

A veyter submission

Best Practice Review of the Model WHS Laws:

What courage could look like.

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Dear Madam/Sir,

Best Practice Review of the Model Work Health and Safety (WHS) Act and Regulations

This review is an opportunity to strengthen alignment and trust across Australia's WHS ecosystem. Yet engagement with corporate Australia, industry and WHS professionals has been conspicuously low. It suggests a worrying disconnect between our WHS regulatory system and those it seeks to serve; a sign that critical stakeholders did not see a compelling reason to invest time or effort.

The consultation for this Review has not met the moment. Without a more ambitious, participatory approach to consultation, we will miss the opportunity to modernise regulatory design.

The consultation process has been administrative. Timelines for submissions were short, materials dense and questions narrowly framed, while form-driven templates discouraged meaningful input. The process focused on procedural feedback and incremental change, rather than testing a bold reform agenda or engaging stakeholders in genuine legislative improvement.

Australia can do better.

Australia's WHS framework has been a global benchmark. However, to maintain that position, harmonisation and trust must be rebuilt through transparency, usability and foresight. The European Union and Canada demonstrate how to keep federations aligned on complex cross-border issues through principle-based law, mutual recognition, public metrics and peer pressure between jurisdictions. That is what courage in regulatory design looks like.

We urge Safe Work Australia to lead into the next decade of regulation with a greater level of ambition.

Safe Work Australia must set a clear and courageous direction for the next decade of WHS reform: outcome-based harmonisation as the north star, supported by transparent data, peer review and accountability mechanisms for impact. The goal should be a modern, design-led regulatory model that enables healthy, safe and adaptive work in an economy where technology, structure and control are changing faster than regulation.

veyter's submission focuses on where our expert voice can add most value; understanding modern work and emerging risks, law that is accessible, building trust and engaging the workforce meaningfully. Our submission reflects over two decades in WHS, risk management and compliance, working with industry to strengthen governance, integrate systems, lift capability and make work smarter, safer and more effective.

We appreciate the opportunity to contribute to this review and welcome participation in future reference groups or design initiatives supporting Safe Work Australia's reform process.

Kind regards,

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What does courage look like?

A national regulatory framework that is modern, adaptive, transparent and delivers measurable outcomes.

Safe Work Australia (SWA) has the opportunity to lead through design, setting clear principles and outcome-based legislation that allows industry, especially small business, to focus on doing the right things rather than just proving compliance. Australia's WHS legislative framework can, and should, work more like the best international models, where the law sets intent and essential outcomes, and each jurisdiction demonstrates how those outcomes are achieved. In this model, SWA guides coherence, transparency and learning across the entire system.

At veyter, we believe courage in regulation means moving to outcome stewardship. It is about creating WHS law that guides how work evolves safely and enables better outcomes. It is not about burdensome layers of control that constrain business and innovation.

A courageous approach to WHS law recognises and supports the important role small and medium enterprises play as the engine of Australia's economy. Through core policy goals and performance criteria, SWA can improve the usability and equitable access to WHS law and guidance materials, creating conditions for genuinely healthier and safer workplaces across the Australian business landscape.

This submission sets out considerations and practical suggestions to make model WHS laws more consistent across Australia, simpler to access and better suited to modern work. It covers five important elements:

1. **How to keep the framework responsive to emerging risks.**
2. **How to make harmonisation real and comparable across jurisdictions.**
3. **How to design effective and accessible Codes and guidance material that supports business.**
4. **How to shift consultation from performative attendance to genuine engagement.**

Courage, in this context, is about restoring the original intent of harmonisation, and rebuilding trust in the future potential of the WHS system to deliver smarter, safer and healthier workplaces across Australia.

1. Modern work, emerging risks

The changing nature of work

Over the next decade, Australia's WHS performance will be shaped by profound structural shifts in how work is organised, led and experienced. Demographic change, digitalisation, climate volatility, social disruption and global consolidation are reshaping the boundaries of risk and accountability. In a period of economic and technological upheaval, and rising public scepticism, heavy investment will be required to sustain trust, security and safety.

The anticipated conditions and emerging risks outlined below call for a regulatory mindset that focuses on system integrity - how risks interact across ecosystems - rather than targeting discrete hazards, incidents or compliance tasks. This is less about prescriptive rewriting of rules or principle-based legislation, and more about rethinking how the existing legislative instruments apply to modern patterns of work, control and accountability.

Distributed control and complex supply chains

Resource scarcity and intensifying competition are driving cross-border consolidation, complex foreign-owned and multi-entity structures, especially in key sectors such as resources, energy, property and agriculture. Work is increasingly being delivered through layered contracting, labour-hire and global supply networks. Decision-making and capital sits offshore, while operational risk exposure sits in Australia. As workers move between host organisations, accountability fragments, role clarity diffuses and belonging declines, further complicating supervision, consultation and enforcement.

1. *This Review should evaluate whether the definition of Person Conducting a Business or Undertaking (PCBU) remains adequate and clarify the shared duties and accountabilities across complex business structures and modern supply chains, including offshore control of decisions, budgets and data. Consideration should be given to the evidence required to demonstrate control across interfaces and how accountability is made visible and portable, so workers experience consistent protections, regardless of who pays or directs them.*
2. *The Review should also examine whether penalties and enforcement mechanisms are sufficient or whether alternate pathways to effective enforcement are required to influence global entities whose financial thresholds far exceed domestic sanctions - noting legal action against directors domiciled overseas can be practically, and politically, difficult - as demonstrated by the taxation system's challenges recovering tax from foreign corporations.*

Social context

Social movements and fiscal pressure on public safety nets, such as Medicare, will shift expectations onto organisations to underwrite workers' basic needs, including a decent living, affordable food, access to healthcare and retirement security. At the same time, single-person households are set to be the fastest-growing household type, reducing informal support networks and increasing social and financial isolation that can heighten vulnerability to stress, fatigue and burnout. These changes, combined with rapid urbanisation and rising inequality, are reshaping how people live, travel and work.

The result is a workforce with diverse and shifting social needs, working in different ways, some by choice and others by necessity. Many workers now exercise greater autonomy and flexibility, deciding when, where and how they work, often holding multiple, concurrent roles. In this context, the PCBU has diminishing influence over the conditions that shape risk yet retain responsibility for outcomes. In other settings, operational limits mean workers have little control over pace, workload or scheduling even though job control is recognised as a foundation for psychosocial safety and wellbeing.

3. *As the social fabric of work and wellbeing evolves, so too do the pathways to harm. This Review should examine whether the Act's core tests of control and 'reasonably practicable' adequately reflect these social and structural changes; where responsibility is shared, control is variable and the lived experience of risk no longer fits neatly within traditional organisational boundaries.*

Demographics and migration

Australia's labour force is getting older, more mobile and more culturally and linguistically diverse, with larger migrant cohorts expected in healthcare, logistics and construction. Skills shortages are drawing in newer, less experienced workers (and migrant workers) while experience exits, as older workers retire.

4. *This Review should examine the emphasis placed on the demonstration of competence, instruction, supervision and verification of capability at the point of work with consideration of contingent, migrant and offshore workers across time zones, cultures, languages and geographic locations.*

Digitalisation of work: AI, monitoring and algorithmic control

Digitalisation is reshaping how work is directed, measured and learned. Nations are asserting digital sovereignty over infrastructure and data, while organisations embed software deeper into operations. Remote operation, automation and human-machine teaming are expanding across sectors. Wearables, computer vision and generative tools will set pace and sequence, allocate tasks and surface constant streams of data. Algorithmic scheduling, monitoring and risk prediction intensify work and cognitive load, particularly when targets are optimised without clear safety parameters or worker input. In many settings, the effective supervisor will be software.

5. *This Review should test whether WHS law adequately addresses digital control and how accountability is attributed when AI-informed technology configures algorithms, data and targets, alters workload, schedules, surveillance or autonomy, including when training is delivered via VR/AR rather than in real-world conditions.*

Responsibility for health

Rising chronic illness (especially post-COVID) and an increasingly mentally unhealthy population with constrained access to healthcare (especially mental health care) are changing the baseline capacity to work. This is compounded by hybrid work, isolation, workload pressure, long hours and distributed teams. Social distress, aggression and violence in the community are normalising poor behaviours and bleeding into the workplace. While Officers remain responsible, visibility of health-related risks and lawful access to individual health information and other socio-economic factors is constrained by privacy and discrimination laws, making it harder to design proportionate controls.

6. *This Review should clarify the evidentiary expectations for system-level health and psychosocial risk controls (such as job design, leave allowances and supervision) when personal health disclosure is limited. Further, the Review should examine how WHS duties interact with privacy and discrimination obligations. Should an organisation seek to manage psychosocial risk through recruitment or role design decisions, how will these actions be interpreted in the context of anti-discrimination obligations?*

Climate and environmental volatility

Climate and environmental volatility will reshape how work is organised, financed, and supervised, making it a core issue for any review into WHS law. More frequent extreme weather events (heatwaves, bushfires, storms, and floods) will disrupt and change where and when work happens. Unreliable weather models that no longer provide foresight to defensively manage conditions will force duty holders to make rapid, time-bound decisions in degraded, emergency conditions.

7. *This Review should examine the application of 'reasonably practicable' and the concepts of 'readiness' and 'resilience' within the context of climate-affected scenarios, recognising the need for materiality judgements and more modern, dynamic risk assessment and scenario planning methods beyond the static, business-as-usual risk management approaches currently referenced in WHS laws and Codes of Practice.*

2. Stronger, outcome-based harmonisation

National alignment of WHS laws

Australia's harmonisation relies on model laws agreed by intergovernmental consensus. Each jurisdiction enacts its own version of the model Act and Regulations, but once in place there are no mechanisms to maintain alignment or enforce consistency. The system is politically and procedurally slow to evolve, and resistant to regulatory innovation. Reviews are infrequent and heavily administrative, focused on textual amendments rather than adaptive reform. The result is a framework that is procedurally rigid yet inequitable in practice.

Inter-jurisdictional cooperation depends on goodwill and political alignment, and local innovation occurs only through divergence, not through coordinated trial or adaptive regulation. Over time, variations in practice and interpretation have eroded the intent of a nationally harmonised approach. Disparity between the model laws and State-based requirements, including definitions, enforcement culture and penalty regimes, has created uncertainty and driven administrative burden and superficial compliance rather than genuine improvement in risk control or safety outcomes.

Flexibility for local innovation should sit within the application of the risk management framework, not between jurisdictions. Contemporary risk management approaches already provide for organisational context, the space where industry, scale and operational nuance are rightly accounted for. Agriculture will always differ from mining or retail, but well-designed legislation embeds this flexibility through context and application, not through structural divergence across States in how laws and Codes are interpreted.

This fragmentation comes at a cost, borne by industry and government.

Organisations operating across multiple jurisdictions absorb the effort of maintaining parallel compliance systems to meet divergent requirements. Small businesses with limited WHS resources struggle to navigate overlapping expectations, layers of documentation and procedural compliance it cannot realistically sustain. Meanwhile, Federal and State regulators expend public funds administering and maintaining parallel systems of laws that serve the same purpose. Yet the scale of this duplication remains unknown.

For this review to be credible, a genuine value-for-money lens is required.

A mature regulatory system should be able to demonstrate where the law is working, where it is not, and why. However, despite more than a decade since harmonisation, there has been no evaluation of whether the model laws have achieved their intent or materially improved health and safety outcomes.

While Safe Work Australia publishes national data on fatalities, serious claims and injury rates, the analysis stops short of attributing improvement to legislative reform versus other factors. The steady decline in incident rates began well before harmonisation, suggesting progress has been driven more by industry investment and maturing practice than by the legislative framework itself. There is also no consolidated, transparent reporting or comparative review of regulator performance, value or costs across jurisdictions.

International lessons

By comparison, the European Union (EU) achieves harmonisation and cross-border regulatory coherence through binding directives that set minimum or essential outcomes. Member States must transpose these framework directives into domestic law, and are accountable for demonstrating equivalent outcomes, monitored by the European Commission. Peer review, infringement procedures, and transparent, public reporting create external pressure for consistency.

Further, the EU's Better Regulation Toolbox and Regulatory Fitness and Performance (REFIT) program aim to ensure that EU laws deliver their intended benefits for citizens and businesses, especially small and medium-sized enterprises. It focuses on simplification, burden reduction and fitness for purpose of legislation, removing unnecessary regulatory costs, streamlining requirements, and adapting laws to new challenges such as digitalisation.

Australia can learn from the EU.

True harmonisation requires shared principles and outcome equivalence across jurisdictions, transparent accountability through public comparability and learning-oriented cooperation and peer review.

Our model laws may have delivered early gains, but now lack structural incentives, transparency and adaptability that keep jurisdictions aligned. If WHS harmonisation is to endure, a shift from the 'model text' mindset is required. Australia can achieve harmonisation not by uniformity, but by embedding principle-based alignment through outcome-tested and peer-reviewed frameworks that demonstrate equivalence. Through transparency and public comparability, the legislative framework can establish as a trust system, where consistency, openness and proportionality become the primary signals of performance.

Recommendations for greater harmonisation

8. Evaluate cost and impact of harmonisation

- *Safe Work Australia should undertake a full evaluation of outcomes to determine whether the model laws are improving safety performance. Understanding the real impact of harmonisation is critical to setting a meaningful baseline for the next decade of regulation.*
- *Safe Work Australia should propose and publish its theory of change and evaluation framework for the future model laws, including baselines, attribution logic and performance indicators, so it can demonstrate whether harmonisation and legislative reform have the intended impact over time.*
- *Safe Work Australia should commission and publish a national cost-of-compliance benchmark to quantify the burden of the existing legislative framework on business and government and identify the reinvestment opportunities if true consistency were restored. Federal and State expenditure across agencies should be consolidated and incorporated in the benchmark, alongside performance metrics.*

9. Establish mechanisms to enforce consistency

- *Safe Work Australia should introduce a legislated policy instrument, modelled on the EU REFIT process (for example, a National Variation Gateway) requiring States / Territories proposing jurisdictional deviation from the model WHS laws to publish a Variation Impact Statement for peer review, justifying the variation and demonstrating achievement of equivalent outcomes.*
- *Safe Work Australia should establish a National Harmonisation Dashboard and publish comparative metrics on alignment, enforcement activity, and outcomes across jurisdictions to drive reputational pressure. An annual regulator forum to review divergence and performance, with open data, will focus attention on impact.*

3. Comprehension, not complexity

Effective Codes of Practice and supporting materials

In designing effective and accessible Codes of Practice (Codes) and supporting materials, consideration must be given to who the material is written for.

Australia is a small-business economy; according to the Australian Bureau of Statistics (ABS), 97.2% of all Australian businesses are small (less than 20 employees). They employ approximately 42% of the private sector workforce and often lack specialist WHS expertise.

Australia is also culturally diverse and multi-lingual, with approximately 22% of the population using a language other than English at home. Approximately 7.3 million Australians (about 44% of adults aged 15-74) do not have sufficient literacy skills to meet the demands of everyday life and work.

Australia's WHS laws, Codes and supporting materials are difficult to navigate and cognitively demanding.

The intent of WHS guidance should be to help business manage risk more effectively. For many small business operators, and frontline workers, this depends on access and comprehension, and the existing Codes and supporting materials make that impossible.

There are approximately 30 model Codes and additional supporting guidance material, with State variations layered on top. The existing materials are written in technical language for WHS professionals, instead of being designed for the largest target audience, small business operators. They are delivered as static PDFs, few are searchable or designed for digital use. There is no evidence they have been tested for readability, accessibility or assessed for task success.

There is an over-reliance on English reading comprehension and a lack of visual guides and practical advice. While the information sheet "Work health and safety in Australia: information for migrant and multicultural workers" is available in over 20 languages, none of the Codes or guidance materials have been translated. There does not appear to be guidance in any language targeting non-English speaking small business operators.

International lessons

The EU and Canada provide Occupational Health and Safety material as design-tested, digital and interactive guidance (decision trees, short explainers and examples) to enhance usability and accessibility. They have adopted the concept of regulatory ergonomics: law and guidance designed for human use. The EU-OSHA's OSHwiki and Canada's CCOHS digital tools focus on how people actually read, interpret and apply safety information and have been shown to increase compliance.

Australian Standards are not freely accessible.

A number of model Codes refer directly to Australian Standards, and inspectors routinely rely on them as evidence of industry standard or acceptable good practice. Yet these Standards sit behind paywalls, managed by Standards Australia's commercial licensing partners. This creates a fundamental inconsistency: if the Standards are necessary to understand or fulfil a legal duty, they should be freely accessible. If they are not essential, their inclusion in Codes confuses compliance expectations and undermines clarity about what constitutes "reasonably practicable" control.

Recommendations for better design

10. *Develop design-tested, digital Codes of Practice and guidance materials*

- *Safe Work Australia should develop an internal policy standard for human-centred, design-tested and digital regulatory materials to ensure clarity, accessibility and task success. The policy should address AI integration, searchability and user-tested decision paths.*
- *In line with the policy standard, Safe Work Australis should commence the prioritised and systematic re-design of Codes and guidance materials in a range of formats, testing comprehension and usability with key target audiences, including cohorts of small business operators and those with non-English speaking backgrounds.*
- *Safe Work Australia should publish its schedule for updating Codes and guidance material, with transparent reporting of status (new, revised, retired) and readability/UX attestations for any new Code/guidance*

11. *Provide free access to Australian Standards*

- *Safe Work Australia should ascertain whether each Australian Standard referenced within a Code is essential to compliance and the determination of 'reasonably practicable' controls or good practice. Where it is deemed integral, the Australia Standard should be made freely available as part of an open, authoritative national knowledge base. If this is not commercially viable, references to Australian Standards should be removed from legislative instruments.*

4. Trust and meaningful workforce engagement

Consultation, representation and participation

Consultation, as written in the model law, is built around Health and Safety Representatives (HSRs) and committee participation. Originally designed for a stable, single-employer workforce, it assumes proximity, predictability and hierarchy.

However, consultation has become procedural and performative. Committee meetings are often timed to communicate decisions rather than influence them, with little genuine engagement or discovery. Meeting minutes rarely evidence that consultation has led to meaningful change in work design or program decisions. For many workers, especially those outside the core workforce, the expectation to contribute during discussions assumes a level of psychological safety and confidence that is lacking in many frontline work teams.

The consultation mode no longer fits how work is organised or how people connect.

Today's work is hybrid, mobile and networked. Contractors, gig workers and platform contributors operate across organisations and time zones, engaging online and asynchronously. For many of the most vulnerable workers, this makes participation in formal, time-bound meetings unrealistic, effectively excluding the very voices most exposed to risk.

Distributed, casualised and contingent workforces sit largely outside formal representation structures and are frequently under-represented. Their transient nature and layered employment arrangements make it difficult to establish continuity, build trust or maintain clear lines of accountability - all essential ingredients for genuine consultation and participation.

Consultation mechanisms that build trust.

Trust is the foundation of productive, healthy and safe work. It underpins better decision-making, stronger relationships and ultimately, greater performance outcomes. When trust is high, people believe their voice matters; they speak up early, share insightfully and collaborate to address issues before they become incidents.

veyter's research consistently shows that trust grows when workers are empowered to participate in problem-solving, influence decisions and see tangible improvements as a result of their input and actions.

Consultation must move beyond representation and information sharing, to focus on the quality of engagement and shared responsibility. Provisions should enable the workforce to co-create safer systems of work and have real influence over decisions that affect their health and safety. Mechanisms must include digital tools, behavioural insight and transparent feedback loops that support visible and meaningful participation.

Recommendations for effective consultation

12. Re-design the consultation model

- *Safe Work Australia should design and test new engagement models informed by contemporary behavioural science and current research on workforce engagement, trust and psychological safety. Consultation frameworks should focus on impact not just meeting attendance, requiring organisations to demonstrate evidence of meaningful engagement, worker-led influence on decisions and risk controls, and measurable improvement in work design.*
- *Safe Work Australia should also review whether the existing Code of Practice for Consultation and supporting guidance remains fit-for-purpose. With collaboration no longer limited to in-person or real-time meetings; practical guidance is needed to reflect modern consultation methods, including hybrid, asynchronous and digital participation.*



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About us.

At veyter, we love working on complex, sticky problems. We help our clients to navigate business and leadership challenges in a competitive world, using our knowledge in strategy, leadership, risk, sustainability, health and safety.

We are a team of experienced advisors, designers, facilitators and coaches, adept in thinking creatively and problem solving. We build trustworthy relationships; collaborating with you to design and deliver strategy and change programs with measurable outcomes and sustained impact.

We work with various industries, from mining and energy to finance and property. Our clients include multinational corporations, Australian enterprises and local start-ups. Our breadth of knowledge, diverse experience and interdisciplinary thinking enhances our understanding of each client's specific needs.

We pride ourselves on being flexible and respond quickly to changing needs. Unlike larger consultancies, our smaller size enables us to offer a more personal experience. There is no cookie-cutter approach at veyter.

Disclaimer

This submission has been prepared by veyter for consideration by Safe Work Australia as part of the Best Practice Review of the Model Work Health and Safety Laws. It is provided for consultation purposes only and is not intended for any other use. The information and views expressed are general in nature and do not constitute legal, professional or commercial advice.

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