



national  
electrical and  
communications  
association

# **Review of WHS Regulatory Framework in the Building and Construction Industry**

## **NECA response**

Prepared by: Suresh Manickam

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27 April 2018

Ms Janice Batt  
Assistant Director Review Team  
Workers Compensation Policy Group  
Department of Jobs and Small Business  
GPO Box 9880  
CANBERRA ACT 2601

Dear Ms Batt,

**Re: Review of Work Health and Safety Regulatory Framework in the Building and Construction Industry**

Thank you again for the opportunity to meet with NECA on April 26 to discuss the views of electrical contractors and for the subsequent extension of time granted to provide written comment upon on the Review of Work Health and Safety Regulatory Framework in the Building and Construction Industry.

The National Electrical and Communications Association (NECA) is the peak industry body for Australia's electrical and communications contracting industry. We represent more than 5,000 electrical contracting businesses across Australia's states and territories and employ more than 165,000 workers that deliver an annual turnover in excess of \$23 billion. We also maintain responsibility for the employment, training and skilling of more than 4,800 current and future electricians through our Group Training and Registered Training Organisations.

NECA agrees with a stated principle of the review:

*That the needs of all sectors within the building and construction industry are appropriately considered, particularly noting the high number of small businesses within in the industry.*

The vast majority of Australia's electrical contracting sector and NECA membership is driven by small and medium enterprises and naturally, our views reflect those of the broader membership and sector.

We also note the context in which this review has been commissioned – workplace fatalities (falling from heights and electricity contact) and the introduction of model work health and safety legislation in 2012-13. Both these issues are highly relevant and important for electrical contractors.

Fundamental differences in the structure and operations between small, medium or large organisations are not explicitly recognised or proactively addressed within the present framework. The diverse nature of our sector with its large proportion of micro-businesses employing fewer than five employees requires a specific approach and assistance to deal with material, education and regulatory requirements. In some instances, an absence of knowledge about WHS management exists, particularly in relation to how best practice WHS management enhances organisational performance. While all organisations within the electrical contracting sector understand the importance of workplace health and safety, there is a need for further assistance to identify and translate WHS regulation for their own context and implementation.

## **Workplace Health and Safety Regulatory Framework**

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 workers engaged in construction, maintenance or repair of properties.

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

As a result of these dangers and the high number of fatalities across the building and construction sector, NECA has advocated for greater harmonisation of WHS legislation across Australia's states and territories, noting that Victoria and Western Australia maintain independent yet somewhat similar laws that effectively duplicate and conflict with the model WHS legislation but fail to enhance or address safety or the number of fatalities.

NECA has also met with the Queensland Government, which has recently enacted industrial manslaughter provisions and introduced a number of additional inconsistent measures when compared with other states and territories.

NECA continues to call upon the Governments of Victoria and Western Australia to adopt the Model Regulations and for the Queensland Government to adhere to these laws, to improve harmonisation and reduce the overlap of regulation that presently exists for our sector. Duplication, particularly where it does not directly impact on WHS, is often cumbersome and makes it difficult to achieve regulatory compliance.

While supportive of a more harmonised approach, we note the design of the WHS with an overarching Act, stated regulatory requirements and Codes of Practice that attempts to aims employers to comply with the regulatory framework can often be difficult to interpret or

The Council of Australian Governments (COAG), in its review of the model legislation in 2014, sought to address areas where legislation could be improved in terms of their necessity, cost-effectiveness, flexibility and performance. This review, as highlighted in the recommendations of the **Improving Model Work Health and Safety Laws** in October 2014 that more prescriptive requirements should be maintained in high-risk/key safety areas with less requirements provided in model codes or guidance material, in order to reduce complexity.

NECA believes that easy to understand, relevant and practical guidelines for workplace use will enhance and improve WHS practices.

### **Penalty Harmonisation**

Our calls for enhanced harmonisation and the removal of duplication also extend to the inconsistencies for convictions and penalties across various state and territory legislatures.

At present, maximum fines for individuals and corporations vary widely, in addition to the severity of prison terms for serial and serious offenders.

NECA calls for greater harmonisation of jurisdictional penalties for breaches and failures to comply with WHS legislation.

### **Safe work method statements**

NECA believes that many Safe Work Method Statements (SWMS) are unnecessary and complicate the hazard control process.

In fact, the requirement for a SWMS may actually increase risk levels by diverting important OHS resources and supervisors away from monitoring and improving workplace practices on the construction site.

NECA advocates that the requirements for SWMS should be rationalised. This may include amending the definition of construction work, such that low risk construction projects are no longer covered by the relevant regulations.

Additionally, SWMS should not be imposed when well established control measures are already in place, such as codes of practice, guidance materials, risk registers or safe working procedures.

We believe that consideration given to a rationalisation of the requirements for SWMS.

Thank you again for the opportunity to submit our comments as part of the review process, in order to comment on behalf of the electrical contracting sector.

**Yours faithfully**



**Suresh Manickam**  
**Chief Executive Officer**  
**National Electrical and Communications Association (NECA)**