

Memorandum of Understanding

Between the

Heads of Workplace Safety Authorities

in

Australian Capital Territory

Comcare

New South Wales

Northern Territory

Queensland

South Australia

Tasmania

Victoria and

Western Australia

Date of effect: 1 May 2012

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Executed for each regulator by their HWSA member as follows: 8

1. INTRODUCTION

- 1.1 The purpose of this Memorandum of Understanding (MOU) is to establish a framework to facilitate cooperation and share information on cross-jurisdictional matters between the Heads of Workplace Safety Authorities (HWSA) in Australia who are signatories to this MOU.
- 1.2 This MOU sets out the common understanding among the HWSA members and their commitment at the time the MOU is signed and for the duration of the MOU. The MOU is not intended to create legally enforceable obligations between or among the HWSA members and cannot affect the rights and obligations imposed by laws.

2. TERM

- 2.1 This MOU is effective from 1 May 2012 and continues until replaced.
- 2.2 This MOU will be reviewed biannually by HWSA.

3. BACKGROUND

- 3.1 HWSA was established to promote and implement best practice in occupational health and safety in Australia and New Zealand in the areas of policy and legislative matters, education and enforcement.
- 3.2 The *Intergovernmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety* made on 3 July 2008 formalised cooperation between the Commonwealth, state and territory governments on the harmonisation of occupational health and safety legislation including that harmonisation would be complemented by a consistent approach to a compliance and enforcement policy.
- 3.3 In preparation for the new framework, HWSA members have cooperated to develop consistent policies and procedures on a range of matters.¹
- 3.4 Additionally, the *National OHS Strategy 2002-2012* (as amended or replaced) provides a national focus for all Australian governments and the peak bodies to improve work health and safety outcomes by working cooperatively and collaboratively.

4. PRINCIPLES

- 4.1 All HWSA members aim to achieve improved work health and safety outcomes through closer coordination and cooperation by:
- a) the coordinated development and implementation of national injury and illness prevention campaigns;
 - b) the coordinated development and promotion of nationally consistent guidance materials;
 - c) nominating officers who will be responsible for facilitating this agreement;
 - d) fostering cooperative working relationships among officers of each HWSA member;
 - e) clarifying the operational arrangements among the HWSA members;
 - f) ensuring there is efficient use of resources by minimising unnecessary duplication of effort;
 - g) promoting a consistent approach to training and encouraging professional development;

¹ The operation of these procedures will be conditional on harmonised laws being introduced into each jurisdiction.

- h) informing each other of proposals or issues of mutual interest and involvement;
- i) maintaining a consistent approach to enforcement within the bounds of legislation, other prosecution and penalty laws applying in the respective jurisdictions; and
- j) co-operating, where appropriate, to meet requests from Safe Work Australia to provide information and consistent and comparable data.

5. CROSS JURISDICTIONAL ARRANGEMENTS

5.1 Where agreed and as appropriate, subject to each regulator's legal, policy and administrative requirements, the HWSA members will aim to collaborate and cooperate on a range of activities, with the following representing a non-exhaustive list of examples:

- (a) give effect to agreed policies, procedures and/or protocols which aim to facilitate an as-consistent-as-possible approach to operationalising WHS laws, including endorsed deliverables from the Regulators Harmonisation Project² and the Harmonised Guidance Material Policy.
- (b) conduct parallel or joint inspections or investigations or otherwise support each other's investigations including in the following non-exhaustive list of circumstances:
 - i. where an incident identifies the potential of multiple duty holders in more than one jurisdiction (including up stream duty holders) being non-compliant with relevant WHS laws;
 - ii. where relevant plant routinely crosses from one jurisdiction into another (e.g. amusement structures) or records relating to an incident in one jurisdiction are located in another jurisdiction (e.g. vehicle log books in relation to an interstate truck incident);
 - iii. where duty holders in similar industry or occupation sectors operate on either side of state/territory borders; and
 - iv. where witnesses to an incident in one jurisdiction are resident or otherwise located at relevant times in another jurisdiction.
- (c) jointly develop and participate in HWSA injury and illness prevention campaigns and other national initiatives consistent with the following principles:
 - i. activities are targeted at areas of high risk as identified in the *National OHS Strategy 2002-2012* (as amended or replaced);

² Subject to each regulator's jurisdiction having enacted harmonised WHS laws.

- ii. priorities are established using an evidence-based decision-making process;
- iii. consideration is given to the achievement of a significant successful safety outcome;
- iv. determination as to whether HWSA is best placed to address the issue;
- v. promotion of further opportunities for harmonisation to establish greater national consistency and/or reduce duplication of effort; and
- vi. where possible, activities include communication and evaluation strategies.

5.2 The HWSA members agree that, in addition to national campaigns and initiatives, any other combination of the regulators may jointly develop and participate in campaigns and initiatives that are relevant to priority work health and safety issues impacting only on that combination of jurisdictions.

5.3 The HWSA members encourage sharing operational information with each other to the extent legally permissible. Each HWSA member notes that disclosure of such information to another HWSA member is governed by relevant provisions in local privacy laws and confidentiality provisions in other local laws applying to the regulator.

5.4 The HWSA members agree to consult with local stakeholders on endorsed HWSA activities by:

- a) identifying relevant stakeholders;
- b) consulting on matters directly impacting stakeholders according to local consultation arrangements;
- c) collating and reporting to HWSA on stakeholder feedback where appropriate; and
- d) informing stakeholders about outcomes where appropriate.

6 AMENDMENT, VARIATION OR MODIFICATION

6.1 This MOU may be amended, varied or modified by agreement among the HWSA members.

6.2 The HWSA members agree that this MOU will not be amended in any way other than by agreement in writing, and such agreement must be expressly stated to amend this MOU.

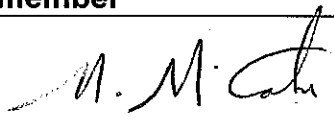


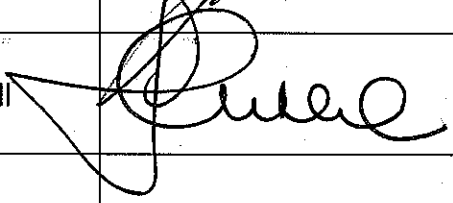


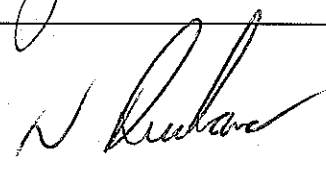

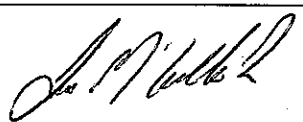
6.3 A HWSA member may withdraw from the MOU at any time and shall inform other HWSA members immediately, preferably via email, followed by formal written advice at the next HWSA meeting.

7 DISPUTE RESOLUTION

7.1 Where an issue arises between or among the HWSA members in relation to any matter covered in the MOU, the primary contact persons will discuss and attempt to resolve the issue. Where the primary contact persons are unable to resolve the issue, the matter may be referred to the HWSA member or delegate of the respective agencies.

7.2 If required, the matter may be referred to HWSA for resolution.

Executed for each regulator by their HWSA member as follows:

Name of regulator	Name of HWSA member	Signature of HWSA member	Date
WorkSafe ACT	Mark McCabe		26/4/12
Comcare	Neil Quarmby		26/4/12
Workcover NSW	John Watson		26/4/12
NT WorkSafe	Laurene Hull		6/6/12
Workplace Health and Safety Queensland	Simon Blackwood		26/4/12
SafeWork SA	Juanita Lovatt		26/4/12
Workplace Standards Tasmania	Neale Buchanan		1/6/12
WorkSafe Victoria	Ian Forsyth		26/4/12
WorkSafe WA	Lex McCulloch		26/4/12