

OCCUPATIONAL SAFETY IN THE STATES OF AUSTRALIA

According to the Australian Bureau of Statistics (ABS), the number of people who endured a work-related injury or illness declined by almost 20% in 2009-10. During that year, nearly 640,700 people (5.3% of the 12 million people employed at some time in the last 12 months) experienced a work related injury or illness, compared with 690,000 (6.4%) in 2005-06, a decline of 17%.

Men were more likely to be injured than women. Of the people who worked during the last 12 months, men experienced a work related injury rate of 55 per 1,000 (down from 74 per 1,000 in 2005-06). Women who worked in the last 12 months had a work-related injury rate of 51 per 1,000 (same rate as in 2005-06). More than half of the people who experienced a work-related injury or illness were men (56%).

SafeWork Australia has taken the latest step in the harmonization of Australia's occupational safety and health (OSH) laws. The model work health and safety (WHS) regulations have been released for public comment. As part of the release, Safe Work Australia has also provided draft model codes of practice. At more than 550 pages, the draft model regulations defy easy analysis, and more commentary can be expected as its implications are better understood. What is clear at this stage is that employers should seize the opportunity to comment and seek clarification of how the new model regime will work in practice and how it fits within appropriate risk management procedures. The draft model WHS regulations cover recordkeeping requirements, representation and participation, general workplace management, hazardous work, plant and structures, construction, hazardous chemicals, major hazard facilities and a review of decisions under WHS regulations, including those related to licenses, accreditation and exemptions. The chapter on mines has not been released with this draft. The policy is still in development, and there is no timeframe for its release, although the issues paper says it will be available for public comment. Twelve draft model codes of practice have also been released for public comment.

Consultant Name _____

Telephone/Fax _____

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HEAD OFFICE ADDRESS: 29 Hands Road, Riccarton, Christchurch. 8024
TELEPHONE (03) 338 8820, **FACSIMILE** (03) 338 8353 **MOB** 021 070 9141
EMAIL: safetynz@xtra.co.nz **WEB** www.summitsystems.co.nz **FOR ARCHIVED NEWS** go to website, click on newsletters. For Contractors and Trades Training Academy phone (03) 335 0404. Its website is www.ctta.co.nz



News & views from Summit Autumn 2011



GREETINGS FROM CHRISTCHURCH – CAPITAL OF EARTHQUAKES

Emergency management and disaster recovery systems will become much more well known in the future. The Civil Defence Act requires that large organisations and Govt Departments must have an emergency plan in place pursuant to AS/NZS 4360 or emergency management planning.

It is scientifically provable that about 50% of companies that do not have high quality disaster recovery plans in place will in the event of an emergency be out of business for ever within 6 months of the disaster.

Currently the law does not apply to small companies and therefore it is likely that at least 50% of small companies will go out of business following the 2011/2011 earthquakes in Christchurch City.

Incidentally we were confidentially informed by one of our consultants that experts at a University predicted in late September that within four months we would receive a major earthquake surpassing the one of September and it would be directly below Christchurch City.

WE ARE MOVING OUR HEAD OFFICE TO WHANGAREI

We are regrettably leaving 29 Hands Road and will be relocating to 77 Tarewa Road Morningside Whangarei about 27 June 2011. We suffered significant damage at Hands Road in the recent earthquakes. We lost records, machinery and furniture. More importantly, we lost some of our staff not to mention many central city customers who customarily had building WOF audits but now their buildings are demolished or due to be demolished.

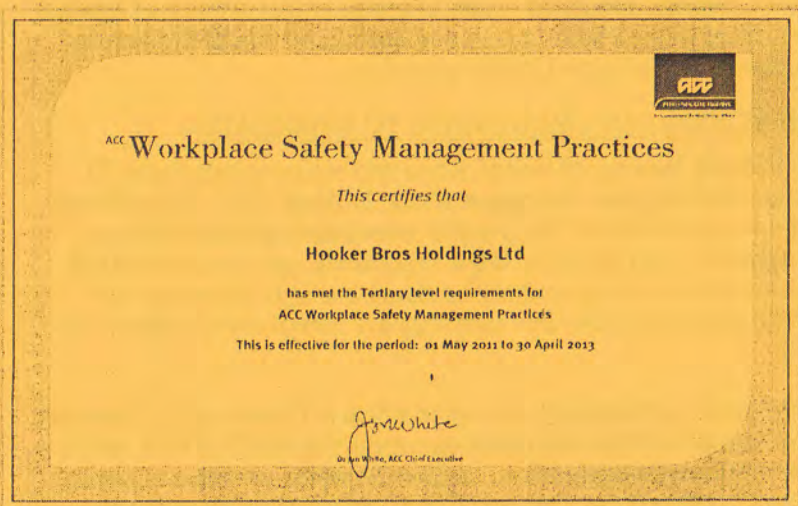
We will endeavour to maintain a one room office in Christchurch. If we can achieve this in the next few days then our remaining staff 1.5 FTE will be able to operate from such an office. Within 2 months we hope to set up proper offices in Whangarei. We will try and maintain services for all customers as best we can in the circumstances.

HOW OUR CONTRACT/LICENCE WORKS IN PRACTICE

Many or perhaps most clients would like to buy a management system and then quit our relationship entirely - unless of course they get into trouble and want to be rescued. The buy and walk away option is available but it is twice the price and this takes into account the fact that we carry residual risk when we sell a management that is supposed to deliver first class results.

Under our normal licence agreement there are three ongoing elements which together attract an annual fee which is usually about one third of the original set up of the system and implementation. Nearly all licences have the annual fee levied as six-monthly instalments.

- (a) About 33% of the annual fee is system review for updating (according to the latest legislation) which may be required to keep the management system current.
- (b) Another 33% is annual audit and retraining as may be required. Some customers try and prevent the annual audit in the belief that they can escape payment of the six-monthly fees.
- (c) Another 33% is access to our hotline for free help and advice in the event of an accident, OSH visit, ACC loading or other Human Resource inquiries.



OCCUPATIONAL SAFETY IN THE PEOPLE'S REPUBLIC OF CHINA

Strict Civil Liability.

Under Chinese environmental law, a responsible party (individual or legal person) is liable for damages caused by environmental pollution and other hazards, and it should bear civil liability of compensation for losses or remediation. Damages can stem from harm to individuals or property.

Several Chinese laws have adopted a strict liability approach ("liability without fault") to determine environmental liability. These include the Law of the People's Republic of China on Environmental Protection (1989), the Law of the People's Republic of China on Marine Environmental Protection, Law of the People's Republic of China on the Prevention and Control of Air Pollution and Law of the People's Republic of China on Prevention and Control of Water Pollution. Under such provisions, the offender is liable for compensation to victims wherever damage is proven, without the prerequisite of the offender's fault or violation of law. For environmental tort, "inversion of onus probandi" applies as the principle for determining the causality between offense and damage. Furthermore, the offender is liable for the full cost of environmental pollution, plus additional compensation in the case of psychological damages.

China is currently working with the British on implementation guidance and sharing [of] The State Administration of Work Safety (SAWS) SAWS is China's regulatory body for workplace safety and health, comparable to OSH and HSE in the U.K.

