

Working from home – Who is responsible?

On Monday, 23 March 2020, Prime Minister Jacinda Ardern declared a nationwide “level four alert” effective from 11.59pm, 25 March 2020, requiring the shutdown of all businesses, with the exception of essential services. Thousands of employees will now be required to work from home. But during this time, who is responsible for their health and safety? The employee? Or the employer?

Pursuant to the Health and Safety at Work Act 2015 (the Act), employers (as persons conducting a business or undertaking, also known as “PCBU”) have an obligation to employees to ensure, so far as reasonably practicable, the health and safety of its employees, while the employees are at work for the PCBU.

Under the Act, this duty owed by PCBU’s extends (so far as is reasonably practicable) to:

- providing and maintaining a work environment that is without risks to health and safety; and
- ensuring that the health of workers and the conditions at the workplace are monitored for the purpose of preventing injury or illness of workers arising from the conduct of the business or undertaking.

‘Reasonably practicable’ includes obligations on workers to provide adequate facilities for the welfare at work of workers in carrying out work and provision of any information, training, instruction or supervision that is necessary to protect all persons from risks to their health and safety.

‘Workplace’ includes a place where work is being carried out and any place where a worker goes or is likely to be while at work.

There is therefore little doubt that employers’ health and safety obligations extend to employees working from home.

However, these duties owed by the employer need to be balanced with the duties owed by the employee. Specifically, under the Act, employees are required to take reasonable care for their own health and safety (including by complying with all reasonable instructions from the PCBU to allow the PCBU to comply with the Act).

Employees should be encouraged to:

- take regular breaks;
- follow a regular routine (including setting boundaries for the workday);
- ensure they have an appropriately set up work station;
- notify the employer of any equipment that they reasonably require, that is not currently available to them;
- notify the employer of any challenges or issues arising from working from home, such as hazards or availability issues (for instance as a result of having children at home); and
- keep in regular contact with their employer/ supervisor.

This is an unprecedented time, and it is critical that employees and employers have an open, honest and free flowing dialogue to manage health and safety risks and expectations.

Want to know more?

If you have any questions about working from home legal matters, please contact our specialist [Employment Team](#).