

15 December 2016

Regulatory Policy Branch
Better Regulation Branch
Department of Finance, Services and Innovation
92-100 Donnison Street
Gosford NSW 2250

Via Email: legislationreview@safework.nsw.gov.au



Dear Director,

RE: Feedback on the 2016/2017 Statutory Review of the WHS Act

The Australian Security Industry Association Limited (ASIAL) welcomes the opportunity to provide an industry comment within the statutory review of the *Work Health and Safety Act 2011*.

ASIAL is the peak national body for the security industry representing over 2,500 member organisations including small, medium and large corporate members who provide security services across a broad range of activities and services equating to approximately 85% of the security industry in Australia. ASIAL is a Registered Organisation of Employers under the Fair Work (registered Organisations) Act 2009, Accredited Cabling Registrar under the Australian communication and Media Authority's Cabling Provider Rules and an Approved Security Industry Organisation within the legislative framework in the ACT, Victoria and Queensland.

The security industry performs a vital role in safeguarding the interests of Australian businesses, government, and the general community. With over 100,000 licensed security personnel operating across Australia, the security industry recognises and supports the importance of managing and providing a safe and healthy workplace.

ASIAL interprets the legislative review as a focus on matters that relate to specific NSW legislative requirements and not to any specific health and safety issue.

The NSW SafeWork legislation is designed to be harmonised with the National WHS Act 2011. ASIAL's view is that all aspects of the NSW legislation should therefore be consistent with the national legislation, including but not limited to Codes of Practice and/or Guidelines.

ASIAL's comments relate only to the "Cash in Transit 2002" (Code of Practice). Safe Work Australia did develop a guidance document (General Guide for Managing Cash-In-Transit Security Risks) as opposed to a Code of Practice.

ASIAL submits that it would be inconsistent and confusing to have a Code of Practice in one jurisdiction and a Guidance Note in another. Of key importance is that codes of practice are admissible as evidence in court (via sections 274 and 275 of the WHS Acts 2011 National & NSW) whereas guidance documents are not.

The NSW Cash in Transit Code of Practice was developed in 2002 and at the time referenced the Cash Transportation (Non-Armoured Vehicles) Interim Award No. 2 and later the Cash in Transit (State) Award – both now redundant, being overtaken by the Transport Industry Cash in Transit Award 2010.

ASIAL's preference is for a National Cash in Transit Code of Practice that demands professional standards of businesses offering services in that sector of the security industry. To that end in 2015 ASIAL developed a CIT Code of Practice which was submitted to the Road Safety Remuneration Tribunal's 2015 Inquiry into cash in transit, and which could be used by SafeWork NSW.



Australian Security Industry
Association Limited

*The peak body for
security professionals*

ASIAL offers the following comments in response to questions 81 – 83 of the discussion document:

81. *Are there any parts of the pre-WHS codes that are unclear or confusing? If yes, please state the codes, which parts and what is unclear and confusing.*

The review document (page 53) states that the pre-WHS Codes remain in force. One of these, the “Cash in Transit” Code of Practice, is confusing as it is filled with many references (pages:5,6,7,8,9,10, 12,16,17,19,20,22,23,27,30,31,32) to the NSW 2001 Occupational Health & Safety Act and Regulation. As such, much of the thrust of this code is out dated as it does not reflect current legislation.

82. *Are there any documents that cover the same subject matter as any pre-WHS codes, but are inconsistent with the codes?*

Safe Work NSW has the “Cash in Transit” Code of Practice whereas Safe Work Australia has the “General Guide for Managing Cash-In Transit Security Risks”. Whilst the subject matter is similar, there is an inconsistency as one is a guide whereas the other is a code of practice. Under sections 274 and 275 of the WHS Act 2011 this inconsistency is significant in terms of legal proceedings.

83. *Is additional guidance needed for any of the subjects covered by the pre-WHS codes? If additional guidance is needed please explain what guidance would be useful with practical examples of when you (or persons you represent) would use it.*

Where a NSW pre-WHS code differs to a national document as per Safe Work Australia there needs to be some kind of reference as to what is the superior or most important document. Safe Work NSW has the “Cash in Transit” Code of Practice whereas Safe Work Australia has the “General Guide for Managing Cash-In Transit Security Risks”. Which document should a business within NSW follow? In general, it would be thought that a code of practice is preferable to a guidance document, however does this change under a National vs State system?

Should you wish to receive a copy of the ASIAL Cash In Transit Code of Practice or to discuss further any of our comments please do not hesitate to contact me.

Yours sincerely



Bryan de Caires
Chief Executive Officer