

### HOW TO DESIGN PROPER MANAGEMENT SYSTEMS FOR OHS

Only the international standards are reliable for the purpose of design and production of safety or compliance systems that will work in court for legal defence. There are several international standards that need to be consider for top results and they are –

- OSHA 200 of USA for 200 points to be measured;
- BS OHSAS ISO 18001 of Britain and Europe.
- **AS NZS ISO 45001 2016 - Australia NZ (latest)**
- AS 3806 2006 how to make a Management System
- AS NZS 4360 or ISO 31001 Risk Management
- NZS 4801 2001 Health and Safety at Work

There are many home baked system specifications from around the world and they have some interesting features. The main thing is to determine if what is produced will work in Court - yes or no. 99% of the home baked variety will not stop a prosecution in NZ.

The cost of getting your system fixed or benchmarked to a viable status will not be great if you let us help you make some simple yet serious changes. You will need to have Safety Officer/s appointed and qualified. You will need to have a 30 page set of JTA or job task analysis. You will need to have an annual external audit to check on risk rating.

Best of all the methods that we incorporate mean that you can get major discounts from ACC under experience rating bonus and we are the only team in NZ that was able to persuade the former Minister to get Officials to refund up to 50% back to good sites. Sites that also do Fire Regulations are likely to get a similar reduction for insurance premiums.



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| All information in this newsletter is to the best of our knowledge true and accurate. No liability is assumed by the author, or publisher, for any losses suffered by any person relying directly or indirectly upon this newsletter. Please call Head Office for advice. |
| John 11:25-26 <a href="#">Jesus said to her, "I am the resurrection and the life. He who believes in Me will live, even though he dies. &amp; everyone who lives and believes in Me will never die.</a>   |

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## News & views from Summit Systems July 2019



### APPEALS TO HIGH COURT - SUCCESSFUL IN SOME CASES

A Waihi gold mining company and a logging company have had their work safety penalties reduced after appealing to the High Court in Tauranga.

Although Oceana Gold was successful in its appeal, it did not seek any repayment, and it had made additional \$650,000 payments to the family of the victim who died. High Court Justice Geoffrey Venning's ruling focused on the reparations - amounts eligible under health and safety legislation.

In 2018 Oceana Gold had been ordered by the District Court to pay a fine of \$378,000, and \$350,000 for loss of earnings to the family of Tipiwai Stainton, 29, who died in an accident at the mine. But High Court justice Venning said the award had failed to account for \$200,000 earlier paid to Stainton's partner and child by Oceana. Justice Venning said that using the calculations required in legislation reduced the shortfall of lost earnings, until Stainton's child reached 18, to \$121,275. He said that taking account of the insurance and voluntary payments made by Oceana, and ACC payments, the reparation order of \$350,000 was excessive.

"At the most, reparation of \$220,000 was appropriate... The order for reparation of \$350,000 is set aside. As Oceana does not seek repayment, I make an order... that Oceana is not entitled to the return of the payments made."

The additional \$650,000 paid by Oceana was made up of \$50,000 to Stainton's partner, \$150,000 in trust for his child, and further payments of \$450,000 under an insurance policy taken out by Oceana for Stainton's and his family's benefit.



## 2.

### **COMPLIANCE CERTIFIER - REGISTRATIONS**

A compliance certifier is an individual or non-individual (a body corporate) authorised by WorkSafe to issue compliance certificates. A compliance certificate confirms that an individual, site and/or equipment is compliant with the Health and Safety at Work (Hazardous Substances) Regulations 2017.

To be granted authorisation as a compliance certifier, you are required to demonstrate you have sufficient qualifications and experience with hazardous substances and/or associated equipment and that you are a fit and proper person.

See [Part 6 of the Health and Safety at Work \(Hazardous Substances\) Regs 2017](#).

Authorisation as a compliance certifier is specific to the person's knowledge and experience. This is set out in the scope of authorisation, which specifies the types of compliance certificates the compliance certifier can issue.

An authorisation as a compliance certifier can be granted for up to 5 years. All authorised compliance certifiers are listed on the [register of compliance certifiers](#).

WorkSafe monitors the performance of compliance certifiers to ensure they comply with the regulations and carry out their functions in an objective manner that promotes safety.

### **CROPP LOGGING APPEAL TO HIGH COURT - REDUCTIONS**

In the case of Cropp Logging, the District Court had previously fined the firm \$100,000 and ordered it to pay reparation of \$80,000 after employee Aaron Sloan, 45, was badly injured. But High Court Justice Venning said the District Court had taken into account inflation, which was irrelevant, and had not stated how much of the reparation was for injury as opposed to emotional harm.

After taking into account ACC entitlements and medical costs Justice Venning reduced the \$80,000 reparations to \$57,000. Sloan's injuries had required surgery on internal organs, his pelvis was broken in four places, his hip crushed and shattered, his left femur fractured, and his lower spine. He expects to be left with a severe limp, and his relationship with his family had been affected.



## 3.

### **GAS AND ELECTRICITY ACCIDENTS - NOTIFICATIONS**

The Gas and Electricity Acts, and the Health and Safety in Employment Act, each contain requirements to report certain accidents and incidents. A **notifiable** electrical or gas accident is one involving gas or electricity that results in serious injury or death and/or significant damage to property. A notifiable gas accident may cause fire and/or an explosion and/or gas poisoning. A notifiable electrical accident may be an electric shock. Notifiable electrical and gas accidents are defined in [section 16 of the Electricity Act 1992](#) and [section 17 of the Gas Act 1992](#).

#### **Workplace accident**

If an electricity or gas accident in a workplace results in serious harm to any person (including a member of the public), or significant property damage, please use the [Notify WorkSafe form](#) or phone 0800 030 040.

### **WORKPLACE DEATHS – PROCEDURES AND POLICIES**

WorkSafe inspectors and the New Zealand Police may both be involved in the early stages of the investigation. The Police investigate whether an offence has been committed under the laws the Police are responsible for, while WorkSafe investigate whether New Zealand's health and safety laws have been broken.

During the investigation WorkSafe will try to find out:

- what led to the accident
- what, if anything, could have been done to prevent it
- what, if anything, should be done to prevent a similar accident
- whether anyone involved in this accident broke the law, and
- whether any action should be taken against them.

As part of their role, our inspectors will (if possible) examine the scene of the accident, interview people who were involved, and review documents that relate to the accident.

