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Transitioning to the harmonised OHS legislation

Since the 2008 decision of the Council of Australian Governments (COAG) to harmonise Occupational Health and Safety legislation across Australia, significant progress has been made towards the drafting and approval of a model OHS Act and Regulations.

No later than December 2011, these new pieces of legislation will be fully enacted.



Those organisations who haven't yet made inroads into the process of transitioning to the new Work Health and Safety laws will need to begin soon, as the change management process may require some time, in addition to which contracts are being entered into now which may still be in operation after the commencement of the new laws, and will therefore need to reflect those legislative requirements.

Key differences which are expected to be seen after the new laws are enacted include:

- Implementing a positive 'Duty of Care' for officers, with a clear definition of due diligence

- No longer basing duties, obligations and rights primarily on employment status (meaning OHS systems need to take a broader perspective than just the organisation's employees)
- Removal of the reverse onus of proof (meaning the prosecution has to prove an offence rather than the defendant being required to prove there was not a breach)
- Greater consultation and coordination obligations

There will be a graduated regime of enforcement for the requirements of the new laws, but there will also be higher penalties.

To be ready for these changes, organisations should consider the following actions:

- Undertake a gap analysis of existing systems (and contractual obligations) against the requirements of the new Work Health and Safety legislation
- Develop a communications strategy to ensure all 'Officers' of the organisation are informed of, and familiar with, their duties and responsibilities
- Develop an action plan to review and revise SMS procedures and documentation to incorporate the necessary requirements (e.g. consultation and issue resolution processes, OHS responsibilities in position descriptions, training for supervisors in the rights of individuals and unions etc)
- Implement the revised safety management system, including training for all staff
- Revise the corporate governance processes, particularly to ensure Boards and executive management teams understand and comply with the strengthened due diligence requirements.

For assistance in undertaking any of these steps, contact [QRMC](#).

Making decisions during business crises

Making decisions during a business crisis event is fraught with difficulty. By its very nature a business crisis gives rise to stress and confusion, very little time for consideration, uncertain information and unpredictable outcomes as the situation evolves.

It behoves managers to minimise the effect of these factors on their ability to make well-reasoned decisions during a crisis, by



preparing themselves and their organisations during times of relative calm.

To prepare your organisation (and in addition to ensuring a current Business Continuity Management program has been developed and implemented) it is important to undertake the following preparation:

1. Identify the response / business continuity team

Give consideration to whether the right people have been included in the crisis response team (or Business Continuity Team). Without reference to seniority or status, this team should be comprised of the organisation's most qualified and experienced people in emergency management. This is likely to be personnel from Corporate Security, Health & Safety, Human Resources, Business Continuity Management, Public Affairs & Communications, Information Technology and Facilities Management.

2. Clarify the decision-making process

It is vital that, during times of normal working conditions, consideration is given to the way in which decisions ought to be made during a crisis, and how the crisis response team will respond to any disagreement within the team. Every individual reacts to stress differently, in addition to which it is impossible to predict whether all team members will be available during a crisis event. In times of crisis, the more potential actions and responses have been considered and prepared for in advance, the better the crisis response team can focus on managing the unique features of the particular event.

3. Communication protocols

An inability to clearly communicate decisions during a crisis will entirely negate the value of having set up a good crisis management team. Ensure that communication protocols are in place for providing information or instructions to employees, countering rumours, and issuing proactive communications to external stakeholders (including customers, the media, critical service providers etc) in a time-sensitive way, both during and after a crisis event.

4. Authority to act

In situations where a crisis is evolving rapidly and the health and wellbeing of employees or others may be under threat, there is no time for a crisis response team to work through corporate hierarchies to gain approval to act on their decisions. The authority for the crisis response team to act (during defined crisis situations) without further approval processes must therefore be prearranged.

In the context of an organisation which has also prepared and implemented their Risk Management and Business Continuity Management programs, the above preparation activities will maximise the organisation's chances of emerging from the crisis event with minimal impact to the overall organisation.

Contact [QRMC](#) for assistance with the development of your risk management and business continuity management systems, or for a preparedness review and recommendations for improvement.

GPO Box 199, Brisbane Qld 4001

Phone + 61 7 3229 1744 Fax + 61 7 3229 1844 Email enquiries@qrmc.com.au

QRMC Risk Management Pty Ltd ABN 43 119 425 991

www.qrmc.com.au



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