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Proposed Amendments to the *Workers Compensation Regulation 2016*

The Housing Industry Association (HIA) takes this opportunity to comment on the proposed amendments to the *Workers Compensation Regulation 2016* (the Regulations) released for feedback. The Regulations seek to increase penalty notice amounts (PNA).

Overarchingly, HIA has concern regarding the proposals that would see all current PNA increased (with the majority increased more than twofold), particularly when these increases have not been substantiated.

Inadequate assessment of regulatory impacts

Neither a cost/benefit analysis or Regulatory Impact Statement nor a Discussion Paper has been provided as part of the consultation process to justify the need for such increases and why the proposed figures are appropriate. Equally nothing has been put forward regarding the current rate of non-compliance and the effectiveness of existing penalties.

While SIRA has relied on the principles from the NSW Law Reform Commission's (LRC) Report on Penalty Notices (Report 132) (2012) (Report) to justify the proposed changes, such changes have neither been adequately nor appropriately substantiated. Specifically:

- There is no evidence that the current PNA are ineffective or that increasing PNA will achieve the objective of deterring non-compliance. HIA urges the need for SIRA to firstly canvass data regarding the current rate of non-compliance and monitor the effectiveness of the current PNA.
- No consideration has been given to the level of harm involved in offending, a factor requiring consideration outlined in the Report.
- Equally disappointing, neither substantiated conclusions nor justifications have been provided about the benefits of the proposed changes, or that these increases would actually change the current behaviour.
- No attempt seems to be made to genuinely engage with the negative effects of increasing PNA (if any). An unsubstantiated view appears to have already formed that more stringent regulation will increase compliance.

The lack of information provided acts as a barrier for a sensible response. In the event that these proposals are to be pursued, HIA would like to see the cost/benefit analysis that would assess and indicate how much increase would be appropriate and the justification that this would achieve the intended outcome. HIA would also seek to be involved in further consultation to determine the appropriate dollar value of the PNA (if any).

Furthermore, research on deterrence theory indicates that increasing the severity of penalties has no corresponding increase in deterrence.¹ Therefore, HIA requests that SIRA provide the relevant and appropriate data indicating otherwise.

HIA continuously advocate for the use of education and training as a compliance tool as opposed to an increase in penalty amounts when responding to these matters.

It is also important to note that should the increases be implemented now, a transitional period must be allowed to provide an opportunity to further inform and educate the industry.

If you would like to organise a meeting or require any further information in relation to this submission, please do not hesitate to contact [REDACTED] on [REDACTED] or [REDACTED]

Yours sincerely,

HOUSING INDUSTRY ASSOCIATION LIMITED

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¹ Donald Ritchie, *Sentencing Matters Does Imprisonment Deter? A Review of the Evidence* (Report, 2011) 2, 14 citing Anthony N. Doob and Cheryl Marie Webster, 'Sentence Severity and Crime: Accepting the Null Hypothesis' (2003) 30 *Crime and Justice* 143, 187; Gary Kleck et al., 'The Missing Link in General Deterrence Research' (2005) 43(3) *Criminology* 623, 653. [Link](#). See also, National Institute of Justice, *Five Things About Deterrence* (Report, 2016) 1. [Link](#).