

## Health & Safety – HSE Act 1992 versus HSWA 2015

Health and Safety in Employment Act 1992 (HSE Act 1992)	Health and Safety at Work Act 2015 (HSWA 2015)			
Applies to employers, employees and contractors	Applies to previous PLUS volunteer and non-profit organisations, trainees, outworkers, students on work experience. Volunteer workers only covered if working regularly for a PCBU			
Under-resourced and few inspectors - approximately 30 nationally	Very structured inspection system raising to 200+ inspectors			
Fines depended upon culpability: <ul style="list-style-type: none"> <li>▪ Low level - up to \$50,000 fine</li> <li>▪ Medium level - up to \$100,000 fine</li> <li>▪ High level - up to \$175,000 fine</li> </ul> Reparations also possible to put right damage done	Maximum Tiered Penalties	Individual	Officer	Body Corporate
	Reckless Conduct Exposing to serious risk	\$300,000/5 yrs \$150,000	\$600,000/5 yrs \$50,000	\$3 million \$1.5 million
	Failure in HS duty	\$300,000	\$100,000	\$500,000
	Insurance against these fines is not possible; insurance can cover reparations and legal fees. An "officer" a person who can exercise significant influence over the management of the business or undertaking			
Employers and Employees must be able to demonstrate that they have taken "Reasonable Care"	Must pass ALL six "Due Diligence" tests: <ul style="list-style-type: none"> <li>▪ must have up to date knowledge of HS matters</li> <li>▪ have an in-depth understanding of the nature of hazards and risks</li> <li>▪ must provide appropriate resources and processes - not just lip-service</li> <li>▪ must manage hazards, incidents and risks in a timely way</li> <li>▪ must have HS compliance - e.g. a manual, hazard register, training etc</li> <li>▪ must check that resources and processes are being followed</li> </ul>			
"Serious Harm" reports unlikely to receive substantial follow-up unless very major injury	<u>Notifiable Injury</u> : Amputation, serious head injury / eye injury / laceration / infection / burn Spinal injury, loss of bodily functions, accident causing the need for hospital treatment <u>Notifiable Incident</u> : Spillage or escape of a substance - including gas or pressurised substance, implosion, explosion of fire, electric shock, item falling from height, collapse, overturning			
Contractor induction required	Contractor and Sub-contractors must be solicited as if "workers" to ensure that they have the opportunity to improve the principal's system			
Board of directors can rely on the reports of senior managers	Directors must now be personally sure that HS is well managed - visiting the workplace, observing and interviewing staff			