

NATIONAL OFFICE

Level 2, 255 George Street
Sydney NSW 2000 Australia
TELEPHONE 02 8248 6600
FACSIMILE 02 8248 6633
aicd@companydirectors.com.au
www.companydirectors.com.au

Sydney, Tuesday 19 May 2009

Directors welcome breakthrough on national Occupational Health and Safety laws

The Australian Institute of Company Directors (AICD) has welcomed the agreement by State and Commonwealth governments to go ahead with uniform national Occupational Health and Safety (OH&S) laws.

AICD chief executive officer, John Colvin, said the agreement by the Workplace Relations Ministers' Council for a harmonised national framework based on model legislation would address the inconsistency of OH&S laws across jurisdictions in Australia and remove some of the more egregious aspects of the laws in some states and territories.

In particular, AICD welcomed the agreement to several key provisions in the model legislation:

- A requirement that the prosecution should bear the onus of proof in alleged safety breaches, removing the reverse onus of proof contained in some states' OH&S legislation;
- Removing the capacity of unions to bring prosecutions for breaches under OH&S laws; and
- Allowing for a system of appeals against a finding of guilt in a prosecution, ultimately up to the High Court.

Mr Colvin said the ministerial council's agreement marked a major step towards achieving a fair system of law in this area and important progress towards principled laws – legislation that adheres to the rule of law and is proportionate to the potential wrongs being addressed – in the area of director liability more generally.

“While we do not necessarily agree with every aspect of it, the model national law moves Australia a long way toward an OH&S system that is fair, balanced and consistent,” Mr Colvin said.

“It will provide greater certainty and protections for directors, in a way which does not compromise standards for legitimate safety concerns.

“This is a good example of how government is working with business to reduce red tape and improve productivity.”

AICD has long been concerned that the risk of liability imposed by inconsistent and onerous OH&S laws is deterring Australia's most knowledgeable and experienced directors from serving on boards or establishing new businesses, as well as adversely influencing business decisions on investment and job creation.

AICD noted that the Western Australian government could not agree with several elements of the new laws and at this stage had not committed to the national framework for OH&S.

It urged the WA government and the Treasurer, Mr Troy Buswell, to reconsider and to sign up to the agreement to create a uniform national system which removed some of the worst aspects of the current state and territory laws.

“If any state opts out it undermines the nationally harmonised system and so reduces the benefits to business of this important reform,” Mr Colvin said.

AICD looks forward to participating in the consultation process with government on the draft legislation to be released later this year, to help ensure that the important improvements agreed to by the ministers are retained in the laws ultimately passed by the States and Territories.

Media Contact:

Steve Burrell, General Manager Communications and Public Affairs, (02) 8248 6627 or 0407 708 485

Australian Institute of Company Directors (AICD) provides education, information and advocacy for company directors Australia-wide, with offices in each state to cater for over 24,000 members. AICD members work in diverse corporations such as small-to-medium enterprises, the Top 200 corporations, public sector organisations, not-for-profit companies, large private companies and smaller private family concerns.