

# Key changes to the Health and Safety at Work Act you need to know



The Government has created a new piece of legislation to replace the Health and Safety in Employment Act. It's called the Health and Safety at Work Act 2015 (HSWA) and it will be in effect from 4th April 2016.

## We're here to help


Here at OfficeMax, we'll help explain the nuts and bolts of the new law so you can be sure you're aware of all the key changes, the penalties for not following the rules, and where you can go for more information.

We'll also try to answer your likely FAQs around the HSWA and leave you with a checklist so you know what you need to do before the new law comes into effect.

The HSWA is the first major reform of NZ's health and safety laws in more than 20 years. There are some minor differences from the Health and Safety in Employment Act (HSE Act) it replaces, like language such as 'worker' instead of 'employee.' There are also some more serious changes including a huge increase in fines.

Find out what you need to know to ensure you're covered. It's your chance to review and improve your health and safety management and performance.

## The aim of the new law



The main goal of the HSWA is to lower the workplace injury and death toll by 25 per cent by 2020.

The new law also emphasises that the responsibility for health and safety in the workplace rests with everyone. In other words, everyone in the work environment is responsible for ensuring that their own (and their co-workers) health and safety is protected. It's not just you as the business owner.

Under the HSWA, 'everyone' refers to:



A 'PCBU' – if you're a sole trader or a partner in a partnership, you'll be defined as a 'person conducting a business or undertaking' (PCBU) under the new legislation. If you run a company, the business itself will be defined as a PCBU. As such, either you or your company will have the main responsibility of protecting the health and safety of your workers and others affected by your business's work.



Officers – like directors and managers that make the main decisions. These people have a responsibility to make sure the business fulfils its health and safety obligations, even if they don't physically work in the business



Workers – which may include employees, contractors, volunteers and trainees. They have to take reasonable care to follow your business's instructions and policies, and to ensure their own health and safety, and that of others. So if you have sub contractors working alongside you, they need to follow your guidelines as well.



Others – people that come to your workplace, such as customers or visitors. They also have to take responsibility for what they can control.

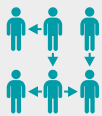
## Main changes in the new Act

The HSWA has some subtle changes when compared to the old HSE Act. It aims to focus your business's efforts on what matters, taking into account its size, the level of risk, and what it can control.

Some of the key points are that your business will have to:



Do what's reasonable and practical to ensure health and safety – by finding a balance between what your business can possibly do (the highest level of protection) and what your business can achieve (can reasonably do). The point is that there isn't a right or wrong way; it's what is 'reasonable and practical'.



Proactively manage and identify critical risks that can reduce workplace harm – meaning that you'll need to better monitor, control and manage potential major hazards. Your workers should also be more involved in this process.



Engage more effectively with workers – and allow them to participate when finding health and safety solutions. How your business chooses to do this will depend on its size and needs, but ultimately you need to create an environment where workers feel ok to highlight any issues, and not penalise them for doing so.

The HSWA will change the focus of your business's health and safety from the physical workplace to the type of work. With greater flexibility in the workplace these days (such as more virtual workers), it will depend on what your business actually does, and therefore what it can control.

## What are your main concerns?



As a PCBU under the new law, you could be fined if your business doesn't meet the new standards. You have a responsibility to make sure that the health and safety of others isn't put at risk when carrying out work.

You'll also be responsible for workers that perform activities that are influenced by your business. For example, if you're one of a few PCBUs working on the same project, you may have the same responsibility over a worker.

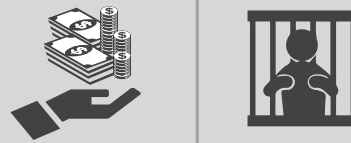
In this situation, you'll have to talk to the other PCBU or face the possibility of a fine if something goes wrong. You can't say "the other business was supposed to take care of that."

## Consequences of not meeting the Act's standards

Under the HSWA, the penalties for failing to satisfy the new standards have been worked around a three-part system and the fines have been increased six-fold. Below is a quick rundown of the offences and penalties.

### Recklessness

- Up to five years imprisonment or a maximum fine of \$300,000 for an individual who isn't a PCBU or officer.
- Up to five years imprisonment or a maximum fine of \$600,000 for an individual who is a PCBU or an officer.
- \$3 million maximum fine for any other person (such as a corporate).



### Risk of death, serious injury or illness

- \$150,000 maximum fine for an individual who isn't a PCBU or officer.
- \$300,000 maximum fine for an individual who is a PCBU or an officer.
- \$1.5 million maximum fine for any other person (such as a corporate).



### Breach of health and safety duty

- \$50,000 maximum fine for an individual who isn't a PCBU or officer.
- \$100,000 maximum fine for an individual who is a PCBU or an officer.
- \$500,000 maximum fine for any other person (such as a corporate).

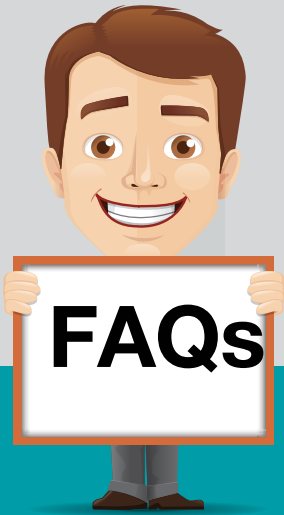


You can see it's now much more serious, not only because the Government wants workers to stop getting injured or dying, but also the fines you, or your managers, will face. It's a worthwhile investment to put some time and energy into reviewing all your health and safety rules now.

# What are the next things you should do?



1. Identify the hazards in your business, write them down
2. Decide on what action you need to take, to minimise the risk of them happening
3. Work out what safety equipment or supplies are missing, and order them from OfficeMax



## What exactly is a PCBU?

A PCBU stands for a 'person conducting a business or undertaking' where:

- *A business is an activity that aims to make a profit or gain, and*
- *An undertaking is a non-commercial activity like that of a local authority.*

Although a PCBU can be an individual like an owner-operator, in most cases a PCBU will be a small or medium business as a company.

## What is a health and safety representative?

A health and safety representative (HSR) is a worker who's been elected by their work group to represent them in health and safety concerns.

## How can a HSR help my business meet the terms of the Act?

Under the HSWA your business has a legal duty to engage with workers about health and safety issues in your workplace. Depending on the nature of your business or your relationship with your workers, you may choose to have an HSR speak for your workers.

## Am I responsible if other people come into my workplace and get injured?

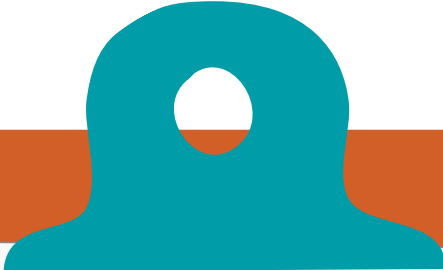
If you're a PCBU and you've done everything 'reasonably practicable' to keep your workplace safe, you won't be liable. However, if you fail to meet your responsibilities for maintaining a safe work environment, you could be liable. If someone enters your workplace for an unlawful reason and gets hurt, you won't be responsible.

## Where can I get support for my business if I need it?

WorkSafe NZ should be your first stop for clear and relevant information on the HSWA. The site will help your business understand how the new law will affect it.

# Checklist

Now that you have a clearer idea of how the HSWA will affect your business, run through our checklist to see what you should do next.

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- Identify the health and safety risks and hazards that confront your business.
  - Browse our online safety supplies catalogue and range of first aid supplies. At OfficeMax, we have what you need to meet the new regulations, including:
    - Fire extinguishers and alarms*
    - Safety signage*
    - Eye protection*
    - Spill solutions*
    - Hazardous substance equipment*
    - Hearing protection*
  - Draw up a process for engaging with your workers and how they'll participate towards making their workplace safer.
  - Gather together your workers to discuss the key changes in the new Act and how they'll affect them and your business. Schedule regular training on health and safety issues.
  - Talk with any co-owners in your business to make sure you all understand that you have a responsibility for health and safety under the new Act.
  - Show support to any 'officers' (such as directors and managers) in your business by helping them get up to date with key risk factors and health and safety issues. Send them this summary as a start.
  - If your business has 20 or more workers, or it's in one of the high-risk sectors or industries, you'll need to organise a health and safety representative (HSR) for your workers. Discuss this with your workers because if you're a smaller business, they may choose to have one represent them anyway.
  - If you're working on a project (or at a location) with other PCBUs, begin consulting and working with them to plan how you'll keep all workers safe.
  - Regularly report any incidents and monitor your health and safety goals.
  - Complete health and safety audits frequently.
  - Download the OfficeMax WOF PDF for your workstations
  - Download the Work Safe First Aid Assessment Checklist

Seek more information via the following links if you're still unsure about the Act.

The Ministry of Business, Innovation & Employment (MBIE) has an overview of the Act along with some handy links to key documents as the law went through parliament (if you really want to read the fine print).

To read about how you'll need to engage with your workers to meet the new Act, visit the WorkSafe page for businesses.

Read WorkSafe NZ's HSWA regulations page to get a better idea of what your business will need to do to meet the requirements of the law.

Take a look at the WorkSafe page on health and safety representatives (HSRs) to find out whether your business needs one.

Find out more about worker engagement and participation, which is a key focus in the HSWA.

If you want to have a close-up look at the new legislation yourself, you can access it on the New Zealand Legislation website.



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