

## *Occupational Health and Safety Risk Management*

In September 2001 new Occupational Health & Safety laws came into force.

The Occupational Health & Safety Act 2000 clearly states that employers must ensure the health, safety and welfare at work of all the employees. To do this an employer must provide:

- safe premises without risk to health
- safe machinery and substances provided for use by employees
- safe systems of work and working environment
- provision of information, instruction, training and supervision to ensure safety
- adequate working facilities.

Workcover took proceedings against McDonalds in the New South Wales Industrial Relations Commission in 2003. An employee was disposing of hot oil when he lost his balance on the slippery floor. Shortly prior to the accident this task had been done by the crew trainer. He suffered burns to the face and hands. The defendant, having failed to provide plant for the safe disposal of the hot oil and ensure the health of this junior employee, pleaded guilty.

Employers should seek legal advice to ensure they are familiar with the particular obligations of their business.

Employers are also required to:

- consult with employees on matters affecting their health and safety
- seek out any potential hazards, and in addition
- make risk assessments and bring in risk control measures – greater emphasis on risk management procedures.

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Hazards include anything that has the potential to harm the health or safety of a person. Hazards are not limited to physical harm such as noise levels or poor lighting. They can include chemical hazards such as poisons and dusts and extend to psychological hazards such as fatigue, violence and workplace bullying. Workplace equipment can also be hazardous depending on the occupation.

It is not only employees who are covered by the legislation. It also extends to people outside your employment who may be at the place of work. In the recent 2005 New South Wales Industrial Relations Commission case against Daracon Contractors Pty Ltd, the company was charged with breaches of OH & S law. Construction work on Kooragang Island required an employed fork lift driver to remove very large pipes from a truck. The truck driver was not employed by the defendant. The pipes fell from the forklift and pinned the truck driver down causing his death. The defendant pleaded guilty to failing to provide a safe place of work without risk to the health of non-employees. The defendant also failed to carry out adequate assessment of the risks involved in the unloading process using the forklift.

Recent changes in this area of law are proposed in the OH & S Amendment (Workplace Deaths) Bill 2005 in New South Wales. This Bill seeks to introduce tough penalties for breaches of OH & S that result in deaths in the workplace. The penalties are aimed at reducing the number of deaths that occur in the workplace as a result of reckless conduct. The new offence would also apply to corporations.

At John Fallins Solicitors we can help you understand changes to the current OH & S legislation, advise on risk management procedures and assist you to meet your legal obligations. We can also act for employers or employees in respect of any breach of OH & S regulations or Workcover prosecution.

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