



SAFETY AT WORK BULLETIN

Proudly Sponsored by the Safety Institute of Australia (Victoria Division)
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Magistrate Warns Against Neglecting Risk Assessments

8 August, 2006

SafeWork SA's warnings on the importance of conducting workplace risk assessments have been strongly reinforced by today's findings and penalty against a transport company for a workplace injury.

Hong Kong-based Kerry Logistics has been convicted and fined \$25,500 plus costs by the Industrial Relations Court, at the end of a prosecution brought by SafeWorkSA over the injury of a worker in October 2004.

The injured employee was one of two attempting to remove a dent from the roof of a shipping container at the company's Gillman depot, by using a forklift to raise a beam of timber to push the dent out. Despite him standing clear, the beam unexpectedly dislodged, striking the worker in the face. He suffered a fractured eye socket, jaw, and nose, along with chipped and loose teeth.

The company pleaded guilty to breaching the Occupational Health Safety and Welfare Act 1986, for failing to ensure that its employee was safe from injury, whilst at work. In his finding, Industrial Magistrate Stephen Lieschke said the fact the company used a work practice carried over from the previous owner was no excuse. He said a proper risk assessment when the business was bought in 2000 would have identified and remedied any known deficiencies in process, plant, and equipment.

Magistrate Lieschke said: "Performing hazard identification and risk assessments of work practices can no longer be considered a luxury or counsel of perfection that occurs only when time permits. Compliance with safety obligations is an absolute priority before work is undertaken."

"Today's judgment fully vindicates SafeWork SA's calls for risk assessments and hazard identifications to be ongoing at all workplaces," says the agency's Acting Director of Frontline Services, Neill Baker. "Safety must be a part of core business, not an afterthought to be attended to when time permits."

Source: SafeworkSA

WA Restaurant fined over unguarded machinery August 16, 2006

A Cottesloe restaurant has been fined \$1500 for failing to adequately guard a piece of machinery in its kitchen.

Beachfront Enterprises Pty Ltd – trading as The Blue Duck Café – pleaded guilty and was fined in the Perth Magistrates Court last week.

WorkSafe WA Commissioner Nina Lyhne said today that the message still did not appear to be getting through that machinery guarding was essential. "The dough mixer was available for employees to use, but the employer failed to ensure their safety by not providing guarding he knew was required - and it was fortunate that no-one was injured," Ms Lyhne said.

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"There are many cases where employees have had fingers amputated or have even lost limbs after they became tangled in machinery, so the potential hazards are very real. It is disappointing that we still have to remind employers of the importance of machinery guarding when it has been required by occupational safety and health legislation for so long.

Source: DOCEP Continued on page 2



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Paracetamol still best for mild and moderate pain Aug 15 2006

Old-fashioned paracetamol is more effective for treating ongoing back pain and arthritis aches than many newer painkillers, health professionals say.

The National Prescribing Service (NPS) has released advice to doctors based on new research showing the benefits of paracetamol.

Professor Milton Cohen, from Sydney's St Vincents Clinical School, said recent studies confirmed that paracetamol had very few side effects and was the best choice for mild-to-moderate pain relief.

The old-fashioned drugs were available in a slower release formula suitable for people with persistent pain and had a better safety profile than many newer painkillers, Prof Milton said.

"Some of the newer analgesics have been shown to have harmful reactions in people with stomach and heart problems as well as interactions with other drugs, so professional advice is recommended for safety as well as pain relief," he said.

Persistent pain caused by joint injury and inflammation affects about one in five Australians. It was a major issue for sufferers as well as health professional and consumer representative groups, Prof Milton said.

AAP

Businesses Evacuated Following Hazmat Spill At Strathalbyn

August 16 2006

SA Country Fire Service volunteers have responded to a hazardous material (HAZMAT) spill at a warehouse off Milnes Road in Strathalbyn this morning.

The spill of up to two 110-litre drums of agricultural pesticide, which occurred just after 8am today, has brought about the evacuation of the warehouse and several other neighbouring businesses. Two people have been transported to hospital. The extent of their injuries is not known.

Source: CFS

Hearing Awareness Week

August 18 2006

Australians are being warned that everyday activities, like mowing the lawn and listening to music, can affect their hearing just as much as workplace noise.

Launching Hearing Awareness Week, federal Human Services Minister Joe Hockey said hearing damage, like skin damage, related to the intensity of the noise and the length of time you were exposed to it.

"People shouldn't imagine for a moment that it is only workplace noise that has an effect on your hearing," Mr Hockey said. "The ear cannot distinguish between noise produced by work activities and noise produced by leisure activities, even though leisure noise may bring a lot of pleasure."

Mr Hockey said Australians must learn to preserve, conserve and protect their hearing because exposure to harmful levels of noise could cause irreversible damage. "If you are like me then you love listening to your music loud," he said. "But people need to remember when listening to music: if you can't hear someone (next to you) speak then it is too loud and it's causing damage."

Hearing Awareness Week starts on Sunday and runs to August 26.

AAP

Govt to launch second appeal against teacher's compo payout

SYDNEY, August 18 2006

The NSW government will launch a second appeal against a compensation payout of \$28,000 to a teacher who had an affair with his student.

In 2001, the Education Department investigated English teacher Jeff Sinclair's relationship with 15-year-old Nicki Shackle. Mr Sinclair, now 54, maintained their relationship did not become sexual until after

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Asia Report

Today we are proud to include the first of a regular column with a longtime SIA member, Melody Kemp.

Melody is an ex-pat Australia who currently resides in Laos. As well as working on OHS matters throughout the Asian region she is also the author of Working for Life: Sourcebook on Occupational Health for Women, an excellent publication available for download at www.amrc.org.hk

Would you like Bird Flu with That?

From my verandah I could see my neighbour peering at his fighting cocks. He makes Buddhist funerary regalia, but the death business is slow, despite 10 deaths from dengue last week, so fighting cocks provides a back up income. They strut inside individual open bamboo domed cages.

But last Friday it was announced that Lao had bird flu. No matter that is has been here for some time, as the chicken smuggling business between Thai and Lao is an active one. It is now officially OK to panic.

That it is probably an occupational disease, being almost exclusively found in growers of chickens, ducks and other edible fowl, is clear; but in Asia where occupational health and safety services are basic at best, and non-existent like in Lao and Cambodia, the responsibility is left to Ministries of Health and Agriculture. So chickens and ducks die in their thousands and pens are sprayed, but not much thought goes into how to protect the farmers, other than by killing the animals. For many, like my neighbour, having fighting cocks as a sideline, makes the difference between his kids getting an education and not, so he is likely to hide them as there is no financial compensation, or making up for years of careful breeding for ferocity.

Growing edible birds is largely a family business. Few intense batteries exist. Most fowl live in close confined to the family that sells them.

While in the west, the headlines scream 'epidemic' and people rush to buy their tamiflu (thus keeping Donald Rumsfeld happy in his retirement) the reality is that western chicken growers do not have

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Ms Shackle turned 16.

After a two-year investigation, the teacher was sacked in August 2003 for breaching student-teacher trust. He was awarded \$28,000 in workers compensation after arguing that the department's handling of the inquiry left him clinically depressed and affected his ability to work.

The department appealed the payout but it was referred back to the Workers Compensation Commission (WCC) for reconsideration. In July the WCC upheld its original decision to award Mr Sinclair \$460 a week until he turns 66. The NSW government subsequently said it was exploring other avenues to appeal the decision.

The Daily Telegraph today reports that paperwork for a new action against Mr Sinclair has been prepared and will be lodged with the Court of Appeal within the next two weeks.

Education Director-General Andrew Cappie-Wood said the decision of the WCC to reinstate Mr Sinclair's compensation did not "reflect community expectations". "The department has therefore decided to refer the matter back to the Court of Appeal for further reconsideration," Mr Cappie-Wood told the newspaper. "Anyone working with children must ensure that at all times their conduct meets the standards set out by the law, departmental policy and the expectations of the community."

AAP

Factory worker injured in workplace accident August 17 2006

A Melbourne man has undergone surgery after suffering serious head injuries in a workplace accident. The 24-year-old was hit in the head by a clamp from a machine used to manufacture washers at Production Stamping in Croydon, health and safety watchdog Worksafe Victoria said.

He was treated at the scene by paramedics before being rushed to The Alfred hospital, where he underwent emergency surgery, Worksafe spokesman Michael Birt said. Workplace health and safety officials were now investigating the accident, Mr Birt said.

AAP

ABC female staff to be interviewed as part of cancer probe

August 17 2006 (AAP)

Experts investigating breast cancer cases at the ABC's Brisbane studios say information should be collected on all women who have worked at the site for the past 11 years.

ABC management today released its first progress report into its probe into the incidence of breast cancer at its headquarters in Toowong, in Brisbane's inner west. It launched an independent review of the site after it was revealed 12 women who worked there had been diagnosed with breast cancer since 1995. The report said that while it had not yet established whether the number of cases of breast cancer in female employees was greater than might be reasonably expected, further investigations should be carried out.

It recommended the ABC gathers information on its entire female workforce since 1995 to ensure all possible breast cancer cases are identified.

"Given the publicity surrounding the issue of breast cancer in ABC employees at Toowong and the salience of the issue to them, we consider that the staff's collective knowledge of cases of breast cancer in their work colleagues should provide complete or near complete enumeration of these cases," the report said.

ABC managing director Mark Scott and chair of the review and scientific investigation panel, Prof Bruce Armstrong, today met staff at the Toowong premises. Mr Scott said all recommended

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the same intimate contact with fowl as they do in the Asia. Nor do most people run their own fowl. My neighbours cocks are merely two metres from his sleeping floor. Each day he picks them up and strokes them lovingly (this by the way is not sexual innuendo). I cannot see an Australian chook farmer lovingly stroking his chickens. So a risk analysis should involve the cultural factors which are intrinsic to livestock keeping.

At the food end, ping kai and pek (grilled chicken and duck) is off the menu. Cooks, for whom uncooked meat is also a potential hazard, have been told to cook pork instead. The newspaper today reported many hand injuries as vendors got used to a different patterns of chopping. In short, the hazard control for avian flu has been to kill the hazard not to educate, and shift the burden onto poor farmers. We have been told to simply stop eating chicken; such is the nature of Third World hazard control.

HIV/AIDS is also recognized, albeit unofficially, as an occupational disease in Asia. A report on a road building project which will connect China to Thailand, points to a corridor of infection that flows with the road, infecting women doing a bit of freelance sex work while selling noodles. Truck drivers pull into town and have sex with the noodle sellers, pick up the disease, and then transmit it to others. When women are not around, the rather relaxed attitude to sex allowed in Asia, men have casual sex with other males, particularly in mainly male settlements such as mines and dam projects.

Lao women seeking what on the surface might be a waitressing or factory job in Thailand move illegally across the border only to find that like above, sex comes with the main course, straight refugee or migrant Burmese men, work at sex to send money home to Burma. Because most are illegal and have no recourse to authorities in the way that the Thai law is written, they either put up with it or return home to much shame and scant services. In Lao there is only one major outpost that dispense anti retrovirals and that is 3 hours south of the capital in the Export Processing Zone (EPZ) of Savanakheth. Much of what is called trafficking is really misleading advertising, or lying as it used to be called.

In both cases the major hazard is poverty. It is that which drives the machine of risk taking and the traditional hierarchy of controls can do little when at the end of the day mouths have to be fed.

Melody Kemp, MSIA

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studies would be "undertaken as a priority". "I am satisfied that Professor Armstrong's independent investigation panel will conduct a thorough and comprehensive scientific inquiry into the Toowong site," he said.

Prof Armstrong will conduct an epidemiological study on the site. Epidemiology is the scientific study of factors affecting the health and illness of individuals and populations.

Mr Scott said other comprehensive investigations will also take place. They included a study of the history of employees who have had breast cancer, longer term monitoring of radio frequency radiation on the site and a study into the history of the studio relevant to possible sources of carcinogenic exposure.

Mr Scott encouraged staff to work closely with investigators. "I had a constructive meeting with the group this afternoon and I reaffirmed that the ABC will continue to support staff in every way possible while the investigation is taking place," he said.

Last month, about 90 workers walked off the job demanding the ABC relocate its operations. Staff also last week held a one-hour stop-work meeting to discuss the potential move. Prof Armstrong is expected to report to staff by Christmas.

New Legislation Increases Protection from Radiation

August 18 2006

New legislation to be debated in the Legislative Assembly today will more effectively protect people and the environment from the harmful effects of radiation, ACT Minister for Health, Ms. Katy Gallagher MLA, said today.

Ms Gallagher said the new legislation would provide a more responsive and effective scheme of regulation for the use of radiation in the ACT. "Through this legislation, the ACT is implementing the nationally agreed principles for radiation protection set out in the National Directory for Radiation Protection," Ms Gallagher said. "That Directory is itself the outcome of the National Competition Policy Review of radiation protection legislation across all Australian jurisdictions."

Ms Gallagher said the new legislation would continue the requirement for radiation sources to be registered and users of those sources to be licensed and that decisions regarding licensing and registration would continue to rest with the ACT Radiation Council. "The legislation includes references to national standards for a range of matters relevant to licensing the use of radiation sources, including competency standards and safe levels of

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OPINION: Planning for the Future

Recently I was asked by an OHS Inspector whether I and my colleagues thought that National OHS legislation would be a good thing. I asked around and largely my OHS colleagues were in favour. It makes sense that one country of a small population should have one set of OHS legislation. The Inspector's question made me realise that State OHS regulators may already be preparing for a transition to National jurisdiction.

There are other indications also. There are several large companies that are waiting to see whether it is worth it or practical to jump to Comcare rather than stay in a State-based workers compensation system. Regardless of the competence of Comcare, it remains an organisation with national coverage.

The recent restructure of NOHSC and other organisations into the Australian Safety and Compensation Commission also prepares the path, although I continue to have a major problem with the reliance on tripartite consultation. Certainly the unions have a level of influence in the consultation well beyond their level of workforce representation. With a large majority of the Australian workforce having no relationship with unions, I question why the tripartite structure remains, beyond historical baggage.

The WorkChoices legislation in particular, and the currently-debated Independent Contractors legislation, has irrevocably changed the employment relationship, regardless of the promises from the political Opposition and unions. Our experience with GST legislation shows that whatever initial opposition political parties may spout, they eventually come to "love the enemy" or decide that it is just too hard to dismantle.

Recent Productivity Commission reports including the Regulatory Taskforce are now overtly talking about National OHS regulations making the change seem inevitable.

What objectors to this change need to do is realise when battles are not worth fighting. They need to accept a defeat and divert resources into achieving the best possible outcomes from those things that they cannot change. For instance, the Australian workforce has become a nation of individual workers (except in construction, nursing, mining and the public services) and we need to develop ways addressing these individuals. Some of the social marketing tools may be useful in this aim but we need our institutions, like unions and safety organisations, to begin planning now to keep workplace safety as a common consideration for when workers apply for, or change, jobs. If the unions aren't there to remind us of OHS, and employers remain silent on, or dismissive of, safety because it is an (unnecessary) business cost, we must convince individuals that their safety and the safety of their colleagues and their community is very important and relevant to their employment negotiations.

The employment, and therefore OHS, world has changed. Are we going to be Luddites on workplace safety or accept the reality of the change and develop new communication techniques and strategies to keep our workers and our communities safe?

By Kevin Jones, BA, FSIA, RSP(Aust)



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Dear OHS practitioner,

Occupational Health News managing editor Helen Jones and I invite you as an SIA member to attend the unique New Frontiers in EEO and OHS conference we are hosting in Sydney on September 1.

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NSW IR Minister John Della Bosca highlighting the OHS and EEO implications of the federal legislation - and how the NSW Government will respond.

ACCI health, safety & compensation mgr Chris Harris sharing his expertise and insights into the impacts of the federal legislation and how employers aiming to achieve 'beyond compliance' can deal with new frontiers and pressures.

ACTU OHS project officer Steven Mullins revealing how unions will tackle right of entry, reasonable working hours and other OHS issues. And how the ACTU expects employers aiming for 'beyond compliance' will deal with emerging issues.

Barrister Penny Thew speaking about the age discrimination legislation and its interaction with other federal reforms.

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Kind regards,

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radiation exposure."

The legislation, which replaces the Radiation Act 1983, provides for regulation of ionising radiation (like x-rays and the radiation emitted from radioactive materials) and allows for the future regulation of non-ionising radiation such as ultraviolet radiation, microwave radiation and radiofrequency radiation.

Source:ACT Minister for Health

Adobe Acrobat V7.08 Information

Some readers have expressed difficulty in upgrading to the latest version of Acrobat Reader with one of the problems being that the download can be over 20 megabytes - a substantial burden to dial-up internet connections.

Safety At Work publishers are now allowed to distribute the latest edition of Acrobat Reader on a CD. If you want a copy of Acrobat Reader 7.08 please email me at jonesk@sia.org.au and include your full postal address. A CD will be mailed to you shortly after.

The CD won't be pretty as it is a burnt copy of the software that Adobe permits us to distribute. It is not allowed to be given to anyone other than the person requesting the CD and all CDs will be checked for viruses before distribution.

For those readers who are unconcerned about download limits, the latest version of Acrobat Reader is available for free from <http://www.adobe.com/products/acrobat/readstep2.html>



SAFETY AT WORK BULLETIN

OPINION: OHS Law Rationalisation in Australia - at long last - maybe!

OHS practitioners and professionals should voice their approval at recommendations by the Commonwealth Government to harmonise OHS legislation through COAG. It is absurd in the extreme that for a country of less than 22 million people, there are principle OHS Acts and regulations, together with Dangerous Goods, Radiation Safety and other specialised Acts and consequent regulations, codes of practice, etc. for 6 States, 2 Territories and the Commonwealth - 9 jurisdictions. In addition many States have separate Mining Safety legislation and there is also separate legislation for off-shore work. I won't go into additional separate electrical and gas safety legislation.

It is not as if there are fundamental differences of opinion or philosophy between the different jurisdictions - it is all a matter of State/Territory/Commonwealth pride that each has to cross the "t"s and dot the "i"s differently. On the ground, it means enormous complexity and cost in having to maintain and apply multiple and different legislation, and as the trend for organisations is to get bigger and cross borders, the effect on them is entirely negative.

As far as I have read, the interaction of a Queenslander or a Victorian with asbestos fibres does not differ; and New South Welsh people are harmed similarly by excess noise as are Tasmanians. So why do we need everybody to write laws differently?

Social issues may be different so that NSW may wish to have higher fines than Tasmania. That is not a big deal. Victorian OHS law is written in terms of penalty units, with the value of the penalty unit fixed separately from year to year by the State parliament. This does not affect the exposure limits and should not affect fundamental issues such as duty of care.

The Commonwealth Government's recent report on streamlining regulation identifies 6 areas that affect OHS practitioners and professionals. These are:

- 4.26 Implement nationally consistent OHS standards
- 4.27 Harmonise duty of care provisions
- 4.28 Improve OHS education of employers and employees
- 4.29 Improve advice from regulators regarding OHS responsibilities
- 4.30 Introduce a single regulator for mine safety
- 4.31 Achieve national consistency in workers compensation arrangements.

The first of these relate to common OHS legislation across all legislation. I would call on the governments to go further than either 'nationally consistent' and 'harmonise'. I believe that all the principal OHS Acts in each state should actually be the same. As stated before, there may be variations in relation to prosecution policy, but not in OHS principles that are applied in the field.

Items 4.28 and 4.29 are worthy of consideration and very much needed, and probably will be able to be implemented in the near future. I am more pessimistic on the last two items, with States fighting to the last injured person to retain their control and revenue streams. However, if the High Court rules in the Commonwealth's favour later this year on the WorkChoices legislation, then the Commonwealth may be able to take the running on OHS and worker's compensation under the corporations' head of power within the Constitution to override recalcitrant States.

So what should we do as individuals and a group? Individual OHS practitioners and professionals should contact their State/Territory and Federal Member of Parliament and urge them to cooperate to achieve these harmonised ends. The Safety Institute, perhaps in conjunction with its COSHAP partner Institutions, should also do so as well. I urge the National Technical Committee to develop a response that would be sent to all OHS Ministers in Australia.

Leo Ruschena CFSIA

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