

NEW WORK HEALTH AND SAFETY LAWS IN QUEENSLAND HOW WILL IT AFFECT YOUR BUSINESS

With the 2012 calendar year fast approaching, so too is the progress of the Queensland Government to ensure the new Model Work Health and Safety laws are voted on and implemented by the 1st of January 2012. Under the *National Partnership Agreement to Deliver a Seamless National Economy* the Council of Australian Government's (COAG) agreed to implement a standardised set of obligations for WHS within each of the states and territories of Australia to reduce the legislative burden and red tape placed on organisations working across state boundaries.

In order to implement the new provisions of the model laws, the Queensland Government introduced the "Model Work Health and Safety Bill" to the house of representatives on the 10th of May 2011. The passing of this bill through the parliament will see the enactment of the new Work Health and Safety Act and Regulations to be implemented in January 2012 with current safety legislation repealed.

The changes occurring with standardisation of legislation across the states is the single biggest change to the Australia OHS legislative framework in many years. In each state the significance of the changes will depend on existing jurisdictional OHS legislation.

There are a number of important changes to the proposed Queensland legislation that will affect the way all businesses operate. Prensa will present a series of Updates over the next 3 months explaining a number of important changes to Queensland's OHS legislation.

The first of these changes relates to the way employers assume responsibility for the safety of their contractors' employees.

Management of Contractors - Change to Definition of Worker

An important change to the model legislation is the definition of a worker. Under the Workplace Health and Safety Act 1995 obligations were placed on a "relevant person" who had control over a workplace or plant and equipment to ensure the safety of workers and any other person who may be affected by the work. Under section 11 of the old Regulation workers are defined as:

"A person is a worker if the person does work, other than under a contract for services, for or at the direction of an employer".

Therefore, the obligations on the employer for the safety of contractors / subcontractors were not well defined.

Under the model legislation, the definition of a worker will be extended to include:

- Contractors or Subcontractors;
- Employees of Contractors or Subcontractors;
- Employees of Labour Hire Companies;
- An Apprentice or Trainee;
- A Work Experience Student;
- A Volunteer, etc.

This new definition is consistent with the current obligations owed by employers to contractors in other jurisdictions in Australia.

What Does This Change Mean to You as An Employer?

Whilst some businesses have already implemented a range of contractor OHS management systems to ensure the safety of persons conducting work at their businesses, the legislation will better define this relationship.

As an employer in Queensland, you will need to show that you have implemented systems to adequately assess, select and manage contractors / subcontractors and provided appropriate systems to manage the safety of others who may be affected by your workplace.

There are other significant changes to the legislation which will be discussed in coming Prensa Updates.

If you have any questions on how this legislation may affect your business and how you can best prepare for its introduction in 2012, contact Wade Russell on 0405 582 700.