

Health and safety and home accidents

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The Health & Safety at Work Act came into effect on April 4 and applies to all workplaces. I am often asked how it applies to health and safety in the home.

The general position is that the Act only applies to workplaces so the duties under the Act do not apply in the ordinary domestic situation.

One member of the household will not have duties or be prosecuted under the Act if another member of the household or a visitor is injured in the home or while on a family outing.

But, what is the situation if the place where the injury occurs is a workplace for some but not others?

The family member at home will not usually be conducting a business or undertaking so they are not liable as a person conducting a business or undertaking (PCBU).

That applies even if others are there doing work, for example a tradesperson in the home or a council worker at the park.

There is also a specific exemption for people who occupy a home and are getting work done at the home, for instance an electrician around to fix the wiring or



The new Health & Safety at Work Act could apply to accidents at home.

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a builder to fix a door.

That does not mean that the

homeowner or occupier can ignore health and safety issues because they still need to take care not to injure others.

Firstly, because no one really wants to injure someone coming to their home to visit or work and secondly, because other Acts (for example the Crimes Act) cover injuring others by a lack of care, manslaughter etc.

If the home is being used as a

workplace, such as working from home, or having others work from your home, then the homeowner/occupier will be conducting a business or undertaking and will be covered by the Health & Safety at Work Act.

An inspector from Work Safe will need a warrant to enter a home whereas they are allowed to enter other workplaces without a warrant.

Workers doing work at a domestic residence are still covered by the Health & Safety at Work Act and their employer has to ensure their safety and that of the homeowner/visitors etc at the residence.

So the electrical company has to ensure its employee is not injured in the home and that the employee does not injure others in the home.

PCBU's will have limited control over the safety of someone's home but must take all practicable steps to identify and eliminate or minimise hazards.

One of those steps may be turning down the work if the work cannot be done safely.

Under the Health & Safety at Work Act, you do not have any duty to someone unlawfully in your home, such as a burglar, but the Crimes Act will still apply so you cannot set a man trap or deliberately injure the burglar (except in self-defence).

A lot of accidents do occur in the home, so whichever Act applies, it pays to be safety conscious to avoid injuring anyone in your home.

If you have a legal inquiry you would like discussed in this column please email Alan on

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Column courtesy of Rainey Collins Lawyers phone 0800 733 494 or raineycollins.co.nz