



Nurses – a voice to lead

Health for all – reclaiming the health and safety at work space



The Health and Safety at Work Act 2015

- is a powerful piece of legislation, and
- was introduced in the wake of the Pike River coal mine tragedy, where 29 miners lost their lives in a series of preventable underground explosions



Under the Act

- your employer is now referred to as a “Person Conducting a Business or Undertaking” (**PCBU**), and
- the individuals who “exercise considerable influence over the management of the business” are known as **“officers”**.

SECTIONS 17, 18 – HEALTH AND SAFETY AT WORK ACT 2015



The Primary Duty of Care

A PCBU and its officers have **a duty** to ensure, as far as is reasonably practical, the health and safety of its workers – this is called:

“The Primary Duty of Care”

SECTION 36 – HEALTH AND SAFETY AT WORK ACT 2015



Workers' duty of care

While at work, a worker must take **reasonable care** for his or her **own** health and safety and the health and safety of **others**.

SECTION 45 – HEALTH AND SAFETY AT WORK ACT 2015

Workers' rights

- A worker has the **right to cease or refuse to perform unsafe work** if the worker **believes** there is an **“immediate or imminent exposure to a hazard”**.
- If the work already carries an inherent risk, the risk must have **“materially increased”**.

SECTION 83 – HEALTH AND SAFETY AT WORK ACT 2015



Duty to engage

- A PCBU has a **duty to engage** with workers in matters relating to work health or safety.
- Failure to do so may result in **significant fines**.

SECTION 58 – HEALTH AND SAFETY AT WORK ACT 2015

Elections & ratios

- If there are 20 or more workers in an area, any worker has the **right to request an election** for a Health and Safety Representative (**HSR**).

SECTION 62 – HEALTH AND SAFETY AT WORK ACT 2015

- The prescribed minimum ratio for HSRs is **1 representative for every 19 workers**.

**SECTION 6 – HEALTH AND SAFETY AT WORK ACT
(Worker Engagement, Participation and Representation)
Regulations 2016**



More PCBU duties

The PCBU has a duty to maintain an updated and **readily accessible** list of the names and contact details of HSRs for each workgroup.

**SECTION 20 – HEALTH AND SAFETY AT WORK
(Worker Engagement, Participation and Representation)
Regulations 2016**

Leave to attend training

- The PCBU must allow an elected HSR **2 days' paid leave per year** to attend Health and Safety training.

Schedule 2 – Section 12 – Health and Safety Representatives and Health and Safety Committees – HEALTH AND SAFETY AT WORK ACT 2015

- The HSR may **choose** his/her training provider in **consultation** with the PCBU.

Section 23 – Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016

- **NZNO recommends “Worksafe Reps” as the preferred training provider: <http://worksafereps.co.nz>**

Removal of an HSR

- An HSR can be removed should a **simple majority** of the members of the workgroup resolve to do so.

SECTION 19 – HEALTH AND SAFETY AT WORK (Worker Engagement, Participation and Representation) Regulations 2016

HSR's authority

- An HSR trained to **NZQA Unit Standard 29315** has the authority to **direct workers to refuse or stop doing unsafe work,**

SECTION 84 – HEALTH AND SAFETY AT WORK ACT 2015

- and can issue a **Provisional Improvement Notice** requiring a remedy if he/she believes a person is contravening any provisions of the Act.

SECTION 69 – HEALTH AND SAFETY AT WORK ACT 2015

Resolution of issues

- If an issue about work health and safety arises, the parties to the issue **must make reasonable efforts to resolve the matter.**
- Failing this, a party to the issue may formally ask the official regulator, **Worksafe**, to **appoint an inspector** to assist the parties in resolving the issue.

SECTION 99 – HEALTH AND SAFETY AT WORK ACT 2015



HSR protection

- An HSR is **protected** from civil and criminal liability as long as he/she is acting in **good faith**.

Schedule 2 – Section 16 – Health and Safety Representatives and Health and Safety Committees – HEALTH AND SAFETY AT WORK ACT 2015



Group discussion

- Are you aware of what your 'work group' is, as defined under the Health and Safety at Work Act 2015? If so, roughly how many workers are in this work group?
- Do you know who the HSR is in your work group?
- Is she/he qualified to the appropriate unit standard (29315)? Can you find out?
- Do you think she/he is being given the opportunity and tools to be an active HSR?
- Was she/he elected by the work group? If so, how long ago?
- Do you have a functioning Health and Safety Committee? If so, who are the worker representatives on this committee? How often does the committee meet? How does the committee feedback to all workers across the site?



Group discussion (continued)

- Who are most likely the 'officers' in your PCBU?
- What about HSRs across the entire site? Who are they?
- Can you give any examples of times in your practice when you have 'refused to perform unsafe work?' What happened?
- In your view, do health and safety matters at your worksite tend to be management led or worker led?
- What are the most pressing health and safety hazards at your site?
- What 'reasonably practicable steps' could be taken by the PCBU to either 'eliminate', 'minimise', 'substitute' or 'isolate' these hazards?

Into the future ...

Given the knowledge you now have regarding The Health and Safety at Work Act 2015, what are the immediate and medium term steps you can commit to as an NZNO delegate to 'reclaim' the health and safety space so it is more worker led?