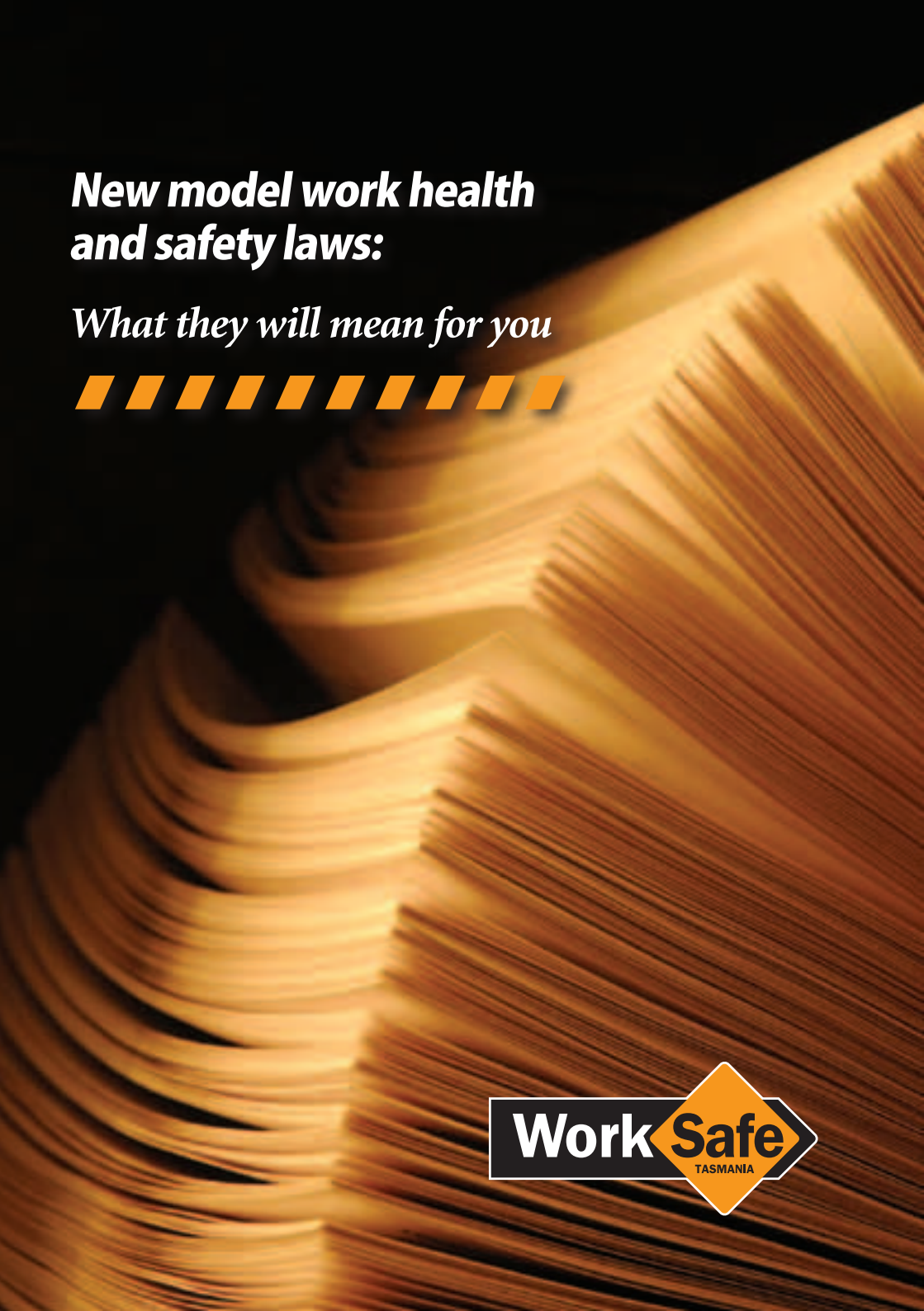
New model work health and safety laws:

What they will mean for you



Important Note:

This information is for guidance only and is not to be taken as an expression of the law. It should be read in conjunction with the draft model Work Health and Safety Act and the model Work Health and Safety Regulations and any other relevant legislation. Copies can be viewed at www.safeworkaustralia.gov.au

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New model work health and safety laws: What they will mean for you **looks at the new model WHS legislation and its provisions for work health and safety (WHS), which will come into effect in Tasmania from 1 January 2013.**

This guide covers:

- duty of care
- consultation changes
- health and safety representatives
- discriminatory conduct
- entry permit holders
- offences and penalties
- the regulator and inspectors
- review of decisions
- incident notification

Duty of care

Who is a person conducting a business or undertaking?

The model Act deliberately does not use the term 'employer' — recognising that there are many different types of working relationships in the modern workplace, not just the traditional employer/employee relationship. For that reason it uses the term 'person conducting a business or undertaking' (PCBU).

While this is a significant change in terminology, it is not a significant change from the current Tasmanian Act, which already prescribes a wide duty of care for employers towards contractors and visitors to their workplace.

It's important to note that the term 'person' is used in the legal context. A 'person' can be an actual person (such as a sole trader) or it can be an organisation.

If an individual or an organisation is currently an employer, they will be a PCBU under the model Act.

What is a business or undertaking?

The model Act doesn't specifically define these terms, but says a person conducts a business or undertaking:

- whether it is conducted alone or together with others
- whether or not it is conducted for profit or gain.

Whether a person conducts a business or undertaking will be determined in the circumstances of each case. However, the usual meanings are:

- business enterprises are usually conducted with a view to making a profit and have a degree of organisation, system and continuity
- undertakings may have elements of organisation, systems, and possibly continuity, but are usually not profit-making or commercial in nature.

What is not a business or undertaking?

Under the model Act, a person does not conduct a business or undertaking if it is a volunteer association.

A volunteer association is defined as a group of volunteers who work together for one or more community purposes, where none of the volunteers employs any person to carry out work for the association.

The term 'community purposes' isn't defined in the model Act, but it is intended to cover:

- philanthropic or benevolent purposes, including the promotion of art, culture, science, religion, education, medicine or charity
- sporting or recreational purposes.

If a volunteer association:

- employs someone to carry out work for the association (for example, a sporting club that employs bar and restaurant staff): then the association will not be a volunteer association
- hires a contractor (who is not an employee) on an ad hoc or irregular basis (for example, someone to audit accounts or drive a bus on a day trip): then the association remains a volunteer association.

Who is a worker?

Similar to the reasoning behind using the term 'PCBU', the model Act doesn't refer to 'employees'. Instead it uses 'workers' — again, to convey that all contractual relationships at work are covered.

For example, a PCBU that engages labour through a labour hire service will have the same duty of care to them as they do for the people they have engaged as employees.

What are workers' duties?

In practice, this is not a change for Tasmania.

Workers have very similar duties now and into the future with the new model Act:

- to take reasonable care of their own health and safety
- to take reasonable care that their conduct does not affect others
- to comply as far as reasonably able with instructions
- to co-operate with reasonable notified policies and procedures.

Who is an officer?

This is a very significant change which every PCBU needs to understand and take active steps to ensure compliance.

PCBUs are operated (governed) by individuals who can, to a high degree, influence the specific activities and behaviours that determine the success or failure of WHS initiatives, and compliance by the PCBU with WHS laws.

Their decisions and behaviour strongly influence the culture of the business or undertaking and accountability within it. They make important decisions on the resources and policies that will be made available that may be relevant to WHS.

Section 27 of the model Act accordingly places a WHS duty on these people — who are described as officers — to require them to take steps that will support a health and safety culture, accountability and the allocation of resources and policies.

Officers are required to proactively exercise due diligence through the following actions:

1. *Acquiring and keeping up-to-date their knowledge of WHS matters*

This includes what the model Act requires, and the strategies and processes for removing or reducing WHS hazards and risks so far as is reasonably practicable.

2. *Gaining 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*

This does not mean each hazard and risk, but those that are generally associated with the core activities of the PCBU.

3. *Ensuring that the PCBU has available for use, and uses, appropriate resources and processes to remove or reduce risks to health and safety from work carried out as part of the conduct of the business or undertaking*

This requires an understanding of what is needed for WHS, making decisions about procedures and resources and ensuring that they are used.

4. *Ensuring that the PCBU has appropriate processes for receiving and considering information on incidents, hazards and risks and responding in a timely way to that information*

This should include reporting incidents and emerging hazards and risks, identifying if any further action is required to remove or reduce the hazards or risks so far as is reasonably practicable, and ensuring the PCBU takes reasonably practicable steps to achieve this.

5. *Ensuring that the PCBU has, and implements, processes for complying with any duty or obligation it has under this Act*

Examples include:

- ensuring notifiable incidents are reported to Workplace Standards
- consulting with workers
- complying with notices issued under the model Act
- providing training and instruction to workers about WHS
- ensuring that health and safety representatives receive the training they are entitled to
- complying with licensing and registration obligations
- ensuring union right of entry requirements.

6. *Verify the provision and use of the resources and processes referred to in points 3, 4 and 5 above*

This means actively verifying, through auditing or other reporting processes, that the resources and processes are in place and are being used.

What about responsible officers and accountable persons?

These terms are very important in the current legislation — but disappear under the model Act.

If your organisation has built its management systems around these duty holders, you'll need to review your

systems and decide if changes are required.

However, the absence of the terms in the model Act doesn't necessarily mean you need to make wholesale changes to your systems. For example, many organisations have put in place substantial training programs for front line supervisors which emphasis their responsibilities for WHS as 'accountable persons'. It would make little sense to abandon these programs just because the Act has changed. As workers of the PCBU, front line supervisors will have a duty to take reasonable care. "Reasonable care" includes ensuring that the health and safety policies and procedures of the PCBU are applied in areas under their supervsion. They will continue to require training to ensure they understand those responsibilities and are competent in their application.

What's the difference between officer and responsible officer?

It's also important to distinguish 'officer' under the model Act from the soon-to-disappear 'responsible officer' under the current Tasmanian Act. While there are some similarities, there are also some significant differences.

Responsible officers are appointed and perform the duties of the employer. Some organisations have appointed multiple responsible officers whereas others have simply appointed the senior employee in Tasmania.

A common criticism of 'responsible officer' is that some employers have mistakenly used the appointment to attempt to abrogate their own responsibility, or have not given the responsible officer sufficient authority or resources.

Officers under the model Act are not appointed. Whether someone is an officer or not will depend on whether they make, or participate in making, decisions that affect the whole or a substantial part of the PCBU. There is no opting out of the duty.

What's 'reasonably practicable' mean?

The duty of care will be qualified by the test of reasonably practicable. This isn't a change from the current Tasmanian Act which also uses this qualifier (although the model Act does set out the meaning of the term; currently in Tasmania we rely on legal precedents for a definition).

Under the model Act, reasonably practicable means that which is (or was at a particular time) reasonably able to be done to ensure WHS, taking into account and weighing up all relevant matters including:

- the likelihood of the hazard or the risk concerned occurring
- the degree of harm that might result from the hazard or the risk
- what the person concerned knows (or ought reasonably to know) about the hazard or risk and about ways of removing or reducing the risk
- the availability and suitability of ways to remove or reduce the risk
- after assessing the extent of the risk and the available ways of removing or reducing the risk, the cost associated with available ways of removing or reducing the risk, including whether the cost is grossly disproportionate to the risk.

Consultation changes

Consultation is a hallmark of all modern WHS legislation. The model Act is no exception, but one of the key changes for Tasmania is that Sections 46 to 49 of the model Act set out precisely what consultation means and when it is required.

For any Tasmanian organisation that currently embraces consultation with its employees, this won't be a major change. However, even those organisations should note that consultation extends to all workers of the PCBU — not just to employees.

When is consultation required?

Consultation is required in any of the following matters:

- identifying hazards and assessing risks to health and safety arising from the work carried out (or to be carried out) by the business or undertaking
- making decisions about ways to remove or reduce those risks
- making decisions about the adequacy of facilities for the welfare of workers
- proposing changes that may affect the health or safety of workers
- making decisions about the procedures for consulting with workers, resolving health and safety issues at the workplace, monitoring the health of workers, monitoring the conditions at any workplace under the management or control of the PCBU, and/or providing information and training for workers.

What does consultation cover?

The model Act explains consultation as:

- consultation is sharing relevant information about any matter (as outlined above) with workers
- workers are to be given reasonable opportunity to express their views, to raise OHS issues about any matter and contribute to the decision making process relating to the matter
- the views of workers are taken into account by the PCBU
- anyone consulted is to be advised of the outcome of the consultations in a timely manner.

Health and safety representatives

The basics

If you're currently an employee safety representative (ESR), your title changes to health and safety representative (HSR).

Your term of office is three years, which is unchanged from the current Act.

What's the transition from one act to the next?

Any existing Tasmanian ESR will be appointed as an HSR under the model Act for the duration of their ESR term.

If you've been trained under the current Tasmanian Act, you'll be able to exercise the full powers of an HSR under the model Act for 12 months from the start of the new Act. After 12 months, you won't be able to exercise powers unless you've been trained under the model Act.

How are work groups determined?

The current Tasmanian Act only provides for one ESR per workplace and there must be 10 or more employees (although in practice many workplaces have agreed to have more than one).

The model Act stipulates no minimum number of workers and requires that the PCBU and workers first reach agreement on the composition of work groups to be represented by an HSR. Each workgroup may also include a Deputy HSR, which is a new concept for Tasmania.

If agreement can't be reached on workgroups, then a Workplace Standards inspector may be appointed to help in the negotiations.

Workgroups can cover multiple businesses. A good example where this may occur is in the case of a shopping centre where there are many PCBUs, each with small numbers of workers.

The PCBU must keep an up to date list of HSRs for the workplace, and display this list at the principal place of business and any other workplace that is appropriate.

What is the liability of an HSR?

As an HSR, you are not personally liable for anything done (or omitted to be done) in good faith:

- in exercising a power or performing a function under the Act, or
- in the reasonable belief that the thing was done (or omitted to be done) in exercising a power or performing a function under the Act.

The current Tasmanian act is silent on this issue.

What about provisional improvement notices?

As an HSR, you can issue a provisional improvement notice (PIN) if you have reason to believe that a person is contravening a provision of the Act, or has contravened a provision of this Act in circumstances that make it likely that the contravention will continue or be repeated.

You must first have consulted with the person.

A PIN can require the person to:

- remedy the contravention, or
- prevent a likely contravention from occurring, or
- remedy the things or operations causing the contravention or likely contravention.

ESRs have a similar power under the current regulation 36 (although the term provisional improvement notice is not used). It should be noted that regulation 36 requires the ESR to provide a copy of the direction to the Director of Industry Safety (in Workplace Standards). No similar requirement exists under the model Act.

Under the model Act, a person receiving the PIN must, as soon as practicable, display a copy of the notice in a prominent place at or near the workplace where work is being carried out that is affected by the notice. No similar requirement exits under the current Tasmanian Act.

Directions to cease unsafe work

An HSR may direct a worker who is in a workgroup (represented by that HSR) to cease work, if the HSR has a reasonable concern that to carry out the work would expose the worker to a serious risk to the worker's health or safety, emanating from an immediate or imminent exposure to a hazard.

You must have first consulted with the PCBU and sought to resolve the dispute. However, this requirement doesn't apply if the risk is so serious and immediate or imminent that it's not reasonable to consult before giving the direction. In any such case, you must consult with the PCBU as soon as is practicable after giving the direction.

ESRs have a somewhat similar power under the existing regulation 37. The major difference is that they can only place the requirement on the accountable person for the workplace or if consultation is not possible, the ESR may advise the employee that they may cease work under section 17 of the Act.

Is training required?

Unlike the current Tasmanian requirement, HSR training is not mandatory under the model act. However, an HSR can only exercise their powers to issue PINs and direct unsafe work to stop if they have been trained.

HSRs may request training, and the PCBU is then obliged to facilitate it within three months.

Initial HSR training is a five day course conducted by an approved provider. The HSR is entitled to one day of refresher training each year.

Safety committees

A PCBU must establish a safety committee within two months of a request coming from an HSR or from five or more workers at a workplace (note that it is five or more workers at a workplace, which, as outlined above, now includes contractors of the PCBU).

This is a substantial change from the current Tasmanian law which places the requirement on the employer only where there are more than 20 employees at the workplaces and the majority of those employees request the establishment of a safety committee.

The constitution of the safety committee must be agreed. If agreement can't be reached, then a Workplace Standards inspector can be appointed to decide on the issues in dispute.

At least 50% of the members of a committee must be workers who are not nominated by the PCBU.

HSRs have the right to be member of the committee (but only if they consent).

Issue resolution

Unlike the current Tasmanian Act, the model Act sets out comprehensive procedures for resolving disputes over WHS issues.

These procedures include providing for a Workplace Standards inspector to be appointed to assist and ultimately resolve the matter through using their compliance powers. Disputed PINs and directions to cease unsafe work are also dealt with under these procedures.

What rights does a worker have to cease unsafe work?

Under Section 84 of the model Act, a worker may cease or refuse to carry out work if the worker has a reasonable concern that to carry out the work would expose them to a serious risk to their health or safety, emanating from an immediate or imminent exposure to a hazard.

The issue resolution procedure (above) applies if there is a dispute over any such issue.

A similar right exists under Section 17 of the current Tasmanian Act. However, there is currently no defined process for resolving disputes when a worker exercises this right.

Discriminatory conduct

The current Tasmanian Act has relatively simple provisions around discrimination against employees.

In contrast, the model Act has considerably more detailed and wider provisions. Section 104 of the model Act prohibits a person from 'engaging in discriminatory conduct' for a prohibited reason.

This allows workers, prospective workers and others to perform legitimate safety-related functions or activities without fear of reprisal.

This protects all workers of a PCBU, not just employees, so includes, for example, labour hire employees.

This also applies to commercial arrangements, protecting a person from being refused a contract or from having their contract terminated because of their legitimate safety-related activities.

No such protection currently exists.

What conduct does the model Act define as discriminatory?

The types of conduct that are discriminatory involve treating someone to their disadvantage; that is:

- dismissing a worker
- terminating a worker's contract
- putting a worker to their detriment in their engagement, or altering the position of a worker to their detriment
- refusing to engage a prospective worker, or offering a prospective worker less favourable terms of engagement
- terminating a commercial arrangement or refusing/failing to enter into a commercial arrangement.

What are the prohibited reasons for the discriminatory conduct?

These reasons include that the person:

- is/has been/proposes to be an elected health and safety representative (HSR) or another safety role, such as a management representative, a member of a health and safety committee, or a representative of workers in consultations/ discussions
- is exercising/has exercised/intends to exercise powers or perform functions under the model Act at all (for example, an HSR issuing a provisional improvement notice) or in a particular way (for example, what they put in the notice)
- is refraining/has refrained/intends to refrain from exercising a power
- is performing a function under the model Act, at all or in a particular way
- is assisting/has assisted/intends to assist a person exercising a power under the model Act, including providing information to them (for example,

providing information to an HSR or an inspector investigating an incident).

It can also include if the person raises/has raised/proposes to raise an issue or concern about WHS with:

- a PCBU
- an inspector
- a WHS entry permit holder (that is, a union official with the right to enter a workplace)
- an HSR, health and safety committee member, another worker, or any other person with a duty under the model Act relating to the particular matter; or who is exercising a power or performing a function under the model Act
- a person who is/has been/intends to be involved in resolving a WHS issue under the model Act
- a person who is taking/has taken/proposes to take action to seek compliance with the model Act (for example, a contractor or labour hire supplier who is trying to persuade another PCBU to consult, co-operate and co-ordinate activities with them, as required by section 46 of the model Act).

Entry permit holders

The term 'entry permit holder' replaces the current term 'OHS access card holder'.

OHS access card provisions are quite new in Tasmania (they only began in 2010). If you're familiar with the current provisions, then you'll find the principles are very similar under the model Act.

However, there are changes, with the most significant ones around the reasons for entry by an entry permit holder.

The model Act refers to entry to inquire into suspected contraventions, and requires the entry permit holder to give 'reasonably practicable' notice. The current Tasmanian Act is arguably wider than the model Act as it refers to enquiring into or facilitating the resolution of a WHS matter that has arisen at the workplace and requires 'reasonable' notice.

The model Act also provides for entry into workplaces to inspect records or information, and entry to consult and advise workers. The comparable provision in the current Tasmanian Act allows entry for discussing WHS issues (relevant to the workplace) with workers during a meal break or other break in work.

Under both Acts, a minimum 24 hours notice is required for such entries. However, under the model Act the entry notice must be given no more than 14 days before entry.

Offences and penalties

Categories of offences

Unlike the current Tasmanian Act, the model Act defines three categories of duty offences according to severity of the offence (see table at right).

In contrast, the current maximum Tasmanian penalties are $195,000 for corporations or $65,000 for individuals.

Of particular significance is the new concept of "reckless conduct" in Category 1 offences. Conduct is "reckless" if there is foresight on the part of an accused of the probable consequences of their actions and they display indifference as to whether or not those consequences occur.

A similar concept exists in the current Victorian act – "reckless endangerment". The following Victorian prosecutions offer some insight into how the courts will interpret reckless conduct.

Offence Category	Offence Description	Maximum Penalty
Category 1	Reckless conduct that exposes an individual to whom a duty is owed to a risk of death or serious injury/illness	Corporation: $3m Individual as a PCBU or an officer: $600,000 / 5 years jail Other individuals : $300,000 / 5 years jail
Category 2	Failure to comply with health and safety duty that exposes an individual to a risk of death or serious injury/ illness.	Corporation: $1.5m Individual as a PCBU or an officer: $300,000 Other individuals: $150,000
Category 3	Failure to comply with health and safety duty	Corporation: $500,000 Individual as a PCBU or an officer: $100,000 Other individuals: $50,000

Case 1: company fined $750,000

A worker had held a licence to drive a Mack truck for little more than two weeks when he was killed in a workplace incident. Those two weeks involved only eleven hours of driving lessons.

He was instructed to drive an overweight truck in off-road conditions on a slope exceeding 10 degrees.

Instead of reversing onto a drilling pad located on top of a steep hill, the truck gained speed and rolled over at the bottom of the hill. The worker was thrown from the truck's cabin and crushed to death beneath the truck.

The worker was not trained to understand gear selection for this terrain. He hadn't undergone an induction or safety training, or had the chance to build up his heavy vehicle skills under supervision.

It was also established that the truck's primary brake and the emergency hand brake weren't working, the secondary brake had been disconnected, and the truck hadn't been serviced for over six months.

Case 2: company fined $250,000

A printer had three fingers on his left hand crushed after it became trapped between the rollers of an inadequately guarded printing press.

The court heard that it was common practice for workers to bypass the guarding on the printing press in order to operate and clean it. This wasn't just a one-off issue — workers had bypassed guarding on the press for years, often to meet production pressures. Workers had never seen any written instructions on how to safely operate or clean the press.

Management had emailed staff not to override guarding, but there was nothing in place to make sure these instructions were enforced.

While a range of options were available to the company, including fixing permanent guards and properly supervising staff, it did nothing until this serious injury.

Other key issues

Only public officials have the right to bring prosecutions, but anyone may ask the regulator to prosecute in Category 1 and 2 matters. No such right currently exists under WHS laws in Tasmania.

Prosecutions must be launched within two years after the offence first comes to the notice of the regulator, or within one year of a coronial finding or if fresh evidence is discovered in a Category 1 offence. The current situation is that a prosecution must be launched within 12 months of the offence coming to an inspector's attention.

Enforceable undertakings will continue to exist under the model Act. There will also be a range of new sentencing options, including orders to undertake training or to be exposed to adverse publicity/media coverage.

The regulator and inspectors

Role of the regulator

The model Act extensively uses the term 'regulator', which is expected to be a State Service officer appointed by the Head of the State Service Agency that administers the model Act (in Tasmania, the Department of Justice). The current term 'Director of Industry Safety' is expected to disappear.

The functions of the regulator include (but are not limited to):

- monitoring and enforcing compliance with this Act
- providing advice and information on WHS to duty holders under this Act and to the community
- fostering a co-operative, consultative relationship between duty holders and the people they owe duties to, and their representatives for WHS matters
- conducting and defending proceedings under this Act before a court or tribunal.

Role of inspectors

Essentially there is no change to the powers, protections and accountability of inspectors. They'll continue to have the power to:

- enter any place they reasonably suspect to be a workplace
- require people to answer questions
- issue warnings about self incrimination
- seize anything if they have a reasonable belief that an offence has been committed.

Inspectors will have a wider role in issue resolution than the current Tasmanian Act. They can be explicitly called into workplaces to help resolve disputed matters.

Notices

The current broad powers to issue Section 38 notices are replaced by the three separate types of notices: improvement notices, prohibition notices and non-disturbance notices.

An improvement notice can be issued where an inspector believes someone is contravening a provision of the model Act, or has contravened a provision in circumstances that make it likely the contravention will continue or be repeated.

A prohibition notice can be issued if an inspector reasonably believes that:

- an activity is occurring at a workplace that involves or will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard, or
- an activity may occur at a workplace that, if it occurs, will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to hazard.

The inspector may give the person with control over the activity a direction prohibiting the activity from being carried on (either as it is, or in a specific way) until the inspector is satisfied that the matters that give/will give rise to the risk have been fixed.

The inspector can issue this direction verbally and confirm it with a written prohibition notice as soon as practicable.

A non-disturbance notice is a new type of notice. It may be issued by an inspector to preserve the site where a notifiable incident (or any other circumstance deemed necessary) has occurred, for a specified period (which cannot be any more than seven days unless subsequent notices are issued).

A notice must be displayed in a prominent place at the workplace.

Review of decisions

The current term 'appeal' is replaced by 'an application for review'.

Reviews can be either internal or external. An internal review may be sought of decisions (other than those of the regulator). The regulator undertakes this review.

An external review may be sought of any decision of the regulator including those of the regulator under the internal review process. Such reviews will be undertaken by the Administrative Appeals Division of the Magistrates Court.

In practice this is not a significant change as the current Tasmanian Act provides a two-part process where decisions by an inspector or the Director may be first appealed to the Secretary and then to the Administrative Appeals Division of the Magistrates Court.

The various provisions relating to the review of decisions are set out very clearly in a table under Section 223 of the model Act.

Incident notification

The model Act contains some important changes on the type of workplace incidents which must be notified to Workplace Standards.

The term 'accident' is no longer used.

What is a notifiable incident?

There are three types of notifiable incidents, relating to:

- the death of a person
- a serious injury or illness of a person
- a dangerous incident.

What is a serious injury or illness?

The definition of serious injury or illness of a person is widened from the current Tasmanian Act. It means an injury or illness requiring the person to have:

a) immediate treatment as an in-patient in a hospital; or

b) immediate treatment for:

- the amputation of any part of their body

- a serious head injury
- a serious eye injury
- a serious burn
- the separation of their skin from underlying tissue (such as degloving or scalping)
- a spinal injury
- the loss of a bodily function
- serious lacerations; or

c) medical treatment within 48 hours of exposure to a substance.

It is important to note that the treatment under (b) and (c) does not have to have be as an in-patient in a hospital. This is a key change from the current requirement.

What is a dangerous incident?

The model Act defines a 'dangerous incident' as an incident relating to a workplace that exposes a worker or any other person to a serious risk to their health or safety, emanating from an immediate or imminent exposure to:

- an uncontrolled escape, spillage or leakage of a substance, or
- an uncontrolled implosion, explosion or fire, or
- an uncontrolled escape of gas or steam, or
- an uncontrolled escape of a pressurised substance, or
- electric shock, or
- the fall or release from a height of any plant, substance or thing; or
- the collapse, overturning, failure or malfunction of or damage to any plant that must be authorised for use, or
- the collapse/partial collapse of a structure, or
- the collapse or failure of an excavation or of any shoring supporting an excavation; or
- the inrush of water, mud or gas in workings, an underground excavation or tunnel, or
- the interruption of the main system of ventilation in an underground excavation or tunnel.

How to give notice

The PCBU must notify Workplace Standards immediately after becoming aware of a notifiable incident, which is usually by calling the Helpline on 1300 366 322. You can also notify by fax, email or other electronic means; written notification within 48 hours of calling Workplace Standards will still be required.

Record keeping

A PCBU must keep a record of each notifiable incident for at least five years from the day that notice of the incident is given to the regulator.

Preservation of incident sites

The PCBU must ensure (so far as is reasonably practicable) that the site where the incident occurred is not disturbed until an inspector arrives at the site, or any earlier time that an inspector directs.

The following situations are exempt from this requirement:

- to assist an injured person
- to remove a deceased person
- when it is essential to make the site safe or to reduce the risk of a further notifiable incident happening
- when it is associated with a police investigation
- when an inspector or the regulator gives permission.

Essentially, there is no change from the requirements of the current Section 48.

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