

Australian Industry Group

Work Health and Safety Regulations Consultation

Submission to
Western Australia
Department of Mines, Industry,
Regulation and Safety

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Ai
GROUP

WORK HEALTH AND SAFETY REGULATIONS CONSULTATION 2019

SUBMISSION TO WESTERN AUSTRALIA DEPARTMENT OF MINES, INDUSTRY, REGULATION AND SAFETY (DMIRS)

INTRODUCTION

The Australian Industry Group (Ai Group) is a peak industry association and has been acting for business for more than 140 years. Along with our affiliates, we represent the interests of businesses employing more than 1 million staff. Our longstanding involvement with diverse industry sectors including manufacturing, construction, transport, labour hire, mining services, defence, airlines and ICT means we are genuinely representative of Australian industry.

Ai Group is a member of Safe Work Australia (SWA) and its sub-group Strategic Issues Group – Work Health and Safety (SIG-WHS), which had oversight of the development of the Model Work Health and Safety Laws. We are also actively involved in consultative forums with state and territory regulators in relation to the application of safety and workers' compensation legislation.

We have been actively engaged in supporting the effective implementation of the WHS laws across Australia.

We have ongoing contact and engagement with employers on work health and safety issues, including informing them of regulatory changes, discussing proposed regulatory change, discussing industry practices as well as providing consulting and training services. We promote the importance of providing high standards of health and safety at work, and we hear from them about their success, issues and concerns related to work health and safety.

It is in this context that we make our submission in response to the consultation on the adoption of the WHS Regulations within Western Australia.

HARMONISED LEGISLATION

Ai Group encourages Western Australia to progress with the adoption of the harmonised WHS laws which have been in place in most Australian states and territories since 2012, with as few changes as possible.

A key benefit of the harmonised approach to WHS law within the federation has been to unify and thereby clarify the language and intent of work health and safety law in Australian workplaces.

Those who do not practice work health and safety at a workplace level can underestimate the importance of such a development.

The ability of multi-state organisations to operate under consistent safety practice, language, jargon, systems and descriptions of personal and corporate responsibility across all their operations nationally should be self-evident. Even companies who only operate in Western Australia will interact with the national economy and health and safety principles from other states through national supply chains.

A truck loaded at a South Australian farm and unloaded in a New South Wales processing facility can currently operate under the same WHS laws at both ends of the journey. Contractor employees at a mine in the Northern Territory can work at a mine in Queensland without learning a completely different set of legal responsibilities, regulations and Codes of Practice. This is not the case for employers who undertake activities that result in them crossing the border into Western Australia, or Western Australian employers or workers seeking work outside the state.

All governments in Australia profess their absolute commitment to ensuring healthy and safe workplaces. Harmonisation has been an important signal that they care enough to reconcile historical differences for the sake of clarity and focus and avoid the trap of too many different voices clouding the message.

Ai Group and our members strongly support the harmonised model and encourage Western Australia to adopt the Model WHS Act and Regulations in a form that most closely aligns to this model, to ensure ongoing consistency across eight out of nine Australian jurisdictions.

We note that the consultation documents related to the Regulations indicate that the WA version of the WHS Act will not include Part 7 (right of entry provisions) and subsequently not incorporate Chapter 2, Part 2.4 of the Regulations. In addition, Major Hazard Facilities and Mines Regulations will not be included in the General WHS Regulations.

It is also intended to include three topics that are currently in the WA Occupational Safety and Health (OSH) Regulations, as additional items in the WHS Regulations: demolition; fatigue management in commercial vehicles; and environmental tobacco smoke. We highlight the importance of integrating these additional topics by considering Chapter 3 of the Regulations which establishes overarching obligations for General Workplace Management that apply to all subsequent Regulations.

If removal and addition of required is pursued, it is important that the divergence is undertaken in such a way that it is clear where there are variations from the model and that consistency of terminology is maintained wherever possible. It would be beneficial to include “sign posts” that highlight variations and where these issues are addressed.

For example, in relation to right of entry provisions:

- The removal of Part 7 of the Act should not result in any changes to the number of subsequent Parts or Sections of the Act.
- It would be helpful to include a note in the Act, where Part 7 would usually appear that explains that right of entry provisions exist in other WA legislation, with information about exactly where to find that information.

The addition of new Regulations should also not result in any change to Chapter or Regulation numbers. Whilst it might be neater to include these additional topics at

the end of the Regulations, it may not be the most logical location. If they are inserted within the Regulations due to their relationship to other topics already included, they should be numbered in such a way as to not change the numbering of subsequent Chapters or Parts.

A key challenge in relation to these additional Regulations is to achieve visibility of these requirements. This may be achievable by having an introductory page at the start of the Regulations that highlights the variations and the additional topics covered by the WA version of the Regulations.