

# ETU OHS REPS NEWSLETTER



## DISCRIMINATION

Section 76 of the OHS Act prohibits an employer from dismissing an employee, discriminating against an employees or treating an employees less favourably because that employee is or has been an elected OHS rep (or a committee member, or raising an OHS issue).

This includes deputy reps. WorkSafe has stated that it treats any cases of alleged discrimination seriously and 'under its compliance and enforcement policy; and general prosecution guidelines, prioritises allegations of discrimination for comprehensive investigation'.

If charges are laid under this section of the Act, the burden is on the employer to prove that the dominant reason for their action was *not* any of the matters outlined above.

The Employee Protection Bill was passed in the Upper House of the Victorian Parliament on the 23<sup>rd</sup> of June 2009. The Bill makes changes to the protection from discrimination, provided for in the OHS Act 2004, and includes the right of an individual (or their representative) to initiate a prosecution.

The amendment to the OH&S Act came into affect on Wednesday the 1<sup>st</sup> of July 2009.

The purpose of the amendment to the Occupational Health and Safety Act 2004 is to enable an employee or prospective employee whose employer or prospective employer engages in discriminatory conduct to bring a civil action.

This action may be taken by the person whether or not the matter has also been dealt with by WorkSafe.

It also provides for the protection for employees or prospective employees against discriminatory conduct instigated by third parties, and further provides that the court may order the payment of damages or other redress to an employee or prospective employee whose action is successful.

The amendment also removes the penalty of imprisonment from the existing provisions of the Occupational Health and Safety Act 2004 in relation to discriminatory conduct, and amends the existing provisions of the Occupational Health and Safety Act 2004 in relation to discriminatory conduct to include authorised representatives of registered employee organisations among those with whom an employee or prospective employee may engage in activity related to occupational health and safety that is protected by the Act.

### **Civil action for alleged discrimination**

On 1 July 2009, civil provisions came into operation under Subdivision 2, Division 9 of Part 7 of the *Occupational Health and Safety Act 2004*, dealing with cases of alleged discrimination. Such matters are heard in the Industrial Division of the Magistrates' Court. Applications must be filed with the Industrial Division of the Magistrates' Court.

Under Section 78E of *Occupational Health and Safety Act 2004*, a proceeding brought for contravention of section 78A or 78C of the Act must be commenced not more than 1 year after the date on which the plaintiff knew or ought to have known that the cause of action accrued.

## NEWS

The **Wiring Rules**, AS/NZS 3000 has been amended. Amendment 1 was published on the 31st July 2009.

To download Amendment 1 to AS/NZS 3000:2007 for free, please visit <http://infostore.saiglobal.com/store/> and enter '3000' in the search area.

**HSR Conference** during WorkSafe week is going to be held this year on the 28th October at the new Melbourne Convention Exhibition Centre. You need to register in advance to attend. No registration is accepted on the day.

Complete the registration form on the application and return via fax, email or mail:  
 Fax: 03 9639 0408  
 Email: [ohstrain@vthc.org.au](mailto:ohstrain@vthc.org.au)  
 Post: HSR Seminar OHS Unit, VTHC, 54 Victoria St Carlton South, Vic 3053

### **EXPLORE THE POSSIBILITY OF BECOMING A LICENSED ELECTRICAL INSPECTOR.**

GippsTAFE Energy Training Centre (ETC) Drummond St, Chadstone, (Melways Reference 69 G3) is running a licensed electrical inspectors course starting Thursday 27th August.

This course which runs one day a week (Thursdays), with the assessment being carried out by EPIC will

enable graduates to work as electrical inspectors.

This L & G course is also a prerequisite to the High Voltage course which will be run in 2010.

For more details contact Rod McNab on 9251 3034.

### **Proposed National OHS Laws**

The proposed national OHS Laws will, in their current form, restrain HSRs and endanger Victorian workers.

The proposed national law is vague on the timing of training, and lets your boss determine how it will happen.

In seeking to limit HSRs powers, the proposal restricts a HSRs ability to enlist the help of others – inside and outside their workplace – to solve problems.

The new laws would only allow Safety Reps to become involved in the resolution of an issue after consultation between workers and the boss has failed. Currently, no such limits exist in the Victorian Act.

Workers need their Safety Reps to be proactive, not called in as a last resort. This change would also remove the right to anonymity when reporting hazards. Victoria's OH&S laws are among the world's best. Raise Australian safety UP, not water it DOWN.

## 2009 Calendar

### **EEIT OHS TRAINING DATES**

10AM –12PM

Melbourne –

Held at old ETU Office

Swanston St Carlton South

August 26

### **OHS REP TRAINING**

Contact Tanya—0393269377 to book into the courses below.

Initial 5 Day OHS REPS Course

October 6, 7, 13, 14, 15

1 Day Refresher OHS Rep Course

Melbourne

October 21

Country

Shepparton – September 23

Mildura – November 25

### **HSR Conference**

October 28—new Melbourne Convention Exhibition Centre