

Labor's **POSITIVE PLAN** FOR SAFE WORKPLACES

Labor has had a long and proud history of promoting the highest standards of workplace safety in NSW. Everyone should have the right to be safe at work and return home safely.

Under a Labor Government, WorkCover will once again properly promote the highest standards of workplace safety and proactively support healthy workplaces, not just pick up the pieces afterwards.

A NSW Labor Government will:

- double the inspectorate and compliance functions of WorkCover over the first term of the Labor Government, with an emphasis on assisting employers to lift standards and safety, and reduce the incidence of accident and injury as well as enforcement;
- return work health and safety matters, now in the District Court, to the Industrial Court;
- confer new mechanisms to enforce rights and responsibilities that currently exist in work safety and workers' compensation laws on the Industrial Relation Commission;
- ensure workers and their representatives can enforce workplace safety laws, including obligations on employers and insurers for work safety, rehabilitation and return to work;
- strengthen employer obligations to provide employment opportunities for injured workers;
- provide incentives for employers to return injured workers back to the workplace;
- fully commit to implementing the Ten Year Framework for Prevention emerging from the National WHS Strategy 2012-2022;
- ensure over time that services contracted by WorkCover from scheme agents are performed in NSW; and
- ensure all successful tenderers for government contracts have workplaces that have the highest standards of workplace safety.

LABOR'S POSITIVE RECORD

In 1983, the Wran Government enacted the groundbreaking Occupational Health and Safety Act 1983 which commenced the process of modernising health and safety laws in this State. Designed to consolidate a complex web of different laws and standards, it established a tripartite approach with an advisory council and committees, and imposed far reaching obligations on employers and manufacturers in absolute terms, replacing the old common law general duty of care to workers.

By the mid-1990's the lack of prosecutions and enforcement of the legislation was noted as a major failing¹ and the economic cost of workplace injury was estimated by WorkSafe Australia, the federal occupational and health and safety agency, as being between \$15 and \$37 billion a year, affecting one worker in twelve.² Reasons for this were reductions in the number of safety inspectors, restrictions on union entry to workplaces, and the abolition of specialist units in the Department of Industrial Relations and in WorkCover and the loss of their expertise.³

These issues were addressed by the Labor Government elected in March 1995, which significantly enhanced the resources available to WorkCover including compliance and enforcement. In 1997, the penalties for breaching the legislation were significantly increased together with increased enforcement.

In 2000, after extensive consultation with employers, unions and other participants in work safety practice, the Labor Government oversaw the rewriting of the occupational health and safety laws, once again modernising and ensuring they remained appropriate to the ongoing challenges of addressing safety at work.

The reduction in serious injuries in NSW by 32.5 % from 2001-2002 to 2011-2012⁴ and by 52 per cent from 1991/92 to 2011-2012⁵ occurred in an environment of vigorous prosecution of the strictest occupational health and safety laws in Australia.

THE LIBERAL/NATIONAL RECORD

This good work has been undone by the Liberal/National Government, commencing with the passage of the *Work Health and Safety Act* by the Parliament in 2011. This change weakened safety laws, removed the right of unions to prosecute breaches of safety standards and removed all but the least serious offences from the Industrial Court and conferring them on the overworked judges of the District Court, without any additional resources.

The best estimate of the present cost of workplace safety accidents to the community is nearly \$61 billion.⁶ Around 5 per cent of this cost is borne by employers, with 74% being visited upon injured workers themselves and the balance of 21% falling on the wider community.⁷ There is a clear need for government to continue efforts to make workplaces safer and to reduce the human and financial costs of accidents and injury. However, instead of moving forward, the NSW Liberal National Party Government has gone into reverse.

¹ John Niland, *Transforming Industrial Relations in NSW*, January 1990, vol. 2, p85; Neil Gunningham, *Safeguarding the Worker*, LBC (1984) pp120, 121; Brooks (1988), p361, 362

² Simon Jemison, 'Injuries cost \$15 billion a year', *Australian Financial Review*, 24 August 1994, p2

³ J.W. Shaw Q.C. and Adam Searle, 'The OHS Act 1983: Challenges for the Future', *Journal of Industrial Relations*, March 1995 p80.

⁴ Safe Work Australia, *National OHS Strategy 2002-2012*, Jurisdictional Progress

⁵ WorkCover Annual Report 2011-2012

⁶ Safe Work Australia, *Australian Work Health and Safety Strategy 2012-2022*, p1

⁷ Safe Work Australia, *The Cost of Work-related Injury and Illness for Australian Employers, Workers and the Community: 2008-2009*, March 2012

In 2010-2011, WorkCover conducted 24,752 workplace visits, successfully concluded 109 prosecutions, involving 89 defendants in 47 matters with over \$6 million awarded in fines. A total of 124 defendants were charged with breaches of the law. As at 30 June 2011, 171 defendants were before the courts.⁸ There were 127,077 employment injuries.⁹

By 2013-2014, WorkCover visited only 14,544 workplaces, completed 52 successful prosecutions and had \$2.48 million awarded in fines for safety breaches. This is despite there being 105,009 employment injuries in 2012-2013¹⁰ including 103 fatalities.¹¹

This is a 41.2 % reduction in workplace visits, a 52.3 % reduction in prosecutions and a 58.67 % reduction in fines collected since the Liberal/National Government took office, despite there being a fall of workplace injuries of only 16.71 per cent.

This decrease may well be overstated, due to lower enforcement activities by WorkCover. The fact that changes to workers' compensation laws and benefits in 2012 have narrowed the range of injuries for which workers can receive compensation is also likely to have reduced rates of reporting incidents and injuries.

Under the Coalition, procurement policy is viewed only as a means to achieve better dollar value for money, rather than as a broader tool for securing broader economic and social outcomes for the whole community. That is why they abandoned the previous Labor Government policy to give preference in tendering to companies with local content and that use local labour.

Labor understands that government, as a commercial actor in the marketplace, has a responsibility to not only secure value for money but also to act ethically and use its role to promote the highest standards of protection for the whole community.

Labor recognises that value for public money is about the broader economic benefit, and not just lowest price.

With proper resourcing and real commitment, over time we can significantly reduce the human as well as the financial cost of neglecting safety at work. Labor in office has shown this can be done and we are committed to doing more.

A Labor Government will take action to restore the highest standards of workplace safety in NSW.



¹⁰ WorkCover Annual Report 2013-2014, p27
¹¹ WorkCover Annual Report 2013-2014 p4