



Electrical Trades Union of Australia

Proud to be Union

Date: 24 July 2018

Submission to the Senate Standing Committee on Economics

Via Upload to the Inquiry Website

ETU Submission – Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Amendments) Bill 2018 (Cth).

The Electrical Trades Union of Australia (ETU) is the Electrical, energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). The ETU represents approximately 61,000 electrical and electronic workers around the country and the CEPU, as a whole, represents approximately 100,000 workers nationally, making us one of the largest trade unions in Australia.

The ETU welcomes the opportunity to make a submission to the Senate Standing Committee on Economics in relation to the *Offshore Petroleum and Greenhouse Gas Storage Amendment (Miscellaneous Amendments) Bill 2018 (Cth) (Bill)*.

The ETU is aware of the ACTU submission in relation to this Bill and we support the matters contained in that submission and the recommendations put forward. The ETU shares the ACTU's concerns in relation to Schedule 16 of the Bill which amends the OPGGS Act to enable the Minister, the National Offshore Petroleum Titles Administrator and the Chief Executive Officer of the National Offshore Petroleum Safety and Environmental Management Authority (**NOPSEMA**) to accept and enforce undertakings in relation to compliance with provisions of the OPGGS Act and regulations.

Enforceable undertakings are not an appropriate regulatory tool, and should be prohibited, in certain circumstances. Secondly, the NOPSEMA is a regulator that has demonstrated a regulatory response that focusses on the lower end of appropriate regulatory controls. The problem of a "light touch" regulator is likely to be exacerbated if the NOPSEMA is given this additional enforcement tool without appropriate safeguards.

The meaning of self-regulation has been bastardised for the convenience of employers at the expense of workers. The move from prescriptive regulatory approaches to process focussed regulatory oversight from the 1970's onwards was never intended to create an environment where employers literally "self" regulate. The focus was always about ensuring hazards, the risks that arose from them and the control measures used to mitigate them were appropriate to the particular circumstances surrounding the activity, rather than the prescriptive regulatory approach taken which was suitable for large fixed workplaces with fairly static hazards. Workers were supposed to play a greater role in assessing and determining hazards in the workplace and the appropriate control measures to mitigate the risks arising from the hazards.

NOPSEMA is just another example of a regulatory agency becoming dominated by the very industry it is charged with regulating.

Consistent with the ACTU recommendations the ETU recommends that the Bill be amended as follows:

Enforceable undertakings are not permitted as a regulatory response in the following circumstances, unless the NOPSEMA is satisfied, and can demonstrate, that exceptional circumstances exist:

- a. The contravention is connected to the death of a person, whether or not the contravention can be said to have directly caused the death;*
- b. The contravention is an offence that carries a fault element (eg recklessness);*
- c. The contravenor has a recent prior conviction or finding of guilt against the OPGGS Act which was connected to the death of a person, whether or not the prior matter is said to have directly caused the death, unless the prior matter was more than 5 years prior to the contravention, the subject of the proposed enforceable undertaking; or*
- d. The contravenor has two or more recent prior convictions or findings of guilt against the Act arising from separate investigations, unless the last prior matter concluded more than 5 years prior to the contravention the subject of the proposed enforceable undertaking.*

The ETU strongly urges the committee to adopt these recommendations.