

Modernising Work Health and Safety Laws in Western Australia

Submission by WA Farmers

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WAFarmers thanks the Department of Mines, Industry Regulation and Safety for the opportunity to offer comment on the proposal to harmonise Western Australia's Occupational Safety and Health legislation with those of a national level. Farmers are experts in their field, rather than employing a heavy stick method that is focussed on penalties, education is the best mode of achieving cultural change with primary producers. As such, WAFarmers wishes to keep engaged with the Agricultural Working Group to create a campaign that will encourage safe working practices across the agricultural region.

WAFarmers is mindful that Western Australia was hesitant in supporting the harmonisation of the WHS legislation when the process was commenced in 2008. Many were fearful that heavy penalties may lead to property losses as they would not be able to pay the fines. Additionally, onerous compliance often required an additional employee to ensure all compliance measures were met. WA farming properties do not have the ability to service this requirement, which also leads to an increase in payroll tax which acts as another imposition.

WAFarmers appreciates the introduction of *enforceable undertakings* into the regulations. Having a process that is similar to mediation to settle a dispute outside of formal court proceedings is welcomed. This allows for flexibility rather than a rigid and oppressive approach that focussed on penalties.

Unionism and agriculture do not go hand-in-hand. As agriculture is not represented via a union, consultation with farmers and industry groups is essential. WAFarmers wishes to keep engaged so we are in a position to inform our membership and broader agricultural community of their responsibility to provide a safe working place for themselves and their employees.

Currently primary producers are required to function within 18 pieces of legislation. With most farming enterprises consisting of family members or small teams of non-family employees, it can be a large task to ensure you are aware of and compliant of all appropriate acts and regulations. As such, any attempt to streamline and remove the burden of onerous legislation from farmers and their business is supported by WAFarmers.

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The Act in Western Australia is now 34 years old, while the regulations are now 22 years old. WAFarmers is supportive of the Act being reviewed as responsibilities and expectations of employers and employees have changed since these regulations were gazetted. However, WAFarmers does want to highlight that the current regulations are ambiguous, which outlines the necessity for them to be reviewed. There have been examples of compliance officers finding different breaches; or applying penalties in an inconsistent manner. WAFarmers is supportive of streamlining the regulations to ensure they are easier to interpret; but also transparent for the compliance officers to ensure their compliance notices are consistent.

In recent times, shearing sheds have been identified as high risk areas on farms. Upon our own research, there was no fully compliant shearing facility in Western Australia, including those owned by the State Government. This does make it very difficult for farmers to emulate a compliant facility on their own property. WAFarmers does believe it would be of great assistance to the industry to have a fully compliant facility available for farmers and builders to inspect so it can be copied into new designs and builds.

WA agricultural businesses are beginning to undergo succession planning, resulting in new ideas and new way of farming. It has been recognised throughout the industry that the new generation has a greater focus on safety which allows for an opportunity to focus the entire industry on the importance and obligations of OHS. WAFarmers, along with industry partners have recognised that the majority of industry endeavour to comply with OHS requirements. An estimated 20 per cent of farming businesses have some sort of system in place to address their OHS requirements, it is now a case of substantiated that work with the appropriate paperwork to validate their actions. However, we are mindful that with any industry there are outliers and these are the ones we need to educate and improve.

WAFarmers does want to take the opportunity to highlight that these are small businesses, run by small teams in an outdoor environment that does present some risks which come into the scope of the OHS. However, the review panel does need to be cognisant that producers cannot be bound by paperwork to remain compliant when they are owner operators who need to undertake numerous daily tasks in order for the farm to remain viable and profitable. Additionally, the workplace is also their place of residence for the farmer and his or her family. There has to be a clear delineation on where the farm business stops and the residence begins.

Farmers across Western Australia do try and remain safe, they do have responsibility for themselves, staff, and visitors on to the property such as stock agents, agronomists and other consultants. As well as their OHS responsibilities they have to upkeep strict biosecurity measures, animal welfare standards and other legal obligations. It must be noted that any person entering a farm property must have the consent of the property owner or manager.

WAFarmers looks forward to working alongside the State Government to ensuring farming business a safe working place, but this cannot be done via overbearing legislation or extensive paperwork. This can only be achieved with a collaborative approach, of which we see ourselves a part.

Grady Powell
Executive Officer