

# The Safe Side



Developments in health and safety from New Zealand and around the world

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*In this issue, we report on research that found that just under one in five work related fatalities between 2005 and 2014 were linked to weather-related factors. Notably, this proportion may increase in the future as extreme weather becomes more likely due to climate change. We also cover an enforceable undertaking which will see a waste services company spend almost \$1 million on health and safety initiatives and reparations. In addition, we briefly cover the filing of a charge in Victoria, Australia for workplace manslaughter which could see a director imprisoned for up to 25 years if convicted. Finally, we have articles about the health and safety prosecutions of an installer of unsafe edge protection and a helicopter company following a fatal crash in which three people died, along with an RMA prosecution of a forestry company.*

## A \$950k enforceable undertaking accepted by WorkSafe after driver's death

In March 2020, a 60-year-old truck driver was standing at the rear of his truck at the Hampton Downs landfill when he was struck and killed by a loader driven by another worker.

WorkSafe investigated and filed a charge against the truck driver's employer, EnviroWaste Services Limited. The charge alleged that the company should have taken a number of steps to reduce the risk of harm to workers. These included having a site-specific traffic management plan in place, providing radar or sensor equipment to alert pedestrians and drivers when they were within 4 metres of each other and providing workers with appropriate training about vehicle operations.

WorkSafe subsequently accepted an [enforceable undertaking](#) (EU) from EnviroWaste as an alternative to prosecution. The cost of the EU is a minimum of \$950,000. WorkSafe commented that the investment EnviroWaste

was prepared to make exceeded what even the courts may have ordered in penalties.

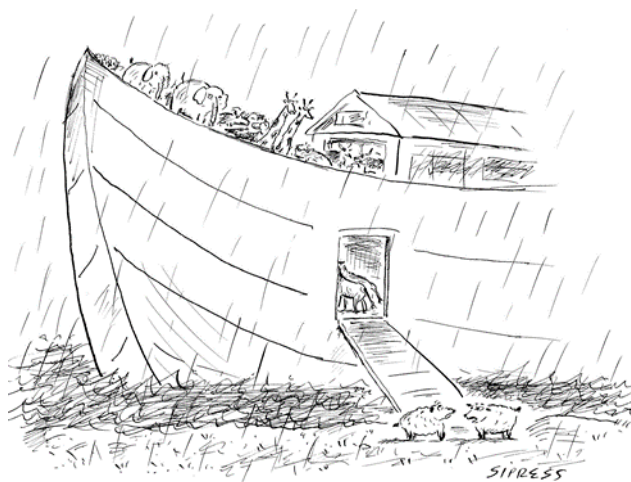
The EU covers paying reparations to the driver's family, as well as funding an artificial intelligence technology safety initiative and a youth alcohol and drug programme in the Waikato region.

The EU also pays for initiatives relating to the management of dynamic (or changing) risk in workplaces including through the development and implementation of a methodology to better understand dynamic risk, worker critical analysis and thinking skills and a worker engagement tool for work variability and adaptation.

You can read more about EUs in Issue 36 of [The Safe Side](#). WorkSafe guidance is available on [site traffic management](#) and [safe reversing practices](#).

## Weather-related factors linked to almost one in five work-related deaths

Research from the [University of Otago](#) has highlighted the important role weather events play in many work-related deaths. And with changing weather patterns and the increasing frequency of extreme weather events, the influence of weather on deaths at work is expected to become even more significant.



*"We'll feel pretty silly if it's downgraded to a tropical storm."*

The research looked at coronial records between 2005 and 2014. It found that of the 840 unintentional work-related fatalities identified, 145 deaths or 17% involved weather-related factors. Wet weather accounted for 41% of the weather-related deaths, for example, through tractor rollovers due to loss of traction on wet soil. High winds accounted for a further 23% of weather-related death. Autumn was the season with the highest deathrate.

Unsurprisingly, the agriculture, forestry, and fisheries industries experienced the highest proportion of weather-related fatalities and together accounted for just under 40% of all the deaths. Individuals aged 70 to 84 years were the most likely to die and Māori were significantly overrepresented in the figures.

The study underscores the importance of considering actual and expected weather conditions when planning work and assessing risks. This includes during the recovery phase. [WorkSafe Victoria](#) recently released an article that highlights the risks to workers during flood clean up. Apart from the information about snakes, it will be useful for New Zealand workplaces.

## WorkSafe Victoria charges a director with workplace manslaughter

The Victorian health and safety regulator has charged the director of a stonemasonry business with workplace manslaughter after a 25-year-old sub-contractor was fatally crushed. The director was operating a loaded forklift on a sloping driveway when it tipped over and landed on top of the victim in October 2021.

Workplace manslaughter provisions were introduced into the Australian state in July 2020. The maximum penalty for the offence for an individual is up to a sobering 25-year imprisonment.

## Installer convicted after guardrail fails

The Health and Safety at Work Act not only places general duties on employers and principals to contracts. It also places specific [duties](#) on a PCBU that installs, constructs or commissions plant or a structure that is to be used, or could reasonably be expected to be used, as or at a workplace. WorkSafe recently [prosecuted](#) a company that had installed temporary edge protection for roofing work being carried out at a North Shore school by using this provision.

The prosecution arose after a 54-year-old worker fell 3.6 metres onto the concrete ground below after trying to steady himself by holding a guardrail. The rail detached due to improper installation.

The victim sustained multiple fractures to his ribs, sternum and pelvis and did not fully recover for more than a year. WorkSafe said he was lucky to survive the incident.

WorkSafe's investigation found the company should have ensured the roof edge protection was installed in line with the manufacturer's guidelines and industry standards, and was safe and fit for use.

After sentencing, WorkSafe commented that: "This case is a clear example that everyone has responsibilities under the Health and Safety at Work Act, including businesses upstream from the work itself. If you contribute to unsafe work, you will be held to account."

The company was fined \$100,000 to be paid over five years and ordered to pay \$43,000 reparations to the victim immediately.

More [information](#) on the duties of installers is available from WorkSafe.

## Fatal helicopter crash sees company ordered to pay \$379k in fines and costs

A [helicopter company](#) was fined \$315,000 and ordered to pay \$64,000 in legal costs for the part it played in a 2018 helicopter crash that caused the death of the pilot and two passengers. The company had already paid \$200,000 to the families of the victims. The prosecution was brought by the Civil Aviation Authority (CAA) under the Health and Safety at Work Act.

The helicopter was taking off on its way to a tahr culling operation near Wanaka when the crash occurred. Crash analysis showed the rear left-hand door opened during the flight. A pair of overalls flew out of the cabin and were sucked into the tail rotor, with the helicopter crashing soon after.

The investigation by the CAA alleged that door opening events were common and under-reported, and no corrective actions were taken by the defendant company to mitigate or remove the risk caused by door openings.

After the sentencing, the CAA said that aviation organisations need to understand how important it is to action any safety issue, big or small, as soon as it arises. The failure to identify risks and take appropriate action could lead to disastrous consequences.

## Companies and staff fined more than \$100k for RMA offending

A forestry company, a forestry harvest contractor and two workers were convicted and sentenced on a total of 11 charges filed under the Resource Management Act following a recent [prosecution](#) by the Waikato Regional Council.

The charges related to activities from April 2019 through to January 2020 that resulted in over four kilometres of poorly constructed forestry tracking, along with numerous stream crossings. The Council said these activities negatively impacted streams in the area through the discharge of tree waste material and sediment.

The forestry company and harvesting contractor were convicted on four charges and fined \$45,000 each. In sentencing, the District Court Judge characterised the forestry harvest as "highly careless, bordering on reckless."

The harvest foreman was also convicted on two charges and fined \$5,000 and an earthworks contractor was convicted of one charge and fined \$9,750.

The environmental effects of forestry activities are regulated through a national environmental standard. The Waikato Regional Council warned after the sentencing that where landowners or forestry contractors deviated from the national regulations, resulting in adverse environmental outcomes, they could expect enforcement action to be taken.