

Welcome to the September – October 2017 edition of the Bedrock Solutions' newsletter. In this edition, we look at adequate risk assessment processes, an update on ISO45001, the international health and safety management standard and discuss the indemnities and insurances for directors and employees. As always if you have any questions about any of the information in the newsletter or about your health and safety obligations in general please be in touch.

### Prosecutions

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#### Risk Present in all Work Spaces

Businesses need to consider health and safety risks on all structures, even those infrequently used. On 2 June 2016 a Rangiora Carpets staff member fell 2.5 metres from an unconsented mezzanine floor through a false ceiling to the floor below, leaving the staff member with significant injuries. The mezzanine floor was being used for storage and had not been identified as a health and safety risk.

"Structures such as storage and filing facilities need to be considered for risk and have appropriate controls put in place," WorkSafe General Manager Operations and Specialist Services Brett Murray said.

"Falls from height always present a significant risk. Even a fall of less than three metres can result in serious injuries or death. Identifying the need for a barrier to protect workers on the mezzanine floor was imperative to avoiding this incident."

The WorkSafe investigation found that the company had failed to conduct an adequate risk assessment to identify the risk of a fall from height and failed to ensure appropriate controls, such as edge protection or a balustrade, were in place to protect workers from the risk of fall onto the false ceiling. Rangiora Carpets was fined \$157,500 and ordered to pay reparations to the victim of \$20,000 in the Christchurch District Court earlier this month.

#### What can businesses and other duty holders learn from this case?

The decision confirms that significantly higher fines will be imposed for health and safety offending in the future. Because of the increased penalty levels, the Court will need to consider whether, and to what extent, defendant businesses can meet the level of fines required by the Health and Safety at Work Act 2015. This will be particularly important for small to medium sized businesses.

If you are unsure of your health and safety obligations or would like experienced health and safety practitioners to help review your internal systems, please do [contact us](#) and we'll help you get started. Our new product **B-Compliant** will be particularly helpful in embedding operational processes which are easily maintained but which are very much contained within the boundaries of your policy framework.

*"It is not the strongest of species that survive, nor the most intelligent, but the one most responsive to change" Charles Darwin*

## ISO 45001: Occupational Health and Safety Management Systems (Draft)

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The world's first work health and safety (WHS) international standard, 'ISO 45001', is currently being developed and is expected to be published in March 2018. This standard is designed to provide organisations with a framework for creating a safe workplace by implementing systems and processes to eliminate or reduce work place injury as well as continually improve WHS performance. ISO 45001 is intended for use by any organisation, regardless of its size or the nature of its work. Please do [contact us](#) if you'd like help aligning to ISO 45001.

## Indemnities and Insurance for Directors and Employees

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Company directors and employees must be aware of their rights and the requirements that relate to companies indemnifying, and providing insurance for their actions as directors or employees. Simple misunderstandings of the rules surrounding indemnities and insurance can result in directors and employees being exposed to liabilities without any cover.

Companies will often provide indemnities and insurance to their directors and certain employees (generally senior company employees) to compensate for losses they may suffer as the result of certain acts or omissions in their capacity as a director or employee (not including criminal liability or for breaches of good faith). However, indemnities and insurance will not be enforceable unless:

- The company providing the indemnities and insurance has a constitution
- The constitution expressly authorises the provision of the indemnities and insurance

For insurance to be properly effected (and paid for), the company will also need to have the directors certify that effecting the insurance is fair to the company. The existence of such insurance and/or indemnities must be entered into the company's interests register for the relevant director(s). Failing to comply with the above requirements can result in an indemnity given in favour of a director or employee being declared void, or the director or employee becoming personally liable for the effecting of the insurance (unless that person can prove the insurance was fair to the company at the time of the policy being effected). It therefore is extremely important to check the company's constitution to confirm that the company has the correct authorisation, before offering the comfort of indemnities and / or insurance to a director or employee. If the company does not have a constitution, then one should be adopted (with appropriate indemnity and insurance provisions) as soon as possible.

## B-Compliant

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B-Compliant is our electronic health and safety system that will save you hours of work in the maintenance of your health and safety requirements. When you subscribe to our service we work with you to utilize the full features of B-Compliant to gain maximum benefit for your business. Our base subscription includes setting up B-Compliant with your base data; one to one training; ongoing support; health and safety news updates and a library of document templates maintained by us. Please do [contact us](#) to arrange a demonstration.

## Workshop Schedule

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Keep an eye out on our website [www.bedrocksolutions.co.nz/workshops/](http://www.bedrocksolutions.co.nz/workshops/) for our workshop dates. We also provide in-house workshops on a range of health and safety topics. Stuart is happy to discuss your options with you. Please do call him on 021 0263 8592 or email [stuart@bedrocksolutions.co.nz](mailto:stuart@bedrocksolutions.co.nz)

*"If you are going through hell, keep going" Winston Churchill*