

Provide your views to the Industrial Relations Working Group process

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Working Group/s to consider your submission:	Compliance and Enforcement

The National Electrical and Communications Association (NECA) is the peak industry body for Australia's electrical and communications contracting industry, which employs almost 170,000 workers and delivers an annual turnover in excess of \$23 billion. We represent the interests of over 5,400 electrical and communications contracting businesses across all Australian States and Territories. NECA has been advocating for, and on behalf of, the electrotechnology industry for over 100 years on issues including the need for industrial relations reform in Australia.

NECA understands that the Federal Government has commenced an industrial relations reform process to support business, retain and encourage new jobs and rebuild our national economy that has been impacted by the COVID-19 pandemic. It is understood that the associated Industrial Working Groups are welcoming stakeholder views on a range of topics, including 'compliance and enforcement' and ways to further enhance the effectiveness of the workplace relations compliance framework. NECA envisions a workplace relations environment that empowers employers and employees across the electrotechnology industry to work co-operatively and make decisions in their shared interests and wishes to work closely with Government on industrial relations issues.

COVID-19 has exposed and amplified a number of systemic regulatory issues, including those within the industrial relations arrangements. All areas of our industry have been impacted by the COVID-19, including the loss of jobs, supply chain shortages, increased contractual, legal and industrial risks, reduced productivity due to social distancing requirements and a general heightened level of uncertainty and reluctance amongst consumers. Opportunities for future work for our industry are slim, with 70% less tender opportunities compared to 2019. We urgently need industrial relations reform to restart our economy, this includes a fair, robust and transparent compliance and enforcement framework.

NECA calls upon the Federal Government to begin a process of comprehensive regulatory reform with the aim of delivering a structurally stronger, fairer and more efficient industrial relations system. NECA urges the Federal Government to introduce equitable, agile and transparent industrial relations reforms that boost productivity and job growth through a balanced approach to workforce rights and protections.

The Federal Government must immediately reduce excessive red tape, ensure a competitive, resilient and productive marketplace that incentivises opportunities for industry, fosters a diverse workforce and look for new opportunities for economic growth. We strongly support the Government's priorities for industry-informed industrial relations conditions to get people into work.

Strengthen the governance, compliance and enforcement 'right of entry' provisions in the Code for the Tendering and Performance of Building Work 2016

One of the most significant industrial relations issues for our industry that urgently needs to be addressed concerns the abuse of right of entry provisions (RoE). These concern inadequate and vague notification requirements, ineffective negotiation/remediation timeframes/processes,

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lack practical, defined or reasonable criteria to enter a site and extent of investigations beyond the scope of the suggested breach. These conditions interfere with and delay productivity, disempower employers, significantly impact efficiency and compromise the feasibility of projects.

Whilst the Code for the Tendering and Performance of Building Work 2016 (Code) is effective to achieve safe outcomes for the building and construction sector, and we appreciate the importance of RoE provisions, NECA is of the view that the governance, compliance and enforcement arrangements should be strengthened to improve equity, accountability and transparency. We propose increasing RoE reporting requirements, to see every RoE recorded within a centralised database established and held by the Australian Building and Construction Commission (ABCC). This database should record each RoE, the number of lost productive hours, justification for the RoE and the quantity of the workforce's non-operational time.

It is well known that construction companies and their subcontractors are unwilling to come forward with information regarding breaches of Industrial Laws. As a consequence of this and with the information gathered from the centralised database, the ABCC should be required to undertake random investigations of RoEs. This will overcome construction industry participants unwillingness to come forward and will also increase visibility of the ABCC which will positively influence the behaviour and practices across the sector. NECA also recommends that tougher sanctions and penalties are imposed to deter illegal behaviour on sites.

Another issue facing sub-contractors is the lack of notification when Unions enter sites to hold discussions with workers under s484 of the Fair Work Act, which only requires notice to be provided to the occupier of the premises. Employers often become aware that a Union has held a meeting with their staff after the event has occurred.

Recommendation:

NECA recommends the Code be broadened to place an obligation on the Occupier of the Premises to forward any notice received by the Union to all employers on site at the earliest possible opportunity once it has been served by the Union. This will allow the employer to properly manage the Union's entry, ensure it is undertaken during meal breaks and at a designated area to prevent disruption to the day's activities.

NECA recommends the Government increases the transparency, accountability and equity of the Code by strengthening the governance arrangements, including the commencement of a RoE Database held by the ABCC, and additional reporting requirements for the Union around RoE.