

EMPLOYER DUTIES

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The Health and Safety at Work Act 2015 specifies new duties and responsibilities for employers and PCBU's (Persons Conducting a Business or Undertaking). The PCBU is generally an organization, business entity or individual carrying out an activity for the intention of making profit or gain and includes employers, principals, self-employed, partnerships and people who manage or control a workplace. As a PCBU you now have a primary duty of care to ensure the health and safety of workers and that other people are not put at risk by your work. This newsletter outlines what 'Primary Duty of Care' means and how this may impact you as a business owner or manager.

PRIMARY DUTY OF CARE

Primary duty of care is a broad duty. It includes ensuring, so far as reasonably practicable:

- **Work environments are provided and maintained without risk to health and safety**
- **Plant and structures are safe and maintained**
- **Safe systems of work are provided and maintained**
- **Plant, structures and substances are used, handled and stored safely**
- **Facilities are provided for the welfare of workers**
- **Information, training, instruction and supervision is provided to protect all people from risk to their health and safety**
- **Workers health and the conditions at the workplace is monitored for the purpose of preventing injury or illness**



Manawatu Health & Safety Ltd
Consultancy Services

Brigid Hodges

Phone: 027 298 2911

brigid@manawatuhealthandsafety.co.nz

www.manawatuhealthandsafety.co.nz

WHO IS NOT A PCBU?

- Those who are solely workers for the business
- A volunteer association
- An occupier of a home who engages another person solely to do residential work

WHO MUST I ENSURE THE HEALTH AND SAFETY OF?

You must ensure, so far as reasonably practicable:

- The health and safety of workers who work for you while they are at work
- The health and safety of workers whose work activities are influenced or directed by you
- That other persons are not put at risk by the work of the business or undertaking

WHAT HAPPENS WHEN MULTIPLE PCBU'S ARE WORKING TOGETHER?

Businesses now need to consult, cooperate, and coordinate their activities with other businesses particularly when there are overlapping duties in relation to workplace health and safety – this can be on worksites, multi-tenanted buildings, contracting chains etc. If more than one PCBU has a duty in relation to the same matter and fails to consult, cooperate and coordinate with each other they may be liable for a fine of up to \$20,000 for an individual and up to \$100,000 for any other person.

WHAT DO I NEED TO DO?

HOW DO I MEET MY PRIMARY DUTY OF CARE?

Below are just a few examples of things you should do to help you meet your primary duty of care:

- **Senior Management need to be involved and lead health and safety from the top!!**
- **Proactively identify and manage risks, take steps to control risks**
- **Engage your workers in health and safety matters, involve staff!**
- **Ensure staff have sufficient training for their role, tasks and equipment they are using – if they do not have this ensure they are supervised**
- **Investigate incidents and conduct root cause analysis**
- **Support a 'no-blame' culture**
- **Take in to account workers views on health and safety matters**
- **Know about health and safety matters and keep up to date**
- **Ensure the company has the resources and processes to manage risk**
- **Don't just provide PPE – Enforce its use and monitor workers are wearing it**
- **Ensure the right processes are in place to receive and communicate information**
- **Check that processes are being followed and used – audit, review and monitor**
- **Ensure all your equipment has required certifications, inspections and maintenance**
- **Create safe operating procedures and ensure staff are trained in these**
- **Carry out risk assessments for key tasks and equipment**

WHO IS RESPONSIBLE FOR ENSURING THESE DUTIES ARE BEING MET?

A new term in the HSW Act is 'Officers'. These people are directors and other people who make governance decisions that significantly affect the business. These people now have due diligence to ensure their business complies with its health and safety obligations. The duties and roles of officers will be discussed in more detail in a future newsletter specifically addressing 'Officers'



QUESTIONS

WHAT IF MY WORKERS STAY AWAY AND I AM PROVIDING ACCOMMODATION?

You must ensure the workers are not exposed to risk arising from the accommodation only if the accommodation is owned by, or under the management or control of you and is necessary for their employment.

WHAT IF I AM SELF EMPLOYED?

If you are a self-employed person, you must ensure, so far as reasonably practicable, your own health and safety while at work

MEANING OF A WORKPLACE

A place where work is being carried out, or is customarily carried out for a business or undertaking. This includes any place a worker goes or is likely to be while at work (vehicle, vessel, mobile structure etc)

ARE DUTIES TRANSFERRABLE?

No, a duty imposed on a person may not be transferred to another person.