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**TWU – VIC/TAS**

Jan 2009

## **OHS GUIDANCE NOTE - No. 6**

### **“Employee Health & Safety Obligations”**

#### **WHILST AT WORK:**

The Provision of a safe and Healthy workplace is a management responsibility. All workers have an obligation to themselves and fellow workmates to be actively involved in occupational health and safety.

- Work with due care, responsibly and consider the safeguard of their own health and safety as well as others in the workplace
- To abide by all safe workplace policies and procedures, instructions, workplace practices in regards to health and safety.
- Operate equipment(plant) with due regard to safe handling and use the equipment with regards to its intended use.
- Identify and report all hazards and potential hazards in the workplace.
- Report all incidents, mishaps, injuries and accidents
- Ensure that all Personal Protective Equipment (PPE) is operated, worn correctly at appropriate times and places
- Support and become involved, encourage involvement of others in achieving a safe and healthy workplace

#### **LEGISLATION:**

### **“Occupational Health and Safety Act 2004”**

**No. 107 of 2004**

Version incorporating amendments as at 23 February 2007

#### **PART 3—GENERAL DUTIES RELATING TO HEALTH AND SAFETY**

##### **Division 1—The Concept of Ensuring Health and Safety**

#### **20. The concept of ensuring health and safety**

(1) To avoid doubt, a duty imposed on a person by this Part or the regulations to ensure, so far as is reasonably practicable, health and safety requires the person—

(a) to eliminate risks to health and safety so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate risks to health and safety, to reduce those risks so far as is reasonably practicable.

(2) To avoid doubt, for the purposes of this Part and the regulations, regard must be had to the following matters in determining what is (or was at a particular time) reasonably practicable in relation to ensuring health and safety—

(a) the likelihood of the hazard or risk concerned eventuating;

(b) the degree of harm that would result if the hazard or risk eventuated;

(c) what the person concerned knows, or ought reasonably to know, about the hazard or risk and any ways of eliminating or reducing the hazard or risk;

(d) the availability and suitability of ways to eliminate or reduce the hazard or risk;

(e) the cost of eliminating or reducing the hazard or risk.

## **25. Duties of employees**

(1) While at work, an employee must—

(a) take reasonable care for his or her own health and safety; and

(b) take reasonable care for the health and safety of persons who may be affected by the employee's acts or omissions at a workplace; and

(c) co-operate with his or her employer with respect to any action taken by the employer to comply with a requirement imposed by or under this Act or the regulations.

Penalty: 1800 penalty units .

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(2) While at work, an employee must not intentionally or recklessly interfere with or misuse anything provided at the workplace in the interests of health, safety or welfare.

Penalty: 1800 penalty units .

(3) In determining for the purposes of sub-section (1)(a) or (b) whether an employee failed to take reasonable care, regard must be had to what the employee knew about the relevant circumstances.

(4) An offence against sub-section (1) or (2) is an indictable offence.

Note: However, the offence may be heard and determined summarily (see section 53 of, and Schedule 4 to, the **Magistrates' Court Act 1989**).

The TWU Vic/Tas Branch (OH&S section) formulated this code. It is offered as a broad guide to assist with members. Further information regarding "Consultation" in the workplace is available for Members who can contact the *TWU Health and Safety Section* or the TWU Member Assist Officer for a copy the Union's Policy.

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