

June 2018

INFORMATION FOR PCBU_s AND BUILDING OWNERS

Dealing with earthquake-related health and safety risks

The primary piece of legislation governing work health and safety in New Zealand is the Health and Safety at Work Act 2015 (HSWA).

Key points

- If you're a PCBU who owns or occupies an earthquake-prone building and you're meeting the earthquake performance requirements of the Building Act 2004, we are not going to enforce to a higher standard under HSWA.
- If you're not doing what you should be doing under the Building Act, the best agency to intervene will be the local council.
- If you're not doing what you're supposed to be doing under the Building Act and someone is harmed, WorkSafe New Zealand may intervene under HSWA.
- We expect you to proactively manage risks arising from objects in and around workplace buildings on a regular and ongoing basis.
- You need to keep on top of new or emerging information and ensure that your workplace is prepared to deal with an earthquake.

Policy clarifications set out WorkSafe's view of HSWA in relation to a clearly defined sector, a particular set of circumstances, or a specific function.

This policy clarification explains when WorkSafe may intervene with regard to earthquake-related health and safety risks.

This policy clarification should be read by:

- persons conducting a business or undertaking (PCBU)s, including owners and occupiers of buildings that are or contain workplaces
- advisers to PCBU_s on building-related matters (such as engineers)
- directors, chief executives, health and safety managers.

What does the law say?

Under HSWA, PCBU_s, including owners of workplace buildings, must identify and manage risks in the place of work so far as is reasonably practicable. This requirement to manage risk includes risks related to the building.

What is worksafe's approach to earthquake related risks?

The most appropriate agency to deal with any matters concerning earthquake resilience is the council.

The structural integrity of your building to withstand an earthquake is covered by requirements including those outlined in the Building Act. The Building Act defines what an earthquake-prone building is, and any related enforcement action will come from your council.

If you're a PCBU who owns or occupies a building, and you're meeting the requirements of the Building Act, we are not going to enforce to a higher standard under HSWA.

If a building is found to be earthquake-prone, this doesn't necessarily mean it shouldn't be occupied. The Building Act provides a period of several years for strengthening or demolition work to be undertaken. While the risk of harm to people in or around an earthquake-prone building is greater than an equivalent new building, this doesn't typically require short-term action. WorkSafe expects that you will fulfil your duties under the Building Act when you're addressing the seismic risk.

Are building parts covered by HSWA?

Building parts are individual building elements that would pose a significant life safety hazard! These include parts such as parapets, heavy ceilings, masonry walls and other features²

WorkSafe expects PCBUs to take steps to identify and eliminate or minimise the risks from these parts, where reasonably practicable (as you would any other work-related risk). Minimisation could include steps such as securing the relevant parts or isolating people from them.

Objects within workplaces such as bookcases, fridges or other heavy furniture remain the responsibility of tenants and occupants. Anchoring such objects to sturdy building elements to ensure they cannot move or fall on people during an earthquake is a common way of addressing these risks. Failure to identify and properly manage these types of risks is a breach of HSWA.

If you're a tenant and you have a concern about a building part which you cannot deal with, you will need to involve the building owner.

If you're a building owner and a problem has been raised by your tenant about a building part, then you will need to do what is reasonably practicable to manage the risk.

We expect you to proactively manage these types of work-related risks, particularly for buildings that a council has defined as earthquake-prone. If building owners and occupants can't agree on the risks and what should be done about them, they need to work through the dispute resolution steps in their occupancy agreements.

Should a failure to manage these matters expose people to an immediate and severe risk to their health and safety or result in people being harmed, WorkSafe may intervene.

You must be aware of potential risks

If you're complying with the Building Act and you're properly managing work-related risks then you will not generally receive attention from WorkSafe in this regard.

However, you need to pay attention to current events and be aware of what others are saying or doing. If you're having discussions with other PCBUs, staying in contact with your council, undertaking regular checks of the building and building parts and responding to any issues or concerns that are raised then you're probably staying on top of the issue.

You must also consider any new information that might be relevant to your building's earthquake performance. If you are concerned about your building's earthquake structural integrity or safety then you should get relevant professional advice such as an engineer's assessment to help determine if you've got an issue.

You need to keep on top of new or emerging information. When in doubt get professional advice.

You should prepare for an earthquake

If you're a PCBU that occupies a building, you need to prepare for emergencies. You need to ensure that the people working in or near your building know what to do in the event of an earthquake, whatever the seismic rating of the building. You can practice earthquake drills, prepare survival kits and keep up to date contact information. Your council and civil defence can help you prepare your workplace to survive an earthquake emergency. You should also work with your building owner to ensure that any critical systems in the building will function during an emergency.

If an earthquake occurs, PCBUs should use their judgement to assess any health and safety concerns. Where necessary you should engage a professional to see if the building has been structurally compromised. By following a relevant professional's advice, you will be taking reasonably practicable steps to minimise harm.

If you're a building owner, you should make it your business to understand and support your occupants' emergency plans and procedures. Ensure the building's emergency systems are capable of effectively supporting those plans and procedures where appropriate.

Preparing your workplace to deal with an earthquake is not a new or additional requirement. PCBUs need to prepare for emergencies. Building owners and occupants need to work together to ensure emergency plans work and people are safe during emergencies.

¹ Ministry of Business, Innovation and Employment (2017). *Considering parts of buildings. EPB methodology.* (p. 17).

² Ministry of Business, Innovation and Employment (2017). *The seismic assessment of existing buildings. Technical guidelines for Engineering Assessments.* (p. A4-8). Retrieved from: www.eq-assess.org.nz/assets/2017-07/Part_A-Assessment_Objectives_and_Principles.pdf