

IN BRIEF FROM
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L A W Y E R S



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IN THIS ISSUE

Health & Safety for a shakeup...fines significantly increased...

Employee's fall costs employer and company in control of site...

Health & Safety for a shakeup...fines significantly increased...

Under the current law fines of over \$100,000 are common and reparation orders of up to \$250,000 made. These are likely to increase dramatically under a new Health & Safety at Work Act proposed in legislation introduced by the Government.

The Act follows the inquiry into the Pike River disaster but will apply to all workplaces.

The proposed Act significantly increases fines and terms of imprisonment for offences. It also strengthens the roles of inspectors and Health & Safety worker representatives.

Risks must be identified. The responsible person must then eliminate the risks so far as reasonably practicable. If the risk cannot be eliminated then it must be minimised as far as reasonably practicable.

Employers

There is a duty on employers to ensure the health & safety of workers and others affected by the work.

Self Employed

The self-employed must ensure their own health & safety.

Company Officers

Officers of companies and other entities must ensure that they keep up to date with Health & Safety matters and ensure the entity implements processes to comply with the Act.

Employees & Visitors

Workers and visitors must take reasonable care of their own Health & Safety, not harm others and comply with instructions & policies.

The duties are not transferable and a person can have more than one duty. More than one person can have the same duty. If so they must consult, cooperate and coordinate with each other.

Penalties

The sanctions under the Act have been significantly increased. Individuals exposing a person to the risk of death or serious injury/illness can be sentenced to a five-year prison term, or a fine of \$600,000, and the maximum fine for a company is going to be \$3million.

Everyone will need to be aware of their obligations under the Act and take steps to ensure they comply.

Contracting out of the Act is prohibited and it is not lawful to insure against fines.

The amendments are expected to come into effect later in 2015.



Employee's fall costs employer and company in control of site...

A contractor has fallen three metres after the grating he was standing on gave way. The section of grating was missing some clips and had not been checked before he began work.

The District Court has sentenced two companies under the Health and Safety in Employment Act for failing to take all practicable steps to ensure a contractor was not harmed doing work he was engaged to perform.

Both companies have been fined \$30,000 each. The company who was responsible for the site, where the incident occurred, was ordered to pay an additional \$10,000 in emotional harm and reparation. The contractor's employer avoided this payment as the company had offered him significant support after his fall.

Companies must identify and manage risks at work sites before workers are put in harm's way. A full hazard assessment of the site would have identified the risk and fixing the grate would have eliminated the hazard.

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