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22 February 2010

Business Regulation Benchmarking – Stage 2
Productivity Commission
GPO Box 1428
Canberra City, ACT, 2601

Dear Sir/ Madam

Re: HIA Comments - Draft Research Report on OHS Regulation

The Housing Industry Association (HIA) welcomes the opportunity to comment on the Productivity Commission Draft Research Report on OHS Regulation (the Draft Report), and provide suggestions for future research projects.

HIA supports OHS laws that are based on practical safety solutions that have been developed through rigorous industry consultation and research. For this reason we were pleased to see that the Draft Report similarly supported this view, suggesting that the national harmonised laws should be practical and workable.

Cost analysis and industry impact assessments are important factors in assessing the practicality and reasonability of a safety law or solution/s, so again it was pleasing to see that the report contained this level of analysis for certain aspects of OHS regulation.

Whilst HIA was generally pleased with the content of the Draft Report there are several areas that we think would benefit from more detailed analysis or further research.

1. Incident/ Injury data collection and statistical information

There is no doubt that the principle OHS laws can be made nationally consistent. However without appropriate supporting evidence and accurate data harmonising the practical detail, such as that in regulations or codes of practice, will face significant resistance. This will most certainly be the case for any future changes to the Model Legislation.

Whilst the Draft Report contains broad and varied data comparisons, it also highlights one very important deficiency in the current injury/ incident data collection methods being employed by the jurisdictions, being the need for disaggregation of industry data.

Currently, much of the injury and incident data across industries is aggregated data that does not give an accurate indication of the actual performance of more specific industry sectors. In particular the Draft Report has highlighted this aspect within the transport and storage industry.

It is HIA's view that these statistical shortcomings extend to the construction industry (something that was not specified in the report); there is particularly a lack of statistical data specifically relevant to the residential construction industry.

This lack of statistics is largely due to the pooling of incidents and injuries into one data source, usually workers compensation data, for all sectors of the construction industry (being commercial, civil, construction mining and residential) rather than into the sector groups. This practice makes it difficult to identify real trends in safety and more specifically in the residential construction sector.

The risks of injury associated with working on a housing site are separate and distinct from the risks posed on civil and commercial sites.

The lack of statistical data is also due to the transient and flexible nature of the residential construction industry and wide use of independent contractors. Consequently, incidents relating to these contractors are usually unreported, therefore generating an inaccurate view of a particular industry or injury type.

Without accurate and specific supporting data, any attempt to achieve national consistency of the practical workplace safety methods, especially for the residential construction industry will be futile.

Whilst some data regarding injuries and incidents exists, the federal and state governments together, need to establish a more appropriate framework to collect and extract data that:

- accurately classifies all injuries and incidents;
- clearly identifies the cause of the injury;
- separates industry sectors; and
- collects data relating to independent contractors.

HIA recommends that the Productivity Commission extend some research into looking at the actual method of data collection across the country, with the view to generate a more detailed report that focuses on industries that are affected by aggregation and provide a better insight into the real hazard areas.

Additionally, great benefit would be gained from research that considers broader and more accurate means of data collection outside of workers compensation statistics.

2. Prevention of falls

HIA notes that the Draft Report contains some important analysis of the submissions and concerns of industry in relation to the National Code of Practice for the Prevention of Falls in Housing Construction (Housing Falls Code) particularly the potential costs to business. However it fails to analyse the key reason for the cost impacts, being the 2 metre height threshold for physical fall protection.

HIA has been involved in the development of the Housing Falls Code since its commencement in 2005 and has been very instrumental in transforming the document into a more workable and practical document for industry participants. However the key outstanding concern in relation to the Housing Falls Code is the 2 metre height threshold for physical fall protection.

Whilst a Regulatory Impact Statement (RIS) to consider the 2 metre height threshold, it is flawed as it that it does not consider the possibility of other thresholds and practices that were currently being used by various jurisdictions.

In fact there is no tangible evidence that those jurisdictions that do not currently require a 2 metre threshold (Queensland, Western Australia, South Australia and Tasmania do not currently require a 2 metre threshold) are frequented by more injuries and incidents than those that do impose the threshold.

The 2 metre threshold controversy highlights the dangers presented by jurisdictions formulating OHS policy in the absence of thorough qualitative and quantitative research and analysis.

3. Enforcement measures and policies

HIA is pleased that the draft report considers in some detail the types of enforcement approaches taken by the jurisdictions. In particular HIA supports the recommendation of the Draft Report that suggests the jurisdictions should be looking at taking a mixed strategy known as “responsive regulation enforcement”.

It is HIA's view that the best approach to enforcement and achieving compliance is to encourage employers by providing advice, training and education rather than simply giving fines or issuing notices. A strict heavy handed approach is only going to lead to non-compliance and potentially more injuries.

Whilst the draft report considered the varied approaches of the jurisdictions it did not provide any comparison or conclusions as to which jurisdictions enforcement strategies are resulting in improved safety outcomes.

Given that the notion of harmonised laws lingers closely, employers are concerned about how the laws will be enforced and the approach that will be taken in the future to ensure that people are educated about changes.

HIA recommends that the Draft Report further consider the enforcement approaches of each jurisdiction in relation to the safety performance of that jurisdiction and more particularly the safety performance in specified industries such as housing construction.

HIA would be interested in arranging a meeting to discuss these issues further, and would be more than happy to provide any past submissions that would assist in addressing the above recommendations.

If you have any questions or would like to arrange a meeting please feel free to contact me on (02) 62451300.

We look forward to hearing from you.

Yours sincerely



HOUSING INDUSTRY ASSOCIATION LTD

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