

Workplace Health And Safety Prosecution Summary

17/18 FY

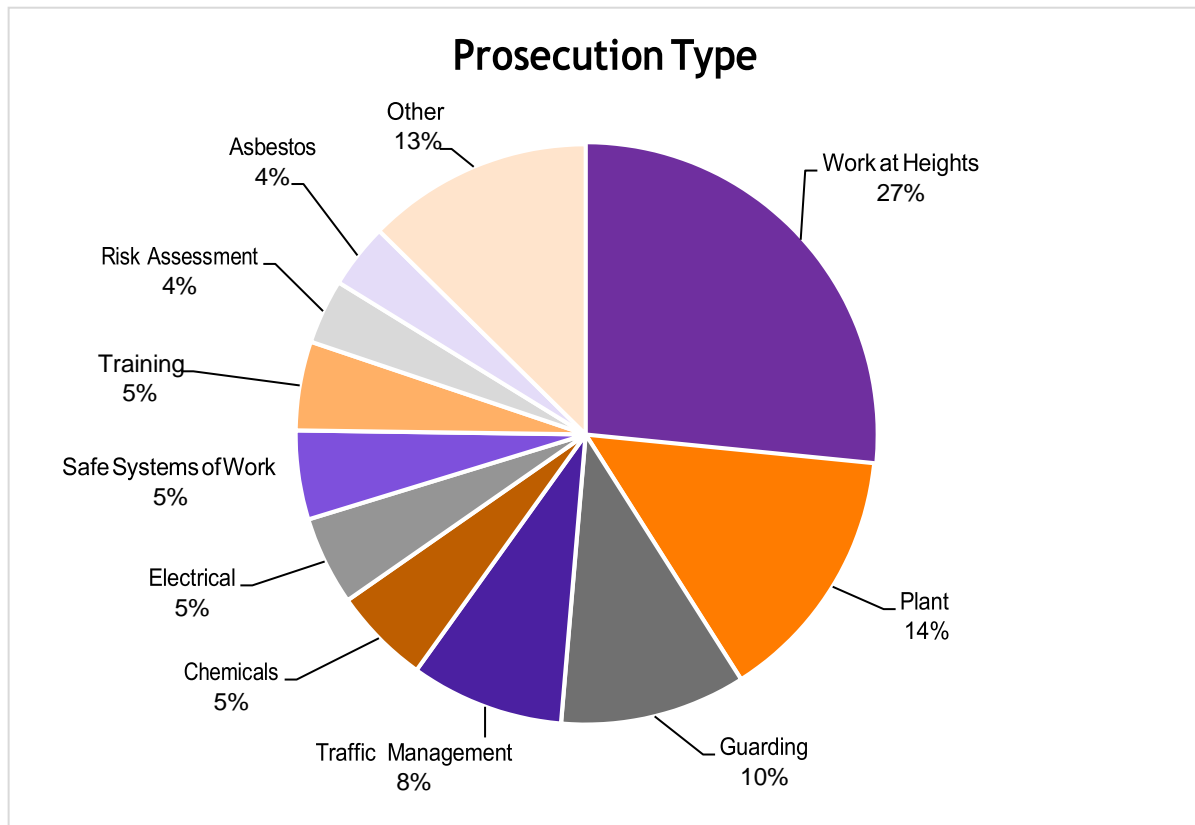


Workplace Health and Safety Prosecutions

In the 2017-2018 financial year there were significant changes in the prosecutions undertaken by the Work Safe authorities, in particular we've seen:

- Average prosecution fine was \$85,000, an average increase of around \$14,000 from last year.
- The number of prosecutions have either remained consistent or shown a significant increase, NSW showed the highest increase with 21 more prosecutions than the previous year, a 250% increase on the previous year.
- Across the whole country we saw a 17% increase in prosecutions, this included:
 - Work at heights increasing to the #1 category of prosecutions,
 - The number of prosecutions for failing to have a proper Risk Assessment increasing and this category having the highest maximum fine of \$1.3 million.
 - The introduction of fines in categories of Training, Safety in Design, Load Restraint, and Bullying/Stress/Harassment, with all three categories having an average fine of over \$50,000
- Overall the total value of fines have increased by over \$5.6 million dollars on the previous year.
- In Queensland it is noted that 11 out of 51 prosecutions (22%) were against individuals and directors of companies, including workers, supervisors and sole traders who exposed themselves and others to risks of health and safety.
- Victoria showed the highest change in the value of fines, decreasing the number of prosecutions over the year by 1, but increasing the value of fines by over \$3 million, an increase on the average fine by \$27,000.
- In all cases where a \$0 fine was allocated the individual or corporation has entered a good behaviour bond or enforceable undertaking and the cost to the individual/corporation is unknown.

Overall, we are seeing a significant increase in the number of prosecutions throughout Australia and an increase in the fines, both total and average, demonstrating the increase focus by the authorities and courts on motivating employers to meet their health and safety obligations.



The introduction of the new categories of prosecutions particularly around Safety in Design, Load Restraint, and Bullying/Stress/Harassment, are in alignment with each jurisdictions Work Safe Authorities stated focus and the increasing obligations on businesses to ensure the management of health and safety for Chain of Responsibility, Safe Design and Mental Health.

It is also interesting to observe the increased focus on worker and supervisor duty of care, with a significant increase, particularly in Queensland, in the number of fines and prosecutions against individuals. This focus will only increase with the increasing number of states adopting Industrial Manslaughter legislation, which has the increased focus, and lower burden of proof in regard to prosecuting individuals for failing to meet their duty of care, both to themselves and to others.

Note:

- *Data presented may be incomplete as it is extracted from the regulator's web sites.*
- *The categories have been defined by Safety Action in alignment with previous years benchmarking reports*
- *Where multiple offences or categories of offence were present in a prosecution, the primary failing or root cause of the incident was selected as the category of prosecution to prevent duplication of data.*

Summary Health and Safety Prosecutions - Australia

Category	# Prosecutions	Min. fine	Max. fine	Av. fine	Additional costs
Work at Heights	59	\$0	\$700,000	\$69,759.78	Enforceable Undertaking
Plant	32	\$0	\$1,137,525	\$122,863.97	Enforceable Undertaking
Guarding	23	\$0	\$195,000	\$58,639.61	Enforceable Undertaking
Traffic Management	19	\$1,000	\$375,000	\$100,111	
Chemicals	12	\$0	\$200,000	\$67,746.4	Good behaviour bond
Electrical	11	\$0	\$150,000	\$39,237.73	Enforceable Undertaking
Safe Systems of Work	11	\$0	\$390,000	\$84,929.39	Enforceable Undertaking
Training	11	\$0	\$177,349	\$52,224.45	Good behaviour Bond
Risk Assessment	8	\$10,000	\$1,300,000	\$222,670.57	
Asbestos	8	\$2,092	\$175,000	\$29,060.53	
Improvement Notice	4	\$2,000	\$40,943	\$24,427	
Confined Space	4	\$28,505	\$260,000	\$99,937.75	
Safe Equipment	3	\$60,000	\$240,000	\$125,000	
Bullying/Harassment	3	\$3,092	\$314,000	\$117,364	
Load Restraint	3	\$85,000	\$150,000	\$108,333	
Excavations	2	\$2,200	\$8,000	\$5,100	
Safety in Design	2	\$100,000	\$380,000	\$240,000	
Failure to Notify	1	-	\$8,624	-	
Safe Workplace	1	-	\$25,818	-	
False Documents	1	-	\$9,000	-	
Fraud	1	-	\$2,500	-	
Health Monitoring	1	-	\$2,000	-	
Licence	1	-	\$5,338	-	
Manual Handling	1	-	\$7,115		
Total number of prosecutions:		223			
Total value of fines:		\$17,873,164.51			
Fine per Prosecution		\$80,874.05			

Prosecutions Breakdown by State

WHS PROSECUTIONS - Queensland

Category	No. of Prosecutions	Min. fine	Max. fine	Av. fine	Additional costs
Work at Heights	14	\$1,000	\$251,089	\$58,878	12 month good behaviour bonds
Plant	8	\$0	\$200,000	\$61,658.87	2 year undertaking
Guarding	6	\$10,250	\$81,586.4	\$38,571.32	
Asbestos	5	\$2,092	\$175,000	\$42,856.86	
Safe Systems	5	\$6,822.79	\$104,000	\$45,383.1	
Electrical	4	\$7,500	\$75,000	\$31,250	
Chemicals	3	\$0	\$200,000	\$70,666.67	12 month good behaviour bond
Traffic Management	2	\$1,000	16,092.55	\$8,546.28	
Fraud	1	-	\$2,500	-	
Excavations	1	-	\$8,000	-	
Risk Assessment	1	-	\$100,000	-	
Safe Equipment	1	-	\$60,000	-	
Bullying/Harassment	1	-	\$3,092	-	
Total number of prosecutions:	51				
Total value of fines:	\$2,457,881				
Fine per Prosecution	\$48,193.75				

2019 Safety Performance Benchmarking Report

WHS PROSECUTIONS – South Australia

Category	No. of Prosecutions	Min. fine	Max. fine	Av. fine	Additional costs
Plant	3	\$60,000	\$225,000	\$147,500	
Traffic Management	2	\$39,000	\$96,000	\$67,500	
Safe Systems of Work	2	\$210,000	\$390,000	\$300,000	
Guarding	2	\$84,000	\$99,000	\$91,500	
Failure to do Health Monitoring	1	-	\$2,000	-	
Risk Assessment	1	-	\$52,000	-	
Load Restraint	1	-	\$85,000	-	
Total number of prosecutions:		12			
Total value of fines:		\$1,351,500			
Fine per Prosecution		\$135,150			

OSH PROSECUTIONS – Western Australia

Category	No. of Prosecutions	Min. fine	Max. fine	Av. fine	Additional costs
Work at Height	4	\$8,017	\$225,000	\$101,721.5	
Plant	4	\$17,450	\$65,342.91	\$37,317.49	
Risk Assessment	1	-	\$14,105	-	
Licence	1	-	\$5,338	-	
Total number of prosecutions:		10			
Total value of fines:		\$575,599.47			
Average Fine		\$57,559.95			

WHS PROSECUTIONS – New South Wales

Category	No. of Prosecutions	Min. fine	Max. fine	Av. fine	Additional costs
Work at Heights	14	\$15,000	\$405,000	\$94,107	
Chemicals	4	\$42,500	\$200,000	\$88,875	
Traffic Management	4	\$1,000	\$375,000	\$199,000	
Guarding	3	\$105,000	\$192,000	\$159,000	
Safe Equipment	2	\$75,000	\$240,000	\$157,500	
Load Restraint	2	\$90,000	\$150,000	\$120,000	
Systems of Work	1	-	\$60,000	-	
Plant	1	-	\$89,500	-	
Improvement Notice	1	-	\$2,000	-	
False Documents	1	-	\$9,000	-	
Excavations	1	-	\$2,200	-	
Confined Space	1	-	\$45,000	-	
Total number of prosecutions:	35				
Total value of fines:	\$3,700,700.00				
Fine per Prosecution	\$105,734				

2019 Safety Performance Benchmarking Report

OHS PROSECUTIONS – Victoria

Category	No. of Prosecutions	Min. fine	Max. fine	Av. fine	Additional costs
Work at Height	27	\$0	\$700,000	\$58,042.33	Enforceable Undertaking, Prohibition Notices, Good behaviour
Plant	16	\$20,200	\$1,137,525	\$172,319.13	
Guarding	12	\$0	\$195,000	\$38,106.92	Enforceable Undertaking
Training	11	\$0	\$177,349	\$52,224.45	Enforceable Undertaking
Traffic Management	11	\$8,000	\$287,000	\$86,355.73	
Electrical	7	\$0	\$150,000	\$48,143.14	Enforceable Undertaking
Risk Assessment	5	\$10,000	\$1,300,000	\$288,917	
Chemicals	5	\$0	\$200,000	\$50,691.40	Enforceable Undertaking
SWMS	4	\$0	\$51,973	\$26,827	Enforceable Undertaking
Asbestos	3	\$2,200	\$9,000	\$6,066.67	\$880,000.00 finetoclean up the premises, good behaviour bond
Failure to Comply	3	\$25,984	\$40,943	\$31,902.00	
Confined space	3	\$28,505	\$260,000	\$118,250.33	
Stress/bullying/harassment	2	\$35,000	\$314,000	\$174,500	
Safety in Design	2	\$100,000	\$380,000	\$240,000	
Failure to Notify	1	-	\$8,624.00	-	
Manual Handling	1		\$7,115.00		
Safe Workplace	1	-	\$25,818.00	-	
Total number of prosecutions:		114			
Total value of fines:		\$9,787,484.00			
Average fine		\$85,855.12			