

4.

WORKSAFE NZ v HOBSON CONSTRUCTION FINE \$180,000

On three consecutive dates following the issue of a prohibition notice to Hobson Construction Limited preventing work being conducted from the second level top plate of the residential building until fall protection was in place, workers engaged in work from that second level top plate without any fall protection in place.

Safety lessons learned: Ensured that appropriate fall protection controls were in place before commencing work from the second level top plate. Ensured that workers had safe access to the second level top plate. Ensured that workers had adequate working platforms and did not use safety nets as a working platform.

How does WorkSafe make its prosecution decisions?

WorkSafe makes prosecution decisions in accordance with the [Solicitor General's Prosecution Guidelines](#).

The Guidelines have a two part test for prosecution: the evidential test and the public interest test. An offence that meets the evidential test might not be prosecuted if WorkSafe decides prosecution is not in the public interest. Private litigants are not constrained by the Guidelines.

For more information about how prosecution decisions are made see [our Prosecution Policy](#).



Summit Manager Name _____

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Isa 53 kjv. ⁷He was oppressed, and he was afflicted, yet he opened not his mouth: he is brought as a lamb to the slaughter, and as a sheep before her shearers is dumb, so he openeth not his mouth. ⁸He was taken from prison and from judgment: and who shall declare his generation? for he was cut off out of the land of the living: for the transgression of my people was he stricken. ⁹And he made his grave with the wicked, and with the rich in his death; because he had done no violence, neither was any deceit in his mouth.

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News, Views, Solutions
from Summit Systems
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COVID TO BECOME EXHAUSTED AFTER HERD IMMUNITY

As indicated in our February newsletter, the Omicron B strain is now worldwide and hitting NZ at the rate of 25,000 daily.

It is my opinion that if we had kept all children at school we would now be in a much better position and would not now be getting thrashed by Omicron B.

My suggestion is to on onto the internet and dial up oral iodine and ask for articles that are both scientific and abstracts and you will find about 100 references. It is believed that the simplest way to stop the virus is to put 4 drops of iodine in the palm of your left hand and then use your little finger of right hand to dip into the iodine and poke it up both nostrils as far as you can.

It is further believed that this should work within 90 seconds but more likely to be 15 to 90 seconds. In plain language you can knock out the virus yourself.

COVID SUBSIDY PROGRAMME MARCH 2022

We find that many sites are going into extreme close down status and avoiding all contact with other entities. This is causing the equivalent of a mini depression and this will probably last for 2-4 months depending on how long the Omicron will prevail against us.

A subsidy programme is available at present from IRD and you will need to activate "my IR".

It appears to be \$4000 per two week period and \$400 for each full time equivalent worker or that is what we think. The \$4000 will be taxable.



2.

PRIVATE PROSECUTIONS – WHO CAN BRING ONE?

Anyone can bring a private prosecution – you do not have to be a victim or a victim's family member. Under the Act you are entitled to bring a private prosecution in relation to an offence if: neither WorkSafe nor any regulatory agency has taken or intends to take any action, and a person has received notification of this from WorkSafe.

If you would like to receive a notification, you must first inform WorkSafe of your interest in knowing of any action taken over the particular incident. We do not advise any external party, such as the Person Conducting the Business or Undertaking (PCBU), that you have expressed interest. You can also bring a private prosecution with leave of the Court.

WHEN DO I NEED TO BRING A PRIVATE PROSECUTION BY?

There are time limitations set out in the Act. It must be brought within the latest of the following:

- Two years after the date on which the incident, situation or set of circumstances to which the offence relates first become known to WorkSafe or ought reasonably to have become known to WorkSafe.
- Six months after the date on which a Coroner completes and signs a Certificate of Findings if it appears from the Certificate of Findings – or the proceeding of an inquiry – that an offence has been committed under the Act.
- Three months after the expiry date of an extension granted to WorkSafe to make a decision to prosecute.

INSURANCES FOR REPARATIONS AND COSTS

It is unlawful to take out insurance against the cost of fines (section 29). It is lawful to insure for lawyer costs, court costs or reparations / compensation to the victim. Legal costs (Lawyer and Court) could come to more than \$20k.



3.

SOUTHERN DISTRICT HEALTH BOARD FINED \$225,000

Safety lessons learned:

Ensured that a comprehensive risk assessment was carried out prior to work on the x-ray machine commencing;

Ensured that the manufacturer's manual for the X-Ray machine was provided as part of its tender process.

Ensured that suitably qualified and competent persons undertook the work.

The SDHB engaged the victim's company to remove an X-Ray machine in the Dunedin Hospital, and the victim's company then sub-contracted the removal to Fire & Mech Contracting Limited (Second Defendant).

On 24 May 2017, a Fire & Mech engineer asked for the victim's assistance in cutting wire ropes to remove the X-Ray machine. The victim cut a second wire rope attached to the machine, which caused a spring-loaded plate to crush his forearm. The victim suffered fractured radius and ulna bones and extensive nerve, tendon and muscle damage.

FIRE AND MECH CONTRACTING LTD \$247,500

Safety lessons learned:

Ensured that an adequate risk assessment was carried out prior to the removal of the X-Ray machine.

Ensured that the PCBU had sufficient information about the machine before work began to remove the x-ray machine (or refused to carry out the work).

Ensured the work to remove the X-Ray machine was carried out in a safe way.

DREAMWORKS CONSTRUCTION

Industry: Building and construction

Fine \$100,000.

Date of offence:

On or about 9 May 2019

Facts in brief:

The Defendant, a construction company, directed two of its workers to erect a scaffold at its construction site in Te Atatu South. The workers erected a single lift scaffold which was used by them to construct a block wall. A subsequent investigation by WorkSafe identified significant deficiencies in the scaffold including that there were no guard rails and the scaffold was footed on concrete blocks.

