

ARA SUBMISSION

PSYCHOLOGICAL HEALTH COMPLIANCE CODE REVIEW (VIC)

APRIL 2025

EXECUTIVE SUMMARY

The Australian Retailers Association (ARA) welcomes the opportunity to review the Psychological Health Regulations – Compliance Code and supports ongoing efforts to prevent psychosocial hazards. The ARA acknowledges the retail sector’s critical role in leading by creating safer and healthier workplaces.

The ARA is the oldest, largest, and most diverse national retail body, representing a \$430 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia’s peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates educates, protects, and unifies our independent, national, and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium-sized members, who make up 95% of our membership. Our members operate across the country and in all categories - from food to fashion, hairdressing to hardware, and everything in between.

The ARA supports the shared goal of fostering psychologically safe and healthy workplaces across Victoria. As the largest and most diverse retail body in the country, we recognise the critical importance of managing psychosocial risks in the workplace and the need for practical regulatory guidance to support employers in doing so.

However, the ARA has concerns around certain aspects of the current draft of the Compliance Code on Psychological Health. While the Code’s intent is commendable, its structure, complexity, and assumptions regarding workplace capacity create significant barriers to compliance, particularly for small and medium-sized enterprises (SMEs). This submission outlines our key concerns and offers constructive recommendations to improve clarity, scalability, implementation and sustainability.

KEY ISSUES AND RECOMMENDATIONS

1. Lack of SME-appropriate guidance and usability

The Code is lengthy, dense, and procedural, assuming a level of resourcing and WHS expertise that is unrealistic for many SMEs. Most small retailers operate without dedicated HR or safety teams, rely on informal systems of work, and manage limited budgets.

Recommendation: Condense the Code and develop plain-language checklists, step-by-step summaries, and industry-relevant case studies tailored to small business contexts.

2. Ambiguity in defining “psychosocial hazards”

The Code includes an extensive list of psychosocial hazards that are often subjective, inconsistent and context-specific. Many are also difficult to monitor or influence consistently, especially when influenced by broader social or economic pressures beyond an employer’s control, e.g customer aggression.

Recommendation: Clarify the scope of hazards and provide examples that reflect the current work environments and risks, particularly those with informal cultures or resource constraints.

3. Disproportionate and unclear employer responsibilities

The current draft of the Code places significant responsibility on employers for managing risks that may stem from external or personal circumstances, rather than workplace-related factors. For example, interpreting low incident reporting as an indicator of harm could result in employers being held liable for issues outside their control. There is also uncertainty around how employers should respond in situations where employees do not disclose personal issues but later raise concerns about workplace support. Additionally, the Code currently provides limited practical guidance for employers, particularly smaller businesses, and is heavily weighted toward employee protections.

Recommendation: Provide clear guidance distinguishing workplace-related psychosocial hazards from external or personal stressors. Include practical, scenario-based examples, relevant to businesses of all sizes, to support employers in understanding their obligations and responding appropriately. Ensuring the Code and supporting materials are balanced and practical will better equip employers to meet their duties under the regulations.

4. Clarity on employee responsibilities and managing pre-existing psychological conditions

Section 15 of the Compliance Code refers to employees’ duty to take reasonable care at work. However, many psychological conditions, such as anxiety, often originate outside the workplace and may be diagnosed prior to employment. This raises questions about how this duty should be interpreted from both a WHS and employee relations perspective. For example, managing a frontline retail worker who discloses anxiety triggered by crowds or raised voices presents significant practical challenges for employers.

Recommendation: Provide clearer guidance for employers/persons conducting a business or undertaking and employees on how Section 15 should be applied in practice, particularly where pre-existing psychological

conditions are disclosed. This should include examples that address the balance of responsibilities between employers and employees and offer practical advice for managing complex scenarios in frontline roles.

5. Ambiguity around “reasonably practicable” expectations

The phrase “so far as is reasonably practicable” is frequently used but poorly defined. Without guidance calibrated to business size, capacity, or risk profile, the concept lacks operational meaning and risks inconsistent interpretation.

Recommendation: Include scenario-based examples of what “reasonably practicable” looks like in low-resource or SME settings, with reference to Safe Work Australia’s WHS Strategy 2023–2033, which highlights the need for tailored education and support for SMEs.

6. Implementation burden and regulatory overreach

The Code’s procedural demands around risk assessment, consultation, documentation, and control measures may be operationally unfeasible for smaller retailers - even when they are acting in good faith.

Recommendation: Develop scalable guidance and consider a tiered compliance model that recognises the capacity differences between SMEs and large businesses.

CONCLUSION

The ARA supports the development of a robust and practical Compliance Code that helps employers understand and meet their obligations in managing psychosocial risks. However, the current draft risks overburdening retailers, particularly small and medium-sized businesses, without delivering proportionate gains in psychological safety.

To ensure uptake and impact, the Code must be scalable, proportionate, and context-sensitive, backed by accessible tools and clear expectations. We welcome the opportunity to collaborate further with WorkSafe Victoria to refine the Code so that it works for all employers, fosters real behavioural change, and strengthens psychological health across all Victorian workplaces.

Thank you for the opportunity to provide a submission to this inquiry. Any queries regarding this submission can be directed to ARA Sustainability Policy Advisor Sharmi Ahmed at Sharmi.Ahmed@retail.org.au.