

National Risk Management Conference 2014

Keeping the Board Safe!

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BoardSafe Ltd

Home safe tonight and every night!

Director's Objective

To use one's personal skills, knowledge and influence to govern an organisation in order to improve shareholder/stakeholder value, meet the aims of the entity, and in many cases get personal monetary gain from such duties.

The magnitude of the problem

- Some 400,000 Directors on Companies Register- (6000+ members of IoD)
- 2012 – 102 fatalities
- 2012 - 378 serious workplace injuries
- Agriculture, fishing, forestry, mining, construction and manufacturing are major culprits
- \$3.5bn pa lost productivity

Uncertainty (H&S)

- Interest in the topic
- Knowledge of the (new) Law
- Case Law- “reasonably practicable”
- WorkSafe powers and intent
- Cost of legal defence insurance

Director Impacts

- Company fines
- Personal fines/imprisonment
- Future positions on Boards
- Reputation
- Loss of equity

5 places you never want to be!

- In a box going 6 foot under due to a workplace incident
- In the coroner's court giving evidence about a death of someone in your PCBU
- In the District Court being prosecuted for non compliance with the Act
- Bankrupted by the size of fine from the above
- In a NZ prison

Recent Health and Safety headlines

Director and firm fined for illegal gas repairs

By **Burton Mail** | Posted: July 03, 2014

Comments (0)

FINES have been dished out to a company director and his firm after he and his staff carried out illegal gas work at restaurants that put business owners and customers' lives at risk.

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8+1

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£250,000+ fines after HGV driver paralysed

— Published: August 08, 2014 by Peter MacLeod



Two haulage companies have been sentenced for safety failings after an HGV driver was left paralysed from the chest down following an incident at a transport yard in Sandy, Bedfordshire.

The 51-year-old man, from St Ives, Cambridgeshire, was crushed as he was closing the rear doors of his HGV when another lorry reversed into the area he was working in at the yard on Tyne Road, which was being rented by his employers H & M Distribution Ltd.

The worker, who does not wish to be named, suffered life-changing injuries and will be unable to work again. As well as his paralysis, he suffered a brain injury which has affected his sight and has lost most of the use of his arms.



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HSE fines care home operator following resident death

By LawFuel Editors on September 1, 2014



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We have recently reported on a number of “want of care” cases in which the Health and Safety Executive (‘HSE’) prosecuted health providers for incidents arising out of neglect for the health and safety of their patients. This trend is perpetuated following the death of a resident with clinical dementia in a Hertfordshire care home.

Enfield Roofer Fined Nearly \$300K; Failed To Equip Workers With Fall Protection In New Britain



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Changes in legislation

- Health and Safety at Work Act 2015
 - In revision stage
 - Likely effective date between 1st April to 1st July 2015
 - New regulations for many industry sectors

Changes in legislation- the test

- *As far as reasonably practicable....*
 - What is or was reasonably able to be done to ensure health and safety taking into account and weighing up all reasonable matters.

So what does it mean to Directors?

- Officers have a due diligence duty
- The duty is individual not corporate!
 - n.b. the “Easy Rider” prosecution
- Includes:
 - Knowledge of up to date HS matters
 - Understanding the nature of the operations, its hazards and risks
 - Ensure that PCBU has available the resources and processes to eliminate or mitigate risk

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- Includes:
 - Ensuring that PCBU has processes for receiving and considering information regarding, incidents, hazards and risks
 - Ensuring PCBU has, and implements, processes for complying with the Act
 - Verify the provision and use of resources and processes referred to above

How can Director risk be mitigated?

- Education
 - e.g. IoD courses
- Evaluation
 - Having HS on Board agenda every time
 - Get an external assessment e.g. “BoardSafe”
- Engagement
 - Getting out and seeing that things are actually happening in the workplace as you asked for then to be done by Management

We look forward to helping you or your
clients to reduce harm in the workplaces of
NZ

BoardSafe Ltd

www.boardsafe.co.nz