

QUARTERLY NEWSLETTER

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From the Director

Risk Assessment



Risk assessment underpins effective risk control.

It is an essential and fundamental activity. Yet in so many cases it is either not done or it is done poorly.

The four most common failings in risk assessment are:

1. Identifying under-treated risks and creating an action plan to address them rather than looking at the whole situation methodically;
2. Undertaking it generically on a hazard rather than on a particular activity in a particular context;
3. Failure to identify exposures (and hence controls within the recognised framework); and
4. Jumping to solutions without consideration of the hierarchy of control.

Typically we use the term *Risk Assessment* to answer three basic questions:

1. What can go wrong – and why/how? (Risk identification);
2. How often will it go wrong and what will the consequence be? (Risk analysis); and

3. How does this risk rate compare to our tolerance criteria? (Risk assessment)

This leads to active consideration of:

- what are we going to do about it?" (risk control); and the
- validation of existing controls and commitment to Action Plan (risk reduction).

A completed risk assessment provides the platform for prescribing effective risk controls.

Risk control depends critically upon recognising all of the risk exposures inherent in an activity, in a work environment and considering associated tools (e.g. plant and equipment), consumables (eg chemicals) and human dynamics.

There are numerous risk identification and analysis methodologies and tools. For most routine tasks *Job Safety Analysis* is an appropriate base identification tool. Generic checklists have also evolved for plant & equipment, manual handling and chemical analysis. Successful identification depends upon "chunking down" complex activities into simple steps. The more detailed the breakdown, the more likely it is that all risk exposures will be identified.

For more complex tasks we may alternatively use *Fault Tree Analysis* or *FMEA*. These are rarely used for most companies.

For large new projects, then techniques such as *Preliminary Hazard Analysis* may be used at the design stages. The risk analysis will identify levels of risk but comparing the levels of risk with understood risk tolerance criteria permits assessment of the degree of acceptance and priorities for improvement.

This raises some fundamental questions. What can the business afford in cost terms? What is critical? What is acceptable?

The basic process for assessing risks should be the same for all business output variables: financial, quality, reliability, safety, security and environmental.

This involves comparing the levels of risk from the analysis process with risk tolerance criteria and deciding whether risks can be accepted or whether they require treatment. The outputs of a risk assessment include a risk control plan and a prioritised list of risks for further action (A Risk Reduction Plan). As far as possible risk control measures should ensure compliance with legislative requirements or be based on known technical standards unless more suitable solutions are deemed appropriate.

For further information on risk assessments or for assistance in this area, please contact us on **03 9875 6913** or visit www.riskstrategies.com.au.



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REGULATORY CHANGES

Changes to the South Australian WorkCover Scheme



On 17 June 2008, following an independent review by the South Australian Government, the South Australian Parliament passed some significant legislative amendments to the WorkCover Scheme.

The reasons for the change included poor performance of the scheme in regard to return to work rates, poor funding position and the highest average levy rate paid by the employers who funded the scheme.

There are significant legislative and non-legislative changes coming into effect between July 2008 and July 2010 that will impact injured workers, employer and other scheme participants.

The **changes affecting injured workers** include:

- Calculation of the Average Weekly Earnings amount;
- Gradual reduction of weekly payments;
- Work Capacity Reviews;
- Increase in the amount of payments for permanent serious injury;
- Increased death benefits;

- Cessation of weekly benefits during a dispute under section 36 of the Act;
- Notice period given before weekly benefits can be stopped or reduced;
- Restriction of redemption payments; and
- The Code of Workers' rights.

The **changes affecting employers** include:

- Financial rewards for reporting claims within 48 hours by not being required to pay the first two weeks of weekly payments;
- No need for employers with less than \$10,000 annual remuneration to register and pay a levy (unless a claim is lodged by one of their workers);
- Changes to the amount of minimum levy;
- The WorkCover levy to be paid in advance rather than in arrears;
- Financial incentives to employ apprentices and trainees by removing their wages from the calculation of the employer's levy;
- Changes to the self-insurance scheme; and
- Appointment of trained Return to Work Coordinators.

Other changes include:

- Introduction of provisional liability – a process in which WorkCover begins paying income and medical costs for a new claim prior to the claim being determined;
- New dispute resolution structure;
- New legal costs structure that caps and prescribes the amount lawyers can charge workers;
- Establishment of an independent medical panel to make decisions on medical questions;
- Establishment of a \$15 million return to work fund to improve rehabilitation and retraining activities;
- Establishment of the office of the WorkCover Ombudsman to investigate complaints relating to the operation of the WorkCover scheme;
- Establishment of the return to work inspectorate;
- WorkCover to be audited by the Auditor-General; and
- WorkCover to engage with existing workforce development strategies to enhance employment opportunities for injured and ill workers.

Many of the changes come into effect on 1 July 2008, with some of the more complex changes following later. The below table demonstrates the timeframe for the changes coming into effect.

1 July 2008	1 January 2009	1 April 2009	1 July 2009	1 July 2010
▪ Weekly payments	▪ RTW Coordinators	▪ Payments for permanent serious injury	▪ Restricting redemptions (new claims)	▪ Restricting redemptions (aged claims)
▪ Payments during disputes about ceasing weekly payments	▪ Disputes	▪ Work capacity reviews	▪ Minimum levy	▪ Levy payments
▪ Ombudsman	▪ Legal Costs	▪ Decision making on medical issues		
▪ Average Weekly Earnings	▪ Provisional Liability			
▪ Counselling Services	▪ Rewards for early reporting			
▪ Requirement to register				
▪ Auditor-General				
▪ Code of Workers Rights				
▪ Notice periods				
▪ Self-Insurance changes				
▪ Payments in the event of death				
▪ RTW fund				
▪ RTW inspectorate				
▪ Engage with workforce strategies				
▪ Incentives to employ apprentices and trainees				

For **further information** or assistance in understanding how the above changes will impact on your organisation, contact Risk Strategies on **9875 6900** to speak to one of our consultants.



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National Occupational Health and Safety Code of Practice 2008



The Occupational Health and Safety Code of Practice 2008 (The Code) for the Commonwealth jurisdiction came into effect on 12 June 2008. It replaces the previous 27

codes of practice.

This document applies to Commonwealth departments and organisations self-insured under Comcare. The Code advises duty holders on how to fulfil their obligations under the *Occupational Health and Safety Act 1991* (the OHS Act) and the *Occupational Health and Safety (Safety Standards) Regulations 1994*.

It provides a clear process of risk management to assist duty holders to identify, assess and implement controls for hazards in workplaces.

What's in the code?

The OHS Code 2008 has 25 parts, comprising the following:

- Sixteen parts have replaced previous codes that have been reviewed and redrafted
- Five parts are new codes that cover new hazards resulting from the expanded Commonwealth OHS jurisdiction
- Four parts are reserved for codes that will be implemented soon

Why is the code important?

Under legislation, an approved code of practice:

- must be followed unless there is another means of achieving the same or better standard of health and safety; and

- is admissible as evidence in legal proceedings as proof of a relevant breach of the Act or regulations.

Where to find the OHS Code 2008

Duty holders are encouraged to read the OHS Code 2008 and implement the parts that apply to their workplace.

You can find the entire code on the [Comlaw website- Occupational Health and Safety Code of Practice 2008](#).

More information

For further information and/or assistance in implementing the OHS Code 2008, contact Risk Strategies on **03 9875 6900** to speak to one of our Consultants.

New legislation in Northern Territory

The *Workplace Health and Safety Act* and the *Workers Rehabilitation and Compensation Act* commenced 1 July 2008.

Occupational health and safety, and workers' compensation and rehabilitation functions, which previously existed together under the former *Work Health Act*, are separated into the two new Acts.

The new legislation maintains the Work Health Authority with NT WorkSafe as the administrative arm of the Authority.

Workplace Health and Safety Act 2007

- strengthens consultative arrangements by providing for direct worker input by:
 - the introduction and training of Health and Safety Representatives for workplaces;

- the provision of training and right-of-entry for occupational health and safety related purposes for authorized union representatives;
- identifies more specific powers for NT WorkSafe Workplace Safety Officers including significant new fines and penalties for regulatory breaches;
- provides for new industry advisory arrangements to the Minister in the form of a Workplace Health and Safety Advisory Council;
- co-ordinates Occupational Health and Safety regulators with:
 - the inclusion of mine safety responsibilities under the new Act;

- responsibility for construction related activity for Petroleum processing facilities prior to the production/operational phases; and
- regulation of Dangerous Goods across industry throughout the Northern Territory.

Workers Rehabilitation and Compensation Act 2007

The *Workers Rehabilitation and Compensation Act 2007* mirrors the existing compensation and rehabilitation provisions of the *Work Health Act 1986*. It is envisaged that this piece of legislation will be reviewed in late 2008/09.

Consistent OHS Laws 'on their way' in Australia

Robin Stewart-Crompton, a former chief executive of the National Occupational Health and Safety Commission, will chair the panel reviewing the occupational health and safety laws, aiming for consistency across commonwealth, state and territory laws over the next five years.

"Robin Stewart-Crompton and his team will review OHS legislation in each state, territory and commonwealth jurisdiction for the

purpose of making recommendations on the optimal structure and content of a model OHS Act to apply nationally," Workplace Relations Minister Julia Gillard said.

Australian governments have agreed to develop a national harmonised OHS framework. A three person panel is now reviewing state, territory and Commonwealth OHS legislation, with a view to developing a model OHS Act that all jurisdictions can adopt.

Model legislation will be developed by September 2009. Public comments close 11 July.

Information about the review including details on how to make a submission can be found at:

www.nationalohsreview.gov.au.



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TRANSPORT NEWS

Training package for new fatigue laws

Commencement of the new laws is less than six months away, it is time to review your training needs analysis in line with The Australian Transport Council (ATC) endorsed training package for heavy vehicle driver fatigue accreditation.

Drivers currently accredited in the TFMS scheme can operate under Basic Fatigue Management (BFM) hours until 30 April 2009. Trainers should obtain the kit (which includes bulletins, fatigue and napping guidelines, self-assessment

tools, presentations and promotional material) to understand how the new laws impact on their business and what needs to be done.

Drivers and schedulers working under the new BFM or Advanced Fatigue Management (AFM) schemes must now demonstrate that they are competent at managing fatigue risks. Drivers working under Standard Hours will not be impacted.

Drivers will have their existing training and skills recognised and will only need to complete a 'top-up' course.

A Statement of Attainment in the following competencies will confirm their training:

- TLIF1007C Apply fatigue management strategies (for drivers)
- TKIF6307A Administer the implementation of fatigue management strategies (for schedulers)

OTHER OHS NEWS

Electricians in Western Australia prohibited from working 'live'

Electrical contractors and electricians will effectively be banned from working on equipment operating at normal mains voltage under a new guideline Code of Practice issued by EnergySafety.

The guideline Code applies to electrical contractors and all electricians working in general industry for voltage exceeding 50 Volts a.c. or 120 Volts d.c. but not exceeding 1000 Volts a.c. or 1500 Volts d.c. and does not apply to the electricity transmission and distribution related activities within the

electricity supply industry, as this sector has its own guidelines for safe work practices.

Under the Code, live work will be justified only if there is a greater risk of danger to lives of people using, or affected by, an electrical installation.

Under the Code a formal risk assessment (not just a job safety analysis) must be made out by the licensed electrical contractor's client, requesting that live work be carried out, if as a last resort live work is required. In respect of residential type installations, the Code **never**

allows live work. The Code also provides for routine activities which generally need to be conducted while circuits are live, including testing, commissioning and location of faults.

The new *Code of Practice: Safe Low Voltage Work Practices by Electricians* may be downloaded from the EnergySafety web site at www.energysafety.wa.gov.au.

ENVIRONMENTAL NEWS

Shopping bag slug

In April 2008 the Environment Protection and Heritage Council (EPHC) released its paper titled "Decision Regulatory Impact Statement – Investigation of options to reduce the impacts of plastic bags" the EPHC sought a Decision Regulatory Impact Statement which would look at options including a ban and a mandatory retailer charge to its commitment to phasing out plastic bags by 1 January 2009.

Our community has been quite outspoken about plastic bags. Although numerically less significant than other litter types, plastic bags are a prominent component of the litter stream, easily seen in the urban or natural environment because of their size, shape, colour and mobility. It is perceived that littered bags can last for many years (the suggestion is 1000 years, although not proven given that plastic bags have only been in use for approximately 50 years).

Plastic bags accumulate while others are still breaking down, increasing the potential negative impact on the environment.

Supermarkets to trial levy on plastic

The EPHC concluded that:

"The litter amelioration option is the net economic benefit option. While the cheapest option, the litter option is not the most effective at addressing the market failure, the community desire for action, nor the EPHC's commitments to phase out plastic bags.

If a mandatory retailer charge is selected as the preferred mechanism 25c has been modelled as being cheaper for the economy than the 10 or 20c options"... and that,

"Options that substantially reduce plastic bag consumption have a greater chance of reducing plastic bag litter. This is particularly the case where an economic signal makes consumers think before purchasing otherwise 'free' plastic bags".

In Victoria trials are starting soon in Berwick, Hampton Park and other locations as reported by the Sunday Herald Sun June 29, 2008.

A copy of the paper by the EPHC can be found at the www.ephc.gov.au website.

For assistance with environmental risk management contact Risk Strategies on 03 9875 6900 or at riskstrategies@acohs.com.au.



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WORKERS COMPENSATION IN DETAIL

Harmonised Claim Form



As part of the new proposed harmonization project initiated by the WorkCover authorities, states intend to merge

WorkCover legislations and documents to a national level. Step one has been creating a uniform workers compensation to be used by the employees and employers, at this stage, on a semi national level.

So far the claim forms can be used in the eastern states of Australia, including Victoria, New South Wales and Queensland. Funnily enough, Tasmania, although on the Eastern side, has somehow missed out on its chance to use the new claim form. Whether this is simply another case forgetting Tasmania – we don't know!

Another reason for merging the claim forms, apart from the harmonization project, was that employers with sites Australia-wide were unhappy with keeping up with different claim forms in different states. The administrative burden was once again a significant catalyst for change.

The uniform claim forms were brought out in late December 2007 – early January 2008 in an initial attempt to gradually 'breed' out the old claim forms, which were initially going to be accepted until March 2008.

The March 2008 deadline for using old claim forms was further extended until the end of the financial year by the WorkCover authorities, as many employers continued to use what they had left of the old claim forms, which

apparently at that stage remained plentiful.

After 1 July 2008, any old claim forms submitted to the agents will be returned to employees as invalid. This is the final deadline and this date will not be changed. All old claim should now be destroyed.

Agents have noticed that during the 'breeding out' period of old claim forms over 90% of new claims received have used new claim forms proving that so far they have been a success.

To date the 3 state claim form has been the first and only step taken as part of the harmonization project. Employees, employers, and agents are all looking forward to the next step.

Preferred Occupational Rehabilitation Providers – It's Your Choice Too!!



As you may already be aware, it is the requirement of all employers in

Victoria to provide a choice of 3 approved Occupational Rehabilitation (OR) providers to injured workers when referring them for occupational rehabilitation assistance.

This is usually left to your acting Agent to select, leaving you out of the decision process and unsure of whether the selected 3 providers' capabilities and experience is appropriate to your business and the relevant claim.

However, you may not be aware that as the Employer, you also have a choice. You have the right to request who is on this provider list and direct your Agent accordingly. This gives you the opportunity

to ensure the providers have the abilities to undertake the processes required.

A strong working relationship between an Employer and an OR provider ensures a better understanding of expectations of one another, resulting in superior return to work and rehabilitation outcomes overall.

Before choosing a preferred list, it is important to review and meet with different providers in order to understand their differing expertise and any specialty areas. It is also important that you feel they understand your business and maybe even come out for a site visit if you feel it would be beneficial.

Once you feel confident that you have found the 3 most appropriate OR providers for your company, request Service Level Agreements (SLA) be drawn up and provided and review these to ensure they guarantee the level of

service that will be delivered. Then contact your Agent and request that these be the providers placed on the choice of 3 providers on the letters sent to your injured workers.

Risk Strategies are experts in understanding the requirements of Occupational Rehabilitation Providers and have undertaken reviews of preferred provider lists for a number of clients with very successfully results. We can assist in reviewing your current providers, meeting with & setting up of new providers, negotiating SLA's and communicating the required changes with your Agent.

For further information and/or assistance in undertaking a review of your current list of Occupational Rehabilitation Providers, contact Risk Strategies on 9875 6900 to speak to one of our Consultants.

Upcoming Events

VICTORIA:

- **National Workplace Safety Summit 2008-07-03**
30-31 July 2008-07-03
For more information visit www.informa.com.au/workplacesafety
- **MAV Workplace and Risk Summit**
06 October 2008
For more information visit www.workcover.vic.gov.au

TASMANIA

- **Safe Work Tasmania Week 2008**
19-25 October 2008
A program of free seminars, workshops and other activity.
For more information visit WorkCover Tasmania at www.workcover.tas.gov.au

COMCARE

- **Comcare National Conference 2008**
22-24 October 2008
For more information visit Comcare at www.comcare.gov.au/



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