

Model OHS Legislation Fact Sheet



OVERVIEW

The new occupational health and safety (OHS) reform agenda aims to harmonise OHS legislation across Australia and reduce the incidence of workplace death, injury and disease.

Currently all states, territories and the Commonwealth are responsible for making and enforcing their own OHS laws. Although these draw on a similar approach for regulating workplaces, there are some differences in the application and detail of the laws.

Over the last 20 years there have been efforts to make OHS regulations more consistent by developing National OHS Standards and Codes of Practice. However, there has been no binding obligation on governments to adopt these national standards.

This issue has been addressed through an intergovernmental agreement where, for the first time, governments from each state and territory and the Commonwealth have formally committed to the harmonisation of OHS legislation.

SAFE WORK AUSTRALIA'S ROLE IN OHS REFORM

Safe Work Australia is the principal national organisation driving policy development in OHS and workers' compensation matters. It was established on 1 July 2009 and works in partnership with governments, employers and employees.

One of Safe Work Australia's primary functions is to progress harmonisation of OHS legislation across Australia.

BACKGROUND/NATIONAL OHS REVIEW

In July 2008, the Council of Australia Governments (COAG) signed an Intergovernmental Agreement for Regulatory and Operational Reform in OHS (IGA).

The IGA outlines the commitment of the Commonwealth, state and territory governments to work together to develop and implement model legislation. This cooperation is the most effective way to achieve harmonisation of OHS laws in Australia. The IGA commits each government to pass their own laws that mirror the model OHS laws and adopt these laws by December 2011.

The IGA also provides for the establishment of Safe Work Australia.

The national review into model OHS laws was completed in January 2009, resulting in two comprehensive reports being submitted to the Workplace Relations Ministers' Council (WRMC) with recommendations on the optimal structure and content of a model Act that could be adopted in all jurisdictions.

On 18 May 2009, WRMC made decisions in relation to the National OHS Review recommendations and requested that Safe Work Australia commence development of the model legislation.

WHO ELSE IS INVOLVED?

Model legislation, once implemented in the Commonwealth, states and territories, will affect workers and businesses across all industries and the public sector. Safe Work Australia will continue to consult with all key stakeholders, including industry representatives, employer organisations, unions and governments to ensure model legislation remains relevant and applicable to all Australian workplaces.

Consultation will occur with the release of an exposure draft of the model Act, model regulations and a draft Regulation Impact Statement (RIS) for public comment.

The Parliamentary Counsel's Committee is drafting the model legislation, based on the decisions made by WRMC. This is a national committee representing the drafting offices of Australia and New Zealand.

Access Economics has been engaged to develop the RIS and assess the costs and benefits of implementing model legislation.

WHAT IS MODEL LEGISLATION?

The model legislation will consist of a model Act, supported by model regulations and model Codes of Practice that can be readily adopted in each jurisdiction. This requires each jurisdiction to enact, or otherwise give effect to, their own laws that mirror the model laws.

The model Act sets out the general duties of care and will be followed by more detailed requirements in model regulations. Model Codes of Practice will also be developed to provide practical guidance on how to achieve the requirements of the Act and regulations.

WHY DO WE NEED MODEL LEGISLATION?

While we are all taking steps in the right direction, more needs to be done. Over 135 000 Australians are seriously injured at work every year and more than 260 die as a result of work-related injuries.

The total economic cost of work-related injuries and illnesses to the Australian economy for the 2005–2006 financial year is estimated at \$57.5 billion.

Inconsistent laws cause confusion for businesses and inequitable safety standards across jurisdictions and industry sectors. Inconsistency also leads to duplication and inefficiencies for governments in the provision of policy, regulatory and support services.

The harmonisation of OHS legislation is part of the COAG National Reform Agenda aiming to reduce regulatory burdens and create a seamless national economy.

HOW WILL THIS AFFECT WORKERS?

The changes to OHS legislation will not be at the expense of the safety of Australian workers. Model legislation will ensure that all types of workers are protected from workplace health and safety risks, because the duties of care will extend beyond the employer/employee relationships that currently exist in most OHS laws.

The model Act will also facilitate effective participation of workers and the representation of their interests in OHS.

HOW WILL THIS AFFECT BUSINESSES?

Model legislation will ensure that businesses can comply with one set of consistent laws regardless of which state or territory they are operating in.

This critical regulatory reform will reduce the costs borne by business in complying with inconsistent OHS laws. Instead of spending time developing systems to comply with each jurisdiction's requirements, multi-state businesses will be able to focus on developing and implementing effective company-wide prevention strategies.

KEY DATES

September 2009	Model OHS Act and administrative Regulations are released for public comment.
November 2009	Model OHS Act and administrative Regulations public comment period closes.
December 2009	Model legislation submitted to WRMC for agreement.
December 2009	Draft model regulations developed and progressively submitted to WRMC for decision.
Progressively from late 2009	Stage Two: model regulations on matters addressed in existing national OHS standards.
Progressively from late 2009	Stage Three: model regulations on matters currently included in regulations in two thirds, or more, of the jurisdictions.
Early 2010	Stage Four: model regulations on matters currently included in regulations in one or several jurisdictions.
Progressively from late 2010	Development of model Codes of Practice.
December 2011	All jurisdictions have implemented the model Act and regulations.