

7 April 2008

OHS and WORKCOVER NATIONAL UPDATE – APRIL 2008

GOVERNMENT REVIEW OF OCCUPATIONAL HEALTH AND SAFETY

Background

Within Australia, Occupational/Workplace Health and Safety (OHS) issues are predominantly the responsibility of individual states and territories. Over the last 20 years, various attempts have been made to introduce legislative frameworks that will result in national uniformity or harmonisation. These approaches have had limited impact, as each state/territory has generally made significant changes to the national models when adopting them within their jurisdiction.

In spite of this, there have been some areas of significant achievement, including:

- a national licensing system for high risk work;
- mutual recognition of construction induction cards;
- sharing and adopting of some OHS guidance material across states;
- standard cross border arrangements for workers compensation; and
- standardisation of claim forms across the eastern states.

However, at the most fundamental level, we continue to have major differences between the jurisdictions. Most noticeably, within the primary Acts there are a number of fundamental variations in the legislative obligations, duties, rights, powers and offences.

2008 Review

On 4 February 2008, the Workplace Relations Ministers Council (WRMC)¹ committed to a national review of OHS, with the view to the development of model OHS legislation.

At their meeting in March, the Council of Australian Governments (COAG)² confirmed this commitment, with their communiqué stating that, "COAG endorses a national review reporting to the Workplace Relations Ministers' Council ... on the content of model legislation".

The COAG communiqué can be accessed at www.coag.gov.au.

1. WRMC – The Workplace Relations Ministers' Council is a council of Federal, State and Territory Ministers responsible for workplace relations matters in their respective jurisdictions.

2. COAG – The Council of Australian Governments is the peak intergovernmental forum in Australia. COAG comprises the Prime Minister, State Premiers, Territory Chief Ministers and the President of the Australian Local Government Association. The Prime Minister chairs COAG.

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- NATIONAL OHS CONFERENCE

Assistance

Ai Group's BIZassistInfoline
1300 78 38 44

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YOUR MEMBER NUMBER
HANDY**

Training

Ai Group provides a range of OHS and WorkCover training for employers and employees. Courses are scheduled for attendance throughout the year, or we can tailor a course to suit your needs and run the course on your site.

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Group

On 4 April 2008, the Minister for Employment and Workplace Relations, Julia Gillard, formally announced the commencement of a National Review into Model Occupational Health and Safety (OHS) Laws. This announcement advised of the appointment of a three person panel to conduct the review, consisting of:

- **Chair** – Robin Stewart-Crompton, a former Chair of the National Occupational Health and Safety Commission, and currently a consultant in OHS.
- **Member** – Barry Sherriff – Lead Partner of Freehills' OHS law practice.
- **Member** – Stephanie Mayman – Commissioner, WA Industrial Relations Commission and Chairperson of the WA Occupational Safety and Health Tribunal

The panel has been asked to review OHS legislation in all Australian jurisdictions for the purpose of making recommendations on the optimal structure and content of a model OHS Act that is capable of being adopted in all jurisdictions. The recommendations will be in two stages.

The timeframe of the Review is summarised below:

April to May 2008	Information gathering, research and consultation with key stakeholders.
May 2008	Publish issues paper and invite submissions.
May 2008	Provide a progress report to Workplace Relations Ministers' Council meeting.
31 October 2008	Provide report and recommendations to Workplace Relations Ministers' Council on priority areas: <ul style="list-style-type: none">• duties of care, including the identification of duty holders and the scope and limits of duties; and• the nature and structure of offences, including defences.
30 January 2009	Provide report and recommendations to Workplace Relations Ministers' Council on remaining matters: <ul style="list-style-type: none">• scope and coverage, including definitions;• workplace-based consultation, participation and representation provisions, including the appointment, powers and functions of health and safety representatives and/or committees;• enforcement and compliance, including the role and powers of OHS inspectors, and the application of enforcement tools including codes of practice;• regulation making powers and administrative processes, including mechanisms for improving cross-jurisdictional cooperation and dispute resolution;• permits and licensing arrangements for those engaged in high risk work and the use of certain plant and hazardous substances;• the role of the regulatory agencies in providing education, advice and assistance to duty holders; and• other matters the review panel identifies as being important to health and safety that should be addressed in a model OHS Act.

The review will be guided by the following principles:

- an inclusive approach to the harmonisation process, where the concerns and suggestions of all jurisdictions and interested stakeholders are sought and properly considered;
- that the development of model OHS legislation be accompanied by an increase in consistency of monitoring and enforcement of OHS standards across jurisdictions;
- consideration of the resource implications for all levels of government in administering harmonised laws; and
- the observance of the directive of the Council of Australian Governments that in developing harmonised OHS legislation there be no reduction or compromise in standards for legitimate safety concerns.

Further information about the review, including the full Terms of Reference, can be found at <http://www.nationalohsreview.gov.au/>

In addition to the Review timeframes, COAG has established the following key timeframes:

July 2008	COAG to consider scope for a reduced implementation timetable.
October 2008	New body to replace the Australian Safety and Compensation Council (ASCC).
March 2009	Release of model OHS Act exposure draft and RIS.
September 2009	Model OHS Act submitted to WRMC for approval.

Industry Response

Ai Group welcomes the opportunity to further progress the move toward a nationally consistent OHS system. The benefits to business with operations across more than one jurisdiction are obvious: decreased bureaucracy; consistent law to administer; certainty about one set of obligations/duties; and organisational systems and training will not have to be modified to suit the specific detail in each jurisdiction. Businesses who have operations in only one state can also benefit, with interstate suppliers, customers and competitors all bound by the same set of rules.

However, any discussions regarding changes to OHS legislation will include concerns about the risk of reducing safety for employees and/or increasing costs of compliance for employers.

In order to enhance the opportunities for improvement and minimise negative outcomes for employers, Ai Group will be actively involved in representing employer interests throughout the review and implementation.

On behalf of members, our aim will be to achieve ***improved OHS outcomes, efficient processes and fair and balanced obligations/duties.***

We will be keeping members informed of progress on this issue. If you would like to discuss the national OHS review and/or provide input to Ai Group's position, please contact Tracey Browne, Manager National OHS Policy and Membership Services on 0438 207 799, or email tracey.browne@agroup.asn.au.

PUBLIC COMMENT PRODUCTIVITY COMMISSION – DRAFT RESEARCH REPORT CHEMICALS AND PLASTICS REGULATION

The Productivity Commission are undertaking a review of Chemicals and Plastics Regulation. In a media release in July 2007, the then Treasurer stated:

The Productivity Commission will be asked to identify duplication and inconsistency of regulations within and across all levels of government in Australia. The Commission will examine the effect of these regulations on economic, public health and safety, occupational health and safety, and environmental outcomes. The Commission will also examine the efficiency of existing arrangements for security-sensitive ammonium nitrate.

The Commission has now released a draft Research Report (377 pages in length) to encourage further discussion and input before it completes its final report in July 2008. The draft report can be accessed at <http://www.pc.gov.au/study/chemicalsandplastics/docs/draftreport>.

To provide input to Ai Group's response to the draft research report contact Tracey Browne, Manager National OHS Policy and Membership Services on 0438 207 799, or email tracey.browne@agroup.asn.au.

Submissions are due by 30 April 2008.

PUBLIC COMMENT
DRAFT CODE FOR THE TRANSPORT OF EXPLOSIVES BY ROAD AND RAIL
(The Australian Explosives Code)

The Australian Forum of Explosives Regulators (AFER) has released a draft of The Australian Explosives Code for public comment. The purpose of the Code is to provide a uniform basis for legislation governing the transport of explosives by road and rail in Australia. It aims to ensure the safety of the community from activities associated with the transport of explosives, largely preventing and reducing the incident of risks. Full details of the draft document can be found via a link on the homepage of www.ascc.gov.au.

Members involved in manufacturing and/or transporting explosives are encouraged to access the draft documents and provide feedback, either through the public comment process or to Ai Group to include in a general submission. If you wish to discuss this issue with Ai Group, contact Tracey Browne, Manager National OHS Policy and Membership Services on 0438 207 799 or email tracey.browne@aigroup.asn.au.

Public comment closes on 7 May 2008

NATIONAL OHS CONFERENCE

Ai Group's National OHS Conference will be held in June 2008. The program will address contemporary OHS topics, delivered by experts in their field. Offered in Melbourne, Sydney and Brisbane, the conference will give you access to a national program with a local feel, and no need for interstate travel. Put the dates in your diary now – registration forms will be distributed to members during April.

Melbourne
Tuesday 17 June
The Langham
1 Southgate Avenue
Southbank

Sydney
Wednesday 18 June
Crowne Plaza Parramatta
30 Phillip Street
Parramatta

Brisbane
Thursday 19 June
Marriott Hotel
515 Queen Street
Brisbane



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Manager, National OHS Policy and Membership Services