

The Safe Side



Developments in health and safety from New Zealand and around the world

December 2018 | Issue 01

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Welcome to *The Safe Side*, VL's first issue of Health and Safety round up designed to keep you informed about the latest news, information and trends. An increased focus on keeping our workplaces safe means an increased focus on processes and legislation - It's never been more important to keep our knowledge and practices up to date, for everybody's sake. So it gives me great pleasure to introduce our editor Jane Birdsall, VL's recently appointed 'Health and Safety Monitor'. After many years' experience as a Health and Safety Regulator with WorkSafe New Zealand, Jane has 'jumped the fence' to join the VL team. Thoroughly familiar with current practice, Jane is the perfect person to keep us all up to date with the latest goings on in the world of Health and Safety. It's an interesting and essential read. So stay on *The Safe Side*!!

- Adrian Tulloch, Managing Director

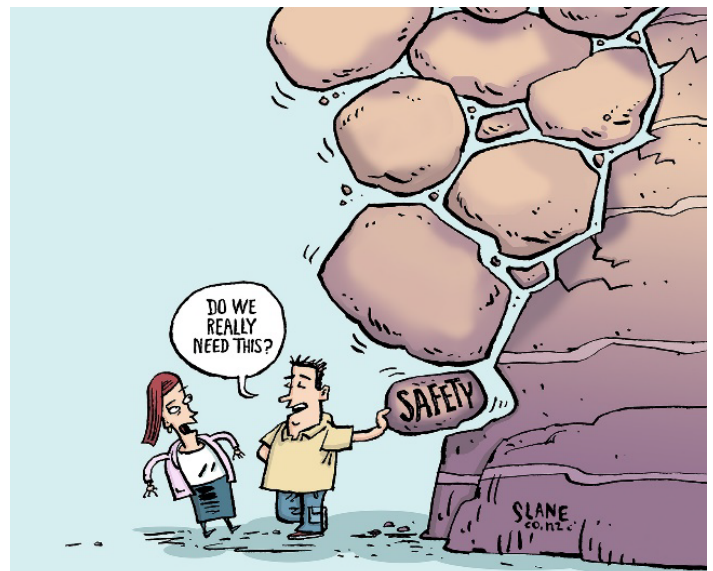
Rising Prosecution Numbers

WorkSafe continues to prosecute for the most serious contraventions of the law. In fact, as the table below indicates, the numbers are increasing.

A key trend in 2017/18 was WorkSafe's acceptance of more "enforceable undertakings" as an alternative to continuing with the prosecution to conviction and sentencing.

Unfortunately, an enforceable undertaking does not mean lower costs for the insured business. An enforceable undertaking will typically involve agreeing to hundreds of thousands of dollars in expenditure as well as a significant investment of company time and resource.

This highlights the importance of businesses securing and maintaining good insurance cover. VL's statutory liability insurance will cover the costs of defence and reparations.



| 1 July to 30 June | Number of prosecutions completed | Number of accepted enforceable undertakings | Total |
|-------------------|----------------------------------|---|-------|
| 2017/2018 | 67 | 14 | 81 |
| 2016/2017 | 66 | 2 | 68 |

New High Court Decision on Sentencing

The expected rise in fines under the Health and Safety at Work Act (HASWA) has been underpinned by a recent High Court decision. The judgement confirmed a new four-band sentencing approach with guideline fine levels well above those applied under the old Act.

Fines are not insurable, but the early appointment of a specialist lawyer from VL's panel will increase the likelihood that fines can be minimised.

[Read more ►](#)

| Culpability | Former Band | New Band |
|-----------------------|-----------------------|---------------------------|
| Low Culpability | Up to \$50,000 | ▲ \$250,000 |
| Medium Culpability | \$50,000 - \$100,000 | ▲ \$250,000-\$600,000 |
| High Culpability | \$100,000 - \$175,000 | ▲ \$600,000 - \$1 million |
| Very High Culpability | Not applicable | ▲ \$1 million plus |

Latest Trends in Attitudes to Health and Safety

WorkSafe's annual survey of worker and employer health and safety attitudes and behaviours found that improvements in attitudes towards health and safety have stalled across the four sectors with the highest risk of harm to workers - agriculture, construction, forestry and manufacturing. Before the HASWA took effect, improvements were significant and steady. Since April 2016, progress has levelled off or gone backwards slightly. WorkSafe notes that everyone needs to work to regain that momentum. [Read more ►](#)

New Guidance and Alerts to Note

- SafePlus has launched a free Online Self-Assessment Tool designed for small and medium-sized businesses. It can be used to assess and improve health and safety performance. SafePlus was developed by WorkSafe, ACC and MBIE. It focuses on safety leadership, worker engagement and risk management. [Read more ►](#)
- Sexual harassment is a high-profile topic. WorkSafe has produced guidance for businesses to prevent and respond to sexual harassment. There is also an example sexual harassment policy and reporting template. [Read more ►](#)
- Designers of plant, structures and substances have explicit duties under HASWA. WorkSafe released a new publication: "Health and safety by design: an introduction" to assist designers consider health and safety. [Read more ►](#)
- Vehicles are involved in many fatal accidents on farms. WorkSafe has issued a reminder to wear seatbelts on side-by-side vehicles following three deaths in recent years. [Read more ►](#)
- SafeWork NSW issued a safety alert about fire hazards and containment netting on scaffolds following a serious fire at a building remediation site. The containment netting (sheeting) fixed to the multi-storey scaffold ignited. [Read more ►](#)

Health and Safety in the News

7 September 2018 – NZ Herald

A hammerhead construction crane malfunctioned in Melbourne and dropped a heavy steel bucket and a tonne of wet concrete on workers. One man died, one was critically injured and a third received minor injuries.

[Read more ►](#)

13 September 2018 – WorkSafe Victoria

Three companies were convicted and fined a total of \$825,000 after a husband and wife in their 80s were hit by a large recycling bin being lowered by a truck. The husband later died in hospital.

[Read more ►](#)

9 November 2018 – Stuff

The first defended hearing under the Health and Safety at Work Act led to the acquittal of the defendants. The prosecution followed the death of a kiwifruit sampler after her quad bike rolled on an orchard near Kaikati.

[Read more ►](#)

26 November 2018 – NZ Herald

New Zealand has the second-worst rate of workplace bullying in the developed world. A workplace bullying expert commented that the country was well positioned to virtually eliminate bullying if the government and business were willing to tackle the problem.

[Read more ►](#)

Other News

Stuff reported that HRV was fined \$440,000 after being prosecuted by the Commerce Commission for making unsubstantiated claims about the benefits of its water filtering systems.

[Read more ►](#)

The retailer Michael Hill Jeweller was also fined by the Commerce Commission for failing to comply with the extended warranty disclosure requirements under the Fair-Trading Act.

[Read more ►](#)



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Jane has over 12 years' experience as a health, safety and environmental regulator. She has led many significant investigations into workplace accidents as both a manager and health and safety inspector with WorkSafe New Zealand. Jane is thoroughly familiar with current health and safety practice and works with colleagues, customers and others to assist with risk analysis and reduction of risk factors in this area.

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