

BMX NEW ZEALAND

UNDERSTANDING YOUR HEALTH & SAFETY OBLIGATIONS



Meaning of PCBU-

A Person Conducting a Business or Undertaking whether or not the business or undertaking is conducted for profit or gain; but does not include a volunteer association:

Meaning of Volunteer association-

A group of volunteers (whether incorporated or unincorporated) working together for 1 or more community purposes where none of the volunteers, whether alone or jointly with any other volunteers, employs any person to carry out work for the volunteer association.

Meaning of Volunteer-

A person who is acting on a voluntary basis (whether or not the person receives out-of-pocket expenses)

Meaning of volunteer worker- section 19(3)

A volunteer who carries out work in any capacity for a PCBU, with the knowledge or consent of the PCBU, but does not include a volunteer undertaking any of the following voluntary work activities:

(i) participating in a fund-raising activity:

Meaning of reasonably practicable-

The more likely that something will cause an Accident/Incident, or the consequences of that Accident/Incident are significant, the more that must be done to prevent it from happening.

Meaning of notifiable injury or illness-

Any injuries or illnesses that require the person to have immediate treatment (other than first aid):

Meaning of notifiable incident

An unplanned or uncontrolled incident in relation to a workplace that exposes a worker or any other person to a serious risk to that person's health or safety.

Records of notifiable incidents/events, are to be kept for a minimum of 5 years.

Duty of Care-

Ensuring that your facilities, equipment and activities don't cause harm to any individual.

Minimising the likelihood of incidents/accidents to riders, officials and spectators during a Club hosted event, and to the general public at all other times. The Club has created the facilities, so must take all practicable steps to ensure these facilities don't cause harm.

Duties of workers/persons at workplace

A person at a workplace must take reasonable care for his/her own health and safety and take reasonable care that his or her acts or omissions do not adversely affect the health and safety of others. They must also follow any standard procedures adopted by/for that Club.

Part 2, 51: Liability of volunteers

A volunteer does not commit an offence under section 47, 48, or 49 for a failure to comply with a duty imposed by subpart 2 or 3, except a duty under—

(a) section 45 (duties of workers); or

(b) section 46 (duties of other persons at workplaces).

See above **Duties of persons at workplace**

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Duty to preserve sites

A PCBU who manages or controls a workplace at which a notifiable event has occurred must take all reasonable steps to ensure that the site where the event occurred is not disturbed until authorised by an inspector.

Say what you do, and do what you say

Have Procedures for your Officials to follow, and make sure they follow them and review critical procedures regularly. Critical procedures would include staging where rider's safety gear and clothing requirements are checked, and race start, where an alert and focused gate starter gets the last chance to check rider equipment and ensure a safe race start.

All race officials should be trained in what to do and what to look for. All positions are important, but some are key to H&S.

Right of worker to cease or refuse to carry out unsafe work

A worker may cease, or refuse to carry out, work if the worker believes that carrying out the work would expose the worker, or any other person, to a serious risk to the worker's or other person's health or safety arising from an immediate or imminent exposure to a hazard.

48 Offence of failing to comply with duty that exposes individual to risk of death or serious injury or serious illness

- (1) A person commits an offence against this section if—
- (a) the person has a duty under subpart 2 or 3; and
 - (b) the person fails to comply with that duty; and
 - (c) that failure exposes any individual to a risk of death or serious injury or serious illness.
- (2) A person who commits an offence against subsection (1) is liable on conviction,—
- (a) for an individual who is not a PCBU or an officer of a PCBU, to a fine not exceeding \$150,000;
 - (b) for an individual who is a PCBU or an officer of a PCBU, to a fine not exceeding \$300,000;
 - (c) for any other person, to a fine not exceeding \$1.5 million.

49 Offence of failing to comply with duty

- (1) A person commits an offence against this section if the person—
- (a) has a duty under subpart 2 or 3; and
 - (b) fails to comply with that duty.
- (2) A person who commits an offence against subsection (1) is liable on conviction,—
- (a) for an individual who is not a PCBU or an officer of a PCBU, to a fine not exceeding \$50,000;
 - (b) for an individual who is a PCBU or an officer of a PCBU, to a fine not exceeding \$100,000;
 - (c) for any other person, to a fine not exceeding \$500,000.

(3) Despite subsection (2), if the duty or obligation of a PCBU is imposed under a provision other than a provision of sub-part 2 or 3, the maximum penalty under sub-section (2) for an offence by an officer against subsection (1) in relation to the duty or obligation is the maximum penalty fixed under the provision creating the duty or obligation for an individual who fails to comply with the duty or obligation.

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50 Liability of officers

An officer of a PCBU may be convicted or found guilty of an offence against section 44, whether or not the PCBU has been convicted or found guilty of an offence under this Act relating to the duty or obligation.

51 Liability of volunteers

A volunteer does not commit an offence under section 47, 48, or 49 for a failure to comply with a duty imposed by sub-part 2 or 3, except a duty under—

- (a) section 45 (duties of workers); or
- (b) section 46 (duties of other persons at workplaces).

45 Duties of workers

While at work, a worker must—

- (a) take reasonable care for his or her own health and safety; and
- (b) take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and
- (c) comply, as far as the worker is reasonably able, with any reasonable instruction that is given by the PCBU to allow the PCBU to comply with this Act or regulations; and
- (d) co-operate with any reasonable policy or procedure of the PCBU relating to health or safety at the workplace that has been notified to workers.

46 Duties of other persons at workplace

A person at a workplace (whether or not the person has another duty under this Part) must—

- (a) take reasonable care for his or her own health and safety; and
- (b) take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and
- (c) comply, as far as he or she is reasonably able, with any reasonable instruction that is given by the PCBU to allow the PCBU to comply with this Act or regulations.