

Coverforce PALLADIUM

Claims Examples

Formwork Failure
Construction
Sections 8(1) and 8(2) of the NSW <i>Occupational Health and Safety Act 2000</i>
<p>A sub-contractor on a shopping centre construction site was engaged in the process of dismantling formwork when a piece of formply board and a piece of timber five metres in length fell from the site and struck a car that was stopped below. A passenger in the car suffered minor injuries.</p> <p>The sub-contractor was charged with breaching sections 8(1) and 8(2) of the Act by failing to ensure a safe system of work or provide adequate supervision.</p> <p>The principal contractor was also charged with breaching section 8(2) of the Act for allowing work to be undertaken before overhead protective structures had been completed.</p>
<p>A \$75,000 penalty was imposed on the sub-contractor A \$95,000 penalty imposed on principal contractor Each was ordered to pay the Prosecutor's legal costs</p>

14th Floor Fall
Construction
Sections 8(1) and 8(2) of the NSW <i>Occupational Health and Safety Act 2000</i>
<p>A boy who trespassed onto a construction site fell some 2.5 metres to a tiled floor from the 14th floor of an apartment building that was under construction. He sustained serious injuries including tendon damage, fractures and loss of four teeth.</p> <p>The boy, entered the site from the southern boundary through a wooden fence which has fallen over or been pushed down on the day of the accident. He made his way to the 14th floor of the building using the lift that was left operational for subcontractors to use.</p> <p>The boy fell through a hole in the floor of a balcony, whose cover had been removed to allow work to be performed, and had not been replaced.</p> <p>The site management company was prosecuted for failing to develop and implement safety systems to address such obvious and foreseeable risks. The directors of the company were also penalised as it was heard that it was their responsibility to develop and implement such safety systems and also to manage the day-to-day operations of the construction site. They were both aware that the perimeter fence was incomplete and the hole on the top of the floor of the building was not secure.</p>
<p>A \$82,500 penalty was imposed on the site management company. Penalties of \$8,250 and \$6,600 were imposed on the directors. Each was ordered to pay the Prosecutor's legal costs.</p>

Dead Ducks
Construction
Section 120(1) Protection of the Environment Operations Act 1997 (NSW)
<p>A development company was engaged by the owner of a property to carry out demolition of buildings and removal of debris. The property was known to contain a number of underground storage tanks including one located beneath a workshop building which had, until shortly prior to the company taking control of the site, been used in connection with a vehicle repair business.</p> <p>The development company retained a demolition contractor and an environmental contractor. The environmental contractor prepared a remediation action plan for removal of the underground storage tanks.</p> <p>Approximately three months after the development company had taken possession of the site, it received extremely heavy rainfall. As a result of a faulty box gutter, a large amount of rainfall was directed into the workshop building. The rainwater entered the underground storage tank which still contained a volume of oil. The tank overflowed causing the mixture of oil and water to flow to a nearby wetlands area. A number of ducks were killed and other wildlife injured.</p> <p>The court noted that the construction company ought to have inspected the tank within a short time of taking possession of the site and ensured that the tank was emptied or at least properly capped. In deciding the penalty, the court accepted that the risk of the tank being inundated by water in the manner which occurred was at a low level of foreseeability.</p>
The construction company was fined \$40,000.

Product mixer
Manufacturing
Section 8(1) of the NSW <i>Occupational Health and Safety Act 2000</i>
<p>The employer, a mill owner, was prosecuted following the death of an employee.</p> <p>The employee was cleaning the inside of a product mixer. The product mixer was turned on while the employee was inside the mixer. The employee was fatally injured by the mixer blades.</p> <p>The correct method of cleaning the product mixer was to turn the switch off at the power box, lock the power box and turn the isolating switch off before entering the product mixer.</p> <p>The employer pleaded guilty to a breach of section 8(1) of the <i>Occupational Health and Safety Act 2000</i> for failing to ensure adequate controls or safe work systems were in place to prevent an accident with the product mixer. The employer also pleaded guilty to failing to ensure adequate risks assessments were taken and failing to provide adequate information, instruction, training and supervision for workers.</p>
The employer was fined \$150,000. The Industrial Court of NSW allowed the company a 25% discount for its early guilty plea and took into account its cooperation with WorkCover investigations and contrition.

Power press
Manufacturing
Sections 15(1) and 50 of the <i>Occupational Health and Safety Act 1983</i>
<p>A labour hire company and its managing director were prosecuted after an employee lost four fingers whilst operating a power press.</p> <p>The employee placed his hand into the die area of the power press in order to pull out caps. The die of the press closed and four of the employees fingers were severed.</p> <p>The NSW Industrial Relations Commission found that the company's safety obligations were clearly identified in its OHS policy. The policy stated that a company manager would inspect a site to ensure the equipment and work systems were safe before an employee was required to operate dangerous machinery.</p> <p>The Industrial relations Commission found the employer only paid 'lip service' to its policy as there was no evidence that the company formally assessed the risks of the machinery.</p> <p>It was also found that the employer did not give adequate training or instruction to its employees in that it did not tell the employee not to put his hand into the die area in order to pull out caps. It was found that this should have been a primary piece of information to provide to the employee.</p> <p>The Managing Director of the employer was found guilty for failing to ensure the OHS policy was entrenched within the company procedures.</p>
<p>The company was fined \$40,000 and ordered to pay prosecution costs. The managing director of the company was fined \$5,000</p>

Chemical Spill
Manufacturing
Section 120(1) Protection of the Environment Operations Act 1997 (NSW)
<p>A tile manufacturer used a chemical substance to to treat roofing tiles which it manufactured and sold. The spraying system operated directly from a 30,000 litre bulk storage tank located within a bunded area within the manufacturer's premises.</p> <p>Following a blockage, the tank was emptied and cleaned. In the meantime, on a temporary basis, spraying continued from a 1,000 litre container located outside of the bunded area. When the bulk storage tank was clean, the spray apparatus was reconnected to it and spraying continued in the usual course. However, the operators inadvertently left the return line attached to the temporary container which began to overflow. Unbeknown to the manufacturer at the time a significant volume of the chemical escaped into the nearby Parramatta river.</p> <p>Clean up costs exceeded \$80,000 including costs incurred by Sydney Ferries.</p>
<p>The manufacturer was fined \$280,000 following a discount of 20% for the company's guilty plea, mitigating factors and publicity. In addition, the company was ordere to pay clean up costs of \$80,000 and legal costs of \$75,000.</p>

Electrocution
Professional services
Section 8(1) of the NSW <i>Occupational Health and Safety Act 2000</i>
<p>A sole proprietor of an environmental site assessment company was prosecuted following the electrocution of an employee at a work site.</p> <p>The worker was performing a hazardous materials audit at the premises of the proprietors client. A representative of the client told the employee he could use a crane platform to take roof and light fitting samples. As the employee moved along the crane platform he came into contact with three live wires.</p> <p>The employee was electrocuted and sustained electrical burns to his right leg and exit wounds all over his body. The employee has permanent scarring on his right leg and loss of mobility in his right foot.</p> <p>The Court found that the sole proprietor did not have a safety system or safety policy guidelines in place for its employees.</p>
The sole proprietor was fined \$9000 (including a discount of 25% for an early guilty plea) and ordered to pay the costs of prosecution.

Stabbing on Premises
Professional services
Section 8(1) of the NSW <i>Occupational Health and Safety Act 2000</i>
<p>An employee of a community service centre was stabbed while at work at a community service centre.</p> <p>The employee was involved in an interview at the community service centre with a client of the centre. The client has a long history of incidences at the centre, including aggressive behaviour, loitering in the car park of the centre and verbally threatening staff .</p> <p>The client's children had recently been placed in community care. The client attended the centre to visit with her children and to attend an interview with centre staff. During the interview, the client stabbed one of the employees of the centre and threatened other staff</p> <p>The Court found that the community centre did not have any formal procedures for dealing with potentially violent clients. It was also found that it was inappropriate to conduct the interview at the premises and , if an interview was to be held at the premises, a security guard or the police should have been present.</p>
The department was fined \$200,000 and ordered to pay prosecution costs.