



COSH

COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH



ANNUAL REPORT
2018-19

Statement of compliance

Hon. Bill Johnston MLA

Minister for Industrial Relations

Dear Minister,

In accordance with section 16 of the *Occupational Safety and Health Act 1984*, I submit for your information and presentation to Parliament, the Annual Report of the Commission for Occupational Safety and Health for the 12 months ending 30 June 2019.

Stephanie Mayman

Chairperson

Commission for Occupational Safety and Health

Section 16 of the *Occupational Safety and Health Act 1984* requires the Commission for Occupational Safety and Health to prepare a report for the Minister on its activities during the financial year.



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Report from the Chairperson

As the Chairperson of the Commission for Occupational Safety and Health (Commission) I am pleased to present this Annual Report, for the 2018-2019 year. The Commission is established under the Occupational Safety and Health Act 1984 (OSH Act) which is currently within the portfolio of the Hon Bill Johnston MLA, Minister for Mines and Petroleum; Energy; Industrial Relations (Minister). The Commission's functions include the provision of advice to the Minister on occupational safety and health (OSH) legislation and policy matters and promoting education and training in OSH throughout the Western Australian community.

December 2018 saw the appointment of Mr Darren Kavanagh as the independent WorkSafe Western Australia Commissioner (Commissioner). Mr Kavanagh was previously a member of the Commission for several years from 2004 and has brought a great deal of OSH experience to the role. Following his appointment, the Commissioner was made the Deputy Chair of the Commission.

A major focus for the Commission in 2018-2019 was the continued development of harmonised work health and safety (WHS) proposed laws for Western Australia. The two-month public consultation period for the WHS laws ended on 31 August 2018. This process followed the completion of significant work by the tri-partite Ministerial Advisory Panel (MAP), of which I was also Chairperson. MAP's recommendations regarding the WHS Act were provided to the Minister in April 2018 and included in a public consultation document, released on 1 July 2018. The Commission promoted the consultation process through stakeholder networks and individual members made submissions. After considering MAP's recommendations and the submissions from the Western Australian community, the Minister provided proposals to Cabinet in 2019.

Following the WHS Act consultation process, work commenced on the development of a WHS Regulations Consultation Package. In January 2019, the Commission re-established the Legislative Advisory Committee (LAC) with me as Chairperson. At the request of the Commission, LAC considered the draft WHS Regulations Consultation Package (drawn up by DMIRS) and made suggestions regarding amendments. These changes were incorporated into the package, for consideration by the public during the consultation process. LAC then commenced a process to review and prioritise the updating of all OSH Codes of Practice and Guidance Notes currently in force in Western Australia.

In 2019 the Commission approved the Code of Practice: Mentally healthy workplaces for fly-in fly-out (FIFO) workers in the resources and construction sectors (FIFO Code) for Ministerial consideration. The FIFO Code was developed in consultation with the Commission and the Mining Industry Advisory Committee (MIAC), following recommendations from the LAC report on the impact of FIFO practices on workers' mental health. It is Australia's first mental health code of practice and was published in April 2019.

2018-2019 was the last year of the Commission's 2015-2018 Strategic Plan. To continue implementing the deliverables of this Strategic Plan, the Commission maintained a number of advisory committees and working groups, including the Agricultural Working Group (AWG). Throughout 2018 and 2019, the AWG worked on the development of the SafeAgWA Campaign, a safety education campaign for Western Australia's agricultural industry.

In 2019 the Commission commenced a new strategic planning process, with a strategic planning day held on 14 June 2019. This plan will be finalised in the 2019-2020 year and will be included in the next Annual Report.

I would like to express my appreciation for the dedicated work of every Commission member and those from its supporting committees and working groups over the last year. With significant legislative changes expected to be introduced into the WA Parliament in the near future, in addition to the emergence of new and important issues, it is an interesting and active time for OSH in Western Australia. On behalf of the Commission I would like to thank the DMIRS officers who regularly provide information and assistance to the Commission and its subsidiary groups.

Stephanie Mayman

Chairperson

Commission for Occupational Safety and Health



Section One: About the Commission

Responsible Minister

The responsible Minister for the administration of the OSH Act is the Hon Bill Johnston MLA, Minister for Mines and Petroleum; Energy; Industrial Relations.

Section 16 of the OSH Act requires the Commission, on or before 31 October each year, to submit to the Minister a report of its operations and the operation of the OSH Act and any prescribed law during the year ending 30 June.

Enabling Legislation

The Commission was established in April 1985 (as the Occupational Health, Safety and Welfare Commission) under section 6 of the OSH Act.

Commission Vision

The Commission's vision is to foster continuous improvement in work health and safety.

As a tripartite and expert group, the Commission demonstrates strong leadership and engagement with the community and contributes to an environment where the OSH Act and its regulations support safety and health in Western Australian workplaces now and in the future.

Functions of the Commission

During the 2018-2019 year, the Commission was funded through the Safety Regulation Group of DMIRS.

The Commission's functions include:

- inquiring into and reporting to the Minister upon any matters referred to it by the Minister;
- advising and cooperating with Government departments, public authorities, unions, employer organisations and other interested parties;
- developing and reviewing OSH legislation and associated standards and making recommendations to the Minister;
- publishing information on OSH;
- promoting education and training in occupational safety and health; and
- formulating reporting procedures and monitoring arrangements for the identification of workplace hazards.

Composition of the Commission

In accordance with section 6 of the OSH Act, the Commission consists of:

- (a) an independent Chairperson, nominated by the Minister and appointed by the Governor;
- (b) the WorkSafe Western Australia Commissioner;
- (c) two officers of the Public Service nominated by the Minister, one of whom must be an officer from the department responsible for the administration of the *Mines Safety and Inspection Act 1994* (MSI Act); and
- (d) nine persons appointed by the Governor, as follows:
 - two members nominated by the Chamber of Commerce and Industry of WA (CCIWA);
 - one member nominated by the Chamber of Minerals and Energy of Western Australia (CMEWA);
 - three members nominated by UnionsWA, one of whom must have knowledge of and experience in the mining industry in Western Australia; and
 - three members nominated by the Minister, having knowledge of, or experience in OSH.

The following Commission members held office during 2018-2019:

- independent Chairperson: Ms Stephanie Mayman;
- WorkSafe Western Australia Commissioner: Mr Ian Munns (until 1 January 2018) and then Mr Darren Kavanagh;
- officer of the Public Service: Mr Andrew Chaplyn, Director Mines Safety, DMIRS;
- members nominated by the CCIWA: Ms Andrea Roelofs and Ms Rachael Lincoln (until 20 June 2019);
- member nominated by the CMEWA: Ms Nicole Roocke (until 20 September 2018), then Ms Adrienne LaBombard (appointed 20 November 2018);
- members nominated by UnionsWA: Ms Joy Barrett, Mr Owen Whittle and Mr Glenn McLaren; and
- members with knowledge of, or experience in OSH, nominated by the Minister: Dr Barry Chesson, Dr Matthew Davies and Dr Lin Fritschi.

In March 2019, the Minister appointed the WorkSafe Western Australia Commissioner as Deputy Chair of the Commission, in accordance with Section 6A of the OSH Act.

The Commission Executive Officer is Ms Anika Moore, Acting Senior Policy Officer, DMIRS.



Section Two: Governance Disclosures

Commission's Governance Framework

The *Commission's Handbook and Code of Conduct*, which was endorsed at the 1 May 2019 Commission meeting, sets out the Commission's governance principles, including its:

- values;
- accountability;
- role and operation;
- administration;
- record keeping; and
- coordination with DMIRS.

Compliance with Public Sector Standards and Ethical Codes

Under section 9 of the *Public Sector Management Act 1994*, the Commission is obliged to comply with any code of conduct applicable to the public sector body or employee concerned.

Recordkeeping

The Commission's recordkeeping and use of information policy is contained within its *Handbook and Code of Conduct*. The handbook includes information on the documentation of decisions, use of confidential information, security of information and compliance with freedom of information legislation.

Public Interest Disclosure

The Commission maintains a Public Interest Disclosure Register. No matters were raised in 2018-2019 under the *Public Interest Disclosure Act 2003*.

Advertising and sponsorship

In accordance with section 175ZE of the *Electoral Act 1907*, the Commission is required to report annually on any expenditure for advertising, market research, polling, direct mail or media advertising that was incurred by or on behalf of the Commission. Any such information is included in the *DMIRS Annual Report for 2018-2019*.



Section Three: Report on 2018-2019

Modernising work health and safety laws in Western Australia

To facilitate the process of modernising Western Australia's safety and health laws, Cabinet established the MAP. The proposed laws are intended to cover general workplaces, mines and petroleum and geothermal energy operations in Western Australia.

The MAP provided its recommendations for a WHS Act for Western Australia to the Minister in April 2018 and included observations for Western Australia's WHS Regulations. The MAP proposals were approved by the Minister for a public consultation period from 1 July 2018 to 31 August 2018. The Minister provided drafting proposals to Cabinet in 2019 and it has since been announced that the WHS Bill will include two industrial manslaughter offences.

National Safe Work Month 2018

In 2018 DMIRS, with the Commission's support, continued its annual month-long focus on workplace safety and health – National Safe Work Month 2018. This initiative is a national event, supported by SWA and is also conducted in other jurisdictions. The month featured a number of activities, commencing with a series of targeted workshops and culminated in the presentation of the 2018 Work Safety Western Australia Awards.

Workshops were held between 2 October and 1 November 2018, at a variety of metropolitan locations. There were 302 attendees across nine workshops during the month. The attendees were a mix of elected safety and health representatives, general management and safety and health professionals. The key objective of the workshops was to provide hands-on information and skills experience to participants. The workshops also provided the Western Australian OSH community with networking opportunities.

The workshops featured a range of speakers with a wealth of knowledge and expertise in OSH. The program featured a mixture of sessions, including topics such as effective risk management, plant in the workplace, mental health at work, preventing workplace cancers and a forum for safety and health representatives.

2018 Work Safety Western Australia Awards

Two Commission members contributed as judges for the 2018 Work Safety Awards Western Australia. The winners of all award categories were announced at the Work Safety Awards presentation, on 24 October 2018.

The awards recognise outstanding OSH management, solutions and innovation in Western Australian workplaces that reduce the risk of work-related injury and disease.

Commission accredited introductory training courses for safety and health representatives

Under section 14(1)(h) of the OSH Act, the Commission may accredit training courses in OSH.

Details of the accreditation process for introductory courses for safety and health representatives are provided in the publication Guidelines and criteria for accreditation of introductory training courses for safety and health representatives (the accreditation guidelines), available on the DMIRS website at www.dmirs.wa.gov.au/worksafe.

In 2018-19, the Commission accredited six registered training organisations (RTOs) to conduct the introductory safety and health representative training course. During this period, DMIRS granted a twelve month interim accreditation to six RTOs. As of 30 June 2019, 27 RTOs were accredited to deliver the training course in Western Australia.

The RTOs providing Commission accredited training courses for safety and health representatives are listed on the DMIRS website. An annual report of participation in training courses for safety and health representatives will be published later in the year on the DMIRS website.

Publications

The Commission published the Guidance Note: Safe stone product fabrication and installation in 2018 and the Code of Practice: Concrete and masonry cutting and drilling in 2019.

In addition, the Commission and MIAC endorsed the Code of Practice: Mentally healthy workplaces for fly-in fly-out (FIFO) workers in the resources and construction sectors (FIFO Code), for the Minister's approval to publish.

Changes to legislation

The Commission approved the following amendments to the Occupational Safety and Health Regulations 1996 (OSH Regulations) in 2018-2019:

- Regulation 5.53 of the OSH Regulations was amended to change the definition of lead-risk job to: work carried out in a lead process that is likely to cause the blood level of a worker carrying out work to exceed:
 - (a) in the case of females of reproductive capacity, at least 5 micrograms per decilitre ($\mu\text{g}/\text{dL}$); or
 - (b) in any other case, at least 20 $\mu\text{g}/\text{dL}$.
- Regulation 5.63(1)(a) of the OSH Regulations was amended to lower the blood lead removal level thresholds for workers to:
 - (a) in the case of females of reproductive capacity, at least 5 $\mu\text{g}/\text{dL}$; or
 - (b) in any other case, at least 20 $\mu\text{g}/\text{dL}$.
- Regulation 3.131 of the OSH Regulations was amended to:
 - update the requirement for all fitness to drive examinations to now be conducted in accordance with the latest edition of the Austroads guide *Assessing Fitness to Drive*, published in 2016 and revised in 2017; and
 - require commercial drivers to obtain a fitness to drive certificate from a medical practitioner not more than five years prior to driving.
- Regulation 3.130(a) of the OSH Regulations was amended to redefine the meaning of 'commercial vehicle' to "a passenger transport vehicle as defined by the *Transport (Road Passenger Services) Act 2018* section 4(1)".

The National Arena

During the 2018-2019 year, the Commission considered reports regarding a number of significant issues and projects, including the:

- SWA review of workplace exposure standards, including the associated public comment process;
- FIFO Worker Mental Health and Wellbeing research, undertaken by the Curtin University Centre for Transformative Work Design;
- amendments to the national Model Work Health and Safety (WHS) Regulations (Diving Work) 2018;
- Australian Senate Committee report, They never came home—the framework surrounding the prevention, investigation and prosecution of industrial deaths in Australia;
- Safety Institute of Australia call for Australian Standards to be free to Australian businesses;
- Australian Competition and Consumer Commission report on quad bike safety;
- study reported on during Hearing Awareness Week, involving a survey of 5000 Western Australian workers to determine their exposure to workplace noise and chemicals that can damage hearing;
- Breathe Freely Australia Initiative, focussed on reducing occupational lung disease, based on a United Kingdom program. The Australian initiative was developed by the Australian Institute of Occupational Hygienists and SWA. The Commission committed to supporting the Breathe Freely Australia Initiative;
- WorkSafe proactive inspection campaign - Silica in the stone benchtop industry;
- Methamphetamine Action Plan Taskforce, led by the Department of Premier and Cabinet and the Mental Health Commission;
- DMIRS initiatives to raise the profile of Safety and Health Representatives, including the Mines Safety Roadshow, running information sessions and workshops, as well as the publication of promotional and guidance material; and
- WorkCover WA Conference 2019 – Facing Forward

Strategic Plan 2015-2018

Objective 1: Reduce the incidence of work-related death, injury and illness

Strategies

- Maintain and support effective tripartite relationships and decision-making on safety and health in the workplace.
- Enhance the capacity of business operators and workers to manage OSH effectively.
- Monitor and evaluate issues by collecting, analysing and utilising data and information to predict and respond to OSH trends.
- Educate and develop broader community awareness to promote a preventative culture.

Objective 2: Reduce exposure to hazards and risks

Strategies

- Collect, analyse and utilise data and information to develop strategies to respond to high incidence and severity of risks.
- Develop and communicate targeted education and guidance materials and programs that address identified risks.
- Monitor the legislative framework to ensure evidence-based risk management.
- Monitor and evaluate issues leading to continuous improvements and promote the outcomes to stakeholders.

Objective 3: Improved hazard control

Strategies

- Enhance the capacity of workplaces to eliminate hazards and control risks through good design where practicable.
- Influence and promote OSH skills development and training.
- Monitor and evaluate issues and consider need for legislative controls.
- Address issues that inhibit a preventative approach to OSH.

Objective 4: Improved work health and safety infrastructure

Strategies

- Provide timely and comprehensive advice to Minister on policy and legislative change.
- Monitor developments in the national arena with relevance to Western Australian OSH law.
- Influence and promote OSH skills development, communication, training and leadership.
- DMIRS initiatives to raise the profile of Safety and Health Representatives, including the Mines Safety Roadshow, running information sessions and workshops, as well as the publication of promotional and guidance material; and
- WorkCover WA Conference 2019 – Facing Forward



Vision: Health and Safe Working Lives Within Western Australia



Mission: Continuous Improvement in Work Health and Safety





Section Four: Advisory Committees to the Commission

Under section 15 of the OSH Act, the Commission may appoint advisory committees made up of employer and employee representatives and people with specialist knowledge or experience in OSH, to assist in the performance of its functions and duties.

Advisory committees consider matters referred to them by the Commission and make recommendations on aspects of OSH specific to their area of expertise. Each committee and working party is chaired by a member of the Commission.

Construction Industry Safety Advisory Committee (CISAC)

The key objectives of the CISAC are to identify:

- the major health and safety issues in the construction industry and develop an OSH profile of the construction industry;
- determinants of good safety and health performance in the construction industry; and
- appropriate short and long term goals for the construction industry.

Members of CISAC 2018-2019

- Mr Ian Munns, Chairperson, WorkSafe Western Australia Commissioner (until 21 December 2018), Mr Darren Kavanagh, Chairperson, WorkSafe Western Australia Commissioner
- Mr Kim Richardson, Master Builders Association WA
- Mr Kim Drew, CCIWA
- Mr Rachele Gill, Housing Industry Association WA
- Mr Bob Benkesser, Construction, Forestry, Mining and Energy Union WA Branch
- Mr Steve McCartney, Australian Manufacturing Workers' Union WA, proxy
- Mr Glenn McLaren
- Mr Owen Whittle, UnionsWA
- Mr Chris Kirwin, DMIRS

Key achievements and matters considered by CISAC in 2018-2019

- Review of the Code of Practice: Prevention of Falls at Workplaces;
- Consideration of good practice and non-compliance, in relation to silica dust and hazards generally, at construction workplaces;
- Provision of guidance materials for prefabricated concrete elements used in civil construction work; and
- Member commitment to communicate with industry about the implementation of practices and strategies set-out in the FIFO Code.

Legislative Advisory Committee (LAC)

The key objectives of the LAC are to assist the Commission in:

- ensuring a relevant and effective legislative framework by contributing to a review of monitoring and recommending changes to existing regulations;
- influencing state and federal governments on OSH issues by contributing to the development of national standards and codes of practice;
- promoting and delivering effective OSH programs, and in maintaining and promoting effective tripartite relationships and decision making on safety and health in the workplace; and
- providing information and guidance on safety and health that is relevant, credible and accessible.

Members of LAC 2018-2019

Commission Members:

- Ms Stephanie Mayman, Chairperson
- Mr Darren Kavanagh, WorkSafe Western Australia Commissioner
- Ms Adrienne LaBombard
- Ms Rachael Lincoln, proxy Ms Jennifer Low
- Mr Owen Whittle, proxy Ms Joy Barrett

DMIRS:

- Mr Ivor Roberts
- Mr Anil Atri

Risk Advisory Committee (RAC)

A decision was taken to dissolve the RAC and reconvene it on an “as needs” basis.



Section Five: Working Groups 2018-2019

To pursue the objectives of its Strategic Plan, and to comply with the directives of the Minister, the Commission formed or maintained the following working groups during 2018-2019 and achieved the following outcomes:

Leadership / Chief Executive Officer Engagement

Objective: To facilitate industry leaders engaging in a safety conversation.

Commission members: Ms Joy Barrett, Ms Andrea Roelofs, Ms Nicole Roocke (until 20 September 2018), Dr Barry Chesson and Dr Matthew Davies.

Outcome: Conduct of a successful leadership breakfast meeting involving invited participants from the CMEWA and CCIWA.

Diving Working Group

Objective: To draft a code of practice for occupational diving in Western Australia for all aspects of diving, under existing State occupational safety and health legislation.

Members: WorkSafe Western Australia Commissioner, industry members: Mr Aaron Irving and Mr Arnold Piccoli, union members: Mr Owen Whittle and Mr Jack McCabe, independent experts: Mr David Passmore, Mr Anthony Hart and Mr Warren Starr, plus additional experts as required.

Outcome: draft Code of Practice for Occupational Diving in Western Australia completed for consideration by the Commission.

Agricultural Working Group

Objective: To develop an industry funded education campaign to inform the agriculture sector about safety, employer/employee obligations and risk reduction as requested by the Minister for Mines and Petroleum; Energy; Industrial Relations.

Members: Commission Chairperson, WorkSafe Western Australia Commissioner, Mr Brett Cooper of DMIRS, Ms Margaret Hector representing the Country Women's Association of WA, Ms Melanie Windust and Mr Peter Nunn representing CCIWA, Mr Darren Spencer representing the WA Shearing Industry Association, Mr Owen Whittle and Mr Antony Pearson representing UnionsWA, Mr Doug Hall representing the Pastoralists & Graziers Association of WA, Mr Trevor Whittington representing WAFarmers.

Outcome: Progress made towards the development of an agricultural industry education campaign.



Section Six: Mining Industry Advisory Committee

MIAC was established in April 2005 under section 14A of the OSH Act. It is a statutory body advising the Minister and Commission on matters relating to OSH in the mining industry.

Since MIAC was re-constituted in September 2018, it has met five times during the 2018-19 reporting period.

Key Objectives

MIAC's key objectives are to:

- make recommendations to the Minister for Mines and Petroleum regarding the formulation, amendment, or repeal of laws relating to OSH for which that Minister is responsible;
- advise and make recommendations to the Minister and the Commission on OSH matters concerning the mining industry;
- prepare or recommend the adoption of codes of practice, guidance material, standards and specifications;
- provide advice on education and training matters in the mining industry; and
- liaise with the Commission to coordinate activities and to maintain parallel standards.

Membership

Membership of MIAC is determined by the Minister responsible for the administration of the OSH Act and the *Mines Safety and Inspection Act 1994* (MSI Act).

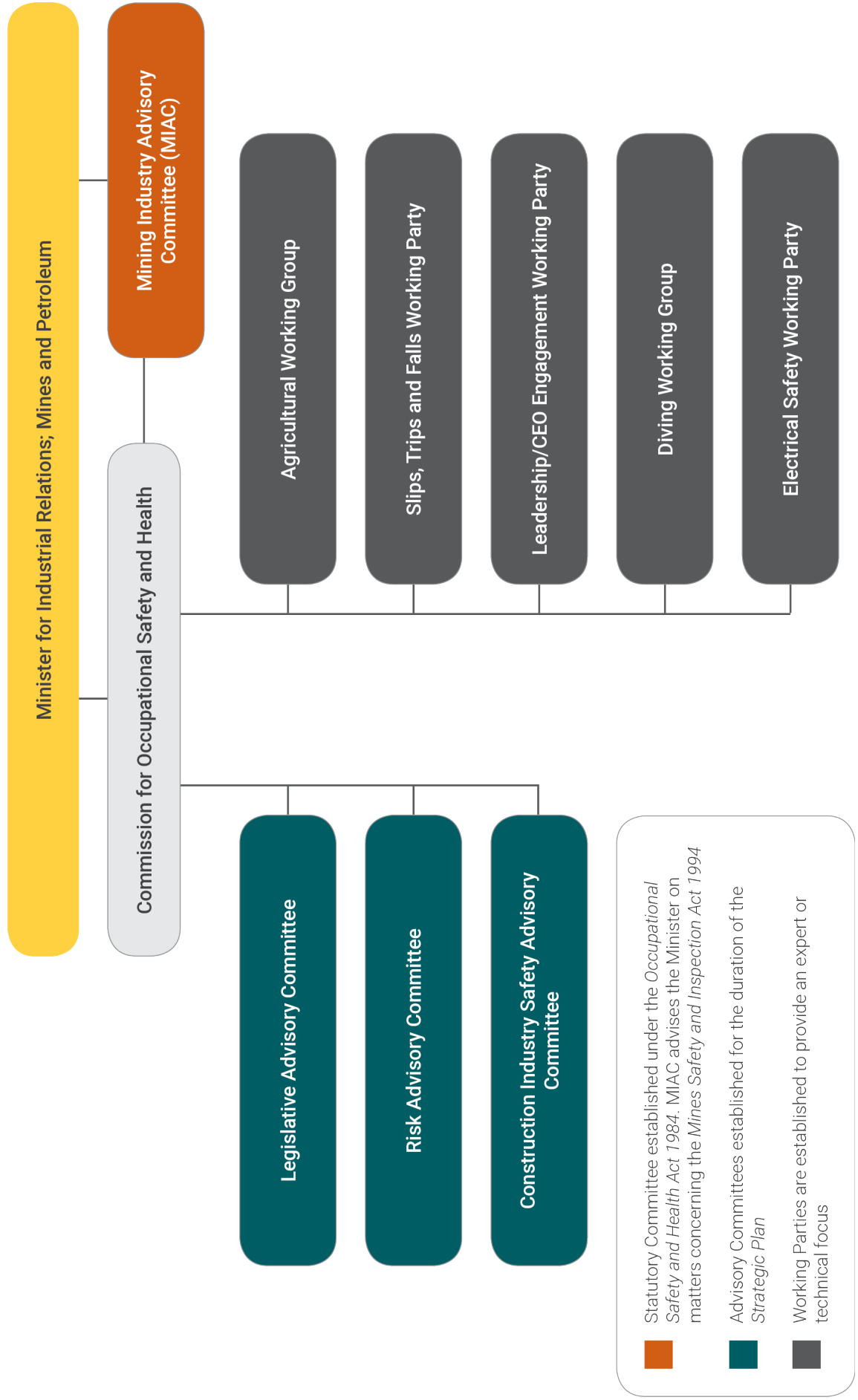
MIAC consists of 12 members; two from Government, three industry representatives, three worker representatives and four independent expert members.

The MIAC members appointed in September 2018 are listed below:

1. Mr Andrew Chaplyn – Government member (Chairperson)
2. Ms Christina Folley – Government Member
3. Mr Peter Burton – Industry representative
4. Ms Adrienne LaBombard – Industry representative
5. Mr Robert Watson – Industry representative
6. Mr Gregory Busson – Worker representative
7. Ms Pearl Lim – Worker representative
8. Mr Glenn McLaren – Worker representative
9. Ms Helen Anderson – Expert Member
10. Dr Gary Bryant – Expert Member
11. Ms Meagan Smart – Expert Member
12. Mr Gregory Stagbouer – Expert Member



Section Seven: Structure of the Commission and its advisory committees and working parties





COMMISSION FOR OCCUPATIONAL SAFETY AND HEALTH

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