

Collins, Jacob

From: Collins, Jacob
Sent: Monday, 10 September 2012 9:13 AM
To: Purtill, Garrett; Hallett, Chris
Subject: RE: insurer protocols

Categories: FOI - IR

Hi Garrett / Chris – let me know if you want me to do something with this

Regards,
Jake

From: Brighton, Meg
Sent: Friday, 7 September 2012 5:21 PM
To: Collins, Jacob
Cc: Purtill, Garrett; Watt, Margaret
Subject: RE: Insurer protocols

Hi Jake

Here is a draft media release for the insurer performance standards:

<< File: Performance Standards For Insurers Media Release.doc >>

Meg

Meg Brighton | Director
T: +61 2 6205 3095 | F: +61 2 6207 6775 | M: 0408 408 333 | E: meg.brighton@act.gov.au
Continuous Improvement & Workers' Compensation Branch | Chief Minister and Cabinet | ACT Government
Level 5 Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: Collins, Jacob
Sent: Thursday, 6 September 2012 8:21 AM
To: Brighton, Meg
Cc: Purtill, Garrett
Subject: RE: insurer protocols

Hi Meg,

Still in with the minister – i'll follow up

FYI – Garrett is in bed with the flu

Regards,
Jake

From: Brighton, Meg

Sent: Wednesday, 5 September 2012 9:36 AM

To: Purtill, Garrett; Collins, Jacob

Subject: insurer protocols

Hi

How are the insurer protocols going?

Thanks

Meg

Meg Brighton | Director

T: +61 2 6205 3095 | F: +61 2 6207 6775 | M: 0408 408 333 | E: meg.brighton@act.gov.au

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Dr Chris Bourke MLA

MINISTER FOR EDUCATION AND TRAINING
MINISTER FOR ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS
MINISTER FOR INDUSTRIAL RELATIONS
MINISTER FOR CORRECTIONS

MEMBER FOR GINNINDERRA

MEDIA RELEASE

MRXXX

Performance Standards for Insurers

Minister for Industrial Relations, Dr Chris Bourke, today released the Performance Standard Protocol for Insurers. The Protocol sets minimum performance standards that Insurers must achieve when delivering workers compensation claim management and policy services to injured workers and their employers.

"Work disability and long term work absence have a negative impact on health and wellbeing. That is why the ACT Government is putting in place a suite of initiatives to ensure workers' compensation services focus on assisting workers recover and make a sustainable return to duty as early as possible," Minister Bourke said.

"The conduct of Insurers is critical for achieving strong health and work outcomes and maintaining an effective ACT Scheme. The new Performance Standard Protocol introduces a transparent, outcome focused framework for the delivery of key functions including injury and premium management, communication with claimants and preventing and resolving disputes."

"Audits conducted in accordance with the Performance Standard Protocol form part of a compliance framework that more actively monitors Insurer compliance with ACT Scheme service standards."

"The ACT Government is pleased to release this Protocol, which will provide certainty, clarity and transparency as to the minimum standard of performance required of Insurers to participate in the ACT Scheme," Minister Bourke said.

NOTE: This media release will be considered a draft-only until it has been through appropriate Communications and Marketing Unit approval processes.

DO NOT DELETE THIS NOTE.

Statement Ends

Date: September 2012

Media Contact: Margaret Watt Ph: 6205 0541 (w) 0412 199 951 (m)

ACT Legislative Assembly

Phone (02) 6205 2244 Fax (02) 6205 0332 Email: bourke@act.gov.au

Collins, Jacob

From: Collins, Jacob
Sent: Monday, 10 September 2012 4:02 PM
To: Rees, John
Subject: IR section of the annual report

Categories: FOI - IR

Hi JR,

The MO has asked if they could be provided with the IR section of the annual report. Has this been finalised?

Regards,
Jake

Jacob Collins | Directorate Liaison Officer
Aboriginal and Torres Strait Islander Affairs Portfolio
Industrial Relations Portfolio
Corrections Portfolio
p: 6205 9777

Cranney, Rosemary

From: Cranney, Rosemary
Sent: Monday, 10 September 2012 11:35 AM
To: Collins, Jacob
Cc: Rees, John
Subject: Management and Control of Asbestos in the Workplace Code of Practice
Attachments: Management Control of Asbestos in the Workplace COP NOHSC 2018-2005

Jake,

Please see attached the Management and Control of Asbestos in the Workplace Code of Practice.

Please note (as outlined in the brief) this (2005 version) is the version we are notifying under the Dangerous Substances Act, not the harmonised one.

Let me know if you have any questions.

Thanks,

Rosemary

Cranney, Rosemary

From: Purtill, Garrett
Sent: Monday, 10 September 2012 4:42 PM
To: Collins, Jacob
Cc: Cranney, Rosemary
Subject: RE: Remaining WHS Codes of Practice

Thanks Guys

Garrett Purtill | Adviser | Office of the Minister for Education, Minister for Aboriginal & Torres Strait Islander Affairs,
 Minister for Corrections & Minister for Industrial Relations
 t: 02 6205 0494 | m: 0407 254 994 | fx: 02 6205 3030 | em: garrett.purtill@act.gov.au |

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From: Collins, Jacob
Sent: Monday, 10 September 2012 4:40 PM
To: Purtill, Garrett
Subject: FW: Remaining WHS Codes of Practice

FYI

From: Cranney, Rosemary
Sent: Monday, 10 September 2012 4:18 PM
To: Collins, Jacob
Cc: Jones, Katherine (CMCD); Rees, John
Subject: Remaining WHS Codes of Practice

Good afternoon Jake,

The following information is for your information.

On 9 July 2012, OIR received advice from Safe Work Australia (SWA) that the stage 2 Work Health and Safety Codes of Practice were now model codes of practice, having been endorsed, out-of-session, by the members of the Select Council on Workplace Relations.

Last month, having received advice from SWA that some of the Codes were in the final stages of editing and design and that the final versions of these would be made available shortly, OIR wrote to the MIR, recommending he agree to notify 11 of the 12 Codes of Practice under the *Work Health and Safety Act 2011*, which he did. To date, nine of the 11 Codes have been notified. As for the two remaining Codes

93A

(Spray Coating and Powder Coating Code of Practice and Abrasive Blasting Code of Practice), we will not be able to notify these until after caretaker as SWA have just advised us that they will not be finalised until 1 October 2012.

Kind regards,

Rosemary Cranney | Policy Officer

Phone: +61 2 6207 9944 | Fax: +61 6207 6675 | Email: rosemary.cranney@act.gov.au

Work Safety and Industrial Relations Policy | Chief Minister and Cabinet | ACT Government

Level 5 Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

Cranney, Rosemary

From: Collins, Jacob
Sent: Tuesday, 11 September 2012 9:42 AM
To: Cranney, Rosemary
Subject: RE: Remaining WHS Codes of Practice

Good answer!

From: Cranney, Rosemary
Sent: Tuesday, 11 September 2012 9:42 AM
To: Collins, Jacob
Subject: RE: Remaining WHS Codes of Practice

Sorry, that was supposed to read "No, it shouldn't be."

Rosemary Cranney | Policy Officer
Phone: +61 2 6207 9944 | Fax: +61 6207 6675 | Email: rosemary.cranney@act.gov.au
Work Safety and Industrial Relations Policy | Chief Minister and Cabinet | ACT Government
Level 5 Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: Collins, Jacob
Sent: Tuesday, 11 September 2012 9:10 AM
To: Cranney, Rosemary
Subject: RE: Remaining WHS Codes of Practice

cheers

From: Cranney, Rosemary
Sent: Monday, 10 September 2012 5:12 PM
To: Collins, Jacob
Subject: RE: Remaining WHS Codes of Practice

No, it should be. I was just letting you know in case you are asked about them.

Rosemary Cranney | Policy Officer
Phone: +61 2 6207 9944 | Fax: +61 6207 6675 | Email: rosemary.cranney@act.gov.au
Work Safety and Industrial Relations Policy | Chief Minister and Cabinet | ACT Government
Level 5 Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 | www.act.gov.au

From: Collins, Jacob
Sent: Monday, 10 September 2012 4:41 PM
To: Cranney, Rosemary
Subject: RE: Remaining WHS Codes of Practice

Thanks Rosemary – is this a problem?

From: Cranney, Rosemary
Sent: Monday, 10 September 2012 4:18 PM
To: Collins, Jacob
Cc: Jones, Katherine (CMCD); Rees, John
Subject: Remaining WHS Codes of Practice

Good afternoon Jake,

The following information is for your information.

(01

On 9 July 2012, OIR received advice from Safe Work Australia (SWA) that the stage 2 Work Health and Safety Codes of Practice were now model codes of practice, having been endorsed, out-of-session, by the members of the Select Council on Workplace Relations.

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Kind regards,

Rosemary Cranney | Policy Officer

Phone: +61 2 6207 9944 | Fax: +61 6207 6675 | Email: rosemary.cranney@act.gov.au

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Collins, Jacob

From: Collins, Jacob
Sent: Monday, 10 September 2012 12:16 PM
To: Rees, John
Subject: FW:
Attachments: 20120910121157515.pdf

Categories: FOI - IR

Hi JR,

Apologies - Don't know why this hasn't come over yet. We'll need a response by Wednesday.

Regards,
Jake

-----Original Message-----

From: MP5001@act.gov.au [<mailto:MP5001@act.gov.au>]
Sent: Monday, 10 September 2012 12:12 PM
To: Collins, Jacob
Subject:

This E-mail was sent from "LAB00L02P38" (Aficio MP 5001).

Scan Date: 10.09.2012 12:11:57 (+1000)
Queries to: MP5001@act.gov.au

31 August 2012

Dr Chris Bourke
Received
06 SEP 2012
MLA

cc Garrett

Dr C. Bourke, MLA
Minister for Industrial Relations
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Chris
Dear Dr Bourke

Work Health and Safety Regulations 2011 – Regulation 217

I am writing with regard to ongoing discussions both at local and national levels which have occurred since the introduction of the harmonised Work Health and Safety Act 2011 and associated regulations.

Specifically, the discussions have focused on Regulation 217. This regulation mandating Roll-Over Protective Structures (ROPS) and Falling Object Protective Structures (FOPS) on earthmoving equipment has been the subject of transitional arrangements to provide time for industry to deal with possible implementation and, importantly, allow the matter to be further dealt with through Safe Work Australia as further exemptions were sought.

It is my understanding, in light of a meeting of the Heads of Work Safety Authorities (HoWSA) held in Sydney earlier this month, that there is still no clear position agreed as yet as to what further exemptions might be granted. Directives provided by Safe Work Australia have meant that further discussions will be required to get close to a uniform approach; something that would be most desirable in the quest for harmonisation.

It was with much relief for local industry that the initial transitional arrangements were provided to allow time for this matter to be fully dealt with, however, in the absence of a final agreed position, support is sought for further transitional arrangements whilst a final position is clarified.

The difficulty for many in the industry, particularly the smaller operators, is that to preempt any final decision and go ahead and fit the protective structures on machinery eventually found as not requiring retrofitting, would be prohibitively costly.

The average cost to retrofit an excavator is approximately \$20,000.

One of our members has calculated that the all-up cost to their business will be over \$200,000 to retrofit a fleet of six excavators, with an estimated down time cost of \$57,000 and a loss of about \$10,000 on an older machine that cannot be retrofitted (and hence loss of income for the work it could undertake).



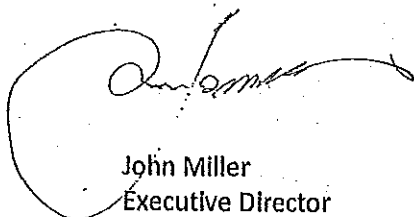
As noted above, however, the real impact of the reforms will be on those least able to absorb or pass on the costs, such as owner-operators. By way of example, an average owner-operator of a 22 tonne excavator would expect to receive about \$70,000 to \$90,000 in wages and small profit in a business with a turnover of \$180,000. If the cost of the retrofit, if possible, is \$20,000 and there is loss of income for two weeks of \$10,000, it is obvious that the impact will be significant. For some operators the fact that their plant is no longer compliant could leave them in the position that the loan or lease repayments are greater than the residual value of the plant.

We would contend that the absence of a cost-benefit analysis in introducing Regulation 217 is reflected in the basic calculations provided above and, whilst the matter is still in discussion, particularly for the smaller operators of which there are many in the ACT, support for an extended transitional period is critical.

Minister, we have discussed this matter at length with ACT Work Safe Commissioner, Mark McCabe. We would seek any support for further transitional arrangements that might be proposed through HoWSA and, if decided, exemptions for certain classes of machinery.

The members of MBA-ACT civil sector council and ACT Civil Contractors Federation are most anxious for this matter to be resolved and appreciate your consideration of this matter.

Yours sincerely



John Miller
Executive Director

Collins, Jacob

From: Collins, Jacob
Sent: Monday, 10 September 2012 11:57 AM
To: Cranney, Rosemary
Subject: RE: Management and Control of Asbestos in the Workplace Code of Practice

Categories: FOI - IR

Thanks Rosemary

From: Cranney, Rosemary
Sent: Monday, 10 September 2012 11:35 AM
To: Collins, Jacob
Cc: Rees, John
Subject: Management and Control of Asbestos in the Workplace Code of Practice

Jake,

Please see attached the Management and Control of Asbestos in the Workplace Code of Practice.

Please note (as outlined in the brief) this (2005 version) is the version we are notifying under the Dangerous Substances Act, not the harmonised one.

Let me know if you have any questions.

Thanks,

Rosemary

112
Collins, Jacob

From: Collins, Jacob
Sent: Tuesday, 11 September 2012 10:35 AM
To: Purtill, Garrett
Subject: FW: Minister clearance - Performance Standard Protocol

Categories: FOI - IR

Hi Garrett – I think this one is in the signature tray

Regards,
Jake

From: Beath, Lisa
Sent: Tuesday, 11 September 2012 10:23 AM
To: Collins, Jacob
Cc: Young, Michael
Subject: Minister clearance - Performance Standard Protocol

Hello Jake

Can you please let me know if the Minister has signed the Performance Standard Protocol Notifiable Instrument.

We are hoping to have the document signed prior to the caretaker period commencing.

Regards

*Lisa Beath | Senior Policy Officer
T: (02) 62070350 | F: (02) 62076775
Continuous Improvement & Workers' Compensation Branch
Chief Minister and Cabinet | ACT Government
Level 5 Canberra Nara Centre | GPO Box 158 Canberra ACT 2601 |*



ACT
Government

Chief Minister and Cabinet

MINUTE

Ref: C1899/12

Date 4 September 2012

To Minister for Industrial Relations

- Director-General
- Deputy Director-General Workplace Capability and Governance Division

From Director, Continuous Improvement & Workers' Compensation

Subject \$1.3m Damages Award in:
RACHEL NICOLE GIBSON v STEINHOFF ASIA PACIFIC LIMITED
(formerly FREEDOM GROUP LIMITED) [2012] ACTSC 139 (31 August 2012)

Purpose

To advise on a damages award described in a 1 September 2012 Canberra Times article entitled *Woman wins \$1.3m payout after injury at Freedom Furniture*

Background

On 31 August 2012 the ACT Supreme Court awarded damages of \$1.315 million to Ms Rachel Gibson for a lower back injury sustained in 1999, while lifting. The award included \$866,487 for future loss of earnings. Ms Gibson was 24 years of age at the time of injury.

The claim is managed by the ACT Default Insurance Fund, due to the collapse of HH, the original insurer. This is one of the largest claims managed by the Default Insurance Fund to date.

The award was described in an article in the Canberra Times on 1 September 2012 (Attachment A).

The ongoing future medical management of the injury was estimated to cost less than \$30 per week. In respect of the determination for future loss of earnings, it is noted:

- Ms Gibson has not suffered a long term total incapacity, rather, her incapacity limits the number of hours per week she is able to work;

- **Exempt s41**

- likely career progression was taken into account, specifically Justice Burns formed the view that:

- Ms Gibson is

Exempt s41

- Ms Gibson's earnings would be significantly higher were it not for the injury,

Exempt s41

Exempt s41

Exempt s42

Issues

Several stakeholders have expressed concern about the current common law arrangements and the risk that large damages awards such as this one detract from Scheme performance as they:

- cost significantly more than an equivalent statutory claim; and
- tend to result in poorer health and work outcomes than periodic benefits.

The cost risks associated with unlimited common law damages are amplified by the Court's capacity and willingness to significantly increase damages awards by taking long term potential career progression into account.

The exposure draft *Workers Compensation Amendment Bill 2010* proposes the introduction of a severity threshold (15 per cent Impairment of the whole person for physical injury), up to which injured workers would not be able to access common law damages, but instead be compensated via enhanced statutory lump sum and income support benefits.

The consultation draft Bill also proposed a streamlined dispute resolution process and limits on legal fees, which would further mitigate the risks of common law costs detracting from Scheme performance.

These measures were designed to balance benefit adequacy and Scheme costs by restricting common law access to more severe injuries and allowing claims to be streamlined and effectively channelled across the statutory and common law environments based on the severity of injury.

Recommendations

That you note the information contained in this brief.



Meg Brighton

Director, Continuous Improvement & Workers' Compensation

Contact Officer: Michael Young
Phone: 62076842

Dr Chris Bourke MLA 12/9/12

NOTED/PLEASE DISCUSS

ATTACHMENT A

Woman wins \$1.3m payout after injury at Freedom Furniture

Natasha Rudra

Published: September 1, 2012 - 3:00AM

A woman has won a \$1.3 million payout after she suffered injuries lifting a carton of crockery at Freedom Furniture in the 1990s.

The ACT Supreme Court heard Rachel Gibson suffered serious pain that had changed her life forever and cut short a promising career as an architect.

Ms Gibson was 24 and working at the Freedom furniture store in Fyshwick when she sustained the injury in 1999. She was lifting a carton that didn't have any handles or grips and felt pain "like an electric shock" down the back of her legs.

The court heard she could not walk normally and was forced to shuffle to the homewares counter where she reported the incident to her manager.

She sought medical treatment and physiotherapy but sued Freedom after the injury left her unable to work full-time.

The court heard Ms Gibson, who now lives in Queensland, had been forced to wear a back brace regularly since the injury and often needed a lumbar roll for back support while driving.

A year later she suffered another injury at Freedom while she was lifting a set of venetian blinds, experiencing a sharp pain in the same area of her legs.

The court heard Ms Gibson was an active young woman who played tennis and enjoyed jogging and distance running before the injury.

But her partner gave evidence that she had only tried to play tennis once in their time together and she could not jog or join him on motorbike rides.

She could not do any chores around the house that involved lifting or bending down and was left unable to sit upright during car trips, forcing the couple to fly for long-distance journeys.

Ms Gibson, who trained as an architect, had a promising and lucrative career ahead of her but it was cut short because her injury did not allow her to work regular hours. The court heard she worked for several architecture firms from 2003 to 2009 but could not continue because of the pain from her disability and had set up a business on her own, working only three days a week.

In a diary entry, she wrote that she felt constant guilt about her inability to work regular hours, felt sick with worry and said her psychiatrist had recommended anti-depressants.

One of Ms Gibson's former employers said she had increasing responsibility and oversaw building projects worth millions of dollars.

He said if Ms Gibson had stayed with the firm she would have been made an associate and a director when he retired.

In a judgment handed down yesterday, Justice John Burns said the injury in 1999 changed Ms Gibson's life forever and she had endured years of discomfort, pain and psychological harm.

"She has been forced to relinquish employment in positions that she loved, and which promised great professional and financial reward, because she cannot physically do the job," he wrote.

"It is to her credit that she has continued to attempt employment in a self-employed capacity working to a level which she can tolerate."

He awarded Ms Gibson a total payout of more than \$1.3 million which included \$866,487 in lost future earnings and \$170,000 in general damages.

This story was found at: <http://www.canberratimes.com.au/act-news/woman-wins-13m-payout-after-injury-at-freedom-furniture-20120831-2567g.html>

Collins, Jacob

From: Collins, Jacob
Sent: Wednesday, 12 September 2012 9:05 AM
To: Jones, Katherine (CMCD)
Cc: Rees, John
Subject: letter for minor amendment

Categories: FOI - IR

Hi Katherine,

Can you pls send me the letter relating to:

C1828/12	Response to Scrutiny Report comment - Work Health and Safety Amendment Regulation 2012 (No.2)
----------	---

Regards,
Jake

Jacob Collins | Directorate Liaison Officer
Aboriginal and Torres Strait Islander Affairs Portfolio
Industrial Relations Portfolio
Corrections Portfolio
p: 6205 9777

Jones, Katherine (CMCD)

From: Collins, Jacob
Sent: Wednesday, 12 September 2012 1:38 PM
To: Jones, Katherine (CMCD)
Subject: RE: MIR letter to Scrutiny transitional WHS regs updated
Attachments: 20120912133317369.pdf

FYI

From: Jones, Katherine (CMCD)
Sent: Wednesday, 12 September 2012 9:19 AM
To: Collins, Jacob
Subject: RE: MIR letter to Scrutiny transitional WHS regs updated

thanks

From: Collins, Jacob
Sent: Wednesday, 12 September 2012 9:17 AM
To: Jones, Katherine (CMCD)
Subject: RE: MIR letter to Scrutiny transitional WHS regs updated

Thought so – I only updated the month on the letter. Hopefully will be signed off this morning

From: Jones, Katherine (CMCD)
Sent: Wednesday, 12 September 2012 9:16 AM
To: Collins, Jacob
Subject: RE: MIR letter to Scrutiny transitional WHS regs updated

I haven't seen it signed. Garrett had it, had the changes made, then that is the last we saw... Thilaga is not in yet, so can't check on TRIM

From: Collins, Jacob
Sent: Wednesday, 12 September 2012 9:15 AM
To: Jones, Katherine (CMCD)
Subject: RE: MIR letter to Scrutiny transitional WHS regs updated

This hasn't been signed yet has it???

From: Jones, Katherine (CMCD)
Sent: Wednesday, 12 September 2012 9:07 AM
To: Collins, Jacob
Subject: FW: MIR letter to Scrutiny transitional WHS regs updated

Hi Jake

As requested, please see attached

Katherine

From: Jones, Katherine (CMCD)
Sent: Thursday, 30 August 2012 10:41 AM
To: Purtill, Garrett
Subject: MIR letter to Scrutiny transitional WHS regs updated

Hi Garrett

12/A

Sorry to miss your call earlier, here are the updated brief and letter on the WHS Regulation and scrutiny comment. Apologies for the lateness.

Kind Regards

Katherine Jones | Manager, Work Safety Policy
Phone: +61 2 6205 0308 | Fax: +61 2 6207 6775 | Email: katherine.jones@act.gov.au Office of
Industrial Relations | Chief Minister and Cabinet | ACT Government Level 5 Canberra Nara
Centre | GPO Box 158 Canberra ACT 2601 | www.act.gov.au