

*This month we look at four recent sentencings under the Health and Safety at Work Act. The first resulted after a worker suffered burns when a forklift caught fire and ignited condemned LPG cylinders, causing an explosion. The other three were brought by Maritime New Zealand for different incidents involving the same large seafood company. We also cover the first reading of the Health and Safety at Work Amendment Bill, which is the first proposal for substantive reform of New Zealand's work health and safety law since the Act was passed in 2015.*

## Company fined \$300,000 after forklift driver burned in LPG bottle explosion

In March 2024, a forklift driver was hospitalised with burns and spent nine weeks off work after a forklift caught fire and ignited condemned LPG cylinders at a Papatoetoe business. Several 9kg gas bottles exploded, fuelling a significant fire. The incident led to the company being **prosecuted** by WorkSafe under the Health and Safety at Work Act (HSWA).

At the sentencing this month, the Judge described the hazard as "clear and obvious". He said the company could have eliminated the risk at no cost by ensuring forklift and degassing operations never happened at the same time. The company was fined \$300,000 and ordered to pay reparations of \$5,000 to the driver.

WorkSafe says the incident highlights a pattern that the regulator repeatedly sees: "Businesses may identify risks but can fail to follow through with proper controls. They have procedures but don't ensure they're working in practice." The regulator went on to stress that businesses shouldn't mistake having a procedure for having safety.



*"Have legal check it out. If there are regs, and everyone finds ways to avoid them, are there REALLY regs?"*

## Three Maritime NZ prosecutions lead to convictions and fines for seafood company

Three prosecutions of the large seafood company Sealord by Maritime New Zealand (MNZ) concluded recently, with fines totalling more than \$350,000 imposed on the company.

The first prosecution resulted after **Sealord** allowed its workers to be exposed to asbestos while working on board a vessel owned by an overseas subsidiary. When the suspected asbestos was reported in 2021, the fishing vessel was operating out of Mauritius. New Zealand-based Sealord employees were seconded to work on the vessel and were subject to the terms and conditions of their New Zealand employment agreement.

MNZ alleged Sealord failed to ensure the safety of its workers prior to them leaving New Zealand to undertake the work. Senior staff members at Sealord monitored the vessel's health and safety operations and provided input to its operating procedures. But Sealord failed to carry out adequate asbestos risk assessments, effectively consult with its subsidiary on the risks associated with it, and keep its workers safe, MNZ said.

The company was fined \$257,250 and ordered to pay \$3,000 to each of the two crew members most affected by what happened. You can read more about the prosecution on the RNZ website [here](#).

In January, Sealord was **sentenced** on another health and safety charge, this time in relation to the tragic death of an ill crew member who was at sea on one of Sealord's deep water fishing ships. While it was acknowledged that Sealord had comprehensive resources and processes, they were not applied or followed in this case, despite the ill crew member's condition deteriorating and concerns being raised to the skipper. The skipper was also prosecuted as an individual.

**Radio NZ** reported that the 47-year-old crew member died "undignified and alone" of peritonitis caused by a perforated duodenal ulcer while on board the Sealord vessel near the Chatham Islands.

He had been unwell for days, but the skipper didn't recognise the seriousness of the man's condition, and the urgent need for shore-based intensive medical intervention was never understood nor appreciated by those who could have helped.

Sealord paid voluntary reparation of \$65,000 before sentencing and were fined \$80,000. The skipper was fined \$10,200.

This month, Sealord was back in Court for a third [sentencing](#) after a crew member of a Sealord fishing vessel was trapped and crushed when a winch he was working on started unexpectedly. The crew member suffered serious chest injuries.

The incident occurred in June 2022 when the vessel was docked for planned maintenance that included refitting its winch systems. Two other companies were involved in the work.

MNZ said the sentencing gives important health and safety lessons for when businesses are working together at the same workplace. Under HSWA, businesses must consult, cooperate and coordinate activities to manage safety. MNZ said that in this case, it was reasonably practicable for Sealord to ensure a toolbox talk took place involving all people working around or with the winch system that day, discussing the winch controls and a safe system of working. In addition, MNZ said Sealord should have ensured there was clear communication of both a safe system of work and training and supervision for the work involving the winch system.

The Court ordered Sealord to pay \$40,000 reparations to the injured crew member and imposed a fine of \$12,950.

## Government Bill to amend the Health and Safety at Work Act 2015 passes its first reading

The [Health and Safety at Work Amendment Bill](#), which is the first proposal for substantive reform of New Zealand's work health and safety law since the Act was passed in 2015, has had its first reading in Parliament.

The [Minister of Workplace Relations and Safety](#), the Hon. Brooke van Velden, said the changes in the Bill will make it easier to run a business in New Zealand by increasing certainty and removing fear, helping to ease costs of compliance and improve safety outcomes.

The Bill will increase available guidance and support through a strengthening of Approved Codes of Practice (ACOPs) giving businesses access to guidance that is tailored to their own industries and easier to keep up to date than regulations. "ACOPs will now act as 'safe harbours' for compliance," the Minister said.

Other changes in the Bill include creating a carve-out for small, low-risk businesses from the Act's requirements. These businesses will only have to manage critical risks and provide basic facilities to ensure worker welfare. In addition, the Bill will clarify what a director's health and safety due diligence duty involves and where it stops.

The proposed Bill has received mixed reactions. [Retail NZ](#) said the Bill included several changes that would provide a greater understanding to many retailers around what is required to meet their health and safety obligations. Its Chief Executive, Carolyn Young, observed that several Retail NZ members had expressed confusion in the past around health and safety guidance and its appropriateness in their specific settings. She said the Bill, if passed, would give greater certainty to businesses by providing tailored, industry-specific guidance and support through the updating and strengthening of ACOPs.

The [Business Leaders' Health & Safety Forum](#) also welcomed the strengthening of ACOPs, but said other proposed reforms risk adding more confusion and paperwork, without reducing workplace harm. The Forum observed that the reforms adopt a prescriptive approach to defining critical risks that was abandoned years ago by countries like Australia and the United Kingdom, whose rates of harm are much lower than New Zealand's.

The [New Zealand Institute of Safety Management](#) (NZISM) commented that the Bill was a "big, missed opportunity", and that the requirements are confusing, and will add to compliance costs, particularly for small businesses. It said the Bill allows small businesses to only focus on critical risks in the workplace and exempts them from most of their current health and safety obligations. It said this approach ignores the evidence that most injuries do not result in this degree of harm (but make up 75% of ACC's work injury costs). And small to medium sized organisations comprise the bulk of Kiwi firms but are generally less safe than their larger counterparts. "These changes are likely to increase harm to workers, families, businesses, communities along with cost blowouts for the Government books in ACC, health and welfare," the NZISM spokesperson said.

The [NZCTU](#) observed that the Bill establishes a two-tier safety system where workers in small businesses will have significantly less protection at work than workers in larger organisations. It said workers in small businesses facing day-to-day risks like violence and aggression, stress and fatigue, and musculoskeletal injuries will suffer because of the proposed changes in the Bill.

The Bill will now go to Education and Workforce Select Committee and the public can make [submissions](#).

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