

26 May 2016

NAT 010/16

SUMMARY

- New resources are available to assist employers to: meet their obligations in relation to **reviewing risk control measures** (a link to the Model WHS Code of Practice – How to Manage Risks is also provided); and addressing the risks associated with packing and unpacking of **shipping containers**.
- NSW to commence review of the Work Health and Safety Laws.
- Employers are encouraged to enter into jurisdictional health and safety awards; Funding available in SA to improve health and safety for women.
- VIC Update: QBE no longer authorised as an Agent in the Victorian Workers' Compensation scheme
- NSW Update: Workers' Compensation Regulation Review; and Review of Pre-Injury Average Weekly Earnings (PIAWE) definition.
- Draft International Standard for Safety Management Systems receives a “no” vote.

Obligation to review risk control measures

All employers must monitor and review risk controls to ensure they are effective. Do you have the systems in place to meet this obligation?

The Model Work Health and Safety (WHS) regulations, adopted in most Australian jurisdictions, require employers to review risk controls to maintain, so far as is reasonably practicable, a work environment that is safe and without risks to health (Regulation 38).

Western Australian OSH legislation does not have a specific requirement to review risk controls, but it would be seen as a key part of the risk management process.

The Victorian Occupational Health and Safety (OHS) Regulations have risk review provisions within each chapter of the Regulations.

In Victoria the report of a musculoskeletal injury specifically triggers the requirement to review risk controls, and this would also be a relevant consideration under the WHS laws.

WorkSafe Victoria has recently released a guidance document outlining what they would expect an employer to do to meet the obligation to review risk controls for manual handling.

Whilst this document references Victorian legislation and focuses on manual handling risk controls, it provides a good basis on which to establish processes to review all risk controls.

The document can be found [here](#).

The [Model WHS Code of Practice - How to Manage Risks](#) is also a good reference.

Packing and unpacking shipping containers

Due to the significant risks associated with manually packing and unpacking shipping containers – including the risk of a fatality, Victoria and New South Wales have recently produced resources to assist employers to address these risks. Access the resources via these links [NSW video](#) or [VIC guidance](#).

NSW to commence review of the Work Health and Safety Laws

Draft terms of reference have been released for the NSW statutory review of *the Work Health and Safety Act 2011* which is due to commence as soon as possible after 7 June 2016.

The scope of the review appears to be sufficiently broad to encompass key areas of operation, as summarised below:

- Enquire into the objectives contained in Section 3 of the Act and consider how the Act is operating in the NSW context, to ensure it continues to be effective.
- Review the Work Health and Safety Regulation 2011 as it is due to be automatically repealed on 1 September 2017, and will need to be remade either in its current form or with amendments.
- Consider the pre-WHS codes that are still in operation in NSW.

It is noted that COAG (Council of Australian Governments) initiated an “examination” of the Model WHS laws in May 2014, focusing on how the model laws could be improved. Amendments arising from the COAG examination are expected to be published during 2016. It is therefore proposed that the review may, where appropriate, draw on (but should not duplicate or re-visit) this work.

A discussion paper will be released on the SafeWork NSW and NSW Government ‘Have your Say’ websites around August 2016. Further consultation for the review will be determined after the submissions received in response to the review discussion paper have been analysed.

The report on the statutory review will be tabled in both houses of NSW Parliament before June 2017. This will include a summary outlining the process of the review and recommendations arising from the review.

Information received during the statutory review will be considered before a decision is made regarding options for addressing the repeal.

Unless the repeal of the Regulation is postponed, a draft version of the replacement Regulation is likely to be prepared and ready for consultation during early 2017.

Ai Group will be representing employer views during the consultation process. We are keen to receive feedback from members about their views on how the Act, Regulation and Codes are operating and any areas that need attention.

If you wish to discuss anything related to the operation of the WHS laws in NSW, please contact Tracey Browne on 0438 207 799 or via email tracey.browne@aigroup.com.au

Health and Safety Awards launched.

A number of Australian jurisdictions have recently launched, or are about to launch, their 2016 health and safety awards. The awards aim to recognise organisations and individuals that have made a difference in health and safety and/or return to work.

If your organisation has a solution or achievement that you believe warrants recognition, visit the website of your local OHS/WHS regulator for more details.

Funding available in SA to improve health and safety for women

Safe Work SA has \$20,000 available to people who have an initiative that will make a significant contribution to the health and safety of women in South Australia – through research, education or the development of a solution to a health and safety problem.

Applications close on 24 June 2016. Further information can be found at [Augusta Zadow Awards](#)

Victoria: Workers’ Compensation Agent Panel: QBE departs; EML enters

With effect from 1 July 2016, QBE will no longer be authorised to operate as an Agent in the Victorian Workers’ Compensation scheme. At the same time, EML (Employers Mutual Limited) will commence operation as an Authorised Agent.

Clients of QBE will be transferred to either EML or Xchanging. These employers will receive a letter from WorkSafe Victoria advising of the change and that they will be required to stay with their new Agent for a period of time before having the option to transfer to another Agent.

This “freeze” on transfers will be reviewed by WorkSafe in August 2016.

It is important to understand that the new Agent must apply the same premium formula as QBE, so the change will not impact on the premium payable.

During the transition to the new Agent it is important that employers bring any complex or difficult claims to the attention of the Agent so that they are managed effectively.

NSW Workers’ Compensation

Review of the Workers’ Compensation Regulation

The NSW State Insurance Regulatory Authority (SIRA) is currently consulting on the remaking of the Workers’ Compensation Regulation which will automatically expire on 1 September 2016.

SIRA advises that the changes are predominantly of a “machinery nature”. A full list of proposed changes, and the Regulation Impact Statement are available at the [Have your say](#) section of the SIRA website.

Ai Group will be reviewing these documents and making a submission on behalf of members. We encourage members to provide us with feedback on the Regulation by contacting Tracey Browne on 0438 207 799 or via email at tracey.browne@aigroup.com.au.

Public comment closes on 14 June 2016.

Weekly Benefits – Pre-injury average weekly earnings (PIAWE)

Members were previously advised that the NSW State Insurance Regulatory Authority (SIRA) was consulting on how the PIAWE definition could be improved. See Compliance Advice [NAT 006/16](#).

A summary of submissions is now available on the [Have Your Say](#) section of the SIRA website.

SIRA have confirmed that the outcome of this consultation has not yet been reflected in the Review of the Workers’ Compensation Regulation (see above). Ai Group will advise members when the outcome of the PIAWE review is available.

Update on the draft International Standard for OHS Management Systems

Members were previously advised of this draft standard that was being considered by a technical committee of Standards Australia; Ai Group is a member of this committee. See Compliance Advice [NAT 006/16](#).

The draft International Standard (ISO/DIS 45001) for OHS Management Systems was rejected by a slim margin in the June vote.

Australia was one of the countries that voted “no”. The standard will now be further debated and it is hoped that Australia’s proposed amendments will be accepted.

For further information, and to join the conversation visit the [Ai Group blog](#).

Do you require assistance?

For information or assistance, please contact **Ai Group’s Workplace Advice Line** on 1300 55 66 77.

For information about our safety and workers’ compensation consulting and training services, contact:

Consulting Services

Trinette Jaeschke
0400 282 477

Training and Events

Seema Khatri
0428 907 838



Tracey Browne

Manager – National Safety & Workers’ Compensation Policy and Membership Services