

## **HALLMARK FINE TO MIGHTY RIVER POWER (PRINCIPAL)**

Businesses cannot lose sight of their health and safety responsibilities and plans for even a moment if they're to keep their workforces safe according to MBIE's Health and Safety group. "Yesterday, two companies were fined for a workplace accident in which they deviated from their established safety practices and were lucky the worker involved suffered only minor injuries," Wayne Vernon, Chief Inspector Petroleum and Geothermal said. Icelandic geothermal drilling contractor, Jarðboranir, was fined \$32,000 and Mighty River Power \$16,000 (as principal for the company-controlled site) at the Rotorua District Court for breaches of the Health and Safety in Employment Act at the Ngatamariki geothermal project site in September last year. A worker on the site suffered minor injuries when a drill pipe fell through the cab of a crane. "Even when companies have well developed safety management systems, they must continually pay attention to the detail and not divert from the plans without going through a full hazard analysis and mitigation process.



## **MEAT WORKS EMPLOYEE MAIMED BY HOOF MACHINE**

Meat works company Riverlands Eltham Limited has been fined \$57,949 and ordered to pay reparations of \$15,000 after a worker's left hand was caught and trapped in a machine. The employee's hand was crushed and lacerated, leading to surgery and a five-day stay in hospital. The employee suffers ongoing pain and acute carpal tunnel syndrome. Riverlands Eltham Limited was sentenced in the New Plymouth District Court under the Health and Safety in Employment Act for failing to take all practicable steps to ensure the safety of an employee.

The employee was originally employed to scan ear tags. But on 3 December 2013, the 17-year-old employee was on his third shift and operating a hoof nail removal machine unsupervised. He had not been adequately trained on this machine even though other staff had had extensive training. While he was cleaning the machine he accidentally activated a foot pedal and his hand was drawn into the machine. The emergency stop was not easily accessible and he had to reach around with his right arm to push it. He then had to get his hand out himself as he couldn't get help. "Riverlands' should have eliminated the hazards by guarding the machine and adequately training and supervising all staff. The employee had neither so he now has to live with a life-long injury due to Riverlands' failings."

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## **News & views from Summit – November 2014**



### **HEALTH & SAFETY LAWS APPLY IN CHINA?**

China has industrialised faster than any other country in the world, but the drive towards improving occupational health standards in the country is increasing.

#### **Occupational health & safety**

Safety in the workplace is critical to the success of your business, no matter what size it is. As a small business owner you have responsibilities regarding health and safety in your workplace. Even if you don't have any employees, you must ensure that your business doesn't create health and safety problems for your customers and the general public.

#### **Your OH&S obligations**

Under OH&S legislation you are obliged to provide:

- safe premises
- safe machinery and materials
- safe systems of work
- information, instruction, training and supervision
- a suitable working environment and facilities.
- If you don't comply with legal requirements you can be prosecuted and fined.

Legal obligations of employers vary according to circumstances. You may wish to seek independent legal advice on what is applicable to your situation.

#### **OH&S Management and training**

The factory must have a health and safety management system.

Workers must receive appropriate health and safety training including fire training, production safety, the correct use of protective equipment and first aid for workers exposed to dangers. Workers should be retrained if there are any new techniques, materials or equipment introduced.

3. A factory with more than 300 employees must establish a production safety committee or should appoint a full time Safety Officer. If there are less than 300 employees a part-time Safety Officer should be appointed.
4. The employer must provide health care facilities for all employees and provide regular check-ups for workers in hazardous jobs.
5. Pregnant women must not work with hazardous machinery or hazardous chemicals.
6. Women who are pregnant or menstruating must not work in low temperatures or do heavy labour.
7. The employer must pay employment injury insurance premiums according to the law.
8. The main production site must ensure that any subcontracting units have suitable conditions for safe production. A special agreement with the contractor or leaseholder must be entered into, specifying the duties and functions of each party in the administration of production safety. (November 2002)
9. Each worker's contract of employment must list any possible occupational diseases associated with the job. If the employer does not do this, the worker is entitled to refuse to perform hazardous tasks, and the employer cannot dismiss the worker on these grounds.
10. Workers are allowed to stop work without penalty if the working conditions are unsafe.
11. The factory must truthfully report any production safety accidents.

## WHEN WILL NEW SAFETY ACT COME INTO FORCE?

The amendment Bill is still before the select committee and it is understood that the deadline for reporting back is 31 March 2015. Commencement may occur as follows:

(1) The following provisions come into force on the day after the date on which this Act receives the Royal assent:

- (a) subpart 3 of Part 5 (this includes powers of Safety Rep):
- (b) sections 271 to 273 (Hazardous Substances):
- (c) sections 311 and 312 and Schedule 8.

(2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates.

(3) Any provision that has not earlier been brought into force comes into force 1 July 2016.

## MANY CHANGES TO REFORM BILL

We note and advise clients that many changes have been made to the draft legislation released earlier in 2014. Few of them appear to be beneficial to clients and it is extremely disappointing that our well researched submissions relating to Safety Officers has been ignored and the role of Safety Reps is to be expanded even though the Australian States have decided to withdraw from this regime and the classic case was Dept of Labour DETIR Queensland that petitioned ACT to leave alone its highly trained and qualified Safety Officers.

We know that one of the largest employers in NZ has received a zero response from its many thousands of workers to the concept of Safety Representative. It will be interesting to see what happens if one is actually nominated or requested. Perhaps the individual will be given a very special set of work instructions in relationship to most favourable performance of the job and may then qualify for zero promotion in the future.

## SAFETY OFFICERS & SAFETY REPS

We urge all clients to continue to appoint of Safety Officers, have them qualified with bi-annual renewals of certification. We hope that the Politicians and Bureaucrats will be willing to listen to those with many years of experience. It is profoundly disturbing to record that the same people have decided to not only continue with but expand the roles of the Safety Representative in spite of the fact that for the last ten years the safety standards have not improved but have measurably deteriorated. Clients are reminded to read their Injury Prevention booklets thoroughly and particularly the appendices where the processes for annual consultative meetings are discussed in detail. Where there is a request for a Safety Rep, it would be wise to immediately discuss with our Head Office as we can arrange for our Consultant to undertake the duties on behalf of the Client. If there is to be a vote on the issue then it is suggested that the employer ensure that our Consultant is likely to be able to get a majority of the votes available.



3.

## ANNUAL REVIEW OF SAFETY STANDARDS NOW ESSENTIAL

Section 22 imposes a duty to manage risk. The duty is imposed on everyone. Firstly the risk must be eliminated and if that is not possible it must be minimised. Section 30 imposes a duty of care and this applies to every PCBU and this means every officer of every PCBU. Section 39 imposes a Duty on Officers and this involves due diligence.

- (a) to acquire, and keep up-to-date, knowledge of work health and safety matters.
- (b) to gain an understanding of the nature of the operations of the business or undertaking of the PCBU and generally of the hazards and risks associated with those operations
- (c) to ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking
- (d) to ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information
- (e) to ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act
- (f) to **verify the provision and use of the resources and processes referred to above.**

Verification means comparison of two or more [items](#), or the use of supplementary [tests](#), to ensure the [accuracy](#), correctness, or truth of the [information](#). It is our belief that this is a formal process and it means making genuine assessments and evidencing performance against what would normally be considered best practice. This means a proper report with hard evidence against a range of criteria and not just "thinking about it". It also means at an appropriate frequency and we consider that under International Standards a quarterly review would be essential. An external evaluation and detailed report would be part of the process.

## CONTROLLED BURN-OFFS ALERT - TWO WORKERS KILLED

WorkSafe NZ has been advised of a fatality in North Canterbury this week involving a controlled burn-off on a farm. This is the second farm-based controlled burn fatality reported to WorkSafe in the past two months. WorkSafe NZ is investigating both incidents.

Controlled burn-offs are an important part of the farming cycle and at this time of year, they are common farming practice. Any fire, but particularly an open-space burn-off, is very unpredictable. Wind shifts and sudden increases in wind speed are particular dangers to be aware of and plan for.

