

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget estimates 2020-21 (Stitt)

Melbourne—Wednesday, 2 December 2020

MEMBERS

Ms Lizzie Blandthorn—Chair

Mr Richard Riordan—Deputy Chair

Mr Sam Hibbins

Mr David Limbrick

Mr Gary Maas

Mr Danny O'Brien

Ms Pauline Richards

Mr Tim Richardson

Ms Nina Taylor

Ms Bridget Vallence

WITNESSES

Ms Ingrid Stitt, MLC, Minister for Workplace Safety, and

Ms Rebecca Falkingham, Secretary, Department of Justice and Community Safety; and

Mr Colin Radford, Chief Executive, WorkSafe Victoria.

The CHAIR: I declare open this hearing of the Public Accounts and Estimates Committee.

On behalf of the Parliament, the committee is conducting this Inquiry into the 2020–21 Budget Estimates. Its aim is to scrutinise public administration and finance to improve outcomes for the Victorian community.

Please note that witnesses and members may remove their masks when speaking to the committee but must replace them afterwards.

Telephones should be turned to silent.

All evidence taken by this committee is protected by parliamentary privilege. Comments repeated outside this hearing may not be protected by this privilege.

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We welcome Minister Stitt for the portfolio of workplace safety and her officers from the department. Minister, we invite you to make an opening statement of no more than 5 minutes, and this will be followed by questions from the committee.

Ms STITT: Thank you, Chair. And thank you, committee members, for the opportunity to appear before you this afternoon. I would like to acknowledge the traditional owners of the land on which we are meeting and pay my respects to their elders past, present and emerging and to any elders and Aboriginal people joining us today.

Workplace health and safety is a key priority for this government. Every Victorian deserves to come home from work safe each day. The pandemic has had a significant impact on Victorian workplaces this year, but the obligations on employers and other duty-holders to provide a safe workplace have not changed. In a very different operating environment, WorkSafe has continued to fulfil its obligations as Victoria's workplace health and safety regulator and workplace injury insurer.

Last financial year WorkSafe conducted over 47 000 visits to workplaces and issued over 12 000 improvement notices. WorkSafe completed 118 prosecutions.

Where someone falls ill or is injured at work or because of work, it is essential they get the support they need. Last financial year the number of new claims received by WorkSafe was 30 038. Almost 13 000 injured workers were assisted back to work, and there was a significant increase in workers accessing occupational retraining.

The government has continued to deliver on our key workplace safety commitments. On 1 July 2020 the new offence of workplace manslaughter came into effect. Employers that negligently breach their workplace health and safety obligations now face significant penalties. We are also delivering on our commitment to hire 40 construction inspectors over this term of government. Ten specialist construction inspectors were hired last year and another 10 were hired this year. Stronger enforcement capability will support WorkSafe's prevention efforts across Victoria.

Building on the strength of the provisional payments pilot for police and emergency workers and volunteers, I was pleased that legislation was recently introduced into Parliament to embed this reform. This will see all eligible workers and volunteers who submit a workers compensation claim able to access payments for mental health treatment and support while their claim is being determined, regardless of the outcome. We know how important early support is for an early return to work.

The government also continued to implement the silica action plan to ensure workers are protected from exposure to harmful silica dust. Among achievements were the lowering of the workplace exposure standard, introducing a ban on dry cutting, hosting a medical summit, extending free health assessments for stonemasons and issuing a new compliance code. We are also continuing to drive reform and raise awareness of health and safety in our workplaces.

Last year we legislated new dangerous goods laws. Through our legislation, rogue operators now face higher penalties for illegally stockpiling dangerous goods. This year we commenced a review of the *Dangerous Goods Act* led by Andrew Palmer, QC. The government has also continued to consult with the families reference group on workplace safety matters. I am pleased to be establishing the Workplace Incidents Consultative Committee. We know that families of those that have lost a loved one bring important insights to the operation of our health and safety laws.

The government also announced a \$10 million package to increase support available to workers and families who have been affected by serious workplace incidents, including fatalities. It is clear from our reform agenda that workplace safety continues to be a top priority for the Andrews Labor government. As Minister for Workplace Safety, I am proud of the reforms our government has delivered and our continued effort to make sure that all Victorians come home safe from work.

The CHAIR: Thank you, Minister. I will pass the call to Mr Gary Maas, MP.

Mr MAAS: Thank you, Chair, and thank you, Minister. Welcome, and it is lovely to see you on the other side of the PAEC table. Welcome, too, to your departmental officials. Minister, if I could take you to your presentation, you noted the introduction of workplace manslaughter laws in late 2019 as one of the key achievements for the workplace safety portfolio. I was wondering if you would be able to talk to perhaps the number of deaths this year and maybe the need for these laws.

Ms STITT: Thank you, Mr Maas, and thank you for your ongoing commitment to workplace safety. Look, sadly already this year 61 workers have been killed in the course of their duties at work, and that is one more than at the same as this time last year—and that is just too many families left grieving for loved ones that they have lost. It is a fundamental right, I believe, to come home safe from work every day, and it is not something that is negotiable.

Last year the government delivered on our commitment to create a new criminal offence of workplace manslaughter in the *Occupational Health and Safety Act*, and the offence applies to employers and officers who engage in conduct that is negligent, whose conduct constitutes a breach of duties owed under the health and safety Act and whose actions cause the death of another person. And the conduct is negligent—and this is an important point—if it involves a significant falling short of the standard of care that would have been taken by a reasonable person in the circumstances. And if an employer does fall short and is convicted of workplace manslaughter, they could face fines of over \$16 million, while individuals can face up to 25 years jail. There is no denying that these are significant penalties, but the government was committed to ensuring that there were strong deterrents in place to make sure that employers do everything possible to keep workers safe.

In terms of educating employers about these new laws, WorkSafe did launch a Tougher Laws. Safer Workplaces. campaign to raise awareness amongst employers and send a strong message to all Victorians that putting people's lives at risk in the workplace will not be tolerated. And if they fail to keep workers safe, then there are now significant consequences under these new laws.

I would also just like to take the opportunity to acknowledge and thank those members of the families reference group for their incredible work in supporting the development of these laws. Their work is incredible. When you think of the personal pain and sacrifice that they have all been through, to be selfless enough to then be able to talk to the government about how we can shape our laws to make sure that what they have been through never happens to another family is nothing short of amazing. They are really incredible people, and I thank them very sincerely for the work that they have done and for the work that I am sure some of them will continue to do in this regard.

Mr MAAS: Thanks, Minister. Just moving to the WorkSafe inspectorate in construction, you spoke about unsafe workplaces; of course construction is one of the more dangerous workplaces or industries that we have in the state. We know that this budget is going to see construction—well, hopefully—booming, given the

amount of infrastructure spending that there is. With that in mind would you be able to inform the committee more about the WorkSafe construction inspectorate, including what they do in relation to major projects and the impact that that will have?

Ms STITT: Yes. Thank you, Mr Maas. You are right; construction is a particularly dangerous industry, and tragically we have already lost eight workers this year in the construction industry—and that is eight too many—and we want to address that. So, as I mentioned in my presentation, we have committed to hiring 40 new WorkSafe construction inspectors over this term of government, and we have already employed 10 last year and another 10 this year. These inspectors are obviously over and above the general cohort of workplace inspectors. And the construction team include some very highly experienced individuals, some who have got investigative backgrounds, and that is very important skill for them to hold in that team. It includes an occupational hygienist and also several qualified engineers of a variety of specialist disciplines, and that is important when you think about the scale of our infrastructure projects across the state. So the construction team on the ground visit to ensure that companies and contractors are complying with OHS risk-based frameworks throughout all of our key stages in the life of a construction project, and there is particular focus on high-consequence hazards too given the potential for serious injuries and incidents to occur in those settings. In addition to that I can advise Mr Maas that WorkSafe have also hired construction liaison officers, ensuring that they continue to work with employers and unions and, most importantly, with health and safety reps on the ground so that we can make sure that everybody in our construction sector comes home safe from work to their families.

Mr MAAS: Terrific. Thank you, Minister. If I could take you to the topic of safety, agriculture of course is a hazardous industry as well. Can you tell us some of the campaigns and initiatives being undertaken there?

Ms STITT: Yes. Thank you. And you are right—it is a particularly dangerous industry, agriculture, and they are far too represented in our statistics in terms of fatalities and serious accidents. And obviously farm work can be particularly heavy work. It can involve heavy machinery and handling large animals, and often by the very nature of farm work it can be solitary. So we know that a lot of repetitive work over many hours working alone can also be a real hazard. Sadly, already this year we have had nine workers die on our farms, and that is a sobering statistic. When someone dies within one of those small-knit farming communities it is really felt throughout the whole community, and not to mention the grieving families. And, as I am sure you would be aware, Mr Maas, it is also quite common for family members to be working with each other on farms, so we have that added trauma when something goes wrong.

So I think we can never take our attention off providing workplace safety in our rural and regional communities, and for that reason I know it is a key focus for WorkSafe and for the government. And WorkSafe have been getting that message out in the agriculture sector to make sure that people are aware of the hazards. That has included getting the message out on social media and through agriculture quarterly emails. Also I know that WorkSafe do visit local shows and events, and they obviously also do inspections and walk-throughs of farms as part of their compliance and enforcement activities. Specific guidance materials such as safety alerts and guidance notes and handbooks and information sheets to farmers have also been developed to try to assist to get the safety message out there. And in one of our most recent campaigns WorkSafe worked with North Melbourne footballer Ben Cunnington, who is a farmer and who has been able to share his insights about, even though there is a lot of pressure on farmers, particularly around harvest time, to work really long hours, the importance of trying to schedule breaks into that work and how important that is from a health and safety perspective. So if you happen to have a chance to have a look at that campaign, I do recommend it. And I know that WorkSafe will continue to work very closely with the industry to try to reduce the incidents and fatalities on farms.

Mr MAAS: Thanks, Minister. I might take you to the topic of the families support package as well. We know that families are an important voice that have lived experience and have brought that to the workplace manslaughter laws. Can you tell me about the measures that the government introduced for families affected by serious workplace incidents?

Ms STITT: Thank you, Mr Maas. As I was saying earlier, the families have done incredible work on that families reference group, and they really helped shape the government's legislative response. Their advice was invaluable. I particularly note the contributions of Dr Lana Cormie and Dave and Janine Brownlee, who, notwithstanding the anguish and pain that those families have been through, also gave powerful contributions to

the Workplace Manslaughter Implementation Taskforce. The families reference group, as I said, has advised on several key parts of the reform, and that is one of the reasons why we have announced that \$10 million package to boost WorkSafe's investigation and enforcement capacity to better support families that are unfortunately caught up in these sorts of serious accidents and fatalities.

The package includes ensuring clear protocols are in place between WorkSafe and Victoria Police that require families to be notified as soon as possible after a workplace death or serious injury and also hiring two additional dedicated WorkSafe family liaison officers to provide that coordinated case management to families when they are going through their very worst hours and days and weeks. In addition to those immediate changes, we are also committed to reviewing the adequacy of the current compensation arrangements that are in place to ensure families impacted by fatalities and traumatic events at work receive appropriate financial support. Often it is the case that these things happen in an unpredictable way and so particular family members might not be able to financially support the rest of the family. So that is a very important review that we are doing in terms of the adequacy of compensation to families that are impacted.

We also have funding for the Workplace Incidents Consultative Committee, which is made up of seriously injured workers and families of people who have lost a loved one at work. Like the other committees that we have had in shaping the industrial manslaughter laws, this committee will be a strong voice for families and injured workers to inform the government and WorkSafe in terms of how we develop our responses not only when some terrible incident happens in the workplace but, importantly, how we prevent accidents from occurring in the first place. So we remain committed to doing all that we can to support those families in that role.

I would also like to thank the Parliamentary Secretary for Workplace Safety, Bronwyn Halfpenny, who has also assisted me in terms of working with those families. We are in the process of setting up the Workplace Incidents Consultative Committee now, and when those appointments are made I am looking forward very much to the contribution that those families of loved ones who have been lost and also injured workers can make to our future reform agenda.

Mr MAAS: Thank you, Minister. If I could take you to the provisional payments scheme, that was alluded to in your presentation. I just thought in the remaining time that I have that you would be able to provide some additional detail in relation to those reforms.

Ms STITT: Yes, I am very happy to. We know that 2020 has been a really difficult year for many people, and the mental health and wellbeing of Victorians has certainly been front and centre in terms of how we respond to and recover from the global pandemic. For workers who face mental injuries, it is really essential that they get early access to support. We know that when they get early access to medical support, that gives them the very best chance to get back to meaningful work more quickly. So last week we introduced into the Parliament our provisional payments Bill, and that is delivering on a 2018 election commitment that we made to do this. It follows a successful pilot of emergency service workers, and recently we expanded that pilot to include healthcare professionals right across the health sector because we know how important it is to get early medical treatment when somebody experiences a mental injury. Currently it can take up to 38 days for a worker to get that claim determined, and this legislation will dramatically reduce the amount of time that injured workers are waiting for medical treatment for their mental injury.

Mr MAAS: Great. Thank you.

The CHAIR: Thank you, Minister. Thank you, Mr Maas. I will pass the call to Ms Bridget Vallence MP.

Ms VALLENCE: Thank you, Chair. Thank you, Minister and team for appearing. Minister, I just refer to budget paper 3, page 115, and the interim inquiry report into the hotel quarantine, and it was identified there have been a number of OH&S failures in relation to the hotel quarantine program. Could you describe for the committee what was the responsibility of the Minister for Workplace Safety in relation to OH&S on those government worksites?

Ms STITT: Thank you, Ms Vallence. So you are talking about the previous hotel quarantine program not the recently announced reset program?

Ms VALLENCE: Correct.

Ms STITT: So you would be aware that the hotel quarantine program was not something directly within my portfolio. However, as workplace safety minister, I have been clear about this on a number of occasions when asked. Every employer and duty holder has an obligation to provide a safe workplace, and that extends to any risk associated with COVID-19. That does not change because of the fact that this hotel quarantine program, even in its reset form, sits with another portfolio minister.

Ms VALLENCE: Yes, in its reset form. But in terms of from an OH&S Act perspective, can you say that all elements of those worksites were compliant with OH&S requirements?

Ms STITT: Well, that would be—

Mr MAAS: On a point of order, Chair, I am just really interested to know how this line of questioning relates to the current set of budget papers. Is there a budget reference that refers to something that has happened historically?

Ms VALLENCE: Well, Mr Maas, as I mentioned, it is budget paper 3, page 115, as I said at the outset.

The CHAIR: Ms Vallence, I have not yet ruled on the point of order, and I did not give you the call. The point of order is upheld on the basis that this inquiry relates to the scrutiny of the budget papers. It is not just sufficient to find a reference to a program and then ask a series of questions that probably belong in tomorrow's or subsequent days' COVID inquiry hearings, so could you please keep your questioning and your line of questioning to the scrutiny of the budget papers.

Ms VALLENCE: Well, on the point of order, page 285 of budget paper 3 outlines the department is responsible for—outlines about workplace safety.

The CHAIR: Ms Vallence, I have already upheld the point of order and ruled on the point of order, so I am not hearing any more presentations on the point of order. You are welcome to continue your questioning of the minister in relation to the scrutiny of the budget papers.

Ms VALLENCE: Okay. Thanks, Chair. On that, page 285 of budget paper 3 refers to workplace safety. But it is surprising that not a single budget output or allocation included in the budget papers refers to workplace safety or maintaining workplace safety. Is it that really that because these budget papers seem to show—and I appreciate the presentation you made—by the fact that there is no output or allocation in the budget papers that there has been a complete dropping of the ball on workplace safety?

Ms STITT: Well, no, you cannot draw that conclusion at all, Ms Vallence. I have already outlined a number of very important reforms in relation to the health and safety priorities of this government and the fact that the health and safety of Victorian workers is core business for me, and it is—

Ms VALLENCE: Can you point out where the outputs or funding allocation is in the budget, then?

Ms STITT: Well, what I would say to you is: the budget papers do not paint the whole picture. We have WorkSafe as the independent safety regulator, a statutory authority, who have a number of programs. In fact their work this year has never been greater in terms of keeping Victorians safe at work.

Ms VALLENCE: And where is that allocation in the budget?

Ms STITT: Well, you will not find it because of the way in which WorkSafe is structured as a statutory independent safety regulator, Ms Vallence.

Ms VALLENCE: Okay. In budget paper 4, page 21, we are looking at, I guess from the perspective of a point of comparison with last year's budget, the fact that the government flagged its intention to direct WorkSafe to pay \$700 million from the WorkCover Authority Fund as a contribution towards the Delivering for All Victorians Infrastructure Fund over the forward estimates. However, in this year's budget these planned dividends have disappeared. Can you let us know why that is?

Ms STITT: Thank you, and as indicated at page 21 of budget paper 4, there are no dividends, grants or capital repayments payable by WorkSafe Victoria in the 2020–21 budget. Now, while these payments are determined by the Treasurer on an annual basis, I think it is common knowledge—and it probably has taken up

an inordinate amount of time of this committee—that the impact of COVID-19 on the economy in Victoria has been significant. The funds in the 2019–20 budget are there to support our state in terms of the infrastructure productivity improvements, but the decision has been made, as is appropriate for the current economic climate, that that dividend, grant or capital repayment will not occur in the 2020–21 budget.

Ms VALLENCE: Is there a risk to the financial viability of the WorkCover scheme?

Ms STITT: In what sense, Ms Vallence?

Ms VALLENCE: Well, if it is not receiving any dividends, is there a risk?

Ms STITT: A risk to WorkSafe’s financial viability?

Ms VALLENCE: The WorkCover scheme.

Ms STITT: No, there is not. I am very satisfied that the WorkSafe board are completely on top of the challenges that they are facing currently. Of course a significant proportion of those financial impacts are COVID related. The government made the important and correct decision to give employers relief from premiums if they were in a circumstance where their business had to close as a result of restrictions and directions of the chief health officer and if their workforce were stood down and receiving JobKeeper. That was absolutely the right thing to do in the economic circumstances that we found ourselves in this year. I am very satisfied that the funding ratio for WorkSafe is well within the target range of between 100 and 140 per cent. It is currently sitting at around 123 per cent, and I am satisfied that the financial viability of WorkSafe is not in jeopardy. And I would also point to the fact that the WorkSafe board—and I would not seek to speak on behalf of them; I am very happy to ask Mr Radford to supplement my evidence—and the organisation as a whole are very attuned to what the pressures are on the scheme.

Outside of COVID the main pressure on the scheme is the exponential increase in mental injuries in the workplace, and I have already touched on that in my presentation and in some of the evidence in answering questions from Mr Maas. But the government and WorkSafe have some key reforms in this space, including the provisional payments legislation that I touched on, and, importantly, there is an independent review of complex claims going on at the moment. Peter Rozen is undertaking that review. When that review comes to me as minister early next year, the government will be looking very closely at the recommendations that he may make in relation to how WorkSafe, insurers and agents manage complex claims, because the long—

Ms VALLENCE: Thank you. Well, given—

Ms STITT: Can I finish this point; it is pretty important—the long-tail nature of a lot of these mental injury claims is the reason why WorkSafe have seen some pressure on the scheme. But I would put to you, Ms Vallence, that the fund is in good financial shape and I am very confident that they can weather this storm.

Ms VALLENCE: So on that, and you say about good financial state, WorkSafe’s 2019–20 annual report reported a \$3.5 billion deficit in WorkSafe’s performance from its insurance operations and a \$3 billion deficit in WorkSafe’s performance as a whole. Obviously you have talked about a lot of complex situations that you are going to need to address, as you have just described. Is it really financially viable? Are there any concerns that you have that you can inform the committee of?

Ms STITT: Well, I have just gone through in quite a bit of detail, very transparently, what I believe to be the key drivers of the—

Ms VALLENCE: Yes, but, Minister, with respect, you said that you were satisfied with their financial statement. But, I mean, there is a big deficit.

Ms STITT: Yes, of course. And what I said was I was—

Ms VALLENCE: So how can that be a satisfactory situation going forward, and no WorkCover premiums coming in?

Ms STITT: I think you are putting words in my mouth, because I said I was satisfied that there were measures in place that the government and WorkSafe were working through to ensure that some of the issues

that are placing that pressure on the scheme are addressed. Now, it is important to note that this increase in mental health injuries is not a new phenomenon. It was in the previous year 14 per cent of all claims and it increased in this annual report to 14.3 per cent, so it is not a new problem but it is one that we are very committed to addressing through a number of ways, as I have already outlined, including provisional payments to ensure that workers with mental injuries are able to return to work as soon as possible and get that very quick medical support and also through the management of complex claims. I know that Mr Radford and his team are absolutely focused on these issues and are very committed to making sure that the WorkSafe scheme remains sound, because at the end of the day it is there to protect and support injured workers back to work. That is their core business.

Ms VALLENCE: On that return to work, what impact will your government's and WorkSafe's acceptance of all the Victorian Ombudsman's recommendations from the *WorkSafe2* report be on the financial position of WorkSafe and return to work rates?

The CHAIR: Sorry to interrupt you there, but the member's time has expired. I will pass the call to Mr Sam Hibbins, MP.

Mr HIBBINS: Thank you, Chair, and thank you, Minister and your team, for appearing this evening. This is probably more a question for Mr Radford. I just refer you to the previous annual report where you actually had a section in there in regard to the on-demand workforce. It indicated that some research had been conducted to understand the on-demand workforce. It also indicated that there was some 36.9 per cent who had indicated they had experienced a safety issue. That is obviously now an issue of significant public importance, given we have seen five deaths across the country recently. Now, it indicated that the research would provide some greater clarity about current worker population and will inform activity in 2020–21. Are you able to give the committee some indication about what that activity is going to be in regard to the on-demand workforce?

Mr RADFORD: Thank you for the question, Mr Hibbins. You are right, that research is continuing. That work is continuing. It is clearly apparent that there are significant issues associated with the on-demand workforce and the gig economy more broadly. They are often amongst some of our most vulnerable workers. They have insecure work. Their work conditions are challenging. You have referenced the tragic deaths of five now delivery riders. They are not all in Victoria—that is across Victoria and New South Wales. It is a key focus area for us going forward. We are working with a number of the platform providers and with some of the representative groups as well and looking at unpacking these issues and seeing what we can do to improve this tragic loss of life, and in particular also working with the other road safety agencies. Given that a number of the fatalities have involved delivery riders, we are working closely with the TAC, Victoria Police and the Department of Transport as part of the broader road safety approach to that workforce as well.

Mr HIBBINS: Terrific. Thanks.

Ms STITT: Do you mind if I supplement that answer, Mr Hibbins, because the other thing to note is that on 1 July 2020 WorkSafe revised its definition of workplace fatalities so we now include road fatalities associated with work. The reason that is important obviously is to see whether there are any emerging trends—and this is obviously a very concerning one—and take necessary steps to intervene and mitigate those risks that those workers are obviously experiencing. However, I acknowledge that in relation to the gig economy workforce it is very challenging because of the very opaque nature of their employment arrangements.

Mr HIBBINS: Great. That is all I had. No further questions from me.

The CHAIR: Excellent. Thank you, Mr Hibbins. That concludes then the consideration of this portfolio this afternoon. We thank you very much for appearing before the committee, Ms Stitt. The committee will follow up on any questions taken on notice in writing and responses will be required within 10 working days of the committee's request. We also thank all ministers and officers who have given evidence to the committee today, and of course we thank Hansard and the committee secretariat. The committee will resume its consideration of the 2020–21 budget estimates tomorrow. I declare this hearing adjourned.

Committee adjourned.