

Submission by the Australian Nursing and Midwifery Federation

**Safe Work Australia
Best Practice Review of the model
Work, Health and Safety Laws**

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Introduction

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 345,000 nurses, midwives and care-workers across the country.
2. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.
3. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.
4. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

Overview

5. In September 2024, WHS Ministers requested that Safe Work Australia (SWA) conduct a Best Practice review of the model WHS laws to ensure that they provide optimal protections for Australian workers.
6. The Best Practice Review will:

Examine Australia's WHS laws, assess jurisdictional deviations from the model WHS legal framework, and consider relevant reviews and inquiries to develop recommendations on:

- *Whether the model WHS Act and model WHS Regulations incorporate a best practice approach that achieves the object of the model Work Health & Safety Act 2011 (s3), and*



- *Processes to maintain and strengthen harmonisation.*
7. A Discussion Paper was released on September 1, 2025, and consultation sessions were held around the country throughout September 2025.
 8. The ANMF thanks SWA for the opportunity to provide feedback on the Discussion Paper, and provides this submission addressing the two key questions posed by the Review:
 - How do we maintain best practice in response to the changing nature of work and emerging risks?
 - How can harmonisation of WHS laws be strengthened and maintained across jurisdictions in the future?
 9. The ANMF is an affiliate of the Australian Council of Trade Unions and as such supports the recommendations of the ACTU in response to this review. The ANMF submission should be read in conjunction with the ACTU's submission.

The Role of Unions, the ANMF and our members

10. Unions, including the ANMF, have a key role to play in workplace health and safety in the workplace, as do their members.
11. They provide worker representation, advocacy and support, education and awareness, enforcement and investigation, negotiation and campaigning.
12. Union members, functioning as Health and Safety Representatives (HSRs), have important roles in monitoring WHS compliance, representing colleagues on safety matters, investigating risks, and ensuring the employer meets their legal obligations.
13. ANMF members are among those working in the healthcare and social assistance industry which has the highest number of serious injury claims, and the fifth highest frequency rate for serious injuries of



all industry groups, according to SWA. Over the years 2022-2023, 26,5000 serious injury claims were made, 19.1% of the total, with 8.9 claims per million hours worked.¹

14. The Work Health and Safety Act and Regulations have traditionally focussed on occupations with high physical risks, in male-dominated industries.
15. According to current Australian Government health workforce data, in 2024, over 87% of Australia's nurses and midwives identify as female.²
16. The nursing, midwifery and caring workforce experience different workplace hazards compared to traditionally male-dominated occupations.
17. ANMF union officials and members have identified several key priorities as their focus in this review, with the overall aim of expanding and improving rights for HSRs and union members, and the patients, residents and clients they care for. A number of these key priorities, include the following will be addressed in this submission:
 - Psychosocial risks
 - Rights of HSRs
 - Dispute resolution procedures,
 - Union rights to prosecute.

The Harmonisation Objective

18. This submission will address how harmonisation, and best practice could be best achieved in relation to the key areas listed above, by responding to some of the questions outlined in the Discussion Paper.
19. Answers to the questions will cite Review recommendations and reforms from a number of jurisdictions that could exemplify better or best practice. They could be brought under the

¹ https://data.safeworkaustralia.gov.au/sites/default/files/2024-09/Final%20-%20Key%20WHS%20Stats%202024_18%20Sep.pdf <accessed 28 October 2025>

² Health Workforce Dashboard <https://hwd.health.gov.au/nrmw-dashboards/index.html> <accessed 27 October 2025>



umbrella of the Model WHS Act and Regulations during a harmonisation process resulting from the Review, while showing the potential of allowing the jurisdictions sufficient independence to adapt and foster even better practice through future reform.

Chapter 4, Question 6 Do you have any comments on the general WHS duties under the model WHS Act, including variations made by jurisdictions? Are the variations best practice?

20. In recent years, the spotlight has been shone on psychosocial hazards, perhaps most notably the Australian Human Rights Commissions' *Respect@Work National Inquiry into Sexual Harassment* in Australian workplaces and final Report. Both the Morrison and the first-term Albanese Government adopted recommendations from this Report, including important amendments to the *Sex Discrimination Act 1984 (Cth)* and the *Fair Work Act 2009 (Cth.)*
21. The national discussion on reduction of psychosocial hazards in the workplace continues and remains a concern for the ANMF and its members.
22. The ANMF supports the ACTU's recommendation that the duty to identify hazards, manage risks, apply the hierarchy of control, maintain and review control measures should be embedded in the Model Act and apply to all hazards, including psychosocial hazards.
23. We also support the ACTU's proposal that the hierarchy of controls be modified so that instruction, information and training are not the primary methods utilised to control psychosocial hazards. This would follow Victoria's lead. According to SWA's *Work Related Injury and Illness: Mental Health Snapshot*, Mental health conditions accounted for 10.5% or 14,600 serious claims in 2022-2023. This is a 19.2% increase on 2021-2022 and a 97.3% increase compared with 10 years ago.³
24. Since 2008-2009, claim frequency for mental stress in the health care and social assistance sector have trended above those in other industries, remaining steady at approximately 0.4

³ https://data.safeworkaustralia.gov.au/sites/default/files/2024-09/Final%20-%20Key%20WHS%20Stats%202024_18%20Sep.pdf <accessed 29 September 2025>



percentage points above other industries, the two most common locations for acquisition of these injuries being hospitals and residential care homes.⁴

25. The ACTU, its affiliate unions and union members have identified several emerging and neglected areas of risk, several of these representing psychosocial risks:

- Workplace violence and aggression (including gendered violence, sexual harassment and sex or gender-based harassment)
- Discrimination, bullying and harassment, racism
- Workload/high job demands/ low job demands
- Change management and organisational management
- Fatigue
- Indoor and outdoor air quality
- Slip, trips and falls
- Working in people's homes
- Trauma

26. Occupational violence and assault continue to be a concern across the health and social assistance sector, and these incidents can have impacts in terms of both physical injury and psychosocial injury.

27. Other issues of importance to our members are workloads, change management and fatigue. To summarise the issue of fatigue, research has found that:

A moderately high level of acute and chronic fatigue was observed among nurses, while the level of inter-shift recovery was low to moderate. Our findings indicate that nursing fatigue is a critical issue that requires both organizational and individual-level interventions. It is imperative that these concerns be addressed to maintain the well-being of nurses, reduce

⁴ <https://data.safeworkaustralia.gov.au/interactive-data/industry/health-care-and-social-assistance>



*burnout, and improve the quality of patient care.*⁵

28. The ANMF's Queensland Nurses and Midwives Union (QNMU) Branch, has reported a considerable number of complex workers' compensation claim inquiries from their members. Injuries described by members though very serious are not subject to regulatory scrutiny due to deficits on incidents that are notifiable under the legislative regime.

Change Management

29. Both the nature of major workplace change and how these changes are implemented can have psychosocial impact on ANMF members.
30. The ANMF's Tasmanian Branch reports two matters are relating to minimal consultation processes on extreme decisions, including at trauma-informed workplaces. A Tasmanian cancer care centre clinical trials unit has proposed 58% reduction in staff. The Branch notes the double impact not only of the change itself and how it has been managed. Tasmanian members report having to take stress leave, apply for workers compensation and note high levels of anxiety related to change management.
31. The Tasmanian Branch reports an apparent lack of WHS consequences for employers when they do not comply with existing processes for change management outlined in awards, agreements and legislation that, if followed, could mitigate potentially very serious injuries.
32. 32. The two matters are currently before the Tasmanian Industrial Relations Commission relating to minimal consultation processes on extreme decisions.

⁵ Pi R, Liu Y, Yan R, De Z, Wan Y, Chen Y, He Z, Liu F, Wang Y, Li S. *Nurses' occupational fatigue level and risk factors: A systematic review and meta-analysis*. PLoS One. 2025 Jul 18;20(7):e0326519. doi: 10.1371/journal.pone.0326519. PMID: 40680006; PMCID: PMC12273991.



33. The ANMF supports the incorporation of specific duties relating to psychosocial hazards including change management into the model WHS Act and/or creating hazard-specific regulations, suggesting that these measures could be effective in improving accountability and redress in this area.

New and emerging risks

34. As with other community workers, ANMF members in community nursing and aged care venture inside clients' homes, alone. The ANMF predicts that the number of members working in this way may rise, especially in in-home aged care. Entering people's homes can pose both physical and psychosocial risk. Further, these workers drive between appointments also, some later at night in remote areas.
35. Crowd platform work is an issue of prominence for other community worker groups and may increase in relevance for ANMF members. The ANMF notes that s.22 of the Model WHS Act contains regulations for designing plant, substances or structures, but not for designing software or crowd platforms.
36. The ANMF suggests that relevant duties should obligate designers to control risks associated with in-platform bullying and harassment, privacy and personal data security.
37. Aside from platform design, crowd platform complaints resolution processes are also highlighted by two recent cases of reactivation orders issued by the Fair Work Commission for two Uber drivers deactivated from the rideshare app for misconduct.⁶ Poor handling of complaints procedures, in any forum, is a psychosocial risk, as touched on briefly elsewhere in this submission.

⁶ [Anwar Kareem Al Hussein v Rasier Pacific Pty Ltd \[2025\] FWC 3176 \(24 October 2025\)](#) ; [Application by Shahid Mansoor \[2025\] FWC 3111 \(17 October 2025\)](#)



38. Again, relevant specific duties and Regulations would obligate Persons Conducting a Business or Undertaking (PCBUs) would provide a framework for hazards prevention and management for crowd platform operators and designers to counter these hazards.

Discriminatory Conduct

39. Discriminatory conduct is an important psychosocial hazard that should be a concern of a reformed model Act and Regulations.
40. The ANMF is a union with a large community of members from around the world, with only 56.85% of all nurses and midwives born in Australia in 2024, according to health workforce data⁷. Our membership is across all working ages, is predominantly female, and includes representation from LGBTQIA+, people living with disability, CALD and First Nations communities, many of whom have varying parental and caring responsibilities. ANMF members care for patients, clients and residents who are similarly diverse. As such the ANMF is well placed to be at the forefront of the union movement's efforts to combat discrimination in all its forms through preventative action via systemic change.
41. The ANMF notes that s.105 of the Model WHS Act defines discriminatory conduct as conduct that causes detriment to a worker or prospective worker. Such discriminatory conduct will be for a prohibited reason, under s106 of the Model Act, if the person against whom the action is taken was exercising a right under the Act.
42. S.282 of the *Queensland Industrial Relations Act 2011 (Qld)* contains broader provisions, which define adverse action as:
- (a) dismisses the employee; or
 - (b) injures the employee in the employee's employment; or

⁷ Health Workforce Dashboard <https://hwd.health.gov.au/nrmw-dashboards/index.html> <accessed 27 October 2025>



- (c) alters the position of the employee to the employee's prejudice; or
- (d) discriminates between the employee and other employees of the employer.

43. The ANMF notes recommendation 7 of *Queensland's Review of the Work Health and Safety Act 2011* which recommended the adoption of the definition of adverse action from the IR Act into the WHS Act.
44. The ANMF would be supportive of similar changes to the definition of discriminatory conduct within the model WHS Act, including explicitly naming the attributes protected against discrimination, and perhaps listing discriminatory conduct as a psychosocial hazard rather than the more general "workplace interactions and behaviours". It is currently not listed as a psychosocial risk in r. 55(b) of the model Regulations.
45. Broader statutory coverage of discriminatory behaviours offers greater protection for workers, by offering a further legislative forum for them, and bringing them under the umbrella of any changes to the hierarchy of control and the Regulations.

Expanding the evidence gathering powers of Right of Entry permit holders (EPHs) would support EPHs in their role

46. The ANMF supports expanding the Model WHS powers under the model laws in a similar way to amendments made to the NSW WHS Act and S.99(f) of the *Occupational Health and Safety Act 2004 (Vic)*. These changes empower WHS Act Right of Entry Permit Holders (EPHs_ to take photographs, measurements, sketches and recordings, and those under s.165(d) for inspectors which allow them to take measurements, conduct tests and make sketches or recordings (including photographs, films, audio, video, digital or other recordings).
47. The *Queensland Review of the Work Health and Safety Act 2011 Final Report December 2022*⁸ included the following recommendations:

⁸ P 18 <https://www.oir.qld.gov.au/system/files/2023-04/review-work-health-safety-act-final-report.pdf> <Accessed 22 September 2025>



- Recommendation 3part D recommended that the Minister consider amending section 68 of the WHS Act to clarify that HSRs are permitted to take photographs, make videos, and take measurements and/or samples in the performance of their role.
- Recommendation 11 part (c) provided that WHS entry permit holders may take photographs, take videos, or make measurements and/or samples while at the premises.

48. The Minister at the time accepted the recommendations and they were to come into effect 1 January 2025.
49. On the 28th of November 2024 the new Minister confirmed that the changes to the *Electrical Safety and Other Legislation Amendment Act 2024* to permit health and safety representatives (HSRs) and EPHs to take photos, videos, measurements and conduct tests at the workplace when undertaking their roles would not go ahead, the Minister citing privacy concerns for individuals in workplaces.
50. As a result of these changes, the QNMU has had to advise HSR members wishing to send photographs of hazards in the workplace not to send them so as to ensure their safety in the workplace and potential sanction.
51. Before this, the QNMU had been sent photographs of mould, electrical wiring hanging from the ceiling, trip hazards in workspaces and ramps representing ergonomic hazards.
52. Photos, videos, measurements and tests are important records of safety hazards and valuable in assisting HSRs and union representatives in identifying causes of action in relation to these hazards.



Reports to HSRs

53. The ANMF's NSW Branch notes that under the current Model Act, there is no express requirement for inspectors to provide entry reports directly to HSRs.
54. We support the inclusion of a provision similar to that of s.103 of the *Occupational Health and Safety Act 2004 (Vic)*, requiring that the inspector's entry report be provided to the HSR of the relevant work group.
55. Timely provision of this information to HSR would support them in their role as work, health and safety representatives.
56. S.70 of the *Work Health and Safety Act 2011 (Qld)*, also support HSRs in their duties by:
- Allowing the HSR access to information that the HSR is entitled to request
 - The HSR is to be informed about notices issued by an inspector or WHS Entry Permit Holder (EPHs), and provide a copy to the HSR if the Person Conducting a Business or Undertaking (PCBU) has been given the notice
 - Giving the HSR a copy of the incident notifications made to the regulator
57. The ANMF's NSW Branch notes that s.142 of the *Work Health and Safety Act 2011 (NSW)* allows an authorising authority to deal with a dispute about the exercise or purported exercise by a WHS entry permit holder of a right of entry under the Act, on application by a permit holder, PCBU, union, relevant and affected persons or the regulator.
58. The Branch notes that this is beneficial practice as it allows disputes to be handled independently. We support its adoption as part of a harmonisation process.



Industry Specific Consultation

59. Recommendation 16 of the Independent Review of SafeWork SA recommended that:

SafeWork should work with employer groups, unions and HSRs in individual industries to create industry forums whose role is to identify psychosocial hazards in the relevant industry, to educate PCBU's and workers about those hazards, and to develop and implement strategies to minimise them.

60. The ANMF supports the adoption of this recommendation.

Chapter 4, Question 9: Do you have any comments on the provisions relating to compliance, enforcement, or inspector powers and procedures in the model WHS Act?

Confidentiality

61. Procedural fairness is a crucial aspect of any investigation, including the confidentiality of parties involved. Arguably, this is particularly the case with psychosocial risks. Members can be reluctant to come forward, especially when the relevant incident or incidents involve fellow employees, for fear of retribution. This is perhaps most notable in the case of psychosocial risk and harm.

62. Greater protections regarding confidentiality would provide greater security for workers who come forward and report issues, so they can be dealt with.

63. The ANMF draws attention to recommendation 38 of the NSW Review, in relation to clarification of how confidentiality is maintained and balanced against effective investigation of issues.

64. The ANMF further brings Safe Work Australia's attention to Recommendation 19 of the Review of the Work, Health and Safety Act 2011 (QLD) that recommends:



That the Minister consider requesting OIR [Office of Industrial Relations] to explore all mechanisms available to ensure the anonymity of the worker and prevention of any adverse action including any necessary amendments to clarify section 130 of the WHS Act.⁹

65. It is the ANMF's view that these could include a positive duty to eliminate psychosocial risk, or a specific Regulation.

Chapter 4, Question 10: Do you have any comments on the provisions relating to legal proceedings in the model WHS Act, including variations made by jurisdictions? Are the variations best practice?

The Right to Prosecute

66. The ANMF supports the ACTU recommendation that *unions should be defined as 'eligible persons' entitled to seek review of every type of reviewable decision listed at s 223 of the Work Health and Safety Act (except for Items 5 and 6, which relate to the forfeiture and return of seized things) and Part 11.2 of the Model Work Health and Safety Regulation.*
67. Currently, the Model WHS Act permits only the Regulator to prosecute, and in some cases, the Department of Public Prosecutions.
68. Recent reforms in NSW provide an example of best practice. Under amendments to the *Work Health and Safety Act 2011 (NSW)*, registered employer organisations will soon be able to bring private prosecutions, after consultation with a regulator who has elected not to bring proceedings. They can also bring civil proceedings, including under s.7 of the Act/
69. Enabling unions to bring prosecutions would be an important expansion to unions' role in WHS compliance and enforcement, building on the work that they already do in this area.

⁹ P 18 <https://www.oir.qld.gov.au/system/files/2023-04/review-work-health-safety-act-final-report.pdf> <Accessed 22 September 2025>



70. As previously stated, members can be reluctant to come forward, and the ability to prosecute would provide another forum for these members, while allowing a more systemic approach to be taken.

Chapter 6, Question 15 Do you have comments on the model WHS Regulations? Do they continue to reflect best practice?

71. The ANMF supports the extension of the model Regulations relating to psychosocial hazards.
72. Should changes to the model Act not include the absorption of the hierarchy of control into the Model Act, the ANMF supports the ACTU's recommendation to remove the limitation on the Model Regulations ¹⁰, so that part 3.1 applies to all hazards, not merely regulated hazards. Should the Act be amended as proposed, this could be a useful additional measure.
73. Further, we agree with the ACTU that the hierarchy of control should apply equally to physical and psychosocial risks.
74. We support the development of regulations for emerging and neglected areas of risk, giving consideration to a broad range of hazards, including psychosocial hazards.
75. The importance of assessment, prevention, monitoring and reporting of psychosocial hazards following the hierarchy of control to the ANMF and our members has been outlined earlier in this submission.
76. Psychosocial hazards are currently governed by only one Regulation, while high-risk physical hazards are governed by numbers of regulations, which are broken down into classifications of workplaces. For example, the Model Regulations contains separate regulations for such things as asbestos, crystalline silica, diving, high risk diving and mining, with specific controls for connected plant and services, atmosphere, flammable gases and vapours, fire and explosion, and a specific requirement to minimise the risk of falls.

¹⁰ Regulation 32



77. The ANMF is of the view that psychosocial risks need to be taken into account across the varied environments in which ANMF members work when it comes to risk management, assessment and response. These include:
- Isolated rural and remote locations
 - Facilities with patients/clients with physically and sexually violent behaviours
 - Homes, which community nurses may enter alone.
78. Queensland's *Work Health and Safety Regulation 2011 Division 11*, defines a psychosocial hazard, with examples, a definition of the meaning of sexual harassment and sex or gender-based harassment, with separate regulations for determining control measures for psychosocial risks and sexual harassment and sex or gender-based harassment, with the requirement to develop a prevention plan for psychosocial risks and sexual harassment and sex or gender-based harassment.
79. Thus, the Queensland regulations provide an example of good practice for psychosocial regulations that can be exemplified and expanded in changes to the current WHS regulations.
80. The ANMF would further welcome specific controls for injury management and return to work. This may prevent ill, injured and traumatised workers from extending their time off or seeking alternative employment due to hazardous processes due to inefficiency and mismanagement.

Conclusion

81. The ANMF supports the ACTU's submission and recommendations.
82. It is hoped that this Review will result in important reforms to the Model WHS Act and Regulations, including in the key areas of concern to the ANMF and our members, most notably, in psychosocial risk identification, prevention, and management.