

13 April 2018

Ms Marie Boland
Independent Reviewer

Dear Ms Boland,

Chemistry Australia – Review of Model WHS laws - Submission

1. Chemistry Australia welcomes the opportunity to provide this submission to the review of model WHS laws.
2. Chemistry Australia (formerly the Plastics and Chemical Industry Association) is the peak national body representing the chemistry industry. Chemistry Australia members include chemicals manufacturers, importers and distributors, logistics and supply chain partners, raw material suppliers, plastics fabricators and compounders, recyclers, service providers to the sector and the chemistry and chemical engineering schools of leading Australian universities.
3. The chemistry industry is the second largest manufacturing sector in Australia. Our industry employs more than 60,000 people, with every job also creating five more in related supply chains. The industry contributes \$11.6 billion to gross domestic product, and supplies inputs to 109 of Australia's 111 industries.
4. As a member of the Australian Chamber of Commerce and Industry (the Australian Chamber), Chemistry Australia supports the submission made by the Australian Chamber on behalf of its members. Chemistry Australia would, however, like to make the following additional comments to the review:
5. On the whole, the model laws operate to achieve their primary aim – that is, safety in the workplace. However, from the business perspective the lack of truly uniform and harmonised WHS laws across all Australian jurisdictions means that the model laws fail to deliver against all of the intended objectives, resulting in increased regulatory burdens and costs for businesses operating across jurisdictions. In addition, the costs, burdens and uncertainty resulting from the inconsistent administration, interpretation and application of the model WHS law across, and within, jurisdictions continue to concern business.
6. The differing approaches to the regulation of Major Hazard Facilities (MHF) across jurisdictions exemplify industry's concerns about the lack of harmonisation across jurisdictions. Uniform and consistent regulation and administration of MHFs would improve safety outcomes and should reduce costs for industry. Chemistry Australia believes that a separate, comprehensive review of MHF regulation is needed as a matter of priority.

7. Chemistry Australia believes that to the maximum extent possible the WHS laws should be focused on the outcomes sought and avoid prescribing required actions. Laws should allow owners/operators to determine the measures necessary to eliminate and/or control a risk having regard to the full context of their operations. For example, clause 343 currently prescribes requirements for labelling pipe works that are inappropriate in many industrial situations.
8. With regard to Australia's the adoption of the *Globally Harmonised System of Classification and Labelling of Chemicals* (GHS), Australia must adopt revisions to the GHS uniformly across all jurisdictions with an appropriate transitional period. Failure to align with revisions of the GHS will increase costs and disadvantage Australian users of chemicals. Consideration should be given to specifying a version of the GHS as a minimum default requirement for Australia, enabling use of newer versions of the GHS where overseas jurisdictions have adopted a more recent version of GHS before Australia. For example, Australia might require all chemicals to be classified and labelled according to version 5 of the GHS, but deem chemicals classified and labelled to versions 6 and 7 as also complying.
9. Chemistry Australia would also propose a comprehensive review of Australia's implementation of the GHS to ensure that all local deviations from the GHS are eliminated. For example, Australia continues to require the proportion of hazardous ingredients to be disclosed on product labels. This is not required under GHS as proportion information is specified on the SDS which must be readily available in the workplace. Similarly, Australia's use of combustion as a determinant of "flammability" is inconsistent with the GHS by the EU and other trading partners and causes confusion with regard to the application of dangerous goods regulation.
10. While Chemistry Australia recognises the benefits of Australian Standards, all references to Australian Standards in the Model laws and Codes should be removed. Incorporation of Australian Standards in the Model laws and Codes effectively gives Australian Standards the force of law. Yet Australian Standards are not readily available to the public, employers and employees; they must be purchased from a commercial enterprises. This is inappropriate.
11. If you require clarification of any of the issues raised above, please don't hesitate to contact me on [REDACTED] or by email at [REDACTED].

Yours sincerely,



Bernard Lee
Director – Policy and Regulation
Chemistry Australia