



## IF VISITORS TO MY FARM ARE INJURED, AM I LIABLE?

Under section 16 of the Health and Safety in Employment Act 1992, people who control workplaces, including farmers, have a simple duty to warn visitors who have permission to be on their properties of any work-related, out-of-the-ordinary hazards that they know about that may cause serious harm.

Under section 16 of the Act, farmers have two types of duties:

- A duty to warn authorised visitors
- A full duty to employees, contractors and their employees, people in the vicinity of the place of work and people who are paying customers (this is explained later).

You are not liable if anyone comes on to your land without your permission and suffers harm, whether from a work-related hazard or for any other reason.

This fact sheet answers questions you may have about this law.

### Duty to warn

You have a duty to warn authorised visitors of work-related, out-of-the-ordinary hazards.

### What is meant by an authorised visitor?

This is anyone who comes on to your farm with your express permission. It includes people who come for leisure or recreational activities. It also includes people on your property who are doing work that is unrelated to your work, such as research workers.

### What about workers who have legal authority to go on my property?

Your duty to warn expands to people who are legally authorised to be on your property, but only where they have given you oral notice of their visit. People in this situation include employees of electrical companies, Department of Conservation workers and local authorities.

### What is meant by a work-related, out-of-the-ordinary hazard?

This is a hazard that:

- arises from some work activity on the farm;

- wouldn't normally be expected to be on a farm; and
- could cause a person serious harm.

Examples might be:

- trees being felled;
- blasting;
- earthmoving machinery operating; or
- where pest control operators are working.

Natural hazards are excluded. You are not liable for warning visitors of natural hazards on your farm, such as:

- bluffs;
- landslides;
- rivers;
- swamps;
- wasp nests, etc.

### What sort of warning should I give and when?

You need only give a verbal warning about the hazard. You need to do this at the time you give that person express permission to go on to your land. If a group of people are involved, it's sufficient to give the warning to a representative of that group.

The warning can be given by your farm manager if he or she is the person giving permission.

### Full duty

The relationship changes if people pay to use your land for any purpose. In this case the people become your customers, and you have a full duty to take "all practicable steps" to ensure that they are not harmed by any hazard arising on the farm.

This would include situations where people pay to use your land in situations such as camping, horse trekking, "pick your own" fruit, or where a tour operator pays for tourists to visit a scenic site on your land.

You also have a full duty to other groups:

- all employees who work for you (e.g. farmhands, fruit pickers)
- all contractors you engage and their employees (e.g. for shearing, fencing, tree felling)
- all people buying or inspecting goods offered for sale (e.g. farm produce, craft items)

- all people in the vicinity of a place of work (e.g. driving on a road alongside a paddock where you are spraying chemicals).

### What is meant by “all practicable steps”?

It means things that can reasonably be done to ensure that people are not harmed. It might also mean restricting access to certain areas of your farm, e.g. where chemical spraying is being done, or setting weight limits on bridges.

But remember, you are only required to take steps in respect of circumstances you know or ought reasonably to know about.

This fact sheet highlights the duties under section 16 of the Health and Safety in Employment Act 1992 only. Other duties may be owed under other provisions of the Act, e.g. as an employer, self employed person or principal.

### When do I have a duty to warn people about hazards?

