The Safe Side
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In this issue, we cover the outcome of three prosecutions of businesses under the Health and Safety at Work Act (HSWA). The first prosecution came about after a forestry worker was killed while carrying out high-risk work alone, without appropriate supervision and with an inadequate check-in system. The second resulted after a worker lost his arm and sustained other serious injuries when he became entangled in an unguarded tractor power take-off shaft. The last prosecution didn't involve any harm but followed the decision of a construction company to ignore a prohibition notice and allow its workers to continue working unsafely at height. We also have articles on WorkSafe's first tranche of guidance for businesses ahead of the upcoming amendments to HSWA and a new Safety Alert on remote and isolated work.

Employer ordered to pay over $250,000 in reparations after fatal forestry incident

In November 2023, a worker was felling trees at a rural property near Dannevirke. The worker was unsupervised and working alone. Tragically, he was killed when a tree limb struck him, causing him to fall off a cliff.

WorkSafe's **investigation** found that the forestry worksite contained multiple high-risk hazards, including large wind-affected trees, suspended and interlocked branches, restricted escape routes, and trees growing close to an eroded cliff edge.

WorkSafe identified four reasonably practicable steps that were not taken by the victim's employer to ensure worker safety: confirming worker experience, training and qualifications; completing an adequate induction; ensuring appropriate supervision; and putting an adequate check-in and check-out procedure in place. WorkSafe said that taking someone's word for their training or experience is not enough and that, if a worker is inexperienced or not yet competent, they must receive training and close supervision.

In addition, the regulator said that when people work alone or remotely, businesses need a reliable check-in and check-out system that reflects the level of risk, assigns responsibility for monitoring, and triggers action if contact is missed.

At sentencing, the employer, who was an individual rather than a company, was fined $5,000 and ordered to pay costs of $1,000. He was also ordered to pay substantial reparations of $254,740 to the victim's family. While it is unlawful under HSWA to insure against fines, in most cases, Vero Liability's **Statutory Liability insurance** will cover Court ordered reparations under the HSWA.

Forestry is New Zealand's most deadly industry with a **fatality rate** of 32.11 deaths per 100,000 people in employment – almost five times that of agriculture. WorkSafe says forestry businesses should review whether their systems work in practice. This includes documenting worker competence, reassessing hazards when conditions or personnel change, using mechanised felling where reasonably practicable, ensuring a competent person is in charge, and stopping work when the required controls or supervision are not available. Further WorkSafe guidance on forestry safety is available **here**.

WorkSafe highlights the dangers of remote and isolated work



"Remember that requirement that you work without supervision? Forget it."

WorkSafe has just published a **Safety Alert** highlighting the importance of being safe and staying connected when working remotely or isolated from others. It provides a series of questions to be considered before remote or isolated work begins and examples of ways to make the work safer.

Remote or isolated work takes place when a worker performs tasks without direct assistance from others due to their location, the timing of the work, or the nature of the work.

Remote or isolated work covers a wide range of situations and industries including working alone or separated from colleagues; working in a geographically isolated or inaccessible area (where the nearest emergency help is some distance away); working outside normal business hours or shift/night work; and working in locations where communication is difficult. **Regulation 21** of the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 also places duties on PCBUs to manage **remote or isolated work** in a prescribed way.

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WorkSafe publishes new guidance on changes to health and safety law

Significant changes to the Health and Safety at Work Act 2015 are due to come into force on 1 April 2027. WorkSafe has now released the first in a series of **guidance products** to help businesses prepare for the upcoming changes.

Under the **amendments**, small businesses (those with fewer than 20 workers) will be required to manage critical risks and to prioritise critical risk when complying with other provisions of the Act and its regulations. Critical risks are those likely to cause the most serious harm. Larger businesses must manage all risks but prioritise those that are critical.

The new guidance outlines the difference between critical risk and other risk, how businesses can determine whether they are considered small or large under HSWA, and the duties that apply to each.

WorkSafe says that over the coming months, it will continue releasing guidance, tools and educational resources to help businesses build their understanding of the amendments and prepare for the changes ahead.

Company fined after worker suffers horrific injuries in tractor PTO

A farming company has been **fined $60,000** and ordered to pay reparations of approximately $96,000 after a worker lost an arm and sustained multiple serious injuries when his clothing was caught in an unguarded revolving power take-off (PTO) shaft. The victim was operating a tractor connected to a feed mixer when the horrific incident occurred in January 2025.

PTO shafts have long been recognised as one of the most hazardous parts of farm machinery. They rotate at high speed, and when unguarded, can catch loose clothing in an instant, causing entanglement and serious injuries or death.

WorkSafe's investigation found that the tractor and feed mixer were being operated without any guarding in place on the PTO shaft. The farm's risk register had recognised the high risk of entanglement with machinery, and its safety management system required PTO shafts to always be guarded. But compliance with an adequate pre-start check and maintenance process, which included checking guards were present and addressing any wear or damage by replacing damaged guards, was not effectively monitored.

WorkSafe said the incident shows that having rules on paper is not enough. Farmers need systems that ensure guards are actually present, in good condition and checked before machinery is used. Regular inspections are particularly important because PTO guards can become damaged through normal farm operations and may need replacing. More information on farm safety is available on **WorkSafe's website**.

Ignoring a prohibition notice proves costly for an Auckland construction company

Working in contravention of a prohibition notice has cost an Auckland construction company almost $39,599 in fines and court costs and resulted in a criminal conviction.

The prohibition notice was issued in August 2024 after a WorkSafe inspector observed workers on the second floor of a housing construction site working near an edge without adequate fall protection. The site also had temporary platforms, partially removed scaffolding and non-compliant and unsecured ladders.

WorkSafe issued a prohibition notice to one of the directors, requiring work at height on the second floor to stop until the risk had been remedied and fall protection was installed. Despite the notice, inspectors observed workers at height on 2 September and again on 4 September 2024.

After sentencing, WorkSafe published a reminder that a prohibition notice is issued because an inspector believes there is a serious risk to health and safety. "It is not a suggestion, and it's not something a business can ignore," said the regulator.

Working at height continues to be a leading cause of harm in the construction industry. Each month, around **45 falls from height** cause injuries that result in workers needing more than a week away from work. WorkSafe has extensive **guidance** on safety when working at height.

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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