

# Health and safety in the workplace

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Legal matters



The Health and Safety at Work Act will come into effect in April.

I have covered who has duties under the act, who must be protected, identifying, eliminating and minimising risks and what a workplace is.

Now I will look at more of what the act covers, including new duties, notification to Worksafe, overlapping duties, duties of others in the workplace, no contracting out and no insurance.

People conducting a business or undertaking and others have various duties to ensure the safety of themselves and others in a workplace.

Those duties are not transferable. The duty stays with the person.

People may have more than one duty. For example, a business owner may be the person conducting the business, an officer and a worker in the business. Each has different but possibly overlapping duties.

More than one person may have the same duty, and if so both can be liable to ensure that duty is fulfilled.

They must consult others with

duties and co-operate and coordinate so there are no gaps in safety plans.

The person conducting a business must ensure:

- The health and safety of workers, and of all others.
- A safe work environment.
- A safe plant and structures.
- Safe handling practices.
- There are adequate facilities for people's welfare.
- Information, training and supervision is provided.
- Conditions are monitored to prevent illness or injury.

The self-employed must ensure their own health and safety, as well as others'. Others who have duties can include managers of the plant, substances and fixtures, designers, manufacturers, importers, suppliers and installers.

Each is responsible for what they can reasonably do to ensure the safety of others and themselves.

Officers of a company, trust or society have duties to:

- Exercise due diligence to ensure that the people conducting a business comply with its duties.
- Acquire up-to-date knowledge of health and safety.
- Understand the nature of its operations and hazards.
- Provide appropriate resources to eliminate or minimise risks.
- Provide appropriate resources to receive and consider



People in the workplace have specific health and safety obligations

Information.

- Ensure the person conducting the business has processes to comply with its duties.
- Verify the provision and use of resources.

Workers have duties to:

- Take care of themselves.
- Take care not to harm others.
- Comply with instructions of the person conducting the business.
- Co-operate with policies regarding health and safety.

All others have duties to:

- Take care of themselves.

■ Take care not to harm others.

■ Comply with instructions of the person conducting the business.

Any serious incidents must be notified to Worksafe as soon as possible and can be by phone unless Worksafe says it is required in writing (48 hours to comply). Notification must provide full details of the event.

Contracting out of the act is prohibited and it is unlawful to insure against fines. If you do take out insurance against a fine or get paid insurance or offer to give

insurance, you are liable to a fine (\$50,000 for an individual or \$500,000 for a person conducting a business) for doing that, as well as the fines for any health and safety breaches.

In a future article I will look at new fines and penalties, record-keeping and engagement with workers.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 739 484 or raineycollins.co.nz. For legal inquiries, email alan.knowlesley@raineycollins.co.nz