

# AMCA VIEWS

June 2008

## FIRST STEP TOWARDS NATIONAL OHS LAWS

The Federal Government commenced its national review into harmonising OHS Laws. The purpose of the review is to make recommendations on the optimal structure and content of model OHS legislation which could be adopted in all States. The Government believes that harmonising OHS laws in this way will “cut red tape, boost business efficiency and provide greater certainty and protections for all workplace parties”.

The review will be conducted in two stages. Stage one will make recommendations on the content of a model OHS Act in the following areas:

- duties of care, including the identification of duty holders and the scope and limits of duties, and
- the nature and structure of offences, including defences.

Stage two will make recommendations on the content of a model OHS Act in:

- scope and coverage, including definitions;
- workplace based consultation, participation and representation provisions, including the appointment, powers and functions of health and safety representatives and/or committees;
- enforcement and compliance, including the role and powers of OHS inspectors, and the application of enforcement tools including codes of practice;
- regulation making powers and administrative processes, including mechanisms for improving cross-jurisdictional cooperation and dispute resolution;
- permits and licensing arrangements for high risk work and the use of certain plant and hazardous substances;
- the role of OHS regulatory agencies in providing education, advice and assistance to duty holders; and
- other matters the review panel identifies as being important to health and safety that should be addressed in a model OHS Act.

The recommendations from stage 2 will be made by 30 January 2009.



## INDUSTRY LEADERS CONFERENCE

AMCA was well represented at the third annual ACIF Industry Leaders Conference.

Nathan Henry from Optimus Airconditioning in New South Wales also attended after being sponsored through the young leaders scholarship program.

A range of important and informative presentations were made to the conference by keynote speakers. The topics presented ranged over:

- Housing affordability;
- Alliance contracting;
- Sustainable development;
- Skills development;
- CFC construction forecasts; and
- Project financing.

Martin Albrech, Chairman of Thiess Contractors spoke about the company's experience in completing projects through alliance contracting arrangements. Their experience has been very positive.

Martin said the use of alliance contracts to build strong industry relationships delivered project to clients with significant savings. The experience of Thiess has been on a construction program basis rather than a project by project approach.

Leighton contractors also spoke about their experience in the alliance arrangements which they said were positive.

Martin Albrech also said that standard contract arrangements were developed without consideration of the client being taken into account adequately. The approach protects the interests of all parties, he said.

Almost all speakers said the industry is running into serious constraints. These constraints can be materials, i.e. steel or concrete and skilled labour.

Deborah Archbold presented details of her research into the attractiveness of the industry to young people as a place of employment. This becomes a very important issue as the availability of labour, skilled and unskilled, is limited. The industry was encouraged to “lift its game” in investing in skills training and promoting careers.

# NSWNEWS

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## My Say: Geoff Sheldon

If you want to grow your business, improve profitability, provide professional development opportunities for your staff and be recognised by clients and government as an industry leader, then you need to be a member of AMCA.

In the five years from 2001/2002 to 2006/2007, million dollar plus projects won by AMCA NSW members more than doubled in value, taking their market share from 59.75% to 78.45%.

Why? Is it a mere coincidence that it was during this same five year period AMCA NSW stepped up its offerings of training programs to members, aimed particularly at management and higher level, specialist technical skills? I think not. Access to this kind of specialised, targeted training has become highly valued as a key benefit of AMCA membership. It is now a clear marketing point of difference when selling AMCA membership and it has also become a marketing point of difference for AMCA members when it comes to selling themselves.

AMCA members are better-trained, better-informed, better-connected and better-supported by expert advice and advocacy, making them "partners of choice" on major airconditioning projects.

It has also helped to make AMCA an "adviser of choice" on government policy. The greater the market share that AMCA members win, the more likely it is that AMCA will be listened to when it speaks for contractors, sub-contractors and component suppliers in the airconditioning and mechanical

services industry: that our opinion will be sought and our voice heard by the legislators, regulators, administrators and educators who shape the complex environment in which we operate, whether it be industrial relations, the greening of the built environment, technical interpretations of building codes, skill shortages, training for the future, tendering practices, terms of contract, or any of the many other issues on the AMCA agenda.

With more members participating actively in the Association, we can develop better arguments and better policies. With more members, our voice can be even more influential. Better-informed, better connected members – and more of them – make the Association more able to develop and promote the kinds of changes that can make it easier to do better business in our industry.

*Does training matter? You bet it does.*

### NETWORKING WITH NSW GOVERNMENT

Lobbying is as much about whom you know and to whom you talk as what you know and what you want to say. That's why AMCA welcomes the NSW Government's Building Industry Co-Ordination Committee (BICC) initiative to re-convene, after rather too long a break, an Industry Reference Group to facilitate consultation on regulatory initiatives and policy issues impacting on the housing, building and construction industries in NSW. AMCA NSW is pleased to have accepted a seat at the table. The BICC is chaired by John Lee, the Director General, Commerce, and has among its members both the Commissioner and Deputy Commissioner of the Office of Fair Trading, the Director of Educational

Delivery and Student Services, Deputy Directors General of Planning, Water and Energy, WorkCover and senior representatives of several other key Departments, including Treasury's Director of Economic Strategy. Industry Associations represented, as well as AMCA, include Master Builders Association, Master Plumbers, NECA, SPASA, HIA, FPA, Property Council, UDIA, Engineers Australia, the Australian Institute of Building Surveyors, the Local Government Association and the Association of Accredited Certifiers. Unions are also represented through John Sutton, National Secretary of the CFMEU, and Chris Christodoulou, Deputy Assistant Secretary of Unions NSW.

### FAREWELL LUCIE BOOKER – AND THANK YOU

Our NSW Learning and Development Manager, Lucie Booker, is moving on from AMCA after five years of important work developing and administering a comprehensive program of specialised short training courses for our members. Lucie has also developed strong relationships with government and private training institutions delivering trade training and professional education relevant to our industry, and with the government regulators and industry advisory bodies that shape the environment in which our people learn.

She leaves behind her a strong platform upon which her replacement, due to start work with us in July, can take AMCA's learning and development agenda further.

## What's on in NSW?

### Date

19 June 08  
26 June 08

### Event

AMCA Consultants Dinner  
AMCA NSW Council Meeting

### Contact

Geoff Sheldon  
Geoff Sheldon

## My Say: David Eynon

### EVERYTHING SEEMS UP FOR REVIEW

The life of the Commonwealth Government is only just six months and it is drawing criticism for the number of reviews and inquiries that it has established. Several of the reviews are dealing with matters that are important to the building and construction industry and AMCA members in particular.

Former Federal Court judge Murray Wilcox, has been appointed to consult with industry and all groups that have an interest in the future of the ABCC. An election commitment by the government is to keep the ABCC in place until January 2010 and then pass the responsibilities on to the new Fair Work Australia. The consultation process now commenced will need to be completed with a report to the Minister by March 2009 as to the transition process and any changes that should be made to the powers of the ABCC.

OHS legislation is a state responsibility. While there is a measure of some consistency around the country on some matters, there are also variations. It is these differences that can create major difficulties for businesses that operate in more than one state. An inquiry is now in progress about steps that might be taken to harmonise the OHS laws. Achieving harmony will not be an easy task.

There are in excess of 4000 employment awards of the industrial relations commission. The Minister for Employment and Workplace Relations has forwarded a reference to the IRC to take steps to both rationalise and modernise the award structure.

A key outcome of this process is intended to significantly reduce the number of awards that are in existence.

It will be important for AMCA to be active in the process to ensure that our industry is not placed into an industry award that is dominated by the parties.

### IS A STRIKE EVER LEGAL?

Statements that building industry participants have no right to strike over safety are inaccurate. Building and construction industry participants do have the right to strike in particular situations. This right to strike applies to all Australian workers, not just building industry participants.

There are three situations where employees may lawfully strike. These are:

1. When the strike is based on a reasonable concern of an imminent risk to health and safety;
2. When the employer has approved the strike in writing before it takes place; or
3. When the industrial action is protected industrial action associated with bargaining for a new workplace agreement.

There are two situations where employers may lawfully 'lock-out' employees. These are:

1. When the lock-out is for reasons referred to as protected industrial action under the WR Act, as outlined above; or
2. When the employees have agreed to lock-out in writing before it takes place.

Building industry participants should seek advice to avoid financial penalties if they are contemplating industrial action. Unlawful industrial action in contravention of the Building and Construction Industry Improvement Act 2005 (BCII Act) is punishable by a maximum penalty of \$22,000 for an individual or \$110,000 for an organisation. Members should seek early advice from AMCA if there are any threats of industrial action on your sites.

### NEW FLEXIBLE WORKING ARRANGEMENTS

The Federal Government has announced new rules regarding flexible working hours. From 1 July 2008 employees will be able to request flexible working arrangements if:

- The employee has to care for "any person"; and,
- The employee has been working for that employer for the preceding 6 months.

The significant change is "any person"; previously it was a child under 5 years old or a disabled child under 18 years old.

The type of requests could include:

- Changes to the hours of work;

- The days to be worked;
- The place of work, e.g. Work from home.

The request must be in writing and specifically state:

- That the request is made under Part 6AA of the Workplace Relations Act;
- The working arrangements to be varied;
- The date on which the changes occur;
- How the new arrangements would assist the person to be cared for; and,
- Whether the proposed changes are permanent.

Employers are able to refuse such requests for a variety of reasons, which include:

- The employee does not satisfy the eligibility criteria;
- Inability to reorganise the work among other staff;
- Inability to recruit additional staff;
- Adverse affect on the business and /or performance;
- Burden of additional costs.

These appear to be very complex new regulations and a potential "nightmare" for employers in regard to paperwork and maintaining a profitable business. Members should contact AMCA for advice and assistance.

### PLUMBING INDUSTRY JOINT TRAINING FUND SCHOOL

The plumbing industry joint training school received a grant of \$2.137M in the Victorian state budget released recently. This money will enable further fit out of the training school facility especially in relation to training for sustainability related issues.

### TRAINING ACHIEVEMENT AWARD

Nominations have opened for the annual AMCA Training Achievement Award. This award will be presented at the industry's gala dinner to be held on 2 August. There is no limit on the number of apprentices that a company may nominate. Additional application forms can be downloaded off the Association's web site by clicking on the following address. <http://www.amca.com.au/vic/index.php?training>

## What's on in VIC?

Date	Event	Contact
17 June 08	Victorian Executive Meeting	David Eynon
27 June 08	Managing Finances Program commences	Laura Steedman
6 July 08	Managing for Profit 2008 (Workshop 1) commences	Laura Steedman
11 July 08	National Council meeting	David Eynon

## My Say: Graham MacKril

A recent report by the Minister for Employment Training and the Arts highlights the ongoing challenge for our State to meet the demand for apprentice places within the VET system. Currently Queensland has approximately 255 Refrigeration and Air conditioning apprentices who cannot be placed into college training – this problem is evident in many other trades and in some instances in greater numbers.

The ongoing challenge of recruiting new VET teachers has seen the launch of a program "Teach your Trade". This program has met with some success but the real difficulty is the lack of a career path for VET teachers. As a recent participant on an employment selection panel for teachers, I noted that the job was being offered as a "life-style choice"! Needless to say the commencing salary for a VET Teacher remains a significant barrier.

There are no easy solutions to the current situation as it is a product of a successful paradigm shift for young people to choose trades on the back of wide-ranging promotional programs, an inability for industry to effectively forecast labour demand and a public trade delivery system that requires significant investment particularly in engineering-based trades.

The future will see greater emphasis on industry input into effective solutions. Employers and parents are having to manage the disappointment of the apprentices who cannot get into college. The Association continues to work with the college and the Department of Employment Training and the Arts to resolve these issues, given the long-term impact they have on the growth capacity of industry.

### THE BUILDING AND CONSTRUCTION INDUSTRY PAYMENT ACT 2004 – ADJUDICATION APPLICATIONS 2006/07 REPORT (EXTRACT)

During the 2006/07 financial year 320 of the 467 adjudication applications were lodged by subcontractors (68%), representing payment claims totalling almost \$44.5M. The results of adjudication outcomes for subcontractors have been outstanding. 58 subcontractors lodged adjudication applications for payment claims in the \$10,000 - \$24,999 category. The average decided amount for these claims is \$16,111.54 and in 55% of matters the subcontractors received the full amount claimed.

In 2006/07 builders did not use the BCIPA as frequently. Builders lodged 102 adjudication applications representing payment claims totalling \$89.1M. The builders that lodged these applications obtained excellent outcomes. 17 builders lodged adjudication applications for payment claims in the \$10,000 - \$24,999 category. The average decided amount for these claims is \$16,455.65 and in 70% of cases the builder received the full amount claimed.

The Payments Agency expects increasing numbers of builders and subcontractors will use the BCIPA in the future as the Payments Agency and BSA continue to engage in education and awareness initiatives to inform subcontractors, head contractors, suppliers and consultants on their payment rights under the BCIPA.

### BUILDING CODES QUEENSLAND FORMS 15 AND 16

There is some confusion in the industry about the role of Forms 15 and 16 since the changes to the building laws in September 2006.

#### When and how Forms 15 and 16 apply

The Building Regulation 2006 enables

competent persons and Queensland Building Services Authority (QBSA) licensees to give help to building certifiers in the assessment of a building application and inspection of building work.

The decision to seek the help of a competent person or rely on a QBSA licensee certificate can only be made by the building certifier assessing the application or inspecting the building work.

Only after the building certifier has assessed the person as competent can the building certifier use the help of a competent person. This help is defined in the Building Regulation 2006 as design/specification help and inspection help. If a building certifier does not seek or rely on design, specification or inspection help, there is no need to obtain forms 15 and 16.

Competent persons give design/specification help and inspection help by certifying that:

- Form 15 – A building design or specification will, if installed or carried out under the certificate, comply with the relevant building laws; or
- Form 16 – That an aspect of building work complies with the building approval and the relevant building laws.

QBSA licensees can also help building certifiers by certifying that aspects of building work performed by QBSA licensees comply with the building development approval and therefore Queensland's building laws (also Form 16).

Since 1 September 2006, a building certifier can rely on a certificate given by a QBSA licensee without first having to assess the licensee as a competent person. QBSA licensees are assessed by the Building Services Authority as competent to hold a licence for the work performed. The amendment to the legislation removes any duplication that required a building certifier to also assess the licensee as competent.

## What's on in QLD?

### Date

17 July 08  
2, 9, 6, 23 & 30 July 08

### Event

Council Meeting  
Drafting Cert IV Assessments

### Contact

Graham MacKril  
Graham MacKril

## My Say: Alan Layton

I was pleased to read in the June issue of CoolChange, the industry newsletter issued by the Department of the Environment, Water, Heritage and the Arts, that the Department cancelled a Refrigerant Trading Authorisation (RTA) because the business failed to comply with the conditions of the permit. Whatever one's view of the permit conditions, if a Department has regulations to enforce, then it is duty bound to enforce them. To do otherwise leaves the 'good guys' with the responsibilities of compliance and leaves the 'bad guys' to do as they like.

The conditions of an RTA are supplied with all permits and compliance with those conditions is required under the Ozone Protection and Synthetic Greenhouse Gas Management Regulations 1995. The regulations require the Australian Refrigeration Council (ARC) to consider the fact of a cancellation of the RTA when it considers whether an applicant is 'fit and proper' to hold a permit in the future.

The newsletter also ran two other articles containing information which AMCA members need to be aware of. Firstly, an RTA is a permit that allows a business to acquire, possess and dispose of fluorocarbon refrigerant within Australia; it does not allow for the import or export of refrigerant or equipment containing refrigerant. The Department is concerned about the increasing number of people presenting their RTA number to the Australian Customs Service when attempting to import or export refrigerant or equipment containing refrigerant. To import or export a fluorocarbon refrigerant in bulk, a person or business must have the appropriate Controlled Substances Licence. To import pre-charged equipment, a person or business must have a Pre-charged Equipment Licence.

Secondly, and importantly, the Department points out that if a business's technicians are not properly licensed and/or they do not work to the required standards, it may result in the cancellation of the RTA. The ARC cannot under the regulations renew an RTA unless each member of the applicant's staff who handle refrigerant is licensed.

There have been instances where businesses have been unable to purchase refrigerant because their RTA applications were delayed over the issue of licensed staff.

It is recommended that RTA holders check:

That their technicians hold a current Refrigerant Handling Licence;

Whether any technicians have Experienced Persons licences. The last of these licences expire in 2008; and

That staff are aware of the requirements of new codes of practice for stationary refrigeration and air conditioning that came into effect on 1 January 2008.

AMCA members who require further information about the kinds of licences that their staff require, and how to obtain them, or require details of training programs, are invited to contact the ARC on 1300 88 44 83.

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### MINISTER LAUNCHES APPRENTICE CARD

The Minister for Education and Training, Mark McGowan, launched the Apprentice Edge card. The card gives apprentices and trainees access to a range of discounted goods, services and attractions throughout the State. According to the Minister's media release, 8,480 of Western Australia's 36,278 apprentices and trainees have signed up for the new loyalty card. Mark McGowan said – "This new scheme is designed to make life a little easier while they are training." The Department of Education and Training is spending up to \$ 75,000 on the scheme and will negotiate discounts with businesses.

### GILLARD ANNOUNCES INDUSTRY CONSULTATION RE ABCC

The Minister for Employment and Workplace Relations, Julia Gillard, has advised that the government will shortly commence a process of extensive consultation with industry stakeholders concerning the transfer of the functions of the Australian Building & Construction Commission (ABCC) to the specialist building and construction division of the inspectorate of Fair Work Australia. The transfer, in accordance with a government pre-election commitment, is scheduled for 1 February 2010. The

consultation process and reporting will be conducted by the Hon Murray Wilcox QC, a former Australian Federal Court judge. The terms of reference for the consultative process will be finalised by the end of June. The judge has been asked to report by the end of March 2009.

### EXECUTIVE DIRECTOR ATTENDS CRC STAKEHOLDERS WORKSHOP

Alan Layton attended a stakeholders' workshop to progress the development of the Co-operative Research Centre (CRC) for the Sustainable Built Environment. CRCs comprise representatives of industry, government and research institutes. The purpose of the workshop was to put provide input into the application for Commonwealth funding which will be made later this year, including suggested research projects of benefit to WA. Similar workshops will be held in the Eastern States in the coming weeks. If this CRC is successful in its bid for funds, it will replace the CRC for Construction Innovation which ceases to operate on 30th June 2008. The Commonwealth usually contributes 50% of CRC funds and allocates funding for a period of 7 years.

### AIR CONDITIONING TRIAL CUTS ENERGY USE

A media release issued by the WA Minister for Energy, Fran Logan, stated that a summer trial, where air conditioners were switched off for a few minutes, resulted in a 27% reduction in power use, without any significant loss of comfort. About 400 residents of Perth's western suburbs volunteered to participate in the trial. The Minister said that – "Providing non-intrusive ways of reducing energy consumption is a key to managing peak demand. WA's peak energy use is primarily driven by air conditioners, of which WA has a very high number." Recent research conducted by Western Power revealed that 90% of Perth households now own an air conditioner, up from 82% last year. 34% of households have more than one air conditioner.

# SANEWS

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## My Say:

### Chris Rankin

#### AWARD MODERNISATION

Be careful what you wish for!

For years industry has sought a reduction in the number of state and federal awards that are available for use.

According to the statistics if you divided the total number of awards by the number of persons in the workforce you could have less than 1000 workers per award! So the numbers tell us we need a reduction of awards used as industry instruments.

There has been an inference that what this may mean is a consolidation of a number of trade specialist areas, into the coverage of a single industry award. Such an approach is unlikely to be supported within the Air Conditioning and Mechanical Services sector, or in many other specialist trade groupings in the construction area.

In future development of awards that cover our industry sector, most of the members are seeking an award structure that maintains the matters that pertain to the relationship between the employer and the employee and of course that will be Code Compliant to the National Code of Practice for the Construction Industry.

Key to any future award structures will be the ability to implement award flexibility. The capacity to operate with individual agreements that best suit the employment environment, allow for referencing to an award and still have it pass code compliance, is essential for most firms.

In the coming months there will be some strange alliances formed and a lot of politics. We can only hope that at the end of this review what we wished for is what we get.



#### AMCA SA GOLF DAY

With perfect weather, over 60 players and one of the best golf venues in Adelaide, the stage was set for a great event.

Held at the Kooyonga Golf Club the day began with a BBQ lunch on the patio overlooking the first tee from 11:00 a.m. and ended with dinner in the Member's dining room. Congratulations to all of the winners on the day and thank you for all of the support from sponsors of the day and those companies that registered teams for the event.

#### Prize Winners for 2008:

##### Winning Team:

Michael Barnes, Peter Thornton, Michael Rouvray, Martin Allen.

##### Longest Drive:

A Grade Winner: Robert Vanderhoeven  
B Grade Winner: Luke Spencer

**Straightest Drive:** Paul Durham

**Nearest the Pin (Hole 7):** Paul Durham

**Nearest the Pin (Hole 14):** Chris Bagg

**Blindfold Nearest the Pin:** Robert Vanderhoeven

**NAGA:** TRP Ductwork team

**Special Award:** Alison Kraft

#### **To all of our Sponsors Thank you:**

Air Conserve, Daikin, Fantech, Johnson Controls, Thermal Control Industries, TRP Ductwork / Spiraltube.

#### AMCA ANNUAL DINNER 2008

**Royal Adelaide Golf Club,  
Friday 25th July, 7:00p.m.**

A unique venue, fine food, good company and entertainment.

Please put this date in your diary. With a growth in numbers at last year's event, please make sure to include your staff and business industry associates. Invitations will be sent out to you soon.

#### AMCA EXECUTIVE COMMITTEE UPDATE: MAY

At the May meeting of the AMCA SA Executive there were two changes to the representatives on the committee.

With the move of John Yorston to a position with the Hastie Group in Sydney for some time to come, Mr. Greg Shubin has been appointed to the position of State Manager - Frigrite Air Conditioning.

The recent purchase by Hastie Services Pty. Ltd. of Concept Air Conditioning saw Mr. John Bowman also resign from the Executive Committee. A new Executive Member will be appointed at the June meeting.

## What's on in SA?

Date	Event	Contact
1 July 08	Executive and General Meeting	Chris / Maureen
7 July 08	LDO 7	
21 July 08	RDO 7	
21 July 08	Women in Air Conditioning	Chirs / Maureen
25 July 08	AMCA SA Annual Dinner	Chris / Maureen