

Question in discussion paper

Comments (just insert more lines as required)

1. What are your views on the effectiveness of the three-tiered approach - model WHS Act supported by model WHS Regulations and model WHS Codes - to achieve the object of the model WHS laws?

The model works well from the Act through to the Regulations and Codes.

2. Have you any comments on whether the model WHS Regulations adequately support the object of the model WHS Act?

There could be further hazards added to the Regulations and in places more detailed such as Psychological hazards see below.

3. Have you any comments on whether the model WHS Codes adequately support the object of the model WHS Act?

There is some disconnect between the Act and the Codes in terms of linkage between the two on subject matter.

4. Have you any comments on whether the current framework strikes the right balance between the model WHS Act, model WHS Regulations and model Codes to ensure that they work together effectively to deliver WHS outcomes?

There is some disconnect between the WHS Regulations and Codes of Practices to deliver WHS Outcomes. For example WHS Code of Practice that are not covered in the WHS Regulations two of the codes (abrasive sand blasting and steevedoring) whilst noting that the steevedoring code was only introduced in 2016. Other Codes include spray painting/welding were there is no link back to the WHS Regulations except for providing a safe work environment and risk requirements.

5. Have you any comments on the effectiveness of the model WHS laws in supporting the management of risks to psychological health in the workplace?

There is little if no information in the Act and Regulations for this topic and there needs to be a Code of Practice at the minimum to give guidance on this hazard

6. Have you any comments on the relationship between the model WHS laws and industry specific and hazard specific safety legislation (particularly where safety provisions are included in legislation which has other purposes)?

See point 9

7. Have you any comments on the extraterritorial operation of the WHS laws?

No comment

8. Have you any comments on the effectiveness of the model WHS laws in providing an appropriate and clear boundary between general public health and safety protections and specific health and safety protections that are connected to work?

I think these are fairly clear in the current model

9. Are there any remaining, emerging or re-emerging work health and safety hazards or risks that are not effectively covered by the model WHS legislation?	Driving/vehicles could be covered better either in the Regulations or a Code but presently I don't believe that driving/vehicles is covered Emerging WHS topics such as PFAS and Diesel Particulates are not well covered and there is no guidance on topics. If there was a process that could cover new and emerging WHS risks that may require a Code of Practice such as guidance material in the interim.
10. Have you any comments on the sufficiency of the definition of PCBU to ensure that the primary duty of care continues to be responsive to changes in the nature of work and work relationships?	
11. Have you any comments relating to a PCBU's primary duty of care under the model WHS Act?	No comment
12. Have you any comments on the approach to the meaning of 'reasonably practicable'?	No comment
13. Have you any comments relating to an officer's duty of care under the model WHS Act?	No comment
14. Have you any comments on whether the definition of 'worker' is broad enough to ensure that the duties of care continue to be responsive to changes in the nature of work and work relationships?	No comment
15. Have you any comments relating to a worker's duty of care under the model WHS Act?	No comment
16. Have you any comments relating to the 'other person at a workplace' duty of care under the model WHS Act?	No comment
17. Have you any comments relating to the principles that apply to health and safety duties?	No comment
18. Have you any comments on the practical application of the WHS consultation duties where there are multiple duty holders operating as part of a supply chain or network?	No comment
19. Have you any comments on the role of the consultation, representation and participation provisions in supporting the objective of the model WHS laws to ensure fair and effective consultation with workers in relation to work health and safety?	No comment
20. Are there classes of workers for whom current consultation requirements are not effective and if so how could consultation requirements for these workers be made more effective?	No comment
21. Have you any comments on the continuing effectiveness of the functions and powers of HSRs in the context of the changing nature of work?	No comment

22. Have you any comments on the effectiveness of the issue resolution procedures in the model WHS laws?	No comment
23. Have you any comments on the effectiveness of the provisions relating to discriminatory, coercive and misleading conduct in protecting those workers who take on a representative role under the model WHS Act, for example as a HSR or member of a HSC, or who raise WHS issues in their workplace?	No comment
24. Have you any comments on the effectiveness of the provisions for WHS entry by WHS entry permit holders to support the object of the model WHS laws?	No comment
25. Have you any comments on the effectiveness, sufficiency and appropriateness of the functions and powers of the regulator (ss 152 and 153) to ensure compliance with the model WHS laws?	No comment
26. Have you any comments on the effectiveness, sufficiency and appropriateness of the functions and powers provided to inspectors in the model WHS Act to ensure compliance with the model WHS legislation?	No comment
27. Have you experience of an internal or external review process under the model WHS laws? Do you consider that the provisions for review are appropriate and working effectively?	No comment
28. Have you experience of an exemption application under the model WHS Regulations? Do you consider that the provisions for exemptions are appropriate and working effectively?	No comment
29. Have you any comments on the provisions that support co-operation and use of regulator and inspector powers and functions across jurisdictions and their effectiveness in assisting with the compliance and enforcement objective of the model WHS legislation?	No comment
30. Have you any comments on the incident notification provisions?	No comment
31. Have you any comments on the effectiveness of the National Compliance and Enforcement Policy in supporting the object of the model WHS Act?	No comment
32. Have you any comments in relation to your experience of the exercise of inspector's powers since the introduction of the model WHS laws within the context of applying the graduated compliance and enforcement principle?	No comment
33. Have you any comments on the effectiveness of the penalties in the model WHS Act as a deterrent to poor health and safety practices?	No comment
34. Have you any comments on the processes and procedures relating to legal proceedings for offences under the model WHS laws?	No comment
35. Have you any comments on the value of implementing sentencing guidelines for work health and safety offenders?	No comment

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| 36. Have you any comments on the effectiveness of the provisions relating to enforceable undertakings in supporting the objectives of the model WHS laws? | No comment |
| 37. Have you any comments on the availability of insurance products which cover the cost of work health and safety penalties? | No comment |