

# Workplace Health and Safety Undertaking

*Workplace Health and Safety Act 1995*

**Undertaking to the Chief Executive, Department of Employment and Industrial Relations given for the purposes of Section 42 of the *Workplace Health and Safety Act 1995***

by

**BG Crane Pty Ltd**

**ABN 720 097 663 431.**

## **Background**

1. BG Crane Pty Ltd (**BG Crane**) is an Australian company which sells and services all types of mobile cranes. It currently has offices in Adelaide, Sydney, Melbourne, Brisbane and Darwin.
2. Along with its mainstream work, BG Crane has been involved in the development of safety mechanisms for cranes. In conjunction with HIAB, a manufacturer of cranes, BG Crane has developed two operator protection systems designed to protect operators of HIAB cranes from potential crushing hazards when folding up a crane or when working near crane booms around the operator.
3. BG Crane's business has grown considerably over the past couple of years.
4. At the time of the incident (14 April 2005), BG Crane employed 14 workers in its Brisbane office. BG Crane currently employs 20 workers.
5. Australia wide, BG Crane currently employs 102 workers the majority of those workers are employed on a permanent basis with BG Crane utilising only a minimal number contractors in its business.

# Enforceable Undertaking

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## BG Crane and The Department of Employment and Industrial Relations

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# Enforceable Undertaking

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## 1. Application for Enforceable Undertaking

1.1 BG Crane (ABN 72 097 663 431):

- (a) seeks to enter into an Enforceable Undertaking with the Department of Employment and Industrial Relations (**the Department**);
- (b) offers an Enforceable Undertaking to the Department in the terms set out in this document (**the proposed Undertaking**); and
- (c) requests the Department:
  - (i) accept the proposed Undertaking in accordance with s 44E(1) of the *Workplace Health and Safety Act 1995* (**the Act**); and
  - (ii) withdraws the complaint pursuant to s 42F(1) of the Act.

## 2. The Legislation

- 2.1 The Department may enter into an enforceable undertaking as an alternative to prosecution under the Act.
- 2.2 Enforceable undertakings include written undertakings made by a person holding a workplace health and safety obligation that:
- (a) recognises that the Department alleges the obligation holder has contravened its obligation under s 24 of the Act;
  - (b) identify the facts and circumstances of the alleged contravention; and
  - (c) include an assurance from the person about the person's future behaviour.
- 2.3 An enforceable undertaking is an alternative to prosecution. Once an enforceable undertaking has been agreed to, the Department must withdraw any prosecution currently on foot in relation to the incident.

## 3. Acknowledgement of Alleged Contravention

- 3.1 It is acknowledged that the Chief Executive of Workplace Health and Safety Queensland has formed the view that BG Crane has breached the Act. This is evident from the fact that the Department has lodged a complaint and summons with the Industrial Magistrates Court of Queensland alleging that BG Crane breached s 24 of the Act by failing to discharge the workplace health and safety obligations imposed on BG Crane by s 28(3) of the Act or, in the alternative, by s 28(1) of the Act.
- 3.2 BG Crane has conducted an internal investigation into the incident and has taken comprehensive steps (including seeking expert advice) to ensure a similar incident does not occur in the future.

#### **4. The Facts and Circumstances of the Alleged Contravention**

- 4.1 On 14 April 2005, [S42] an employee of BG Crane, suffered injury whilst undertaking work at the Brisbane workshop of BG Crane, 41 Colebard Street, Acacia Ridge in the State of Queensland.
- 4.2 [S42] was resealing two hydraulic cylinders out of a BOC elevated work platform. Once he had resealed the cylinders, he then began the process of refitting them into the BOC platform.
- 4.3 [S42] used a synthetic sling wrapped around the middle of one of the cylinders so as to align it with the entrance to its housing and to lower it into position. The sling wrapping allowed the cylinder to be lowered to a certain position after which it was necessary to disconnect the sling and use other means to lower the housing. [S42] placed a pinch bar into the hole at the back of the housing to wedge the cylinder in place whilst the sling was disconnected. He connected a chain and hook to the clevis using a bolt through the clevis so that it would hang square to the housing.
- 4.4 The cylinder was lowered down with the overhead crane until it became stuck. After many attempts to lower the cylinder further, [S42] used both of his hands to twist the cylinder to free the jam. The cylinder was suddenly freed and dropped into the housing amputating [S42] thumb.

#### **5. Statement of Regret**

- 5.1 BG Crane regrets the Incident occurred and expresses its sympathy to [S42] for the injury he sustained during the Incident.
- 5.2 BG Crane has fully supported [S42] rehabilitation and return to the workforce. Mr [S42] continues to be engaged by BG Crane as a full time Sales Consultant.

#### **6. BG Crane's Assurance as to Future Behaviour**

- 6.1 BG Crane is committed to compliance with its obligations under s 24 of the Act.
- 6.2 BG Crane will ensure the workplace health and safety of its employees and of others is not affected by the way it conducts its business at its current workshop at Unit 5, 125 Kelly Road, Archerfield in relation to the work undertaken on equipment not previously handled by BG Crane.
- 6.3 Since the accident BG Crane has already taken a number of steps to ensure compliance with the Act including:
- (a) Review and Audit of the workplace health and safety procedures at BG Crane nationally;
  - (b) Development of upgraded Job Safety Procedures (JSPs); and
  - (c) Training.

#### **Review and Audit**

- 6.4 BG Crane is a nationally run company. Its head office is in Adelaide and, as a result, many of its procedures were formulated in the Adelaide office. BG Crane therefore sought a review and audit of its safety procedures within the Adelaide office relevant nationally by the engagement of an Independent Safety Consultant.
- 6.5 The Independent Safety Consultant provided a comprehensive audit report including a detailed action plan to be followed by the managers in each state to improve workplace health and safety.

## **Development of Upgraded JSPs**

- 6.6 As a result of the Audit and Review process, BG Crane have drafted a new Job Safety Analysis (JSA) form and instruction document for completion of that form. The new documents are to be used in each state including Queensland.
- 6.7 The forms have been placed in a plastic sleeve in the office where all workers create a job sheet before beginning each new job.
- 6.8 A Computer Systems Company has been appointed to develop a JSA database to allow analysis of jobs nationally.

## **Training**

- 6.9 Immediately after the incident occurred, all staff were provided with training as to the use of D shackles and the safe replacement of cylinders in steel housing.
- 6.10 All staff were required to undergo a 'Crane Chaser's Course'. The course is a certificate of compliance course for vehicle loading cranes and includes compulsory dogging training (slinging and rigging techniques). The course included the watching of a video and the answering of a written questionnaire about the information given in the video.
- 6.11 On or around 29 March 2006, a 2 day Occupational Health and Safety training session was attended by managers of BG Crane nationally including Darren Bailey from the Queensland office.
- 6.12 All executives of BG Crane nationally have now completed the course "*OHS Roles and Responsibilities and Planning for Legislative Compliance*". Certification was received on 29 March 2006.
- 6.13 A fire safety refresher training course has also been undertaken.

## **Cost Outlay**

- 6.14 The total cost of the review provided by the Independent Safety Consultant was **\$6,543.93** exclusive of labour costs.
- 6.15 The total cost of the video training was **\$50.00** exclusive of labour costs.

## **7. Compliance History**

- 7.1 BG Crane has no previous convictions under the Act.
- 7.2 Prior to this incident it had not received any improvement or prohibition notices under the Act.

## **8. Publication**

- 8.1 If accepted, BG Crane acknowledges the enforceable undertaking is entered into by it on a voluntary basis and will be made public, including that it may be publicised in media statements, publications and any other method considered appropriate by the Department.

## **9. Terms of the Undertaking**

BG Crane provides the following undertaking to the Department:

## **Upgrade of Health and Safety Management System – JSAs**

- 9.1 BG Crane has engaged an independent consultancy service for the purpose of conducting an entire upgrade of its health and safety management system nationally.
- 9.2 If the undertaking is accepted, **BG Crane** proposes to introduce a computer based JSA system (**the System**).
- 9.3 The System will be set up by an external computer company who will also advise on any hardware requirements for the system.
- 9.4 To better facilitate the easy use of JSA forms and to ensure knowledge within each branch of **BG Crane** throughout Australia is shared to the benefit of workers nationally, JSA forms will be created through use of the System.
- 9.5 Within the workshop at Archerfield, computers will be set up with direct access to the System.
- 9.6 All employees and contractors will be required to create and print off a JSA form from the system. A qualified supervisor will then be required to sign off on the JSA, before beginning any job. The System will not allow a worker to proceed to create a new job sheet without printing out a JSA.
- 9.7 The system will allow employees to search JSAs connected to a key word/category of job to locate the most relevant authorised JSAs followed for similar work. The categories for searching will be chosen and maintained by **BG Crane** regularly. The search will allow a worker to locate the most relevant JSAs created in any of the **BG Crane** workshops. If no JSA appears on the system specific to the job in question, the system will locate the closest relevant JSAs and will provide those in response to the search to assist completion of a new JSA form. The new JSA form completed will then become a precedent for other similar jobs and will be saved onto the System once authorised.
- 9.8 **Attached** is a copy of the proposal from an independent consultancy service, Total Systems Management (**TSM**) outlining the work to be done (**Attachment A**).
- 9.9 Employees and contractors will also receive a copy of instructions for use of the JSP web program to keep.
- 9.10 An updated hard copy register of JSA forms will be maintained and kept in the Brisbane **BG Crane** office.

### **Cost Outlays**

- 9.11 The estimated cost of introducing the system is approximately \$35,000.00 inclusive of GST as outlined in (**Attachment A**).
- 9.12 Further costs will be incurred in updating and maintaining the system which we estimate will cost \$5,000.00 in the first year of its introduction.

## **Upgrade of Health and Safety Management System – Intranet**

- 9.13 As a part of the upgrade referred to in 9.1, a further independent consultancy service, Get to Know You, has been engaged to advise on the upgrade of the **BG Crane** intranet system and to provide a quote of the costs of such an upgrade.
- 9.14 If the undertaking is accepted, **BG Crane** proposes to upgrade the existing intranet to provide access to comprehensive support material including an induction manual, manufacturers manuals and details of internal and external training courses.

- 9.15 The system will be accessible to all employees. To ensure access is readily available, **BG Crane** proposes to purchase the workshop systems outlined by TRIM Systems Pty Ltd in **Attachment B**.
- 9.16 Work on the upgrade will begin within 1 month of the undertaking being accepted.

### **Cost Outlay**

- 9.17 The upgrade has been estimated by Get to Know You as likely to cost a minimum initial amount of **\$18,000.00** (plus GST). Ongoing work will be required to be undertaken at least in the first two years of the upgrade's inception which is estimated to cost **\$117,000.00** (plus GST) over the two years (**Attachment C**).

The cost of the further workshop systems outlined by TRIM Systems Pty Ltd is estimated to be **\$19,000.00**.

### **Future Training System Employees and Contractors**

- 9.18 **BG Crane** proposes to put in place a 'best practice' Occupational Health and Safety Training System which utilises the System and the **BG Crane** intranet in addition to practical training (**the Training System**).
- 9.19 By virtue of the Training System, employees and contractors will receive training in OH&S and all job safe procedures:
- (a) on induction; and
  - (b) on an ongoing monthly basis as refresher training.
- 9.20 The refresher training will be completed via a computer-based questionnaire with all workers required to complete and submit a questionnaire each month. The questionnaire will relate to different areas of OH&S over a period of six months. The course will then be repeated.
- 9.21 A calendar will be prepared for each worker and a computer bring up will remind the worker of the training course they are to complete that month.
- 9.22 At least two workers at the site will undergo external training on OH&S and hold up to date first aid certificates.
- 9.23 Training will also be provided by way of access to safety videos through an external provider.

### **Cost Outlay**

- 9.24 The estimated cost of access to training videos each year in order to provide ongoing training for a period of two years is approximately **\$890.00**. Attached as **Attachment D** is a copy of SafetyCare Australia Pty Ltd's charges.

### **Skills Matrix**

- 9.25 **BG Crane** proposes to implement a bonus system called 'the Skills Matrix' to encourage workers to improve their skills and to attend extra external training courses.
- 9.26 The skills matrix will provide workers who undertake certain training with an increase in their pay.

### **Training of Supervisors**

- 9.27 **BG Crane** proposes to provide specific supervisor training to all of those who are charged with the role of supervision and to provide refresher training on an 'as needs' basis. **BG Crane**

proposes to provide such training to at least four workers by 1 March 2007 subject to availability of courses.

### **Cost Outlay**

- 9.28 The estimated cost of the TAFE leadership training course for four employees will be **\$350.00** exclusive of labour costs.

### **Presentation to the Crane Industry Association of Australia**

- 9.29 **BG Crane** seeks to educate the industry about the risks associated with the failure to use D shackles when replacing items such as hydraulic cylinders into steel housing and about the risks involved in undertaking repairs on previously unknown machinery generally. If the undertaking is accepted, **BG Crane** aims to promote a 'best practice' approach through development of its intranet system for managing workplace health and safety systems and use of sophisticated safety technology.
- 9.30 To communicate its system of health and safety management to the industry, **BG Crane** undertakes to organise and provide a presentation to the Crane Industry Association outlining the workplace health and safety management requirements and the potential hazards that arise in the industry.
- 9.31 The presentation will be open to all members of the Association with attendance limited by interest and the capacity of the available venue.

### **Cost Outlay**

- 9.32 **BG Crane** estimates that the cost of this seminar will be approximately **\$2,750.00**.

### **Timing**

- 9.33 **BG Crane** will present the seminar within twelve months of the undertaking being accepted.

### **Workplace Health & Safety Training**

- 9.34 **BG Crane** will ensure that a minimum of four Queensland based supervisors and managers are trained as Workplace Health & Safety Officers over the next two years.

### **Cost Outlays**

- 9.35 The estimated cost of ongoing training for two years for four supervisors/managers is \$7,713.60 made up of the following costs for each worker:
- (a) fees for module 1: \$810.00;
  - (b) fees for construction elective: \$745.00;
  - (c) charges for certification: \$373.40.

### **Community Service Initiatives**

- 9.36 **BG Crane** is an organisation that is committed to the community in which it operates its business. As part of the undertaking, **BG Crane** proposes to:

### **Community Investment/Apprenticeships**

- 9.37 Pursue participation in the 2007 World Solar Challenge (**the WSC**) involving the creation and racing of a 'bio-trike'.

- 9.38 **BG Crane** has previously expressed interest in involvement in the WSC and a proposal has been put to the school of Mechanical Engineering at Adelaide University for the entry into the WSC. The proposal includes:
- (a) sponsorship of \$15,000.00 in cash towards the project;
  - (b) assistance in the development of the design of the 'bio-trike' for entry into the Greenfleet class of the WSC by provision of resources;
  - (c) construction by **BG Crane** apprentices of a second 'bio-trike' in consultation with students at the University (**Phase 2**);
  - (d) assistance with industry contacts for future initiatives and sponsorship of the University.
- 9.39 Phase 2 of the WSC will involve **BG Crane** apprentices nationally. Apprentices in each branch of **BG Crane**, including the Acacia Ridge and Gold Coast branches, will complete work on the project and will become involved in the creation and racing of the bio-trike.
- 9.40 The initiative provides apprentices in Queensland with an opportunity plan, manage and execute a large engineering project alongside other apprentices throughout Australia with the involvement of the University. The initiative will focus on improving the leadership and management skills of young workers as well as promote team work and give those involved valuable technical expertise. The initiative is intended to provide young workers with a platform for improving awareness of occupational health and safety through team work and best practice. During the project and in their work on the project, all apprentices will be required to implement and follow the company's JSA/JSP requirements.

### **Cost Outlay**

- 9.41 **BG Crane** estimates the costs as follows:
- (a) Sponsorship of the University: \$15,000.00;
  - (b) Manufacturing costs for Phase 2: \$30,000.00;
  - (c) Race costs inclusive of attendance by apprentices (accommodation, flights, transport and support vehicles): \$20,000.00; and
  - (d) Salaries of five apprentices (one day per week for 40 weeks): \$14,000.00.

### **Timing**

- 9.42 **BG Crane** provided an initial donation of \$7,500.00 to the University in May 2006. A further \$7,500.00 will be pledged by October 2006.
- 9.43 **BG Crane** will formally agree to Phase 2 of the project by October 2006.

### **Apprenticeships**

- 9.44 **BG Crane** currently participates in an apprenticeship scheme. However, **BG Crane** believes it now has a 'best practice' workplace health and safety system in place and is committed to ensuring that those standards are passed on through the crane industry. As a result, **BG Crane** undertakes to commit to placing at least two apprentices per year above the usual two apprentices for the next three years (subject to suitable applicants) and commits to providing each of the apprentices with workplace health and safety training over and above the induction course including.

- 9.45 The training over and above the induction course will include an accredited First Aid course and, for apprentices over 18, a certificate of competency for vehicle loading (which includes training in slinging and rigging).
- 9.46 The two extra apprentices will be placed in the Brisbane, Acacia Ridge workshop.

### **Cost Outlay**

- 9.47 **BG Crane** estimates the likely cost to the company will be approximately **\$7,000.00** for the induction and training of a further two apprentices including training for 2 apprentices every year for 3 years over and above the induction (the courses referred to in 9.45). The estimate includes the cost of travel to head office in South Australia for training, accommodation and course development.

### **Work Experience and Occupational Health and Safety in Schools**

- 9.48 **BG Crane** will endeavour to establish a relationship with one or two schools in both the Archerfield and Gold Coast regions and will sponsor an education program incorporating:
- (a) education on the importance of occupational health and safety in the workplace;
  - (b) education on the importance of trades persons within our community;
  - (c) offers of work experience for students within **BG Crane**.

**BG Crane** anticipates this will consist of a two weekly module each year within the Archerfield and the Gold Coast offices of **BG Crane**. After the modules have been completed, **BG Crane** will offer to place four of the students involved in both the Archerfield and the Brisbane office on a work experience basis.

- 9.49 **BG Crane** will develop a presentation for this purpose which is approved by the Division and will deliver this to each school on a bi-annual basis.
- 9.50 **BG Crane** is committed to running this program for the next four years. The program will be delivered by the National Service Manager, Neville Siostrom or the Senior Engineer, Michael Prenzler, both of whom are South Australian based **BG Crane** employees.
- 9.51 Delivery of the proposal at clauses 9.48 to 9.50 above is contingent upon securing the support of the individual school or schools and, if necessary, the Department of Education, Training and the Arts.

### **Cost Outlay**

- 9.52 **BG Crane** estimates the likely cost to the company will be as follows:
- (a) preparation of presentation (20 hours), approximately \$1,600.00;
  - (b) air fare from South Australia to Queensland bi-annually, approximately \$1,400.00 per year;
  - (c) accommodation in Queensland, approximately \$320.00 per year;
  - (d) provision of work experience and PPE for four students, approximately \$360.00.

## **OHS Management System**

- 9.53 **BG Crane** will commission a competent independent third-party OHS auditor to conduct an OHS management system audit of the workplace to AS/NZ 4801:2001 requirements within twelve months of the signing of this undertaking.
- 9.54 Auditors selected to perform these OHS management system audits will be certified by a certification body accredited by JAS-ANZ to ISO/IEC 17024:2003 General Requirements for bodies operating the certification of persons and will include auditors listed on the RABQSA OH&S Auditor Register.
- 9.55 The audit report will be forwarded by the auditor to the company. A copy of the report will also be sent directly by the auditor to the General Manager, Workplace Health and Safety Queensland within 30 days of conducting the audit.
- 9.56 **BG Crane** will, within six months, fully implement the recommendations resulting from the OHS management systems audits unless exempted by the chief executive of the Department of Employment and Industrial Relations as being unreasonable.
- 9.57 The OHS system which **BG Crane** is implementing is a new system and the testing of its effectiveness will require operation of the system for at least 2 years. Six monthly audits are an effective way of measuring and reviewing the system at an operational level. For this reason, the audit and reporting processes specified above will be repeated every six months for two years after the initial audit report has been provided or until all requirements of the enforceable undertaking have been completed and reported.
- 9.58 **BG Crane** will use an independent auditor certified by JAS-ANZ or a similar certification body to monitor and review conformance with this undertaking by the Company at six monthly intervals throughout the term of the undertaking. An audit report is to be provided to the Company and to the General Manager Workplace Health and Safety Queensland within 30 days of the compliance report being completed.
- 9.59 The first compliance audit under clause 9.58 will commence eight months after signing of this undertaking. The reports to follow will then be undertaken at the six monthly intervals referred to in 9.58 until all requirements of the enforceable undertaking have been completed and reported.

## **Cost Outlay**

- 9.60 **BG Crane** estimates that the costs associated with carrying out these audits will be in the order of **\$15,000.00**. **BG Crane** is unable to estimate the costs associated with implementing any recommendations arising out of the audits until such recommendations, if any, are known and considered. Such costs will be included as part of the third party monitoring reports referred to in clause 9.58.

## **Reimbursement of Departmental Costs**

- 9.61 **BG Crane** will pay the following costs incurred by the Department:
- (a) Investigation Costs in the amount of \$1,802.00 (ONE THOUSAND EIGHT HUNDRED AND TWO DOLLARS), representing the reasonable investigation costs arising out of the incident.
  - (b) Consideration costs of \$800.00 (EIGHT HUNDRED DOLLARS).
  - (c) Monitoring costs of \$1,335.00 (ONE THOUSAND THREE HUNDRED AND THIRTY FIVE DOLLARS) representing costs to the department in monitoring this undertaking.

(d) Costs of \$1,400 (FOURTEEN HUNDRED DOLLARS) being the costs to the Department in publishing the Notice of Acceptance.

The total amount of \$5,337.00 (FIVE THOUSAND THREE HUNDRED AND THIRTY SEVEN DOLLARS) will be due for payment 30 days after receipt of the department's invoice.

**APPROXIMATE VALUE OF THE UNDERTAKING IS \$320,000.00**

Dated at 16:00 hours this 26<sup>th</sup> day of October 2006

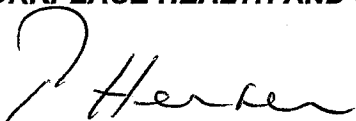
  
David Andrew French

Authorised Officer of BG Crane Pty Ltd

Position: General Manager

**ACCEPTED BY THE CHIEF EXECUTIVE, DEPARTMENT OF EMPLOYMENT AND INDUSTRIAL RELATIONS PURSUANT TO SECTION 42E OF THE**

**WORKPLACE HEALTH AND SAFETY ACT 1995.**



Peter Henneken

Director-General, Department of Employment and Industrial Relations

Dated at Brisbane this 7<sup>th</sup> day of November 2006