

20.1 Legislation

Your health and safety system is the detail behind how you are going to meet your responsibilities as described in section 1. This section provides further information about developing and implementing your systems.

Hazard Management is discussed in detail in Section 21.

Relevant Legislation

Since 2003, Maritime New Zealand has been responsible for administering the Health and Safety in Employment Act (HSE Act) for work on board ships and for ships as places of work. Maritime NZ also administers the Maritime Transport Act 1994. Maritime and marine protection rules are statutory instruments (or secondary legislation) made by the Minister of Transport pursuant to the Maritime Transport Act 1994 (MT Act). While the MT Act stipulates broad principles of maritime law, the rules contain detailed technical standards and procedures.

Generally speaking, the MT Act and the rules made under that Act focus on boat related safety, while the HSE Act focuses on the safety of operations and people on board the boat. There is a degree of overlap.

Health and Safety in Employment Act 1992

The purpose of the HSE Act is to make work activities safe and healthy for everyone connected with them.

The HSE Act reinforces that employers, or other people responsible for the work, have the primary responsibility for health and safety at work. The HSE Act also recognises that everyone within a workplace has responsibilities to themselves and others. Effective health and safety in the workplace requires cooperation and communication between everyone involved.

Safety Management Systems

The Safe Ship Management System (SSM) makes ship owners and operators responsible for the daily safe operation of their boats and ensures that the safety of a boat and its crew is maintained throughout the year instead of just on an annual 'survey day'.

The system covers construction, stability, equipment, operating limits, operating parameters, the qualifications of crew, training of crew, boat maintenance and emergency procedures. The system is reflected in documentation which is customised for each individual boat according to which particular system it fits within. The documentation also needs to contain information about how you are meeting your health and safety obligations under the HSE Act.

Law

The HSE Act doesn't replace any duties you may have under other pieces of legislation (with the exception of Part II of the Maritime Transport Act 1994 which was replaced by the HSE Act in 2003).

You are still required to comply with other legislation. The requirements of the HSE Act have been developed in order to interact consistently with other legislative requirements. In the Maritime sector this means you are still required to comply with the Maritime Transport Act 1994 and all relevant Maritime Rules

Some maritime rules already address health and safety issues. These rules exist alongside the HSE Act and are designed to work with other health and safety systems and requirements to make a safer workplace.

20.2

Developing a Health and Safety Policy

Although not a legal requirement, it's a good idea to develop a health and safety policy statement that is specific to the boat, its operations, management and people. This document sets the tone for the commitment to health and safety, and should be included as part of your SSM Manual. A health and safety policy could cover some (or all) of the following:

- A commitment to achieving the highest standards of health and safety in all aspects of operations;
- Seeking continuous improvement in health and safety performance taking into account evolving employee expectations, management practices, scientific knowledge and technology;
- Complying with all applicable legislation and standards, and where these do not exist, adopting and applying standards that reflect commitment to health and safety;
- Involving management, skippers, crew and contractors in the improvement of health and safety performance;
- Holding skippers responsible for safety in their areas of supervision in the same way that they are responsible for quality, efficiency, maintenance, etc;
- Training skippers to carry out their responsibilities effectively and have an understanding of health and safety.
- Training and holding individual employees / crew accountable for their area of responsibility;
- Managing risk by implementing management systems to identify, assess, monitor and control hazards and by reviewing performance on a regular basis; and
- Ensuring that all employees are informed of and understand their obligations in respect of the health and safety policy.

20.3

Providing Information

People on board the boat need to know how to do their work safely. The employer is required to provide easily accessible information to the crew about:

- Hazards on the boat
- Hazards that might arise from the type of work that the employee is doing
- The steps to be taken to minimise the chances that anyone will be harmed by the hazards
- Where to find safety clothing and equipment; and
- How to deal with any emergencies.

Information needs to be provided in a way that employees can understand. This might be by talking to people, or it might include printed information using easily understood words, and perhaps including diagrams.

20.4

Selection and Placement of Crew

Safety starts with selecting the “right” person to crew on the boat.

It is important to note that you cannot discriminate against someone on the grounds of a disability / medical condition. However, it may also be unlawful under the provisions of the Health & Safety in Employment Act, for a person to be placed in a position where they are likely to cause harm to themselves or others. If in doubt, get legal advice.

20.5

Training

One way of ensuring that crew can carry out work safely is by ensuring they have enough knowledge, experience and training to do what they need to do.

Employers must do what is reasonably practicable to ensure crew have knowledge and experience of relevant similar workplaces, work, equipment or substances, or that they are supervised by someone who has that knowledge and experience.

Employers must also ensure that crew are adequately trained in using the types of objects, substances and protective clothing and equipment that they are required to work with.

20.6

Induction for Visitors and Others

Everyone who comes on board the boat needs to know about the hazards they might come across on board that boat and how they are managed. You should develop a standard induction checklist for visitors which lists the hazards and any action required of the visitor. This would include letting them know where they can't go on the boat. Tick off the items on the list as you talk about them with the visitor, and get them to sign as proof that you've gone through it with them.

20.7

Employee Participation

Everyone needs to work co-operatively and in good faith to establish effective health and safety arrangements in the workplace.

Good faith requires being open and honest, and understanding that all involved have a legitimate interest in a safe and healthy workplace.

People who carry out work are in a good position to identify actual or potential hazards that arise in the course of that work and suggest ways those hazards could be managed. All employers have a duty to provide reasonable opportunities for the crew to participate effectively in processes for improving health and safety at work.

20.8

People who are not employees

Employers also have a duty to people who aren't their employees. The employer must take all practicable steps to ensure that the actions or inaction of an employee while at work doesn't harm any other person. That includes a duty to stop anyone being harmed through 'skylarking' or other actions or inaction where it is reasonably foreseeable that harm will be caused to another. It isn't enough to just have rules or procedures – they need to be enforced. Where someone not following the rules or procedures could have serious consequences, there need to be back-up plans in place – just in case.

20.9 System Auditing

Any system that is put in place needs to be regularly reviewed to make sure it is effective and that it is comprehensive – that it is fully meeting the requirements of the law to have a safe and healthy workplace. You should do this in a systematic way – perhaps have a list of the parts of the system and review one each month. You need to write down the details and results of the review, and any action that is taken. Keep this with your SSM manual.



LEGAL REQUIREMENTS

The HSE Act specifies in some detail the requirements for maintaining a healthy and safe workplace.

The Maritime Transport Act and the Maritime Rules contain requirements which are specific to the maritime sector.

Your Safe Ship Management System also contains requirements which are relevant to health and safety and therefore must be followed.

Summary Points

- Develop a Health and Safety Policy which makes clear to everyone on board the boat what your commitment to a healthy and safe boat is.
- Your health and safety system is the detail behind how you are going to meet your obligations to provide a safety and healthy workplace. You should write down how this is going to happen and make sure you are doing what you said you did.
- Make sure you are regularly auditing the system to check that it is effective, and to check again that all your responsibilities are being met. Write down the results of the audit in your SSM manual.
- Decide how you're going to make sure that people on the boat follow the rules and procedures you have, and what you're going to do if they aren't followed.
- Make sure everyone has enough information and training to be working safely.
- Choose the right people to be part of your crew.
- Develop a standard induction checklist for use with visitors. Get it signed by the visitors once you've gone through it with them.
- Make sure the owner, skipper and crew all have opportunities to be involved in the development and ongoing implementation and maintenance of your health and safety systems.
- Make sure you know your legal obligations in relation to health and safety

Where can I find out more?

For further information about the Maritime Transport Act and the associated maritime and marine protection rules contact the Manager, Rules and International Standards, at Maritime New Zealand, or email manager.rules@maritimenz.govt.nz.

For further information about Safe Ship Management contact the Nautical Advisor, Safe Ship Management, at Maritime New Zealand, or email ssm@maritimenz.govt.nz.

Maritime NZ has produced a booklet for the maritime industry (Health & Safety - A guide for seafarers) which outlines your obligations under the HSE Act 1992. You can get copies from Maritime NZ on freephone 0508 22 55 22 or from the Maritime NZ website – www.maritimenz.govt.nz.

If you need assistance in agreeing on a system for employee participation in managing health and safety matters, the mediation services provided by the Employment Relation Services can help you work towards a solution. Contact them through WorkInfo on 0800 20 90 20.