

# Prohibition notice

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This notice is issued pursuant to sections 105 and 116  
of the Health and Safety at Work Act 2015



**Te Kāwanatanga o Aotearoa**  
New Zealand Government

**WORKSAFE**  
Mahi Haumaru Aotearoa

# Prohibition notice

**WORKSAFE**  
Mahi Haumaru Aotearoa

This notice is issued pursuant to sections 105 and 116 of the Health and Safety at Work Act 2015

Notice issued to:

Address:

Date of issue: DD / MM / YEAR

Time: AM / PM

## Details of person notice left with:

Name:

Position:

Address:

I,

Being an inspector appointed under section 163(1) of the Health and Safety at Work Act 2015 (the Act):

Reasonably believe that, at the workplace specified below, an activity:

(tick one option)

- is occurring that involves or will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard
- may occur and, if it occurs, will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard.

Or, in respect of the workplace, plant, or substance, or work required to be authorised, or a mining operation specified below, I believe:

- that there is a serious risk to the health and safety of any person because of a failure to comply with the Act or regulations
- on reasonable grounds, that it is likely that a person will fail to comply with the Act or regulations, and that failure would be likely to cause a serious risk to the health and safety of any person.

For the purposes of section 105(1)(a), the workplace is:

(tick and complete one option)

For the purposes of section 105(1)(b), the workplace, plant, or substance, or work required to be authorised, or a mining operation is:

Legislative provision being or likely to be contravened:

Basis for believing grounds exist:

Matter or activity that gives rise or will give rise to the risk:

**I therefore prohibit the carrying on of the matter or activity in any way\*/in the way specified below\* until an inspector is satisfied it has been remedied**

(\* delete as appropriate)

Recommended measures to remedy:

Postal address:

Inspector's signature:

Contact email:

**YOU MUST NOT RESUME THE MATTER OR ACTIVITY UNTIL YOU HAVE RECEIVED NOTICE FROM AN INSPECTOR THAT THIS NOTICE IS NO LONGER IN EFFECT. FAILING TO COMPLY WITH THIS NOTICE IS A SERIOUS OFFENCE.**

**A COPY OF THIS NOTICE MUST, AS SOON AS PRACTICABLE, BE DISPLAYED IN A PROMINENT PLACE AT OR NEAR THE WORKPLACE, OR PART OF THE WORKPLACE, AT WHICH WORK IS BEING CARRIED OUT THAT IS AFFECTED BY THE NOTICE. IT IS AN OFFENCE NOT TO DO SO, AND/OR TO INTENTIONALLY REMOVE, DESTROY, DAMAGE OR DEFACE THIS PROHIBITION NOTICE WHILE IT IS IN FORCE.**

**Information:** If you wish to discuss the circumstances giving rise to this notice, in the first instance please contact the Inspector who issued the notice. Any other queries or correspondence related to this notice should be addressed to the manager at the address shown above.

WorkSafe New Zealand

PO Box 165, Wellington 6140 0800 030 040 worksafe.govt.nz

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New Zealand Government

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## Review and Appeal Rights

A person affected by the decision of the inspector to issue this notice (or their representative) may apply to WorkSafe for internal review of the decision within 14 days after the day on which the decision first came to their notice. The decision to issue the notice may also be appealed to a District Court on the grounds it is unreasonable, but only if it has first been reviewed by WorkSafe and WorkSafe has made a decision on the review. If there is anything you do not understand about your review and appeal rights, you should consult a lawyer.

## SUMMARY OF KEY PROVISIONS IN THE HEALTH AND SAFETY AT WORK ACT 2015

### SECTION 105 POWER TO ISSUE PROHIBITION NOTICE

An inspector may give a person who has control over the matter or activity a direction prohibiting the carrying on of the matter or activity, or the carrying on of the matter or activity in a specified way, until an inspector is satisfied that the matter or activity that gives or will give rise to the risk has been remedied. The inspector may do so in the following situations:

1. An inspector reasonably believes that:
  - i. an activity is occurring at a workplace that involves or will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard; or
  - ii. an activity may occur at a workplace that, if it occurs, will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard; or
2. In respect of any workplace, plant or substance, or work that is required to be authorised under subpart 2 of Part 5 of the Act or a mining operation (as defined in clause 2 of Schedule 3 of the Act), an inspector:
  - i. believes that there is a serious risk to the health and safety of any person because of a failure to comply with this Act or regulations; or
  - ii. believes on reasonable grounds that it is likely that a person will fail to comply with this Act or regulations, and that failure would be likely to cause a serious risk to the health and safety of any person.

The direction may be given orally, but must be confirmed by written notice (a prohibition notice) issued to the person as soon as practicable.

### SECTION 107 COMPLIANCE WITH PROHIBITION NOTICE

A person who does not comply with a prohibition notice given or issued to the person commits an offence. The penalty is a maximum fine upon conviction of \$100,000 for an individual and \$500,000 for any other person. However, it is not an offence to fail to comply with recommendations in a prohibition notice.

### SECTION 114 WORKSAFE MAY VARY OR CANCEL NOTICE

Other than minor changes, a notice issued by an inspector may be varied or cancelled only by WorkSafe, not the inspector.

### SECTION 117 DISPLAY OF NOTICE AT WORKPLACE BY PERSON ISSUED WITH NOTICE

A person to whom a notice is issued must, as soon as practicable, display a copy of that notice at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice. It is an offence to fail to comply with this requirement, or to intentionally remove, destroy, damage, or deface a displayed notice while it is in force. The penalty is a maximum fine upon conviction of \$5,000 for an individual and \$25,000 for any other person.

### SECTION 118 INSPECTOR MAY DISPLAY NOTICE

An inspector who issues this notice may, either before or after issuing the notice, display a copy of the notice in a prominent place at or near the workplace, or part of the workplace, at which work is being carried out that is affected by the notice.

### SECTION 119 WHEN WORKSAFE MAY CARRY OUT REMEDIAL ACTION

If the person to whom a notice is issued fails to take reasonable steps to comply with the notice, WorkSafe may take any remedial action it believes reasonable to make the workplace or situation safe after giving written notice to the person of:

- a. WorkSafe's intention to take that action; and
- b. the person's liability for the costs of that action.

### SECTION 120 POWER OF WORKSAFE TO TAKE OTHER REMEDIAL ACTION

If WorkSafe reasonably believes that circumstances in which a prohibition notice can be issued exist, but a prohibition notice cannot be issued because, after taking reasonable steps, the person to whom the notice could be issued cannot be found, WorkSafe may take any remedial action necessary to make the workplace safe.

### SECTION 121 COSTS OF REMEDIAL OR OTHER ACTION

WorkSafe may recover as a debt due to WorkSafe the reasonable costs of remedial action taken under:

- a. SECTION 119 from the person to whom a prohibition notice was issued; or
- b. SECTION 120 from any person to whom a prohibition notice could have been issued in relation to the matter.

### SECTION 131 APPLICATION FOR INTERNAL REVIEW

A person affected by an inspector's decision to issue a prohibition notice may, within 14 days after the day on which the decision first came to the person's notice, apply to WorkSafe for a review of the decision. The application must be made in the manner and form required by WorkSafe.

### SECTION 134 STAY OF A REVIEWABLE DECISION ON INTERNAL REVIEW

If an application is made to WorkSafe for an internal review of a decision, WorkSafe may stay the operation of the decision at its own initiative or on application from the person that has applied for a review. If WorkSafe has not made a decision within 3 working days of receiving an application for a stay then WorkSafe is to be treated as having made a decision to grant the stay.

### SECTION 135 APPLICATION FOR APPEAL

A person affected by an inspector's decision to issue a prohibition notice may, if that decision has been reviewed by WorkSafe, appeal to a District Court against the decision on the grounds that it is unreasonable. The appeal must be lodged within 14 days after the day on which WorkSafe's decision on its review first came to the person's notice. If WorkSafe varies or cancels the notice, a person affected by that decision may appeal to the District Court against it on the grounds that it is unreasonable. The appeal must be lodged within 14 days after the day on which WorkSafe's decision first came to the person's notice.

# Prohibition notice

This notice is issued pursuant to sections 105 and 116 of the Health and Safety at Work Act 2015

**WORKSAFE**  
Mahi Haumaru Aotearoa

Notice issued to:

Address:

Date of issue: DD / MM / YEAR

Time:

AM / PM

## Details of person notice left with:

Name:

Position:

Address:

I,

Being an inspector appointed under section 163(1) of the Health and Safety at Work Act 2015 (the Act):

Reasonably believe that, at the workplace specified below, an activity:

(tick one option)

- is occurring that involves or will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard
- may occur and, if it occurs, will involve a serious risk to the health or safety of a person arising from an immediate or imminent exposure to a hazard.

Or, in respect of the workplace, plant, or substance, or work required to be authorised, or a mining operation specified below, I believe:

- that there is a serious risk to the health and safety of any person because of a failure to comply with the Act or regulations
- on reasonable grounds, that it is likely that a person will fail to comply with the Act or regulations, and that failure would be likely to cause a serious risk to the health and safety of any person.

For the purposes of section 105(1)(a), the workplace is:

(tick and complete one option)

For the purposes of section 105(1)(b), the workplace, plant, or substance, or work required to be authorised, or a mining operation is:

Legislative provision being or likely to be contravened:

Basis for believing grounds exist:

Matter or activity that gives rise or will give rise to the risk:

**I therefore prohibit the carrying on of the matter or activity** in any way\*/in the way specified below\* **until an inspector is satisfied it has been remedied**

(\* delete as appropriate)

Recommended measures to remedy:

Postal address:

Inspector's signature:

Contact email:

**YOU MUST NOT RESUME THE MATTER OR ACTIVITY UNTIL YOU HAVE RECEIVED NOTICE FROM AN INSPECTOR THAT THIS NOTICE IS NO LONGER IN EFFECT. FAILING TO COMPLY WITH THIS NOTICE IS A SERIOUS OFFENCE.**

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## **SUMMARY OF KEY PROVISIONS IN THE HEALTH AND SAFETY AT WORK ACT 2015**

### **SECTION 105 POWER TO ISSUE PROHIBITION NOTICE**

An inspector may give a person who has control over the matter or activity a direction prohibiting the carrying on of the matter or activity, or the carrying on of the matter or activity in a specified way, until an inspector is satisfied that the matter or activity that gives or will give rise to the risk has been remedied. The inspector may do so in the following situations:

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The direction may be given orally, but must be confirmed by written notice (a prohibition notice) issued to the person as soon as practicable.

### **SECTION 107 COMPLIANCE WITH PROHIBITION NOTICE**

A person who does not comply with a prohibition notice given or issued to the person commits an offence. The penalty is a maximum fine upon conviction of \$100,000 for an individual and \$500,000 for any other person. However, it is not an offence to fail to comply with recommendations in a prohibition notice.

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Other than minor changes, a notice issued by an inspector may be varied or cancelled only by WorkSafe, not the inspector.

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