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## **AMCA submission to the National Review into model Occupational Health and Safety laws**

### **About AMCA**

Air conditioning and Mechanical Contractors' Association (AMCA) is the organisation representing and promoting the air conditioning and mechanical services industry along with the well being of its members.

AMCA acts as the industry's voice in dealing with governments at all levels, other construction and service industry groups, and the unions.

AMCA is the only industry and employer association that is exclusively dedicated to the air conditioning and mechanical services industry. The Association represents its members in a range of ways. It actively participates in a wide range of policy and advocacy committees at the National and State levels. These committees deal with matters related to construction procurement, standards, regulation, industrial relations, and occupational health and safety.

Since its inception in the early 1960's, AMCA's objectives have been to promote and protect the interests and welfare of the air conditioning and mechanical services industry, its members, and the public they serve.

Members of AMCA design, install, and provide ongoing service of air conditioning and mechanical ventilation systems. Our members:

- Have years of experience in the industry
- A proven record of achievement in the installation of commercial and industrial plant
- Have worked on the most complex projects in Australia.
- Maintain all of the appropriate licences and the regulatory requirements.
- Train and develop their own staff.

AMCA has more than 500 companies as members Australia wide who employ thousands of employees including: sheetmetal workers, refrigeration mechanics, plumbers, drafting officers, clerical and administrative staff, Supervisors and Managers.

### **Background**

Occupational Health and Safety (OH&S) affects every workplace and every State and Territory in Australia. OH & S affects Designers of plant, equipment,

buildings. It affects employers, employees, unions and employer associations. The current position is that every State and Territory in Australia has enacted laws to prevent workplace death, injury and disease. This means that there are significant variations across these jurisdictions – adding huge costs to those companies that operate across State/Territory boundaries.

Therefore this Review's primary task should be to establish one law for all the States/Territories.

### **AMCA views**

AMCA, as a member of the Australian Chamber of Commerce and Industry (ACCI) will rely predominantly on their submission to this Review. However, there are a number of matters that we see as being specific to our industry sector or that we believe that are that important they need to stress time and again. The points we wish to make are as follows:

- The model National Act should enunciate the principles and objectives of the Act;
- The terminology used throughout the Act needs to be consistent, for example, “worker or employee?”
- The Act should be a minimalist approach providing the over arching Legislation which in turn allows the States/Territories to provide consistent, uniform Regulations;
- Regulations could cover either occupations and/or industries but must be consistent from one State/Territory to another;
- Whilst supporting the harmonisation concept that does not mean that we support a “one size fits all” approach. The building and construction Industry is different from most other industries insofar that the workplace and the people who you work for, and work with, are changing regularly. Therefore the model laws have to be sufficiently flexible;
- Prosecutions should be dealt with in the Civil/Magistrates' Courts - not in Industrial Tribunals;
- The Act must also be consistent with the Implementation Guidelines and the National Code of Practice for the Construction Industry;
- The Act should emphasize the responsibilities of the employee as well as those of the employer;
- Whilst we recognize that employers are responsible for the Health and Safety of their employees (and in all probability members of the public) we do not believe that individual officers/managers should be held individually responsible – unless there is a clear case of criminal intent.

- The Act should state that consultation with employees is mandatory, but not necessarily with trade unions;
- The Act should provide for the opportunity for employees to elect a representative (Health and Safety Representative – HSR). The Act should specifically prohibit a third party imposing an HSR on to an employer.
- The Act should provide for inspectors to be able to provide OH & S advice to employers and employees as to how to rectify any OH & S concern.
- Prosecutions should only be made by the responsible State/Territory organization;
- The Act should enable the development of Guidance Notes and Codes of Compliance by the State/Territory authorities. These documents must be consistent across all jurisdictions;
- The Act should provide for “Enforceable undertakings”;
- The model Act should unequivocally state who, in the chain of command’ is responsible for the correct action of administering the Act. That is, the Act should determine who has a duty and the extent of that duty. As suggested, control – that is, who has control over the work and therefore control over how the work is done, must be carefully identified.



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