The Safe Side
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This month we look at three recent prosecutions taken by WorkSafe under the Health and Safety at Work Act (HSWA). Two were for the failure to adequately control well-recognised hazards – rotating parts on machinery and falls from height through brittle roofing material. The other resulted after a car was hit head on by a fishtailing trailer that had been unsafely modified by a hire company, tragically killing the driver and injuring five others. We also cover the release of two new approved codes of practice for the agricultural sector that will come into effect on 1 April 2027 and reflect the recent amendments to HSWA.

Inadequate machine guarding costs a company $255,000 at sentencing

The failure to adequately guard an edger drum while it wound down has resulted in serious hand injuries to a worker and $255,000 in fines, reparations and costs for a Te Puke company.

The injured worker was carrying out maintenance at the company's sawmill in September 2022 when his hand came into contact with the rotating edger drum. As a result, he lost his middle finger and part of his ring finger and narrowly avoided losing his thumb and index finger.

WorkSafe's investigation found the machine's guarding and safety controls did not adequately prevent access to hazardous moving parts while the equipment was slowing down. The edger drum could continue to rotate for approximately 15 minutes after power was switched off.

WorkSafe said the key lesson from the incident was that it might not always be enough to isolate power to a machine to make it safe to work on. Businesses must identify all sources of hazardous energy, including momentum and run-down time, and ensure workers cannot access danger zones until equipment has come to a complete stop. It was also important to review machinery against current industry standards and best practice guidance, particularly when using older equipment.

At sentencing, the Court adopted a starting point for the fine of $300,000 before allowing discounts of 30% for the company's guilty plea, reparation and remorse, cooperation with WorkSafe and remedial steps taken after the incident. A final fine of $210,000 was imposed. Emotional reparations of $34,300 were also ordered along with $5,712.95 in consequential loss reparations. Consequential loss is the indirect loss that will likely arise as a result of a breach and is commonly in the form of loss of future earnings. The company was also ordered to pay $5,000 in costs.

Two new approved codes of practice for farmers released



"HE FELL IN THE FERTILIZER TANK."

In October, the Workplace Relations and Safety Minister Hon Brooke van Velden launched two new approved codes of practice (ACOPs) that outline the practical steps agriculture businesses can take to meet their health and safety responsibilities on farms. Agriculture accounts for around a quarter of all work-related deaths and serious injuries while employing only 6% of New Zealand's workforce.

The ACOPs will come into effect on 1 April 2027 to reflect the amendments to HSWA that come into force on the same day.

The ACOP for *Roles and responsibilities in agriculture* focuses on situations where farmers, managers, workers, contractors, suppliers and others have overlapping health and safety duties. It explains that tasks can be delegated, but legal duties cannot simply be assigned to others.

The ACOP for *Safe farm vehicle operation* explains what good practice looks like when using farm vehicles and attached machinery. Farm vehicles and attached machinery are among the leading causes of serious harm in agriculture.

WorkSafe says that following an ACOP is not mandatory, but an ACOP sets a recognised standard for compliance with legal duties. Businesses can meet their duties in other ways if this achieves at least the same standard described in the ACOP.

Once the 1 April 2027 amendments take effect, ACOPs may be granted safe harbour status, meaning that taking the actions in the ACOPs may provide sufficient evidence that a business or worker has met their legal duty. The Minister would need to reapprove the ACOPs following consultation for this to happen.

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Court imposes $473,833 in fines & reparations on tool hire company after car crash tragedy

On 28 December 2024, a Northland tool hire company hired a twin-axle trailer and mini loader out to a member of the public. As the customer was driving to return the trailer and loader, the trailer began to fishtail, crossed the centre line and hit a car head-on.

The 35-year-old driver of the car, described in a Radio New Zealand article as a much-loved mum of three boys and family matriarch, sustained fatal injuries. Her husband and three other passengers suffered minor injuries, another passenger was seriously injured and needed three hand surgeries, and the trailer driver suffered minor injuries.

WorkSafe launched an investigation after the Police Serious Crash Unit conducted a re-enactment of the crash and noticed irregularities in a comparison. The investigation found the hire company had extended the trailer's ramp locking bars five years earlier so heavier plant could sit further back on the deck, which altered the ramp pitch and affected the trailer's balance and load distribution. The result was a shifted centre of gravity that left the trailer unstable under normal driving conditions and more prone to fishtailing.

As a result of the incident, WorkSafe urges every business that hires out equipment to look at what it supplies and how it has been changed, and to act before someone is hurt. It says equipment hirers and anyone who modifies equipment should take these lessons from the case:

- Modifications change the risk. Assess any change to equipment for its effect on safety before it is used or hired out.
- Don't hire out until it's confirmed safe. If there is doubt, the equipment stays in the yard.
- Don't leave it to the customer. Hirers know their equipment's limits and modifications and owe duties to others at risk, including anyone present where the equipment may be used.
- Review your equipment now. Check for past modifications and make sure each has been properly assessed.

The hire company was sentenced under HSWA in the Kaikohe District Court on 9 November 2026. The Judge acknowledged the company had fully cooperated from the beginning, entered a guilty plea early and was prepared to pay reparation. A fine of $140,000 was imposed and significant consequential loss and emotional harm reparations of $333,833 were ordered to be paid to the victims.

Company sentenced after worker falls 7.1 metres through fragile roofing material

A worker who had his training in height safety deferred while he completed his 90-day trial period fell 7.1 metres through fragile roofing material while carrying out maintenance work on a roof. As a result, he sustained fractures to multiple vertebrae in his spine.

Following the fall, WorkSafe investigated and found that the risk posed by the fragile roofing had not been adequately identified or controlled by the Hauraki roofing and maintenance company that employed the victim. The regulator said that businesses must ensure hazards are properly identified before workers access roofs, particularly where fragile roofing materials, skylights, or clear light panels are present. "Clear roofing is not designed to support a person's weight and should always be treated as a fall hazard," its spokesperson said.

In addition, WorkSafe found that the worker's training had been deferred until after he had completed his 90-day trial period, despite him carrying out work at height during that time. His training was also delayed because no courses were available until after the Christmas and New Year shutdown period.

The company was convicted and ordered to pay $15,000 in emotional harm reparation as well as legal costs of $1,505.87 to WorkSafe and court costs. The company, which is in liquidation, was not ordered to pay a fine due to its financial position.

WorkSafe says that over the next three months, it will be focussing on the construction sector. Its health and safety inspectors will proactively visit residential construction sites across the country to see how the risk of falling from working at height is being managed. Each year on average, falls from height cause 4 fatalities, 100 serious injuries and around 1,000 injuries that require more than a week away from work. Around 40% of falls from height occur in construction.

WorkSafe has recently updated its guidance on working at height to better reflect HSWA, introduce new content and examples on risk management and add contemporary control expectations.

A new ACOP to clarify health and safety roles and responsibilities on construction sites is also available here.

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