

SDA SUBMISSION TO THE AUSTRALIAN TREASURY

Harmonising Retail Tenancies Across Australia

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About the SDA



The Shop, Distributive and Allied Employees' Association (the SDA) is one of Australia's largest trade unions with some 200,000 members. Our members work in retail, warehousing, fast food, hairdressing, beauty, pharmacy, online retailing, and modelling.

The majority of SDA members are women (60%), under 35 years (57%), and low-income. Retail and food services are two of the three lowest industries for median weekly earnings.

The SDA has a long history of advocating on behalf of members. We do this through enterprise bargaining; making submissions regarding Awards and the NES to provide a relevant safety net; and through numerous submissions made to parliamentary and government inquiries and other important reviews.

The SDA has 10 policy principles that guide our engagement in these reviews. For a list of these, see Appendix B.



Introduction

Around 10% of the Australian workforce is employed in the retail sector.¹ In 2018, the Shopping Centre Council of Australia identified 1630 major shopping centres, defined as having at least 1,000m² of retail space.²

It is the submission of the SDA that commercial leasing regulation and lease templates should refer to work health and safety (WHS) in a manner that improves practical outcomes for tenants, landlords, workers and other parties affected by retail tenancies arrangements.

Work health and safety laws

Established by the *Safe Work Australia Act 2008*, Safe Work Australia is a national policy body responsible for the development and evaluation of the model WHS laws³.

With slight variations, the model WHS laws⁴ apply in all jurisdictions other than Victoria.

A designated Work Group (DWG) is the foundational unit that allows workers to elect Health and Safety Representatives (HSRs) to represent them on work health and safety matters. A DWG gives workers a formal organised voice to raise health and safety concerns and under WHS laws are intended to provide a clear channel of consultation between employees and employers / PCBUs about workplace health and safety.

A designated work group (DWG) is a group of workers who share similar work conditions, job types or health and safety concerns. DWGs act as an “electorate” for the purpose of electing HSRs⁵.

PCBU stands for Person Conducting a Business or Undertaking, which is a key legal term used in the model workplace health and safety laws to identify the primary entity responsible for health and safety. The term moves beyond the traditional idea of an “employer” to capture all modern working arrangements, whether they operate for profit or not.

The *Occupational Health and Safety Act 2005 (Vic)* (OHS Act) uses the term “employer”.

A workplace can have one DWG or multiple DWGs based on location, shift patterns, or specific job hazards.

Each jurisdiction has a WHS regulator that:

- enforces WHS laws
- inspects workplaces
- gives advice.

Management and control of multi-employer workplaces

The purpose of a multi-employer DWG spanning multiple employers is to represent workers who share similar WHS interests and conditions across different employers at one or more shared workplaces.

Section 20 of the Model WHS laws specifically deals with the duties of persons conducting businesses or

¹ [Retail Trade | Jobs and Skills Australia](#)

² [Key Facts - Shopping Centre Council of Australia](#)

³ [Model Work Health and Safety laws](#)

⁴ Refer to Appendix A.

⁵ Under WHS and occupational health and safety (OHS) laws, HSRs have powers and functions.

undertakings involving management and control of workplaces such as shopping centre managers⁶.

20 ***Duty of persons conducting businesses or undertakings involving management or control of workplaces***

- (1) *In this section, person with management or control of a workplace means a person conducting a business or undertaking to the extent that the business or undertaking involves the management or control, in whole or in part, of the workplace but does not include:*
- (a) *the occupier of a residence, unless the residence is occupied for the purposes of, or as part of, the conduct of a business or undertaking; or*
- (b) *a prescribed person.*
- (2) *The person with management or control of a workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person [emphasis added].*

The obligation established in Section 20(2) extends to “any person” including workers, shoppers and other visitors.

In its submission to the Best Practice Review being undertaken by Safe Work Australia⁷, the SDA argued that the Model WHS laws did not make clear the link between several key provisions, namely:

- Section 20
- Part 5, Division 1 (Duty to consult with other duty holders)
- Part 5, Division 2 (Consultation with workers)
- Part 5, Division 3, Sub-division 3 (multi-business work groups)

In any event, current WHS laws do establish obligations and duties on shopping centre managers and their retail tenants.

Since 2017, the Australian Parliament⁸, the ACT⁹, South Australia¹⁰ and Victoria¹¹ have each enacted legislation which provides legal protections for workers in the form of a workplace protection order (WPO). (The Government of Western Australia has introduced the *Retail Barring Orders Bill 2025*¹² and the Government of New South Wales¹³ and Tasmania¹⁴ have committed to introducing similar legislation). A WPO is a court-issued legal directive designed to protect workers from personal violence, threats, intimidation, or harassment by members of the public or specific individuals at a workplace.

A WPO can ban an offender from entering a specific workplace or coming within a set distance of a premises.

Amongst others, business owners and managers can apply on behalf of staff.

⁶ Refer also to [Occupational Health and Safety Act 2004 \(Vic\) Section 26](#)

⁷ [Best practice review - submission upload - Best Practice Review - Safe Work](#)

⁸ [Commonwealth Workplace Protection Orders Act 2025 – Parliament of Australia](#)

⁹ [Family and Personal Violence Legislation Amendment Act 2017](#)

¹⁰ [Workplace Protection \(Personal Violence\) Act 2025](#)

¹¹ [Workplace Protection Orders Act 2026 \(Vic\)](#)

¹² [Retail Barring Orders Bill 2025](#)

¹³ [Minns Labor Government to move on stronger protections for retail workers](#)

¹⁴ [Media Release](#)

Shopping centre managers can apply for a WPO which has an impact on retail tenants, and retail tenants have obtained WPOs which impact on other retail tenants and the interests of shopping centre managers.

The SDA contends that shopping centres now operate as major employment hubs, but that retail tenancy, related commercial leasing and WHS regulatory frameworks have not adequately evolved to reflect that reality. This regulatory gap is increasingly significant given continued investment in shopping centres and the ongoing development of shopping centres as multi-use “lifestyle venues”.

Recommendation

The SDA submits that the public interest would be served by harmonising retail tenancy and related commercial leasing laws to expressly recognise the duties imposed on PCBUs and employers under WHS laws

In shared retail environments, the obligations of centre managers and retail tenants are closely interconnected, and actions taken by one can directly affect the other's ability to meet WHS obligations and duties.

Leasing laws aimed at harmonising retail tenancies should also recognise the ability of both centre managers and retail tenants to seek workplace protection orders where those orders may affect the rights, obligations or operations of the other.

Appendix A: Principal WHS Laws

Jurisdiction	Act	Regulations
Aus	<u>Work Health and Safety Act 2011</u>	<u>Work Health and Safety Regulations 2011</u>
ACT	<u>Work Health and Safety Act 2011</u>	<u>Work Health and Safety Regulation 2011</u>
NSW	<u>Work Health and Safety Act 2011</u>	<u>Work Health and Safety Regulation 2025</u>
NT	<u>Work Health and Safety (National Uniform Legislation) Act 2011</u>	<u>Work Health and Safety (National Uniform Legislation) Regulations 2011</u>
QLD	<u>Work Health and Safety Act 2011</u>	<u>Work Health and Safety Regulation 2011</u>
SA	<u>Work Health and Safety Act 2012</u>	<u>Work Health and Safety Regulations 2012</u>
TAS	<u>Work Health and Safety Act 2012</u>	<u>Work Health and Safety Regulations 2022</u>
VIC	<u>Occupational Health and Safety Act 2004</u>	<u>Occupational Health and Safety Regulations 2017</u>
WA	<u>Work Health and Safety Act 2020</u>	<u>Work Health and Safety (General) Regulations 2022</u>

Appendix B: Principles underpinning SDA policy positions

SDA policy is driven by providing value to our members whose work is regulated by an industrial system that has been reformed but had failed them for decades.

Australians need to be supported by an economic system that has working people at its centre. Our predecessors built an industrial system which provided the foundations for shared prosperity. It is now our responsibility to utilise the reformed industrial framework for the current and future generations. Decades of concerted attacks on our industrial relations system saw inequality grow, and economic and political power has further concentrated in the hands of a few.

The world of work has changed and will keep changing. There is an unprecedented intersection between work and care. Income and gender inequality have combined to increase disadvantage. Predictable, secure hours of work that provide a living wage are at the centre of decent work. But there has been growth in insecure work, digitalisation is now a matter of course, safety concerns have persisted, and automated, digital and generative technologies must be shaped to enhance, not undermine, decent work.

We believe that fundamental not incremental change is needed. In contributing to policy, we seek to drive a new system that acknowledges the change that has occurred and will be fit for purpose in the emerging world of work.

The SDA engages in topics that help drive this agenda and we are guided by ten principles that we believe will create value for our members. Those principles are:

1. **Address Inequality & Enshrine Fairness**
Minimum expectations must be set and adhered to.
2. **Equity & Empowerment**
All workers must be supported to progress so that no-one is left behind.
3. **Mobility & Security**
A socially successful economy must provide opportunity for all, regardless of their background. Systems must be built in a way that support success and adaptation in a rapidly changing world of work.
4. **Delivering Prosperity & Growth For All**
A foundation for prosperity and economic growth must be achieved.
5. **Protection in Work & Beyond**
Workplaces and the community must be healthy and safe for all workers and their families during and beyond their working lives.
6. **Workers' Capital & Superannuation**
Workers' capital and superannuation must be an industrial right for all workers and treated as deferred earnings designed for dignity and justice in retirement.
7. **A Strong Independent Umpire**
A strong, independent, cost effective and accessible industrial umpire and regulator must be central to the future system of work in Australia.
8. **Protection & Support for Our Future**
Protecting and supporting our future requires a strong and vibrant retail industry and supply chain providing decent work and jobs with fair and just remuneration and contributing to the economy including through skilled workers.
9. **Work & Community**
Work is a fundamental human activity that provides for personal, social and economic development. Work as it operates in community must build and protect a balance between life at work and life so that workers can contribute to society through the wider community.
10. **Institutional Support for Collective Agents**
Institutional support must provide for collective agents (registered organisations) in all industries so that they are recognised, enshrined and explicitly supported as central to the effective functioning of the system.

Details of specific policy positions can be discussed by contacting the SDA National Office

