

Guide to
**SAFETY and
INDUSTRY LAWS**
New South Wales

R W Callaghan

Butterworths 

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Guide to Safety and Industry Laws

New South Wales

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**GUIDE
TO
SAFETY AND INDUSTRY
LAWS**

Preface

Occupational hazard has been universally recognised as a major industrial problem affecting, as it does, a large proportion of a nation's workforce. In New South Wales, as elsewhere, the accident rate among workers is high and other occupational illnesses arising from exposure to dust, fumes, noise and other hazards have also been a matter of grave concern. Accordingly, the safety of industrial workers is considered to be a matter of paramount importance by governments, unions of employees and other organisations. Employers, too, have shown their concern by the appointment in a large number of plants and works of industrial safety officers, by the conducting of safety lectures, and by participation in other safety education programmes.

Butterworths have contributed to the field of industrial safety with the publication of a *Safety and Industry Laws* series which provides a very comprehensive service covering, as it does, the legislation and case law containing the safety provisions applicable to the great majority of workers in New South Wales.

The legislation referred to comprises the *Factories Shops and Industries Act* 1962 and the *Construction Safety Act* 1912 (formerly the *Scaffolding and Lifts Act* 1912), together with the regulations made under those Acts. The former Act includes, in addition to safety provisions, the trading hours laws applicable to shops and warehouses in New South Wales. The factories and shops legislation is contained in the first volume of Butterworths' series being the Second Edition of C P Mills *Factories Shops and Industries (NSW)* together with the provisions of the *Bread Act* 1969 and regulations made under that Act. The second volume in the series *Construction* deals with the *Construction Safety Act* and the regulations made under that statute. Both volumes contain extensive relevant case law and are maintained up to date by the regular publication of supplements as part of the service.

Whilst this legislation is directed chiefly towards the preservation of safety in factories and in building work (in both cases there is an inherent danger — in factories in connection with machinery, particularly), both Acts extend into other fields. The *Factories Shops and Industries Act* contains safety provisions relating to rural, timber and local government industries. In the *Construction Safety Act* the term "building work" itself has a very wide definition extending to such processes as painting and cleaning, for instance, and the provisions of the Act also extend to such items as escalators, moving walks, amusement devices and public stands.

This book entitled *Guide to Safety and Industry Laws — New South Wales* is a further contribution to the cause of work safety and has been prepared primarily for the benefit of those who are not subscribers to the *Safety and Industry Laws* service. The Guide presents the safety laws contained in the major publications in a simplified form which may appeal more to a factory occupier, builder or other employer to whom the legislation applies, than the more legalistic coverage provided by the existing works. This Guide is confined to safety laws and does not include the trading hours provisions of the *Factories Shops and Industries Act* or references to the *Bread Act*.

In this publication the case law cited has been restricted to a minimum number of court decisions considered necessary to illustrate accepted judicial interpretation of the provisions which have come under scrutiny. However, the cases quoted cover as wide a field as possible and as such could also provide a useful reference for practitioners.

SAFETY AND INDUSTRY LAWS

In endeavouring to present the complete safety legislation in a condensed form it became obvious that some of the regulations, under the *Construction Safety Act* in particular, because of their technical nature including in some cases the application of mathematical and geometrical formulae and reference to extensive tables, do not lend themselves to modification and, in such instances, reference only to them has been made. Accordingly, those regulations should be read in conjunction with this Guide.

Apart from the obligations placed upon employers, factory occupiers, persons in charge of building work, and others (including employees) by statute law, the common law also places responsibilities upon employers and upon occupiers of premises. The principles relating to these latter duties have been included in this Guide in an Introductory Note on Civil Liability.

Both the *Factories Shops and Industries Act* and the *Construction Safety Act* and the regulations made under those statutes are administered by the Department of Industrial Relations (formerly the Department of Labour and Industry) with responsibility to the Minister. The Department has expert advisory services available, and inspectors in the city, suburban and district offices may be consulted for any assistance or information on safety or welfare matters contained in the legislation. Lectures and films on these topics can also be arranged through these offices. Information sheets, sketches, posters, etc which are available from the Department are included in the appendices to this guide, together with a Departmental directory.

Where it is necessary for the Department to take prosecution action in respect of a breach of the legislation, the court hearing is conducted before an industrial magistrate, and the proceedings are criminal in nature.

It is appropriate that I acknowledge at this stage the ready assistance given to me by the officers of the Department of Industrial Relations who have been very helpful to me in the preparation of this work.

The statute law quoted is that in force at November 1980 and all available relevant court decisions have been included up to that date.

RWC

November 1980

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