

Working Together

so we all go home safe and well!

Employee rights under the Health and Safety in Employment Act



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DEPARTMENT OF
LABOUR
TE TARI MAHI

OSH
occupational safety
& health service
TE Kaitiaki Take Kōwhiri

This guide is to help you keep yourself and your workmates safe.

Creating a safe and healthy workplace is a basic part of the relationship between you and your employer.

Two laws support this relationship:

- The Employment Relations Act promotes good faith relationships among employers, employees and unions.
- The Health and Safety in Employment Amendment Act 2002, which is in effect from 5 May 2003, promotes strong relationships and cooperation to make your workplace safe.

Because every workplace is different, employees are in a unique position to know how they and others in the workplace can be kept safe. That's why New Zealand's legislation gives employees the right to be involved in health and safety planning.

The Health and Safety in Employment Amendment Act 2002 strengthens the previous law in three ways:

- It gives the same health and safety rights to employees in parts of the economy that were previously excluded (particularly in the transport sector).
- It enables employees to participate in health and safety issues at work, and gives them access to information and training.
- It makes the responsibilities of employees and employers clearer and easier to understand.

Everyone benefits when employees and their unions help to develop health and safety systems, and when those systems are part of the daily life of the workplace.

When that happens, the employer, the employees and the whole community are better off. An investment in safety is an investment in the well-being of the business and its employees.

Further information or assistance is available through the Department of Labour's Workinfo service (www.workinfo.govt.nz or 0800 20 90 20) or from your union.

Everyone is responsible for keeping themselves and others safe.

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

You can make your workplace safer by:

- being involved in your workplace health and safety system
- sticking to correct procedures and equipment
- wearing protective clothing and equipment
- helping new employees, trainees and visitors to the workplace understand the right safety practices and why the practices exist
- communicating concerns to your employer.

Are you a hazard to others at work? If you are tired, stressed because of family or work reasons, or under the influence of alcohol or other drugs, your practices may become unsafe.

Avoid behaviour that puts you at risk. Let your employer or health and safety representative know about anything that might affect your ability to perform your work safely. That's in the best interests of everyone.

Finally, never think "just this once, because the order has to go out". Taking a risk once is once too often.

Good health and safety systems include employee participation and training.

Employees and unions being involved is the best way to make sure everyone knows about health and safety and makes it their responsibility. The legislation has a number of provisions to make sure that happens.

It's best to build health and safety in from the start of the job. Health and safety should be a basic part of induction and training when you start a new job. Your employer should tell you who to talk to if you see any safety problems or are unsure about safety issues.

Your employer should also have ways of exchanging information with you, obtaining your views, and involving you in health and safety.

You may help to elect a health and safety representative in your workplace. In larger workplaces, you may help to elect the employees' representatives on a health and safety committee that also includes representatives of the employer.

Your health and safety representative can have a number of roles. These could 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 other employees who have health or safety concerns

- talking to the employer about those concerns and trying to find an agreed solution
- talking with the union, the Occupational Safety and Health Service (OSH) or other relevant authorities to seek solutions to problems
- helping to induct and train other employees on health and safety issues
- being a member of a health and safety committee if there is one.

Because of the importance of their role, health and safety representatives are entitled to up to two days' leave per year to attend recognised training. Where there is more than one representative in a workplace, a pool of training days is available for them to share.

The trained health and safety representative gains rights and responsibilities. For example, trained representatives can issue hazard notices where they believe a problem has emerged, and where they and the employer have been unable to agree on a solution.

Everyone has a right to the information and equipment they need to be safe at work.

Your employer must:

- provide you with information about any hazards and how to protect yourself from them. For example, you should be told how to deal with any hazardous chemicals you are using, the symptoms associated with them, and how to get help easily if there are problems
- ensure that you have and use the right protective equipment or clothing. You can choose to provide your own protective clothing, if you make that decision the employer must ensure it is good enough for the job
- record any accidents or "near misses" to you, your fellow employees and visitors to the workplace.

A workplace is anywhere your employer requires you to be as part of your job, whether on-site or off-site. This includes places like the lunchroom, the car park, any motor vehicle you drive as part of work, and any equipment you use such as a crane or a ladder. Your vehicle is also a workplace while you drive from job to job while at work.

The health and safety system at your workplace should be reviewed from time to time to make sure it is working well.

For further information, contact one of the people or organisations outlined on the back of this booklet.

If you're concerned about a safety issue, make your concern clear so it can be fixed before problems occur.

The aim of health and safety systems is to stop accidents occurring in the first place.

This requires attention and alertness from the employer and the employees. Sometimes hazards are taken for granted because they are so familiar, or overlooked in order to "get the job done".

If you see a hazard at work, you should raise it immediately.

Hazards can include:

- unsafe premises or equipment
- inadequate or misused safety equipment
- bad work practices
- lack of adequate information about equipment or processes.

You can help to solve the problem before it leads to an accident. A good health and safety system at work will make sure you know who to tell and that your concerns are taken seriously. Where there is a health and safety representative in the workplace they can help you raise your concerns.

Sometimes workplace hazards can lead to illnesses, not just accidents. If you become aware of a possible problem such as a pattern of illnesses among the staff, let the right person know.

Reporting hazards and accidents is everyone's responsibility

We all have a part to play in improving the health and safety of New Zealand workplaces. Reporting hazards or accidents (including near misses) is part of this shared responsibility.

Any accident in your workplace, either to an employee or to a visitor to the workplace, should be recorded. All employees should take responsibility for making sure your employer knows about it. These records are important to identify patterns of injury or illness so that safety can be improved.

These reporting processes should be explained to you when you first start a new job.

Where you have genuine concerns about your immediate safety you have the right to refuse the unsafe work. This should only occur when other avenues to deal with the problem have not been successful. During the time when your concerns are being investigated you can be required to perform other duties in the workplace.

We aim for a safe and healthy workplace.

What is a safe and healthy workplace?

A safe and healthy workplace is one where the risks of injury, illness, and death are controlled. Healthy and safe workplaces do not occur by accident. Safety comes from employers and employees setting goals and then working as a team step by step, day by day to achieve them. How is this done?

Employers must have a system to manage the workplace to ensure that employees are safe. To establish a health and safety system, employers must work with employees to:

- identify hazards in the workplace, and then
- ensure that those hazards are eliminated or reduced.

If the hazard can reasonably be eliminated, then it should be. That depends on how much harm it might cause, and how difficult and expensive it would be to eliminate the risk.

When a hazard cannot be eliminated, you have the right to know about the hazard, the level of risk, and what you need to do (or not do) in order to work safely.

The aim is to do things better in order to achieve a safe and healthy workplace – not because that's what the law says, but because it's better for everyone.

The problems that can emerge are not confined only to the injured, or sick employee. A major injury can:

- create financial and emotional problems for families
- leave workmates traumatised or feeling guilty
- cause employers to suffer lost production and profit
- create emotional and economic costs for the whole community.

Health and safety in the workplace should be at the front of everyone's minds.

We all deserve to go home safe and well.

For help:

Your health and safety representative:

Your manager or supervisor:

Your union or the Council of Trade Unions (www.union.org.nz)

Workinfo www.workinfo.govt.nz or **0800 20 90 20**

Maritime Safety Authority www.msa.govt.nz or **0508 22 55 22**

This pamphlet 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.

