

This month's issue of the Safe Side illustrates how wide the coverage of health and safety legislation is. We have articles on prosecutions that arose from failures to keep New Zealand workers safe around moving plant and electricity. We also cover the outcome of an investigation into a fire that was caused by hot works in Victoria, Australia. In addition, we update you on the horrific bouncy castle incident that killed six children in Tasmania in 2021 and report on the imprisonment of a manager after another child died while playing on a bouncy castle in the UK. Finally, we alert you to recent amendments to the law covering health and safety representatives and committees.

Freight company ordered to pay almost \$700,000 after the death of a truck driver

WorkSafe says that the clear separation of workers and moving vehicles is an absolute must in workplaces. The comment follows the [sentencing](#) of a freight company in the Invercargill District Court this month after a Judge alone trial in June.

The prosecution arose after the freight company was contracted to load and unload palm kernel extract at a warehouse in Bluff. In turn, it contracted trucks and drivers from two other trucking companies to assist with the work. One of those drivers was standing behind his truck when he was struck and killed by a reversing front-end loader in February 2017.

WorkSafe's investigation found that the freight company should have had a more effective system in place for traffic management and should have consulted with the other trucking firms it worked with to manage the risks to workers. Several measures could have been taken including the use of spotters, and installing a reversing camera and proximity sensor on the loader.

WorkSafe commented that too much emphasis was placed on workers being vigilant, as opposed to the businesses managing risks by preventing dangerous situations for workers. It said that more could and should have been done by way of traffic management to ensure a safe

system of work. At sentencing, the company was fined a massive \$577,500. Reparations of \$115,896 were also ordered to be paid to the family of the victim.

The two trucking companies contracted by the freight company were also prosecuted by WorkSafe. They plead guilty and were [sentenced](#) in October 2022. Amongst other failures, WorkSafe identified that they failed to ensure there was an appropriate traffic management system in place before commencing work in the warehouse. Each of the companies were ordered to pay \$32,000 towards reparations for emotional harm. No further payments for consequential loss were ordered as the companies had already paid \$69,259 between them. In addition, they were each fined \$212,000.

In total, the incident led to combined fines and reparations of almost \$1.2 million for the three companies that were prosecuted.

Information on [consulting and coordinating](#) with other businesses with overlapping duties in a workplace as well as developing and implementing effective [traffic management systems](#) where vehicle movements put workers or the public at risk of harm, is available from WorkSafe.

Australian power company charged for OSH offences over hot works fire



"I thought that open-hearth furnace was a little too open."

[WorkSafe Victoria](#) has charged the operator of the [Yallourn power station](#) after a fire broke out during maintenance works in November 2021. The fire began in the coal distribution facility at the power station and was extinguished within 40 minutes. No one was seriously injured.

The company faces five charges under New South Wales' health and safety legislation including for failing to provide necessary supervision to perform hot works in a way that was safe and without risks to health and safety as well as for failing to provide or maintain safe systems of work by failing to ensure continuous monitoring of fire risk during hot works.

The case highlights that the liability risks for fires caused by hot works are not limited to public liability exposures, but may also extend to statutory liability exposures if health and safety charges are brought as a result.

Scaffolder suffers horrific injuries after critical safety information was not passed on

In April 2022, a young man was dismantling a scaffold with three other workers in Massey, West Auckland. A steel pole he was holding contacted an overhead powerline and he received high voltage electrical burns to his upper and lower limbs including an exit wound of the electrical charge through his left foot. As a result of his injuries, both of his arms were amputated to the upper bicep and he will likely need daily assistance for routine activities for the rest of his life.

WorkSafe's [investigation](#) found that the worksite had been given a Close Approach Consent by the powerline owner. For safety reasons, the consent required that the crew that put up the scaffolding was the same crew that took it down.

The erecting crew received a briefing on how workers could safely operate under high-voltage lines. However, the four-man dismantling crew, including the victim, were not involved in the initial work and did not receive that

briefing. Critical safety information was not passed on to them.

WorkSafe said that companies need to make sure that expert information they receive is shared with all workers who need it. It went onto say: "Anyone working in or around electricity, especially high voltage lines, needs to be aware of the specific requirements that come with Close Approach Consents. Lines companies can assist with the consent process if needed."

At sentencing, the scaffolding company's fine was reduced to \$0 due to the company's inability to pay. Details of the reparations, which were potentially covered by statutory liability insurance, were suppressed by the Court.

Comprehensive [guidance](#) on safety when erecting and dismantling scaffolding is available from WorkSafe.

WorkSafe publishes refreshed guidelines on H & S Reps and committees

International evidence shows that strong worker participation in health and safety plays a fundamental role in reducing work-related harm. Health and Safety Representatives and Health and Safety Committees play key roles in the participation process.

To increase workers' access to Health and Safety Representatives, and Health and Safety Committees, the

Health and Safety at Work (Health and Safety Representatives and Committees) Amendment Act was passed in June 2023.

You can read about the changes the amendments brought in and the new legal obligations they place on businesses on the WorkSafe [website](#).

Two bouncy castle tragedies lead to charges in Tasmania and imprisonment in the UK

[Stuff](#) is reporting that the Director of Public Prosecutions in Tasmania has filed health and safety charges against a bouncy castle operator as a result of the Hillcrest Primary School tragedy in Tasmania, Australia. Six children were killed and three more seriously injured in the December 2021 incident.

The tragedy happened during a windy day when end-of-year celebrations were being held at the primary school. The bouncy castle was blown high into air by a gust of wind while the children were playing on it.

Meanwhile, a UK manager has been jailed and a funfair company fined after a three year old died when the inflatable trampoline she was playing on exploded, ejecting her an estimated 20 to 40 feet into the air. The manager and company were [convicted](#) of breaching the UK's health and safety legislation.

The investigation into the little girl's death found that the manager, on behalf of the company, had imported the inflatable trampoline into the UK from China in 2017 and put it into use without carrying out any of the required

testing and certification to ensure it was safe to be used by the public. Additionally, there was no proper risk assessment or work procedure laid down, and the company used undertrained staff paid cash in hand, some of them too young to work without child work permits.

Crucially, the manager and company allowed the company's inflatables (which included a number of other inflatables besides the trampoline which exploded) to be operated despite not having, and not seeking, any operating instructions from the manufacturer, and without having their inflatables properly annually checked and certified by an independent expert.

The company was fined £20,000 and ordered to pay £288,475.62 in costs. The manager was sentenced to six months in custody for two offences, to be served concurrently, and disqualified as a director for five years.

You can find more information on the safe operation of inflatable devices in [Issue 31](#) of the Safe Side.

This newsletter is published as part of Vero Liability's commitment to supporting better work health and safety outcomes for all New Zealanders. We want everyone to go home safe.

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