

Inquiry into the Safety, Rehabilitation and Compensation Legislation Amendment Act Bill 2014

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Senator the Hon. Chris Back
Chair of the Education and Employment Legislation Committee
Second Deputy Government Whip in the Senate
Parliament House
CANBERRA ACT 2600

Re: Inquiry into the Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014

Dear Senator Back,

Thank you for your letter to our President, Mr Wes McKnight, inviting NECA to submit comment towards the Inquiry into the Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014 that proposes to make amendments to the Safety, Rehabilitation and Compensation Act 1988 and Work Health and Safety Act 2011.

The National Electrical and Communications Association is the peak industry body for Australia's electrical and communications contracting industry that employs more than 145,000 workers with an annual turnover in excess of \$23 Billion. NECA's membership consists of more than 4,000 businesses across Australia that sits within our state based chapters. In addition to employing executive and administrative staff at our state chapter and national offices, NECA employs more than 4,000 electrical apprentices through Group Training and Registered Training Organisations in each state of Australia.

It is the strongly considered view of NECA that the implementation of a national licensing model, coupled with the necessary safety benchmarks is a critical step for our industry. Whilst we were mindful of the moves of the former Federal Government to deliver licensing reform, NECA will not accept any moves to water down critical safety benchmarks within the electrical and communications contracting industry.

Given the scale and breadth of the electrical contracting industry within Australia and its skew to SME's, our submission chooses to specifically focus upon what we believe are the key points within the proposed legislation where reform will make the most difference for the vast majority of SME businesses that operate within the electrical and communications contracting industry.

The key points that we focus upon are namely;

- *National Employer Test and group licences for multi-state businesses with operations in two or more state or territory jurisdictions*
- *Exclusion of access to workers' compensation when injuries occur during recess breaks away from an employer's premises or where a person engages in serious and wilful misconduct.*

National Employer Test and group licences for multi-state businesses with operations in two or more state or territory jurisdictions

NECA strongly agrees with and supports moves that would reduce the regulatory burden on our industry and national economy. Given that small and medium enterprises are the lifeblood of the electrical and communications contracting industry and indeed Australia's national economy, we support initiatives that will reduce ineffective red tape and support the general thrust of the recommendations of the *Review of the Safety, Rehabilitation and Compensation Act 1988* by Peter Hanks QC and Dr Allan Hawke AC commissioned by the Gillard Government in 2012.

We agree with the concept of the introduction of a "national employer" test for businesses maintaining workers compensation coverage across multiple state jurisdictions and allowing them to apply for a "group licence" to self-insure their workers is a sensible move that can lead to a reduction in premium costs for employers within the industry. The present system that requires multi-state business (operations in two or more states or territories) having to operate and maintain up to eight different workers' compensation, WHS regimes and compliance with state and territory regulators clearly imposes a costly and unnecessary burden on small and medium electrical contracting businesses which not only impacts business efficiency and profitability, but also workplace productivity. As a Government that is making the right noises about eliminating unnecessary red tape for Australian business, we ask you to push ahead with the introduction of a simple, national employer test model through amendment of the SRC Act that considers the suitability of an applicant through a streamlined process that would grant a group that would meet the strict financial, prudential and work health and safety performance requirements to access self-insurance and group licences whilst removing the need for Ministerial eligibility declaration or a competition test.

NECA also notes the outcomes of a now, ten year old Productivity Commission Inquiry that found that the requirements of various jurisdictions not only significantly cost businesses many additional thousands of dollars when compared with a single national scheme, but additionally that multi state jurisdictions led to serious inequities for employee compensation within the same organisation across different state legislations.

Furthermore, we ask that the Federal Government, through a future meeting of the Council of Australian Governments (COAG) discuss the need for reform of harmonised WHS schemes and the adoption of a single, national legislative agreement covering workers' compensation that aims to reduce red tape and the cost of regulatory burden for businesses within the electrical contracting industry and reduce the inequities for employees working within a national employer that may arise from the present arrangements.

Exclusion of access to workers' compensation when injuries occur during recess breaks away from an employer's premises or where a person 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 costs to the employer. This is particularly so for small and medium enterprises that employs the bulk of electricians and apprentices within Australia's electrical contracting industry.

We also note that the Productivity Commission, in its 2004 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 to be restricted, on the basis of lack of employer control, to those at workplaces and at employer sanctioned events."

The aim of an amendment as outlined above seeks to exclude certain breaks and activities that are beyond the employers' control from workers' compensation arrangements under the Act.

Further, NECA agrees with the general expectations of the wider community that workers' compensation benefits should only be available in respect of work contributed injuries and not those arising from the serious and wilful misconduct of an employee.

The removal of coverage for injuries that occur as a result of serious or wilful misconduct will improve the overall credibility of Comcare and other state based schemes. Whilst we note that claims within this category are rare, they are also more likely to receive wide scale coverage in the public domain that leads to an erosion of confidence and a reduction in credibility of the fundamental tenants of worker's compensation schemes in general.

Senator, we greatly appreciate the opportunity to provide this submission for the *Inquiry into the Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014*.

NECA firmly believes that reform is necessary to reduce the burdens of the current legislation on small and medium enterprises in particular and we urge the Government to push forward with implementing amended arrangements that reduce the inequities that fundamentally exist across state jurisdictions for national employers.

Yours faithfully

Suresh Manickam
Chief Executive Officer