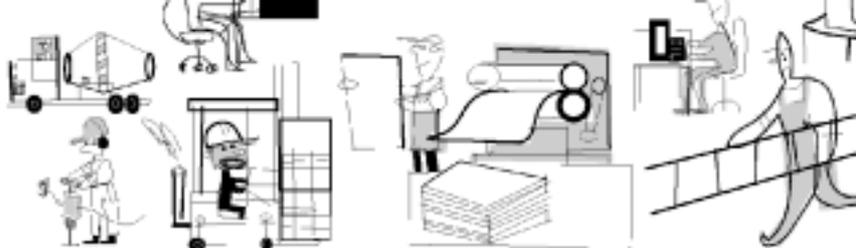




fact sheet



20 Dec 2002

Self-Employed People

Health and safety in the workplace

The Health and Safety in Employment 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.

Health and safety when you are self-employed

A *self-employed* person under the Act is a person who is 'at work' in any place of work. 'At work' is defined as being present for gain or reward.

A self-employed person may have duties under the Act as a proprietor, or in the performance of a contract for services — as long as they are not employing any other person. If you employ someone you will have the normal employer duties.

FAQs

Below are the answers to some frequently asked questions, which illustrate how the Act applies to people who are self-employed:

Q: What are my responsibilities as a self-employed person?

A: If you are self-employed, you have a duty under the Act to take all reasonably practicable steps to ensure that nothing you do while working harms you or any other person.

Q: I usually work as a contractor to other people, and sometimes I hire contractors. Does this change anything?

A: *If you work as a contractor* you must ensure your own safety, but the principal who engages you also has duties towards you. You should discuss health and safety matters with the person who hires you and, in particular, you should jointly have a plan for the work. In particular, you should ask if they are aware of any hazards involved in the work you will do or the place where you will be working.

For more information, refer to **Factsheet - Contractors**.

Continued on next page

Self-Employed People, continued

If you hire contractors you are considered a principal under the Act. So in addition to your responsibility to ensure your own health and safety, you will also have duties towards contractors, subcontractors and their employees.

For more information, refer to **Factsheet - Principals**.

Q: How does the Act apply if I work from home?

A: A home, or part of a home, can be a place of work, just the same as a building site or an office. When your home is used as a workplace you have duties as a person who controls a place of work.

If you work from home you must identify and manage hazards to make sure that you, and any clients or contractors, are not harmed in your workplace.

For more information, refer to **Factsheet - The Home as a Workplace**.

Q: Can a health and safety inspector visit my workplace, even if it's in my home?

A: If your place of work is in, or through, your home, an inspector must get your consent or a warrant from a District Court judge before visiting.

Q: Am I covered by the Act when I'm travelling in my car or van?

A: Yes, in some situations. For the most part, even if you move from place to place to carry out your work, or the workplace itself moves (such as a ship), you are covered under the Act.

For more information, including cases when you are not covered by the Act, refer to **Factsheet - Mobile Workers**.

Q: I share premises with other self-employed people, but we're not business partners. What does the Act say about that situation?

A: You all have a duty under the Act to make sure that nothing you do, or fail to do, harms anyone else in the workplace. The prevention of harm applies to each other as well as to any clients that come into the place.

Continued on next page

Self-Employed People, continued

Q: I borrow or hire all my equipment. Is there anything in the Act about this?

A: If you borrow equipment, the person providing the equipment must find out what you are going to use it for. They should only let you have it if it is safe for that intended purpose

Q: I can't afford safety equipment yet, but I'm willing to take the risk. Shouldn't that be okay?

A: The fact you cannot afford safety equipment or are unconcerned about risk are not valid defences for a breach of the Act.

If you cannot afford to buy the safety equipment you need, you should look at other alternatives. These might include hiring or borrowing safety equipment, or contracting out those parts of the work that require specialist equipment. The bottom line is that your work activity must be safe.

Q: Can I take out insurance to protect me from fines under the Act?

A: No. You can, however, insure against orders for reparation and legal costs. For more information, refer to **Factsheet - Insurance**.

Q: What should I do if I have an accident at work, or if I injure someone else?

A: If you have an accident and it harms you, or if your work injures any other person, you must keep a record of it. You will also need to quickly tell OSH about any serious harm that occurs.

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 Workinfo on 0800 20 90 20, or visit their website at: www.workinfo.govt.nz
