



NEWS BULLETIN

March 2005

UNION OHS VISITS

The AWU has announced its intention to make spot safety checks on farms and orchard properties, where the union believes agricultural workers are being exploited and denied the most basic rights. This follows news of the Government's intention to allow 10,000 temporary guest workers from China to work in horticultural industries, where labour shortages are a serious and perennial problem. We remind employers in those industries that casual and seasonal employees (including those from the local Backpackers Hostel) are entitled to a safe workplace, and the provision of drinking water, toilet amenities and rest breaks.

HAZARDOUS SUBSTANCES DATABASE

Now available on line from the National Occupational Health & Safety Commission is a Hazardous Substances Database Information System, which provides hazard classification information for over 3,500 hazardous substances, together with national exposure standards. This will provide a "one-stop" research base for information on hazardous substances. It is a free service, and can be found at www.nohsc.gov.au/applications/hsis/

CRITICISM OF NEW VICTORIAN OHS ACT

The Safety Institute of Australia has levelled trenchant criticism of the new Victorian OHS Laws, calling them "bureaucratic, unscientific and unlikely to be any more effective than the existing legislation." They believe that the

new laws will do little to prevent Victorian workers being injured, and will create an even bigger bureaucracy.

IMPORTANCE OF MEDICAL RECORDS

A recent Commonwealth compensation case acts as a reminder to ensure that medical specialists have all the facts when apportioning liability for injury. A soldier claimed bilateral knee injuries had been caused by his army service, and presented in support of his claim his own statement that it was so, and a report from his orthopaedic surgeon that said his condition was caused or contributed to by his employment. Further investigation by the military produced the soldier's GP records, which showed that the soldier had played football from age 17 to age 35. In addition he had an obesity problem. The orthopaedic surgeon, called to the Tribunal, admitted that he had based his report entirely on the history given by the soldier, and had not asked about his sporting activities. It was found that the soldier's knee condition was the result of normal wear and tear, and not work related, and his claim was dismissed.

SLEEPING ON THE JOB

Some welcome sanity in a decision of the NSW Industrial Relations Commission. A night shift worker in a call centre was found by her supervisor tucked up in a sleeping bag under her desk, fast asleep. Her employment was terminated for gross misconduct. Her actions in bringing a sleeping bag to work indicated that she had made a "deliberate,

GOODE

Health and Safety Pty Ltd

COMPENSATION & SAFETY MANAGEMENT SOLUTIONS



premeditated decision” to sleep on the job, which amounted to gross misconduct.. Importantly, for employers, the Commission was of the opinion that setting out to sleep on the job is so obviously gross misconduct, that the absence of a specific written policy forbidding such conduct was no defence against termination of employment.

GET THE FACTS STRAIGHT!

A casual labourer in Queensland has had his claim for compensation for a back injury thrown out after presenting a variety of symptoms, causative factors, and just plain lies. He claimed that he had had to move lopped tree branches on his own, when in fact the branches were moved by machinery, without any involvement by him. Added to his lack of credibility was the fact that he claimed unemployment benefits whilst working, and engaged in “rigorous fencing work” whilst claiming to be unable to work as a result of his back injury. The labourer’s claim was so patently false that the Court found that not only had he not performed the work he claimed caused his injury, but that there was significant doubt that he even had an injury. The employer won the case, and it highlights the importance of challenging the inconsistencies between the initial claim and subsequent “embellishments” that appear in the course of an injury. It also indicates how vital it is to keep detailed records of claimants’ duties and work history, particularly for claims of a dubious nature.

POLICE DRIVERS CLAIM COMPO

As part of anti-terrorist training, two police officers had to undergo specialist driving course, and then instruct other police drivers. The manoeuvres included high speed

reversing, J-turns, Y-turns, ramming other cars or driving between them. Other tactics included driving with wheels at a 30-degree angle, and simulating a windscreen blow out, with the driver being guided by the passenger leaning out of the window. The cars provided by the Police Dept for this training were “dilapidated bombs bought from wreckers or wholesalers for about \$200. They were not reinforced and had worn-out tyres.” They had no seat belts, harnesses, reinforcing or any protective material which may have minimised impact. Not surprisingly after three months, the two police had such serious back injuries that they had to retire from the Force, and sued for compensation. The Judge was scathing in her comments, saying there was “an inherent and eminently foreseeable risk” in the activities they were expected to perform, and the police, above all, should have been able to appreciate the type of injuries that would ensue with such activities. The two police drivers won their compensation.

CROCODILES IN THE WORKPLACE

Crikey! We have Steve Irwin to thank for a new workplace safety initiative for dealing with crocodiles in the workplace. The Queensland Employment, Training and Industrial Relations Minister has issued “*Guidelines for Working with Crocodiles in Captivity 2005*”. It includes information on hazard management, supervision, egg collecting and first aid and, we note, the advice that children should be closely supervised!

This newsletter is published as an information service without assuming a duty of care. It contains information of general interest, and should not be relied on as a substitute for individual professional advice

SOUTH AUSTRALIA

Sally Goode
PO Box 1548
Loxton - South Australia 5333
Australia
Phone: 08 8584 5588

GOODE

Health and Safety Pty Ltd
COMPENSATION & SAFETY MANAGEMENT SOLUTIONS

A.C.N. 064537239

VICTORIA

Janet Jarram
PO Box 303
Hurstbridge - Victoria 3099
Australia
Phone: 03 9718 0088