

In Review

Your monthly **Industrial Relations** update

May Update

As the incoming Industrial Relations and Policy Manager at Master Builders SA, it is my pleasure to welcome you to the first edition of *In Review*.

In Review will keep you up to date with what is going on in the industrial relations sphere. With the establishment of the Australian Building and Construction Commission and the introduction of the new Building Code it has certainly been an exciting time, but with the CFMEU promising rolling work stoppages plenty of challenges lie ahead.

It was very pleasing to have our first template Enterprise Agreement assessed as being compliant with the Building Code 2016. This will considerably shorten the time taken for our members to get a Code-compliant agreement in place. With 1 September fast approaching, we have also launched a free Building Code Audit Service for members to further decrease the time and risk in maintaining your access to Commonwealth-funded work.

It must be emphasised: this new Code places subcontractors at risk of losing work as well as head contractors. If you are a subcontractor working on any Commonwealth site, or for a head contractor who works on any Commonwealth-funded site, you must also be Code-compliant by 1 September.

We have re-established the Industrial Relations Committee, which will meet bimonthly.



Meet the team: Business Administration Officer Louise Sparks (left), Industrial Relations Officer Jessica Kamleh (centre) and Industrial Relations and Policy Manager Will Frogley (right) with Chief Executive Officer Ian Markos.

The first meeting was very well attended and provided a fantastic opportunity for members to brainstorm and share information from around the industry. This was a great start and I look forward to seeing the committee go from strength to strength.

Our role is to provide you with timely, practical and high quality advice, services and products, represent our members, advocate on their behalf and protect their business interests in what is an often challenging political and economic environment. We have a range of contracts and not-for-fee services, as well as the ability to provide representation for discounted rates, but we are always looking forward. My attitude is that our members are at the coal face and know their industry better than anybody.

Our job is to listen, understand, and respond decisively using our political and industrial relations skills and knowledge to get in there and get results on your behalf.

With that in mind, I highly encourage all members to pick up the phone and speak with us. Let us know what issues you are having with your business, what services you would like us to provide and what you would like to see us do better. I will be more than happy to meet with you to discuss over a coffee. With an election less than 11 months away, our politicians will be at their most receptive. The time to be pushy is now!

Will Frogley
Industrial Relations and Policy
Manager

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Security of Payment Review

Master Builders SA recently met with John Murray AM who was appointed by the Federal Government to undertake a review of Security of Payment laws. The review will deliver a final report no later than 31 December 2017 and include a range of recommendations to be considered by government.

With the Australian Building and Construction Commission legislation including enhanced protections for building industry subcontractors by requiring compliance with security of payments legislation, it appears the government is increasingly looking for this mechanism to drive cultural change throughout the industry.

Employment Pack

Our team can provide members with free advice on employment related matters, but for a fantastic guide about every step of the employment relationship – from recruitment to termination – as well as a number of policies, procedures and document templates for use in your business covering many matters that affect your business and your relationship with your employees, we highly recommend purchasing our 2016/17 Employment Pack.

This document is drafted with employment in the building and construction industry in mind and will greatly reduce some of the hassles of running your business. Contact us to order your copy today on **08 8211 7466** or at IR@mbasa.com.au.



Greens Amendments to WHS Act

The Greens have introduced a private members Bill into state parliament that appears to be a “backdoor” around right of entry requirements for union officials who have had their credentials revoked.

The Bill deletes requirements in the *Work Health and Safety Act 2012* that health and safety representatives cannot call for assistance beyond a person who works at the workplace, management, or an approved consultant.

The CFMEU's record of lawlessness is well documented and justified the insertion of these provisions. Nothing has changed to warrant their removal. The South Australian branch of the CFMEU is the most heavily-fined in the nation for right of entry abuses.

The CFMEU, which gave \$70,000 to the South Australian Greens before the last State Election, did not make a submission to the current review of the *Work Health and Safety Act 2012*. Master Builders SA sees this Bill as a cynical move by the Greens to bypass proper process (a review of the operation of this Act is required by the Act) and we have been strongly lobbying members of parliament to vote against the Bill.



Don't let this be you! Contract by SMS

How valid are your legal agreements made via SMS? It is not uncommon for builders to make agreements this way but to best protect yourself and your business, all construction contracts in the contractual chain and all variations of those contracts should be in writing.

Unfortunately we have seen more than one occasion recently where a member has lost a significant amount of money because they failed to do preparatory work in their agreement with a customer.

When you've finished work worth tens of thousands of dollars and there is a problem with payment, you'll wish you had spent half an hour filling out a Master Builders contract. Protect your interests and come in and see our team. We have a large range of contracts available that are suitable for commercial and residential jobs, including subcontractor agreements.

“When you've finished work worth tens of thousands of dollars and there is a problem with payment, you'll wish you had spent half an hour filling out a Master Builders SA Contract.”

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Mel Jarvis joins the Industrial Relations team

Return to Work Coordinator Mel Jarvis has recently joined the Industrial Relations team as part of an internal restructure.

Please call Mel for general advice and support when managing injured workers for Workers' Compensation or personal injuries.

For reasonable rates, Mel can manage every aspect of the claim and return to work process on your behalf, as well as file reviews, case conferences with treating specialists and risk mitigation guidance to assist with premium impacts. Reduce stress on you, your business and your staff and call Mel today on **0439 815 604** to find out more.

Work Health and Safety Act Review

The *Work Health and Safety Act 2012* is currently being reviewed by SafeWork SA and we expect to see a draft copy shortly.

When the legislation was passed in 2012, a number of crucial amendments to the model act were secured following strong lobbying by Master Builders SA. Most notably:

- A person can only be held responsible "to the extent to which they have the capacity to influence and control the matter".
- Union entry rights are restricted. Health and safety representatives can only seek assistance from persons who work at the workplace, are involved in the management of the relevant business or undertaking, or an approved consultant.
- Amendments introduced a right against self-incrimination during investigation of WHS breaches

It is essential these important provisions are not watered down or removed. We will keep you updated with any developments.

New Building Code audit service

With our first template Enterprise Agreement assessed by the ABCC as being compliant with Building Code 2016, we can now streamline the approval process because you will no longer need to submit your draft enterprise agreements to the ABCC.

As a free service to our members Master Builders SA can also review and audit your current Enterprise Agreements, evaluate whether your agreement is likely to be Code-compliant, and advise on your best option to move forward if your agreement is deemed non-compliant.

Members should also be aware the ABCC has started investigating building contractors on Commonwealth-funded building projects to ensure compliance with workplace relations laws.

We have developed a Code Audit Service that will help subcontractors demonstrate to head contractors that they are Code-compliant when tendering for Commonwealth-funded building work.

We are aware of firms offering cut-price Code audit services. A number of these services have delivered agreements that may be rejected by the ABCC and potentially expose clients to a loss of Commonwealth work. Do not risk your future pipeline of work on a cut-price deal.

For more information on the services we can provide you, or any assistance with respect to the Building Code 2016 please contact the Industrial Relations team on **08 8122 4990** or email IR@mbasa.com.au.

South Australian Employment Tribunal (SAET)

Legislation to finalise changes to the South Australian Employment Tribunal has been passed by parliament this week and is waiting on Royal Assent. From 1 July the jurisdiction of the SAET will expand as part of the State Government's plan to make the body as much as possible a "one stop shop" for employment-related disputes.

Most significantly for our members, the jurisdictions of the Industrial Relations Court of South Australia and of the Industrial Relations Commission under the Construction Industry Long Service Leave Act 1987 and the Work Health and Safety Act 2012 will move to the SAET, as will common law civil jurisdiction in respect of contractual disputes between employer and employee and common law claims for damages under Part 5 of the [Return to Work Act 2014](#).

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