

## BULLETIN

# VACC Occupational Health, Safety and Environment



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### Changes to Occupational Health and Safety Act (Victoria)

Recently the legislated amendments to the Occupational Health & Safety Act 2004 (Victoria) (OHS Act) were introduced under the WorkSafe Legislation Amendment Act 2017. The amendments were passed by the Victorian Parliament in September and came into effect on Thursday 26 October.

The key changes are as follows:

- Increases the penalties for the OHS Act offences of failing to notify WorkSafe of an incident and failing to preserve an incident site, makes these offences indictable rather than summary. The penalty significantly increased from \$9,514.20 to \$38,056.80 for individuals and from \$47,571 to \$190,284 for companies (these figures are indexed each year on 1 July). Acknowledging the increased seriousness of indictable offences, the OHS Act now provides for a "reasonable excuse" defence in relation to these offences.
- Extends the notification duty in the OHS Act to also include incidents where a person has a serious injury and receives treatment from a nurse.
- The 12-month time limit for prosecuting offences against section 100 (i.e. providing documents) does not begin until WorkSafe is aware of the offence (rather than the date the offence was allegedly committed).
- Inspectors now have the power to request any document regardless of whether it is "located at the place".
- Makes the OHS Act offences of providing false or misleading information and producing a document that a person knows to be false or misleading, indictable rather than summary.
- It is now an offence to contravene an "enforceable undertaking", that is, a written undertaking given by a person or company in relation to a contravention of the OHS Act. For individuals, the penalty is \$79,285. For companies, the penalty \$396,425 (indexed each year on 1 July). This change was introduced because even if an undertaking is breached, WorkSafe or an inspector cannot prosecute the original contravention for which the undertaking was given, while the undertaking is in effect.
- WorkSafe Inspectors are now permitted to issue by email provisional improvement notices (PINs), notices affirming or cancelling PINs, non-disturbance notices, improvement notices and prohibition notices.

VACC Members should take these changes as a reminder to:

- Set out requirements for incident notification and site preservation. Immediate notification to the authority is required in the event of a serious workplace incident.
- If a serious incident occurs, seek VACC OHSE Unit advice
- Do not provide false or misleading information to the authority during an incident investigation. Seek the VACC OHSE Unit assistance or legal representation
- If an offence results in an enforceable undertaking, make sure it is complied with.

For further queries and feedback please contact the VACC OHSE Unit on 03 9829 1265 or by email [ohs@vacc.com.au](mailto:ohs@vacc.com.au).

Regards

A handwritten signature in black ink, appearing to read 'P. D'Alessandri', is positioned above the printed name.

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