

QUARTERLY NEWSLETTER

Vol. 3, 2007

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From the Director:

Comcare as the vehicle for change



The Comcare debate this year has in my opinion been fantastic. This hopefully is a catalyst that is not time limited as there remains still enormous scope for improvement.

Increased awareness and access to Comcare over the past 18 months has advanced the causes of safety, rehabilitation and workers compensation more than any other single factor in the past decade. It is not the Comcare system itself that I am alluding to, but the debate and consequential actions that are moving hither to immovable obstacles.

Australia and Australian businesses have a small workforce in global terms. Eight different sets of state legislation is an absolute impediment to effective, let alone efficient management of these functions. We need a national scheme for national employers. Whether the current Comcare scheme is the right vehicle is almost an irrelevant detail at present. It is the debate and consequential activity that is important.

Previously parochial and slothful state regulators have moved further toward harmonisation in the last year for one reason only – because if they don't Comcare will have exponentially increasing support!

The conceptual model that underpins Comcare is superior to that of the state

schemes generally. It is still lagging international best practice in many ways. But in some aspects, of rehabilitation for example, it is world class, and certainly ahead of the states. This in turn is forcing the states to seriously consider their models and accelerate "innovation". It's published OHS standards for self insurers are also superior to state standards.

Comcare is being tarnished by growing pains. The regulator is under-equipped in areas such as resourcing of the safety inspectorate, and is still developing some of the support structures for its OHS legislation. The growth in the number of employees covered by the scheme is also testing provider networks. The pool of experienced and capable case managers, injury managers and treatment providers is currently thinner than desirable. Again these are expected short term challenges that need be managed so that claimants are provided a high quality service.

Whilst media and union concerns are currently being voiced, businesses entering Comcare are improving their prevention, rehabilitation and case management. The results are positive.

Legislative and regulator resourcing are not real impediments in an environment of full self assumption of risk by businesses. Businesses entering

Comcare self insurance are responsible and want to do the right thing and improve. With a single set of regulations covering their Australian workforce they are finding that for the first time that is achievable.

If the regulator was to require the same standards in the non-self insured public sector we would also go further forward.

Going forward, I look to greater maturity, particularly in state regulators safety audit models, as the current models are still too myopically driven to prescribe activity rather than performance. There is a challenge in that some SME's need prescription to move them forward, but we see that our clients are sometimes disadvantaged as good risk management is superior but not necessarily compliant to the letter of legislation.

In conclusion, I'd like to thank our current clients for the satisfaction of partnering you in your success. Now well in our second year, we are intent on being the best in our market sector, as your business is in it's chosen sector. We are providing a real option that gives honest, reliable and accountable service with realistic fees. We have a team that is passionate about delivering meaningful service.

If we don't get the chance to speak personally before then, I wish you a healthy and happy festive season and a prosperous new year.

REGULATORY CHANGES

Victorian Occupational Health and Safety Regulations 2007

New Occupational Health and Safety Regulations have come into effect on 1st July 2007.

WorkSafe Victoria acknowledged that together with the modernised Occupational Health and Safety Act 2004, the new streamlined Occupational Health and Safety Regulations 2007 will improve health and safety in Victoria by making it easier for employers and workers to understand their safety obligations, while at the same time cutting red tape and compliance costs.

The new regulation reflects National Standards. Some of the major changes include:

- New regulation to advise how employers are to involve health and safety representatives in **consultation** with employees on OHS issues.
- Clarification of **issue resolution** procedures for temporary measures to be put in place while an OHS issue is being discussed.
- Clarification of the **noise** exposure in excess of the standard and relevant exemptions.
- Changes relating to maintenance of lifts and duties of auctioneers in relation to plant. Registration required every 5 (not 3) years.

- Adopting a National Standard licensing and registration system through the regulation, including photo identification and introducing 5-year renewal periods to strengthen protection against fraud.

A streamlined single regulation consistent with the Commonwealth-led National Standard is introduced for construction. It incorporates nationally recognised model for safety induction training, coordination plans and safe work method statements.

Changes to the Commonwealth Regulatory Framework

OHS

Changes to the Act

Important changes to the Commonwealth OHS regulatory framework are coming into effect. These changes aim to improve the health and safety of employees in the Commonwealth jurisdiction. The changes include:

- The Occupational Health and Safety (Commonwealth Employment) Act 1991 is the Occupational Health and Safety Act 1991;
- The OHS Act now covers private sector organisations that hold a license to self-insure under the *Safety, Rehabilitation and Compensation Act 1988*;
- State and Territory OHS related laws no longer apply to employers and employees covered by the Commonwealth OHS Act unless prescribed in Commonwealth regulations;
- The OHS Act now provides that Comcare can advise employers, employees or contractors on OHS matters and refer people seeking OHS advice to an external specialist. The referral powers were previously with the Commission;
- Employers are still required to notify the Commission of accident or dangerous occurrence, but no longer required to also provide a report;
- Annual reports to be more outcome focused.

Changes to regulations

- Occupational Health and Safety (Commonwealth Employment) Regulations 1991 are now the Occupational Health and Safety (Safety Arrangements) Regulations 1991.
- The Occupational Health and Safety (Commonwealth Employment) (National Standards) Regulations 1994 are now the Occupational Health and Safety (Safety Standards) Regulations 1994.

The following regulations have been introduced:

- Regulation for major hazard facilities
- Regulation for explosives
- Regulations for driver fatigue
- Regulations for electrical safety
- Regulation for construction work
- Regulations for falls from heights

Changes to workplace OHS consultative arrangements include:

- Employees have a more direct role in OHS consultative arrangements
- New health and safety management arrangements need to be implemented
- New provisions for establishment and operation of health and safety committees (HSCs)

- The HSR elections are now the responsibility of the employer
- Employers are now required to maintain a list of HSRs and notify the employees in the designated work group of the selection of a HSR, or a vacancy for the role.
- Employees can choose to be represented

Transitional arrangements

All organisations have until 15 September 2008 to develop their HSMAs. There are transitional arrangements for organisations covered by the Act prior to 14 March 2007. For further information:

http://www.comcare.gov.au/safety/important_changes_under_the_ohs_act

Or speak with one of our team members to see how we can help (03) 98756931.



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CHANGES TO THE SAFETY, REHABILITATION AND COMPENSATION ACT 1988 (SRC ACT)

On 29 March 2007, Federal Parliament passed the *Safety, Rehabilitation Compensation and Other Legislation Amendment Bill 2006* (SRCOLA), including a late Government amendment to the SRCOLA Bill introduced into the Senate.

This became the *Safety, Rehabilitation Compensation and Other Legislation Amendment Act 2007* (SRCOLA Act) with most of the amending provisions coming into effect on the 13 April 2007.

The SRCOLA Act amends the SRC Act in the following ways:

- it strengthens the connection between work and eligibility for workers' compensation, in particular in regard to disease claims;
- it removes workers' compensation coverage for non-work related journeys and, where there is a lack of employer control over worker activity, from recess breaks;
- it reinstates the original policy intention behind the calculation of retirees' incapacity benefits by accommodating changes to interest rates and superannuation schemes;
- for claimants who are no longer employed by the Commonwealth, it provides for their capacity to work outside Commonwealth employment to be taken into account when calculating incapacity benefits;
- it increases the maximum level of funeral benefits payable; and
- it corrects anomalies in the SRC Act to improve its administrative efficiency and ensure the original policy intentions behind particular provisions are maintained.

AUSTRALIAN LABOUR PARTY'S (ALP) OHS POLICY*

In a statement from the Australian Chamber of Commerce and Industry (ACCI) Chief Executive Peter Hendy, industry will need to actively engage with the Australian Labor Party on the implementation of its workplace health and safety policy to ensure that the needs and circumstances of both small business and nationally operating employers are met.

Mr Peter Hendy reported that ACCI (representing Australia's peak council of business organisations and representative of employers on the Australian Safety and Compensation Council) support the ALP's commitment for:

1. Nationally consistent approaches on health and safety law, and (over time) to compensation frameworks, provided that the detail of any national regulation is not excessive or burdensome.
2. Renewed tripartite dialogue between governments, industry and unions on health, safety and compensation.

Concerns were stated on the:

1. Intention to place a moratorium (suspension) on companies seeking a license to self-insure under Comcare. This will stall efficiency gains, and maintain inequities arising from different workers' compensation systems for nationally operating companies and their employees. While Labor is right to review whether the Comcare scheme has a long term capacity to perform this role, there is no reason for a moratorium on entry.
2. need to broaden ALP's proposed guidelines for work on OHS harmonisation, so that the goals of reducing red tape for small business, balance, reasonableness and practicality in regulation, are equal objectives with Labor's stated goal not to reduce safety standards.

In closing, Peter Hendy commented that all governments and political parties need to incorporate into policy an appreciation that safer working environments are not achieved by more or heavier regulation, but by practical initiatives that drive safe work practices and cultures amongst employers and employees.

*Mr Peter Hendy (Chief Executive) ACCI Media Release 24 October 2007

ACOHS Risk Strategies focus on delivering practical safety and workers compensation solutions to all of its clients. If you require any assistance in achieving safe work practices, improving work culture or perhaps addressing OHS compliance, speak with one of our consultants on (03) 9875 6931.



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Globally Harmonised System of Classification and Labelling of Chemicals (GHS)



Chemicals, through the different steps from their production to their handling, transport and use, can present a real danger for human health and the environment. To face this danger, and given the reality of the extensive global trade in chemicals the United Nations has proposed an internationally-harmonized approach to classification and labelling of chemicals. - the Globally Harmonised System (GHS). It aims to ensure that information on physical hazards and toxicity from chemicals is available in order to enhance the protection of human health and the environment during the handling,

transport and use of these chemicals. The GHS also provides a basis for harmonisation of rules and regulations on chemicals at national, regional and worldwide level, an important factor for trade facilitation.

Work on implementation of the GHS in Australia is being undertaken by the Australian Safety and Compensation Council (ASCC). The Department of Environment and Workplace Relations (DEWR), through the Office of the ASCC, is the lead agency for promoting implementation of the GHS in Australia. ASCC has been developing a new framework for the control of workplaces hazardous chemicals that utilises the GHS as the primary hazard classification and hazard communication system. Draft

documents for the new framework were released for public comment from late 2006. The Office of ASCC is currently considering the comments received from the public comment process and will be re-drafting the documents in light of these in the coming months. The planned timeframe for the implementation of the GHS is 2008. For further information:

<http://www.ascc.gov.au/ascc/HealthSafety/HazardsSafetyIssues/HazardousSubstances/GloballyHarmonisedSystemofClassificationandLabellingofChemicalsGHS.htm>

Australian Chamber of Commerce and Industry (ACCI) Productivity Commission study into Chemicals and Plastics Regulation

Following from the recommendation made by the Australian Government's taskforce on Reducing Regulatory Burden on Business (BANKS Taskforce), the ACCI Productivity Commission is undertaking a study into the regulation of chemicals and plastics. The study is aimed at identifying duplication and

inconsistency of regulations within and across all levels of government in Australia. The commission will examine the effects of these regulations on economic, public health and safety, occupational health and safety, and environment outcomes. The ACCI has prepared a draft submission which

focuses on the ACCI Blueprint – Modern Workplace: Safety Workplaces. The draft has been circulated to industry bodies and members of the ACCI for comments. The submissions are due by the close of business by the 10th of August 2007 and can be submitted to the ACCI.

Australian Dangerous Goods Code 7 Aligned with International Best Practice

New Australian Dangerous Goods Code 7th Edition (ADG7) regulations are scheduled to take effect from 1 January 2008 following their unanimous approval by Transport Ministers. The 6th Edition of the Australian Dangerous Goods Code (ADG6) will continue to apply until 31 December 2008; allowing a one year transitional overlap between editions of the Code for training and education.

ADG7 is more closely aligned with United Nations (UN) Model Regulations for the transport of dangerous goods, while retaining Australian-specific provisions. The new Code aims to reduce the cost and complexity of compliance for business.

Some features of ADG7 include:

- The minimum insurance coverage is now \$5 million for each placarded trailer, which accommodates trailers

- in vehicle combinations owned and insured by different companies;
- The license exemption for certain herbicides and pesticides transported in Intermediate Bulk Containers (IBC) up to 3,000 kg/l in total;
- Stronger Chain of Responsibility provisions; including specific duties on consignors to prevent the movement of goods too dangerous to be transported;
- Emergency Information Panels on IBCs and all placard loads are still required to ensure easy incident response identification;
- Concessions for small quantities of dangerous goods transported solely for personal use, or by trades people in the course of their business;
- Concessions for small quantities of dangerous goods in mixed retail distribution loads; and



- Technical updates from UN15 recently ratified by the UN.

ADG7 was developed in close consultation with government agencies and a wide range of industry sectors.

The NTC will work with governments to resolve a number of outstanding implementation issues, which could lead to minor inconsistencies in the national framework.

[For further information on the Australian Dangerous Goods Code refer to the NTC website at www.ntc.gov.au by following the Dangerous Goods Quicklink located on the NTC Homepage.](http://www.ntc.gov.au)

TRANSPORT SAFETY

New Heavy Vehicle Driver Fatigue Laws



The Australian Transport Council (ATC) has approved new national laws to manage heavy vehicle driver fatigue to be implemented in 2008. Updated fact sheets, guidelines and information about the

national heavy vehicle driver fatigue reform are now available on the National Transport Commission (NTC)* website. The information will assist all parties in the supply chain to understand their obligations under the new laws ahead of planned implementation. The new laws are consistent with current obligations under Occupational Health and Safety (OH&S) laws that also require

employers and employees take all reasonably practicable steps to manage driver fatigue.

* The National Transport Commission (NTC) is a body established under an intergovernmental agreement with a charter to develop, monitor, and maintain uniform or nationally consistent regulatory and operational reforms relating to road transport, rail transport, and inter-modal transport. The NTC is funded jointly by the Australian Government, States and Territories.

UPCOMING EVENTS:

The Australian Workers Compensation Summit 2007 is coming up on the 26 & 27 November. The summit aims to provide delegates from various areas of workers compensation, including regulators, senior government representatives, insurers, industry leaders and service providers, with the

latest information to assist you with meeting your needs when working towards lower claims costs. The summit also encourages discussion and debate on the latest issues in the industry.

ACOHS Risk Strategies Principal Consultant Lana Rubinstein will be a

delegate speaker on the Monday 26 November of the two day summit. Lana will be speaking on the importance of senior and line managers' leadership in the effective management of safety, workers compensation and rehabilitation within a self-insured environment.

AROUND AUSTRALIA:

NSW

A new program called the *WorkCover Assist Program* is a funding initiative of the NSW State Government and WorkCover NSW. The objective is to support registered NSW trade unions and employer associations in their efforts to assist their members improve workplace compliance with the new relevant legislation.



WA

In September, WorkSafe has introduced the *Come Home Safe campaign* which aims to increase the awareness of safety at work.

The annual Work Safe Forum will be held on Monday 22 October 2007 at the Perth Convention Exhibition Centre. The target audience is elected safety and health reps



Queensland

During the last quarter WorkCover have reduced the average premium rate for employers for the third year in a row. From 1 July 2007, the average premium rate will drop to \$1.15 per \$100 wages, from \$1.20 last year. WorkCover Queensland has had and will continue to have the lowest premium rate in Australia.



Tasmania

Workplace standards are working towards implementing a new dangerous substance (*Safe Handling Act*) 2005 and associated regulations this September. The new legislation will combine combustible substances, dangerous goods and explosives under the one umbrella.



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