

Union Charter of Workplace Rights

Occupational Health, Safety, Compensation And Rehabilitation

This Charter of Rights sets out the rights and responsibilities of all workplace parties in the provision of decent and fair health, safety, compensation and rehabilitation systems and practices within Australian workplaces.

Regardless of jurisdiction, changes to occupational health and safety, compensation and rehabilitation law must not result in a diminution of the rights and entitlements of any worker.

Workers

Every worker has the right to:

- A safe and healthy workplace
- Travel to and from work in safety and with appropriate protections
- Return home from work free of injury or illness
- Enjoy retirement without suffering adverse consequences of workplace injury or illness
- Enjoy the highest level of protection, representation, compensation and rehabilitation, regardless of the jurisdiction within which they work
- The highest level of protection to prevent injury illness and disease
- Take collective action over any health and safety matter, including the right to cease unsafe or unhealthy work
- Discuss, negotiate and be consulted and involved in all issues affecting their health, safety and welfare

Representation

Every worker has the right to be represented on health, safety, compensation, rehabilitation and return to work issues, by their elected Workplace Health and Safety Representative and their union. Every worker has the right to elect health and safety representatives.

Discrimination and Bullying

All workers (or prospective workers), including health and safety representatives, will be protected by law from discrimination, harassment, bullying or detriment to their employment because they have raised a health and safety issue, lodged a compensation claim or been involved in consultation on workplace health and safety matters.

Employer Responsibilities

Persons who control, manage or own workplaces have an absolute duty of care without limitation to provide and maintain safe and healthy work environments. Employers will not shift jurisdictions to attempt to avoid their OHS and workers compensation responsibilities and obligations. Employers are subject to all the obligations and responsibilities contained within this Charter.

Compensation

Following a physical or psychological injury, all workers have the right to a fair, just and equitable compensation system, which promotes the best medical and like support, the most effective rehabilitation for injured workers and facilitates a safe return to work that offers genuine job security.

Rehabilitation

All workers have the right to return to safe, suitable, meaningful and sustainable work, following the provision of quality rehabilitation services, commensurate to need.



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Role of Regulator

OHS law must be effectively enforced by regulators in all jurisdictions. The regulator must also consult and provide information, support and advice to all workplace parties, including unions. They must ensure that workplace representatives are supported and protected and bring prosecutions in a timely, appropriate and courageous manner. Regulators will actively monitor self-insuring companies and ensure transparency and fairness of their workers compensation and return to work systems. An inspectorate must be adequately resourced, pro-active and willing to fulfil an enforcement role as well as an advisory role.

Penalties

Penalties must be commensurate with the degree of the breach, including recognition of gross negligence. Penalties should be sufficient to act as a deterrent. A range of penalties, including but not limited to infringement notices, fines, moieties, imprisonment, enforceable undertakings, and adverse publicity orders must be provided to allow for a range of penalties for breaches of health and safety and compensation laws to be actively applied.

Development of Laws

All occupational health and safety, compensation and rehabilitation laws are to be developed in a tripartite manner.

All laws must be developed incorporating but not limited to the ILO Conventions, Protocols and Recommendations concerning health and safety.

Workplace Health and Safety Representatives have the right to:

- Be democratically elected by a process determined by workers, in conjunction with their union
- Utilise legal rights and powers to represent workers on health and safety matters
- Inspect the workplace
- Access relevant information and be informed of all incidents
- Be consulted by the employer before workplace changes occur that may affect health and safety
- Issue notices when breaches are detected
- Call in government inspectors
- Direct workers to cease work where there is a belief of immediate risk to health and safety
- Seek resolution of health and safety issues
- Perform all OHS activities on paid time and have adequate facilities

- Be assisted by any person at any time
- Be protected by law from discrimination, harassment, bullying, intimidation and prosecution
- Access training of their choice in paid work time
- Appeal any decision of a regulator or court regarding any health and safety, compensation or rehabilitation matter

Unions have the right to:

- Enter workplaces on health and safety issues
- Investigate breaches of health and safety laws
- Represent members and prospective members
- Initiate investigations and prosecutions for occupational health and safety breaches
- Initiate cessation of work in unsafe areas
- Access all relevant information and reports

Workers' compensation standards are to:

- Be available to all members of the workforce
- Provide compensation for all injuries that arise from travel to, from or during work including and during recess breaks
- Be available upon the death of a worker and for dependants of that worker
- Be based on the 100% replacement of loss of income
- Provide total cost of medical rehabilitation and other related expenses
- Provide lump sum compensation for permanent disability

- Ensure common law rights
- Support rehabilitation and return to work
- Ensure that workers are entitled to timely and effective claim determination and dispute resolution processes
- Ensure the worker has access to the doctor of their choice
- Not be eroded by companies seeking to self-insure in order to obtain lower OHS and workers' compensation entitlements for workers

Rehabilitation will include the right to:

- Union representation
- Early intervention of workplace injury and illness
- Consultation about all aspects of rehabilitation
- High quality, appropriate, effective and timely rehabilitation plans and services

- All documentation and information relating to their rehabilitation
- Fair and equitable rehabilitation plans and services
- Privacy in the management of all records and information
- Personal choice of medical provider and rehabilitation service

Workers must not be adversely affected by any employer moving between jurisdictions in relation to their OHS and workers compensation entitlements. Any proposed move between jurisdictions will only occur following genuine consultation and agreement with workers and their representatives and a process of public review, including public tribunal hearings.

Consistent with ACTU OHS and Workers' Compensation Policy and international standards, Australian law must ensure healthy and safe workplaces and a compensation and rehabilitation system which ensures that no worker is disadvantaged should they be injured at work.

All workers have the right to join a genuine trade union. Union organised workplaces are safer workplaces.