



## Health and Safety at Work Act 2015

# Who is responsible if something goes wrong?

The new Act comes into effect 4 April, 2016. In response to your feedback, this update discusses key Fire Service accountabilities when WorkSafe NZ looks into a notifiable injury, illness or incident.

### Some new terms under the Act:

**Officers:** under the Act are not fire officers - this role applies only to an organisation's most senior leadership, e.g. Fire Region Manager and above.

**Worker:** is the new term for everybody who works for a business or undertaking – all NZFS volunteers, support people, trainees, contractors, and managers are seen as workers under the Act.

**PCBU:** 'Person Conducting Business or Undertaking' will be used to cover all employers, businesses or similar who engage people to work for them, e.g. the Fire Service, a local power authority, or a self-employed person.

**Notifiable Event:** the Fire Service must notify WorkSafe NZ of any notifiable injury, illness, incident or workplace death as soon as possible and no later than 48 hours. Your Region Safety and Wellbeing Coordinator or the National Safety, Health and Wellbeing team will advise on what should be notified and how to do this.

**If you still have questions or concerns about what the Act means for you, contact your Region Safety & Wellbeing Coordinator.**

**See our FireNet link (right-hand side of homepage, under Legislation) for our previous December/January updates on what the Act means for different ranks, and what action you need to take if a notifiable incident occurs.**

### PCBU: The New Zealand Fire Service

WorkSafe will establish what occurred, and what the organisation could reasonably have done to eliminate or minimise the risk factors involved. They may want to know more - were our processes, training and expected behaviours appropriate? Were they followed appropriately? How were decisions made?

### Officers: the Commission, SLT, OLT

Responsibilities can overlap. WorkSafe may look at the Commission, Strategic Leadership Team or Operational Leadership Team. They will want to know if they were meeting their responsibilities in resourcing and risk management, for example.

### Workers

WorkSafe might also look into individuals' actions. They may want to know if anyone exposed themselves or others to risk of death, serious injury or illness, either through failing to comply with their duties or personal recklessness.

**Note: it is not an offence under the Act if a person is harmed, while taking any necessary action to protect that person or another from harm (Section 53 – Actions taken to prevent harm).**

### When a notifiable injury or incident occurs...

#### Fire service

- ▶ Notifies WorkSafe as soon as possible
- ▶ Confirms details in writing within 48 hours
- ▶ Initiates Level 2 internal investigation
- ▶ Agrees and implements any corrective actions identified by internal investigation

#### WorkSafe

- ▶ Considers whether further investigation is required
- ▶ Investigates (if required) and decides whether prosecution is necessary

### What could happen next?

- ▶ No further action – if WorkSafe finds our processes and behaviours were appropriate.
- ▶ Corrective action – if management processes were inappropriate for the circumstances faced by workers, WorkSafe may issue the Fire Service with an improvement notice.
- ▶ Prosecution is a possibility – if WorkSafe concludes the Fire Service, its 'Officers' (under the Act) or individual workers failed to comply with their duties under the Act, and decides legal action is necessary.