

Sections 10(2)(c) and (e) of the HSE Act – exposure and health monitoring

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Section 10 - Minimisation

Employers have a legal duty to take all practicable steps to monitor employees exposure and health where minimisation is used to manage hazards.

This paper addresses some of the issues behind the lack of exposure and health monitoring particularly in SME's and discusses opportunities for tackling the problem.



Sections 10(2)(a), (c) & (e)

Section 10:

Significant hazards to employees to be minimised, and employees to be protected, where elimination and isolation impracticable...The employer shall take the steps set out in subsection 2. The steps are:

Section 10(2)(a):

To take all practicable steps to minimise the likelihood that the hazard will be a cause or source of harm to the employees; AND

Section 10(2)(c):

To monitor employees exposure to the hazard; AND

Section 10(2)(e):

With their informed consent, to monitor the employees health in relation to the hazard.



Non-compliance with Sections 10(2)(c) & (e)

- Employers - legal duty to take all practicable steps to monitor employees exposure and health where minimisation is used to manage hazards.
- However, in a lot of workplaces, minimisation is seen as merely the provision of PPE without the required exposure and health monitoring.
- This is particularly (but not limited to) a problem in small medium enterprises.
- As SME's employ 30% of New Zealand's workforce a significant portion of the working population may be affected by this lack of compliance.

SME's = 19 or fewer employees.



Non-compliance with Sections 10(2)(c) & (e) – Why?

3 Lacks:

Resources



time
money

Knowledge



awareness
skill

Acceptance



duties
problems



Lack of Resources

- Higher cost per employee to meet regulatory requirements for SMEs
- Employers in small business wear many hats – not enough time
- Time is spent focusing on production & growing the business
- No specialist staff
- No computer or internet access



Lack of Knowledge

Employers:

- Don't know they have to comply
- Don't know how to comply
- Belief that PPE is sufficient
- Lack of skill to identify hazards
- Don't know who to ask for help
- Confusion over interpretation of performance based legislation
- No contact with industry groups
- No relationship with DoL
- MSDS too complicated
- Belief in ventilation that does not work
- Lack of understanding of by-products/secondary products that may be a hazard



Lack of **Acceptance**

Of:

- duties under the Act
- occupational health problems in their workforce
- consequences to health
- cost to business of ill health
- solution to problem



Solving the problem – achieving compliance

Ultimately, it is the responsibility of employers to manage health and safety in accordance with legislation.

But

There are many stakeholders who can influence/support them achieving compliance and therefore in achieving a healthier workplaces



Solving the problem – stakeholders

Probably the type of workplaces who this presentation refers to are unlikely to be in attendance at the conference

But

Stakeholders who can influence SME's to provide healthier workplaces (and meet their duties) are here



Solving the problem – stakeholders

Occupational health service providers

- Occ. hygienists
- Occ. nurses
- Occ. physicians

Safety experts

Suppliers

Industry groups

Engineers

Employers associations

Unions

Government agencies – DoL, ACC, CAA, MNZ



Solving the problem – stakeholders

How can each stakeholder have a direct positive influence on SME's to comply with legislation and provide healthier workplaces?



Stakeholders – Occ health service providers - Consultants

What can this group do?

- know the legislation!
- on going professional development
- only do work you have the competency/equipment for
- don't just provide 'a result/ a number'. (*HSE report 366, 2005* - Clients want direction (want to be told what to do , to become complaint)
- consultants are often seen as expensive and pointless. Why? Because clients are not getting what they really want, or don't understand what they have been given.



Occ health service providers - ILO approach

- ILO (2003) "A key tool at the disposal of countries and companies and a major component of the OHS infrastructure is the occ. health service". The ILO sees these services as integral (not separate from) the drive to promote and advocate HS.
- The ILO defines 'occupational health services' as services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work; the adaptation of work to the capabilities of workers in the light of their state of physical and mental health (ILO convention 161).



Stakeholders – PPE Suppliers

What can this group do?

- know the legislation!
- point out the legislative requirements re minimisation to customers
- understand the limitations of their own products



Stakeholders – Chemical suppliers

What can this group do?

- know the legislation!
- provide consistent quality information
- MSDS in compliance with Code of Practice
- MSDS using GHS system for classification



Stakeholders – industry groups, employers associations

What can this group do?

- know the legislation!
- set examples of best practice
- encourage best practice
- ensure members understand the legislation



Stakeholders - Engineers

What can this group do?

- Competency in industrial ventilation

If you don't know industrial ventilation either:

- Learn the principals before you attempt it
- Or leave it to someone who does know



Stakeholders - Government Agencies - DoL

What can this group do?

- emphasis on compliance with all aspects of section 10 in inspections
- upskilling of HS inspectors in occupational health, monitoring and health surveillance
- provide clearer guidance material that is up to date and relevant
- interface more with OHS stakeholders



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