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Chief Minister
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Member for Kurrajong

Mr Peter Cain
Chair
Standing Committee on Justice and Community Safety

Via email: scrutiny@parliament.act.gov.au

Dear Mr Cain

I write to provide a response to comments from the Standing Committee on Justice and Community Safety, contained in Scrutiny Report 23 relating to the *Work Health and Safety Amendment Bill 2022*. This Bill will amend the *Work Health and Safety Act 2011* (the WHS Act) to remove any doubt that members of the ACT Legislative Assembly, and those who carry out work to support members, are covered by the WHS Act.


The Committee has requested further information on why the Bill will not have a substantive effect on the interpretation and application of the WHS Act and why it was considered necessary to have the Bill commence prior to enactment.

The Work Health and Safety Act 2011

The objective of the WHS Act is to protect workers and other persons against harm to their health, safety and welfare through the elimination or minimisation of risks arising from work. This framework is established to ensure a consistent approach to the protection of all workers' rights, regardless of their industry or occupation.

It is the long-standing practice and expectation of both the ACT Government and ACT community that the same standards of responsibility and accountability should apply to members and workers of the Legislative Assembly as they do to all Canberran workers and workplaces.

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This Bill does not alter or expand the current scope of the WHS Act. Instead, the Bill reinforces the pre-existing obligations and rights set out in the WHS Act and their application to all workers and workplaces, including the ACT Legislative Assembly. This Bill safeguards the protection of all Canberra workers, which is the intention of the WHS Act.

It has also been the custom and practice of the ACT Legislative Assembly to operate with the intention that it is a workplace captured under the WHS Act. Illustrative of this custom and practice is the recent acknowledgement made by the Speaker of the Assembly that members and workers are covered by the WHS Act, as written in her [submission](#) to the Select Committee on Privileges 2022: 'There has never been any suggestion by me or the Office of the Legislative Assembly that MLAs do not have duties under the WHS Act to ensure the health and safety of workers.' It is also evidenced in the [Workplace Injury Prevention Policy](#) (May 2021) of the Assembly.

Commencement

As covered in the explanatory statement accompanying the Bill, section 75A of the *Legislation Act 2001* (Legislation Act) states that an Act or legislative instrument commences retrospectively if it commences on a day or at a time earlier than the day after its notification day. Section 75B of the Legislation Act provides that an ACT law may operate retrospectively, provided that the law clearly articulates that intention.

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. This is notwithstanding that it is a clarifying amendment that applies narrowly to people doing or directing work in the Legislative Assembly.

Thank you for your interest in this Bill, I trust my responses provide you with the information required.

Yours sincerely

A black rectangular redaction box covering the signature of the Chief Minister.

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Chief Minister

23 February 2023