

**National Interest Analysis [2024] ATNIA 9  
with attachment on consultation**

**International Labour Organization Convention No. 187:  
Promotional Framework for Occupational Safety and Health Convention  
adopted at Geneva on 15 June 2006**

**[2024] ATNIF 13**

## NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

### SUMMARY PAGE

**International Labour Organization Convention No. 187:  
Promotional Framework for Occupational Safety and Health Convention  
adopted at Geneva on 15 June 2006  
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#### **Nature and timing of proposed treaty action**

1. The proposed treaty action is ratification of the *International Labour Organization Convention No. 187: Promotional Framework for Occupational Safety and Health Convention*, adopted at Geneva on 15 June 2006 (Convention).
2. In accordance with Article 8(2), the Convention entered into force generally on 20 February 2009. Article 8(1) provides the Convention is binding only upon International Labour Organization (ILO) Members (Members) that have registered their ratification with the Director-General of the International Labour Office.
3. It is proposed that Australia ratify the Convention as soon as practicable. Article 8(3) provides the Convention would enter into force for Australia 12 months after the date on which Australia's ratification is registered with the Director-General of the International Labour Office.

#### **Overview and national interest summary**

4. The purpose of the Convention is to ensure Members establish and implement national policies, systems and programmes, in consultation with workers' and employers' organisations, to promote a safe and healthy working environment and advance the right of workers to such an environment. The aim is to prevent occupational injuries, diseases and deaths.
5. Ratification would demonstrate Australia's commitment to workplace health and safety, and ensure Australian governments continue to promote a safe and healthy working environment and protect workers from occupational harm, in line with international best practice.
6. In 2022 the International Labour Conference amended the ILO Declaration on Fundamental Principles and Rights at Work to affirm that a 'safe and healthy work environment' is a fundamental right at work, meaning that Members, by virtue of their ILO membership, have an obligation to respect, promote and realise this right. The two Conventions giving effect to the right, Convention No. 187 and the *Occupational Safety and Health Convention, 1981* (No. 155) (Convention No. 155), were elevated as 'fundamental Conventions'. Australia had already ratified Convention No. 155.

Therefore, if Australia were to ratify this Convention, it will have ratified all ten ‘fundamental’ Conventions. Ratification would enhance Australia’s standing in the international community and demonstrate Australia’s commitment to the implementation of key ILO standards.

### **Reasons for Australia to take the proposed treaty action**

7. Ratification of the Convention would reflect the importance Australia places on workplace health and safety. It would complement measures taken to implement the related fundamental Convention No. 155, which was adopted at Geneva on 22 June 1981 and entered into force for Australia on 26 March 2005.

8. Ratification of the Convention is consistent with the *Australian Work Health and Safety Strategy 2023–2033*, adopted by the Commonwealth and all States and Territories in 2023, which calls on governments to champion leading practice and have a leadership role in building a culture of health and safety. This Strategy sets an ambitious vision for workplace health and safety outcomes in Australia.

9. A key objective of Australia’s engagement with the ILO is to provide leadership in promoting international labour standards, including in the Asia-Pacific. Of the 63 countries that have ratified this Convention, only 11 are from Asia and none are from the Pacific. The Asia Pacific region has the highest mortality rate from work-related incidents (63 per cent of the global total).<sup>1</sup> Ratification would support Australia to play a more authoritative role in promoting ratification and implementation of the Convention to enhance workplace health and safety in our region and at the ILO.

### **Obligations**

10. Article 2 provides that the objective of the Convention is to promote continuous improvement of occupational safety and health (OSH) to prevent occupational injuries, diseases and deaths. To do this, Members must develop a national policy, national system and national programme on OSH and take steps towards ‘achieving progressively a safe and healthy working environment’, taking into account principles in ILO OSH instruments. Members must periodically consider measures that could be taken to ratify ILO Conventions on OSH in consultation with the most representative employers’ and workers’ organizations.

11. Article 3 requires Members to promote a safe and healthy working environment by formulating a **national policy** and promoting and advancing the right of workers to a safe and healthy working environment. In formulating the national policy, Members must promote basic OSH principles such as hazard or risk assessment, combatting risks and hazards at source, and developing a national preventative safety and health culture that includes information, consultation and training.

12. Article 4 provides that Members must establish, maintain, progressively develop and periodically review a **national system** for OSH, in consultation with the most

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<sup>1</sup> [A call for Safer and healthier work environments](#), ILO 2023.

representative employers' and workers' organizations. The national system for OSH must include: laws, regulations and other instruments on OSH; authorities responsible for OSH; compliance and inspection mechanisms; and arrangements to promote cooperation between management and workers and their representatives. Where appropriate, the national system must also include: a national OSH tripartite advisory body or bodies addressing OSH issues; measures to enhance OSH such as research, training, occupational health services, data collection, information and advisory services; collaboration with relevant insurance or social security schemes; and support for progressive OSH improvement in micro, small and medium enterprises and the informal economy.

13. Article 5 requires Members to formulate, implement, monitor, evaluate and periodically review a **national programme** on OSH, which is widely publicized, and endorsed and launched by the highest national authorities. The national programme must:

- (a) promote the development of a national preventative safety and health culture;
- (b) contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;
- (c) be formulated and reviewed on the basis of analysis of the national situation regarding OSH;
- (d) include objectives, targets and indicators of progress; and
- (e) be supported where possible by other complementary national programmes and plans that would assist in achieving progressively a safe and healthy working environment.

14. The ILO Constitution requires each Member to submit reports to the International Labour Office on the measures it has taken to give effect to conventions to which it is a Party. Under the current reporting schedule, Members report on the implementation of each ratified 'fundamental' convention to the ILO Committee of Experts on the Application of Conventions and Recommendations on a three-year cycle. These reports are not made public. Australia's first report on this Convention would be due on 1 September in the year after the Convention entered into force for Australia.

## **Implementation**

15. Australia has a well-developed national scheme promoting and protecting OSH, established in consultation with key stakeholders, including employers and workers.

16. OSH in Australia, also known as work health and safety (WHS), is legislated and regulated separately by each of Australia's State, Territory and Commonwealth jurisdictions. WHS laws are largely harmonised across jurisdictions through a set of

model WHS laws.<sup>2</sup> These model WHS laws are developed, reviewed and administered by an independent tripartite national policy body, Safe Work Australia (SWA), through a process involving all jurisdictions as well as employer and worker representatives.

17. SWA has a broad range of national WHS related functions, including to facilitate collaboration and to develop and implement national education and communication strategies and initiatives to support improvements in WHS outcomes. Each jurisdiction also has its own WHS regulator to ensure compliance with WHS laws, as well as to provide OSH-related services and support such as training and advice. Comcare is the primary regulator in the Commonwealth jurisdiction and each State and Territory has a WHS regulatory authority, such as SafeWork NSW, WorkSafe Victoria and so forth.

18. The Australian Government regularly considers measures that can be taken to enable Australia to ratify relevant ILO OSH Conventions and take into account key principles of relevant ILO OSH instruments, including through ratification stocktakes, policy development consultation processes, SWA meetings, WHS Meetings of Commonwealth, State and Territory Ministers and the National Workplace Relations Consultative Committee (Commonwealth, Workers and Employer groups).

19. Australia's scheme promotes continuous improvement of OSH with a view to preventing occupational injuries, diseases and deaths, via its national policy, system and programme as set out in turn below.

#### National policy

20. The *Inter-Governmental Agreement for Regulatory and Operational Reform in Occupational Health and Safety 2008* ([IGA](#)) is Australia's 'national policy'.

21. The IGA provides Ministerial agreement at the Commonwealth, State and Territory level on a uniform, national approach to the advancement of a safe and healthy working environment for Australian workers. Its objectives include the development of uniform, equitable and effective safety standards and protections for all Australian workers and the achievement of significant and continual reductions in the incidence of death, injury and disease in the workplace.

22. In particular, the IGA commits the Commonwealth and each State and Territory to harmonising WHS legislation and regulation via model laws, supported by model Codes of Practice and complemented by a nationally consistent approach to compliance and enforcement. Australian WHS laws promote basic OSH principles such as assessing occupational risks or hazards and combating occupational risks or hazards at source.

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<sup>2</sup> Noting that Victoria has not adopted the Model WHS laws but has in place the *Occupational Health and Safety Act 2004*, which is similar to the Model WHS laws, and that in Norfolk Island the *Employment Act 1988* continues to apply in some instances – see details at para 30.

23. Pursuant to the IGA, SWA was established to develop national policies, strategies and model laws, and research, education, communication and collaboration. SWA is jointly funded by the Commonwealth and State and Territory governments.

#### National system

24. Australia's 'national system' comprises the WHS legislative framework, codes of practice, SWA and WHS regulators, and compliance and enforcement mechanisms.

25. The model WHS framework consist of the model WHS Act, model WHS Regulations and model Codes of Practice. The model WHS laws are supported by guidance published by SWA, and the National Compliance and Enforcement Policy which sets out guiding principles to support regulators in monitoring and enforcing compliance.

26. The object of the Model WHS law is to establish a nationally consistent framework to secure the WHS of workers and workplaces, including by minimising workplace risks, ensuring fair workplace representation on WHS matters, encouraging unions and employers to promote WHS improvement, promoting WHS education and training, securing an accountable compliance and enforcement regime, ensuring appropriate scrutiny and review of actions taken by persons exercising powers under the Act, aiming for continuous safety advancements, and maintaining and strengthening the national harmonisation of WHS laws.

27. The laws achieve this by establishing a framework of duties imposed on persons in workplaces, establishing monitoring and enforcement mechanisms and prescribing penalties for failure to discharge these duties. These duties include a primary duty owed by persons conducting a business or undertaking ("a PCBU") to ensure, so far as reasonably practicable, the health and safety of workers while at work. The framework of duties includes complementary duties on an "officer" of a PCBU, "workers", and other persons in a workplace. It also imposes further duties on a range of persons including persons with management or control of worksites and designers, manufacturers, importers and suppliers of plants, substances or structures.

28. Victoria has not adopted the model WHS laws. In Victoria, the *Occupational Health and Safety Act 2004* (OHS Act) is the main WHS law. While not harmonised, Victoria's OHS Act is similar to the WHS laws in the jurisdictions that have adopted the model WHS laws. In Norfolk Island, the *Employment Act 1988* also continues to apply in some instances, in conjunction with the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Act 2011* (Qld). The primary duties contained in the Victorian and Norfolk Island laws are not inconsistent with the model WHS laws.

29. Australian WHS laws promote continuous improvement in OSH through a focus on the management and mitigation of risks to health and safety; the involvement of workers and elected worker representatives, known as health and safety representatives, in risk management decisions; and the imposition of penalties for contraventions of duties. Inspectors appointed by regulators have broad powers to enter workplaces, to inspect for compliance and to investigate contraventions of WHS laws. The suite of

enforceable duties established by WHS laws around Australia operate to, in effect, promote and advance the right of persons to a safe and healthy working environment.

30. WHS laws include arrangements to promote collaboration at the business or undertaking level, such as duties to cooperate, coordinate and consult. The model Code of Practice “Work health and safety consultation, cooperation and coordination” provides further guidance on this topic.

31. As noted above, SWA is Australia’s national OSH tripartite advisory body which provides national guidance and coordination in relation to WHS matters, and regulators in each jurisdiction conduct monitoring and compliance, as well as provide information, training and support.

32. For example, one of SWA’s functions is to develop and implement national education and communication strategies and initiatives that both support improvements in WHS outcomes and promote national consistency. Resources promoted by SWA on its website include toolkits for employers and employees, topic and industry-based fact sheets, videos, campaign kits and infographics designed to support stakeholders to assess and prevent risk in the workplace. SWA has specific guidance materials for small and medium business. This broad suite of guidance is agreed to through the tripartite SWA processes. SWA also undertakes research and data collection that informs its work.

33. Each jurisdiction has a workers’ compensation scheme for injuries sustained at work. SWA develops national workers’ compensation policy to improve workers’ compensation in Australia and promote national consistency, aligning with Article 4 of the Convention. To fulfil this role, SWA collaborates with the Commonwealth, the States and the Territories workers’ compensation authorities, and other national and international bodies.

#### National programme

34. The *Australian Work Health and Safety Strategy 2023-2033* (the Strategy) is Australia’s ‘national programme’. Developed following extensive national research and consultations with employers’ and workers’ organisations, the Strategy was approved by all SWA members and WHS ministers from each jurisdiction and launched publicly in February 2023. The Strategy has a vision (“safe and healthy work for all”) and goal for achieving a national preventative health and safety culture. The Strategy promotes consistency and mutual progress and complements the role of the model WHS framework in supporting WHS improvements over time. The Strategy contributes to the protection of workers by setting a national goal of “reduced work-related fatalities, injuries and illness” with agreed actions and timelines to guide implementation.

35. The Strategy is complemented by a range of other strategies and plans at both the national and jurisdictional levels, including corporate plans and localised or sector specific plans such as Western Australia’s [\*Dust Strategy 2023-24\*](#).

36. No changes to Commonwealth, State or Territory legislation are required for Australia to meet its obligations under the Convention.

## **Costs**

37. There are no costs associated with Australia ratifying the Convention.

## **Impact Analysis**

38. The Office of Impact Analysis has advised that an Impact Analysis is not required.

## **Future treaty action**

39. No future treaty action is expected to arise out of the ratification process for the Convention. Pursuant to Article 12 of the Convention, if the Governing Body of the ILO considers necessary, it shall present the International Labour Conference with a report on the working of the Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision. There are presently no proposals to revise or amend the Convention before the Governing Body.

40. Article 13 of the Convention provides that if the International Labour Conference adopts a new Convention that revises this Convention, then unless the new Convention provides otherwise, ratification by a Member of that new Convention shall entail the immediate denunciation of this Convention (in its unamended form) if the new revising Convention comes into force. Any action to ratify a new revising Convention would be subject to Australia's domestic treaty-making procedures.

41. *ILO Convention No. 191: Safe and Healthy Working Environment (Consequential Amendments) Convention*, adopted 12 June 2023 but not yet in force, makes a minor amendment to Convention No. 187 (replacing the words "the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998", in the preamble, with "the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022"). Australia is currently progressing the ratification of ILO Convention No. 191. If Australia ratifies ILO Convention No. 191 (following Australia's domestic treaty-making procedure), then once both Conventions are in force for Australia, Australia will be bound by ILO Convention No. 187 in its amended form.

## **Withdrawal or denunciation**

42. Article 9(1) of the Convention provides that a Member may denounce the Convention during a twelve-month interval after the expiration of ten years from the date of the entry into force of the Convention. If this right is not exercised, Members will be bound for another period of ten years and thereafter may denounce the Convention at the expiration of each successive ten-year period (Article 9(2)). Such denunciation would take effect one year after the registration of the act of denunciation with the Director-General (Article 9(1)).



43. The ten-yearly interval for denunciation of an ILO Convention is a standard period and is included in nearly all ILO Conventions. The next opportunity to denounce the Convention would be in the 12 months following 20 February 2029 (the next ten-yearly interval after the date of entry into force of the Convention generally).

### **Contact details**

Economic and International Labour Branch  
Workplace Relations Group  
Department of Employment and Workplace Relations

## ATTACHMENT ON CONSULTATION

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### CONSULTATION

#### Consultation with State and Territory governments

1. There has been consultation with State and Territory governments on the Convention at both the Ministerial and officials' levels.
2. States and Territories had the opportunity to comment on the draft texts of the Convention and to provide information to the Australian delegation to the International Labour Conference in 2005 (when the Convention was first discussed) and 2006 (the Conference at which the Convention was adopted).
3. The status of Australia's compliance with the Convention and prospects of ratification has been discussed at regular meetings of Commonwealth, State and Territory officials responsible for ILO matters, most recently, on 3 April 2024. All State and Territory governments have advised their laws and practices are consistent with the Convention.
4. The Minister for Employment and Workplace Relations, the Hon Tony Burke MP, wrote to State and Territory industrial relations Ministers on 2 August 2022 and 27 March 2024 in relation to ratifying the Convention.

#### Other consultation

5. The proposed treaty-action has been discussed at meetings of the International Labour Affairs Committee (ILAC) of the National Workplace Relations Consultative Council on a periodic basis since the Convention was adopted by the ILO in 2006. The ILAC comprises the Commonwealth Department of Employment and Workplace Relations, the Australian Council of Trade Unions (ACTU) and the Australian Chamber of Commerce and Industry (ACCI). These organisations are, respectively, the worker and employer organisations that represent Australia in the ILO.
6. The ACTU and ACCI support Australia's ratification of the Convention.