

Important information on the new Industrial Manslaughter Bill in Victoria

On 26 November 2019, the Workplace Safety Legislation Amendment (Workplace Manslaughter and other matters) Bill 2019 (the WSLA Bill) was passed by the Victorian Parliament. The WSLA Bill will now be presented to the Governor for Royal Assent and is expected to come into effect on a day to be proclaimed or, at the latest, 1 July 2020.

The Bill introduces the offence of workplace manslaughter as an amendment to the existing Victorian OHS Act 2004, (the OHS Act). As a result of the amendment, a person must not engage in negligent conduct that breaches an applicable safety responsibility under the current OHS Act, which is owed to another person and causes the death of that person. Employers found to have negligently caused a workplace death could face fines of up to \$16.5 million and individuals up to 20 years in jail.

The WSLA Bill does not cover employees. Employees who fail to meet their safety related obligations under of the Victorian OHS Act could as previously, be charged with reckless endangerment which imposes a maximum financial penalty of \$3.2 million and a maximum jail term of 5 years.

The workplace manslaughter offence applies to employers, self-employed people and to '**officers of employers**'. It also applies to an employer's negligent conduct that causes the death of a member of the public, compelling duty holders to ensure safety both in and around workplaces.

The term '**officer**' of a body corporate, unincorporated body or association or partnership has the meaning given by section 9 of the Corporations Act. Under this Act an officer means:

- (a) a director or secretary of the corporation; or
- (b) a person:
 - (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the corporation; or
 - (ii) who has the capacity to affect significantly the corporation's financial standing; or
 - (iii) in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation).

As many VACC member's businesses are run by incorporated entities, WSLA Bill may broaden the liability exposure of officers of these businesses (e.g. directors who are family members).

VACC assistance to members to explain the new bill to members

Based upon member interest, VACC will look at hosting a member information session/s prior to the WSLA Bill commencing operation. Please register your interest in attending one of these events by responding to this email stating your interest.

In the meantime, VACC members are encouraged to use the OHS Audits offered by VACC as well as documenting all servicing, training, procedures and meetings relating to safety in your business.

The WSLA Bill is also available on the [Victorian Legislation and Parliamentary Documents](#) website.

If you have any questions or require further information, please contact the IR/OHSE Department on 03 9829 1123.



W J Chesterman

Industrial Relations Manager

Industrial Relations OHSE Department

VACC

Level 7 | 464 St Kilda Road | Melbourne Vic 3004

P: 03 9829 1123 | E: bchesterman@vacc.com.au | W: vacc.com.au