

Welcome to the August 2017 edition of the Bedrock Solutions' newsletter. In this edition, we look at the first sentencing decision under the Health and Safety at Work Act 2015 and the newly released Health and Safety at Work (Hazardous Substances) Regulations 2017 coming into effect 1 December 2017. 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

First Sentencing Decision under the Health and Safety at Work Act 2015

The first sentencing decision under the HSW Act was released on 22 August 2017. The decision gives some initial guidance to businesses and other duty holders about just how much bigger the penalties will be for breaching the HSW Act compared to the former Health and Safety in Employment Act 1992 ('HSE Act'). On 6 April 2016, an employee of Budget Plastics (New Zealand) Limited ('Budget') was seriously injured when his hand became caught in the auger of a plastic extrusion machine while he was loading plastic material for recycling. The machine amputated nearly all the victim's left hand from his forefingers to his wrist, leaving only his thumb and half of one other finger remaining. The WorkSafe investigation found that the company had inadequate systems for identifying and managing risks; that their safe operating procedures were outdated; their policies and processes for training staff were lacking, and key safety features such as emergency stop buttons within reach of the operators were absent. Budget was charged with an offence against section 36(1)(a) of the HSW Act by failing to ensure the health and safety of a worker who worked for Budget while the worker was at work. The judge set the fine in the range of \$275,000 but reduced it to a final fine of \$100,000 based on the company's ability to pay. They were ordered to pay reparation of \$37,500 (under the previous Health and Safety in Employment Act fines for machine guarding cases ranged from \$30,000 to \$40,000 on average).

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.

"Wisdom is not a product of schooling but of the lifelong attempt to acquire it"
Albert Einstein

Health and Safety at Work (Hazardous Substances) Regulations 2017

From 1 December 2017, those who manufacture, use, handle, store and transport hazardous substances in the workplace will need to follow the new Health and Safety at Work (Hazardous Substances) Regulations 2017 (**Regulations**). At present the rules to protect individuals from workplace activities involving hazardous substances are set out in the Hazardous Substances and New Organisms Act 1996 (**HSNO**).

Key changes to be aware of are that from 1 December 2017 the Regulations will apply to *workplace risks* and Worksafe New Zealand will regulate the duties and requirements to mitigate risks posed by hazardous substances in the workplace. The HSNO and the Environmental Protection Agency (**EPA**) will continue to regulate non-work, public health and environmental risks, and specific requirements on importers and manufacturers of hazardous substances. This includes approving substances for use in New Zealand.

Other key changes made by the Regulations include:

- A mandatory requirement to keep an inventory of all hazardous substances used, handled, manufactured or stored in the workplace, including hazardous waste
- A mandatory requirement to have a Safety Data Sheet for all hazardous substances in the workplace
- New certified handler requirements for persons deemed competent to handle highly hazardous substances in the workplace.
- Specific emergency preparation requirements
- Specific requirements around providing information, instructions, supervision and training to workers to ensure safe handling and storage of hazardous substances
- New requirements for labelling of hazardous substances in the workplace

While many businesses that comply with the current legislation may not need to make many changes in their day-to-day practice, this is a good time for those in the relevant industries to review their processes and how they keep people safe when working with hazardous substances. The Regulations are available on the legislation New Zealand [website](#)

B-Compliant

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

Keep an eye out on our website 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

"Safety is a cheap and effective insurance policy" Author Unknown