reason for attending only two meetings each? Was there a gap in appointments?

Mr Simon Corbell MLA – the answer to the Member's question is as follows

I am advised that Mr Mathews the Deputy Chair of the Board of the Long Service Leave Authority resigned from the Board unexpectedly on 18 October 2011. (He had attended the July and September meetings in 2011.)

I am advised that Mr Pender's nomination was provided to the Standing Committee on Justice and Community Safety in April 2012. Mr Pender was appointed from 25 May 2012 and attended the May and June board meetings in 2012

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Simon Corbell MLA

Minister for Workplace Safety and Industrial Relations

6.5.13

Date:.....



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MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
MINISTER FOR POLICE AND EMERGENCY SERVICES
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS

MEMBER FOR MOLONGLO

PAC QTON # 6
23 April 2013
Min for Workplace Safety & IR



Answer to Question Taken on Notice

Mr Zed Seselja MLA asked **the Minister for Workplace Safety and Industrial Relations**, in the Standing Committee on Public Accounts Inquiry into Annual and Financial Reports 2011-12 - Work Safety and Industrial Relations Portfolio hearing on 23 April 2013.

[In relation to the appointment of Ms Kim Sattler to the governing board of the Long Service Leave Authority]:

It looks like she was not part of the board for six months and that she served for a period of years then was reappointed with a six-month gap. Is there an explanation for why that would occur and why there would not have been continuity in that board service?

Mr Simon Corbell MLA – the answer to the Member's question is as follows

On 6 June 2012 Dr Chris Bourke MLA, the then Minister for Industrial Relations, appointed Ms Kim Sattler as a member representing employee organisations to the governing board of the Long Service Leave Authority. I am advised that Ms Sattler's prior appointment to the governing board had expired on 1 January 2012 and that the delay in reappointing Ms Sattler resulted from an administrative error.

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Simon Corbell MLA

Minister for Workplace Safety and Industrial Relations

6.5.13

Date:.....



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MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

MINISTER FOR POLICE AND EMERGENCY SERVICES

MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS

MEMBER FOR MOLONGLO

2011-12
Answer Rep
Minister for Workplace
Safety & IR

PAC Q&A # 7
23 April 2013



Answer to Question Taken on Notice

Mr Seselja asked the Minister for Workplace Safety and Industrial Relations, during Question Time, on 23 April 2013 [in relation to the workplace bullying and psycho-social hazards sub-committee]:

So when was it formed?

Mr Corbell – the answer to the Member's question is as follows:

At its meeting of 1 June 2012, the ACT Work Safety Council agreed to form an Advisory Committee on Bullying and Other Social Issues. The Committee held its first meeting on 15 August 2012.

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Approved for circulation to the Member

Simon Corbell MLA
Minister for Workplace Safety and Industrial Relations

Date: 8.5.13