



Protestors: if you get hurt in my workplace, it's your OWN fault! Or is it? Your work health & safety obligations to trespassers.

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APRIL 2019

In light of the recent animal activist protests and the lengths they have gone to to cause significant interruption to farms and processing facilities around the country, it is an appropriate time to consider the responsibility employers and property owners bear to enable them to discharge their statutory work health and safety (**WH&S**) obligations.

Under State WH&S legislation, persons conducting a business or undertaking (**PCBU**) (be they employers, owners, lessors, lessees or occupiers of premises) owe extensive duties of care to not only their workers who may have to deal with such protests but to any person who enters a workplace (i.e.: the protestors).

Specifically, section 19 of the Work Health and Safety Act 2011 (Qld) (**WH&S Act**) provides that, as far as reasonably practicable, a PCBU must ensure:

1. the health and safety of workers—
 - a. engaged, or caused to be engaged by the by the PCBU; and
 - b. whose activities in carrying out work are influenced or directed by the PCBU;
 - c. while the workers are at work in the business or undertaking.

2. the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.

Without limiting the above, the PCBU must ensure, so far as reasonably practicable:

1. the provision and maintenance of:
 - a. a work environment without risks to health and safety;
 - b. safe plant and structures;
 - c. safe systems of work;



2. the safe use, handling and storage of plant, structures and substances;
3. the provision of adequate facilities for the welfare at work of workers, including ensuring access to those facilities;
4. the provision of any information, training, instruction or supervision;
5. the health of workers and the conditions at the workplace are monitored for the purpose of preventing illness or injury of workers.

In addition to the primary duty above, section 20 of the WH&S Act provides additional duties of care owed by a person with the management or control of a workplace, with the scope of these obligations being owed not just to workers, but to '*any person*' – which clearly includes trespassers to any property, such as the recent animal activist protests.

Whilst the WH&S Act also requires workers and other persons at the workplace, to take reasonable care for their own health and safety and the health and safety of others, the duties placed on PCBUs and persons with the management or control of a workplace have the higher obligation to ensure as far as reasonably practical the health and safety of any person who enters the workplace.

In light of the recent protests at farms and processing plants and the heightened biosecurity and health and safety risks associated with such workplaces, it is important to consider whether your workplace has taken all necessary steps to ensure compliance with, amongst other things, the WH&S Act.

Some things to consider include whether your workplace has:

- provided adequate training for workers in responding to such action;
- adequate barriers, fencing, security installed or erected;
- appropriately secured and supervised entry and exit points; and
- appropriate signage throughout and around the external perimeter of the workplace, or property on which the workplace is located warning of risks to those that enter and the likely action that will be taken against unauthorised entry.

The team at Broadley Rees Hogan has had successful hands on experience dealing with trespass and business interruption committed by animal activist protests. We can assist you with:

- effective deterrence of persons attempting to unlawfully enter your workplace;
- risk management advice and training to ensure the safety of your workers and other persons entering the workplace;
- taking appropriate legal action, seeking compensation in the event your workplace experiences unauthorised entry and / or interruption to your business.

For assistance or more information about these matters or any matters regarding Employment and Work Health & Safety services, please contact:

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