



10. FACT SHEET ON HEALTH AND SAFETY

This fact sheet provides information about organisations' obligations under the Health and Safety in Employment Act 1992.

INTRODUCTION

The purpose of the Health and Safety in Employment Act 1992 is to promote the prevention of harm to all people at work and to others who are in, or in the vicinity of, workplaces. The Act emphasises managing health and safety at work systematically. It requires employers and others to maintain safe working environments and to implement sound practices.

The Act recognises that successful health and safety management is best achieved through good faith co-operation in the workplace and, in particular, that it is best achieved by those doing the work.

In general, the Act requires organisations to keep their workplaces safe by:

- managing hazards, which means identifying, assessing and controlling them
- training and supervising employees – the organisation must ensure employees are aware of the hazards and follow safe work procedures
- preparing for emergencies, including first-aid, rehabilitation and investigating incidents.

All these processes must involve health and safety representatives and staff.

The Act imposes significant duties on employers and organisations in relation to employees and regular volunteers. However, the Act also imposes duties on employees, self-employed people, volunteers, principals (people who hire contractors), contractors, and others who are in a position to manage or control hazards.

People with duties under the Act must take all steps that are reasonably practicable in performing their duties. A step is "reasonably practicable" if it is possible or capable of being performed. The overall test in this context is what a reasonable and prudent person would do in all the circumstances. The Act lists a number of factors to have regard to when determining if a step is "reasonably practicable".

ORGANISATIONS' DUTIES TOWARDS STAFF AND OTHERS

Duties owed to employees

In general, the Health and Safety in Employment Act requires employers to:

- generally provide a safe workplace for their employees
- identify and control hazards
- train and supervise their employees
- keep their employees informed
- involve their employees in health and safety processes
- record all accidents and report all serious injuries to the Department of Labour.

These duties are explained in more detail below.

Employees are also required to take all practicable steps to ensure they are safe while at work and to ensure that they don't cause harm to others.

Duties owed to volunteers

Organisations that do not employ any paid staff owe their volunteers a general duty of care to provide for their safety. However, this duty is not enforceable under the Health and Safety in Employment Act, in that it does not attract any penalties. The duty encourages non-employers to ensure that their volunteers are safe within the workplace.

By contrast organisations that do employ paid staff also owe enforceable duties to their regular volunteers (see below).

Voluntary organisations should disclose any occupational health and safety requirements and any pending prosecutions to volunteers.

Duties owed by employers to regular volunteers

If a volunteer works on an ongoing and regular basis for an employer (an organisation that also employs paid staff) and is an integral part of its business, the employer owes the volunteer some, but not all, of the key duties that employers owe their employees, namely:

- the general duty to provide a safe workplace

- the duty to identify and control hazards
- the duty to keep them informed
- the duty to record all accidents and report all serious injuries to the Department of Labour.

The duties involving training and supervision, and participation in health and safety processes, do not apply to these regular (or any other) volunteers. However, it is good practice for an organisation to ensure that its volunteers are adequately trained and supervised and to involve them in health and safety processes.

Regular volunteers are, like employees, required to take all practicable steps to ensure they are safe while at work and to ensure that they don't cause harm to others.

The duties owed to regular volunteers do not apply if the volunteer is involved in any of the following activities:

- Fundraising
- Assisting with sport or recreation
- Assisting schools (and other similar organisations) outside of the organisation's premises
- Providing care in the volunteer's own home

Duties owed by employers to other volunteers

In the case of volunteers whose work is not ongoing and regular and who are not an integral part of the organisation's business, an employer owes them a lesser duty – the employer must take all practicable steps to ensure the health and safety of these volunteers while they are working, in particular by taking hazards into account when the organisation is planning their work activity. This duty is not enforceable.

Non-employers owe that same, unenforceable duty to all their volunteers.

Duties owed to contractors

If your organisation has independent contractors working for it (whether or not you also have employees), you must take all reasonable steps to ensure that the contractor is not harmed while doing the work.

An organisation must also ensure that no hazard in the workplace harms a contractor. An employer must also ensure no action or inaction of any employee harms any other people, including contractors.

Duties owed by employers to other people

An employer must take all reasonably practicable steps to ensure that no hazard in the workplace harms any people in the vicinity of the workplace, including people who are in the vicinity for recreation or leisure.

INVOLVING STAFF IN MANAGING HEALTH AND SAFETY

Employee participation

Employees have valuable knowledge and experience to contribute to the management of health and safety in their workplace. The Health and Safety in Employment Act requires all employers to allow employees a reasonable opportunity to participate in the improvement of health and safety at work.

In some cases, the employer, employees and any unions representing them must work together to develop a formal employee participation system. This applies to workplaces where:

- the employer employs 30 or more employees (whether at one single workplace or in a number of places), or
- the employer employs fewer than 30 employees but one of those employees, or a union representing them, asks for an employee participation system.

Employers, employees and unions must work together in good faith to try to agree on a system, using whatever internal and external advice and assistance is needed to reach agreement. This might include getting outside help, such as from a mediator, to work through the issues. If they are unable to agree within six months of when they are required to, then the Act sets out a default employee participation system.

Involving volunteers

An employer is not required to involve volunteers in health and safety processes. However, it is good practice for all organisations to do so, as some volunteers will have valuable knowledge and experience to contribute to and improve the management of health and safety in the workplace.

MANAGING HAZARDS

Systems for managing hazards

Employers must have a systematic approach for dealing with hazards. There are three parts to this:

1. Identify all the hazards in the workplace.
2. Identify the significant hazards. Then work out which ones need immediate attention and which are of a lesser concern.
3. Develop a suitable system or action for each specific hazard. Do this by considering these actions in the following order:
4. eliminate the hazard (for example, replace hazardous chemicals with non-hazardous ones, or use lifting equipment for heavy or awkward loads). If that is not possible, then
 - isolate the hazard (for example, use guards to cover moving parts of machinery). If that is not possible, then
 - minimise the hazard (for example, train staff in safe work procedures, or wear hearing protection in noisy environments).

When these steps have been taken:

- review the situation regularly – after six months check to see if the plans are effective
- adapt processes as new equipment and people come into the workplace.

Employers must also:

- ensure health and safety representatives and staff members are actively involved in managing hazards on an ongoing basis
- tell contractors and visitors about relevant hazards and how they can keep safe
- find out from contractors about the hazards they are bringing into the workplace and how to keep staff and visitors safe
- ensure that contractors have the right skills and knowledge to do the job safely
- monitor the workplace and staff, where appropriate, for exposure to –
 - noise
 - chemicals, lead and asbestos
 - blood-borne and other body fluid diseases and infections.

What is a hazard?

The Health and Safety in Employment Act 1992 says that a “hazard”:

- a) means an activity, arrangement, circumstance, event, occurrence, phenomenon, process, situation, or substance (whether arising or caused within or outside a place of work) that is an actual or potential cause or source of harm, and
- b) includes:
 - i) a situation where a person’s behaviour may be an actual or potential cause or source of harm to the person or another person, and
 - ii) without limitation, a situation described in subparagraph (i) resulting from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person’s behaviour.

What is a significant hazard?

The Act defines “significant hazard” as a hazard that is an actual or potential cause or source of:

- a) serious harm
- b) harm (being harm that is more than trivial) the severity of whose effects on any person depend (entirely or among other things) on the extent or frequency of the person’s exposure to the hazard
- c) harm that does not usually occur, or usually is not easily detectable, until a significant time after exposure to the hazard.

What is serious harm?

The Act defines “serious harm” as a hazard that is an actual or potential cause or source of:

- death
- any of the following conditions that amounts to or results in death, permanent loss of bodily function or temporary severe loss of bodily function: respiratory disease, noise-induced hearing loss, neurological disease, cancer, dermatological disease, communicable disease, musculoskeletal disease, illness caused by exposure to infected material, decompression sickness, poisoning, vision impairment, chemical or hot-metal burn of eye, penetrating wound of eye, bone fracture, laceration, crushing
- amputation of body part

 MANAGING HAZARDS (CONTINUED)

- burns requiring referral to a specialist registered medical practitioner or specialist outpatient clinic
- loss of consciousness from lack of oxygen
- loss of consciousness or acute illness requiring treatment by a registered medical practitioner, from absorption, inhalation, or ingestion of any substance
- any harm that causes the person harmed to be hospitalised for a period of 48 hours or more commencing within seven days of the harm's occurrence.

PROVIDING HEALTH AND SAFETY INFORMATION FOR STAFF

An employer is required to provide its employees and regular volunteers with easily understandable information about:

- emergency procedures and where emergency equipment is kept
- hazards they may be exposed to while at work
- hazards they may create at work that could harm others
- where safety clothing and equipment is kept.

This information should be provided verbally before the work starts.

As a matter of good practice, an organisation should provide this information to all its volunteers, not just regular ones, and to independent contractors.

TRAINING AND SUPERVISING STAFF

Training and supervising employees

Employees undertaking tasks where they have not been adequately trained can cause serious injuries or even death. The Health and Safety in Employment Act requires employers to make sure that their employees have the necessary knowledge for the work they're doing or that they're supervised by someone else who has that knowledge.

Employers must also train their employees properly in the safe use of machinery and substances with which they work and in the use of protective clothing and equipment.

Training and supervising volunteers

Employers and other organisations do not have a legal duty to train and supervise their volunteers, unlike the duty of employers in relation to their employees.

However, good practice requires that all volunteers should have sufficient knowledge and experience to work safely, or an experienced person to supervise them. Organisations should train and supervise volunteers, if appropriate. Only volunteers properly trained in using certain kinds of machinery, equipment or chemicals should be permitted to use them.

REPORTING INCIDENTS

While a health and safety programme aims to reduce the likelihood of injuries occurring, there may be times when things go wrong and people are injured. Under the Act, employers must record all accidents in a special register, whether the accident involves an employee, volunteer, contractor or other person. This includes accidents that did not harm anyone but that might have done so. The employer must also put measures in place to prevent the accident happening again.

An employer must also notify the Department of Labour of any serious injury ("serious harm") to an employee or regular volunteer as soon as possible after the employer becomes aware of it. The employer must then, within seven days after becoming aware of the injury, give the Department of Labour a written notice explaining how it happened.

It is good practice to involve health and safety representatives and committee members in the process of reporting and investigating incidents and injuries.

PREPARING FOR EMERGENCIES

When an emergency occurs, it is too late to decide who will do what, and what equipment will be needed. Involve staff in planning how to manage emergencies that might arise in each workplace.

Possible emergencies are:

- **natural** – earthquakes, earth movements and slips, floods, heavy snowfalls, tsunamis, volcanic eruptions

- **human-made** – armed robberies, bomb threats, chemical spills, fires, gas leaks, injuries, missing persons, power failures, vehicle accidents.

To prepare for emergencies:

- identify the types of emergencies the organisation could be exposed to (such as a fire, explosion, medical emergency, flood or chemical spill)
- develop appropriate evacuation procedures, and inform visitors and contractors about these procedures – contact the local council, fire service and so on for more information about preparing for emergencies
- appoint and train wardens
- display emergency numbers and evacuation plans
- ensure that exits are well marked and clear at all times, and that doors open easily from the inside
- hold regular evacuation drills, and keep records of them
- check and maintain emergency equipment (such as smoke detectors and fire extinguishers) regularly
- check that the organisation has civil defence supplies, such as water, blankets, non-perishable food, torches and rope.

www.dol.govt.nz

The Department of Labour website has more information on the Health and Safety in Employment Act.

Publications

ACC booklet, *How to implement safer workplace practices* (download from www.acc.co.nz)

ACC Worksafe series for small business (download from www.acc.co.nz)

- *Improving workplace safety and health*
- *How to manage hazards*
- *Training and supervision*
- *Emergencies and incident investigation*

RESOURCES

Websites

www.acc.co.nz

ACC's website has more information on the Health and Safety in Employment Act and ways to prevent illness and injury in the workplace.

www.osh.dol.govt.nz

The Occupational Safety and Health website has information on health and safety, including the booklet *Occupational Health Tools*.

www.worksafereps.org.nz

This has useful information on health and safety.

www.workinfo.govt.nz

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