

INFORMATION PAPER

NATIONAL OHS HARMONISATION

Purpose

To provide an overview of the national occupational health and safety (OHS) harmonisation process, including progress made to date and some of the key changes to the Commonwealth jurisdiction that are likely to result from the reform process.

Background

The importance of harmonised OHS laws has long been recognised as a critical area of regulatory reform. Achieving nationally uniform OHS laws is a key priority of the Council of Australian Governments' (COAG) national reform agenda, which aims to reduce regulatory burdens and create a seamless national economy.

In February 2008, the Workplace Relations Ministers' Council (WRMC) agreed that the use of model legislation is the most effective way to achieve harmonisation of OHS laws. Model legislation will comprise a model OHS Act and model OHS regulations, supported by model codes of practice and other guidance material.

In April 2008, the Australian Government appointed an independent expert panel to conduct a National Review into Model OHS Laws (OHS Review). The review panel was tasked with examining current OHS legislation across all jurisdictions for the purpose of making recommendations to WRMC on the optimal structure and content of a model OHS Act that could be adopted in all jurisdictions.

In July 2008, COAG signed the *Inter-Governmental Agreement for Regulatory and Operational Reform in OHS* (IGA) which establishes the commitment of all states and territories and the Commonwealth to the adoption of uniform OHS laws by 2011, complemented by nationally consistent approaches to compliance and enforcement. The IGA also provides for the establishment of a new national independent tripartite body to drive the national reform process. Safe Work Australia has been established for this purpose.

Progress

The work of the panel conducting the OHS review concluded with the completion of the second and final report on 30 January 2009. In combination, the two reports provide all of the review panel's recommendations for the optimal structure and content of a model OHS Act.

On 18 May 2009, WRMC made decisions on the recommendations of the OHS review and in so doing, made decisions on the optimal structure and content of a model OHS Act that can be uniformly adopted by all jurisdictions. In making its decisions, WRMC was conscious that the model OHS laws do not compromise standards for legitimate safety concerns. WRMC also acknowledged that each jurisdiction will face changes in current OHS arrangements in order to achieve the goal of uniform OHS laws but agreed that the focus of harmonisation is on achieving the best possible approach to health and safety for all Australian workers.

Safe Work Australia is developing the model OHS laws in accordance with WRMC's decisions.

On 25 September 2009, WRMC agreed to the release of an Exposure Draft of the model OHS Act and model administrative regulations for a six-week public comment period. Accompanying the Exposure Draft of the model OHS Act and regulations are:

- a Regulation Impact Statement for consultation; and

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- an Exposure Draft discussion paper to assist in obtaining constructive public comments.

The public comment period for the Exposure Draft of the model Act and model Regulations opened on 28 September 2009 and closes on Monday 9 November 2009 at 5PM (EDST).

Key changes for the Commonwealth jurisdiction

There are some key differences between the current OHS arrangements in the Commonwealth jurisdiction and the proposed model OHS Act. These have been outlined in the table attached to this information paper. While the attached table focuses on those areas where the differences are most pronounced, there will be other areas of difference in some of the detail of the proposed laws.

It should be noted that a number of areas covered by the model OHS Act would cause unwarranted and in a few cases irreconcilable conflicts with existing criminal and procedural laws in the jurisdictions, including the Commonwealth. The draft model Act therefore allows for some jurisdiction specific provisions to address this situation and to facilitate enactment of the model OHS Act in each jurisdiction.

Next Steps

Comments received during the public consultation period will be reviewed by Safe Work Australia and any necessary amendments will be made to the draft model OHS Act. A final version of the model OHS Act will then be referred to WRMC for decision and subsequent implementation in each jurisdiction.

Each jurisdiction will also be examining the provisions of the model OHS Act and jurisdictional implementation issues during the consultation period. If you have any comments or queries on the draft model Act or OHS harmonisation more generally, it would be appreciated if you could refer these to one of the contact points listed below, so that your views can be considered in the development of a consolidated Commonwealth position on the model Act.

Contacts

Any questions or comments about the harmonisation process, including the draft model OHS Act, can be directed to:

Email contact	Telephone contact
Model.Legislation@comcare.gov.au	Ms Flora Carapellucci Branch Manager, Safety and Compensation Policy Branch Department of Education, Employment and Workplace Relations Ph: (02) 6121 9149

Links

Model Legislation Public Comment

<http://www.safeworkaustralia.gov.au/swa/ModelLegislation/Public+Comment/ModelLegislationPublicComment.htm>

WRMC Response to recommendations of the OHS Review

http://www.safeworkaustralia.gov.au/NR/rdonlyres/5EA77432-4A8B-4455-9376-83E6462732C9/0/WRMC81outcomesMay09_pdf.pdf

First and Second Reports of the National Review into Model Occupational Health and Safety Laws

<http://www.nationalohsreview.gov.au/ohs/Reports/>