

Dealing with earthquake-related hazards: Information for employers and owners of workplace buildings - Position Statement

Who should read this statement?

- Employers and owners of buildings that are or contain workplaces
- Advisers to owners and employers on building-related matters (such as engineers)
- Directors, chief executives, health and safety managers

Background

New Zealand's recent earthquake history has heightened awareness of the risk of harm from buildings and associated failures in the event of earthquakes. Under the Health and Safety in Employment Act 1992 (HSE Act), employers and owners of buildings which are places of work must identify and manage hazards in the place of work where practicable - this includes building-related hazards.

Building owners must also meet the requirements of the Building Act 2004 (Building Act). This includes standards for buildings' earthquake resilience. All new buildings must comply fully with this building standard. However, Parliament has recognised the potential cost and impracticality of getting all existing buildings to the same standard. It has decided that if an existing building does not meet more than one-third of the new building standard for earthquake strength design, it is deemed to be earthquake-prone and local councils are empowered to require owners to undertake work to improve it. Work taken can include strengthening or demolition. The Government has also announced that it is introducing legislation that will require all existing buildings to be strengthened so they are not earthquake-prone (or demolished) within a single national timeframe of 15 years. Under this proposed new law, local councils will continue to be responsible for enforcing the Building Act and monitoring building owners' progress against the relevant timeframes.

As the health and safety regulator, our objective is to ensure workplace hazards are identified and effectively managed. We want to outline how we will enforce employer and building owner obligations under the HSE Act in respect of earthquake safety.

Our position on earthquake-related hazards and the HSE Act where you comply with the Building Act

We will not take health and safety enforcement action against you in relation to the structural integrity of your building to withstand an earthquake because this is covered by the Building Act requirements and any enforcement action will come from your local council.

If your building is earthquake-prone, then we consider this to be a Building Act issue and your local council will enforce the Building Act's requirements and relevant timeframes. If we become aware of issues relating to the earthquake resilience of your building then we will raise the issue with the relevant local council.

Key takeout: In short, if you are doing what you're supposed to be doing under the Building Act, then we are not going to enforce to a higher standard in relation to your building's earthquake resilience under the HSE Act. If you're not doing what you should be doing under the Building Act, we expect the relevant local council to take action—not us.

What happens if serious harm occurs as a result of not complying with the Building Act?

As a regulator, we will generally investigate workplace incidents with serious actual consequences—this could include serious workplace consequences of an earthquake. If the serious harm incident occurred as a result of a failure in your building's structural integrity (its structural resilience to an earthquake) then we are unlikely to take any further action provided you have been complying with the Building Act and the timeframes imposed by your local council.

If, however, after an earthquake-related serious harm incident, it becomes clear that you failed to comply with the Building Act in terms of the structural integrity of your building, then you could face enforcement action under the HSE Act for failing to take practicable steps to ensure the safety of employees and other people in or near the building.

Key takeout: If you're not doing what you're supposed to be doing under the Building Act and someone is seriously harmed following an earthquake you could face enforcement action under the HSE Act.

Taking practicable steps to identify and manage hazardous objects and to properly plan for emergencies

Our above position relates to hazards covered by the Building Act. Our position does not cover some components attached to buildings or to other chattels you may have in or around your building. If these components or chattels are hazards to people, then we expect you to identify and manage these hazards, where reasonably practicable, as you would any other workplace hazard. Failure to properly identify and manage these types of hazards is a breach of the HSE Act.

We also expect businesses to take practicable steps to implement systems, processes, and plans for ensuring the health and safety of people during emergencies – such as having emergency plans and practicing evacuation drills.

Most New Zealand businesses are aware of the need to prepare for earthquakes. Accordingly, we have no immediate plans to check proactively whether you are doing these things. We may follow up on complaints. We may also investigate and take some sort of enforcement action where we believe some sort of serious breach of the HSE Act has occurred during an earthquake-related incident and it appears the duty-holder(s) failed to do these things properly.

Building components

Building components are things attached to the building which could be, but are not necessarily part of the structural integrity of the building. These are things such as ceilings, verandas, or glass which could fall out and break. Regardless of whether you're a building occupier or a building owner, you need to take practicable steps to identify and manage any parts of buildings which could cause serious harm to occupants in case of an earthquake, and to take practicable steps to eliminate them; or if that's not practicable, to isolate them from people; or if that's not practicable to minimise the hazard.

Owners and employers need to continually analyse any risks in respect of each building they own or occupy to determine what practicable steps can be taken to manage hazards. What is practicable in any given case will depend on the circumstances. However, in undertaking such analyses, you will need to consider matters such as the extent of the risk; the nature, severity and probability of any injury or harm that may occur; the practicality of eliminating, isolating, or minimising the hazard; and the availability and cost of safeguards. If you're an employer and you have a concern about a building component which you cannot deal with, you will need to involve the building owner. If you're a building owner and a problem has been raised about a building component, then you will need to take all reasonably practicable steps to manage the hazard.

Chattels and Equipment

In most workplace buildings there are objects such as chattels, fixtures, fittings, and equipment which could seriously harm someone if these items were to move or fall during an earthquake. These are objects such as fridges, cabinets, shelves, or machines. Employers need to take all practicable steps to make sure such objects are safe. This means eliminating significant hazards if practicable; isolating them from people if elimination is not practicable; or minimising the

hazard if elimination or isolation is not practicable or effective. Minimisation could include basic steps such as anchoring objects to ensure they cannot move or fall on people during an earthquake. It is important to note this hierarchy of controls. You have to consider eliminating a significant hazard before you consider isolating it and you must consider these before you take steps to minimise the hazard.

Key takeout: The HSE Act applies to how you manage hazards arising from objects in and around workplace buildings. These are not covered by the Building Act. We expect you to proactively identify and manage these types of workplace hazards on a regular and ongoing basis. Failing to do so will receive attention from us as the regulator and it could also result in serious harm.

Be vigilant

If you're complying with the Building Act requirements and you're properly managing workplace hazards then you will not receive attention from the health and safety regulator.

However, you should keep abreast of new, relevant information that might raise concerns about safety in your workplace. We're not expecting you to conduct detailed research. But we do expect you to pay attention to current events and to stay mindful about what others are saying or doing. If you're paying attention to the news, having discussions with other building owners and employers, staying in contact with your council, undertaking regular safety checks and responding to any issues or concerns that are raised then you're probably staying on top of the issue. For example, recent earthquakes here in New Zealand and overseas may have highlighted new issues that you might need take into account as a building owner or employer.

You must also consider any new information that might be relevant to your building's earthquake safety. If, for any reason, you are concerned about your building's structure or safety then you should get relevant professional advice such as an engineer's assessment to help determine if you've got an issue.

This might happen if, for example, your local council encourages building owners to conduct assessments following an emergency, or if you think your building might have been damaged in some way (you or others might see cracks in the building or if buildings similar to your building have encountered problems). If an earthquake occurs, building owners and employers should use their judgement to determine whether to engage a relevant professional to help assess if the building has been structurally compromised and any health and safety concerns. It depends on a variety of factors such as the strength of the earthquake and whether any damage has occurred or might have occurred. You need to heed the advice too. If an engineer or other competent, professional advisor advises you to not re-occupy the building, you should not re-occupy the building.

Key takeout: Preparing your workplace to deal with an earthquake is not a new requirement. We're not asking you to do anything above and beyond what you're already expected to do under the HSE Act and that's to identify and manage hazards. However, you do need to continue to be mindful about new or emerging information. When in doubt, get professional advice.

You should prepare for an earthquake

If you're an employer, you need to prepare for emergencies. The procedures in the case of earthquakes often differ from that of fire, for example. You need to develop procedures, ensure the people working in or near a building know what to do and ensure your procedures will work during an emergency. This may include practising earthquake drills, preparing survival kits, keeping up to date contact information, and having appropriate plans and procedures in place. Your local council and civil defence can help you prepare your workplace to survive an earthquake emergency. You should also work with your building owner to ensure that any critical systems of building components you are relying on during an emergency are functional.

If you're a building owner, you should make it your business to understand and support your building's occupants' emergency plans and procedures and ensure the building's emergency systems are capable of effectively supporting those plans and procedures where appropriate.

Key takeout: Employers and owners of buildings need to prepare for emergencies. Both need to work together to ensure emergency plans work and people are safe during emergencies.

Further information

MBIE's Building and Housing (August 2012) [Advice for building owners – Building Safety in earthquakes](#)

For Canterbury building owners:

MBIE's Building and Housing (June 2012) [Advice for Canterbury building owners – Assessing the seismic performance of non-residential and multi-unit residential buildings](#)

Statement issued: 13 December 2013

Statement due for review: 13 December 2016