Summary IAS

Details

Lead department	The Office of Industrial Relations
Name of the proposal	Reintroduction of section 58 of the model Work Health and Safety Regulation – Audiometric Testing
Submission type	Summary IAS
Title of related legislative or regulatory instrument	*Work Health and Safety and Other Legislation Amendment Regulation 2024*
Date of issue	1 July 2024

What is the nature, size and scope of the problem? What are the objectives of government action?

National data from Safe Work Australia indicates that noise-induced hearing loss is the single greatest cause of permanent hearing loss in Australia. Each year in Australia, approximately 4,700 workers' compensation claims are made for noise-induced hearing loss. In Queensland, over the 2013-14 to 2022-23 ten-year period, there were 9,501 accepted workers' compensation claims for noise-induced hearing loss. Concerningly, the frequency of these claims is rising: more claims were recorded annually in the past five years than the previous five-year period (excluding 2021-2022).

Excluding mining, five industry sectors accounted for the highest number of hearing loss claims: construction, electricity, gas, water and waste services, manufacturing, public administration and safety, transport, postal and warehousing. These sectors accounted for 6,428 (or 67%) of accepted workers' compensation claims for hearing loss over the 10-year period.

In addition, the productivity cost of occupational noise-induced hearing loss in Australia is estimated to be $6.1 billion *(the Productivity burden of Occupational noise-induced hearing loss in Australia: A Life Table modelling study; international journal of Environmental Research and Public Health, 2020, July 17(13)).*

Audiometric testing has the capacity to prevent industrial deafness both by identifying any hearing loss over time and by evaluating the effectiveness of the PPE used to reduce noise hazards.

Adopting a national model work health and safety regulation provision, audiometric testing was included in Queensland's *Work Health and Safety Regulation 2011* (WHSQ Regulation) when it was first introduced in 2011. Section 58 of the national model regulations requires persons conducting a business or undertaking (PCBUs) to provide audiometric testing to a worker who is frequently required to wear personal protective equipment (PPE) to protect the worker from the risk of hearing loss associated with noise that exceeds the exposure standard for noise. Audiometric testing is required within 3 months of the worker commencing and at least every two years thereafter.

In 2014, section 58 of the WHSQ Regulation was removed following industry consultation. Feedback from industry at the time focused on the cost of testing, particularly for small businesses, and the lack of access to audiometric testing services in rural and remote areas.

Since that time, all other Australian jurisdictions have prescribed audiometric testing in their work health and safety regulations. This means that Queensland workers are not currently afforded the same protections as their interstate counterparts.

In Queensland, guidance on audiometric testing for workers in Queensland is provided in the *Managing noise and preventing hearing loss at work Code of Practice 2021* (the Code).

The significant difference between the regulations in other Australian jurisdictions and the Queensland Code is the regulation mandates audiometric testing whereas the Code provides guidance on audiometric testing as a recommended course of action. Therefore, there is no legal requirement for PCBUs to comply with audiometric testing in Queensland.

What options were considered?

Two options to protect the hearing of Queensland workers and reduce the incidence of industrial deafness were considered:

Option One – reintroduce section 58 of the national model work health and safety regulation into the WHSQ Regulation to prescribe audiometric testing; or

Option Two – maintain the status quo and continue to rely on the Code to provide guidance on audiometric testing.

What are the impacts?

Option One

Reintroducing section 58 of the model regulations will ensure that PCBUs are required to address risks to workers hearing and evaluating the effectiveness of control measures (e.g. PPE) to protect their hearing through audiometric testing.

Option One will impose the cost of conducting audiometric testing on those PCBUs that operate noisy workplaces. On average, an audiometric test takes approximately 15/20 minutes to conduct and costs approximately $150-$200 per person. Businesses likely to be required to implement audiometric testing include those which employ technicians, trades workers, machinery operators, drivers and labourers. **Attachment 1** outlines the cost of audiometric testing by size of business. It is anticipated that audiometric testing would reduce the number of worker's compensation claims for noise-induced hearing loss and have positive productivity impacts. These benefits would likely outweigh the small costs of the test.

There are existing requirements for businesses under section 57 of the WHSQ Regulation whereby a PCBU must already measure noise levels at a workplace in accordance with AS/NZS 1269.1:2005 to check whether the noise level exceeds the exposure standard and to select the appropriate hearing protectors if the exposure standard is exceeded. Audiometric testing can assist PCBUs in measuring noise levels and confirming whether the selected PPEs are effective in reducing noise exposure and hearing damage.

Due to the requirements of section 57 of the WHSQ Regulation or for other reasons, a significant number of industries operating in Queensland already conduct audiometric testing. OIR is aware that businesses conducting audiometric testing include Hasting's Deering, John Holland, Downer, Aurizon (Rail), Caltex, Rio Tinto, BMA, Cairns Regional Council, Origin, Qantas, Thiess, North Qld Bulk Ports, BHP (Hay Point) and Central Highlands Regional Council. It should be noted that section 57 does not compel companies to conduct audiometric testing. Companies who currently undertake audiometric testing likely do so as it is best practice to manage the risk of hearing loss (and subsequent workers' compensation claims) or because they are national companies so already do it elsewhere in Australia as is required by all other Australian jurisdictions.

Option Two

Option Two utilises the existing Code to recommend employers deploy audiometric testing to workers who undertake work in environments with noise levels above the exposure standards.

The Code can only recommend rather than enforce audiometric testing as an effective control measure. This will mean that at-risk workers will continue sustain hearing loss without access to the preventative measure of audiometric testing. Given the increasing number of work-related hearing loss workers' compensation claims, it is apparent that non-enforceable guidance is currently ineffective in reducing the incidence of industrial deafness in Queensland.

Who was consulted?
The reinsertion of a regulatory audiometric testing requirement was raised with the Queensland Government as part of the consultation on the 2022 independent review of the *Work Health and Safety Act 2011*. Comprehensive consultation was undertaken with government, industry, employer and union organisations as part of this review. Broader stakeholder consultation also occurred as part of the consultation on the *Work Health and Safety and Other Legislation Amendment Regulation 2024*.
What is the recommended option and why?
The recommended option is Option One. Option One amends the WHS Regulation to reinsert section 58 which mandates audiometric testing and aligns Queensland with all other Australian jurisdictions to address the increasing incidence of industrial deafness. Since the repeal of this provision in 2014, audiometric testing has become much more accessible and affordable, including to small business and businesses in regional and remote areas of Queensland. In addition, the demand generated by the requirement to conduct audiometric testing is also likely to encourage the opening of new businesses in the audiometric testing industry which will further encourage competitive pricing and deliver better accessibility. Costs will also reduce where workplaces conduct bulk testing across a number of employees on the same day. Option Two is not recommended since reliance on the Code to date has not seen: • the number of noise-induced hearing loss claims reduce (or remain steady); • businesses consistently implementing audiometric testing; nor • businesses consistently testing and evaluating the effectiveness of PPE used to reduce the impact of noise above the exposure standard.

Impact assessment

	First full year	First 10 years
Direct costs – *Compliance costs*	See Attachment 1.	See Attachment 1.
Direct costs – *Government costs*	Nil	Nil

Signed

Graham Fraine
Director-General
Department of State Development and Infrastructure

Date: 7/5/24

The Honourable Grace Grace MP
Minister for State Development and Infrastructure
Minister for Industrial Relations and
Minister for Racing

Date: 15/07/2024

Attachment 1

Table A
Business sizes for top 5 industries with highest number of hearing loss claims

Row Labels	Sum of 1-4 Employees	Sum of 5-19 Employees	Sum of 20-199 Employees	Sum of 200+ Employees
Construction	28,590	6,875	1,408	30
Electricity, Gas, Water and Waste Services	438	201	61	11
Manufacturing	5,231	3,180	1,211	96
Public Administration and Safety	333	175	102	12
Transport, Postal and Warehousing	6,979	1,565	528	46
Grand Total	**41,571**	**11,996**	**3,310**	**195**

Notes
1. Excludes mining as not regulated under WHS laws
2. Not all businesses in these industries have workers who are exposed to noise above the noise exposure standards. Likewise, not all workers in these businesses are exposed to noise above the noise exposure standards and would require audiometric testing.

Table B
Cost to business by employee numbers: first two years and 10 years

1 Employee[3]		**5 Employees**[3]		**20 Employees**[3]		**200 Employees**[2,3]	
First two years	First 10 years	First two years	First 10 years	First two years	First 10 years	First two years	First 10 years
$150 per test x 1 employee = $150 $12.50[1] per test x 1 employee = $12.50	$150 per test x 1 employee x 5 tests = $750 $12.50 per test x 1 employee x 5 tests = $62.50	$150 per test x 5 employees = $750 $12.50[1] per test x 5 employees = $62.50	$150 per test x 5 employees x 5 tests = $3,750 $12.50 per test x 5 employees x 5 tests = $312.50	$150 per test x 20 employees = $3,000 $12.50[1] per test x 20 employees = $250	$150 per test x 20 employees x 5 tests = $15,000 $12.50 per test x 20 employees x 5 tests = $1,250	$150 per test x 200 employees = $30,000 $12.50[1] per test x 200 employees = $2,500	$150 per test x 200 employees x 5 tests = $150,000 $12.50 per test x 200 employees x 5 tests = $12,500
Total: $162.50	**Total: $812.50**	**Total: $812.50**	**Total: $4,062.50**	**Total: $3,250**	**Total: $16,250**	**Total: $32,500**	**Total: $162,500**

Notes
1. $12.50 of productivity for workers to take 15 minutes from their day to undergo audiometric testing is based on a generic hourly wage of $50.00 per hour.
2. Large businesses are likely to receive a discounted testing rate (below $150 per test) due to the volume of testing being undertaken.
3. The number of employees required to be tested is only the number of employees who are exposed to noise about the noise exposure standards. It will very likely not be all of a business's employees.