

3.8 Workplace Health and Safety

Background

Workplace Health and Safety (WHS) is fundamental to the electrical contracting industry.

Safety in the workplace is a priority for NECA given the potentially hazardous nature of the work carried out by electrical industry employees engaged in construction, maintenance or repair of properties.

Dangers for electrotechnology workers include exposure to live electricity and loose fill or bonded asbestos, hazards such as slips, trips and falls and the risk of using of non-compliant parts or products.

NECA has advocated for greater harmonisation of WHS legislation across Australia to remove conflict and duplication of legislation across state jurisdictions and to make it easier for electrical contracting businesses to achieve compliance.

Safe Work Australia has developed a *Model Code of Practice*, containing a *Model WHS Act*, supported by model WHS regulations, codes of practice and other relevant guides. At present, the Commonwealth, New South Wales, Queensland, South Australia, Tasmania, ACT and Northern Territory have adopted most provisions within the *Model WHS Act* whilst Western Australia and Victoria have refused to adopt the Model Act. We now see states such as Queensland changing their laws and moving out-of-step with the Model Act.

Key issues and recommendations

Worker's Compensation access for injuries during off-site work breaks or where an employee engages in serious and wilful misconduct

NECA believes that a more equitable balance is required between the obligations of an employer to provide a safe workplace environment and the cost of Worker's Compensation to the employer. This is particularly so for SMEs which employ the bulk of electricians and apprentices within Australia's electrical contracting industry.

We agree with wider community expectations that Worker's Compensation benefits should only be available with respect to work contributed injuries, not those arising from the serious and wilful misconduct of an employee or sustained during off-site recess breaks that are outside the control of the employer.

In 2004, a Productivity Commission Inquiry accepted that the employer's ability to exert control over workplace recess breaks and social activities was a relevant consideration and that:

"...coverage for recess breaks and work-related events be restricted, on the basis of lack of employer control, to those at workplaces and at employer sanctioned events."

NECA submitted comments in support of proposed amendments to the *Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014*. We believe these amendments will help to address some of the fundamental inequities that are inherent in the current legislation.

R36: NECA argues that Workers' Compensation access for injuries sustained during off-site work breaks or when an employee engages in wilful or serious misconduct should be removed.

Asbestos register

NECA was concerned with the Australian Capital Territory Government's initial decision not to disclose a list of homes that contained potentially hazardous loose fill asbestos insulation, despite the existence of a known list of homes insulated under a Government program. We were successful in lobbying for a register of known and affected homes subsequently being released.

NECA argues that a further register highlighting affected properties, such as those associated with the Mr Fluffy home insulation scheme in the 1970s, allows electrical industry employees be aware of the affected properties prior to commencing work and acts as a safety and awareness guide for future home purchases.

R37: NECA calls upon all state and territory governments to establish a register of known households that are installed with potentially deadly home insulation products. This action protects electrical employees and provides upfront information for the security of future home purchases.

Industrial Manslaughter

Industrial Manslaughter legislation has recently been introduced in Queensland and the Australian Capital Territory where bills were added to amend existing WHS legislation to deliver strong penalties for employers and corporations whose work practices result in the death of a worker, despite the existence of criminal manslaughter offences within the state or territory criminal code.

Similar legislation was proposed in South Australia, however, the Government in that State came to the view that new Industrial Manslaughter legislation was unnecessary as adequate legal safeguards were in place through the State's criminal code.

This additional legislation, designed with an effort to target senior decision makers in larger organisations, contains penalties of up to \$10,000,000 and a prison term of up to 20 years for organisational leaders, in the event of employee death.

R38: NECA strongly argues that existing legislation within state and territory criminal codes provides the necessary legal safeguards to ensure that business complies with WHS legislation. We do not believe that existing criminal codes should be replicated within WHS legislation, as in the case of Queensland.

Industry opportunities

NECA to:

- » Campaign and lobby the Victorian and Western Australian Governments to encourage them to integrate with a national harmonised WHS model.
- » Lobby the Federal Government to take the issue of a harmonised penalty regime for regulatory breaches to a future meeting of the Council for the Australian Federation.
- » Highlight the inequity of Workers Compensation claim payments for injuries occurred on off-site work breaks and/or where serious or wilful employee misconduct is involved.
- » Continue to lobby the New South Wales Government to establish a register of known, affected households potentially affected by loose fill asbestos. Encourage other state and territory governments to establish a similar register.
- » Call for mandatory property safety inspections at the point of sale to ensure greater protection for electricians to carry out future works.