

**RECENT DECISIONS**

## Criminal prosecution of employer

*SafeWork NSW v Williams Pressing and Packaging Services Pty Limited* [2018] NSWDC 409

[Link to decision](#)

### Summary

A NSW employer has pleaded guilty to a criminal offence under the *Work Health & Safety Act 2011* and been ordered to pay a fine of \$60,000 after failing to provide a safe system of work at its warehouse.

### The case

Williams Pressing and Packaging Services Pty Limited ('Williams') provided warehouse distribution services for the fashion industry. Williams contracted Phong Warehouse & Distributor Pty Ltd ('Phong') to provide workers to pick stock in order to fulfil customer orders. The services provided by both Williams and Phong involved the use of forklifts to access stock in the warehouse.

In 2005, Williams contracted an occupational health and safety company to help develop safe systems of work. It also engaged the services of a safety consultant, who reviewed Williams' work systems.

On 19 July 2016 a worker employed by Phong was injured when a worker employed by Williams drove a forklift over her feet, causing significant injuries.

Prior to the accident, Williams and Phong had an undocumented system of work which included (amongst other things) that no-one was to go within a 3 metre 'exclusion zone' of a moving forklift. There were also a number of pedestrian walkways marked on the floor of the warehouse

Crucially, however, the 'exclusion zone' was not enforced. Workers were not adequately trained in respect of the exclusion zone. There was no physical separation (such as moveable barriers) to ensure the exclusion zone between workers and the moving forklifts was maintained. The pedestrian walkways which were to assist with enforcing the exclusion zone were worn and were no longer clearly visible in some areas, including the areas where workers were picking stock.

The failure to enforce the exclusion zones and to properly train all persons working in the warehouse led to the accident on 19 July 2016. In those circumstances, Williams pleaded guilty to failing to comply with its work health and safety duties.

### Implications

This case highlights the need for anyone conducting a business to ensure that they continually review and enforce their systems of work and safety procedures. A 'set and forget' approach is not appropriate. Workplace safety must be the subject of continuous monitoring.

### For more information, please contact:

**Adele Fletcher**

Partner

[adele.fletcher@turkslegal.com.au](mailto:adele.fletcher@turkslegal.com.au)