



SAFETY AT WORK BULLETIN

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Website: www.sia.org.au

Email: natadmin@vic.sia.org.au

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By Jane Bunce

July 1 2005

Victorian bosses who allow dangerous or fatal workplace health and safety breaches will face tougher penalties from today.

A new Occupational Health and Safety Act came into force with the start of the new financial year, bringing hefty increases in possible fines and jail terms for bosses and companies convicted under its provisions.

Melbourne lawyer Paul Ronfeldt says directors and managers can now be found personally liable for an offence. Mr Ronfeldt said directors and managers now had additional legal obligations and increased individual responsibility amid changes that allow them to be found personally liable for an offence.

"The Victorian WorkCover Authority will be much more likely to prosecute individual company officers whose companies have been charged with occupational health and safety offences," Mr Ronfeldt said.

"Until now, the law allowed such prosecutions in only very limited circumstances where an individual's wilful neglect caused an offence which the company had been found to have committed."

Company officers could be fined \$184,050, up from \$51,125, if a court found they failed to take reasonable care and the offence was attributable to them, or be sentenced to up to five years jail if their conduct recklessly endangered a person at a workplace.

Before today, only repeat offenders could be given five-year maximum terms.

WorkSafe, employers and unions jointly called for commitment to "a new era" of workplace safety in Victoria.

WorkSafe executive director John Merritt said the new act made health and safety requirements clearer and should be a catalyst for change.

More than 32,000 people made claims for workplace injuries in the 2003-04 financial year at a cost to the employer-funded workplace injury insurance system of more than \$1.2 billion.

Eleven people have died in workplace accidents in Victoria so far this year, compared to 18 at the same time last year.

WorkSafe's Executive Director, John Merritt, said, "The new legislation gives employers and workers the opportunity to commit to higher safety standards so that a genuine step-change can be achieved to reduce the physical, financial and social cost."

More than 32,000 people made claims for workplace injuries in the 2003-04 financial year at a cost to the employer-funded workplace injury insurance system of more than \$1.2-billion. Eleven people have died in (calendar) 2005 compared with 18 at the same time last year.

Some of the major changes

- WorkSafe is required to provide greater practical assistance to help businesses and workers meet safety obligations. This includes a quick internal review process concerning decisions made by WorkSafe inspectors.
- Limited right of entry for union officials with permits obtained from the Magistrates court after compulsory training.
- Increased fines, and introduction of non-financial penalties to be imposed by the courts. Maximum fine for individual \$184,050, company \$920,250.
- New safety responsibilities for senior company officers.
- Increased consultation about health and safety issues required from 1 January, 2006.

The General Manager of Workplace Relations Policy at the Victorian Employers Chamber of Commerce and Industry, David Gregory, said VECCI acknowledged the changes were part of a shared commitment to work toward improved health and safety.

"It has been a long haul to get to where we are today in terms of the introduction of the new Act, but we look forward to the new laws working to support the progress that has been made toward improved health and safety outcomes in recent years. As ever, we remain committed to the achievement of that objective."

Victorian Trades Hall Secretary, Brian Boyd, said the 1984 Act gave greater status to health and safety in Victorian workplaces by bringing together a myriad of legislation and regulations.

"The new Act goes one step further and gives it even greater status. Hopefully all

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VALE - Les Hogg, FSIA
Les Hogg passed away at home on Monday, June 27.
Les has been a Member and Fellow of the SIA and has served the ACT Executive as Secretary for over 10 years.

the participants in Victorian workplaces: employers, workers unions and government will make it an even better situation. We've been given some important responsibilities that will be taken very seriously. We want to improve occupational safety in the workplace. The Act gives us the ability to lift the game across the board and we will work with our on-site OHS representatives and the employers to do that."

The director of the Australian Industry Group's Victorian branch, Tim Piper, said a tripartite approach to safety was essential and that it was important that the issue was not used in industrial campaigns.

"It's no good having an 'us and them' situation. We should all have the same goal and the goal should be to improve occupational safety in Victoria. There's no doubt that it makes good business sense. It's good for the bottom line. It's good to keep everyone happy and safe. Some businesses say that if you can't manage safety, you can't manage the business. Source: AAP and WorkSafe Victoria

Report Highlights Electrical Safety Campaign Must Continue

June 30 2005

The Queensland Government today thanked the Ombudsman for his report into electrical deaths from 1995-99 and has pledged to maintain its campaign of electrical safety.

Employment, Training and Industrial Relations Minister Tom Barton said the report reiterated earlier findings that investigations into the deaths were inadequate but that there had been significant improvements in the systems and performance of the investigating authorities since their incorporation together in the Department of Industrial Relations. The Ombudsman said the implementation of the earlier recommendations had helped - and would continue to help - prevent electrical deaths and injuries.

Mr Barton said the report, the Workplace Electrocution Project, was a summary of all of the Ombudsman's investigations into electrical fatalities between 1995 and 1999.

Every recommendation of the Ombudsman's investigations was completed or is under way, with the vast majority already in place (87 of 92 recommendations).

The Queensland Government had also acted by establishing independent reviews of the divisions of Workplace Health and Safety and Electrical Safety and implementing their recommendations.

"This all resulted in Queensland's first stand alone electrical safety legislation - the Electrical Safety Act 2002 - and laws requiring safety switches for domestic residences on sale," Mr Barton said.

"The first ever Commissioner for Electrical Safety and Electrical Safety Board were appointed, and a specialist unit of electrical safety inspectors established. More penalties and offences were drawn up and fines increased. Training, recruitment and investigation practices were revamped and safety audits and prosecutions stepped up. The recommendations have seen a more aggressive approach to enforcing the tougher new laws and a new culture of accountability."

The Electrical Safety Office carried out nine prosecutions in 2002-03, 18 in 2003-04 and initiated 34 this year. Source: Minister for Employment, Training & Industrial Relations

Report On Bitumen Workers Released

29 June 2005

A study conducted by the Department of Infrastructure, Energy and Resources to assess the health effects of bitumen has found there is currently no conclusive evidence to support a link between bitumen and cancer in Tasmanian road gangs.

An Occupational Physician who provided an independent review of the study has supported the findings.

The study examined information from a wide variety of sources, including previous work conducted by the International Agency for Research on Cancer that compared mortality and cancer rates in 29,820 bitumen workers across Europe.

Infrastructure, Energy and Resources Minister Bryan Green said today two previous reviews of the possible link between occupational use of bitumen and cancer by the World Health Organisation and the US National Institute of Occupational Safety and Health had reached the same conclusion.

"According to the best international experts, there is no conclusive evidence to suggest a linkage, but there is continuing research into the subject," Mr Green said.

The International Agency for Research on Cancer is expected to re-evaluate the evidence for carcinogenicity of bitumen in 2007/08.

Mr Green stressed that the State Government has taken the issue very seriously since it was raised late last year, and officers of his Department had devoted considerable time and effort to gathering information, including interviewing more than 30 former road workers who worked for the Department of Main Roads.

While the investigation had focused on bitumen and related products, road workers also identified the use of other materials, including creosote and herbicides. DIER will continue to investigate exposure to these other materials and any associated health effects.

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SIA Seminar on Victorian OHS Act

On June 15, the Safety Institute of Australia (Victoria Division) conducted a breakfast seminar with a difference. SIA Members had asked for a seminar on the new Victorian OHS Act at which they can pose questions-without-notice to a panel of experts. The seminar had over 80 attendees from a broad range of industries. It was heartening to have the majority of attendees being SIA members. The initial feedback was that the seminar was an excellent way of upgrading OHS knowledge and that the informal structure allowed for much greater audience involvement.

The next Victorian SIA activity is likely to be a seminar accompanying the Victoria Division Annual General Meeting towards the end of August.

The rationale was that most members had already attended seminars by WorkSafe and others about the Act, but as those seminars were often very large, there was little opportunity to pose questions that related to their own workplace safety experience.

The panel of experts comprised:

- Cathy Butcher – Trades Hall
- David Gregory – VECCI
- Stan Krpac – WorkSafe
- Chris Maxwell QC

Right-of-Entry

An inevitable question was asked about Right-of-Entry.

David Gregory said that employers believed that the existing authority of Inspectors and OHS representatives was sufficient and was resistant to the expansion of the role, however the restrictions within the new Act has allayed many fears.

There was some discussion on how the Victorian OHS

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Act powers fit with the Federal Workplace Relations Act. It was mentioned that the ARREO (authorized representatives of registered employee organizations) could share authority under both the Acts but the Workplace Relations Act retains a 24-hour notice period and the OHS Act does not.

WorkSafe Advice

WorkSafe Inspectors, under the new Act, must show their official identification and provide a legal warning concerning evidence. Chris Maxwell believed that this process removes any ambiguity about the conduct of Inspectors and the application of their powers.

WorkSafe Victoria will also be issuing guidances over the next few years concerning, amongst other matters,

- Compliance
- Inspector Advice
- Safety Rulings or interpretative documents.

Consultation

It seemed to many that the "new" formal obligations to consult required clarification. The panel referred to Section 36 of the Act which specifies the processes necessary to consult with employees on OHS matters. It was stressed that an employer must take into account the view expressed during the process but it was noted that there is no obligation to follow these views.

Legal Advice

The seminar closed with a brief and passionate discussion on the role of legal advice in complying with the new OHS Act. David Gregory believed that the OHS Act 2004 had achieved an operational balance but advised that people should seek legal advice if there is a potential breach of obligations.

This and other comments enflamed Chris Maxwell who re-emphasized that there are no new safety obligations under the new OHS Act. The obligation to establish and maintain a safe and healthy work environment has not changed over 20 years. If safety remains the principal focus of everyone in a workplace then penalties should never become a reality.

By Kevin Jones FSIA

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Mr Green stressed that nothing in this report diminished individual worker's rights to seek redress through the workers compensation mechanism if they believe their health has been adversely impacted by exposure to bitumen or other products used in the workplace.

He said the conclusions of the DIER report highlighted:

- While there are some acute irritation effects from exposure to bitumen fumes, which may act on the eyes, nose and throat, bitumen fumes are not classified as carcinogenic and key international studies have found limited evidence of carcinogenicity from exposure to bitumen fumes.
- Given the relatively small number of employees exposed to bitumen fumes in Tasmania, it would be impossible to determine from any Tasmanian data whether there is any link between exposure to bitumen and any form of cancer.
- While there is no causal link between bitumen and carcinogenicity, good occupational hygiene practice should be in place to reduce future exposures.

Mr Green pointed out that the issue was not confined to Tasmania. He said copies of the Tasmanian report would be forwarded to the Australian Asphalt Pavers Association, the National Occupational Health & Safety Commission, relevant national Ministerial and Heads of Workplace Safety forums, former road workers and other interested parties and individuals.

The report on Tasmanian Bitumen Worker Issues is available through the DIER website at <http://www.dier.tas.gov.au/publications/index.html>.

Source: Minister for Infrastructure, Energy and Resources

TV Campaign to Kick-start New Workplace Safety Laws

June 22, 2005

WorkCover Minister John Lenders today launched a media advertising campaign to inform workers and employers about their rights and responsibilities under new workplace safety rules that become law next week.

Mr Lenders said the television and print advertisements were part of an ongoing public education campaign to inform the community about the new Occupational Health and Safety Act that comes into effect next Friday, 1 July.

Launching the television advertisement at Monash University's Accident Research Centre (MUARC), Mr Lenders said the new laws would revolutionise the way Victorians approached workplace safety.

"The new Act provides Victorians with a once in a generation opportunity to change the way safety is approached at work," Mr Lenders said. "On average, one Victorian worker dies as a result of a workplace incident each week and every year more than 30,000 others suffer serious injuries caused by work – about one every 15 minutes. Current safety laws were suited to their time and reflected work arrangements from back in the late 20th century - but workplaces look and operate very differently now. The new Act encourages greater participation in workplace safety from all in the workplace to address the terrible injury toll that accidents cause."

Mr Lenders said the television advertisements, to start screening on Friday, were part of an ongoing public education campaign to inform the public about the new laws. The TV advertisements promote Getting into the Act - a free information CD Rom that is available to the public.

Source: Victorian Minister For Workcover

Pregnant women, elderly urged to avoid CityRail turnstiles

June 27 2005

Pregnant women and the elderly are being urged to avoid using the turnstiles at entrances to CityRail stations after several reported injuries.

NSW Transport Minister John Watkins said new signs would be posted across the CityRail network from today promoting the option of using barrier-free gates.

Mr Watkins said he was concerned for the safety of some passengers after learning the turnstiles had closed on two pregnant women.

"I'm advised neither woman was seriously injured, but I was concerned and asked RailCorp to investigate what could be done to safeguard against any future incidents," he said.

The campaign would make pregnant women, mums with prams, the elderly, people with disabilities and passengers with bulky luggage aware of the more comfortable access option, he said. AAP

\$600,000 New Funding For Primary School Safety Program

June 23, 2005

WorkCover Minister John Lenders was in Morwell today to announce \$600,000 funding for a child safety education program that teaches primary school

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children about health and safety.

Mr Lenders said the Victorian WorkCover Authority would provide the new funding to support the WorkSafe KIDS program for the next two years.

He said the program was run in 700 Victorian primary schools to help students identify and manage hazards in their school environment.

“Getting our young children to start thinking about safety in the playground and class room can only lead to a future with fewer workplace fatalities and injuries,” Mr Lenders said.

Source: The Minister for Workcover

Ammonium Nitrate Legislation Passed

27 June 2005

Legislation restricting access to “security-sensitive” ammonium nitrate (SSAN) has been passed by State Parliament (last week).

The chemical was the first substance identified in a national review of hazardous materials because of its history of use by terrorists and concern about its ready availability.

Last year the Tasmanian Government announced that it would banned the use of ammonium nitrate as a commercial agricultural fertiliser because of the risks associated with its misuse.

The Act gives effect to the ban and follows the voluntary withdrawal of pure ammonium nitrate fertilisers by key Tasmanian fertiliser suppliers in March 2004.

The Minister for Infrastructure, Energy and Resources, Bryan Green, said in order to help farmers switch to other agricultural fertilisers that best suit their needs, the State Government had set aside up to \$40,000 in funding to look at measures such as education programs or advice seminars on the use of alternative fertilisers.

The Tasmanian legislation is based on principles developed by the Council of Australian Governments for the regulation of security-sensitive ammonium nitrate.

“These principles restrict access to the substance to those who can demonstrate a legitimate need for it, and who meet other security requirements such as background checking and approval of security plans,” Mr Green said.

“According to the Act, a business or person with a legitimate need to have access to security sensitive ammonium nitrate will need a permit issued by the Director of Industry Safety at Workplace Standards Tasmania. The legislation is intended to safeguard the Tasmanian community and to ensure that we give full effect to national security measures,” Mr Green said.

Source: Tasmanian Minister for Infrastructure, Energy and Resources

Fall Arrest Lanyards

Queensland is the latest State to issue a safety alert on using twin tail fall arrest lanyards.

The alert is available for download at

<http://www.whs.qld.gov.au/alerts/05i02.pdf>

NSW coalition promises to cut workers comp premiums

June 29 2005

The NSW coalition today promised to cut workers compensation premiums by 10 per cent if it wins the 2007 state election.

Opposition industrial relations spokesman Chris Hartcher said the reduction would be paid for by administrative efficiencies in, and better investment decisions by, WorkCover.

Mr Hartcher said the 2.57 per cent of wages premium rate charged in NSW was not competitive with the 1.8 per cent rate charged in Victoria and the 1.4 per cent rate in Queensland. “This is a competitive plan to make business easier in NSW,” Mr Hartcher said in a statement. “NSW businesses are moving away from NSW to other states with lower premiums. Jobs are being cut because employing people in NSW has become so costly.” AAP

Court Case Leads To Reminder on Preventing Falls

June 29, 2005

A Perth plastering company has been fined \$5000 for failing to provide edge protection on scaffolding after an employee was injured when he fell 3.3 metres to the ground.

Santex Plastering Contractors Pty Ltd was convicted in the Magistrate’s Court of WA Perth Registry last week of breaching Occupational Safety and Health Regulations by not providing edge protection in an area where there was a risk that a person could fall two or more metres from a scaffold.

In September 2002, the employer had erected a scaffold with a work platform 3.3 metres above the ground at a two-storey office complex in Myaree.

Most of the scaffold had two guardrails, but an angled section above the building entrance did not have a top guardrail. This section was adjacent to a void that had been covered by a timber board loosely placed on the brickwork.

An 18-year-old employee who was engaged in rendering work reached up to a position just above this void and stepped onto the loose timber board, which gave way and caused him to fall through the void 3.3 metres to the ground.

The young employee sustained a back injury that now prevents him from undertaking plastering and similar physically demanding work.

Source: Department of Consumer and Employment Protection

Upward bullying - it’s on the rise, says research

June 30 2005

Just as thousands of workers are filling the streets in protest at their treatment, a conference has heard that managers are increasingly vulnerable to workplace bullying from their staff.

The revelation was made at the sixth Australian Industrial and Organisational Psychology Conference on the Gold Coast.

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Editor Kevin Jones
Editorial Inquiries +61 (0)3 9478 9484
jonesk@safetyatwork.biz

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Workplace Safety Services Pty Ltd
849 High Street, Regent VIC 3073 Australia
A.B.N. 68 091 088 621
www.worksafety.com.au

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“Australian managers are increasingly vulnerable to workplace bullying from their staff in the current environment of rapid and disjointed organisational change,” Griffith University researcher Sara Branch told the conference.

Ms Branch termed the practice as upward bullying.

She said workplace bullying was a phenomenon attracting growing interest from researchers and organisations throughout the western world.

“Upwards bullying is part of a workplace bullying trend affecting both Australian managers and workers at alarming rates,” she said. “Managers are increasingly vulnerable to workplace bullying from their staff. This upwards bullying can occur when an employee does not respect his or her manager and exploits the fact that the manager is dependent on them to do their job effectively.”

Ms Branch said that, previously, most research focused on downwards bullying or workplace bullying by managers or employers. “Similarly, horizontal bullying of one colleague by another is a widely recognised organisational issue,” she said.

Ms Branch said that while increasing numbers of cases of upwards bullying are being reported, most organisations do not consider it an issue of the same magnitude. We believe managers are reluctant to seek assistance when faced with a case of upwards bullying.” The conference concludes on July 3. AAP

11 years for woman who stabbed security guard

June 30 2005

A woman who carried out a vicious and unprovoked knife attack that left a female bank security guard disfigured and unable to work was today jailed for 11 years.

Supreme Court judge Justice Bernard Teague ordered Joan Mary Walsh, 45, formerly of Sunbury in Melbourne, to serve a minimum term of eight years.

She pleaded guilty to attempted murder.

Walsh had once worked at the Commonwealth Bank processing centre in West Melbourne, where she repeatedly stabbed Karen Emmerzael, 28, in the early hours of December 27 last year, the court heard.

She had been sacked in 1999 for theft, an offence for which she received a suspended sentence.

In the same year, Walsh, a mother of three, lost her eldest son who was killed in a car crash. Walsh had been treated for depression but she showed no outward signs of suffering from any form of crisis that might have led to her acting as irrationally as she had in attacking Ms Emmerzael.

When asked by the police to explain her conduct, she could only say that something came over her and she could not stop herself. She said that if Ms Emmerzael had not

fought back and escaped, she would have killed her.

The court heard Walsh had gone to her former workplace the night before the attack and had attempted to enter the building, only to be refused by a male security guard.

She returned the next night at about 1am and told Ms Emmerzael her car had broken down and that she wanted to use the phone and the toilet.

When Walsh returned to the foyer, she was armed with a 20cm long kitchen knife she brought with her from home and attacked the unsuspecting security guard from behind.

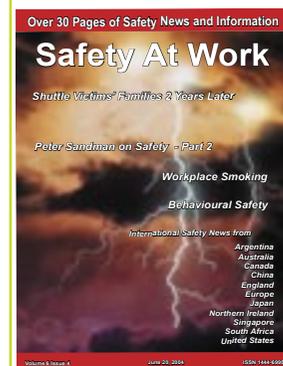
Ms Emmerzael was seriously wounded in her face, hands and back.

Justice Teague said Walsh had conducted a vicious and unprovoked attack on an innocent, kindly victim, now left with permanent injuries including a disfiguring facial wound.

The judge said Ms Emmerzael “went out of her way to help you (Walsh) at what she believed from your actions was a time of need for you”.

Ms Emmerzael had been incapacitated by major physical injuries and serious psychological scarring.

He said he accepted Walsh was now genuinely remorseful. AAP



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The current issue contains articles on the following topics and more:

- Columbia Victims' Families Prepare for Next Shuttle Launch
- Peter Sandman on Safety - Part 2
- Smoking “Room” Now Outside Office Buildings
- New Data on Work-Related Sickness
- Australian Unions - OHS, Behavioural Safety Update

It also includes shorter OHS news articles on over 12 countries. For independent safety news from around the world, you can't beat the value of **SAFETY AT WORK** magazine.