

Issue 5 – 4 June 2024

INDUSTRIAL MANSLAUGHTER OFFENCE TO BE INTRODUCED IN NEW SOUTH WALES

The New South Wales Government announced today that it intends to table a bill in parliament that would introduce a new offence of industrial manslaughter into NSW workplace safety laws. It is likely that the Bill will be introduced this week.

NSW is the last mainland jurisdiction in Australia to introduce an industrial manslaughter offence.

Although the details of the Bill have not yet been made public, the new offence will carry terms of imprisonment for individuals and hefty financial penalties for bodies corporate.

Background

The announcement follows an earlier consultation process initiated by the NSW Government in February this year seeking feedback from interested parties on the form of an industrial manslaughter law.

MBA NSW filed detailed submissions this year opposing the introduction of an industrial manslaughter offence in part on the grounds that:

- NSW already has a comprehensive criminal law system which currently exposes those responsible for workplace deaths to substantial penalties.
- Introducing a new offence for industrial manslaughter would lead to unnecessary duplication in the law;
- Experience from other jurisdictions fails to confirm that the introduction of an industrial manslaughter offence would lead to safer workplaces NSW;
- Work, health and safety legislation should be geared toward minimisation of risk.

Details of the new industrial manslaughter offence

Although the Bill has not yet been tabled, the NSW Government has confirmed that the new industrial manslaughter offence will:

- Provide for a maximum penalty of 25 years in jail for an individual or \$20 million in fines for a body corporate;
- Allow for a business or individual to be held responsible for the death of a person due to gross negligence in the workplace;
- Lead to the establishment in the NSW Office of the Director of Public Prosecutions that will be responsible for the prosecution of industrial manslaughter offences.

MBA NSW will issue a further e-Circular providing further details of the offence once these become available.

Members with further enquiries can contact the MBA Workplace Relations department on industrial@mbansw.asn.au or 02 8586 3555.