

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 Part 5 of the *Workplace Health and Safety Act 1995*.

By

Biniris (Aust) Pty Ltd – ABN 68 071 134 686

1. Background

Biniris (Aust) Pty Ltd is a privately owned Brisbane-based cleaning services provider to a broad range of sectors throughout Australia. The company was developed by the owners as a property service concept to property owners and managers. Biniris commenced operations in 1996 in Queensland and now employs 59 full time and 214 part time workers in Queensland. Biniris has since expanded its operations interstate and employs 71 full time, 446 part time and 56 casual employees throughout Australia. The business is managed from offices in Brisbane, Townsville, Rockhampton, Gold Coast, Adelaide, Perth and Hobart.

Biniris (Aust) Pty Ltd services the following listed industry sectors:

- Commercial Property – High rise, banks and multi-site customers
- Entertainment Venues – Cinemas
- Health Care – Hospitals, hostels and nursing homes
- Laboratories - Research facilities and clean rooms
- Food Processing and Production – meatworks and factories
- Industrial and Mining – power stations and mines

2. Incident

At 5:50 am on Tuesday 6 June 2006, [REDACTED] IS 42, a Biniris (Aust.) Pty Ltd employee, was part of the team under the control of the Thomas Borthwicks' Quality Assurance Inspector (the customer) during the quality assurance inspection. This process involves the inspection of various parts of the plant and the Thomas Borthwicks' Quality Assurance Inspector determines the areas that will be inspected on that day's inspection. All machinery to be inspected during this process is tagged out by the Thomas Borthwicks' Quality Assurance Inspector prior to the commencement of the inspection. Machinery not tagged out is not part of that day's inspection regime. This quality assurance inspection takes place each morning after the hygiene services have been carried out and prior to the production commencing for the day.

[REDACTED] IS 42 put on a clean overcoat over her working clothes to carry out the inspection. [REDACTED] IS 42 noticed a piece of meat in the evisceration table. The evisceration table was moving at the time. [REDACTED] IS 42 reached into the moving table to remove a piece of meat. The sleeve of her coat got caught in a roller. [REDACTED] IS 42 suffered a fracture [REDACTED] IS 42

[REDACTED] IS 42

3. Acknowledgement

It is acknowledged that Workplace Health and Safety Queensland has alleged the company has contravened provisions of the *Workplace Health and Safety Act 1995*. These allegations are considered very serious and the company has conducted its own investigations into both the incident itself and the necessary remedial measures required to ensure there is no repetition of the incident.

4. Alleged contravention

"The complaint of GAVIN SCOTT WESCHE of Mackay in the State of Queensland a Public Officer within the meaning of the *Justices Act 1886* and an Inspector duly appointed under the provisions of the *Workplace Health and Safety Act 1995* made this 19th day of April 2007 before the undersigned, a Justice of the Peace for the said State, who says that on the 6th day of June 2006 at Bakers Creek, in the Magistrates Court District of Mackay, BINIRIS (AUST.) PTY LTD (ACN 071 134 686) being a person on whom a workplace health and safety obligation prescribed by section 28 (1) of the *Workplace Health and Safety Act 1995* is imposed, did fail to discharge the obligation contrary to section 24 of the *Workplace Health and Safety Act 1995*, in that being a person who conducts a business or undertaking the said BINIRIS (AUST.) PTY LTD (ACN 071 134 686) did fail to ensure the workplace health and safety of each of the person's workers was not affected by the conduct of the person's business or undertaking.

Particulars

Worker:	IS 42
Business or Undertaking:	Cleaning services
Workplace:	Thomas Borthwicks, Bakers Creek, Mackay
Risk:	The risk is the risk of injuries to workers including the risk of fracture injuries to the right arm of IS 42
	IS 42
Hazard:	The source of the risk emanates from: (a) plant namely the slaughter floor evisceration table; and (b) the system of work for the inspection of plant on the slaughter floor.

AND IT IS ALLEGED that as a result of the failure to discharge the said workplace health and safety obligation IS 42 sustained grievous bodily harm. Contrary to the Acts and Regulation in such case made and provided."

5. Statement of regret

Biniris (Aust.) Pty Ltd sincerely regrets the incident that occurred on 6th June 2006 involving its worker, IS 42 at the Thomas Borthwicks abattoir at Bakers Creek, Mackay. The company also regrets the injury and pain suffered by IS 42 as a result of the incident and is pleased to know that she has recovered and has returned to work at the Thomas Borthwick abattoir.

6. Assurance about future behaviour

Biniris (Aust.) Pty Ltd makes the assurance that its future behaviour will continue to focus diligently on discharging its obligations as outlined in the *Workplace Health and Safety Act 1995* in order to ensure the workplace health and safety of each of its workers. Biniris (Aust.) Pty Ltd has since ceased the contract at the Thomas Borthwicks abattoir that led to the alleged contravention.

7. Terms of undertaking

Biniris is committed to providing and maintaining a safe working environment for all its employees. This commitment will be supported by managing any risks involved in its activities through identification, assessment, control and monitoring and reviewing. This commitment extends to ensuring that staff are trained and tasks are conducted by competent people, consulting with staff at all levels and developing systems that enable improvement recommendations to be implemented.

This undertaking together with supporting systems will be communicated to our employees through our Managing Director, Risk Manager, Regional Managers, Customer Service Managers and Supervisors. To achieve these goals, Biniris (Aust.) Pty Ltd will carry out the following actions.

Action	Estimated Cost	Date to be completed by
1. Train Regional Managers and Customer Service Managers in OHS obligations and responsibilities including responsibilities in relation to the implementation of the Enforceable Undertaking. Attendance at this training is compulsory.	\$8,000	December 2008
2. Train Area and Site Supervisors in OHS obligations and responsibilities including responsibilities in relation to the implementation of the Enforceable Undertaking. Attendance at this training is compulsory.	\$6,400	July 2009
3. Fund the training of five employees in functioning of Workplace Health and Safety Officer course, both core and elective modules, conducted by Commerce Queensland.	\$12,500	July 2008
4. Implement a series of three third party audits of the Business Management System across multiple employee worksites within Queensland.	\$8,700	July 2009
5. Implement the recommendations resulting from the audits of the Business Management System.	Not Known	July 2009
6. Fund the training of five Managers and ten Supervisors in Senior First Aid Certificate courses through St John Ambulance	\$6,750	July 2008
7. Implement programs such as toolbox meetings, refresher inductions and prestart briefings conducted by the Risk Manager, Regional Managers, Customer Service Managers and Site Supervisors. The aim of these programmes is to improve communication with employees and is to act as a means to gain employee feedback on safety issues.	\$12,000	July 2009
8. Develop user friendly Think Talk Practise Safety A5 size booklets and distribute to Managers, Supervisors and cleaning operators. These are a resource tool for use at toolbox meetings.	\$570	December 2007

9. Develop user friendly Job Safety Check pocket size books to note hazards prior to commencement of a task and distribute to Managers, Supervisors and cleaning operators	\$3,326.	December 2007
10. Donation to Queensland Institute of Medical Research to assist in the research of the cause and treatment of skin cancer	\$3,000	June 2008
TOTAL ESTIMATED COST	\$61,246	

8. OHS management system audits

Biniris (Aust.) Pty Ltd received certification of its Business Management System on 8 May 2006 from Bureau Veritas Certification. The Biniris (Aust.) Pty Ltd Business Management System conforms to *AS/NZS 4801:2001 Occupational Health and Safety Management System – Specification with guidance for use* and *AS/NZS ISO 9001:2000 – Business Management Systems Requirements*. This certification followed an initial audit on 14 November 2005 and a main audit on 15 and 16 December 2005.

Biniris (Aust.) Pty Ltd will engage Bureau Veritas Certification to undertake a series of three audits against *AS/NZS 4801:2001 Occupational Health and Safety Management System – Specification with guidance for use*. The first audit will commence within six months of the signing of the undertaking. A second audit will be undertaken 12 months after the first audit report is due. A third and final audit will be undertaken 24 months after the first audit report is due.

Biniris (Aust.) Pty Ltd will require the OHS Management System Audit Reports to be provided to the company and to General Manager, Workplace Health and Safety, Queensland within 30 day of completion of the site visits.

Biniris (Aust.) Pty Ltd will advise the General Manager, Workplace Health and Safety, Queensland of the action it intends to take in addressing each of the report's recommendations.

Biniris (Aust.) Pty Ltd will, within six months of receipt of the OHS Management Systems audit report, fully implement the recommendations resulting from the audits unless exempt by the Chief Executive as being unreasonable.

9. Benefits to Workers

It is envisaged that the benefits to all workers during and after this enforceable undertaking will be as follows:

1. An awareness of their role within the organisation regarding safety matters.
2. An awareness of the avenues available for their participation in safety matters.
3. A safety culture will exist throughout the workforce emanating from management down to workers.
4. To perform their duties in a safe manner in consideration of their actions to both themselves and to their co-workers
5. The expectation that all employees will return home safe and sound each day from work.

10. Benefits to relevant industry

1. Safety aware competent employees that may move from Biniris (Aust.) Pty Ltd but remain within the cleaning industry – their safety awareness and training would be transportable to other cleaning employers.
2. The cleaning industry is based on customer's premises where often customers are not as diligent as they should be with regard to the safety of contractor's workers. More safety conscious workers will be more forthright in promoting safety awareness at these types of premises.
3. The flow-on effect will produce more safety conscious employers and safety conscious workers.

11. Benefits to the general community

As a number of employees carry out their duties out of doors, Biniris (Aust.) Pty Ltd will donate \$3,000 to the Queensland Institute of Medical Research for use in its research into the causes and treatment of skin cancer.

The raised safety awareness of employees should flow on to their community thus creating a safer environment in both the workplace and the community.

12. Other Terms

Biniris (Aust.) Pty Ltd will provide the details of its Enforceable Undertaking to its managers at its annual management review meeting and to its supervisors through safety notices.

Biniris (Aust.) Pty Ltd proposes to use Mr Terry Brennan of Relay Consulting Services as independent auditors to review conformance with this undertaking and to report results to the company and to the General Manager, Workplace Health and Safety Queensland.

The first compliance audit is to be undertaken eight months after the signing of the undertaking, then at six monthly intervals, until all matters are completed. These compliance audits must also verify and report on costs expended implementing the various elements of the undertaking.

Costs associated with monitoring the undertaking are estimated to be \$5,100.00.

The estimated value of this undertaking is \$66,346.00. Biniris (Aust.) Pty Ltd is committed to investing a minimum of \$66,346.00 on this undertaking which will significantly enhance the company's safety systems and provide benefits to industry and the community. Accordingly, if the 'actual' total expenditure associated with the delivery of the undertaking is less than \$66,000.00, the cost difference will be added to the amount being donated to the Queensland Institute of Medical Research at clause 7, Item No. 10. Payment of any additional donations will be payable prior to the undertaking being formally concluded.

This undertaking will be deemed to be formally concluded when the Chief Executive Officer confirms in writing that the undertaking has been satisfactorily executed.

13. Costs

The following costs shall be payable to the Department:

- (i) Investigation costs in the amount of \$1,200.00 (one thousand two hundred dollars) representing the reasonable investigation costs arising out of the incident.
- (ii) Consideration costs of \$800.00. (Eight hundred dollars)
- (iii) Monitoring costs of \$1,335.00 (one thousand three hundred dollars) representing costs to the Department in monitoring this undertaking.
- (iv) Costs of \$2,600.00 being the costs to the Department in publishing the Notice of Acceptance.

The total amount of \$5,935.00 (five thousand nine hundred and thirty-five dollars) will be due for payment 30 days after receipt of the Department's invoice.

14. APPROXIMATE VALUE OF THE UNDERTAKING IS \$72,281.

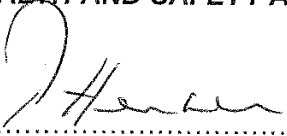
Dated at Brisbane this 3rd day of March 2008

Signature: 

Name: Peter Ean King

Position: Managing Director

ACCEPTED BY THE CHIEF EXECUTIVE, DEPARTMENT OF EMPLOYMENT AND INDUSTRIAL RELATIONS PURSUANT TO SECTION 42E OF THE WORKPLACE HEALTH AND SAFETY ACT 1995



Dated at Brisbane this 26th day of March 2008