

Do you Understand Your OH&S Obligations



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[Can you avoid a \\$943,000 fine or 5 years jail or both.](#)

The Victorian government has increased fines for any breaches of the Occupational Health and Safety Act 2004 and as such, a Body Corporate can now be penalised \$943,290 and a 5-year jail term by failure to ensure a workplace that is under their control, is safe.. The Act defines the common property of a Body Corporate as a workplace and therefore under the Act the Body Corporate is responsible to ensure it is a safe place for workers, contractors, volunteers, members of the general public, tenants, owners and visitors. Penalties to the Act have been increased to a maximum penalty of \$943,290 fines or 5 years jail or both for a Body Corporate.

Insurance policies / companies will not cover a Body Corporate for fines or punitive damages that are awarded in a court of law..

Duties of those who manage or control workplaces (S26)

Any person or body that manages or controls a workplace, to any extent, must ensure that the workplace, including entering and exiting the workplace, is safe and without risk to health. Those who manage or control a workplace could include the employer, the occupier of the workplace, the owner of the workplace and others. As a body corporate you are exposed to a number of risks relating to your occupational health and safety obligations and common law responsibilities.

Duty not to recklessly endanger people at workplaces (S32)

It is an offence, without lawful excuse, to recklessly engage in conduct that exposes, or may expose, a person at a workplace to the risk of serious injury.

BODIES CORPORATE, PARTNERSHIPS AND UNINCORPORATED BODIES OR ASSOCIATIONS

Duties under the Act apply to officers within the meaning of the *Corporations Act* and cover those who make, or participate in the making of, decisions that affect the whole, or substantial part, of the business of an organisation. Accordingly, these provisions relate to the officers at the most senior levels of organisations who are genuinely in a position to prevent contraventions of the Act.

An officer of a body corporate, a partnership or an unincorporated body or association who is a volunteer is exempt from prosecution under these provisions of the Act.

Imputing conduct to bodies corporate (S143)

Any conduct undertaken on behalf of the body corporate by its employees, agents or officers acting within the scope of their actual or apparent authority, is deemed to be conduct of the body corporate.

Liability of officers of bodies corporate (S144)

If a body corporate contravenes this Act or regulations because an officer of the body corporate failed to take reasonable care, the officer is guilty of an offence and liable to a fine of an amount no greater than a fine applicable to an individual found guilty of the same offence. Safe access to and from the common property for others including members of the public, visitors and tenants. A Body Corporate can comply with their obligation by engaging a professional OH&S company to: -

1. Assessing risks that may result because of the hazards that are existing.
2. Provide control measures to prevent, or minimise the level of the risks.
3. Identifying hazards on the common property
4. Implementing control measures
5. Monitoring and reviewing the effectiveness of the control measures.
6. Ensure that contractors
 - (a) Are properly insured
 - (b) Adequately licensed
 - (c) Provide work statements and Job Safety Analysis. These are documents that detail the methodology of the works that are to be performed and express the risks that will be involved and the counter measures that are to be taken to reduce the risk.

Who do you call?

Roscon Property Maintenance Pty Ltd provides a complete range of services, ranging from safety Inspections, maintenance plan budgets to depreciation schedules. We can provide safety audits of your common property areas and can also provide contractors that are fully qualified to perform all works that may eventuate. We have 21 years of experience in the Body Corporate and Property Maintenance fields and have been dealing with the Occupational Health and Safety Act since it first inception in 1985.

The benefits of using Roscon Property Maintenance Pty Ltd:-

1. You will be dealing with a professional company who has a clear understanding of your requirements within the Body Corporate & Property Maintenance industries.
2. You will be dealing with a company that has clear understanding of the current changes of government legislation.
3. You will avoid future legal implications of the Occupational Health & Safety Act by taking a proactive approach.
4. Important issues are brought to your attention and preventative measures are provided.
5. You are dealing with a local Victorian Company who has local knowledge of the implications of the state and local legislation.
6. We are accredited to Quality Assurance Standard ISO 9001: 2000.

Call us now on (03) 9386 9563
Email us at peter@roscon.com
Total reporting & maintenance management service
“Market leaders in our field”

ROSCON PROPERTY MAINTENANCE PTY. LTD.

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