

Involving Employees in Safety at Work

Developing an approach
that suits your workplace

INTRODUCTION

Working environments that are as safe and healthy as possible are a significant part of a successful employment relationship. Legislation – the Health and Safety in Employment Act 1992 and an amendment in 2002 – is designed to contribute to achieving this goal.

Employers are responsible for providing a safe working environment and workplace. Within the workplace employees have responsibilities for keeping themselves and others safe.

Recognising these responsibilities, and because the Employment Relations Act encourages mutual trust and confidence in the workplace, there is a legal duty on employers to provide for involvement by their employees in ensuring workplace safety.

Successful management of health and safety in workplaces is best achieved through employers and employees co-operating in good faith to identify and solve problems before harm occurs.

The legislation recognises the wide variety of New Zealand workplaces, and the fact that many already have effective systems to continually review and improve safety at work.

It also recognises that some workplaces do not yet have such approaches, and that they may need time and help to reach the required standards.

All employers are required to provide opportunities for the involvement of employees in ensuring a safe workplace. Employers with 30 or more employees, or where any employee or their union requests it, are required to develop an agreed employee participation system.

This booklet discusses how effective employer and employee involvement can be established, reviewed and reinforced.

It focuses on creating a safety culture in the workplace, not just a safety plan or committee.

The options for making your workplace safer and healthier are varied, and this booklet doesn't provide a "one size fits all" solution. Instead, it gives information on:

- ways of working and communicating that have worked for a number of organisations
- the rights and duties of employers and employees.

Further information or assistance is available from the Occupational Safety and Health Service of the Department of Labour, from your union or from your employer organisation.

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The Health and Safety in Employment Act

The Health and Safety in Employment Act requires the creation of safe and healthy workplaces in New Zealand. An essential element of the Act's approach is that employees are to be involved in identifying and managing hazards.

The Health and Safety in Employment Amendment Act 2002 makes major changes to create a comprehensive and modern framework for workplace safety. These include:

- a) comprehensive coverage of workplaces, employees and industries
- b) recognising the responsibility of employers and employees to act together in good faith
- c) requiring all employers to provide reasonable opportunities for employees to participate effectively in processes for improving health and safety at work, and
- d) requiring some employers in co-operation with their employees and where applicable the employees' union(s) to develop a formal system of employee participation.

If you wish to determine the requirements on your workplace under the Act, Appendix (A) explains the Act's provisions.

The general duty

All employers must provide 'reasonable opportunities' for employee participation in health and safety issues.

What does this mean in practice?

It means opportunities that are reasonable in the circumstances taking into consideration things such as:

- the number of employees that an employer has
- the number of different places of work for employees and the distance between them
- the likely potential sources or causes of harm in the workplace
- the nature of the work and the way that it is arranged
- the nature of the employment arrangements, including the extent and regularity of employment of seasonal or temporary employees.

In other words, 'reasonable opportunities' depend on the circumstances of the work, the workplace or workplaces and the existing work arrangements.

Employers should at least make it clear to employees that they can provide input on health and safety at any time, and employers should also ensure that when they are specifically dealing with health and safety management, they actually seek employees' views.

Where an employer has 30 employees (or more), or one of the employees requires it, a formal system of employee participation must be developed.

An employee participation system

The Act is not prescriptive in its approach to systems for employee participation. Rather, it encourages employers and employees to establish an employee participation system that meets the needs of their workplaces. This can include reviewing existing systems or revitalising old systems that have lapsed.

In the schedules to the Act a system is outlined that can be adopted voluntarily but which becomes a mandatory system of participation if after six months of discussion employers and employees cannot agree.

The Act recognises that workplaces have different needs, and creates a framework for them to find the right solution to systematically improve safety through training, information and communication.

Further assistance is available from the Occupational Safety and Health Service Workinfo (0800 20 90 20).

The benefits to employers and employees of effective health and safety systems

The need to improve New Zealand's safety record is unchallengeable from a personal and social perspective. Each injury, illness or fatality has a profound effect on the individual and on his or her family and community.

The economic and business benefits of better safety are also significant. For example, a business that systematically harnesses the knowledge and expertise of employees in health and safety matters is likely to have less injury and illness and associated flow-on costs.

For example, a safe workplace avoids the costs to productivity of lost time, as well as the low morale, that result from accidents and workplace illness, and the significant costs that fall on the victim and their family after an accident.

Getting started with a system

The way you begin to establish a workplace health and safety system that complies with the Health and Safety in Employment Act depends on whether your workplace already has a system in place that includes employee participation.

If your workplace has a health and safety system that includes employee participation, you need to determine that it is acceptable.

Employees, and where applicable their union(s), should be given an opportunity to either agree that the existing system meets the provisions of the Act and is acceptable to them, or to work to refine it.

The Act does not provide a standard process for determining agreement. The parties should work together in good faith to both determine the process for agreement, and reach an agreement. It is worthwhile starting with a review of the existing system.

Including an ongoing review mechanism in participation systems is a requirement of the Act and even when all parties accept the existing system you should agree at this stage on a review provision.

A suggested process is in the section “Reviewing an existing system” immediately below.

If your workplace has no health and safety system, or if it doesn’t include employee participation, then it is recommended that you start with the section “Establishing a system”.

Reviewing an existing system

If your workplace has a system of employee participation, a review can serve either to affirm or improve it. A review can also consider how specific provisions of the Act will be implemented in your workplace. These include:

- hazard identification and management
- delivery of health and safety training
- leave for health and safety training
- requirements for the provision and use of safety equipment
- involving all workers, including those working away from the main site and mobile workers
- how to resolve situations where there is initial disagreement over matters
- the role of the union in representing their members on health and safety issues.

Who should review the system?

A review of the existing system is an opportunity to build ownership of health and safety issues among managers and employees. This does not mean that the review itself needs to be undertaken internally; in fact, an external perspective may be more objective about the strengths and weaknesses of the existing system.

Whether the review is internal or external, the process should involve employees (and, where applicable, their unions) in determining the programme for the review, gathering information, and developing recommendations for the future of the health and safety system, including how employees participate in it.

In workplaces with a diverse range of employees, it is important to make sure that all groups are given the opportunity to be represented in reviewing the system. This will help to make sure that all issues – such as the needs of shift workers or those on multiple sites – are taken into account when, for example, meetings are organised, health and safety representatives are appointed and training is put in place.

When establishing the review, and at all stages through the review, it is best to ensure that both the process and the issues under discussion are conveyed to all employees. This is the best way of ensuring that any changes to the system will be both agreed and implemented.

Describe the existing system

Matters that could form the agenda for a review include:

a) What are the elements of the workplace?

Identify the various work environments and processes, and the existing strategy for identifying and managing hazards. Is everything covered? Are there areas where the processes or responsibilities are unclear – for example, mobile or loaned workers?

b) Who participates?

How do supervisors and employees currently participate in the system? How are participants selected? How do they report to the broader workplace? Are there any groups or interests that are not currently participating?

c) What records are kept and used?

Are systems in place to meet the requirement that accidents, near misses and employee illnesses are recorded? Are these records used in a way that builds a safer workplace? How do individual issues and incidents contribute to assessing hazard management more broadly in the workplace?

d) How are hazards identified and managed?

Who is involved? Are people aware of and competent in the system of hazard management? Are there gaps in the system or in participation?

e) How are views exchanged?

Identify all the opportunities for exchanges of views, and the current effectiveness of each. Are you taking full advantage of tools like lunchroom meetings, suggestion schemes, surveys, in-house circulars, training courses, and so on?

f) How are decisions communicated?

What are the mechanisms to make sure that everyone knows about health and safety decisions that affect them? How clearly are the reasons for changes or inclusions conveyed?

g) What has been achieved in the past year?

Is our workplace working constantly to identify hazards and develop good work practices? Are there targets or changes that employees and managers are working towards? Does everyone know what those targets are, and what progress has been made?

h) How is health and safety information disseminated?

Do employees have access to information in a reasonably accessible form?

i) What is the status of health and safety training in the workplace?

Have managers, health and safety representatives and the relevant committees received training? Is health and safety part of induction for new employees, employee development and training?

j) What is the level of compliance with current policies and procedures?

The review group should also determine how any proposed changes will be discussed and agreed by employees, how that agreement will be recorded, and what new training or information needs result from the system.

The legislation requires that systems include a process for future review.

Establishing a system

If currently there is:

- a health and safety system that does not include employee participation, or
- no recognised system of health and safety management

and

- the workplace meets the criteria of 30 or more employees, or
- there is a request from an employee or employees that the employer establish a participatory system

then it is a legislative requirement that a participatory health and safety system be established.

Even where there is no legal requirement for a participatory system, you should consider establishing one as it has been shown that such systems can be a very effective tool for improving workplace safety.

Employers, employees (and, where applicable, their unions) are required to co-operate in good faith to seek to develop, agree, implement and maintain a system.

If you are starting from scratch, the first issue to be considered is who will participate in the process, and how. Starting off with the right people involved, and making sure they have the appropriate authority to make decisions, can make or break the process.

The legislation allows you to work this through in a way that suits your workplace. There are no set processes, although there is a requirement to act in good faith. There is also a provision (see Appendix B) for dealing with situations where agreement cannot be reached.

In a small workplace, it may be possible for managers and staff to hold informal discussions with someone responsible for recording issues and developing solutions for report-back to the next meeting, and then for producing a proposal for the employer and employees to agree on.

In larger workplaces, it may be more appropriate to establish a group that meets regularly and reports both to management and employees. The group will require clear terms of reference, and will generally work best where ideas are developed jointly and proactively.

The terms of reference should make clear:

- the issues to be considered by the group
- the membership of the group
- the timescale for discussions
- how decisions will eventually be made on any proposals
- how the work of the group will be communicated to others both during and after its work.

The issues discussed on page 8 “Reviewing an existing system”, also provide guidance on developing a new system and may form part of the terms of reference.

Keys to success

There isn't a “one size fits all” solution either for a working group or the health and safety system it develops, but experience shows that a number of elements are key to achieving real improvements in workplace safety:

- **The active participation of the employer and management**

If health and safety processes are seen as “just an HR function”, or as something the health and safety officer must accomplish alone, then it is unlikely that any real progress will be made.

Health and safety management is a core part of how work is organised and of the capital investment decisions of the business, so it depends on a broad range of knowledge within the business. Try to involve managers from every part of the workplace, and provide them with time to develop ideas both at and between meetings. The managers involved should be clear about their reporting arrangements and authority, and one person should be responsible for tracking discussion and decisions, and for keeping the process on the rails.

At the Board level, companies should also aim for commitment and buy-in. Health and safety should be integral to both the strategic and reporting systems of a company, and be considered in any risk or audit analysis.

- **Representation of employees**

It is important that employee representatives speak for each part of the workforce. To achieve this all employees should be given the opportunity to participate in the establishment of a system. It is useful to get endorsement from all staff on how representatives will be chosen, and to ensure that those involved are given opportunities to report back to their colleagues.

It will also often be useful for representatives to be chosen according to existing representative structures in the workplace, where these exist, although in workplaces where there is a mixture of employees on collective and individual arrangements new structures reflecting both may need to be developed.

It is important that employee participants clearly understand their role, the terms of reference and their responsibility to report to their workmates.

Training or external support for employees to help them to fulfil their role can also smooth the process.

It is also important that those involved have a genuine interest in health and safety.

- **The role of unions**

Unions have the right to represent their members on health and safety issues. The approach unions take can vary. Some may take a principal role during the establishment of a health and safety system and in the subsequent reviews. Others may act as a resource and support for employee representatives on a committee, for example by providing technical expertise and training.

- **Seeking external advice**

If this is the first time management and staff have worked together in this fashion, external assistance may help the work run more smoothly. This could be by:

- facilitation of meetings
- assisting in problem-solving exercises
- advising on drafting agreements
- providing specific health and safety information
- providing advice on the legislation.

Employer organisations and unions have experience in this area, as do the Occupational Safety and Health Service, the Employment Relations Service, the Maritime Safety Authority, and ACC.

Examples of approaches to employee involvement

Ways successfully used in New Zealand workplaces are as varied and innovative as the workplaces themselves. Often they originally flow from the enthusiasm of one person, and are then integrated into the way the business plans and operates.

Health and safety representatives

Representatives, are selected from amongst the workforce, normally by election. They can have a number of roles, which include:

- working with the employer on health and safety issues
- maintaining effective communications within the workplace on health and safety matters
- being a point of contact for employees who have health and safety concerns
- talking to the employer about those concerns and trying to find an agreed solution
- helping to induct and train other employees on health and safety issues
- assisting injured workers to return to work safely, in conjunction with the injured worker, medical practitioner and employer
- talking to the union, OSH or other relevant authorities to seek a solution to problems.

From the employer's point of view, the employee representative can act as an early warning system for emerging problems, as a conduit for ideas, and as a key communication tool in the workplace.

A representative needs three types of support to be effective:

- Training.
- Regular access to the employer.
- Time to fulfil the role and management support in fulfilling their role.

Hazard management exercises and auditing health and safety systems

It can sometimes help to set up a one-off team of managers and staff to review how the established systems are actually running on the ground. This team can bring a new set of eyes to issues and broaden the group of people who have ownership of making the system work.

Surveys of employees

As with other issues, surveys of employees can be used to test awareness of and satisfaction with health and safety in the workplace, and to refine the system if necessary. Surveys can achieve a comprehensive picture of employee views and test ideas for change and improvement. Surveys can also reveal trends or hazards that require attention.

Company publications and newsletters

All company communications can be used to share the experience of good or poor health and safety practice. They can promote targets for improvement, explain the reason behind safety practices, and encourage employees to discuss worksite issues with the employer or with health and safety representatives.

A dedicated page or column for the health and safety representative or guest contributors can provide an opportunity to discuss the practical issues of hazard management and how solutions are developed.

Involving employees in the purchase of safety equipment or protective clothing.

Giving the people who will use new equipment a say as decisions are made can be a way both of building support for change and of making better decisions. Employees can often provide a unique level of expertise when viewing equipment in use elsewhere, and in questioning potential suppliers.

Involving employees in health and safety training

The credibility and effectiveness of induction and ongoing training is often improved by having experienced employees participate in sessions. They can put the work in a realistic context, frankly discuss problems that may have occurred with bad practice in the past, and then be on-the-job mentors for new employees.

Information technology

Dedicated website pages, e-mail enquiry lines and chat rooms have been used successfully where there is a dispersed worksite or employees on shift work. Internal intranet systems can be used to exchange views, keep up to date with issues, provide distance learning, and make and seek suggestions. The internet can also be an effective tool for conducting hazard management exercises.

Safety or toolbox meetings

A regular meeting (at the start of each week, for example) can be an informal way of raising awareness of safety issues and allowing any new issues to surface. It is important that the meeting is run in a way that gives people confidence to discuss their own and others' problems.

An external speaker such as an Occupational Health and Safety Inspector from the Department of Labour, a union organiser, representative of your local employer organisation or an equipment supplier might be invited to discuss a current topic. It's a good idea to share the convening of the meeting between the employer and employees, so that both take ownership of the time.

Focus groups of employees

Professional facilitation can simplify and shorten the task of extracting the views and experience of a broad range of employees. Focus groups can give an immediate snapshot of the effectiveness of health and safety strategies by gauging the understanding and commitment to them.

Using facilitated problem-solving groups to focus attention on a problem can also be a circuit-breaker where longstanding work practices need to be reviewed or changed.

Performance appraisal and employment agreements

Clearly outlining safety provisions in employment agreements establishes from the beginning the importance of both the employer's and the employee's commitment to a safe workplace.

Any formal or informal performance review should include discussing health and safety performance. Managers and supervisors should also be assessed against the safety record and safety awareness of their teams.

Performance indicators should reflect the needs of a safe and healthy workplace, and have incentives that lead in that direction.

Health and safety weeks

Although ensuring a safe workplace is a 365-day-a-year activity, having a special focus for one week of the year can be a good way of having a stocktake. Looking at issues comprehensively can detect whether bad practices are emerging or standards are slipping.

The Health and Safety Week can be a good time to look at new solutions to hazard management and to review and reset targets for the coming year. Activities could include:

- involving other safety agencies such as the fire service or St Johns who can reinforce the need for emergency preparations and responses.
- visits by health professionals and employee assistance counsellors
- encouraging or participating in fitness programmes and sporting activities.

Involving employees in the planning of the week and making it a social as well as business activity can build involvement throughout the year and create support for the health and safety plan and the committee.

Health and safety committees

Having a standing committee is a traditional mechanism for consulting on health and safety in larger workplaces, and is effective as long as you ensure that the committee does not become an end in itself. Health and safety committees need to be solution-focused, not agenda-focused, and need to be integrated into other planning streams in the business.

Committees work best when the participants have the training, access to information and time needed to fulfil their function. The committee also needs to be broadly based and visible, and to actively encourage employees to bring issues to it.

Most committees have a balance of managers and employees, and a balance across the range of work areas in the company (see Appendix B for the circumstances where this is a requirement). The committee needs to be of a workable size, with the ability to establish specialist sub-committees if issues arise that need intensive concentration or expertise in a specific area.

A foundation of success is having agreed terms of reference, and understanding the decision-making process. Equally, a committee should have as a primary role developing and promoting a health and safety strategy for the workplace, and not be distracted with other issues.

There are many other successful approaches to health and safety being undertaken in New Zealand. If you would like to share your experiences and ideas with us please visit the website at www.workinfo.co.nz and use the form to detail your information. We hope to regularly update our website, and this publication, with the ideas we collect.

Dealing with problems that arise

The Health and Safety in Employment Act includes requirements for employee involvement and for resolving problems that occur.

If a problem arises over employee involvement, or during the establishment, review or implementation of a participation arrangement, the matter is dealt with as an employment relationship problem under the Employment Relations Act. All the services available under that Act are available to deal with the problem.

The Employment Relations Act focuses on good-faith relationships. Good faith means dealing with each other honestly and openly, and not misleading each other.

Dispute resolution

All employment agreements are required to include a process to deal with employment relationship problems. This includes health and safety matters.

Some common-sense principles apply regardless of the content of employment agreements:

- Deal with the matter as soon as you become aware of it.
- Be clear about the facts. Make sure that what you think has happened or is happening is not just based on an assumption or a misunderstanding.
- Talk to each other. Employers, employees (and, where appropriate, their unions) should try to resolve the problem by discussion. Both parties are responsible for sorting the issue out.
- Seek information on your rights and responsibilities and how others have effectively dealt with similar situations by discussing the problem with the Department of Labour's Workinfo service on 0800 20 90 20. The staff there will be able either to answer your question or to refer you to the appropriate part of the Occupational Safety and Health Service or Employment Relations Service.

If the workplace is required to have a participation system (see page 6 or Appendix A) employers and employees should seek to reach agreement within six months. Where the parties have been unable to reach an agreement the Act provides a system (see Appendix B), which is available and becomes mandatory if attempts to reach an agreement have failed.

Where to seek assistance

Advice on health and safety matters is available from employer organisations and unions, as well as from:

The **Occupational Safety and Health Service (OSH)**, which is a business unit of the Department of Labour. OSH also has responsibilities under the Hazardous Substances and New Organisms Act. Its staff are located in offices nationwide, and include specialist advisors, inspectors, and information officers. OSH undertakes a range of activities to deliver the government's principal objective of preventing harm to employees at work. This includes research, working with industries to develop codes of practice and recommended best practice, and providing advice to both employers and employees. It also involves inspecting, and if necessary ensuring compliance by, companies that fail to maintain a safe working environment. OSH can be contacted at Workinfo (0800 20 90 20), and more information is available through www.workinfo.govt.nz.

The **Maritime Safety Authority (MSA)**

The principal objectives of the MSA are:

- to undertake activities that promote a safe maritime environment
- to provide effective prevention of maritime pollution
- to provide an effective response system to marine oil pollution.

The Authority has always looked after the occupational health and safety of seafarers, but previously did this through other legislation. From 5 May 2003, the Authority administers the provisions of the Health and Safety in Employment Act as it affects those working about commercial vessels.

Further information or assistance is available from the Maritime Safety Authority through www.msa.govt.nz or free phone on 0508 22 55 22.

Other Services of the Department of Labour

Assistance on a wide range of employment and labour market matters is available from other Services of the Department of Labour:

1. The Employment Relations Service helps employees and employers maintain good, fair, productive employment relationships. It produces a range of publications explaining minimum legal provisions and suggesting effective ways to manage the working environment. If problems emerge in the workplace, the Service can provide information, legal enforcement of minimum rights and free mediation service to help people deal with their problems.

The Employment Relations Service can be contacted at 0800 800 863. Information is also available on its website (www.ers.dol.govt.nz).

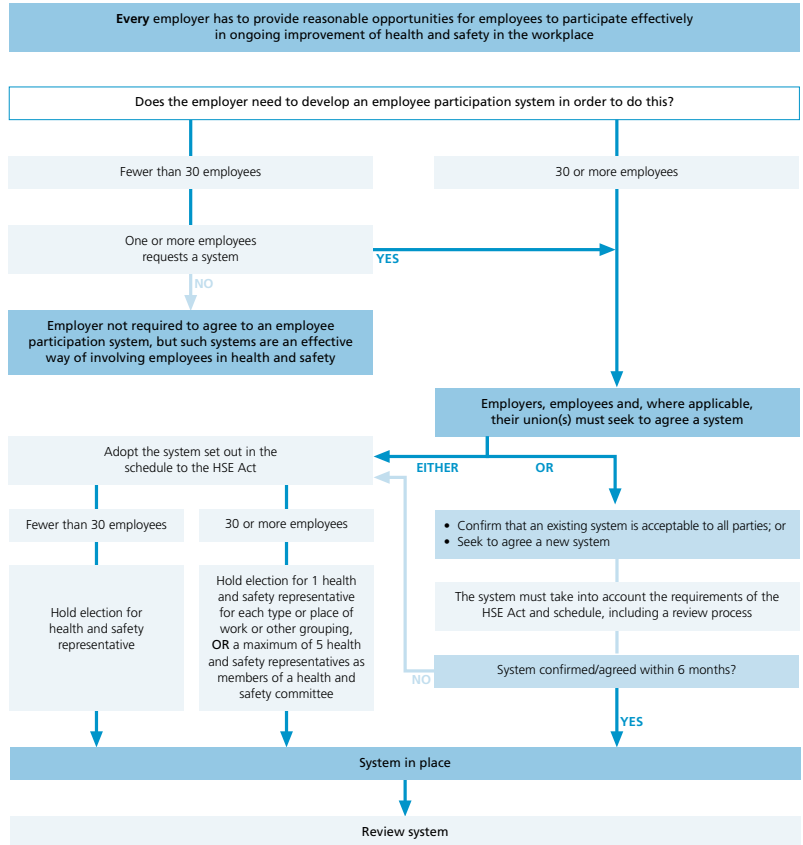
2. Whether offering or seeking work, the prospective employee must either be a New Zealand citizen or have a residence permit, the appropriate work permit, or other permission to work under the Immigration Act.

The New Zealand Immigration Service (NZIS) is available on www.immigration.govt.nz or by calling 0508 55 88 55 (outside Auckland) or 914 4100 (from the Auckland area). You can:

- find out about immigration to New Zealand
- get help for new migrants to settle in New Zealand
- apply for a permit to work or study in New Zealand
- get information and help on settling in New Zealand
- apply for a visa to work or study in New Zealand.

3. The Community Employment Group (CEG) works alongside communities and the organisations within them building their capacity to plan and create positive change in ways that lead to sustainable local economic and employment opportunities. CEG is available on www.ceb.govt.nz or by ringing 04 915 4270:
 - You can discuss ways your local employment project can be developed and supported.
 - Women, Maori, Pacific peoples, rural and urban disadvantaged communities can get help with local employment initiatives.
 - Maori and Pacific peoples can get help to develop projects to increase jobs in their communities.
4. The Labour Market Policy Group advises government on a range of labour market matters and provides information to assist employers and employees in the workplace. LMPG is available on 04 915 4712. You can:
 - get information on skills, research, trends and demographics at www.dol.govt.nz
 - get information on the changing nature and future of work, work/life balance, skills needs and research at www.futureofwork.govt.nz
 - get help to move into employment, to do training or to find employees via the labour market portal at www.work.govt.nz.

Appendix A: How does employee participation work?



Appendix B: The system for employee participation in Schedule 1 to the Act

The Act sets out a possible process of employee participation which is automatically available to employees if they and the employer cannot agree on an employee participation system within six months.

Exactly what employers need to do depends on how many employees they have:

- If an employer employs fewer than 30 employees, the employees and any union(s) representing them must hold an election for at least one health and safety representative.
- If an employer has 30 or more employees, the employees and any union(s) representing them must hold an election for either a single health and safety representative or up to a maximum of five health and safety representatives, to be members of a health and safety committee.

The employee health and safety representatives must comprise at least half the committee.

There are mandatory functions for health and safety representatives who are elected where the parties have not been able to agree on an employee participation system within six months. These mandatory functions are:

- to foster positive health and safety management practices in the place of work
- to identify and bring to the employer's attention hazards in the place of work and discuss with the employer ways that the hazards may be dealt with
- to consult with inspectors on health and safety issues
- to promote the interests of employees in a health and safety context generally, and in particular those employees who have been harmed at work, including in relation to arrangements for rehabilitation and return to work
- to carry out any functions conferred on the representative:
 - by an employee participation system
 - in an agreed code of practice.

This booklet is a guide only and may not be accurate for all situations. It should not be used as a substitute for legislation or for legal or other expert advice.

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LABOUR
TE TARI MAHI

OSH
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& health service
te rauunga whaka