

Advice for NZNO members: Cessation of unsafe work

Any work carries a level of understood risk. For cessation of work to be valid under the Health and Safety at Work Act 2015 (HSWA), the risk has to have materially increased beyond the understood risk that is normally present and where existing control measures are inadequate.

To ensure there the process is transparent to all parties, documentation of invoking/directing/notifying a cessation of work is necessary and will ensure that the process works as intended under HSWA. To support the process there are cessation of work forms for an individual worker, a work team and a HSR.

Right of worker or workers to cease unsafe work

- A worker may cease or refuse to carry out work that the worker believes would expose themselves or any other person to a serious risk to health from an imminent or immediate unsafe situation. Where this occurs the worker must notify the PCBU without delay.
- A worker may continue to refuse to carry out the work, if the worker attempts to resolve the matter with the Person Controlling a Business or Undertaking (PCBU), the matter is not resolved and the worker continues to believe that the serious risk to health remains.

After ceasing work, the worker or workers must remain available for alternative work.

A Health and safety representative (HSR) may direct unsafe work to cease

For an HSR to be able to legally direct workers to to cease work the HSR is required to have:

- Completed “initial HSR training” as per HSWA and attained the Unit Standard 29315 qualification.
- Already consulted with the PCBU about the matter they believe is a serious unsafe work situation for the work group they represent and that it is not resolved within a reasonable time.

“Consulting” means providing information (in person or in writing) to the duty holder about fixing the unsafe situation, allowing the person an opportunity to express their views, taking into account those views and giving them a reasonable time, (taking into account the seriousness of the matter) to fix the problem.

A HSR may direct a worker to cease work without carrying out consultation if the risk is so serious and immediate or imminent that it is not reasonable to consult before giving the direction. Where this occurs, the HSR must then consult with the PCBU as soon as practicable.



The HSR must promptly inform the PCBU of any cease work direction.

Alternative work

If a worker ceases work, the PCBU may direct the worker to carry out alternative work at the same or another workplace until the worker can resume normal duties.

The work must be safe, appropriate and within the scope of the person's employment agreement or contract. A worker may agree (but cannot be directed) to do other work that is safe and appropriate.

Requesting assistance from WorkSafe

The HSR, the PCBU, or a worker may ask WorkSafe to assist in resolving an issue relating to the cessation of work. If WorkSafe agrees to assist, it must provide the assistance as soon as practicable.

Removing a Cessation of Work notification

Removing i.e. lifting a cessation of work after the matter has been resolved is an important part of the process. Providing written confirmation to the PCBU continues the audit trail and provides clarity for all parties e.g. a person authorised to represent the worker or work group e.g. delegate, HSR, worker can provide a confirming email to all which confirm the date, time, the work group it is applicable to, the nature of the work involved and that the workers in the work group consider that the matter is now satisfactorily resolved.

Also refer to the NZNO H&S guides #10 "Cessation of Work" and #11 "Requesting Worksafe for assistance relating to cessation of work".

Relevant excerpts from the Health and Safety at Work Act 2015

Section 82 - Meaning of cease work

In this subpart, unless the context otherwise requires, cease work means—

- (a) to cease or refuse to carry out work under section 83 or
- (b) to cease work on a direction under section 84 (HSR direction).

Section 83 - Right of worker to cease or refuse to carry out unsafe work

(1) 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.



(2) A worker may continue to refuse to carry out the work if—

- (a) the worker attempts to resolve the matter with the PCBU as soon as practicable after first refusing to do the work; and
- (b) the matter is not resolved; and
- (c) the worker believes on reasonable grounds 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.

(3) Without limiting subsection (2)(c), reasonable grounds exist if a health and safety representative has advised the worker 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.

(4) A worker who ceases work under subsection (1) must, as soon as practicable, notify the PCBU that the worker has ceased work.

(5) Subsection (1) does not authorise a worker to refuse to do work that, because of its nature, inherently or usually carries an understood risk to the worker's health and safety, unless that risk has materially increased beyond the understood risk.

(6) To avoid doubt, nothing in this section limits or affects an employee's right to refuse to do work under any other enactment or the general law.

Section 87 - Regulator may assist to resolve issues relating to cessation of work

(1) The health and safety representative, the PCBU, or the worker may ask the regulator to assist in resolving the issue relating to the cessation of work.

(2) If the regulator agrees to assist in resolving an issue relating to the cessation of work, the regulator must provide the assistance as soon as practicable after agreeing to assist.

