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## **Volunteers and the Health and Safety at Work Act**

The Health and Safety Reform Bill has passed to create a new Health and Safety at Work Act, which will come into force on 4 April 2016.

Under the Act, the coverage of volunteers reflects what it is under the current law which distinguishes between casual volunteers and volunteer workers.

This recognises that volunteers contribute greatly to New Zealand communities and will ensure the new law will not negatively affect volunteering.

The information below explains how the Act applies to volunteers.

### **Is your organisation a Person Conducting a Business or Undertaking?**

Under the Act, a Person Conducting a Business or Undertaking (PCBU) has the primary duty to ensure the health and safety of its workers and others, so far as is reasonably practicable.

A purely volunteer organisation where volunteers work together for community purposes and which does not have any employees is known as a volunteer association under the Act.

A volunteer association is not a PCBU so the Act will not apply to it.

A volunteer organisation which has one or more employees is a PCBU and will have the same duties as a PCBU to ensure, so far as reasonably practicable, the health and safety of its workers and others. There are some exclusions to this, depending on whether the PCBU has casual volunteers or volunteer workers. This is the same approach as taken by the current law. What the volunteer organisation will have to do is what is reasonably practicable for it to do, and what is within its influence and control.

### **If your organisation is a PCBU, does it have casual volunteers or volunteer workers?**

Where volunteers carry out work for a PCBU, the Act distinguishes between casual volunteers and volunteer workers. Volunteer workers are people who regularly work for a PCBU with its knowledge and consent on an ongoing basis and are integral to the PCBU's operations (with some specific exclusions for certain voluntary work – see below). This distinction is based on the existing Health and Safety in Employment Act 1992.

PCBUs will owe a duty to ensure, so far as reasonably practicable, the health and safety of volunteer workers (as if they were any other worker). This ensures that these volunteers are afforded the protection of having the appropriate training, instruction or supervision needed to undertake their work safely – just like any other worker.

### **What are a PCBU's duties to others?**

PCBUs will have a duty to others (such as customers or visitors) to ensure that their health and safety is not put at risk from the PCBU's work, so far as is reasonably practicable. This duty also applies to casual volunteers.

### **Are your volunteers doing certain activities which means they are excluded from the "volunteer worker" definition under the new law?**

People volunteering for the following activities will not be volunteer workers under the new law:

- Participation in a fundraising activity



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- Assistance with sports or recreation for an educational institute, sports or recreation club
  - Assistance with activities for an educational institution outside the premises of the educational institution
  - Providing care for another person in the volunteer's home.

This approach follows the existing Health and Safety in Employment Act 1992. Although casual volunteers and volunteers doing these activities won't be "volunteer workers" for the purposes of the Act, their health and safety will still be covered by the PCBU's duty to other persons affected by the work of the business or undertaking.

**What are the next steps for the Health and Safety at Work Act?**

The new Act will come into force 4 April 2016. Regulations supporting the new law will also be developed in time for April 2016. WorkSafe New Zealand will help people prepare through information and education before the law comes into force.

For more information about the new legislation:

<http://www.business.govt.nz/worksafe/about/reform>