

HEALTH AND SAFETY ISSUES AND WOODTURNING

There is a world of difference between operating an underground coal mine and governing a not-for-profit woodturning club or guild, but the two are now connected, even if that may not be immediately obvious. The Health and Safety at Work Act 2015 was passed in large part because of the 2010 Pike River Mine disaster, and this Act also has implications for community organisations such as woodturning clubs or guilds.

Not-for-profit organisations now need to consider whether and, if so, what parts of their activities may be covered by the Act. Just as a “she’ll be right” approach to health and safety is not appropriate in for-profit commerce, neither is it appropriate in a woodturning club or guild. While the new statute does not always apply to community organisations, well governed not-for-profit entities (especially woodturning clubs or guilds) should always comply with best health and safety practices.

Health and Safety at Work Act and Volunteer Organisations

It is clear from section 17(1)(a)(ii) of the Act that “a volunteer association” (such as a woodturning club or guild) is not a “person conducting a business or undertaking” (a “PCBU”), and for the purposes of section 17 a “**volunteer association** means 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” (section 17(2)). That description fits most woodturning clubs or guilds.

According to a MBIE website page (<http://www.mbie.govt.nz/info-services/employment-skills/workplace-health-and-safety-reform/document-and-image-library/summary-doc-volunteers-3rd-reading.pdf>), the Health and Safety at Work Act 2015 (in effect from 4 April 2016) recognises “. . . that volunteers contribute greatly to New Zealand communities and will ensure the new law will not negatively affect volunteering.”

Is your Woodturning Club or Guild a Person Conducting a Business or Undertaking?

The website just mentioned gives answers to a number of common questions (the relevant sections are added in square brackets), set out below:

Under the Act, a Person Conducting a Business or Undertaking (PCBU) has the primary duty to ensure the health and safety of its workers and others, so far as is reasonably practicable [section 36].

A purely volunteer organisation where volunteers work together for community purposes and which does not have any employees is known as a volunteer association under the Act [section 17].

A volunteer association is not a PCBU so the Act will not apply to it [section 17].

A volunteer organisation which has one or more employees is a PCBU [section 17(2)] and will have the same duties as a PCBU to ensure, so far as reasonably practicable, the health and safety of its workers and others [section 36]. There are some exclusions to this, depending on whether the PCBU has casual volunteers or volunteer workers. ... What the volunteer organisation will have to do is what is reasonably practicable for it to do, and what is within its influence and control [sections 30 and 33].

If your Woodturning Club or Guild is a PCBU, does it have Casual Volunteers or Volunteer Workers?

Again, the same website provides answers to that question (the relevant sections are added in square brackets):

Where volunteers carry out work for a PCBU, the Act distinguishes between casual volunteers and volunteer workers. Volunteer workers are people who regularly work for a PCBU with its knowledge and consent on an ongoing basis and are integral to the PCBU's operations [section 19(3)(a)] (with some specific exclusions for certain voluntary work – see below). ...

PCBUs will owe a duty to ensure, so far as reasonably practicable, the health and safety of volunteer workers (as if they were any other worker) [primarily sections 19(3)(a), 22, 30, 36, 37, and 38]. This ensures that these volunteers are afforded the protection of having the appropriate training, instruction or supervision needed to undertake their work safely – just like any other worker.

Are your Woodturning Club or Guild Volunteers doing Activities which means they are excluded from the “Volunteer Worker” Definition under the new Law?

Once more, the same website provides answers to that question (the relevant sections are added in square brackets):

People volunteering for the following activities will not be volunteer workers under the new law [section 19(3)(b)]:

- Participation in a fundraising activity
- Assistance with sports or recreation for an educational institute, sports or recreation club
- Assistance with activities for an educational institution outside the premises of the educational institution
- Providing care for another person in the volunteer's home.

... Although casual volunteers and volunteers doing these activities won't be “volunteer workers” for the purposes of the Act, their health and safety will still be covered by the PCBU's duty to other persons affected by the work of the business or undertaking [primarily sections 19(3)(a), 22, 30, 36, 37, and 38].

More on Volunteers

Further questions about volunteers are answered on another MBIE website page (<http://www.business.govt.nz/worksafe/hswa/mythbusting/volunteers>), including (again, the relevant sections are added in square brackets):

Q. What does it mean for a volunteer association to 'employ' a person?

The term means employing as an employee, as opposed to engaging as a contractor.

HSWA does not define 'employ' but it does define 'employee'. That definition refers to the [Employment Relations Act 2000](#) [section 16] and means 'any person of any age employed by an employer to do any work for hire or reward under a contract of service'.

If a volunteer association (or any of its members) instead only 'engages' an individual to work for the association under a contract for service (i.e. a 'contractor'), then it would still be a volunteer association and not a PCBU.

Q. Is a volunteer association a PCBU if it is run by volunteer workers?

If an organisation falls within the definition of a volunteer association, then it is **not** a PCBU.

Whether the volunteers meet the test of a 'volunteer worker' or not is irrelevant. You can only have a volunteer worker if you are defined as a PCBU under HSWA.

Final Notes

The Health and Safety at Work Act 2015 is a complex piece of legislation, and this summary really does not do it justice. How it is considered to apply to not-for-profit organisations such as woodturning clubs or guilds will, no doubt, become clearer as its provisions are tested against what happens in a voluntary organisations.

There are valuable health and safety resources on the NAW website which all woodturners should be aware of and which provide resources for clubs and guilds – see http://www.naw.org.nz/resources/h_and_s.html.