

Members of the Public have rights under WHS Laws

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President IFAP



Today, the company operating Dreamworld in Queensland, Ardent Leisure, has been charged with 3 offences for contraventions of the Work Health and Safety Act 2011(Q'ld) over the 2016 ride accident that killed four members of the public.

IFAP understands the charges do not relate to Industrial Manslaughter but are lesser, but nonetheless serious charges, related to criminal negligence in failing to comply with health and safety obligations and thereby exposing persons to the risk of serious injury or death. Each charge carries a maximum fine of \$1.5 million.

Individual executives of the company have not been charged.

The charges will now proceed through the criminal procedures of the Queensland Courts.

These charges are reminders that the legislation governing health and safety at work extends beyond companies owing a duty of care for their direct employees and other workers on site. It extends protection to persons who are impacted by how companies operate and run their businesses. That is one reason why in 2011 most Australian jurisdictions signed up to harmonised health and safety laws which,

among other things, moved the duty of care from the concept of “employer” to a “person conducting a business of undertaking” (PCBU). Although draft legislation to update Western Australia’s health and safety laws is not yet law in our State, the Government has legislation before it which should pass through the final stages of approval in the very short term. IFAP urges the WA Government to push ahead with the harmonised health and safety laws and to give West Australians the same protections as persons around Australia.



IFAP Chair Cav. Maria Saraceni commented “In 2011, the Department of Corrective Services and its contractor, G4S were charged over the incident which resulted in the death of Mr Ward, an Aboriginal remand

prisoner. Although the PCBU concept is not new in Western Australia, the current health and safety laws principally place obligations on employers. This gives rise to a perception that health and safety obligations are limited to where an employment-type relationship exists. That is not correct. Businesses must risk-assess health and safety for a much wider audience. Moving to the language of a “PCBU” having a duty of care may be the necessary wake up call for businesses and those running “undertakings” to review their enterprise risk management frameworks and update them. Contact IFAP for assistance and up to date information about legislative requirements.”

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