



# Work Health and Safety Act 2012 (SA)

## Part 11 - Enforceable Undertakings

### Notice of a decision to accept a WHS enforceable undertaking and reasons for acceptance

**Entity:** MSP Group t/a Hallett Concrete Pty Ltd

**ABN:** 46 007 955 419

**Entity Address:** 126 Churchill Road North, Dry Creek SA 5094

**Location of incident:** 19 Priority Court, Edinburgh North SA 5113.

**Date of incident:** 29 April 2022



## 1. History of the application

- 1.1 The undertaking given by MSP Group t/a Hallett Concrete Pty Ltd (Hallett Concrete) relates to a characterisation of, or an alleged contravention with respect to, the *Work Health and Safety Act 2012* (SA) (the Act) that occurred at 19 Priority Court, Edinburgh North SA 5113 (the workplace).
- 1.2 The worker injured by the alleged contravention was employed at all material times by Hallett Concrete.
- 1.3 On 29 April 2022, a worker was required to lift and move concrete blocks (the task). One worker operated mobile plant with a bucket attachment and another worker attached the concrete block to the mobile plant with a lifting chain and clutch. A worker was standing under the bucket attaching the lifting chain to the concrete block. Tension was applied to the lifting chain by the mobile plant while a worker was still grasping the lifting chain. As a result, two of the worker's fingers holding the chain were pinched and/or crushed by the chain resulting in the amputation and permanent loss of the tips of the worker's right index and middle fingers.
- 1.4 Following an investigation by SafeWork SA (SWSA) Inspectors, prosecution action was commenced by the Regulator against Hallett Concrete. Hallett Concrete had a health and safety duty, pursuant to section 19(1) of the Act to provide, as far as practical possible, a safe system of work (section 19 (3)(c)) and information, training, instruction or supervision that is necessary to protect all workers from risks to their health and safety from work carried out as part of the conduct of the business (section 19(3)(f)).
- 1.5 On 30 May 2024, Hallett Concrete's legal representation contacted SWSA, notifying of Hallett Concrete's intention to submit an enforceable undertaking (EU) for this matter.
- 1.6 On 21 August 2024, Hallett Concrete submitted a final EU for assessment. The EU was evaluated and approved by the Regulator on 3 October 2024.



## 2. Legislation and Policy

- 2.1 It is alleged that Hallett Concrete, who had a health and safety duty pursuant to section 19(1) of the Act failed to comply, so far as reasonably practicable, with the duty contrary to sections 19(3)(c) and 19(3)(f) of the Act.
- 2.2 Pursuant to section 216(1) of the Act, the Regulator may accept a written undertaking given by a person in connection with a matter relating to a contravention.
- 2.3 Section 217(1) of the Act provides that the Regulator must give the person seeking to give an undertaking written notice of the decision to accept or reject the undertaking and the reasons for the decision.
- 2.4 Pursuant to section 217(2) of the Act, the Regulator must issue, and publish on the Regulator's website, notice of a decision to accept a WHS undertaking and the reasons for that decision.



### 3. Material and evidence considered by the WHS Regulator

3.1 In deciding this matter, the Regulator has considered the following documents:

1. Work Health and Safety Act 2012(SA) & Work Health and Safety Regulations (SA) 2012.
2. National Compliance and Enforcement Policy (Part 7 criteria).
3. SWSA Enforceable Undertaking Application Guidelines.
4. The EU application submitted by the applicant dated 2 October 2024 (date signed by the applicant).
5. Complaint and Summons prepared by the Crown Solicitors Office.
6. Brief of Evidence prepared by the SWSA Principal Investigator.

### 4. Regulator Findings

- 4.1 The SWSA Enforceable Undertaking Application Guidelines contains considerations which are relevant and appropriate to my decision.
- 4.2 I find the undertakings proposed by Hallett Concrete satisfies the formal requirements of the Act and the policy requirements discussed above with respect to the operation of Part 11 of the Act, as they have been published.
- 4.3 I find the factual background to the characterisation of, or the alleged contravention, is properly set out in section 1 of the undertaking submitted by Hallett Concrete.
- 4.4 The significance of the undertaking and the respective financial commitments of Hallett Concrete are proportionate to the gravity of the alleged contraventions and account for the benefits to avoiding prosecution.
- 4.5 I find that Hallett Concrete have acknowledged the alleged contraventions and shown regret regarding the occurrence and the consequences of the alleged contravention.
- 4.6 I find the undertakings commits Hallett Concrete to a standard that is higher than the recognised compliance for the activity and/or to activities over and beyond recognised compliance levels.
- 4.7 I find the undertakings would constitute tangible benefits for workers, industry, and the community.



## 5. Decision

- 5.1 In making my decision, I have considered and had regard to the evidence and other material referred to in paragraph 3 above, and to my findings referred to in paragraph 4 above.
- 5.2 Because Hallett Concrete have submitted an EU application in accordance with the requirements of the Act, my power to accept the undertaking under section 216(1) of the Act is enabled.
- 5.3 Based on the evidence, findings and having regard to the objectives of the Act, I have carefully considered this matter and I believe the undertakings given by Hallett Concrete is an appropriate enforcement option.
- 5.4 I have concluded that an EU is the preferred enforcement option, rather than continuing with prosecution, regarding the opportunity to provide lasting organisational change within Hallett Concrete, and the implementation of monitored and targeted health and safety improvements that will deliver benefits to workers, industry, and the community.
- 5.5 Under section 216(1) of the Act, it is my decision to accept Hallett Concrete's Enforceable Undertaking dated 2 October 2024 and signed under my hand on 3 October 2024.

A handwritten signature in blue ink that reads 'Glenn Farrell'.

**Glenn Farrell**  
Executive Director,  
SafeWork SA  
7 October 2024