



Taranaki Newsletter



"That is very fine; but it is impossible to make the men perfect; the men will always remain the same as they are now; and no legislation will make a man have more presence of mind, or, I believe, make him more cautious;..." (Isambard Kingdom Brunel)

This quote emphasises the fact that legislation by itself is not enough to encourage us to be safe. Industries, company owners, managers, safety representatives and workers all need to recognise it will take more than a law to change this country's performance, and just as importantly, health and safety culture. You, your employees, contractors and their employees are the heart and soul of the industry, and leadership is required to show that we value safe and healthy work. Remember too that, leadership doesn't always have to come from the top. Everyone has their role to play, and now is the time for you to make the conscious decision to act.

For those of you that have a good safety system in place, or are working towards implementing one, you will be in a good position when the **Health and Safety at Work Act 2015** comes into force on **4 April 2016**. WorkSafe New Zealand will be releasing guidance material early in the New Year on the new Health and Safety at Work Act, specifically around the key elements of the act, definitions and around risk management. This newsletter identifies the **Key Concepts** of the Act (also available on our [website](#)).

What do you need to know?

1. PCBU (Person Conducting Business or Undertaking)

- If you are a business entity working with the view of making profit and the business has a degree of organisation, system and continuity you are a PCBU. So for any sole traders or self-employed people out there, yes, that means you too are a PCBU. The new law recognises that PCBUs are in the best position to control risks as they are the ones carrying out the business or undertaking (work). It also recognises that PCBUs have an influence over the safety of workers, even if those workers may not be direct employees (they could be contractors or sub-contractors). You have to think broadly about who is working in or for your business or undertaking, and who you affect through the conduct of your business.

2. Primary Duty of Care (who has the main responsibility for health and safety?)

- The primary duty of care requires all PCBUs to make sure, so far as is reasonably practicable:
 - the health and safety of its workers or workers who are influenced or directed by the PCBU. Please remember that contractors can also be PCBUs and the primary duty of care will vary depending on the work and who has the greatest influence to control the risk. The Act states PCBUs must discharge their overlapping duties to the extent they have the ability to influence and control the matter. Communication is key!
 - that the health and safety of other people (public or visitors) are not put at risk from work carried out.

3. Reasonably Practicable

- This means what is or was reasonably able to be done at a particular time to ensure health and safety. This includes:
 - the likelihood of the hazard or risk occurring
 - the degree of harm that might result from the hazard
 - what is known or would be reasonably expected to be known about the risk and how to control the risk
 - weighing up the cost of this and whether the cost is grossly disproportionate to the risk (remember that the personal cost of an injury and its associated factors also needs to be weighed up).

4. Workers

- Workers are (but not limited to):
 - employees, contractors or sub-contractors
 - employees of contractors or sub-contractors
 - employees of labour hire companies
 - apprentices and trainees
- Workers responsibilities are to:
 - take reasonable care to ensure the health and safety of themselves and others in the workplace
 - follow any reasonable instruction from the PCBU that allows the PCBU to comply with the Act
 - co-operate with any reasonable policy or procedure from the PCBU relating to health and safety in the workplace
- Workers have the right to refuse to undertake dangerous work.

5. Worker Participation

- All PCBUs will be required to have effective worker participation practices that are appropriate to the workplace, and the workers must be provided with reasonable opportunities to participate effectively in improving health and safety on an ongoing basis. These practices may include, but are not limited to having a health and safety representative, and/or health and safety committees.

Please remember that just because a law outlines the minimum requirements that should not stop you from implementing the best controls. Also, a safety culture should be encouraged at home, remembering the consequence when you place yourself at risk remains the same. How many stories do you need to hear, or images do you need to see, before you realise that your actions can have disastrous outcomes, and your ability to affect the outcome lies in changing the way you think and respond?