



Issue 41

November 2013

Insight aims to provide useful information, links and tips in the areas of Risk Management, Occupational Health and Safety, Business Continuity Management, and other areas relating to management systems and corporate governance.

This issue:

- Get ready – 1 January 2014 new anti-bullying measures
- Queensland WHS legislation reviewed
- Changes to Queensland Electrical Safety Legislation
- Holiday wishes (incl. QRMC office closure dates)

Get ready – 1 January 2014 new anti-bullying measures

Bullying can have a very negative impact on the health and wellbeing of the targeted individuals and can result in depression, anxiety, sleep disturbances, lowered self-esteem and even suicidal thoughts.

As part of a policy response to this increasingly recognised problem, the Fair Work Commission now considers bullying when reviewing matters as part of its role in relation to general workplace protections.

From 1 January 2014, the Fair Work Commission (FWC) will have the power to make stop-bullying orders. From this date, a worker who considers themselves to be suffering from bullying at work will be able to apply to the FWC for an order to stop the bullying. The FWC must begin dealing with the matter within 14 days.

The FWC can make a stop-bullying order if the details provided by the applicant satisfy the definition of bullying under the Fair Work Act: that is, if "an individual or group of individuals repeatedly behaves unreasonably towards the worker... and such behaviour creates a risk to health and safety".



While it won't be within the FWC's purview to order monetary payments as part of a stop-bullying order, it will be able to refer the matter to a WHS regulator who may conduct an investigation. The applicant will also be able to seek a civil remedy if a stop-bullying order is not complied with.

The FWC President, Justice Iain Ross, has been quoted as saying "The new anti-bullying jurisdiction is not an avenue to provide compensation to those who have been subjected to bullying; and nor is it about penalizing employers. It is directed at preventing workers from being bullied at work."



However, from the employer's perspective, implications of being issued with a stop-bullying order include the possibility that the WHS regulator will consider this as an indication of breach of "reasonably practicable" efforts to ensure workers' health and safety under the harmonised *Work Health and Safety Act*, as well as evidence that officers have failed their due diligence obligations under the Act.

In preparation for the changes commencing on 1 January 2014, the FWC has released a draft anti-bullying [Case Management Model](#), and has also published a draft [Anti-bullying Benchbook](#) for public comment. Safe Work Australia also recently announced that they would publish a new *Guide to Preventing and Responding to Workplace Bullying* by the end of November.

Appropriate action for employers prior to 1 January to address this developing space include:

- Gain familiarity with the guide materials released by the FWC (above) and the just-released new Guides from Safe Work Australia:
 - [Guide for preventing and responding to workplace bullying](#)
 - [Dealing with workplace bullying – a worker's guide](#)
- Develop or update written policies on bullying, harassment and discrimination
- Develop or update formal complaints and grievance procedures
- Develop or update investigation and mediation processes
- Consider social media policies in the light of bullying concerns and the above policies and procedures
- Regularly provide training for everyone in the workplace on the policies/acceptable practices
- Ensure senior managers are leading by example with their behaviour towards subordinates and colleagues

- Ensure records are kept as evidence that fairness has been afforded to workers during performance management processes (such as notices of meetings and relevant issues, the availability of a support person etc.)
- Consider whether there are third-party contracts which need to be adjusted to address the issue (subcontractors and labour-hire workers fall within the definition of "worker" in the anti-bullying provisions).

Please [contact QRMC](#) for more information.

Queensland WHS legislation reviewed



A review of the Qld WHS (Work Health and Safety) legislation by the Queensland Government has resulted in a delay in commencement of certain provisions and transitional

arrangements until 1 January 2015. The *Work Health and Safety and Another Regulation Amendment Regulation (No. 1)* came into effect on 15 November 2013 and makes amendments relating to certain of the transitional arrangements.

A summary of the transitional arrangements as they currently stand can be found [here](#). Full details of the review of Queensland WHS legislation can be found [here](#).

Please [contact QRMC](#) for more information.

Changes to Queensland Electrical Safety Legislation

On 1 January 2014 the amended *Electrical Safety Act 2002* will come into effect.



The amendment do not significantly change the requirements for electrical safety in Queensland as many of the changes adopted will be familiar as terms and concepts from the harmonised *Work Health and Safety Act (2011)*.

Some of the key changes include:

- The term 'duty' now replaces 'obligation'.
- Duties are subject to 'so far as is reasonably practicable' (by reference to the meaning of 'electrically safe' and 'free from electrical risk'). This is consistent with the current concept of 'as low as is reasonable achievable'.
- Executive officers now have a new proactive duty, consistent with the duty imposed under the *Work Health and Safety Act 2011*.
- New meaning of 'worker' and 'other person' – including contractors or subcontractors, employees of a contractor or subcontractor, employees of labour hire companies assigned to work in the person's business or undertaking, outworkers, apprentices or trainees, work experience students and volunteers.
- Electrical safety enforceable undertakings requirements are now consistent with the *Work Health and Safety Act 2011*.
- A new statutory notice, non-disturbance notice will be available to allow inspectors to secure an incident scene.

The new *Electrical Safety Regulation 2013* also commences on 1 January 2014 and replaces the *Electrical Safety Regulation 2002*. The new Regulation includes changes relating to live electrical work, licensing, working around overhead and underground electric lines, electrical installations and incident notification.

Full details of the new *Electrical Safety Act and Regulation*, and a document comparing the current and the proposed legislation can be found [here](#).

Please [contact QRMC](#) for more information.

Holiday wishes

This edition of *Insight* is the final for 2013.

Don't forget to keep the safety of your family, friends and colleagues in mind over the festive season – for tips on managing Christmas risks, see our article in [Insight issue 31](#).



QRMC Risk Management Pty Ltd will be closing over the Christmas period, from close of business 20 December, reopening 6 January 2014.

Best wishes for a safe and happy holiday season to all our readers, their families and work colleagues.

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