

**Queensland Government Response
to the Recommendations of the
Service Delivery and Performance
Commission
Report on the
Review of the Roles and
Responsibilities of
Queensland Government Agencies
in the
Administration of
Workplace Health and Safety
Regulation**



**Queensland
Government**

November 2008

Government response to the Report on the Review of the Roles and Responsibilities of Queensland Government Agencies in the Administration of Workplace Health and Safety Regulation.

Recommendation 1

Cabinet approve the creation of a Health and Safety Regulators Council, as soon as practical, to coordinate the government's response to the national health and safety reforms and to enhance other aspects of communication and coordination across health and safety regulators.

Government Response: Accept.

Recommendation 2

The Council to be chaired personally by the Director-General, Department of Employment and Industrial Relations, with the Chair to arrange an assessment of the effectiveness of the Council to be provided to the Public Service Commission by **30 June 2009**.

Government Response: Accept in principle. The Government will consider the relative priority of this work in the context of other priority tasks to be undertaken by the Public Service Commission.

Recommendation 3

Cabinet approve the Terms of Reference for the Council (Appendix 5 of the Report on the Review of the Roles and Responsibilities of Queensland Government Agencies in the Administration of Workplace Health and Safety Regulation).

Government Response: Accept.

Recommendation 4

In negotiating the national health and safety reforms, the Health and Safety Regulators Council develop standardised approaches to key equivalent legislative provisions where appropriate, for Cabinet approval, including:

- a) the statutory health and safety duties
- b) how the statutory duties are to be met
- c) use of safety management systems
- d) incident reporting requirements, and
- e) formal inquiry powers.

Government Response: Accept.

Recommendation 5

The Health and Safety Regulators Council develop administrative arrangements, and accompanying information material, by **31 March 2009** to streamline health and safety incident reporting requirements for businesses, as follows:

- a) a business need only report a particular type of incident (e.g. chemical leak, electrical safety, rail operations incident) to one government regulator
- b) the relevant regulator to refer the incident to other regulators as needed, and
- c) the business would meet its statutory obligations by reporting the incident once.

Government Response: *Accept, subject to an extension of the 31 March 2009 timeframe to 31 December 2009. This extension is required because outcomes from the national OHS review, the National Mines Safety Framework review, and the National Maritime Safety review are not likely to be known until at least March 2009.*

Recommendation 6

The Health and Safety Regulators Council develop proposals to amend the relevant health and safety Acts to remove areas of ambiguity between the Acts (as identified in Appendix 8) for Cabinet consideration by **31 December 2008**.

Government Response: *Accept, subject to an extension of the 31 December 2008 timeframe to 31 December 2009 due to the pending outcome of a number of national reviews.*

Recommendation 7

The Health and Safety Regulators Council identify industries where the impact of overlapping legislation is most significant (e.g. chemicals and plastics) and develop information material on their compliance responsibilities by **31 March 2009**.

Government Response: *Accept, subject to an extension of the 31 March 2009 timeframe to 31 December 2009 due to the pending outcome of a number of national reviews.*

Recommendation 8

The Directors-General of the Department of Employment and Industrial Relations and Queensland Transport develop, for Cabinet consideration by **31 December 2008**, strategies to strengthen the government's workplace health and safety responsibilities in the maritime industry, including consideration of the following:

- a) establishing an Industry Standing Committee for the maritime industry
- b) developing an Industry Action Plan for the maritime industry
- c) developing a standard under the *Transport Operation (Marine Safety) Act 1994* to clearly outline the meaning of 'operating' a vessel, and
- d) developing a new interdepartmental Memorandum of Understanding (MOU) with clear responsibilities for all aspects of workplace health and safety in the maritime industry.

Government Response: *Accept, subject to an extension of the 31 December 2008 timeframe to 30 June 2009 due to the pending outcome of a national review of maritime safety.*

Recommendation 9

The Director-General of the Department of Employment and Industrial Relations seek Cabinet approval by **31 December 2008** to amend the *Workplace Health and Safety Act 1995* to ensure that:

- a) the requirements for occupational licensing under the Act apply as a minimum requirement on mine sites, petroleum and gas tenures and geothermal exploration sites, and
- b) the plant registration requirements under the Act apply as a minimum requirement on mine sites, petroleum and gas tenures and geothermal exploration sites.

***Government Response:** Accept, subject to an extension of the 31 December 2008 timeframe to **31 March 2009** so that consultation with stakeholders can be undertaken, and so that implementation issues can be fully considered.*

Recommendation 10

The Director-General of the Department of Employment and Industrial Relations seek Cabinet approval by **31 December 2008** to amend the *Dangerous Goods Safety Management Act 2001* so the major hazard facility provisions of the Act apply on mine sites, petroleum and gas tenures and geothermal exploration sites.

***Government Response:** Accept, subject to an extension of the 31 December 2008 timeframe to **30 June 2009** so that consultation with stakeholders can be undertaken, and so that resourcing issues can be fully considered.*

Recommendation 11

The Directors-General of the Department of Employment and Industrial Relations and the Department of Mines and Energy put in place joint administrative arrangements for the enforcement of provisions relating to occupational licensing, plant registration and major hazard facilities by **31 March 2009**.

***Government Response:** Accept, subject to an extension of the 31 March 2009 timeframe to **30 June 2009** since this recommendation is dependent on the outcomes of recommendations 9 and 10.*

Recommendation 12

The Director-General, Queensland Transport, assess the model proposed by the Queensland Ombudsman's report into the Mining Inspectorate to minimise regulatory capture risks and report to the Minister for Transport on its applicability to rail safety by **31 December 2008**.

***Government Response:** Accept, subject to an extension of the 31 December 2008 timeframe to **31 December 2009** so that the outcomes of discussions regarding a single national approach to rail safety regulation and investigation are known.*

Recommendation 13

Health and safety regulators engage in periodic reviews (at least once every three years) of their regulatory strategy and practices by independent experts to ensure they represent a balanced and 'best practice' approach to regulatory non-compliance. Health and safety regulators who have not undertaken a review of their regulatory strategy and practices in the past two years to initiate a review by **31 March 2009**.

***Government Response:** Accept.*

Recommendation 14

The Health and Safety Regulators Council oversee the reviews of regulatory strategy and practices and commit to the continued development of taking into account the validity of different approaches.

***Government Response:** Accept.*

Recommendation 15

Health and safety regulators publish their compliance and enforcement policies on their websites by **31 December 2008**.

Government Response: Accept.

Recommendation 16

The Health and Safety Regulators Council assess their agencies' effectiveness in working together as regulators using, as a minimum, the measures outlined in the Queensland Ombudsman's recent report on good regulatory practice, *Tips and Traps for Regulators*, (November 2007), by **31 March 2009**.

Government Response: Accept.

Recommendation 17

The Directors-General of Queensland Transport and the Department of Employment and Industrial Relations ensure that regulatory responsibilities between Workplace Health and Safety Queensland (DEIR) and Rail Safety (Queensland Transport) be addressed as a priority and incorporated into a new Memorandum of Understanding to support the commencement of the *Rail Safety Act 2008*.

Government Response: Accept. Implementation of this recommendation has commenced.

Recommendation 18

Health and safety regulators ensure all Memorandums of Understanding between agencies are progressively reviewed and updated by **30 June 2009**, overseen by the Health and Safety Regulators Council.

Government Response: Accept.

Recommendation 19

Health and safety regulators ensure all future Memorandums of Understanding cover a broader range of issues, including governance arrangements, information sharing, providing advice and support, managing notifications and referrals, frameworks for resolving disagreements, and responsibilities for incident response and enforcement.

Government Response: Accept.

Recommendation 20

Health and safety regulators ensure all Memorandums of Understanding be made publicly available by **30 June 2009**.

Government Response: Accept.

Recommendation 21

CHEM Services (Department of Emergency Services) be transferred to DEIR as soon as practical, ensuring that the remuneration levels, relationships with emergency response teams and separate specialist capacity for major hazard facilities regulation and associated activities are maintained.

Government Response: Accept. Implementation of this recommendation is complete as of 1 October 2008.