

## Health and Safety at Work Act 2015

### Summary of key points

#### **General**

The Health and Safety at Work Act 2015 came into effect on 4 April 2016 and replaces previous Health and Safety legislation. The purpose of the Act is to secure the health and safety of people and workplaces. The Act is based on the Australian Model Work Health and Safety Act.

The term “workplace” has been updated in this Act and is defined as “a place where work is being carried out or is customarily carried out, for a business or undertaking; and includes any place where a worker goes, or is likely to be, while at work”.

The new regulations provide guidance on the following areas of health and safety:

- General risk and workplace management;
- Worker participation, engagement, and representation;
- Major hazard facilities; and
- Asbestos

The Act encourages shared health and safety responsibility across all levels of a business—safety is everyone’s responsibility. A person must comply with the duties that are imposed on them by or under this Act. The workplace is divided into the following categories:

- Person conducting a Business or Undertaking (PCBU);
- Directors and officers; and
- Worker or persons involved in the workplace.

A person may have more than 1 duty imposed on them (i.e a person may be a Director and an employee). More than 1 person may have the same duty imposed on them at the same time (i.e. there may be two Directors in an organisation).

The Act has increased penalties, fines, and a focus on enforcement to discourage non-compliance with the new legislation.

#### **Person conducting a Business or Undertaking (PCBU)**

A PCBU is usually a company but also includes employers, principals, self-employed partnerships, franchisee etc.

A PCBU is responsible for the health and safety of anyone working for them (including contractors, volunteer workers and employees), as well as people in the vicinity and/or involvement of the work (customer, visitor, patient etc.).

The obligations of the PCBU include the following “reasonably practical” duties:

- Providing and maintaining a work environment, plant and systems of work that are without reasonable risk.
- Ensuring the safe use, handling, and storage of plant, structures, and substances.

- Ensuring adequate facilities are provided at work for the welfare of workers, and ensuring access to these facilities.
- Ensuring information, training, instruction or supervision is provided to protect all persons from risks to their health and safety.
- Monitoring the health of workers and the conditions of the workplace for the purpose of preventing injury or illness.
- Ensure there are appropriate processes in place to receive, consider, and respond to information regarding incidents, hazards, and risks. (See Appendix A for an example of a risk assessment table).

If a duty is shared between 2 or more PCBU, there must be consultation, co-operation, and co-ordination between all parties.

The PCBU is required to keep records of incidences for at least 5 years following a notifiable event.

The PCBU must ensure WorkSafe is notified as soon as they are aware a notifiable event has occurred. Notification can be via writing or phone (if you notify WorkSafe by phone and they also request a written notice, you must do so within 48 hours).

For a pdf version of the WorkSafe *Notification of a death or a notifiable injury or illness* form, see Appendix B, otherwise you can complete the form online at [www.worksafe.govt.nz/worksafe/notifications-forms/notifiable-events](http://www.worksafe.govt.nz/worksafe/notifications-forms/notifiable-events).

#### Notifiable events

The following are notifiable events\*:

- Death
  1. Call 911
  2. Preserve the site
  3. Phone WorkSafe on 0800 030 040 (and may be required to fill out the *Notification of a death or a notifiable injury or illness* form)
- Notifiable injury
  - Amputation
  - Serious Head injury (skull fractures, losing consciousness, bleeding, memory loss etc)
  - Serious Eye injury
  - Serious burn
  - Spinal injury
  - Loss of bodily functions (consciousness, speech, limb movement, loss of one of 5 senses)
  - Serious lacerations
  - Skin separations where tendons, bones, or muscles are exposed
  - Any other injury that requires immediate hospital treatment or medical treatment within 48 hours
- Notifiable illness

- A contracted illness that results in the person admitted to hospital or needing medical treatment within 48 hours
- You MUST notify WorkSafe if the illness is a result of
  - Working with micro-organisms
  - Providing treatment or care to a person
  - Contact with human blood or bodily substances
  - Contact with animals
  - Exposure to a solid, liquid, gas, or vapour
- Notifiable incident
  - Explosions, fires, implosions,
  - Leaks, spillages,
  - Collisions, collapses of structures
  - etc

\*Consider providing a list of notifiable events, somewhere in the workplace, which people can refer to, to ensure they know to alert the PCBU if one or more of the incidences occur.

### **Directors and/or Officers**

A Director or Officer is an individual who holds a senior governance role within an organisation, such as a Company Director, Partner, Board Member, CEO etc.

The Director/Officer's role as 'influencer' is to exercise due diligence—asking questions in order to understand what is happening within the PCBU, so they can ensure the PCBU complies with the Act.

The obligations of the Director/Officer includes the following:

- Ensuring they acquire and maintain current knowledge of health and safety, organisation operations, and the hazards and risks that arise from those operations.
- Verifying sufficient resources are available to use, and are being used, by the PCBU, so that health and safety risks are managed.
- Verifying the PCBU has appropriate processes in place to receive, consider, and respond to information regarding incidents, hazards, and risks. (See Appendix A for an example).
- Ensuring the PCBU complies with its health and safety duties.

### **Worker or 'persons involved in the workplace'**

A worker is a person who carries out work in any capacity for a PCBU, such as an employee, apprentice, contractor (and an employee of a contractor), student, trainee, volunteer etc.

A 'persons involved in a workplace' does not work for the PCBU but is in the vicinity of the PCBU and is therefore exposed to risks involved in that workplace. Examples include customers, visitors, patients etc.

The obligations of a worker or 'persons involved in a workplace' include the following:

- Take care of his/her own health and safety, and act with reasonable care in their own actions to ensure the health and safety of other persons is not adversely affected.
- Worker engagement—this includes practices such as electing Health and Safety reps, implementing health and safety committees, and having regular health and safety meetings.
- Complying, as far as reasonably able, to any instructions given by the PCBU to allow for the PCBU to comply with the Act.
- Workers also need to co-operate with policies or procedures of the PCBU, which relate to health and safety at the workplace that have been notified to the workers.

### Health and Safety representatives and committees

If a PCBU receives notification from a worker—who carries out work for the business—who wishes there to be one or more health and safety representatives, the PCBU must initiate an election. However, a PCBU does not have to initiate an election if the work or undertaking is carried out by fewer than 20 workers, and it is not within the scope of any high-risk sector or industry.

A PCBU who refuses a worker's request for the election must give written notice to that worker within a reasonable time period.

A PCBU's obligation is to only hold an election in relation to the work group which the worker (who requested a health and safety rep) belongs to.

A workgroup comprises all the workers in the business or undertaking. However, a PCBU can determine if there is to be more than one workgroup, given the structure of the business.

Workers need to be grouped in a way that the health and safety rep(s) elected will be accessible to the workers they represent. For example, if a large practice has a health and safety rep who is a doctor, the cleaners who come in during the evenings may be classified as a separate work group, as they would have minimal contact with that particular health and safety rep. In comparison, if a practice manager was the health and safety rep, the cleaners may be included in that workgroup as the practice manager is more accessible to them.

A PCBU must determine the number of health and safety reps who may be elected for a workgroup, in accordance with the prescribed minimum ratio 1:19 (reps:workers).

A health and safety rep, or five or more workers at a workplace, may request the establishment of a health and safety committee.

A PCBU must decide within 2 months of receiving the request whether to establish a health and safety committee. A PCBU is not required to decide on a health and safety committee if the work or undertaking is carried out by fewer than 20 workers, and it is not within the scope of any high-risk sector or industry. If the PCBU decides a committee is not required they must give written notice to the worker(s) who made the request within a reasonable time period.

Requests for health and safety committees may also be refused if the PCBU is satisfied that worker participation meets the duties imposed under the Act. Written notice must also be given from the PCBU to the worker(s). The notice must include reasons for the decisions, and state that workers may raise the refusal as an issue under the Act.

A PCBU may initiate an election of one or more health and safety reps, or establish a health and safety committee on their own initiative.

### **Penalties and Fines for Non-Compliance**

WorkSafe NZ Inspectors are the regulator of this Act and have the authority to conduct an inspection at your workplace.

If you receive an inspection and there are areas of concern one of the following notices will be issued:

- **An improvement notice:** there are minor issues to fix which WorkSafe will give you a period of time to fix, and you can continue working whilst you fix them.
- **A prohibition notice:** there are serious risks and you must cease work until health and safety conditions are complied with.
- **A non-disturbance notice:** there is serious risk and WorkSafe has closed the site to prevent disturbance whilst an investigation is carried out. Multiple non-disturbance notices can be issued to enable further investigation.
- **An infringement notice:** is a fine issued to a person committing an offence

Insurance policies do not cover the cost of any fines issued for a person's liability.

### **Appendices**

Appendix A: Example of a 'Risk Assessment' table.

Appendix B: *Notification of a death or notifiable injury or illness form.*

*Updated February 2017*

## **Need more help?**

Contact the NZMA:

**Phone** | 0800 65 61 61

**Email** | Robyn Fell: [robyn@nzma.org.nz](mailto:robyn@nzma.org.nz)

# Appendix A

## Risk Assessment Tables

The following tables are examples of how to identify hazards, consider what needs to be done to minimize or remove the risk, and analyse the responses that were taken to minimise/remove the risk.

(Note: it is everybody’s responsibility to report a hazard. Fix the hazard immediately if it is safe to do so, then inform your team leader, manager, health and safety rep, PCBU etc. Help them fill out a hazard reporting form.)

Table 1: Hazard reporting form—identifying and considering potential risks

Hazard area	HAZARD	Date hazard was identified	Possible Harm	Initial risk rating				Control plan (what needs to happen)
				Low	Medium	High	Extreme	
Building, area	Raised step over entrance door threshold	Wednesday January 11	Patients, visitors and workers tripping when walking through the front door		✓			Alert people to the uneven step before they walk through the door.
Equipment, materials, processes	Used medical equipment, bandages etc.		Workers or patients coming into contact with used/not sterilized medical equipment or bandages.				✓	Ensure all staff (Doctors, nurses, cleaners etc.) are provided the information and resources to correctly dispose of materials.
People	Sick person showing symptoms of a highly contagious outbreak (such as the swine flu epidemic).		Infecting other patients or workers in the vicinity.				✓	If a person is showing the symptoms of a contagious outbreak, isolate the person. Alert the staff so they can seek immediate medical attention. Transfer to hospital facility if necessary.

Table 2: Hazard reporting form—response to the risk

Initial hazard	Response to minimise/remove hazard (what was implemented)	Review date	Follow-up risk rating				Comments
			Low	Medium	High	Extreme	
Raised step over entrance door threshold.	Placed sign on both sides of door saying "Mind your step-uneven surface"	Thursday 12 January 2017 (it's important to know how long it took for there to be a response to the hazard, as hazards with EXTREME risk require urgent response and may even require work to cease until the hazard is minimised).	✓				Have minimised risk. Noticed less people tripping. Will re-review at a later date to consider changing doorway so ground surface is even.
Used medical equipment, bandages etc.	Training was provided to staff and Information sheets can be found in every room detailing correct disposal of materials. Appropriate disposal resources are provided (bins, bin bags etc.).			✓			Have minimised risk of people coming into contact with used medical equipment. Need to ensure follow-up training is given annually (and information sheets regularly updated) to ensure staff continue to practice safe medical equipment disposal.
Sick person showing symptoms of a highly contagious outbreak (such as the swine flu epidemic).	Placed a sign on the front desk (and on the website) saying "if you are experiencing these symptoms....please alert the receptionist immediately." Only allow for minimum required number of people to be in room with the patient.			✓			Ensuring the fast transfer of patients through to a separate area so other patients and workers are in contact with the person for the least amount of time as possible.

The hazard reporting forms should be kept somewhere accessible to the PCBU and officer/director. They should be looked at on a regular basis to ensure pre-existing risks have been minimised, and that newly identified hazards have been added to the table (and steps are being taken to minimise any risks).

## Appendix B

*Notification of a death or notifiable injury  
or illness form*

# NOTIFICATION OF A DEATH OR A NOTIFIABLE INJURY OR ILLNESS



Use this form to notify WorkSafe New Zealand of a notifiable event ie an injury, illness or death to a person(s), as required by section 56 of the Health and Safety at Work Act 2015 (the Act)

Did you know you can save time by completing this form online, [click here](#)

## Notifier details

Are you making this notification as a: <small>(See the last page of this form for descriptions of these terms)</small>		PCBU	Other
Title:	Last name:		
First name:		Middle names:	
Phone number:		Mobile number:	
Postal address:			
Town/city:		Postcode:	
Email:			

## Details of event

Date of event: <small>(dd/mm/yyyy)</small>	Time of event: <small>(e.g. 2:20pm)</small>
Event address:	
Town/city:	Postcode:
Provide a description of what happened:	
Confirm that the site has been preserved, as required by section 55 of the Act:	
Have you notified any other agency?	Yes No
Notified agency name:	
Notified agency phone number:	

## NOTIFIABLE EVENT INJURY/ILLNESS OR DEATH

### Injury Details:

Have multiple people been injured?

Yes (complete and attach one copy of this page per person)  No

### Nature of Injury

Select all applicable (If the event you are attempting to notify us of does not appear in this list, then notification is not required and this form cannot be used):

Death	Amputation of any body part
Serious head injury	Serious eye injury
Serious burn	Separation of skin from underlying tissue (scalping or degloving)
Spinal injury	Loss of bodily functions
Serious lacerations	Injury or illness that requires (or would usually require) immediate hospital admittance
Injury or illness that requires (or would usually require) medical treatment within 48 hours of exposure to a substance	Serious infection (incl occupational zoonosis)
Other injury or illness declared notifiable by regulations	

### Body part(s) affected

Select all applicable:

Head	Neck	Trunk
Upper limb	Lower limb	Systemic internal organs

### Injury description

Briefly describe the injury:

### Treatment attempted:

Not known	First aid only	Doctor (not hospital)	Hospitalisation
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I have attached any supporting information (photographs or diagrams).  
(supporting information is not mandatory, but should be supplied when helpful in explaining the incident)

### Injured/Ill person details

Family/surname:	Given names:	
Date of birth:	Gender:	
Residential address:		
Town/city:	Postcode:	
Injured person's phone number:		
Affected person type:		
Contractor (self-employed)	Worker	Other
How many hours had the person been at work when the incident occurred:		

## NOTIFIABLE EVENT INJURY/ILLNESS OR DEATH

### PCBU Details

Legal entity name: <i>(the name that is used on official legal documents)</i>		
Trading name: <i>(if different to legal name)</i>		
New Zealand Business Number (NZBN): <i>(if applicable)</i>		
Industry:		
Accommodation and Food Services	Administrative and Support Services	Agriculture
Arts and Recreation Services	Construction	Education and Training
Electricity, Gas, Water and Waste Services	Financial and Insurance Services	Fishing
Forestry	Health Care and Social Assistance	Information Media and Telecommunications
Manufacturing	Mining – Minerals	Mining – Petroleum
Mining – Other Services	Not Elsewhere Included	Other services (specify below)
Professional, Scientific and Technical Services	Public Administration and Safety	Rental, Hiring and Real Estate Services
Retail Trade	Transport, Postal and Warehousing	Wholesale Trade
Specify other:		
Physical address:		
Town/city:		Postcode:
Postal address <input type="checkbox"/> Same as above		
Postal address:		
Town/city:		Postcode:
PCBU phone number:		PCBU mobile number:
PCBU contact: <i>(first name, last name)</i>		
Email:		
Is the PCBU investigating?		Yes No

### Health and Safety Representative (HSR) details

There is an HSR working for this organisation <input type="checkbox"/>	They are NZQA qualified to use their powers <input type="checkbox"/>
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## NOTIFIABLE EVENT INJURY/ILLNESS OR DEATH

### Declaration

I declare that to the best of my knowledge, the information provided in this notification is true and correct.

Full name:  
(first name, last name)

Date:

Designation:

*Note: the above declaration is considered to be an electronic signature that is reliable as appropriate for the purpose of this notification*

### Where to send your completed form

Print, complete and scan this form, or fill in the PDF version. Once completed, email it to WorkSafe:  
healthsafety.notification@worksafe.govt.nz

If emailing this form is not practical, you may post it to:

The Registrar  
WorkSafe New Zealand  
PO Box 105-146  
Auckland 1143

### Terms

**PCBU** — A PCBU is a 'person conducting a business or undertaking'. A PCBU may be an individual person or an organisation. It does not include workers or officers of PCBUs, volunteer associations with no employees, or home occupiers that employ or engage a tradesperson to carry out residential work. A PCBU must ensure, so far as is reasonably practicable, the health and safety of workers, and that other persons are not put at risk by its work. This is called the 'primary duty of care'.

**Worker** — A worker is an individual who carries out work in any capacity for a PCBU. It includes an employee, a contractor or sub-contractor, an apprentice or trainee, a person on work experience or a work trial, or a volunteer worker. Workers have their own health and safety duty to take reasonable care to keep themselves and others healthy and safe when carrying out work.