

# Safety Update for Regional Businesses: November 2021

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## **Industrial Manslaughter legislation update.**

Is your business safety compliant? Negligence in safety may soon send any partner, director, or **Person Conducting a Business or Undertaking (PCBU)** to prison, as well as incurring significant fines. Even businesses with no employees are required to have safety systems in place. You have a legal responsibility to provide a safe work environment for yourself, your team, contractors, and the public.

Section 30A: Industrial Manslaughter (crime):

1. *A person commits a crime (industrial manslaughter) if –*
  - a) *The person has a health and safety duty as a Person Conducting a Business or Undertaking; and*
  - b) *The person engages in conduct that causes the death of an individual; and*
  - c) *The conduct constitutes a failure to comply with the person's health and safety duty; and*

*d) The person engages in the conduct –*

*i) Knowing that the conduct is likely to cause the death of, or serious harm to, an individual; and*

*ii) In disregard of that likelihood.*

Key changes announced by the Government include:

- Industrial manslaughter;
- Union right of entry was retained in the Industrial Relations Act 1979 and not included in the WHS Act;
- Prohibition on insurance for monetary penalties;
- HSRs have the right to choose their course of training; and
- A specific duty is included for providers of work health and safety services to ensure those services do not pose a risk to persons at the workplace.

**This legislation is expected to be passed by Parliament in January 2022.** Refer to Worksafe WA for more information.

## **Safety Tip**

We are finding during our business safety appraisals that around 20% of our clients using welding equipment do not have flashback arrestors attached. A flashback arrestor or flash arrestor is a gas safety device most commonly used in oxy-fuel welding and cutting to stop the flame or reverse flow of gas back up into the equipment or supply line. It protects the user and equipment from damage or explosions.

Regulation 3.98(1) of the Occupational Safety and Health Regulations 1996 says employers, main contractors and self-employed persons at workplaces where welding, heating, cutting, or an allied process is done must ensure a flashback arrestor is fitted to the operator's side of each regulator.

## **Fatigue management**

Our clients often ask how long is "too long" to work. Peak seasons in any industry will always test the resolve of business owners but also test the physical and mental endurance of their staff.

Certain working hours arrangements have been linked to occupational safety and health risks, such as fatigue and impaired performance, and increased exposure to some hazards. As with other occupational safety and health issues, employers have a general 'duty of care' obligation to ensure that, as far as practicable, employees are not exposed to hazards and risks that could arise from their working hours arrangements and to address them through a systematic risk management process. See Section 19 of the OSH Act.

Here are a few tips:

- Minimise the number of shifts worked consecutively;
- Staff should work no more than five shifts in a row;
- Roster two rest days off consecutively;
- Ensure adequate levels of staffing;
- Reduce mandatory overtime;
- Discourage excessive work hours (12-14 hours maximum is recommended);
- Generate rosters in advance to allow staff the ability to plan their leisure time;
- Allow trial periods for new working hours arrangements and evaluate them;
- Ensure staff takes full meal periods away from workstations;
- Roster staff to work forward rotating shifts e.g. Day / Afternoon / Night

### **Is OSH expensive?**

Implementing safety systems and making your work environment safe does not need to cost you a small fortune. We designed a model that ticks all the legal boxes and empowers you to action what you actually need. The more time a consultant spends on compiling glossy reports, the more it will cost you. I would never criticise any other safety skills package, as they are all helping to protect regional businesses. You do however need to be careful what you are paying for. Most of our competitors charge around seven times my fees, but their offering includes specialised products such as HR software systems.

The average expenditure after we have conducted a safety appraisal on my clients is under \$1000.00 and first-aid kits, fire extinguishers, and signage are the main items needed.

## **Safety presentations**

Our business was built from the experience of Darren's 25-year policing career. We believe education in this area is critical so we are always available to provide a presentation at your industry, community or association meetings. It's not a hard sell and there is no obligation but if your local business community takes some free safety advice into their own businesses and if we pick up some clients as a result, then it is a win for both of us.

## **Clean air, clean lungs campaign**

The air you, your workers and others breathe at work can be hazardous and cause damage to your health. It's important to understand the hazards at your workplace – whether it's a construction site, a factory, on a farm, or if you work with engineered stone. Your workers may be at risk of developing an occupational lung disease.

Occupational lung diseases are conditions of the respiratory system caused by workplace exposure to hazardous chemicals and dust.

The Clean Air, Clear Lungs Campaign is run by Safe Work Australia to raise awareness of occupational lung diseases. The national campaign seeks to educate persons conducting a business or undertaking (PCBUs), such as employers or small business owners, on how to eliminate or manage the risk of their workers developing an occupational lung disease.

[Safework Australia: Clear Lungs link](#)

## **Top 5 safety issues**

Here are the Top 5 Safety issues we have encountered this month:

1. No OSH inductions being conducted (the foundations needed for safety).

2. No safety policy in place (sets the culture of safety in your organisation).
3. No record of hands-on training conducted (making it difficult to prove if an incident occurs).
4. No Hazardous Substance Register in place.
5. No fire extinguishers or first aid kits in work vehicles (it is the employee's office for the time they are in the vehicle and as such should have these accessible).

### **What We Offer:**

- Onsite safety appraisal covering over 150 areas;
- A comprehensive report detailing what you do well, actions required, and interactive options;
- Safety Policy;
- Risk Register;
- Personalised Hazardous Substance Register;
- 12-month Members-only website access with interactive Employee Induction Form, which can be completed online and automatically emailed to you;
- Monthly e-newsletters and safety updates.

**All for \$800.00\*** (inc GST).

Optional extras: get your electrical items tested and tagged for \$5.00 per item.

**Don't put it off any longer!** Please don't wait until an incident occurs before you seek assistance. We have over 25 years of experience in keeping organisations safe and have designed an easy-to-follow process that focuses on what you actually need to do to be compliant with OSH legislation. Don't spend thousands of dollars on glossy magazines and systems that just sit on a shelf! We will empower you to understand, implement and take control of safety in your business.

Thank you

Darren Slyns and team.

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