



SERIOUS HARM

Health and safety in the workplace

The Health and Safety in Employment Act (the Act) aims to promote the health and safety of everyone at work and of other people in or around places of work. To achieve this, it requires people who are responsible for work and those who do the work to take steps to ensure their own health and safety and that of others. The Act also recognises that employees have a valuable contribution in making workplaces safe.

■ Serious harm in the workplace

Serious harm is defined in the Act as death or harm of any of the following kinds:

1) Any of the following conditions that amounts to, or results in, permanent loss of bodily function or temporary severe loss of bodily function:

- respiratory disease;
- noise-induced hearing loss;
- neurological disease;
- cancer;
- dermatological disease;
- communicable disease;
- musculo-skeletal disease;
- illness caused by exposure to infected material;
- decompression sickness;
- poisoning;
- vision impairment;
- chemical or hot metal burns of eye;
- penetrating wound of eye;
- bone fracture;
- laceration;
- crushing.

2) Amputation of a body part.

3) Burns requiring referral to a specialist registered medical practitioner or specialist outpatient clinic.

4) Loss of consciousness from lack of oxygen.

5) Loss of consciousness or acute illness from absorption,

inhalation or ingestion of any substance, requiring treatment by a registered medical practitioner.

6) Any harm that causes the person to be hospitalised for 48 hours or more, commencing within 7 days of the harm's occurrence.

■ FAQs

Below are the answers to some frequently asked questions.

Q: Why do I need to know about serious harm?

A: Serious harm is a key concept in the Health and Safety in Employment Act. It affects:

- Employers' duties to manage hazards;
- Employers', principals' and self-employed persons' duties to register and report accidents;
- An employee's right to refuse dangerous work;
- Prohibition notices; and
- Offences and the level of fines under the Act.

Q: What does serious harm have to do with employers' duties to manage hazards?

A: Employers have specific duties for managing significant hazards, which are hazards that are an actual or potential cause of serious harm.

Employers must take all practicable steps to:

- Eliminate significant hazards; or
- If elimination is impracticable, to isolate them; or
- If both elimination and isolation are impracticable, to minimise such hazards.

Employers must provide reasonable opportunities for their employees to participate in ongoing processes for the improvement of health and safety in the workplace, including the management of significant hazards.

Q: What does serious harm have to do with employers', principals' and self-employed persons' duties to register and report accidents?

A: Employers, principals and self-employed people must keep a register of all accidents or incidents that harmed, or might have harmed, any person at work. A register must give details of every occurrence of serious harm at work.

Employers, principals and self-employed people are also required to notify any occurrence of serious harm as soon as





possible to the Department of Labour and provide written notice within 7 days.

The Department may be notified by:

- Calling 0800 20 90 20. or
- Email to SeriousHarm.Notification@dol.govt.nz, or
- Fax to the nearest local Department of Labour office.

The written notice may be emailed to the above address (otherwise fax or post it to the local office) using a form on the Department's website or providing similar details. Go to www.osh.dol.govt.nz and follow the I NEED TO REPORT link.

Q: Why do I need to tell the Department of Labour about an occurrence of serious harm?

A: You must tell the Department of Labour about occurrences of serious harm. They can help you to:

- Take steps to prevent the same occurrence from happening again;
- Identify trends about occurrences of serious harm in particular jobs or industries in order to help others prevent serious harm happening; and
- Identify breaches of the Health and Safety in Employment Act.

Q: What should employers, principals, or self-employed people do if serious harm happens at work?

A: Employers, principals and self-employed people should do all of the following:

- Make sure anyone injured or suspected of injury has received medical attention if necessary.
- Do not interfere with the accident scene, unless you have permission from a Department of Labour Health and Safety Inspector.
- Advise your local Department office as soon as possible by phone, email or fax (see above for the contact details)
- Complete your own investigation and take steps to eliminate, isolate or minimise any identified significant hazard.
- Email, post or fax written notice to the nearest Department office within 7 days (contact details above).
- Keep the original (or a copy) of the written notice in your register.

Q: What does serious harm have to do with offences and the level of fines under the Act?

A: If a breach of the Health and Safety in Employment Act results in harm to someone at work, the seriousness of the harm will affect the amount of penalty fee you must pay under an infringement offence notice, or the level of the fine if you are prosecuted.

If you knew that your breach of the Act was reasonably likely to cause death or serious harm, you could be fined up to \$500,000, or face up to two years in prison, or both.

Further information

This information is a guide only and may not be accurate for all situations. It should not be used as a substitute for legal or other expert advice.

For further information, call 0800 20 90 20, or visit www.dol.govt.nz

