

The New Model OHS Laws – What harmonisation means for corporations

January 1st, 2012 marks a historic first in Australian occupational health and safety legislation as state and territory governments prepare to adopt the *Model Work Health and Safety Act 2010*. This harmonisation process will assist organisations to adopt uniformly consistent OHS policies and procedures nationally, making it easier to employ a single set of laws, regulations and codes of practice for workplace health and safety.

However, under this new legislation penalties have significantly increased and officers of corporations have an obligation to exercise due diligence to ensure the company's duty of care is met. These due diligence requirements have been clearly itemised and the intent of the law is clear – officers of a corporation can no longer afford to delegate, ignore or treat the whole topic of workplace health and safety lightly. Officers will be expected to have an intimate understanding of their organisation's risks, and to use their influence over company operations to make timely health and safety decisions.

The new OHS legislation has broadened the definition of an employee to recognise the wider range of working options in modern workplaces, and introduced the concept of a Person Conducting a Business or Undertaking (referred to as a "PCBU"). A PCBU is a person or entity involved in the conduct of work or contributing in some way to things which make that work happen. There no longer needs to be a direct employer/employee relationship to determine if a duty of care exists.

What this means for corporations is that they must take action by first determining who in their organisation is an officer and what their duties are, and how their responsibilities may overlap with others. The broader definition of workers and the PCBU needs to be kept in mind when determining these duties. The impact of new laws

and regulations upon system policies and procedures needs to be considered. Transitional arrangements for existing projects that extend into 2012 will need to be implemented. Between now and January, key jurisdictional developments will need to be monitored closely as the individual states and territories make their own amendments to the model legislation and decide the legal framework in which OHS prosecutions will be conducted. What remains to be seen is whether true harmonisation can ever be achieved in Australia.

In short, there are many things a corporation and its officers need to consider and perhaps implement in a short timeframe.

Konekt has been assisting organisations achieve workplace health and safety excellence for many years now. There is a fresh, new emphasis on professional services at Konekt, designed to help its clients achieve compliance with both the transitioning and implementation of model health and safety laws through a diverse range of services, products and solutions. Konekt's focus is to continue to develop exciting new online tools and resources, and to ensure that high quality health and safety outcomes are synonymous with the control and reduction of workers' compensation claims costs and premiums.

