

IRMTNZ WORKPLACE SAFETY INFORMATION: WORKSAFE NZ

For music teachers running a private studio or music school, obligations under The Health and Safety at Work Act 2015, (the HSWA)

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<http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM6544135.html>

<http://www.legislation.govt.nz/regulation/public/2016/0013/latest/DLM6727530.html>

Person Conducting a Business or Undertaking (PCBU)

The Health and Safety at Work Act 2015, (the HSWA) introduces the term PCBU.

A PCBU is a 'person conducting a business or undertaking': a self-employed person can be a PCBU, even if they do not have any paid employees.

General responsibilities of a PCBU:

- The PCBU has the primary duty of care. This duty cannot legally be transferred to another person
- The PCBU must ensure that, so far as is reasonably practicable, the health and safety of workers and that of other people are not put at risk by its work activity.

The self employed PCBU MUST ENSURE THE FOLLOWING, so far as is reasonably practicable:

HEALTH AND SAFETY

- his or her own health and safety while at work.
- **the health and safety of workers who work for the PCBU** (e.g. employees or contractors, including their subcontractors or workers) while they are at work in the business or undertaking.
- **that other persons are not put at risk by the work of the business or undertaking** (e.g. a visitor to the workplace, or members of the public who could be affected by a work activity).

HAZARDS

- the workplace, the means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any person. (This does NOT apply to anyone entering unlawfully.)
- identify hazards that could give rise to reasonably foreseeable risks to health and safety.

EMERGENCY PLANS

A PCBU must ensure that an emergency plan and procedures are prepared for the workplace, including:

- an effective response to an emergency; and
- evacuation procedures; and
- procedures for notifying emergency service organisations at the earliest opportunity; and
- medical treatment and assistance procedures; and
- procedures to ensure effective communication between the person authorised by the PCBU to co-ordinate the emergency response and all other persons at the workplace:

FIRST AID

- adequate first aid equipment is provided for the workplace; each worker at the workplace has access to the equipment; an adequate number of workers are trained to administer first aid at the workplace; or workers have access to an adequate number of other persons who have been trained to administer first aid.
- A PCBU who contravenes these regulations commits an offence and is liable on conviction to be fined.

Duties of Other Persons

Under the Health and Safety at Work Act 2015, **other persons at workplaces have their own health and safety duty to keep themselves safe and not cause harm to others.** Examples of other persons at workplaces are:

1. Workplace visitors such as:
 - **people visiting the PCBU** or its workers, eg for meetings
2. **People who pay the PCBU** (with money or something else) to do something at the workplace
 - **people attending a concert**
3. **Casual volunteers at workplaces** (not volunteer workers).

The duties of other persons at workplace come under Section 46 of the Health and Safety at Work Act 2015 and they are:

Other persons at workplaces need to:

- > **take reasonable care for their own health and safety**
- > **take reasonable care that others are not harmed by something they do, or do not do**
- > **comply, as far as they are reasonably able, with the PCBU's reasonable health and safety instructions that are given so that the PCBU can comply with HSWA.**

Other persons need to take reasonable care that anything they do (or do not do) will not cause others harm. They can be held legally responsible if they cause someone harm and did not take reasonable care.

Definition of a Workplace

The Health and Safety at Work Act 2015, (the HSWA), brings new responsibilities for everyone in the workplace. Under Section 20 of the HSWA, the meaning of workplace is defined as follows:

- (1) In this Act, unless the context otherwise requires, a workplace—**
- (a) means a place where work is being carried out, or is customarily carried out, for a business or undertaking; and**
 - (b) includes any place where a worker goes, or is likely to be, while at work (e.g. concert halls)**

The Health and Safety at Work Act 2015, (the HSWA)

IRMTNZ advice under HSWA OBLIGATIONS FOR A SELF-EMPLOYED MUSIC TEACHER

A self-employed music teacher is a Person Conducting a Business or Undertaking (**PCBU**) and has the **primary responsibility** for the health and safety of

- him / her self
- anyone working for them including
- any of their students who are themselves teaching under their auspices.
- anyone lawfully entering their music studio (i.e. students and parents/ caregivers etc)

The self-employed teacher cannot legally pass this primary responsibility to anyone else.

HOWEVER: people who work for you, or any one legally visiting the workplace e.g. for concerts or meetings, also have a responsibility to look after themselves and not to cause harm to others.

Ensure you, and anyone working for you, has the following:

- An adequate emergency / earthquake kit
- An emergency procedure which students, staff and parents / caregivers know.
- An adequate first aid kit
- Knowledge of how to apply first aid
- Safe and hygienic building, equipment and musical instruments
- Adequate fire safety precautions - smoke alarms; exit route.
- Clear signs marking any serious physical hazards.
- Environmentally safe studio: smoke free; well lit; access to toilet and hand washing etc.

See the checklist in the **IRMTNZ Student Safety Policy & GUIDELINES** (link)

The self-employed music teacher has these responsibilities so far as is reasonably practicable

Hiring / borrowing of a venue for a student concert:

- Health and safety responsibility is overlapping and is shared jointly between
The PBCU renting out the hall and
The PBCU hiring the hall
- Neither PBCU can opt out of their responsibilities

It is important for the hiring PBCU (music teacher) and the renter PBCU (venue owner) to have an understanding of their joint responsibilities, by a contract if deemed necessary.

Due diligence

This advice is given in good faith by IRMTNZ but each IRMTNZ member must take his / her own responsibility to read the NZ *Health and Safety in the Workplace Act 2015* (HSWA) and *Regulations 2016* and ensure that they are complying with all necessary regulations.

<http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM6544135.html>

<http://www.legislation.govt.nz/regulation/public/2016/0013/latest/DLM6727530.html>

Liabilities

A self employed music-teacher who contravenes the HSWA Regulations commits an offence and is liable on conviction to be fined.

Further guidance: Freephone: 0800 030 040 | 04 897 7699 | <http://www.business.govt.nz/worksafe/>



General Resources

<http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM6544135.html>

<http://www.legislation.govt.nz/regulation/public/2016/0013/latest/DLM6727530.html>

HSWA Quick Reference Guide - This quick reference guide summarises the key components of the Health and Safety at Work Act 2015 (HSWA),

(<http://www.worksafe.govt.nz/worksafe/information-guidance/all-guidance-items/hswa-quick-reference-guide/HSWA-quick-reference-guide-december2016.pdf>)

HSWA Presentation - This video presentation explains what you need to think simply and clearly about Health and Safety at Work Act 2015. Notes from it are at:

(<http://www.worksafe.govt.nz/worksafe/hswa/tools-and-resources/HSWA-presentation/working-together-on-health-and-safety-presentation/hswa-presentation-slides-notes.pdf>)

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