



2018 Review of the model Work Health and Safety (WHS) laws

List of questions in the discussion paper

- Question 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?
- Question 2: Have you any comments on whether the model WHS Regulations adequately support the object of the model WHS Act?
- Question 3: Have you any comments on whether the model WHS Codes adequately support the object of the model WHS Act?
- Question 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?
- Question 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?
- Question 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)?
- Question 7: Have you any comments on the extraterritorial operation of the WHS laws?
- Question 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?
- Question 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?
- Question 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?
- Question 11: Have you any comments relating to a PCBU's primary duty of care under the model WHS Act?
- Question 12: Have you any comments on the approach to the meaning of 'reasonably practicable'?
- Question 13: Have you any comments relating to an officer's duty of care under the model WHS Act?
- Question 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?
- Question 15: Have you any comments relating to a worker's duty of care under the model WHS Act?
- Question 16: Have you any comments relating to the 'other person at a workplace' duty of care under the model WHS Act?
- Question 17: Have you any comments relating to the principles that apply to health and safety duties?
- Question 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?
- Question 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?
- Question 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?



- Question 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?
- Question 22: Have you any comments on the effectiveness of the issue resolution procedures in the model WHS laws?
- Question 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?
- Question 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?
- Question 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?
- Question 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?
- Question 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?
- Question 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?
- Question 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?
- Question 30: Have you any comments on the incident notification provisions?
- Question 31: Have you any comments on the effectiveness of the National Compliance and Enforcement Policy in supporting the object of the model WHS Act?
- Question 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?
- Question 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?
- Question 34: Have you any comments on the processes and procedures relating to legal proceedings for offences under the model WHS laws?
- Question 35: Have you any comments on the value of implementing sentencing guidelines for work health and safety offenders?
- Question 36: Have you any comments on the effectiveness of the provisions relating to enforceable undertakings in supporting the objectives of the model WHS laws?
- Question 37: Have you any comments on the availability of insurance products which cover the cost of work health and safety penalties?

Have your say

You can share your views of and experiences with the model WHS laws at <https://engage.swa.gov.au/review-consultation>.

*All written submissions and comments must be provided by **5pm (EST) 13 April 2018**.*