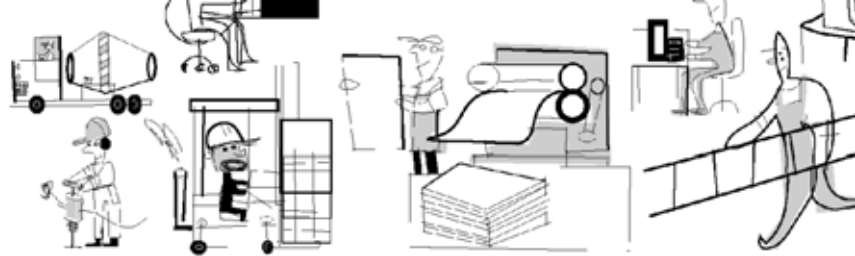




# fact sheet



14 Mar 2005

## Hirers, sellers and suppliers of plant

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The Health and Safety in Employment Act aims to promote the health and safety of everybody at work and other people in or around places of work. To achieve this, it requires people who are responsible for work and those who do the work to take steps to ensure their own health and safety and that of others.

Below is a brief guide to the Act as it applies to persons who sell or supply plant for use in a place of work. It does not describe the law in detail, but does describe some key points.

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### Why have the duty?

The purpose of the duty is to ensure that any plant or equipment that is used in a place of work is designed and made, and has been maintained, so that it is safe for its intended use. To achieve this, the Act places duties on a range of people who are in a position to manage the hazards that may arise from plant.

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### Who is covered by the duty?

The Act imposes similar, but distinct, duties on people who:

- Hire, lease or loan plant to another person that could be used in a place of work; or
  - Sell or supply plant (other than for hire, lease or loan); or
  - Install or arrange plant in addition to either of the above.
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### What is required if I hire, lease or loan plant to another person?

The duty applies to plant that can be used in a place of work. It requires that before any person hires, leases or loans plant to another person that they ascertain from the other person (as far as is practicable):

- Whether the plant is to be used in a place of work; and, if so
- The intended use of the plant.

If the plant is to be used in a place of work, the person hiring out, leasing or loaning the plant must take all practicable steps to ensure that the plant is designed and made, and has been maintained so that it is safe for its intended use.

The duty applies to the loan of plant, with or without money being involved, and however long- or short-term the loan is for.

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## Hirers, sellers and suppliers of plant, continued

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### **What is the duty for sellers and suppliers?**

Where the above duty doesn't apply, and a person sells or supplies plant that can be used in a place of work to another person, there is a duty to ensure that it is safe. The duty is to take all practicable steps to ensure that the plant is designed and made, and has been maintained, so that it is safe. The duty applies to any intended use that the seller/supplier knows of, or any use that the seller/supplier could reasonably expect. There is an exemption for plant sold "as is", see below.

The "supply" of plant includes provision by any other means than selling, hiring, leasing or loaning.

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### **Is there a duty for installers?**

Where a person hires, leases, sells or otherwise supplies plant to another person for use in a place of work, and agrees to install or arrange the plant, they have an additional duty. This duty is to take all practicable steps to install or arrange it so that it is safe for its intended use. Where a supplier contracts someone else to carry out the installation or arrangement, they are still required to ensure it is installed and arranged safely.

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### **What about plant sold "as is"?**

The duties do not apply to plant that is sold to a buyer second-hand and "as is" i.e, without any representations or warranties about its quality, durability, or fitness, and with the entire risk in those respects to be taken by the buyer. The sale need not be in trade.

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### **What is meant by "plant"?**

"Plant" is defined very broadly. It includes, but is not limited to any: appliance; equipment; fitting; furniture; implement; machine or machinery; tool; or vehicle.

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### **Further information**

This information is a guide only and may not be accurate in all situations. It should not be used as a substitute for legal or other expert advice.

For further information, call Workinfo on 0800 20 90 20, or visit their website at: [www.workinfo.govt.nz](http://www.workinfo.govt.nz).

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