

the monitor

Keeping all those with an interest in OHS informed of current developments in workplace health and safety nationally and internationally



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Occupational Health Society of Australia (WA)

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Editors: Sheryl Kelly and Allaine Coleman
Collaborator: Patrick Gilroy

President's report

Member, readers: I hope you enjoy the spring 2019 edition of the Monitor.

The Editors and Researchers have again uncovered a number of interesting subjects that we hope you will find useful in your employment and or studies together as well as an interesting read.

Our special room at the Mayfair Lane was the venue for another successful short presentation series, this time covering the subject of mould in modern Pilbara buildings. I presented on behalf of Jon Groves who was unable to attend due to ill health. Fortunately, I had firsthand knowledge of Jon's situation and resultant contraction of legionella longbeachae whilst working in Karratha. Hayden York from Healthy Building Systems presented his observations of site visits, inspections and findings. In summary there was a series of serious oversights, design, engineered and construction faults that eventuated in the widespread outbreak of mould. The only fix being a total replacement of the air-conditioning systems. Hopefully new design guidelines for buildings built in areas prone to high temperatures and humidity will prevent future occurrences that can be so damaging to the health of employees. I hope those who were able to attend found the subject matter interesting.

There is so much worldwide discussions on the impact by humans on the environment. Damage to the atmosphere due to the burning of fossil fuels, clearing vast tracks of forests that combined create a greenhouse effect that in turn leads to global warming. Managing plastic waste that is causing damage to the sea and waterways. I find it difficult to understand why there are still arguments about the impact humans have on these problems.

Well I am old enough to clearly remember the dirty, even filthy, industrial cities days in England. Endless 24-hour periods of smog being trapped over entire cities due to the combined effect of atmospheric conditions, burning of coke and coal in industry and most homes. Luckily, I was able to return home to the fresh (often freezing) air of Buxton. There was little argument when the environmentalist demanded that it had to stop, otherwise the long-term effects on health would be catastrophic.



All agreed, and the legislators ruled with an iron fist to ensure these cities were fit to live and work in. I can also remember working as a Carpenter on the Kwinana strip in the 1970's and going home with sore eyes and a streaming nose due to the rubbish floating around in the air. This too has now been cleaned up.

Australia may not be in a position to fix the world's pollution problems but at the very least we should be showing leadership and demonstrating what can be done in a prosperous country that values the future for those to come. We shouldn't need children to remind us of these responsibilities.

Dave Lampard
President.

Bio – DR KC Wan

Dr Wan (KC) is a specialist in occupational and environmental medicine in private practice as a consultant occupational physician in OccuMED and Medical Legal Consultants of Australia (MLCOA) in Perth, Western Australia.

KC was President of the Occupational Health Society of Australia in Western Australia (OHSAWA) 1993 to 1996 and is currently a committee member. He was Chairman Australian New Zealand Society of Occupational Medicine Western Australian branch (ANZSOMWA) 1987-1989 and emeritus member. From 1992 to 1999 he was a member of the Australasian Faculty of Occupational & Environmental Medicine (AFOEM) Western Australia Committee.

From 1985 to 2001 he worked as Worksafe Western Australia, Chief Occupational Health Physician and Inspector. He was the Health Department and Mines Department of Western Australia occupational health physician from 1979 to 1985. KC was the medical member on the Western Australia Workers' Compensation and Rehabilitation Commission from 1987 to 1991 and Industrial Diseases Medical Panel (IDMP) member/chairman from 1979 to date.

KC held appointments as Adjunct professor occupational medicine from 1997 to 2011 at Curtin University and 1996 to 2014 at Edith Cowan University in Western Australia.

Prior to practising in Western Australia in 1979 as occupational physician at the Western Australian Meat Commission abattoir in Robbs Jetty, Coogee, Western Australia, he was Consultant in

occupational health to Malaysian Ministry of Health and Ministry of Labour 1973 to 1979.

Role of the Occupational Physician

In Australia, a consultant occupational physician has to be certified as a Fellow of the Australasian Faculty of Occupational and Environmental Medicine (FAFOEM) by the medical specialist body Royal Australian College of Physicians (RACP). To qualify as a consultant occupational physician requires 3 to 5 years training under supervision and completion of the training program and exams set by the Australasian Faculty of Occupational and Environmental Medicine (AFOEM) after graduating with a basic medical degree such as MBBS

Unlike other medical specialties, practising as an occupational physician it is necessary for the doctor to apply his knowledge in the sciences such as chemistry in toxicology, physics in noise and radiation, biology in relation to biological hazards and diseases as well as in multidisciplinary aspects such as ergonomics, physiotherapy, rehabilitation, occupational health and safety legislation, administration and industrial relations. To be recognised as a medical expert in his or her field by the Courts, the practitioner is expected to have relevant experience in his or her field of practice.

To practise as a specialist in occupational and environmental medicine in Australia, the medical practitioner must possess a registrable basic degree such as MBBS from an Australian university or recognised overseas university, be an active FAFOEM and fulfil other competency requirements of the Australian Health Professionals Authority (AHPRA) Medical Board.

The specialist qualification for Occupational physicians in USA is Fellow of the American College of Occupational & Environmental Medicine (FACOEM) and in the United Kingdom it is Member of the Faculty of Occupational Medicine (MFOM).

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IN EVENTS

Presentation by Jon Groves, David Lampard and Hayden York – 7 August

Sick Building Syndrome

Pilbara Mould (2011 / 2012) – Karratha and South Hedland Police Complexes

Jon Groves (past Vice President of WAPU and NW Director). Unfortunately, Jon Groves was unable to attend on the night however, David Lampard presented on Jon's behalf. Jon was to discuss issues around the inundation of moisture and resultant mould, the installation of and failure of dehumidifiers to control the hazard and the failure to analyse a white board related to respiratory health issues. Jon's perspective comes from an employee affected by the mould.

Hayden York (Health Building Systems (HBS) is an expert in the area of SBS and will discuss observation inspections, report and recommendations, cleaning regime and long-term solutions as well as new building rules.

David Lampard – personal involvement as a member of the West Australian Police Union (WAPU). David will elaborate on design, installation shortfalls, eventual engineered solutions, revised WorkSafe Code re building air conditioning.



Worksite visit guided by David Lampard – 4 September

Causing a Stink



The Lincoln Street Ventilation Stack is a prominent landmark in Highgate and is listed with the National Trust and the State Register of Heritage Places. Built by the Metropolitan Water Supply, Sewerage and Drainage Department (now Water Corp) in 1935 as a sewer vent, it is of brick construction rendered in Art Deco and stands 38 metres (125 ft) tall, making it the second tallest sewer vent in Australia (after a 40-metre (130 ft) structure in Sydney).

The vent was intended to safely discharge acidic gas with the potential to damage Perth's sewer network and was hence built on top of Highgate Hill above a high point in the system. It proved unsuccessful, inadequately venting the sewer gas and – under certain weather conditions – dispersing what gas it vented over the surrounding houses and Highgate Hill police station. It was sealed in 1941 after which it was referred to as "Dumas's Folly", after Chief Engineer of the Public Works Department, Russel Dumas.

A similar vent was planned for the suburb of Subiaco but was never constructed.

In 1941 the Police Wireless Service moved to the adjacent Highgate Police Station, and the vent tower was put into service as a radio antenna. The move and the tower's new function were kept secret – initially to protect against Japanese air raids during World War II. This was not revealed until 1956. The vent continued in this role until 1975 and several antennas are still visible on top of the structure.

The Western Australian Police Historical Society (WAPHS) now leases the building from the Water Corp for use as a meeting room. The adjacent Highgate Hill Police Station and old OIC Quarters form the museum section and administration area of the WAPHS.

Major workplace safety changes for WA and Victoria

Western Australia has announced a two-level industrial manslaughter offence, revealed plans to beef up its safety inspectorate and released a draft WHS framework. Meanwhile, Victoria has introduced a new reckless conduct offence with \$6.4 million fines for employers.

Yesterday, Western Australian Industrial Relations Minister Bill Johnston called for comments (by 26 November) on a proposal to introduce three sets of WHS Regulations (for general industry, mining, and petroleum and geothermal energy operations) based on the national model Work Health and Safety Regulations as at 15 January 2019.

The Western Australian versions will exclude the national model's right-of-entry provisions, with unions and industry organisations pushing for these to remain within the State *Industrial Relations Act 1979*, Johnston said.

Western Australia will also omit clauses for major hazard facilities and edit the national model's chapter on hazardous chemicals to avoid overlap with the State's dangerous goods legislation.

"However, the approach to dangerous goods, including major hazard facilities, will be reviewed within two years of the WHS Act (WA) being proclaimed in Western Australia, with a view to determining whether dangerous goods and major hazard facility regulations are brought under the WHS Act," the consultation webpage says.

Meanwhile, most of the WHS Regulations for general industry will apply to mine sites, and the mining-specific Regulations will include additional clauses based on: the work of the National Mine Safety Framework; the sector's continuing use of risk-based processes; and provisions on radiation and electricity from the outgoing *Mines Safety Inspection Regulations 1995*.

Only a small proportion of the general Regulations are likely to apply to the petroleum and geothermal energy sector (which will retain the "safety case" approach). These will probably include provisions on general risk management, consultation, health and safety representatives, safety committees and prohibited carcinogens.

Johnston and Premier Mark McGowan confirmed their Government's long-time plan to introduce an industrial manslaughter offence but said it will involve two levels, with the most serious "class one" offence carrying a maximum penalty of 20 years' jail for an individual conducting a business or undertaking.

Individuals could be jailed for up to 10 years for a "class two" offence, while bodies corporates could be fined up to \$10 million for either offence, they said.

Johnston and McGowan said the decision to introduce industrial manslaughter legislation, later this year, was influenced by recent recommendations from the Boland review of the national model WHS laws and the Federal Senate inquiry into industrial deaths.

Johnston also hinted that he was on the verge of introducing a mirror WHS Bill, referring to its development in the past tense and saying all views submitted during the consultation process have been considered.

Further, Johnston and McGowan announced that WorkSafe WA will increase its inspector numbers by 21 to 120, matching NSW and Queensland's ratios of about one full-time equivalent inspector per 10,000 employees.

The move comes with 16 additional vehicles to significantly increase the number of workplace inspections, they said.

Source - OHS Alert – August 2019

Manslaughter offence without limitation periods introduced - NT

The Northern Territory Government today introduced an Amendment Bill creating the WHS offence of industrial manslaughter, with maximum penalties of "imprisonment for life" for individuals and 65,000 penalty units (currently equating to \$10,205,000) for bodies corporate.

As reported by *OHS Alert*, the Territory Government flagged the move two months ago (see related article), and revealed its Bill schedule early this week, pointing to the current anomaly where a sole trader can be jailed for work-related manslaughter under the Criminal Code, while a body corporate can't even be charged with the offence.

The 10-page Bill states that a "person" commits the offence of industrial manslaughter if "a) the person has a health and safety duty; and b) the person intentionally engages in conduct; and c) the conduct breaches the health and safety duty and causes the death of an individual to whom the health and safety duty is owed; and d) the person is reckless or negligent about the conduct breaching the health and safety duty and causing the death of that individual."

It states that if a judge is not satisfied beyond reasonable doubt that a person is guilty of industrial manslaughter, the judge can find the person guilty of an alternative offence (under section 31 or 32 of the Territory WHS Act).

The limitation period for prosecutions in section 232 of the Act doesn't apply to industrial manslaughter or to a guilty verdict for an alternative offence, it says.

Under the new laws, the regulator must obtain the consent of the Director of Public Prosecutions before bringing proceedings for industrial manslaughter.

[Work Health and Safety \(National Uniform Legislation\) Amendment Bill 2019](#)

OHS Alert – September 2019

Work Health and Safety Regulations for Western Australia Information Sessions

Session dates, times and locations can be found at the following website address. <http://www.commerce.wa.gov.au/worksafe/develop-work-health-and-safety-regulations-western-australia-information-session>

Some WHS changes could boost safety, others are unlikely to

A new impact statement on the recent review of the national model WHS laws has warned that some recommendations could increase compliance costs with minimal safety benefits, including the recommendation to include the hierarchy of controls in the Act.

As reported by *OHS Alert* in February, independent reviewer Marie Boland's 34 recommendations included introducing the offence of industrial manslaughter, increasing fines through a penalty unit system, banning insurance against fines, making it easier for union officials to assist health and safety reps, and moving "the concepts underpinning the hierarchy of control measures" from the model WHS Regulations to the model WHS Act.

It should be "made clear that the risk management process is not limited to the management of risks to health and safety from hazards identified in the WHS Regulations", Boland said in her final report.

In the 59-page consultation regulation Impact statement (RIS) released today, Safe Work Australia says this recommendation is contrary to the original policy intent of the model WHS laws and could increase costs for some businesses.

"Including the hierarchy of controls in the model WHS Act may increase certainty for some businesses leading to a small reduction in business costs," but it will also increase the amount of regulation and "could result in an increase in unnecessarily detailed documentation as a way of businesses demonstrating that they

have minimised risk according to the hierarchy", SWA says.

Further, any health and safety benefits are "expected to be minimal because the duty to ensure health and safety under the model WHS Act already requires a PCBU to do all that is reasonable to eliminate or minimise risk, including taking into account the suitability and availability of ways to eliminate or minimise the risk as far as is reasonably practicable", it says.

On releasing the RIS, SWA CEO Michelle Baxter noted that Boland's review found the model WHS laws "are operating as intended, but identified some areas where stakeholders are experiencing confusion or consider the laws to be overly complex".

"I encourage everyone who may be affected by the recommendations to provide feedback. Your input will play an important part in deciding how the model work health and safety laws may be improved," she said.

SWA says it is particularly interested in comments on the recommendations that could have the greatest impact on workers, employers and the community, which it says include those providing new arrangements for HSRs, introducing the industrial manslaughter offence, including gross negligence (along with recklessness) as an element of a category 1 offence, and amending the model WHS Regulations "to deal with how to identify the psychosocial risks associated with psychological injury and the appropriate control measures to manage those risks".

The RIS says the latter recommendation will address concerns about the lack of express provisions on psychological health and could raise the profile of psychological risks, "leading to PCBUs taking more active measures to address those risks and therefore improving safety outcomes".

But more prescriptive regulations could have an adverse impact on businesses that are effectively managing psychosocial risks in ways other than those prescribed, and "may also prevent PCBUs from implementing innovative and more effective control measures as the state of knowledge improves, resulting in unnecessary regulatory burden", it says.

It notes that SWA released the national guidance Work-related psychological health and safety: A systematic approach to meeting your duties after Boland finished her report.

Maintaining a regime where psychosocial risks to psychological health are regulated by the WHS Act instead of prescriptive clauses, and where PCBUs use the new guide, "would, at least partly, address the problem of practical guidance for stakeholders", the RIS says.

It says a number of the recommendations, like increasing penalty levels, are likely to improve health and safety without imposing additional business costs.

Submissions were due on 5 August 2019.

Consultation Regulation Impact Statement: Recommendations of the 2018 Review of the Model Work Health and Safety Laws, Safe Work Australia, June 2019.

OHS Alert – June 2019

Dangerous goods transport safety webinar series



The Department of Mines, Industry Regulation and Safety held a series of free of online webinars on dangerous goods transport safety during August.

These free information sessions covered:

- Fatigue management planning framework highlights the importance of planning in mitigating potential risks for personnel.
- Sleep science and fatigue management discusses the different sleep stages and how these can impact general health and wealth, reasons for sleep restriction and what the

outcomes can be on an individual's health and safety.

- Nanutarra LNG incident investigation, including the sequence of events involved with the vehicle collision and subsequent release of LNG.



Why some workers take bigger risks when unsupervised

Managers with overly "controlling, correcting and monitoring" leadership styles can erode workers' sense of safety responsibility and increase injuries, Swedish researchers say in a study with broad implications for managerial training.

Organisational leaders have considerable influence over workers' safety performance and attitudes, but until now it wasn't clear how different leadership styles improved safety, the researchers from Stockholm University, the Karolinska Institute and other bodies say.

From a survey of 269 workers of 88 managers in a Swedish paper mill company, they found safety-specific leadership – prioritising safety over productivity, reacting to subordinates' safety conduct with feedback, openly communicating with subordinates on safety issues and encouraging them to report problems, and actively initiating safety improvements – led to staff safety behavioural outcomes "over and above" general leadership styles like "transformational" or "transactional".

They found *transactional* leadership, especially where managers monitor subordinates' behaviour and focus on "irregularities, mistakes, exceptions, and deviations from what is expected", is linked to an increase in injuries.

The researchers say a possible explanation for this association is that a worker "may let go of his or her own sense of responsibility for safety" when they perceive their manager as overly monitoring and controlling.

Consequently, these workers are less likely to perceive "safe behaviours as important for one's own benefit rather than only as a form of lip service toward management", they say.

"This may make employees less willing to engage in extra-role behaviours to improve safety and may make them more prone to engage in riskier behaviour when the supervisor is not around."

Interestingly, the researchers also found that *transformational* leadership – characterised by empowering, inspiring and trust-based leader behaviours and associated with positive safety outcomes – does not have as much impact on safety as safety-specific leadership.

This suggests that transformational leadership only has a positive effect on safety when the associated behaviours, like role modelling, showing individualised concern for the wellbeing of workers and encouraging initiatives, are focused specifically on enhancing safety, they say.

According to the researchers, their findings show that overly controlling, correcting and monitoring leadership styles without a specific focus on safety should be avoided during leadership training.

They also show that managers "openly promoting safety as a prioritised issue are a vital factor on its own in affecting subordinate safety behaviours" regardless of their general leadership style.

"The most important thing for leaders aiming at improving workplace safety is to continuously emphasise safety, both in their communication and by acting as role models," they say.

"This highlights the importance of emphasising and encouraging a focus on safety issues in safety leadership training programs, regardless of improvements in leader behaviours associated with any other general leadership style."

Leading for Safety: A Question of Leadership Focus. Malin Molnar, et al, Sweden, *Safety and Health at Work*, volume 10, issue 2, June 2019.

Source - OHS Alert – June 2019

Two-year exemption from new WHS clauses granted in NSW



SafeWork NSW has adopted national model WHS Regulations that tighten the thresholds at which workers must be removed from lead risk work, and given PCBUs two years to transition to them.

As reported by *OHS Alert* in early 2017, state, territory and Commonwealth WHS ministers agreed to reduce the blood lead levels at which workers must be removed immediately from lead risk work from: 50 micrograms of lead per 100ml of blood to 30 micrograms for females not of reproductive capacity and males; and 15 or 20 micrograms to 10 micrograms for pregnant or breastfeeding workers or females of reproductive capacity.

The changes were added to Part 7.2 ("Lead") of the NSW *Work Health and Safety Regulation 2017* yesterday, and SafeWork's hazardous chemical facilities and safety management audits director Meagan McCool granted an exemption, giving PCBUs until 30 June 2021 to comply with the new thresholds.

The new thresholds also include only allowing a worker who has been removed from lead risk work to return to such work if a medical practitioner is satisfied they are fit to return and their blood lead level is less than: 30 micrograms for females not of reproductive capacity and males (down from 40 micrograms); and five micrograms for females of reproductive capacity (down from 10 micrograms).

A SafeWork spokesperson told *OHS Alert* that the lower thresholds were formally approved for the model WHS Regulations in 2018, with a two-year transitional period to apply when implemented within a jurisdiction.

Lower lead risk thresholds are being adopted with similar transitional periods in other jurisdictions, including the non-harmonised states of Victoria and Western Australia.

New laws protect safety of contractors and gig economy workers

Laws designed to provide safer and fairer working conditions for owner drivers and operators, including gig economy cyclists, have passed Victorian Parliament, introducing fines of up to \$16,500 for hirers and brokers who fail in their obligations to these workers.

The [Owner Drivers and Forestry Contractors Amendment Bill 2019](#), which commences on a day to be proclaimed or 1 May 2020 at the latest, will benefit owner operators that are contractors rather than legal employees and supply and operate up to three vehicles, including bicycles used to deliver goods for online platforms like Deliveroo and Uber Eats.

A recent review found many companies that hired or brokered for these operators were breaching their duties to properly record contractual arrangements or provide the applicable rate and costs schedule to contractors before their engagement, exposing operators to safety and income risks.

The State Wage Inspectorate will conduct a comprehensive information campaign before the changes come into force, to ensure those affected are aware of their rights and obligations and know where to seek help.

Victorian Small Business Commissioner Judy O'Connell today noted that the Bill amends the definition of "freight broker" to ensure contractors employed through third-party platforms like Uber Eats are covered by the Act.

The Bill also gives small business couriers access to a low cost, confidential and binding dispute resolution process in the Commission.

Source - OHS Alert – September 2019

World Lung Cancer Day

There are a number of well-known sets of circumstances which have demonstrated the link between some occupational exposures and some types of cancer. August 1 was World Lung Cancer Day and WorkSafe took the opportunity to raise awareness of the health risks associated with asbestos, diesel fumes, silica and welding. The following information can be found on the Department of Mines, Industry Regulation and Safety website to learn more. The website is <https://www.commerce.wa.gov.au/worksafe>

Asbestos

- [Asbestos - Frequently asked questions](#)
- [Asbestos - Information on asbestos in the workplace](#)
- [Asbestos: Health surveillance - Guide for employers](#)

Diesel fumes

- [Guidance on managing risks from exposure to diesel exhaust in the workplace](#) Canberra: Safe Work Australia, 2015

Silica

- [Spotlight on silica in proactive inspection program](#)
- [Stone benchtop fabrication and installation- Checklist](#)
- [Frequently asked questions - Silica](#)
[Welding and Cancer](#) - Cancer Council

Do you handle security sensitive ammonium nitrate?

The Department has developed an information sheet to assist those who deal with security sensitive ammonium nitrate (SSAN) waste. It is particularly for those who are not routinely involved with SSAN and may be unaware of their responsibilities.

[Security sensitive ammonium nitrate \(SSAN\) waste - information sheet - 173 Kb](#)

Silicosis

A report published in The West Australia on 2 August 2019 stated that Silicosis is emerging as the biggest threat to tradies since asbestos with five (5) confirmed cases already diagnosed in Western Australia.

Tradies installing kitchen benchtops are exposing themselves and their customers to potentially dangerous levels of silica dust as artificial stone tops increase in popularity and use.

The Monitor printed articles on this subject in October 2018.

What is this?



Source - Marshak and Negmatov, UNESCO 1996

This picture was kindly provided by Professor Geoff Taylor. It shows seventh century respirators used by stoneworkers in Sogdiana, near present day Samarkand.

Interesting is the fact that even back in the seventh century the danger to health associated with cutting stone had been identified.

What have we learned?



Taskforce formed to tackle deadly work disease

SafeWork NSW has established the Manufactured Stone Industry Taskforce, made up of peak industry bodies, medical professionals, unions and other organisations. The Taskforce is to tackle the re-emergence of "100 per cent preventable" work-related lung disease silicosis.

The 2017 parliamentary inquiry into dust diseases recommended the move after hearing that silicosis was becoming a "huge problem" in the manufactured stone industry because dust suppression was "non-existent or inadequate"

An Australian study subsequently found that artificial stone had an extremely high silicosis-causing silica content, and artificial stone-associated silicosis was characterised by much shorter latency periods than chronic silicosis in other industries.

SafeWork specialist services acting executive director Ron Keelty said the taskforce aims to "improve safety standards and workplace practices as well as potentially strengthen hazardous chemical safeguards". The project forms part of the 2017-22 Hazardous Chemicals and Materials Exposures Baseline and Reduction Strategy, and will run until June 2019..

"The manufactured stone industry involves newer engineered stone products such as Caesarstone for bathroom \ kitchen benchtops. It also includes bricks, roof tiles and concrete products that contain crystalline silica," Keelty said.

"When disturbed by cutting, sanding, blasting or grinding, crystalline silica dust is released which can get into a worker's lungs and lead to the lung disease silicosis," he said.

Prevention strategies include: using adequate ventilation systems and dust-capture systems on

portable tools; wetting down stone; providing PPE like respirators; not using compressed air to clean up settled dust; and conducting regular air monitoring.

Source – OHS Alert – 11 July 2018

National silica safety guide aimed at multiple PCBUs and products

Safe Work Australia has published a 32-page guide, [Working with silica and silica containing products](#), which outlines how to identify and control the health and safety risks associated with exposure to silica dust, as required by the national model WHS laws.

The guidance material is aimed at PCBUs with workers who work with silica-containing products such as: manufactured solid stone products like engineered stone benchtops; asphalt; cement, mortar and grout; concrete, concrete blocks and fibre cement products; bricks; drywall and some plasterboards; and pavers and tiles including roof tiles.

Exposure to silica dust can result in illnesses and diseases like sarcoidosis, breathing problems, chronic bronchitis, emphysema, lung cancer, progressive massive fibrosis and silicosis, as well as causing eye irritation or damage, the guidance says.

Silicosis re-emerged as a major workplace safety issue in Australia in 2017, after a NSW inquiry heard that few workers in the relatively new engineered stone industry – whose products have an extremely high silica content – were provided with PPE or other safety controls.

Source - OHS Alert September 2019

Vic passes controversial cancer Bill, offers more WorkWell grants

The Victorian *Firefighters' Presumptive Rights Compensation and Fire Services Legislation Amendment (Reform) Bill 2019* received royal assent today, providing presumptive workers' compensation to career and volunteer firefighters who develop prescribed forms of cancer.

The Labor Government Bill also controversially overhauls the fire services framework, which the State Opposition is opposed to.

Two weeks ago, Shadow Attorney-General Edward O'Donohue unsuccessfully moved for the Bill to be split in two and the new workers' comp rights for firefighters to be introduced as stand-alone legislation.

A 2017 parliamentary inquiry into an almost identical Government Bill, which failed to pass Parliament, recommended the same thing.

Meanwhile, the Victorian Government is offering grants of between \$250,000 and \$1.2 million in the latest round of funding from the WorkSafe WorkWell program's Mental Health Improvement Fund. Applications closed 9 August.

To be considered for funding, programs must be innovative, sustainable and able to make a lasting difference to the mental health and wellbeing of a large number of Victorian workers, State acting Workplace Safety Minister Ben Carroll said.

Grants from the first two rounds of funding are now being used to develop programs to support the mental health of residential aged care workers, other health workers, construction workers, primary school principals and public servants, Carroll said.



Controlling workplace distress

Employers have a duty to minimise workers' psychological stress and can do so by proactively boosting office morale and enforcing manageable workloads.

[R U OK? Day](#), a suicide-prevention initiative where people are encouraged to ask their co-workers, friends or family members if they're okay, and

encourage them to take action or seek help if they say no.

Mental health issues cost Australian businesses more than \$10 billion every year, and more than one in five workers requested time off work in 2018 because they felt mentally unwell, she says.

There is a "clear connection between workplace stress and an individual's mental wellbeing", and more and more organisations are implementing workplace wellness initiatives or providing support resources like employee assistance programs (EAPs), Gorton says.

Robert Half Australia recommends that managers talk about workplace mental health and wellbeing as often as possible – "the more you talk about mental health and workplace wellbeing, the safer your employees will feel to do the same" – and regularly ask workers if they're okay: a "simple yet powerful question [that] shows them that you care about their wellbeing".

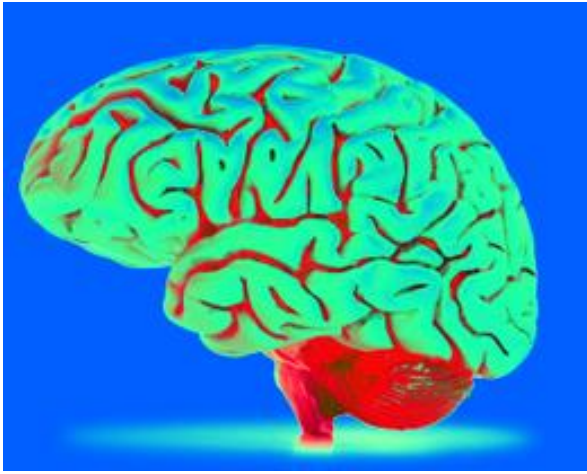
It also recommends creating an EAP for workers with mental health challenges, making workplace happiness a top priority and investing in wellbeing initiatives.

Chartered Accountants Australia and New Zealand (CA ANZ) segment support manager, Catherine Kennedy, says events like R U OK? Day highlight "the importance of stopping and checking in with our mates. At the end of the day you don't need to be an expert to reach out, just a good friend and a great listener."

Under a strategy that could benefit multiple industries, Kennedy notes that CA ANZ offers mental health first-aid training to accountants in regional areas, whose clients include farmers with mental health issues associated with financial distress and the drought crisis.

In other news, Beyond Blue and Heads Up recently released the [Supporting small business owners to improve their mental health and wellbeing at work](#) guide, which includes information on recognising the signs of poor mental health and providing immediate support to small business owners who are distressed.

Source - OHS Alert September 2019



Phone cancer link denied

A new study has found no increase in the rate of brain cancer in Australians aged over 60 that can be linked to mobile phone use.

In December 2018, the British Medical Journal Open published a [scientific study led by ARPANSA](#) investigating the relationship between brain cancer and mobile phone use.

The study looked at brain cancer diagnoses in Australians aged 20-59 between 1982 and 2013 and found that the wide use of mobile phones in Australia has not increased the rate of brain cancer.

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) published a [summary of the findings from this study](#) in December 2018.

Since the publication of the original study, the authors have conducted further analysis to assess whether there has been an increase in the rate of brain cancer in Australians aged 60 and over during the same time periods.

The [British Medical Journal Open has published a letter](#) outlining the findings from this additional analysis.

The experts say their latest study provides further evidence that there is no link between mobile phone use and brain cancer and makes an important contribution to the body of knowledge on this topic.

Source - OHS Career September 2019



Arsenic influx studied

Research shows some rice being imported into Australia contains higher than the recommended levels of arsenic, absorbed from contaminated groundwater.

Dr Mohammad Mahmudur Rahman, who published the first ever research on arsenic in rice from the Bengal delta in 2001, says rice on the market in Australia contains potentially dangerous levels of arsenic.

Dr Rahman says groundwater from 107 countries around the world is affected by arsenic contamination.

Arsenic causes skin, lung and bladder cancers, so its presence in rice should be a major concern to the 3 billion people around the world who consume rice.

His latest research shows that the lifetime cancer risk from consuming rice in some parts of Bangladesh is 288 times the acceptable arsenic intake limit.

In Australia there is no recommended standard, but the level of inorganic arsenic in rice on average is about 200 micrograms per kilogram, and even higher in some types of rice.

Dr Rahman says inorganic arsenic is present in some rice-based snacks available in Australia at levels above 200 micrograms per kilogram, and above 100 in baby rice, rice cakes and rice crackers.

Rice consumption in Australia is lower than other countries so the long-term exposure risk is less.

Dr Rahman is investigating ways to minimise levels of arsenic in rice, including by using less water in ways that do not affect yield, and by using varieties that accumulate less arsenic.

Source - OHS Career September 2019

IN THE COURTS



PCBU failed to act on safety officer's concerns

A PCBU that failed to investigate a complaint from a principal contractor's safety officer has been found guilty of WHS breaches, after a worker was seriously injured falling through a void. Another PCBU and its director were previously fined \$225,000 over the incident.

NSW District Court Judge Andrew Scotting found Poletti Corporation Pty Ltd, which was engaged by Karimbla Construction Services Pty Ltd to design, install and operate the jump form screen system at a high-rise building site in Parramatta, breached sections [19\(2\)](#) and [32](#) of the State WHS Act.

Poletti failed to ensure the health and safety of "other persons" working on the screen and exposed a painter to the risk of falling through the void between the outside of the building and the screen's work platforms, he found.

Judge Scotting heard that in February 2016, the painter, engaged by MJM Painting Services Pty Ltd, was on a work platform painting the external wall of level 27 of the building when he stepped onto a piece of plywood covering the void.

The plywood gave way and he fell six metres to the level-25 platforms, sustaining a head laceration, a shoulder injury, a fractured wrist and three fractured ribs.

Judge Scotting heard a Karimbla safety officer raised concerns over the void with Poletti and requested that it install hinged flaps on the work platforms' edges to cover it.

But Poletti's director refused. He incorrectly asserted the dimensions of the void's horizontal and vertical gaps complied with Australian Standards and did not require edge protection, which prompted Karimbla to convene the contractors' meeting.

Judge Scotting found that in this case, the painter was an "other person" under section 19(2), and not a "worker" under section 19(1), because while his work was "influenced" by Poletti he wasn't engaged or caused to be engaged by Poletti and wasn't carrying out work *for* it.

He found Poletti had a duty under section 19(2) to take *all* reasonably practicable steps to ensure other persons were not put at risk when they used the work platforms, including by identifying and eliminating or minimising the risk of a fall pursuant to clauses [78](#) and [79](#) of the State WHS Regulation.

Judge Scotting said he was "satisfied beyond reasonable doubt" that fixing a permanent extension to the work platform in the area of the void, or installing a hinged flap that covered the void, were reasonably practicable measures that would have eliminated or minimised the risk of workers falling.

It was also open to Poletti to barricade access to the work platforms until they were made safe for other trades and to add static lines to it to enable workers to use harnesses, he said, and rejected its claim it did not have control of the screens after they were handed over to Karimbla.

Karimbla relied on Poletti's specialist expertise to provide and maintain the system and no other entity on site was authorised to add components to it or alter the system, he said. Its actions led other workers to adopt makeshift methods like using plywood to cover the void, the Judge said. It will be sentenced later.

[SafeWork NSW v Poletti Corporation Pty Ltd \[2019\] NSWDC 491 \(13 September 2019\)](#)

Source - OHS Alert September 2019

New workers' comp laws and Regulation commencing in NSW

The process for determining injured workers' pre-injury earnings in NSW will change on 21 October 2019, with State Governor Margaret Beazley declaring this the start date for Schedule 3 ("Amendments relating to pre-injury average weekly earnings") of the [Workers Compensation Legislation Amendment Act 2018](#).

The Amendment Act was introduced to Parliament in September last year and passed several weeks later, simplifying the determination of an injured worker's pre-injury average weekly earnings, ensuring all earnings such as overtime and shift allowances are considered in the calculation, and ensuring these allowances aren't excluded after 52 weeks of payments.

The Amendment Act's other changes included abolishing the existing system of internal, merit and procedural reviews for work capacity disputes, and re-establishing the Workers Compensation Commission as the jurisdiction for such disputes.

Source - OHS Alert September 2019

PCBU fined \$400k in latest BMU ruling

A PCBU that incorrectly believed an expert contractor was obliged to advise it when a building maintenance unit (BMU) was due for a major inspection has been convicted and fined \$400,000, after two workers were seriously injured in a 12-storey fall.

At the time of the October 2015 incident, Investa Asset Management Pty Ltd had significant safety systems for workers who used the BMU at one of the Sydney office buildings it managed, but the systems were deficient in failing to identify the fact that the BMU was overdue for its 10-year inspection, NSW District Court Judge Andrew Scotting said in sentencing Investa.

The two workers from a cleaning company were using the BMU to wash the building's external windows when the BMU's fatigued load-bearing bolts failed, and the unit plummeted about 30 metres onto the building's awning.

Both workers suffered permanent disabling injuries, and both Investa and the contractor that periodically serviced the BMU, Building

Maintenance Unit Service Pty Ltd (BMUS), were charged with breaching sections [19](#) ("Primary duty of care") and [32](#) ("Failure to comply with health and safety duty—Category 2") of the State WHS Act.

In February this year, BMUS pleaded guilty to failing to "prompt Investa to have the major inspection done", among other offences, and was fined \$300,000 after a 25 per cent discount for its plea. Investa contested its charges, but Judge Scotting found it guilty in March.

At Investa's subsequent sentencing hearing, Judge Scotting reiterated his findings that if a major inspection of the BMU had been carried out within the required timeframe, the fatigue cracks in the bolts would have been detected and all potentially compromised parts would have been replaced.

The Judge heard that prior to the incident, Investa embarked on a process of sending a scope of works to each of its external service providers and asking them to outline the budget for regular maintenance on each piece of equipment they were responsible for.

Judge Scotting found that Investa and BMUS were similarly culpable and fined the former \$400,000 from a maximum \$1.5 million. (BMUS was also handed a nominal fine of \$400,000, prior to the discount for its guilty plea.)

The Judge also upheld SafeWork NSW's application for an adverse publicity order against Investa and directed the PCBU to publish notices on its conviction in three facility management publications.

Investa argued there had already been sufficient publicity on the incident, noting *OHS Alert* reported on the relevant SafeWork twice and the case was covered in the mainstream media.

Judge Scotting found an adverse publicity was warranted in this case for several reasons, including that the notices could deter other duty holders from "failing to ensure that plant such as BMUs or suspended scaffolding is maintained in accordance with the Australian Standard".

[SafeWork NSW v Investa Asset Management Pty Ltd \[2019\] NSWDC 472 \(19 August 2019\)](#)

Source - OHS Alert September 2019

PCBU fined over major structure collapse, responsible supervisor rarely at site

A PCBU knew workers from other businesses were removing parts of its scaffold without authorisation but failed to routinely check its integrity, a court has found in fining it \$225,000 over a major scaffolding collapse where workers were forced to ride falling material down seven storeys.

Sydney Hoist and Scaffolding Pty Ltd (SHS) was also aware that scaffolding at the Mascot, NSW building project, which collapsed in February 2014, causing major traffic disruptions and forcing the surrounding area to be evacuated, was bowing and unstable but failed to act, District Court Judge David Russell found.

SHS was engaged by principal contractor Toplace Pty Ltd to erect, maintain and dismantle the scaffolding for the 14-storey building project.

Several days after scaffolding on two sides of the building was dismantled, the street-facing scaffold became unstable and collapsed, falling over an area where workers were working, the boundary fence and the adjacent public footpath, and bringing down a section of powerlines.

Three workers from SHS and its related companies packing a hoist onto a truck were forced to "run for their lives", while another two working on level seven of the scaffold rode down with the collapsing structure, Judge Russell heard.

Some of the workers suffered cuts and soft tissue injuries and two were affected by post-traumatic stress disorder and other psychological injuries, he heard.

As reported by *OHS Alert* in May last year, Toplace entered a \$348,401 enforceable undertaking in lieu of prosecution over the incident, and spent \$650,000 spent on rectifications, including a system requiring subcontractors to provide scaffold plans and designs before commencing jobs.

Meanwhile, SHS pleaded guilty to breaching sections [19\(1\)](#) and [32](#) of the State WHS Act in exposing the five workers to the risk of death or serious injury.

It was also charged with breaching section 19(2), in failing to ensure the health and safety of a

passing motorist whose car was struck by the powerlines, but those proceedings were dismissed under an arrangement requiring Judge Russell to take the risks she was exposed to into account in sentencing.

Judge Russell found the scaffold collapsed because SHS did not place enough ties on the scaffold to prevent it from becoming unstable during the dismantling phase, and the scaffold was inadequately braced at the ends.

He found the SHS leading hand was aware other tradespeople on the site were removing ties and other parts from the scaffold, and making modifications to it, without authorisation or assistance from SHS.

SHS's safe work method statement identified this risk and stated that weekly maintenance and servicing checks must be carried out on standing scaffolds, but in the lead up to the incident the SHS supervisor responsible for inspections only attended the site once a month, Judge Russell found.

He found the "problems with the scaffold were apparent to [SHS] well prior to its collapse".

The leading hand observed the scaffold bowing in January 2014, and found it was "shaky" on the day before the incident, which should have "sounded a warning", he said.

Judge Russell said it was a "minor miracle" that no serious physical injuries were sustained in the collapse but highlighted the seriousness of one worker's debilitating psychological injuries. He also noted the SHS director's remorse over the incident was "somewhat belated", after he failed to check on the injured workers in hospital or follow up on their condition.

Judge Russell said an appropriate fine for SHS was \$300,000, and reduced it by 25 per cent for its guilty plea.

[SafeWork NSW v Sydney Hoist and Scaffolding Pty Ltd \[2019\] NSWDC 442 \(29 August 2019\)](#)

Source - OHS Alert September 2019

New publications

The following is a list of recently published items available to view online on the Department of Mines, Industry Regulation and Safety's website <https://www.commerce.wa.gov.au/worksafe>

Accident Investigation Reports

- 23 year old worker pulled into a wood chipper on his first day on the job, New York - NIOSH Face Report
- Collision between semi-autonomous dozer and manned excavator - NSW Resources Regulator
- Construction owner died in trench wall collapse - NIOSH Face Report
- Owner of farm land pinned under tractor while clearing fence line - NIOSH Face Report
- Pryor Trust fatal gas well blowout and fire: Final Investigation Report - US Chemical Safety and Hazard investigation Board
- Wirestrike involving a Robinson R44, VH-ZWK, 20 km from Naracoorte, South Australia, on 13 March 2019 - Australian Transport Safety Board
- Workers evacuated after gas levels rise - casual investigation - NSW Resources Regulator

General publications

- Agriculture drones (remote piloted vehicles): fact sheet - SafeWork NSW
- Bullying In plain sight: workplace bullying in charities and the implications for leadership - Centre for Mental Health
- Consultation Regulation Impact Statement: Recommendations of the 2018 Review of the Model Work Health and Safety Laws/Safe Work Australia
- Dangerous Goods in Tunnels: Application and Methodology/Austrroads
- Dangerous Goods in Tunnels: Literature Review/Austrroads
- Developing technology-neutral road rules for driver distraction: consultation regulation impact statement/National Transport Commission

- Effectiveness of Safety Inspections: DOSH Compliance and Consultation Visits and Compensable Claims Rates in Washington State, 2016-2017 / Washington State Department of Labor and Industries
- Evaluation of workplace exposures at a ceramic tile manufacturer/Health Hazard Evaluation Report NIOSH
- Evaluation of Police Officers' Exposure to Second hand Cannabis Smoke at Open-air Stadium Event/Health Hazard Evaluation Report NIOSH
- Chrysotile asbestos: fact sheet - Asbestos Safety and Eradication Agency
- Learning from disasters: training program for mine workers/NSW Resources Regulator
- Mental health and the workplace: a guide for line managers/Society of Occupational Medicine
- Model Work Health and Safety Regulations: explanatory statement/Safe Work Australia
- NIOSH method 7400: Asbestos and other fibres by PCM: NIOSH Manual of Analytical Methods (NMAM) - updated
- Occupational disease and prevention/CCOHS
- Offshore Safety Review: Discussion Paper A review of the offshore safety regulatory regime/Australia. Department of Industry, Innovation and Science
- PODCASTS Infectious Diseases in the Workplace/Dr Marie de Perio NIOSH
- Psychosocial Work Conditions and Mental Health: Examining Differences Across Mental Illness and Well-Being Outcomes/Annals of Work Exposures and Health, Volume 63, Issue 5, June 2019, Pages 546–559
- Supporting workers with endometriosis in the workplace: fact sheet - Safe Work Australia
- The case for global regulation of industrial safety/Michael Tooma International Conference on Ensuring Industrial Safety: The role of government, regulations,

standards and new technologies Vienna, 30-31 May 2019

- Violence and Harassment Convention, 2019 (No. 190): Convention concerning the elimination of violence and harassment in the world of work, adopted by the conference at its one hundred and eighth session, Geneva 21 June 2019 - International Labour Organization
- Violence and Harassment Recommendation, 2019 (No. 206): Recommendation concerning the elimination of violence and harassment in the world of work, adopted by the conference at its one hundred and eighth session, Geneva 21 June 2019 - International Labour Organization

Safety Alerts and Bulletins

- Accelerated silicosis/WorkSafe New Zealand
- Arm Trapped in Felling Head during Repair/SafeTree NZ Audience members injured at horse racing event/ Workplace Health and Safety Queensland
- Construction site fire/WorkSafe ACT
- Crane rope sheave failure/Workplace Health and Safety Queensland
- Employee fatally crushed between forklift load and mast/WorkSafe Victoria
- Hazards of automatic revolving or rotating doors/WorkSafe Victoria
- Farmer killed when tractor attachment point fails/WorkSafe Victoria
- Glass panes at early childhood education and care services/WorkSafe Victoria
- LP gas cylinder testing/Queensland. Dept. of Natural Resources, Mines and Energy
- Loss of control of load during transportation: learning event/Safer Together
- Precast concrete panel falls from truck/WorkSafe Victoria
- Ride failure highlights the need for rigorous inspection and testing of amusement rides/NTWorkSafe

- SafeWork SA secures conviction over bullying of construction apprentice/SafeWork SA

Videos

- Building a psychologically healthy and safe workplace - Part 1 prevention/SafeWork NSW
- Building a psychologically healthy and safe workplace - Part 2 Early intervention/SafeWork NSW
- Dr Karl - Let's talk silica safety/SafeWork NSW
- How to use machine guarding/SafeWork NSW
- Know your workplace cancer risk: Asbestos /Cancer Council of WA
- Know your workplace cancer risk: Diesel Exhaust/Cancer Council of WA
- Know your workplace cancer risk: Welding/Cancer Council of WA
- Learning from investigations: Workers evacuated after gas levels rise/NSW Resources Regulator

Put it in your diary!

The Society's Annual General Meeting (AGM) will be held on **27 November at 6.00pm**. The venue is yet to be determined. More information will be provided, at a later date, along with nomination forms for those members who wish to join the Committee. The Society's aim is to provide a forum to express an independent, expert viewpoint on all aspects of occupational health and safety and have input into the improvement of and extension of existing legislation. As a Committee member you have the opportunity to contribute to and influence the Society's direction and activities.

Come along to the AGM and receive a small gift in appreciation of your loyalty and support for the Society.

Occupational Health Society of Australia (WA)



Membership of the Society is open to all those interested in occupational health and safety.

\$100 Corporate membership

\$50 ordinary membership

\$20 student membership.

Simply email

ohswa@outlook.com.au

with your details.

Incorporated in 1978, the Occupational Health Society of Australia (WA Branch) is a non-profit association which provides a forum for the wide range of disciplines engaged in the occupational health profession in Western Australia. The aims of the Society are:

- to develop effective occupational health practice within Western Australia
- to encourage awareness by individuals, organisations and other bodies, of the role of occupational health
- to provide a forum for professional contact between persons interested in, and working in, occupational health
- to express an independent, professional viewpoint on all aspects of occupational health considered desirable in the public interest
- to seek the improvement or an extension of the existing legislation for the promotion of safety and health at work
- in order to ensure uniform principles are applied in all occupational activities.

Please contact the Secretariat on ohswa@outlook.com.au regarding membership matters.

Occupational Health Society of Australia (WA)

Current Financial Members

Ordinary and Student Members

Ms Anitha Arasu
Mrs Frances Bandy
Mr Ben Banyai – Student – Curtin University
Mr Bryce Bell
Ms Lee Cherry
Mr Alan Clarkson Snr - SHEQ Australia
Ms Allaine Coleman – Life Member of the Society
Ms Maria Daniel
Ms Fiona Davidson
Mr Matthew Davies
Mrs Gwendoline Dempsey
Mr Michael French
Ms Debbie Gaskin
Mr Steven Goodlet
Mr Antony Green - Holcim (Australia) Pty Ltd
Mr Jon Groves
Ms Rachel Hammond
Ms Zoë Holdaway - Zone Workplace Health Solutions
Miss Yixin Huang – Student - Xi'an University of Science and Technology in China
Mr Chris Jacobs
Dr Janis Jansz - Curtin University
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Mr Geoff Knight - Chaos WA
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Ms Glenda McMurtrie
Ms Ana Milosavljevic - WorkSafe WA
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Mr Umer Mustqem – Student – Curtin University
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Mr Peter Rohan - DMIRS
Mr Giovanni Sessarego
Dr June Sim
Mr Daniel Smith – Student – Curtin University
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Ms Ni Ting - Student – Curtin University
Mr Dave Tomkinson
Mr Lance Van Niekerk
Ms Kristyna Vavreckova – Student - University of Ostrava in the Czech Republic
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If your name is not on this list and you believe you are a financial member, please contact the Society by email - ohswa@outlook.com.au