

Health and Safety in Employment Act 1992 vs Health and Safety at Work Act 2015

Health and Safety in Employment Act 1992	Health and Safety At Work Act 2015			
Applies to employers, employees and contractors.	Applies to previous PLUS non-profit organisations, trainees, outworkers, students on work experience. Volunteers are only covered if working for a PCBU on an ongoing and regular basis.			
Few inspectors. Approx. 30 nationally.	Very structured inspection system. 200 plus inspectors nationally. Proactive rather than reactive.			
Fines depending upon culpability.	Maximum Tiered Penalties	Individual	Officer	Body Corporate
High level – up to \$175,000	Reckless Conduct	\$300,000 - 5 years	\$600,000 - 5 years	\$3,000,000
Medium level – up to \$100,000	Exposing to death, serious injury or illness	\$150,000	\$300,000	\$1,500,000
Lower level – up to \$50,000	Failure in H&S Duty	\$50,000	\$100,000	\$500,000
Reparation also possible to put right the damage done.	Insurance against fines is not possible. Insurance can cover reparation and legal fees only. An “Officer” is a person who can exercise significant influence over the management of the business or undertaking.			
Employers and employees must be able to demonstrate that they have taken “Reasonable Care”.	<p>Must pass ALL six “Due Diligence” tests:</p> <ul style="list-style-type: none"> • Must have up to date knowledge. • Must have an in-depth understanding of the nature of the hazards and risks in the organisation. • Must provide appropriate resources – not just lip-service. • Must monitor incidents, hazards and risks AND take appropriate action. • Must have Health & Safety compliance. • Must check that resources and processes are being followed. 			
Serious Harm. Reports of serious harm unlikely to receive substantial follow-up unless very major injury.	<p><u>Notifiable Injury:</u> Amputation, serious head injury/eye injury/laceration/ infection or burn. Spinal injury, loss of bodily functions, accident causing the need for hospital treatment, separation of skin from tissue.</p> <p><u>Notifiable Incident:</u> Spillage or escape of a substance – including gas or pressurised substance, implosion, explosion of fire, electric shock, item falling from height, collapse, overturning of plant, inrush of water, mud, gas interruption of main system of ventilation.</p> <p><u>“Serious harm”</u> Incidents likely to result in organisations being “invited” to complete an 8 page “Duty Holders Review” detailing a full investigation and root cause correction.</p>			
“Worker” was restricted to employees.	Now “Worker” includes trainees, volunteers, sub-contractors, outworkers, and students on work experience.			
Contractor’s induction required.	Contractors and sub-contractors must be solicited as if “workers” to ensure that they have the opportunity to improve the principal’s system.			
Board of Directors can rely on the reports of Senior Managers.	Directors must now be personally sure that Health & Safety is well managed – visiting the workplace, observing and interviewing staff.			