

Module	<b>WORKPLACE HEALTH AND SAFETY</b>
Jurisdictions	<b>NEW ZEALAND</b>
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## Module Scope

Does the organisation ensure the health and safety of workers and others in the workplace by identifying and then eliminating or minimising risks that arise from its business?

Does the organisation have a structured, documented and effective process for managing health and safety risks and hazards at the workplace?

Does the organisation engage and cooperate with workers and other duty holders in relation to health and safety matters that arise in the workplace?

Does the organisation report all notifiable events and work with the regulator in relation to any investigation or enforcement action?

Does the organisation have a structured, documented and effective process for maintaining a safe work environment with appropriate facilities for workers, including in relation to fire safety?

Does the organisation have a structured, documented and effective process for managing the risks related to hazardous work, plant and structures, electrical risks, gas risks, construction work, hazardous chemicals, asbestos and earthquakes?

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## Module Application

The NEW ZEALAND WORK HEALTH AND SAFETY module is intended to inform public and private sector employers in New Zealand of their obligation to provide a safe and healthy workplace for workers and all other people in the workplace by identifying and then eliminating or minimising, so far as reasonably practicable, identified risks that arise from the business or undertaking.

The health and safety in the workplace regulatory scheme in New Zealand is based on the Health and Safety at Work Act 2015 and the regulatory agency, WorkSafe New Zealand (WorkSafe), which administers and enforces the legislation. WorkSafe also has responsibility for the health and safety provisions in other legislation, including regulating the gas, electricity, hazardous work and chemicals, and construction sectors.

The NEW ZEALAND WORK HEALTH AND SAFETY module covers the various regulatory instruments that must be followed in order to ensure compliance with legislated obligations:

- › Acts
- › Regulations
- › Notices
- › Technical standards
- › Safe work instruments
- › Approved codes of practice and guidance issued by WorkSafe

The NEW ZEALAND WORK HEALTH AND SAFETY module also covers other regulations that set out further obligations that organisations have in respect of health and safety risk management applicable in specific areas such as:

- › Worker engagement
- › Major hazard facilities
- › Asbestos
- › Hazardous work
- › Construction work
- › Electrical risks
- › Gas risks
- › Hazardous chemicals
- › Earthquakes
- › Fire safety
- › Young people in the workplace
- › Remote, isolated and outdoor work
- › Plant, structures and facilities in the workplace
- › Raised and falling objects, and containers of liquids
- › First aid and the management of a safe work environment
- › Emergency management

The module covers the primary duty of an organisation to ensure the health and safety of its workers and others by eliminating health and safety risks, as far as is reasonably practicable. In the event that it is not reasonably practicable to eliminate such risks, the organisation has a duty to minimise them so far as is reasonably practicable.

Officers of an organisation, such as directors and the chief executive officer (CEO), have an obligation to exercise due diligence in ensuring that the organisation complies with its duties and obligations under the legislation. The module covers the obligations of various duty holders and the extent to which their obligations reasonably extend:

- › A person conducting a business or undertaking, whether alone or with others, for profit or not-for-profit, and including sole traders, partnerships and statutory bodies
- › Individual officers (such as directors) and the CEO who occupy a position that allows the person to exercise significant influence over the management of the business or undertaking
- › Organisations that manage, control, design, manufacture, import, supply, install, construct or commission workplaces, or fixtures, fittings or plant at workplaces

- › Workers while at work
- › Other people at a workplace

The module also covers the possible consequences to duty holders and organisations that fail to comply with their obligations regarding health and safety at work, which include:

- › Monetary fines
- › Criminal charges
- › Imprisonment
- › Improvement, non-disturbance and prohibition notices
- › Enforceable undertakings

In carrying out its duties, an organisation is obligated to identify hazards, assess risks, implement control measures, and maintain and review control measures to ensure they remain effective so far as is reasonably practicable to ensure health and safety. The module covers the practical elements of this process including:

- › The likelihood of a hazard or risk occurring
- › What degree of harm might result from the hazard or risk
- › What the organisation knows or ought reasonably to know about the hazard or risk and ways to eliminate or minimise the risk
- › The availability and suitability of ways to eliminate or minimise the risk
- › Utilising risk control measures that follow a hierarchy of controls
- › The cost of available ways to eliminate or minimise the risk, including whether the cost is grossly disproportionate to the risk (this is only to be considered after assessing the extent of the risk and the ways to eliminate or minimise it)
- › Implementation of a risk management programme

The module also covers other general principles that apply to duties under the work health and safety legislation including:

- › A duty cannot be transferred
- › An organisation or person may have more than one duty if they fit into more than one class of duty holder
- › An organisation or person can share the same duty with other duty holders at the same time and are required to engage, cooperate and coordinate with them
- › Prohibitions against conduct that could deter people from being involved in health and safety activities or from exercising their specified roles, powers and functions
- › Prohibitions against engaging in adverse conduct towards workers or prospective workers
- › The importance of engaging with workers
- › The election of health and safety representatives and establishment of a health and safety committee
- › Training, instruction and supervision of workers

The module covers specific industries or areas where there is an express obligation to implement a work health and safety management system, and the module advises that it is considered best practice for any organisation to have a work health and safety management system in place to:

- › Achieve optimal health and safety outcomes
- › Show that the organisation has met legislated obligations

WorkSafe encourages and compels organisations to comply with their work safety and health obligations by utilising their authority with regard to applying:

- › Positive motivators (information, guidance, education and advice)
- › Resolving disputes
- › Compliance monitoring (inspections and investigations)
- › Remedial measures
- › Deterrents, including criminal penalties and revoking, suspending or cancelling authorisations
- › Mandatory publication of enforceable undertakings

WorkSafe also gives its inspectors power to enter workplaces and compel organisations to provide information, documents and evidence. Inspectors are also able to seize evidence or require workers to provide information or answer questions. In limited circumstances, health and safety medical practitioner are also given the power to enter workplaces and conduct medical examinations, tests, inquiries and inspections.

Further obligations are covered by the module, including notification of notifiable events to WorkSafe and preserving incident sites. A 'notifiable event' is:

- › The death of a person arising from work
- › A notifiable injury or illness arising from work
- › A notifiable incident arising from work

The module advises organisations to keep accurate and up-to-date records of its risk management process to demonstrate compliance with obligations and to inform subsequent risk assessments. Periodic internal and external auditing by organisations is a typical and recommended method of determining:

- › Whether risks have been correctly identified and eliminated or mitigated (risk audits)
- › Whether appropriate systems exist (systems audits)
- › The adequacy of those systems (effectiveness audits)
- › The extent to which policies are being complied with in practice (compliance audits)

The NEW ZEALAND WORK HEALTH AND SAFETY module covers the obligations of organisations to provide a safe and healthy workplace. The module does not cover the complaints process or rights or remedies available to workers or other people in the workplace in the event of a breach of those obligations.

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