



Worker safety -

How far must the company go to protect it?

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PVYW v Comcare





Overview

How far do a mining company's obligations extend regarding the safety of its employees?

- Recreational activities
- The use of facilities such as gyms
- Adventure trips
- Drinking
- Sexual activities



Legislation

Coal Mining Safety and Health Act 1999

Mining and Quarrying Safety and Health Act 1999

- Obligation to ensure the risk to mine workers while at the mine is at an 'acceptable level'
- A 'mine' includes:
 - A place where on-site activities are carried on
 - Buildings for administration, accommodation and associated facilities

Example 1: activities between shifts

Clarke v Waylexson Pty Ltd [2009] NTSC 19

- A worker was encouraged to stay awake between shifts. He was injured in a motor vehicle accident returning from an early morning fishing trip.
- Did the incident occur on the 'mine'?
 - Is the road an 'associated facility'?
- Is risk at an acceptable level?

Example 2: on-site domestic tasks

Thiess Pty Ltd and Q-COMP (C/2010/11)

- A worker was doing laundry at on-site accommodation when he suffered a herniated disc in his back.
- Is risk at an acceptable level?
- What if the injury occurred at other facilities?
 - Gym/exercise facilities
 - Bar facilities



Example 3: recreational activities

Kent v Employers Mutual Limited (Kingswood Aluminium Pty Ltd) [2011] SAWCT 19

- A supervisor suffered a fatal heart attack while leading a snorkelling trip with three colleagues.
He had been encouraged to undertake activities to boost worker morale.
- Does the same logic apply to recreational activities on a mine site?



A broader obligation?

- Workers' compensation: *'in the course of employment'*
- Mine safety: all activities *'at the mine'*
- Example – fatal drug use

Questions?

Further information:



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