

Getting started – Health and Safety at Work Act 2015

New Laws and Regulations

Thank you for inquiry to the Auckland Business Chamber about the latest Health and Safety legislation.

The Chamber offers a complimentary BUSINESS SUPPORT service for existing members and other organisations (businesses, franchises, NGO's, educational entities, consulates and charitable trusts) or anyone considering joining the Chamber.

If you require further advice or help, please contact us:

- Call our free **Business Advisory** line Ph **0800 24 26 23** or
- Email our **Business Advisor**, Sandra Sweetman: ssweetman@chamber.co.nz

The Health and Safety at Work Act 2015 came into effect on 4 April 2016. We refer to it as the HSWA.

Associated Regulations include:

- Health and Safety at Work - (General Risk and Workplace Management) Regulations 2016
- Health and Safety at Work - (Worker Engagement, Participation and Representation) Regulations 2016
- Health and Safety at Work - (Asbestos) Regulations 2016
- Health and Safety at Work - (Hazardous Substances) Regulations 2017

We have compiled this short guide document, to assist members or new members typically with less than 20 workers, as this reflects the size of many small businesses in New Zealand. It provides an overview of key matters in relation to the HSWA.

Links to help you access specific information, guidance documents and templates available on the WorkSafe NZ website will be referenced within this guide.

This guideline has three parts:

Part 1: An introduction to the HSWA and its terminologies

Part 2: A step by step guide to help you address the mandatory legislative requirements

Part 3: Important health and safety links

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Part 1

THE HEALTH AND SAFETY AT WORK ACT 2015

Background to the Law Reform

New Zealand needed to improve its health and safety record. As a nation of organisations, small, medium and large, our workplace death and serious harm rate lagged behind global benchmarks requiring a major need for reform.

The Health and Safety at Work Act 2015 has since been introduced and a goal set, to reduce New Zealand's workplace serious injury, illness and death rate by 25 per cent by 2020.

An Introduction to the HSWA

The Health and Safety at Work Act:

- ensures everyone has a role to play
- makes everyone's responsibilities clear
- focuses on managing work risk
- requires those who create the risk to manage the risk
- requires businesses to engage with workers and enable them to participate in health and safety
- allows flexibility in managing health and safety risks

Point of Note: Individuals or organisations cannot contract out of the HSWA through insurance.



Refer: Health and Safety at Work - Quick Reference Guide

<https://worksafe.govt.nz/managing-health-and-safety/getting-started/health-and-safety-at-work-quick-reference-guide/>

New Terminology and Duties within the HSWA

PCBU (Person Conducting Business or Undertaking)

While a PCBU may be an individual person or an organisation, in most cases the PCBU will be an organisation (for example, a business entity such as a company or an undertaking, such as a not-for-profit organisation).

An individual, such as a sole trader, can also be a PCBU.

A PCBU has a primary duty of care to ensure, so far as is *reasonably practicable*, the health and safety of its workers and that other people are not put at risk by its work.

When two or more PCBU's are working together at the same location or through a contracting chain, they must work together to fulfill their duties of care.

Where those duties overlap, they need to *consult*, *cooperate*, and *coordinate* their activities to meet their health and safety responsibilities to workers and others.

Officer

A person who holds a very senior leadership position and has the ability to significantly influence the management of a business or undertaking. A business or undertaking can have more than one officer (e.g Directors of a Board)

An Officer has a duty to ensure the PCBU is compliant with the legislation, by exercising *due diligence*. This includes 6 steps:

1. Keep up to date with work health and safety knowledge
2. Gain an understanding of the business operations and the hazards and risks associated with these
3. Ensure the PCBU has adequate resources available to manage the hazards and risks
4. Ensure the PCBU has processes for evaluating and addressing the effectiveness of risk management and incident outcomes
5. Ensure the PCBU implements processes to comply with its duty
6. Is able to verify the above steps have been acted on

Worker

An individual who carries out work in any capacity for a PCBU, including work as:

- an employee; or
- a contractor or subcontractor; or
- an employee of a contractor or subcontractor; or
- an employee of a labour hire company who has been assigned to work in the business or undertaking; or
- an outworker; or
- an apprentice or a trainee; or
- a person gaining work experience or undertaking a work trial; or
- a volunteer worker

While at work, a worker must:

- take reasonable care for his or her own health and safety and those around them affected by their actions
- comply as far as reasonably practicable with any reasonable instruction given by management
- co-operate with any reasonable policy or procedure that he or she has been notified of

Part 2

IMPORTANT FIRST STEPS TOWARDS CREATING AND MAINTAINING A HEALTHY AND SAFE WORKPLACE

Many small businesses are unsure where to start. Here are some easy steps to get you going.

Step 1 Develop a Health and Safety Policy statement.

Review your business and its operations. Consider:

- Who are the key stakeholders and what role they play?
- What do you need to attain the goal for continuously improving your business to ensure a safe and healthy workplace is created and maintained?
- Which parties need to be engaged with to plan next steps?

Share the draft with your managers and workers; invite their contributions and to be part of the ongoing journey.



Refer: Writing for Health and Safety: guidance for workplace health and safety writers (draft Health and Safety Policy, page 38)

<https://worksafe.govt.nz/the-toolshed/tools/writing-health-and-safety-documents-for-your-workplace/>

Step 2 Identify your workplace risks and plan how these can be controlled

Meet with your managers and workers in groups small enough that everyone will feel comfortable having their say:

- ask them to think about what aspects of their *work environment* or *work tasks* might lead to someone being hurt
- assess the risk - identify how *likely* it is someone might be hurt and how *severe* the harm might be
- invite discussion to identify what is currently being done to prevent this harm and what could be improved upon
- document your list of risks and controls including how the risk is to be *eliminated* or *minimised*
- monitor and review the risks and controls at regular intervals - **encourage your workers to speak up at any time if they have concerns**



Refer: A-Z Topics and Industry (a range of information and resources specific to risks and industries)

<https://worksafe.govt.nz/topic-and-industry/>



Refer: How to manage work risks

<https://worksafe.govt.nz/managing-health-and-safety/managing-risks/how-to-manage-work-risks/>



Refer: Around the Block (a tool currently designed for 13 business groups including animated hotspots to link into other relevant topic pages)

<https://worksafe.govt.nz/the-toolshed/tools/around-the-block/>

Step 3 Training and Supervision

- Review what level of training, experience and competency is required for your workers to do their jobs safely. This must include awareness of all health and safety related processes (e.g incident reporting, emergency responses, opportunities for worker engagement and raising concerns)
- Ensure all new workers are supervised during higher risk tasks until deemed competent

Step 4 Incident management

- Ensure there are processes and recording documents available for prompt reporting and investigating of all workplace incidents
- Ensure timeframes and requirements for mandatory reporting of *Notifiable Events* are understood by all senior workers and managers



Refer: What events need to be notified?

<https://worksafe.govt.nz/notifications/notifiable-event/what-is-a-notifiable-event/#f-doc-39637>

Step 6 Worker engagement and participation

- Prioritise health and safety at your regular staff and senior management/Board meetings.
- Establish ongoing opportunities to regularly engage with your workers (including contractors) to encourage their involvement with the management and monitoring of workplace risks.
- As a Director, CEO, GM or team manager, you should regularly keep in touch with the real side of health and safety elements in your operation. Walk the floor, so to speak!
- Keep abreast of health and safety topics relevant to your business - talk to friends, business acquaintances and attend forums and seminars.



Refer: Managing Health and Safety (links to resources to assist with responsibilities for worker engagement and participation - e.g H&S Committees, H&S Representatives)

<https://worksafe.govt.nz/managing-health-and-safety/health-and-safety-representatives/>

- Finally, if in doubt, call **Worksafe NZ**, the Regulator, 0800 030 040.
- Alternatively try our **Free Business Advisory** line at the Chamber, 0800 24 26 23, for any other HR, employee advice or general business help. Or you may decide to call your legal advisors.

Part 3

IMPORTANT HEALTH AND SAFETY LINKS

Worksafe NZ:

www.worksafe.org.nz

Worksafe is the Regulator for Health and Safety in NZ. They have extensive information on the Act, how to do good safety and much more. As the Regulator, they are one of the most important organisations for businesses to contact about Health and Safety help, advice and resources.

MBIE:

www.mbie.govt.nz

The Ministry of Business, Innovation and Employment has been very involved in preparing NZ organisations and businesses for the new legislation. They have extensive information on their website with Q&A content, legislation updates and much more. They too are an important website.

ACC:

www.acc.co.nz

The ACC website has information about managing workplace safety and preventing injuries.

Health and Safety at Work Act 2015:

<http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html>

HSWA Regulations

Health and Safety at Work - (General Risk and Workplace Management) Regulations 2016	http://www.legislation.govt.nz/regulation/public/2016/0013/latest/DLM6727530.html
Health and Safety at Work - (Worker Engagement, Participation and Representation) Regulations 2016	http://www.legislation.govt.nz/regulation/public/2016/0016/latest/DLM6314002.html
Health and Safety at Work - (Asbestos) Regulations 2016	http://www.legislation.govt.nz/regulation/public/2016/0015/latest/DLM6729706.html
Health and Safety at Work - (Hazardous Substances) Regulations 2017	http://www.legislation.govt.nz/regulation/public/2017/0131/latest/DLM7309401.html