

OASCC Comments on Productivity Commission Review of Mutual Recognition Schemes – Issues paper

Background

The ASCC leads and coordinates national efforts to prevent workplace death, injury and disease; improve workers' compensation arrangements, and improve the rehabilitation and return to work of injured workers. In addition to this, the ASCC provides a national forum for Commonwealth, State and Territory governments, employers and employees to consult and participate in the development of policies relating to OHS and workers' compensation matters, and promotes national consistency in the OHS and workers' compensation regulatory framework.

The ASCC is not a regulatory authority and does not make or enforce laws. OHS laws in Australia operate in each of the state, territory and commonwealth jurisdictions, and are administered by each jurisdictions' OHS authorities.

The Office of the ASCC is a group within the Department of Education, Employment and Workplace Relations (DEEWR) and supports the work of the ASCC. The ASCC replaced the National Occupational Health and Safety Commission (NOHSC) in 2005.

Role of the ASCC and the Office of the ASCC in TTMRA

The issues paper notes that a special exemption is in place for Hazardous Substances, Dangerous Goods and Industrial Chemicals. This is one of the original sectors where immediate mutual recognition was not practicable due to health, safety and environmental concerns.

The Office of the ASCC within DEEWR is the lead agency for the Chemicals Cooperation Program of the TTMRA, and reports each year to COAG on progress of work included in the 5 year workplan, and to roll over the chemicals special exemption.

The chemicals cooperation program includes work being undertaken by a number of agencies, including the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) and the Office of Chemical Safety (OCS), both of which are located in the portfolio of the Department of Health and Ageing, plus the Department of Agriculture, Fisheries and Forestry (DAFF). The Office of the ASCC is the area responsible for undertaking work relating to the workplace chemicals sector.

A key component of work for the workplace chemicals sector is implementation of the Globally Harmonised System of Classification and Labelling of Chemicals (GHS). The GHS was developed under the auspices of the United Nations, and provides an internationally agreed and harmonised system for the classification of chemicals and hazard communication elements. New Zealand has already implemented the GHS into its Hazardous Substances and New Organisms (HSNO) legislation.

The ASCC released a draft National Standard for the Control of Workplace Hazardous Chemicals for public comment in late 2006. The draft Standard aims to merge the currently separate

instruments for workplace hazardous substances and dangerous goods and utilises the GHS as the primary hazard classification and communication tool. Work on the new workplace chemicals framework has been ongoing for several years, and while significant progress is being made, this has occurred slowly. Despite this, it is expected that implementation of the GHS into the new workplace chemicals sector will eventually lead harmonisation of classification and labelling between Australia and New Zealand and therefore DEEWR would support the continuation of the special exemption.

Once a new GHS-based national standard for workplace chemicals has been declared by the ASCC (or its replacement body), GHS implementation in Australia would not actually occur until the new standard has been adopted into, or given effect by, the relevant state and territory legislation and regulations. This process can take a number of years to occur.

DEEWR would support an extension to the period of roll over for the special exemptions from one year to a minimum of three years, on the basis that progress of the chemicals cooperation workplan from year to year is slow, the administrative process for formally achieving Ministerial approval for the rollover is onerous and time consuming, and the likely extensive time required for amendments to occur in jurisdiction regulations once a new workplace chemicals standard has been declared.

Other issues

Recent reviews into plastics and chemicals regulation have resulted in apparently conflicting or inconsistent recommendations relating to GHS implementation. The Banks review in 2006 recommended that, in relation to chemicals and plastics regulation, GHS implementation should be taken into account and any uniquely Australian variations and deviations from internationally agreed systems (such as the GHS) should be justified through cost benefit analysis (recommendations 4.57 and 4.58). More recently, the Productivity Commission's draft research report into plastics and chemicals regulation recommended that GHS implementation should not occur in Australia until after 2015. This recommendation has had strong support from industry groups, who believe GHS implementation should be delayed until after all of Australia's major chemical trading partners have implemented the GHS. However, as GHS implementation forms a critical element for achieving harmonisation for chemicals under the TTMRA, delaying GHS implementation will in Australia will lead to further delays in progress towards harmonisation under the TTMRA.

The government announced following the 2007 election that the ASCC would be replaced by a new independent body, to be supported by intergovernmental agreements (IGA) between each of the state and territory jurisdictions. In addition, a review into occupational health and safety laws in Australia has also been announced and is underway. A review panel has been established and is expected to provide recommendations on the structure and content of model OHS laws which would be uniformly adopted by all jurisdictions. For more information, see www.nationalohsreview.gov.au.

It is anticipated that these IGAs would help facilitate the timely and consistent adoption of standards and codes into jurisdictional laws.