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**The Costs and Benefits of
Complying with the HSE Act, 1992**

by
**Occupational Safety and Health Service
of the Department of Labour (OSH)
Ministry of Economic Development (MED)**

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Labour Market Bulletin

The Department of Labour also publishes the *Labour Market Bulletin* – an annual journal of applied New Zealand labour market research, which contains articles submitted by researchers analysing issues of relevance to the New Zealand labour market or labour market policies. Contributions are encouraged, and will be subject to critical peer review before acceptance.

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The Costs and Benefits of Complying with the HSE Act, 1992

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Abstract

The business sector has expressed ongoing concern that the Health and Safety in Employment Act, 1992 (the HSE Act) is imposing unnecessary and/or excessive costs, particularly on small-to-medium sized companies. The purpose of this research was to see whether the costs imposed on businesses by the HSE Act are excessive or unnecessary and, if so, how they could be minimised. The main findings of the study were that the companies visited tended not to consistently quantify the costs of compliance and were generally unable to provide specific and detailed information on costs. The research showed that how a company perceived the costs of compliance (e.g. whether or not they were excessive) depended on that company's perception of the seriousness of the risk of its particular operation, and/or the extent to which benefits from investment in health and safety were recognised by the company.

This paper was written on contract to the Labour Market Policy Group of the New Zealand Department of Labour. The views expressed in this paper do not necessarily represent the views of the Department.

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1. EXECUTIVE SUMMARY

Introduction

The business sector has expressed ongoing concern that the Health and Safety in Employment Act 1992 (the HSE Act) is imposing unnecessary and/or excessive costs, particularly on small-to-medium sized companies. The Ministry of Economic Development (MED)¹ and the Department of Labour's Occupational Safety and Health Service (OSH) established a joint project to research whether the costs imposed on businesses by the HSE Act are excessive or unnecessary and, if so, how they could be minimised. The objectives of the research were to:

- identify the major costs and benefits to companies of complying with the Health and Safety in Employment Act 1992; and
- to determine, if appropriate, how such costs can be minimised without undermining the intention of the Act.

Health and Safety in Employment Act

The HSE Act is a performance-based legislation, which promotes a flexible, self-managing approach to workplace health and safety. The principal objective of the HSE Act is to prevent harm to employees in the workplace. The Act requires safety in workplaces through systematic analysis of hazards, rather than the pre-HSE Act standard of compliance with specific minimum standards. The rationale for the Act being non-prescriptive is that employers are in the best position to manage effectively hazards in their own workplace. The Act places primary responsibility on the employer, while employees are held responsible for themselves and their actions by a requirement not to act negligently.

The HSE Act is being reviewed by the Department of Labour and it is anticipated that a Bill will be passed by Parliament in the year 2001. The specific proposals that have resulted from the review relate to improving the coverage of the HSE Act, ensuring effective enforcement of the HSE Act, and improving workplace health and safety through employee participation.

Case study approach

The case study method was used because it allows an in-depth focus on the costs and benefits of complying with the HSE Act in a real-life context. Analysis then allows costs to be separated from their context. The strength of case study research is not in statistical generalisations, but in an analysis of 'how' and 'why'. Previous research has usually involved general surveys, which has not provided any depth of understanding of health and safety management costs or differentiated between a firm's health and safety costs and the normal costs of running a business. This study focused on company perceptions of the costs and benefits of complying with the HSE Act.

The companies were selected based on the following criteria:

- *A sector that was easy to access and employs a large number of people.* The manufacturing sector was chosen, as it is definable, easy to access, and employs a large number of people.
- *Different industry risk.* Two industries within the manufacturing sector were chosen: fabricated metal manufacturing (a 'high risk' industry) and clothing (a 'medium risk' industry).
- *Compliant and non-compliant as assessed by OSH.* Companies within each industry were selected according to their level of compliance with the HSE Act, as assessed by OSH.
- *Different sized firms.* A range of company sizes was selected.

¹ formerly the Ministry of Commerce

There were a number of limitations associated with the selection process. Companies were selected from the OSH database, which contained only businesses visited by OSH. As OSH only visits 10 percent of workplaces per year, these businesses are not representative of all business.

Another limitation is that the very worst firms with regard to health and safety (for example "sweatshops") may be underrepresented because of difficulties in locating them (for example if they operate out of a garage in a residential area). In addition, a number of businesses that had a low level of compliance as assessed by OSH, refused to participate in the study.

Determining the actual costs and benefits of compliance was difficult for a number of reasons. When employers were asked to provide information about compliance costs there was some difficulty determining what actual costs of compliance were in isolation from the 'normal' costs of running a business. Another feature that made compliance costs difficult to measure was the performance-based nature of HSE legislation. For example, in taking all practicable steps to ensure the workplace is safe, a company could adopt a range of initiatives or technologies that vary considerably in cost.

Twenty-one companies were selected and fifty-two in-depth interviews were undertaken. In the larger companies, three to four interviews were undertaken, with a 'vertical slice' of employers, managers and employees in each workplace. In smaller companies, one or two interviews were undertaken. Wherever possible a case study visit involved a tour of the worksite.

The focus of the research was on companies' perceptions of the costs and benefits of complying with the HSE Act. The majority of views represented in this report are those of employers. Where possible employee perspectives were obtained and are incorporated. We did not attempt to validate what companies were saying, particularly when they were talking about their experiences with OSH. This was because the focus of the research was on companies' perceptions and regardless of whether these perceptions were accurate or not, the most important thing was that companies *believed* them to be real.

Key research findings

Companies' perceptions of complying with the HSE Act

A key finding of this case study research was that a firm's view of whether the costs of complying with the HSE Act was high or low depended on that company's perception of the level of risk for its own operation and the associated benefits of complying. Previous research has indicated that generally smaller companies consider the costs of compliance as high. This study found that size, while a factor, was not the key factor in how companies viewed costs.

The research team found that the companies studied fell into three groups according to their perceptions of costs and risk:

- Inactive companies
- Reactive companies
- Proactive companies

The following table summaries the key characteristics of each group:

Perceived costs and benefits as low	Perceived costs high in relation to benefits	Perceived costs as investment
<p>Risk perceived as low resulting in a low commitment to health and safety.</p> <p>Health and safety approach driven by their perception their workplace was low risk.</p> <p>Short-term focus to health and safety, with a high reliance on OSH to tell them what to do.</p> <p>Perception that health and safety is not that important in their workplace.</p> <p>Minimal understanding of HSE Act by employers and employees.</p>	<p>Risk perceived as high but health and safety approach sometimes focused more on the fear of prosecution or negative interactions with OSH than developing a dynamic approach to health and safety focused on improvements of actual health and safety conditions.</p> <p>Concerned about being held responsible for employee negligence.</p> <p>Limited understanding of the HSE Act.</p>	<p>Risk perceived as high.</p> <p>Economic incentives and/or concern for welfare of employees drive health and safety</p> <p>Proactive and continuous improvement approach, with high employee participation</p> <p>Health and safety integrated into the running of the business</p> <p>Good understanding of HSE Act by employers and employees</p> <p>Relationship with OSH either not important or good</p>
<i>Inactive companies</i>	<i>Reactive companies</i>	<i>Proactive companies</i>

Difficulty in quantifying costs and benefits of complying with HSE Act

Obtaining specific and detailed information on ‘costs’ (i.e. compliance costs or dynamic costs) was extremely difficult. This was because the companies visited tended not to consistently quantify the costs of compliance. Nor could the majority of companies separate health and safety costs out from the normal day-to-day operational costs of running their businesses. Reactive companies stood out as they represented companies that strongly perceived they had to undertake extra (and unnecessary) activities to achieve compliance. As the majority of companies had not quantified the costs of complying their perceptions became extremely important. Often whether a company perceived these costs as excessive or not depended on whether or not they viewed expenditure on health and safety as beneficial. For example, the majority of reactive companies perceived health and safety to be costly but most had not actually quantified these costs, though they talked about them as being excessive and unnecessary.

The overall costs of complying with HSE Act were not perceived as excessive or unreasonable

Overall companies advised that they did not consider the costs of complying with the HSE Act as excessive or unreasonable. Generally where there were perceptions that costs were excessive or unreasonable these came from reactive companies. These arose mainly from a company’s interaction with OSH.

There was concern by some participants over OSH’s administration of the HSE Act

The purpose of this study was not an evaluation of the role of OSH. However, when companies were asked about the costs and benefits of complying with the HSE Act. The following concerns were raised.

Perceived excessive OSH requirements: Only reactive companies were highly critical of OSH. These companies identified compliance costs as being high. Most of these costs were those associated with the interaction between OSH and a company. Companies that approached health and safety as an imposed requirement tended to view costs as more excessive than companies that relied less on OSH. Any OSH ruling considered excessive or unnecessary by a company tended to have a negative impact on the company's relationship with OSH. Costs resulting from these rulings were seen as high in relation to the benefits. Proactive companies were less likely to be troubled by poor experiences with OSH.

OSH not targeting 'sweatshops': Across all the three groups there was concern that OSH was not targeting the worst employers. Companies felt that non-complying employers did not incur costs and this undermined the competitiveness of companies who were investing in health and safety.

Inconsistency of OSH's approach: Inconsistency of OSH's approach was a concern expressed across all companies. There was a view that outcomes from an OSH visit appeared to be highly dependent on the OSH inspector involved rather than the company's own health and safety situation.

Lack of clarity over the role of OSH: We found differing views on OSH's dual education and enforcement roles. Generally firms were supportive of OSH adopting a more consultative approach and not being so enforcement oriented. However, there was support, especially from employees, for increasing OSH visits and enforcement.

Some employee participants were concerned that there was not sufficient enforcement: There was support for increasing OSH visits and enforcement especially from employees. Some industry groups also thought OSH should increase its enforcement role.

There was general acceptance but limited understanding of the HSE Act

Almost all participants considered that the HSE Act was necessary and that it provided a minimum standard of health and safety. There was, however, limited understanding of the Act due to a range of factors.

Low understanding of the intent of the HSE Act: We found that a high level of awareness and support of the HSE Act² did not mean that companies had a good understanding of its intent. Across the 21 companies there was a wide variation in both the levels of understanding of the HSE Act as a performance-based piece of legislation and its requirements. While proactive companies demonstrated a good understanding of what compliance means under performance-based legislation, many inactive and reactive companies were operating under the old prescriptive approach to health and safety and were highly reliant on OSH to tell them what to do. A number of these companies indicated that they would prefer the previous prescriptive legislation and find it easier and less costly to be told specifically what to do.

The non-prescriptive nature of the Act gave rise to uncertainty: All three Groups, together with the industry groups interviewed, raised a number of specific issues where the non-prescriptive nature of the Act gave rise to uncertainty. A number related to key definitions within the Act, including what constitutes 'all practicable steps' and 'serious harm'. Another concern related to the contractor/principal relationship. Some companies said there was uncertainty about where their responsibility and those of outside contractors began and ended. There is now a trend among companies for contractual arrangements to be more complex, with out-sourcing and multiple-sourcing more common.

Companies felt some improvement in information provision is required: While access to information about the HSE Act was not identified as a major barrier or cost factor by any of the three Groups, both companies and industry groups criticised existing information. This included the need for more industry-specific information and increased training for employees. Companies from all three Groups drew on multiple sources of information including OSH, ACC, private providers, and formal and informal networks. Companies also commented that many of the OSH publications used in the past

² Note that OSH had visited all companies included in this research. Awareness of the HSE Act may be lower among companies that have not been visited by OSH.

were now out of print. A number of companies expressed concern about the cost, quality and relevance of the information and services provided by the private providers of health and safety packages.

The HSE Act rated favourably compared to other legislation: In general across all companies, the HSE Act came out favourably in cost terms when rated alongside other legislation. Legislation considered to impose the most significant compliance costs included the Statistics Act 1975, The Resource Management Act 1991, the tax payment system, recent changes to the ACC legislation and (at the time of the study) the proposed changes contained in the Employment Relations Bill. The ACC legislation and the Employment Relations Act are the subjects of separate and ongoing evaluation being conducted by the Department of Labour (and in the case of the ACC legislation, ACC also), including the degree to which they impose compliance costs on employers.

There were four main drivers behind companies' perceptions of costs and benefits

Perceptions of the costs and benefits of health and safety are shaped by complex interactions between a wide range of factors. We identified four factors that stood out in the research. Companies' perceptions of the seriousness of the health and safety risk, and the size of the company, have been discussed at the beginning of this section Key Research Findings. Two other factors were:

The culture of a workplace: A key component behind a company's perceptions of the costs and benefits of complying was the level of commitment demonstrated by management and employee participation.

External health and safety structure: For some companies external health and safety structures influenced how a company perceived the costs and benefits of complying with the HSE Act.

Key Workplace Statistics

- There are an estimated 160 work-related fatal injuries every year in New Zealand.
- Each year on average OSH investigates one death per week of a worker killed in a workplace accident.
- There are an estimated 400 work-related fatal illnesses every year.
- Someone needs treatment for a workplace incident every two minutes.
- There were 242,000 work-related accident insurance claims in 98/99 (this represents about 1 in 7 workers).
- 30,000 injured employees are off work for five days or more every year.
- 1.25 million days of work are lost every year, a direct cost to employers and the country.
- The real (versus insured) cost of work-related injuries is estimated at \$3 billion for 98/99.
- OSH takes around 200 HSE Act prosecutions a year.
- There were 172 HSE Act related prosecutions in 1998/99, costing employers around \$900,000 in fines.
- In general terms, New Zealand's workplace injury and fatality record is uneven, with certain sectors being 'black spots'. Mining, agricultural, forestry, fishing, construction and transport and storage stand out; we compare poorly with Australia in these industries.
- It is difficult to obtain comprehensive data comparing New Zealand's occupational health and safety performance with other countries. New Zealand's workplace fatality record (4.9/100,000) appears not to be good in comparison with Australia (3.8/100,000) or the United States (3.2/100,000). The New Zealand fatality rates are also consistently higher for self-employed persons.

2. INTRODUCTION

Concern over the high costs of compliance

The business sector has expressed ongoing concern that the Health and Safety in Employment Act 1992 (the HSE Act) is imposing unnecessary and/or excessive costs, particularly on small-to-medium sized companies. Consequently, in June 1999, the Ministry of Economic Development (MED) (formerly the Ministry of Commerce) and the Department of Labour's Occupational Safety and Health Service (OSH) established a joint project to research whether the costs imposed on businesses by the HSE Act are excessive or unnecessary and, if so, how they could be minimised. The objectives of the research were to:

- identify the major costs and benefits to companies of complying with the Health and Safety in Employment Act 1992; and
- determine, if appropriate, how such costs can be minimised without undermining the intention of the Act.

Health and Safety legislation

Workplace health and safety is governed by two Acts of Parliament that are administered by the Department of Labour:

- The Health and Safety in Employment Act 1992
- The Accident Insurance Act 1997³

The Health and Safety in Employment (HSE) Act 1992

The HSE Act is performance-based legislation, which aims to promote a flexible, self-managing approach, to health and safety.

The principal objective of the HSE Act is to prevent harm to employees in the workplace.⁴ The Act requires safety in workplaces through the systematic management of hazards, rather than the pre-HSE Act standard of compliance with specific minimum standards. The rationale for the Act being non-prescriptive is that employers are in the best position to manage effectively hazards in their own workplace. The Act places primary responsibility on the employer, while employees are held responsible for themselves and their actions by a requirement not to act negligently.⁵

Before the HSE Act came into force, health and safety legislation was heavily prescriptive. There were fourteen principal acts. The overall legislative process was time-consuming and unresponsive. The new legislation was aimed at addressing these problems by establishing a 'One Act, One Authority' principle.

³ The Accident Insurance Act has recently been altered into two pieces of legislation. The first changed the ACC scheme from a competitive system to a state monopoly. In early 1999 the previous government opened up workplace injury insurance to a competitive market. The present coalition Government, which came into power in December 1999, made a commitment to rebuild ACC and revert back to a single publicly funded-model. The Accident Insurance Act aims to:

- remove competition from workplace accident insurance
- restore ACC as the monopoly provider of workplace accident insurance and
- re-establish the Accredited Employers Programme

The second piece of ACC legislation is the Injury Prevention and Rehabilitation Bill which is currently receiving submissions on the reintroduction of lump sum payments

⁴ Section 5 sets out the principle objective of HSE Act and the three means to achieve that objective set discussed below.

⁵ Section 19.

The HSE Act requires the employer to exercise a duty of reasonable care

The Act requires employers and others to take 'all practicable steps' towards observing the duties it prescribes. This broadly equates with a 'reasonable care' standard, where what is 'reasonable' is associated with the cost and benefit of preventing harm in particular circumstances.

There are difficulties of interpretation under a performance-based Act. Employers, employees, the Courts and OSH all need to establish what is reasonable care. This becomes a matter of judgement and those involved in the process have different perceptions. Hence, "reasonable care" can only be a consensual or best approximation, and it will change over time.

Review of the HSE Act

The HSE Act is currently being reviewed by the Department of Labour and it is anticipated that a Bill will be passed by Parliament in 2001. This review is examining proposals that aim to:

- *Improve the coverage of the HSE Act* – to ensure that all employees and other people who are in workplaces are covered by a consistent set of health and safety laws
- *Encourage a greater sense of partnership between employers and employees* – to ensure effective communication on health and safety matters
- *Ensure effective enforcement* – to provide for greater incentives for compliance.

The Occupational Safety and Health Service of the Department of Labour (OSH)

The primary function of OSH is to administer the HSE Act, by providing services that encourage sound health and safety management of workplaces. These include information provision, advice, compliance inspections and enforcement activities.

OSH inspectors visit around 10 percent of workplaces a year, predominantly in high-risk industries. 'Blitzes'⁶ in particular regions and industries focus on serious hazards and/or non-compliance. OSH also reaches a further 5 percent of workplaces through investigating reported serious harm incidents.

The Ministry of Economic Development

A key role of the Ministry of Economic Development is to promote economic growth and an environment in which business can operate as efficiently and as effectively as possible. To achieve this the Ministry works to remove barriers to growth and innovation, lower costs to business and improve the regulatory regime under which businesses operate.

While it is recognised that compliance costs cannot be entirely avoided, excessive or unnecessary compliance costs have negative effects. They can discourage growth, innovation and international competitiveness. The Ministry's participation in this research project is part of its work programme aimed at reducing compliance costs to business.

Suggested approach for reading the report

For those readers who only have time for a quick overview, a **Summary of the Research Findings** can be found in **Section 5 (page 18)**.

Section 3 - provides the reader with an overview of the methodology used for this research.

Section 4 - is a brief summary of previous research on the costs of compliance.

Section 5 - presents a summary of the research findings

Section 6 - presents an analysis of the main findings.

Section 7 - presents a more detailed look at the research findings.

Throughout the report examples are drawn from case studies to illustrate companies' views.

⁶ An example is a 1999 campaign that targeted falls in the construction industry.

3. CASE STUDY APPROACH

While there have been a number of studies⁷ undertaken in the area of compliance with health and safety legislation, very few have provided an in-depth understanding of the costs and benefits of complying with the HSE Act. Previous research has tended towards general quantitative surveys, which have not provided any depth of understanding of health and safety management costs nor differentiated between a firm's health and safety costs and the normal costs of running a business⁸

The case study method was chosen as the best available means to fill this knowledge gap. It was anticipated that case study research would allow an in-depth focus on the costs and benefits of complying with the HSE Act in a real life context. Analysis then enables costs to be separated from their context.⁹ The strength of case study research is not in statistical generalisations, but in the analysis of 'how' and 'why'.

Research process

The initial research process consisted of developing the research objectives, questions, the case study framework and a selection process for companies. This involved the following:

- a literature review to inform the research process
- semi-structured interviews and visits with OSH field staff to develop the research team's knowledge of the Act, the role of OSH as the enforcement agency, and issues around compliance costs for companies
- semi-structured interviews with a number of stakeholders to gather a range of perspectives on issues around compliance with the HSE Act (e.g. industry organisations, including union groups, and an occupational health and safety management company).¹⁰

Selection process for companies

Twenty-one companies were selected for this research on the criteria set out below.

A sector that was easy to access and employs a large number of people

The manufacturing sector was chosen, as it is definable, easy to access, and employs a large number of people. There would be more chance that certain findings may be replicated and, if repeated patterns do occur across the sector, there would be more confidence in the overall results.¹¹

Different industry risk

Two industries within the manufacturing sector were chosen: fabricated metal manufacturing (a 'high risk' industry) and clothing (a 'medium risk' industry). The high-risk industry was selected because OSH policies are targeted at such industries and because hazards in the industry are likely to lead to higher compliance costs. A medium-risk industry was chosen as a source of comparison. These two industries also employ significant numbers of people.

⁷ Locke S (1999) *SMEs favour ECA retention*, NZ Business, December,
Jarvis P and Wilkinson R (1998) *Survey of Compliance Costs of New Zealand Farmers: A Study of Costs and an Exploration of Issues*, Ministry of Agriculture and Forestry, MAF Policy Information Paper No.24,
Infometrics (1998) *A Strategy for Manufacturing*, prepared for Employers' and Manufacturing Association Central, October,
Decision Research Ltd (1998) *The Impact of Government Policy on Manufacturing*, November.
Firm Capability Team (1998/99) *Company visits undertaken by the Firm Capability Team*, Ministry of Commerce
House of Representatives (1998) *Inquiry into Compliance Costs for Business*, Interim Report of the Commerce Committee, May
KMPG (1997) *Review of Compliance Costs of Regulation*, done on behalf of the Ministry of Commerce
⁸ Productivity Commission (1996) *Compliance Costs of Taxation in Australia*, <http://www.pc.gov.au/orr/compltax/>
⁹ Yin R (1994) *Case Study Research Design and Methods*, Applied Social Research Methods Series Volume 5:13
¹⁰ Employers Federation, Engineering Printing and Manufacturing Union, Manufacturers' Federation, Canterbury Employers and Chamber of Commerce, Council of Trade Unions, Small Business Company Centres, an Occupational Health and Safety Management Company.
¹¹ Yin R (1994) *Case Study Research Design and Methods*, Applied Social Research Methods Series Volume 5:13

Compliant and non-compliant as assessed by OSH

Previous research on the cost of complying with the HSE Act has not distinguished between whether or not a company complies with the Act. Research has indicated that companies that do not comply with legislation are less likely to disclose their non-compliance, or are more likely to fail to respond.¹² The assumption was that it would be difficult for non-complying companies to provide information regarding costs and benefits. Despite this, the research team decided to attempt to compare compliant with non-compliant companies. However, it proved difficult to gain agreement from those companies to be interviewed.

Companies within each industry were selected according to their level of compliance with the HSE Act, as assessed by OSH. For the purpose of this research 'compliant' companies were defined as those receiving a compliance rating of one or two. 'Non-compliant' companies were defined as those rated a four or five by OSH.¹³

Different size of company

Previous research suggests that company size affects compliance costs. There is a view amongst larger high-profile companies that they are targeted more by OSH, while smaller operators are less frequently targeted.¹⁴ Research also suggests that small-to-medium sized companies¹⁵ struggle with compliance issues, as they have less time and fewer resources.¹⁶ To test these assumptions, the case study included a range of small to medium sized companies and larger companies.

Two researchers, one from each agency, were used for the majority of case studies. Using two researchers strengthened the reliability of the research by providing greater consistency in the interpretation of the data.

Twenty-one companies were studied, with 52 interviews undertaken in total. In the larger companies, three to four interviews were undertaken, with a 'vertical slice' of employers, managers and employees in each workplace. In smaller companies, one or two interviews were undertaken. The interviewees included owners, CEOs, managing directors, shop floor managers, health and safety officers, employees involved in health and safety, and employees in general.¹⁷ Wherever possible a case study visit involved a tour of the worksite.¹⁸

A robust process was used to analyse the data¹⁹ and included the following steps. For each case study, individual interviewers wrote up transcripts of the individual interviews. They analysed the data, drawing also on company documents and background material. This analysis was cross-checked by the paired interviewer and together they recorded summaries of key themes for the case study as a whole.

Cross-case analysis was carried out using a series of project meetings and structured analytical workshops. The intention was to draw out, and weave together, the multiple perspectives and knowledge of policy, occupational health and safety in New Zealand businesses and workplaces.

¹² Bickerdyke I & Lattimore R (1997) *Reducing the Regulatory Burden: Does firm size matter?*, Staff Research Paper, Industry Commission, December.

¹³ The OSH Client Rating System is a tool to monitor the level of workplace compliance. It consists of five rankings, each of which identifies and describes a workplace's ability to manage its own health and safety. The rankings range from ideal (1) through to a high level of non-compliance called critical (5). Ratings given are based on a principal of 'worst case'; i.e. if a worksite generally shows good compliance, but is non-compliant in one aspect of the worksite, then the ratings given reflect the non-compliant aspect.

¹⁴ KMPG (1997) *Review of Compliance Costs of Regulation*, done on behalf of the Ministry of Commerce
Firm Capability Team (1998/99) Company visits undertaken by the Firm Capability Team, Ministry of Commerce
House of Representatives (1998) *Inquiry into Compliance Costs for Business*, Interim Report of the Commerce Committee, May
Bickerdyke I & Lattimore R (1997) *Reducing the Regulatory Burden: Does firm size matter?*, Staff Research Paper, Industry Commission, December.

¹⁵ i.e., with 4-39 employees.

¹⁶ Ministry of Commerce (1999) 5 Steps Ahead Consultation Forums: Bright Future Initiatives Package, July
Firm Capability Team (1998/99) Company visits undertaken by the Firm Capability Team, Ministry of Commerce
Small Business Strategy Project Team (1997) *Small Business Strategy: A review of the literature*, Occupational Safety and Health Service, December.
Mears T & Sundakov A (1997) *Effective Health and Safety Management: Does firm size have an impact on health and safety practices?*, Report for the Department of Labour, NZ Institute of Economic Research, December.

¹⁷ Appendix Two for Company Interview Guide and Appendix Three for Employee Interview Guide.

¹⁸ See Appendix Four for Summary of Interviewees.

¹⁹ Using the techniques of analytic-induction and triangulation.

Focus of research

The focus of the research is company views about the costs and benefits of complying with the HSE Act. Though the research attempted to take a 'vertical slice' of employer and employee perspectives, the employers' perspectives are dominant in this research. There are reasons for this. Firstly we interviewed a large number of employees who were in 'management' positions (for example works manager or production manager). Their views were represented as the employer perspective. Secondly because all respondents were assured confidentiality, in some cases we needed to remove the employee perspective as certain comments may have been recognised by the company. The employee perspective is still incorporated in the research, though not always directly related to any particular company.

We did not attempt to validate what companies were saying, particularly when they were talking about their experiences with OSH. The reason we decided to do this was that the focus was on company perceptions and we did not want to take anything away from that. Regardless of whether these company perceptions were accurate or not, the most important thing was that companies believed them to be real.

Definition of costs

The purpose of the research was to identify the major costs and benefits of complying with the HSE Act and determine if costs could be minimised without undermining the Act's intention. Rather than tie down our discussions with companies to specific and tight definitions of compliance costs we wanted to let companies describe to us what they saw as compliance costs. We were looking in particular at what extra activities the companies felt they had to undertake which in their view they would not generally carry out to achieve what they considered to be a healthy and safe work place. We therefore adopted a wider definition of compliance costs which included not only paperwork and administration structures but also associated compliance costs such as equipment purchases and costs associated with understanding regulation requirements including buying specialist services, staff training and monitoring of compliance costs. We also tried to get some assessment of how compliance costs impacted on a firm's competitiveness and its ability to be innovative.

Limitations associated with this research process

A key limitation of using a case study approach is that due to the small sample size the information will not be representative of all businesses. However as discussed earlier, in this instance, depth of information was required rather than the ability to generalise.

The selection process imposed some limitations on the research results. The range of companies available to be selected was limited to those contained on the OSH database. The database contains businesses visited by OSH and is a mix of those who are compliant and those who are non-compliant with the HSE Act. The database was chosen because it was the best source of businesses that had their compliance with the HSE Act assessed by OSH.

The range of businesses contained within the OSH database is limited for a number of reasons:

- OSH only visits 10 percent of business per year. These businesses are not representative of all businesses on New Zealand as OSH targets particular industries (for example high-risk).
- Businesses that do not operate from a single site (for example contractors) are likely to be under represented. Because their worksite is not fixed, it can therefore be difficult for OSH to locate and visit the site. While many companies in the manufacturing industry operate from a fixed worksite there are some that operate as contractors.
- The businesses with the very worst health and safety practices (for example "sweatshops") may to be under-represented because of difficulties in locating them (for example if they operate out of a garage in a residential area).
- Those listed on the OSH database as the worst cases are often only non-compliant in one aspect of the worksite. In other respects they demonstrate a good level of compliance.

The range of manufacturing and fabricated metal businesses drawn from the OSH database who agreed to participate was also not as wide as planned. A number of businesses that had a low level of compliance, as assessed by OSH, refused to participate in the study.

As was the case with previous research,²⁰ determining the actual costs of compliance was difficult. There are several features that make HSE Act compliance costs difficult to measure. These are discussed below.

- Workplace safety is produced in conjunction with other business activities. When employers were asked to provide information about compliance costs there was some difficulty determining what they were and disentangling those costs as part of running a business. Many companies did not keep a record of how much was spent on health and safety activities generally. Views on what was considered to be a compliance cost varied across companies as well.
- The extent of compliance within a company was difficult to gauge. A company may have been listed on the OSH database as non-complying but have improved significantly since the last visit.
- The impact of legislation in other areas had consequences on workplace health and safety. For example, meeting air quality requirements under the Resource Management Act would also have health and safety benefits.
- The performance-based nature of HSE legislation creates difficulties in measuring compliance costs. For example, in taking all practicable steps to ensure the workplace is safe, a company could adopt a range of initiatives or technologies that vary considerably in cost. The legislation generally does not specify that a company takes particular actions.

²⁰ Productivity Commission, *Work, Health and Safety* [Http://www.indcom.gov.au/inquiry/47workhe/index.html](http://www.indcom.gov.au/inquiry/47workhe/index.html)

4. PREVIOUS RESEARCH ON THE COSTS OF COMPLIANCE

As background to informing this research project on the compliance costs associated with the HSE Act, the research team undertook a review of existing research and studies, both of work undertaken into compliance costs of New Zealand regulation generally and that relating specifically to the HSE Act.

Much of the research undertaken to date on compliance costs has gathered information via surveys focused on a wide range of regulations. Such research has provided little in-depth information or quantification of compliance costs relating to the HSE Act.²¹ It has shown that the HSE Act was identified by most companies as a key piece of legislation they have to deal with, but was generally accepted as a good piece of legislation, essentially requiring good business practice and providing some flexibility for companies as to how they comply. Training and education, especially during the implementation stage, putting in place adequate control systems and reporting procedures were identified as the main areas where compliance costs arose. A number of companies had reported that the Act had forced them to improve their operational and quality management practices.²²

The previous research work shows, however, that there is a very wide range of views held by individual companies about the HSE Act and its associated compliance costs, ranging from those companies who considered the costs of complying to be high, to those who consider the costs of complying to be low. A survey, undertaken by Waikato Management School, of approximately 400 small to medium sized companies in 1999 asked if they believed the compliance costs associated with OSH were excessive. Over 60 percent of respondents thought they were average to low and OSH activities were generally acceptable.²³ Similarly there are companies that would prefer a more prescriptive type of regime, and conversely companies that want even more flexibility in developing their own health and safety regimes. A number of recurrent themes arose in previous research relating to the HSE Act:

- Larger companies considered that OSH's enforcement focus was targeted at them and that smaller companies therefore faced lower compliance costs.
- In generic studies across the spectrum of all regulation, the HSE Act was not generally raised as imposing significant costs on businesses.
- Where companies did see the costs of complying as high, they were usually smaller companies.
- The relationship between OSH and a small business was important in achieving compliance. The move to greater self-regulation and fewer OSH inspections has impacted on smaller companies. Their relationships with OSH have become more negative and/or they often feel isolated and uncertain about what they have to do to comply.²⁴
- There is too much room for differing interpretations by OSH staff, thereby giving rise to costs.
- There was concern that employers can still be held responsible and prosecuted for the foolish actions of their employees.
- Companies with multi-national links (especially Australia and the United States) considered that the HSE Act standards were not as rigorous or as costly to comply with as overseas health and safety requirements.

²¹ KMPG (1997) *Review of Compliance Costs of Regulation*, done on behalf of the Ministry of Commerce, House of Representatives (1998) *Inquiry into Compliance Costs for Business*, Interim Report of the Commerce Committee, May
Firm Capability Team (1999) *Gearing Up: a study of best practise manufacturing in New Zealand*, Ministry of Commerce, August
Ministry of Commerce (1999) 5 Steps Ahead Consultation Forums: Bright Future Initiatives Package, July
Jarvis P and Wilkinson R (1998) *Survey of Compliance Costs of New Zealand Farmers: A Study of Costs and an Exploration of Issues*, Ministry of Agriculture and Forestry, MAF Policy Information Paper No.24
KMPG (1998) Case Study Assessment of the Compliance Costs of the Resource Management Act, December
Ministry of Commerce Compliance (1991) *Cost Review of the Building Act*, Ministry of Commerce

²² Firm Capability Team (1999) *Gearing Up: a study of best practise manufacturing in New Zealand*, Ministry of Commerce, August

²³ Locke S (1999) *SMEs favour ECA retention*, NZ Business, December.

²⁴ Lamm, F (1999) *Being Resource Smart: OHS in the Small Business Sector*, Keynote Speaker at the National Occupational Health and Safety Awareness Week Conference, Auckland

Further common themes emerged from research undertaken on compliance costs of regulations and other specific pieces of legislation (for example the Resource Management Act and the Building Act):

- Companies had difficulties determining what compliance costs were and distinguishing them from the normal operational costs of a business.
- Often the costs perceived as the most significant were not compliance costs at all, but inconveniences, which although real, were difficult to quantify.
- Perceptions of “compliance costs” may often be as much about fear and uncertainty as they are about time or money²⁵
- Legislation that provides incentives to comply or gives rise to tangible benefits is usually preferred.
- The cumulative effect of legislation, in particular the implementation of a large volume of new regulation over the last decade and the complexity of this regulation, is seen as a burden to companies and especially small to medium sized ones. These companies find it difficult to devote time and resources to gathering and using information about regulations and to ensure they are complying.
- Inconsistency of advice by the administering authority can create rise to uncertainty and therefore increased costs for companies.
- The lack of clarity of the regulation can increase costs for companies.
- The lack of easy access to good quality information can increase costs for companies.
- Duplication and/or conflict between different pieces of legislation can increase costs for companies.

The research team used the findings outlined above to inform its own work and to help develop the questionnaire that was used as the basis for discussion with the 21 individual companies interviewed.

²⁵ Jarvis P and Wilkinson R (1998) *Survey of Compliance Costs of New Zealand Farmers: A Study of Costs and an Exploration of Issues*, Ministry of Agriculture and Forestry, MAF Policy Information Paper No.24

5. SUMMARY OF RESEARCH FINDINGS

Companies' perceptions of complying with HSE Act

A key finding of this case study research was that a firm's view of whether the costs of complying with the HSE Act was high or low depended on that company's perception of the level of the risk for its own operation and the associated benefits of complying. Previous research has indicated that generally smaller companies consider the costs of compliance as high. This study found that size, while a factor, was not the key factor in how companies viewed costs

The 21 companies clustered into three groups according to their cost/benefit perceptions:

- Inactive companies
- Reactive companies
- Proactive companies

Identifying characteristics of these three groups are on page 20:

Difficulty in measuring/quantifying the costs and benefits of complying with the HSE Act

Obtaining specific and detailed information on 'costs' was extremely difficult. This was because the companies visited tended not to consistently quantify the costs of compliance. The majority of companies had not quantified the costs and benefits of complying with the HSE Act. Nor could the majority of companies separate health and safety costs out from the normal day-to-day operational costs of running their businesses.

As the majority of companies had not quantified the costs of complying their perceptions became extremely important. Often whether a company perceived these costs as excessive or not depended on whether or not they viewed expenditure on health and safety as beneficial.

Overall the costs of complying with the HSE Act were not perceived as excessive or unreasonable

Generally companies did not consider the costs of complying as excessive or unreasonable. Where there was a perception that costs were excessive or unreasonable, these generally arose from a company's interaction with OSH. (see reactive group below)

There was concern by some participants over OSH's administration of the HSE Act

Perceived excessive OSH requirements: Only reactive companies were highly critical of OSH.

OSH not targeting 'sweatshops': Across all three Groups there was concern that OSH was not targeting the worst employers. Companies felt that non-complying employers did not incur costs and this undermined the competitiveness of companies who were investing in health and safety.

Inconsistency of OSH's approach: Inconsistency of OSH's approach was a concern expressed across all companies. There was a view that outcomes from an OSH visit appeared to be highly dependent on the OSH inspector involved rather than the company's own health and safety situation.

Lack of clarity over the role of OSH: We found differing views on OSH's dual education and enforcement roles. Generally firms were supportive of OSH adopting a more consultative approach and not being so enforcement oriented. However, there was support, especially from employees and some industry groups, for increasing OSH visits and enforcement.

There was general acceptance but limited understanding of the HSE Act

Almost all participants considered that the HSE Act was necessary and that it provided a minimum

standard of health and safety. There was, however, limited understanding of the Act due to a range of factors.

Low understanding of the intent of the HSE Act: We found that a high level of awareness and support of the HSE Act did not mean that companies had a good understanding of its intent. Across the 21 companies there was a wide variation in both the levels of understanding of the HSE Act as a performance-based piece of legislation and its requirements.

The non-prescriptive nature of the Act gave rise to uncertainty: All three Groups, together with the industry groups interviewed, raised a number of specific issues where the non-prescriptive nature of the Act gave rise to uncertainty.

Companies felt some improvement in information provision is required: While access to information about the HSE Act was not identified as a major barrier or cost factor by any of the three Groups, both companies and industry groups criticised existing information.

The HSE Act rated favourably compared to other legislation: In general across all companies, the HSE Act came out favourably in cost terms when rated alongside other legislation.

There were four main drivers behind companies' perceptions of costs and benefits

Perceptions of the costs and benefits of health and safety are shaped by complex interactions between a wide range of factors. We identified four factors that stood out in the research. Companies' perceptions of the seriousness of the health and safety risk, and the size of the company have already been discussed at the beginning of this section. Two other factors were:

The culture of a workplace: A key component behind a company's perceptions of the costs and benefits of complying was the level of commitment demonstrated by management and employee participation.

External health and safety structure: For some companies external health and safety structures influenced how a company perceived the costs and benefits of complying with the HSE Act

Summary of the three groups

<i>Inactive companies</i>	<i>Reactive companies</i>	<i>Proactive companies</i>
<p>Generally saw the costs of health and safety as non-existent or minimal and the benefits difficult to identify.</p> <p>Indicated that the majority of their costs arose largely from their interaction with OSH. Generally had a positive relationship with OSH. The perception was that these costs were modest and reasonable if sometimes unnecessary. Inconsistency of OSH requirements was raised.</p> <p>Perceived their workplace was low risk and this drove their approach to health and safety.</p> <p>Generally assessed their risk as low with a high reliance on employee common sense.</p> <p>Generally had a short term, not systematic, approach to health and safety — and tended to focus on obvious physical hazards.</p> <p>Tended to have a low level of planning, leadership and management commitment to health and safety.</p> <p>Showed general support for the intent of the HSE Act.</p> <p>Tended to have a low understanding of the intent of the HSE Act.</p> <p>Advised that complying with HSE Act had not impacted on their competitiveness or ability to innovate.</p> <p>Had generally low employee awareness of health and safety issues. Employee participation in the company's health and safety approach was low and there was little employee criticism of the company's health and safety approach.</p>	<p>Saw the costs of complying as high in relation to benefits received.</p> <p>Indicated that these high costs were generally related to their interaction with OSH. Generally had negative relationships with OSH and felt OSH should work more in partnership with employers. The perception was that OSH's actions were costly and unnecessary. OSH was too enforcement orientated and rigid. There was concern over OSH's targeting polices and a view that OSH 'unfairly' picked on larger companies.</p> <p>Were largely health and safety compliance driven often with a fear of prosecution.</p> <p>Considered complying with the HSE Act had a negative impact on their competitiveness and there was a perception that their competitors were not complying.</p> <p>Assessed their operations as high-risk and were often concerned over employees' negligence.</p> <p>Showed commitment by management to health and safety, but with a tendency to focus on physical safety issues not occupational health aspects.</p> <p>Demonstrated generally low employee participation in their health and safety approach.</p> <p>Showed a general support for the intent of the HSE Act.</p> <p>Generally demonstrated a low understanding of the intent of the HSE Act.</p> <p>Had employees who were generally aware of health and safety issues. A number of employees perceived the HSE Act as a safeguard against employers' poor health and safety practices and supported OSH increasing its enforcement role.</p>	<p>Generally did not regard the costs of compliance as excessive or unnecessary.</p> <p>Tended to have integrated health and safety costs into the operation of the company and perceived such costs as an investment into their company.</p> <p>Generally did not focus on the costs of interacting with OSH and had moved beyond purely focusing on compliance. Generally had a positive relationship with OSH — although there was some concern over OSH's inconsistency, targeting polices and OSH's dual education/enforcement role.</p> <p>Had a health and safety approach that was largely driven by economic incentives and/or the welfare of employees.</p> <p>Had a proactive, comprehensive and systematic approach to health and safety with many companies focusing on both "physical safety" and "health" aspects.</p> <p>Showed a high management commitment to health and safety.</p> <p>Assessed the risk of their operations as high.</p> <p>Demonstrated high employee participation in the company's health and safety approach.</p> <p>Showed general support for intent of the HSE Act.</p> <p>Demonstrated a good understanding of intent of the HSE Act.</p> <p>Had employees who generally had a high level of awareness of health and safety issues. Many employees saw the HSE Act as a form of a safe guard against employers who have, or might otherwise have poor health and safety practices.</p>

6. WHAT DOES THE RESEARCH TELL US?

The research found that a company's perceptions about the costs and benefits to complying with the HSE Act were closely linked to their health and safety approach. Below is a *simple* continuum to illustrate the three groups developed in this research (see figure 1). The continuum does not fully describe the complexities and over-laps that we found and not all business fitted neatly into the three – hence the dotted lines separating the three descriptions.

Figure 1: Three types of companies – a simple continuum²⁶

Perceived costs and benefits as low	Perceived costs high in relation to benefits	Perceived costs as investment
<p>Risk perceived as low resulting in a low commitment to health and safety.</p> <p>Health and safety approach driven by their perception their workplace was low risk.</p> <p>Short-term focus to health and safety, with a high reliance on OSH to tell them what to do.</p> <p>Perception that health and safety is not that important in their workplace.</p> <p>Minimal understanding of HSE Act by employers and employees.</p>	<p>Risk perceived as high but health and safety approach sometimes focused more on the fear of prosecution or negative interactions with OSH than developing a dynamic approach to health and safety focused on improvements of actual health and safety conditions.</p> <p>Concerned about being held responsible for employee negligence.</p> <p>Limited understanding of the HSE Act.</p>	<p>Risk perceived as high.</p> <p>Economic incentives and/or concern for welfare of employees drive health and safety</p> <p>Proactive and continuous improvement approach, with high employee participation</p> <p>Health and safety integrated into the running of the business</p> <p>Good understanding of HSE Act by employers and employees</p> <p>Relationship with OSH either not important or good</p>
<i>Inactive companies</i>	<i>Reactive companies</i>	<i>Proactive companies</i>

Another major finding was that, overall, companies did not perceive the costs of complying with the HSE Act as excessive or unreasonable. Where there was a perception that costs were excessive or unreasonable (reactive companies) these generally arose from a company's negative interaction with OSH, which will be explored further in this section.

This section explores differences and similarities between the three groups in the following areas:

- Difficulty in measuring/quantifying the costs and benefits of complying with HSE Act
- Drivers behind companies' perceptions of costs and benefits
- Companies' HSE Act knowledge
- Companies' perceptions of how OSH is administering the HSE Act.

²⁶ The three clusters identified in the ACC case study were categorised as (a) the Laissez Faire companies (those who did not see health and safety as a significant management issue) (b) the Active companies (those who perceived health and safety as a significant issue but did not integrate it into other workplace procedures) and (c) the Integrated cluster (those companies who had the most developed health and safety management system, supported by a workplace culture that ensured high level of employee participation and commitment).

Difficulty in quantifying costs and benefits

The purpose of this research was to identify the major costs and benefits of complying with the HSE Act and to determine, if appropriate, how such costs can be minimised. In particular, the research was interested in looking at what extra activities the companies felt they had to undertake which in their view they wouldn't generally carry out to achieve what they considered to be a healthy and safe work place. The research team found that obtaining specific and detailed information on 'costs' (that is compliance costs or dynamic costs) was extremely difficult. This was because the companies visited tended not to consistently quantify the costs of compliance. Nor could the majority of companies separate health and safety costs out from the normal day-to-day operational costs of running their businesses (See Example 1). Reactive companies stood out as they represented the companies that strongly perceived they had to undertake extra (and unnecessary) activities to achieve compliance (for an illustration see example 8 on page 39).

Example 1: Large clothing company — proactive group ***Difficulty in quantifying time and money spent on health and safety***

The operations manager of a company that was very proactive about health and safety was unsure how much time and money was actually spent on health and safety. He thought the greatest cost would have been time spent in meetings. While he saw time spent on health and safety as an investment, he noted that it does take a lot of time. He spent time every day on health and safety issues, however had difficulty distinguishing between production issues, and health and safety issues. He didn't think this was a problem because if people get injured or sick they have time off work and this is also a cost to the company.

Importance of perceptions

As the majority of companies had not quantified the costs of complying, their perceptions became extremely important. Often whether a company perceived these costs as excessive or not depended on whether or not they viewed expenditure on health and safety as beneficial. For example the majority of companies from the reactive group perceived health and safety to be costly, but they had not actually quantified these costs, though they talked about them as being excessive and unnecessary.

These perceptions were not always based on monetary costs. For example at least one company talked more about the 'psychological' costs in terms of stress (for example stress associated with interactions with OSH) than actual monetary costs (see page 36).

In contrast the majority of companies from the proactive group perceived money spent on health and safety as an investment rather than a cost. This was despite the fact some of these companies spent large amounts of money on health and safety (see example 12 on page 44).

Drivers behind companies' perceptions of costs and benefits

Perceptions of the costs and benefits of health and safety are shaped by complex interactions between a wide range of factors. The research is only going to briefly mention four factors that stood out in this research:

- risk perception
- the culture of a workplace
- company size
- external health and safety structure

Risk perception as a key driver

The research found that a key driver behind companies' cost perceptions was their perception of the seriousness of the health and safety risk.

Companies varied considerably in their perceptions of risks to health and safety and the extent to which they believed those risks could be controlled. These perceptions resulted in different views on the costs and benefits of spending money to reduce these risks. What was important was not whether these perceptions of risk were accurate but that the companies *believed* them to be real and accurate.

For example the extent to which companies believed their employees were at risk of contracting OOS varied greatly - even within the same industry. For one large clothing company in the inactive group they did not think OOS was a significant problem and thought in many cases employees could not be trusted in this area (for example they would make up an OOS problem). On the other hand, two large clothing companies from the proactive group believed the risk of employees developing OOS was very high and had put in place extensive measures to reduce this risk (see example 10 on page 42 & example 11 on page 43).

Overall inactive companies perceived themselves to be low risk and as a result did not see the need to spend much on health and safety. These companies had a limited understanding of the intent of the HSE Act and their health and safety was driven by their perception that their workplace was low risk.

Proactive companies, with one exception, perceived themselves to be high risk. These companies understood that they were required to provide healthy and safe workplaces and had taken some steps towards doing so. However, they demonstrated a limited understanding of the performance-based aspect of the HSE Act. The majority of these companies were driven by the need to comply with the Act and were doing what they thought was required to comply. A number of companies had a strong fear of prosecution.

Proactive companies perceived the risk of health and safety as relatively high. Unlike the two previous groups they were primarily more concerned about the economic risk (i.e. loss to productivity) and/or the human risk (i.e. potential injury to employees). These companies were not solely concerned about the risk of non-compliance.

A literature review concluded that people consistently estimate risk inaccurately, or have unstable risk perceptions.²⁷ Personal experience and stories appeared to play a role in the development of each company's perception of risk, particularly for the inactive and reactive companies. For example one large clothing company from the inactive group talked about a past incident where an employee claimed ACC because of a sore arm. The owner believed the employee just wanted to get ACC so she could have a baby; as a result the employer was very wary of all claims regarding OOS. Companies from the proactive group three were more likely to use a range of sources and these sources were more reliable and comprehensive. For example, a number of companies would undertake regular analysis of past accidents.

The research found the actual industry risk was not always as influential as a company's own perception of the risk: i.e., a company's assessment of the risk to health and safety was sometimes a more influential driver of behaviour than the overall level of risk attributed to the industry.

Although companies in the high-risk fabricated metal industry were more likely to perceive the risk as high, there were a number of exceptions. A group of large clothing companies (medium risk) perceived the risk as high (proactive group). A group of small to medium sized metal companies had perceived the risk as low (inactive group).

Culture of workplace

Workplace culture also influenced how a company perceived the costs and benefits of complying with HSE Act. Two key aspects to this were the commitment of management to, and employee participation in, improving health and safety.

²⁷ Hale R and Glendon I (1987) *Individual Behaviour in the Control of Danger*, Elsevier, Amsterdam: Elsevier Science Publishers B.V.

Commitment by management

A key component behind a business's perceptions of the costs and benefits of health and safety was the level of commitment demonstrated by management. In the proactive group management commitment to health and safety was high and money spent on health and safety was perceived as an investment in the effective running their businesses.

In the other two groups management commitment to health and safety was more limited. Generally these businesses perceived health and safety as something that was imposed on them. Expenditure on health and safety was seen as an extra and few saw how it could improve their business.

It is just another Act that I have to tick off my to do list that is not directly related to what I have to do here.

(Managing Director, large clothing company — inactive group)

Employee participation

High employee participation in health and safety was a key characteristic of proactive companies. The majority of these companies demonstrated good communication between employees and employers and all had in place some form of employee participation for example health and safety committees. The majority of these employers trusted and respected their employees, and this was reflected in their willingness to listen to their views.

In the inactive and reactive groups employee participation was not as strong. In the inactive group employee participation in health and safety initiatives was low and no company had a dedicated health and safety representative or held regular health and safety meetings. Reactive companies had systems in place for employee participation but in some cases the systems were not consistently adhered to or seen as a high priority. The majority of reactive employers did not trust their employees and many voiced concerned about employee negligence.

Company size

Size did play a role in how companies perceived the costs and benefits of complying. The larger companies were more able to afford to have a dedicated person working on health and safety. As a result these companies tended to fall into the proactive group and perceived money spent on health and safety as an investment in their business. Previous research suggested that small to medium companies struggle to deal with compliance issues as they find it difficult to devote time and resources to ensure their compliance.²⁸ However the research also found that just because a company is large did not necessarily mean that they devoted adequate time and resources to improving health and safety. Size also did not mean they understood what they were required to do. There were large companies in the inactive group who devoted minimal resources to health and safety and perceived costs and benefits as low.

There was also a number of small to medium sized companies in the proactive group who devoted substantial resources to health and safety, as they perceived the risk as high. An industry organisation interviewed for this research believed that a key driver of health and safety is the (perceived) *size of risk* rather than *size of company*. However, as an indirect factor size is important as a determinant of resources.

External health and safety structure

For some companies external health and safety structures influenced how a company perceived the costs and benefits of complying with HSE Act. The occupational and safety management firm interviewed for this research believed that New Zealand as a whole was ten years behind more advantaged countries, and companies with interests or influences off-shore were more likely to have a

²⁸ Small Business Strategy Project Team Small Business Strategy. A Review of the Literature, Occupational Safety and Health Service, December 1997
Lamm F (1999) OHS in Small Businesses: Australian and New Zealand Comparison. Paper presented to the 6th Annual Conference of ANZOHSE, Auckland

greater awareness of health and safety. A number of companies made comments that reinforced this view.

A small number of companies followed an offshore parent company for their health and safety structure. One found the parent company's requirements were far greater than requirements of New Zealand legislation. They found HSE Act requirements were not as advanced and OSH was hard to deal with (see Example 8 page 39).

ACC and private providers were other examples of external forces that influence how a company perceived the costs and benefits of complying with HSE Act. The financial incentives provided by ACC were an influential driver for many companies. Companies could achieve reductions of 10 to 20 percent if they undertook certain procedures that reduced the incidence and severity of accidents. For a number of companies the ACC financial incentives, particularly the move to privatisation, prompted them to review their health and safety systems.

General acceptance but limited understanding of the HSE Act

Among the 21 companies interviewed there was a high level of awareness of the existence of the HSE Act and all companies said they supported the intent of the Act. A number of industry groups and companies interviewed thought that since the Act's introduction in 1992, awareness of the Act and its requirements has been increasing. However, as stated earlier, all the companies in this research had some contact with OSH. Awareness of the HSE Act may be lower amongst companies not visited by OSH.

The research team found however, that this general support for and increasing awareness of the Act did not, in fact, mean that the companies had a good understanding of its *intent*. Across the 21 companies there was a wide variation in both the levels of understanding of HSE Act as a performance-based Act and knowledge about its requirements.

As a general rule proactive companies demonstrated a good understanding of what compliance means under performance-based legislation. These companies identified the benefits of working with this flexible type of legislation and tended to have a comprehensive approach to health and safety.

In contrast, inactive and reactive companies did not have a good understanding of the legislation. Many were operating under the old prescriptive approach to health and safety and were highly reliant on OSH to tell them what to do to. Companies in this category tended to make comments to the effect, *'I just want OSH to tell me what to do'* or *'why can't OSH give me definite rulings as to whether this machine is safe?'*

The occupational health and safety management firm interviewed for the research agreed that while there is general awareness of the HSE Act, only a very small percentage of businesses fully understand the intent of the Act. They believe that health and safety is still perceived as something good to have but not something that is an integral part of being in business.

The difficulties of working under a performance-based act

It was clear that some companies in the inactive and reactive groups struggled to work with the non-prescriptive nature of the Act.

Our research showed that proactive companies were able to work more effectively with the performance-based legislation. Many of the employers demonstrated a good knowledge and understanding of the legislation and all had someone working on health and safety within the company, or relied on an external source (for example an overseas parent company or a private health and safety consultant) to provide this guidance. Many of the companies in this category were large. A number of larger companies thought that the legislation was more suited to large companies and that smaller companies do not have the same resources or economies of scale to enable them to manage health and safety effectively.

Big companies can afford people like me; small companies need to muddle through.

(Health and Safety Manager, large fabricated metal company — proactive group)

Industry groups interviewed for this research also thought that smaller companies struggle with the performance-based aspect of the Act and it was best suited to larger companies²⁹. Nevertheless they agreed with the non-prescriptive style of the Act, stating that it gives companies greater flexibility to develop their own approaches to health and safety.

There were a number of exceptions in the research where smaller companies from the proactive group were effectively working with the legislation.

Companies from the inactive and reactive group appeared not to understand the nature of the HSE Act. While only a small number of companies talked directly about the difficulties of working with the flexibility of the HSE Act, the comments made by a number of companies in these groups reflected an inherent misunderstanding of the Act. Companies in these categories made comments about just wanting to get a compliance 'tick' from OSH so they could get on with the job. One large fabricated metal business, from the reactive group, was particularly frustrated that OSH could not give definite answers.

Specific areas of uncertainty

A number of specific issues relating to the uncertainty of the non-prescriptive nature of the Act was raised across all the three groups and industry groups interviewed. A number related to key definitions within the Act, including what constitutes 'all practicable steps', and 'serious harm'. One company expressed the view that the definition of 'all practicable steps' could lead to companies doing more than was necessary and therefore incurring unnecessary costs. There was a call for these definitions to be revisited.

Another concern related to the contractor-principal relationship. Some companies said there was uncertainty about where their responsibilities and those of outside contractors began and ended. One company gave an example where outside companies making deliveries to its factory used the company forklift to unload goods, whereas the rule in the company was that only those who had been trained in its use were allowed to drive it. They were concerned that it would be the company's responsibility if there were an accident.

Industry groups also confirmed that the contractor-principal relationship was an area of increasing concern. There is now a trend among businesses for contractual arrangements to be more complex, with out-sourcing and multiple-sourcing more common. While case law is building, this appears to be an area where OSH could give more guidance to companies.

In some cases where companies had been prosecuted, they believed it was unfair. The two types of incidents employers identified on the subject of unfair prosecutions were accidents where employees did silly or impulsive things and were injured, and '*freak accidents*' that the company had done everything in its power to prevent. One industry group interviewed thought that in most cases accidents result from a breakdown in production rather than the actions of the person injured. The issue of 'macho' culture was also raised by the occupational health and safety management firm interviewed. They believe it is being used as an excuse to blame employees. They thought it is not so much the '*macho*' culture as a culture of pressure on employees to work in all conditions, and to cut corners in terms of health and safety.

Access to and quality of information on HSE Act

Access to information about the HSE Act was not identified as a major cost factor or barrier by any of the three groups. Generally none of the companies who had tried to obtain information appears to have had problems and some are drawing on multiple information sources, including OSH, ACC, and private providers.

Companies (particularly from the proactive group) and industry groups, however, raised a wide range of criticisms about the existing information and many made suggestions for improvement:

- A simplified form of the Act should be developed for both employers and employees.

²⁹ Manufacturers Federation, Canterbury Employers and Chamber of Commerce

- Information being released by OSH is constantly changing and coming out in ‘dribs and drabs’, which is confusing and difficult for companies to keep up with.
- Good information published by OSH in the past is now out of print.
- The three-step basic guide put out by OSH was good initial advice but a more detailed guidance is needed.
- More industry-specific information is needed. Industry and OSH should work together to develop codes of compliance for specific industries.
- More information on ‘benchmarking’ providing a standard of compliance that companies need to reach.
- The OSH ‘WorkSafe Week’ is not effective. More focus is required on day-to-day solutions and more emphasis on the roles and responsibilities of employees, which might help to overcome the ‘macho’ type behaviour in some companies.
- More training on health and safety issues for employees *before* they commence employment. For example health and safety units built into the curricula of schools and polytechnics and as modules as part of the apprenticeship training programmes.
- Better training for OSH staff with more industry specific and technical training.
- The OSH website was regarded as an excellent source of information but was not widely enough publicised.
- The introduction of a one-stop shop for businesses on all regulation including the HSE Act and that this is done through the Bizinfo network.
- Increases in OSH visits and more support for small to medium sized companies.

Across all the groups there was a range of views expressed about the services provided by private providers. Some companies were pleased with the service they received, but the dominant view was critical of the role and the costs of the services provided by this group. A number felt the private providers used scare tactics to sell their products, and also that they sold generic manuals claiming that a manual is all that is required of companies to comply with the HSE Act. One employer thought that ‘consultants lead small companies down the garden path.’ Companies felt that this was an area that the Government should look at closely.

When OSH got restructured, the ex OSH employees became health and safety consultants with large price tags. This got industries’ back up against them. Our company took the responsibility to look after its own health and safety.

(General Manager, large fabricated metal company — reactive group)

HSE Act favourable compared to other acts

Companies were asked to rate, in terms of compliance costs, the HSE Act along side other pieces of legislation. In general across all companies the HSE Act came out favourably. The majority of companies could see benefits in having a healthy and safe work place. It was also clear that the HSE Act was viewed by a number of companies as one of the key requirements that they had to deal with on a day to day basis.

The legislation considered to impose the most significant compliance costs included those of The Statistics Act, the Resource Management Act, the tax payment system, changes to ACC and the (then) proposed Employment Relations Bill.

Statistics drive me silly. I get them every three months. It would probably be all right if I had a computer. It takes me half a Saturday and Sunday. They are my worst nightmare. It is like doing a stocktake every three months, just as our accountant has to do every year. We don’t see the end result, where does it all go to? If you don’t get the overall picture, it doesn’t help you much.

(Owner, small to medium sized clothing company — inactive group)

A high number of companies supported the privatisation of ACC because of the lowered premiums. All talked of the cost savings they had made and were concerned about ACC returning to a state monopoly.

Why does the government need to be involved in insurance? What is the government doing to create behavioural change in ACC? Don't fix what isn't broken.

(Owner, large clothing company — inactive group)

Some employers believed that the privatisation of ACC had resulted in employers reviewing health and safety systems, as they had financial incentives to be informed and to reduce accidents. There was concern that changing ACC back to a state monopoly may be a disincentive and some companies may 'drop off' some of their health and safety efforts.³⁰

Duplication between the HSE Act and other legislation

Duplication between the HSE Act and other legislation did not appear to be a major problem but there were a few instances. In the case of an electrical fire, for example, a company may have to report to a number of agencies i.e. OSH, Ministry of Economic Development (which has responsibility the Electricity and Gas Acts), the Fire Service and ACC. Although one company thought that it was better to have duplication than to have gaps, this may be an area for officials to address.

Conflict with other legislation

Overall the HSE Act did not appear to significantly conflict with other legislation. One employer mentioned that the Privacy and Human Rights Acts prevent them from obtaining a person's medical background for employment purposes. One company claimed the Privacy Act affected its ability to test employees for drugs and alcohol at work, which, in turn, impacted on its ability to provide a safe work place. The only other area identified was where there was potential conflict was in relation to the storage of hazardous wastes.

The HSE Act as a safeguard for employees

Where there was high employee awareness of health and safety there was also a perception that the HSE Act was a form of protection. Many employees from reactive and proactive companies, who were aware of health and safety issues, did have did not think companies would do much without the Act (see top of page 38 and bottom of page 42).

No unions anymore, a person has got to look after themselves. With cost cutting, health and safety is the first thing to go. Without [the Act] I don't think companies would do anything, well none I have worked for anyway.

(Employee, small to medium sized fabricated metal company — reactive group)

Employees that were less aware of health and safety generally came from inactive companies. Employees from these companies did not say they thought the HSE Act was a form of protection for them. In many cases they were unaware there even was such an Act. Generally employees from the inactive group thought their company was 'pretty good' and that their company's health and safety practices would not alter if the HSE Act did not exist (see page 34).

Concern over OSH's administration of HSE Act

The purpose of this research was not an evaluation of the role of OSH. However, when companies were asked about the costs of complying, OSH was often mentioned.³¹ As noted in section three, response from OSH was not sought regarding comments made by companies about OSH. What we are presenting is purely companies' perceptions.

Only reactive companies were highly critical of OSH. The majority of these companies perceived rulings made by OSH during an inspection to be unreasonable and unnecessary. In many cases the

³⁰ Manufacturers' Federation, Canterbury Employers and Chamber of Commerce, Employers Federation

³¹ As noted in section three all the companies were chosen because they had been previously visited by OSH

employer perceived OSH as too enforcement-orientated. However, the majority of companies in this group also demonstrated a limited understanding of the performance-based aspects of the HSE Act. They were largely health and safety compliance driven, often with a fear of prosecution, rather than the need to continuously improve health and safety for its own sake.

There were also a number of concerns about OSH raised by all the three groups. This section looks at why reactive companies were highly critical of OSH, and highlights three concerns about OSH that were identified by all companies:

- OSH's not targeting 'sweatshops'
- Inconsistency of OSH's approach
- Lack of clarity over the role of OSH.

Perceptions of OSH's excessive requirements

Reactive companies thought compliance costs were high and most of these costs were as a result of the interaction between OSH. Those companies that approached health and safety as a requirement imposed on them, viewed costs as more excessive than those companies that relied less on OSH. Because these companies relied more heavily on OSH to tell them what to do they were more affected by OSH rulings and conflict was more likely. Any ruling that was considered excessive or unnecessary tended to have a negative impact on the company's relationship with OSH.

Proactive companies did not approach health and safety as an imposed requirement, were less reliant on OSH and therefore tended to view rulings more objectivity.

Often employers from reactive companies had a negative perception of OSH because in some cases they had addressed a health and safety issue only to find that the OSH inspector disagreed with the approach chosen. In many cases, rulings made by OSH during an inspection were seen as unreasonable and unnecessary. Costs resulting from these rulings were seen as high in relation to the benefits. Many of these employers perceived OSH as too enforcement-orientated. The research found that sometimes OSH's interaction with a company led to an outcome that was costly in time and resources (see Example 2).

Example 2: Small to medium sized clothing company -- reactive group *Example of costs of compliance from interaction with OSH*

This small to medium sized clothing company saw the compliance side of the Act as a cost. Some things required by OSH were '*over the top*'. They gave the following example: OSH visited the factory and recommended that they employer put a chain across a doorway on the second floor of the building. So the company did this. Then OSH came back the following year and said they needed to put a solid timber barrier up – which they did. The following year OSH told them to go back to having a chain. In the end they put up doors.

The company thought the intent of the Act was fine but what OSH required them to do to comply was at times unreasonable. This company felt a lot of time is wasted over '*niggly things*' that do not contribute to the broad benefits of the Act. Prior to the Act they used '*common sense*', now they feel that OSH are '*nagging*' them.

The occupational health and safety management firm interviewed for this research believes that many OSH inspectors are continuing to work using the old prescriptive approach and identifying specific hazards rather than looking at overall hazard management systems. They believe OSH is sending the wrong message. Companies often express an intention to comply but do not necessarily understand what compliance means. They often believe that if they have bought a manual and put up a few signs then that is sufficient. The management firm believes that companies are still looking for prescriptive answers and that, in order to move companies from a prescriptive to a performance based approach, the motivator should be improved health and safety outcomes rather than compliance with the Act.

OSH's not targeting 'sweatshops'

Across all three groups there was an overall concern that OSH was not targeting the really 'bad' employers. A group of large companies perceived that smaller non-complying 'bad sweatshops' were getting away with poor health and safety practices, as OSH does not target them. Some large companies felt that OSH was targeting them unfairly because of their size.

We spend a lot of money on health and safety but our competitors do not. Smaller companies do absolutely nothing. Some of them are disgusting. Large companies like us have to bear a lot of costs when it comes to health and safety.

(Division manager, large fabricated metal company —proactive company)

A small number of employees, mainly from reactive companies, supported OSH increasing its enforcement role.

Health and safety organisations were also concerned about the lack of focus on small, non-complying companies. The Small Business Enterprise Centre considered that there was a low level of awareness of health and safety requirements amongst small businesses.

Inconsistency of OSH's approach

Inconsistency of OSH's approach was a concern expressed across all companies. There was a view that outcomes appeared to be highly dependent on the individual OSH inspector. For example, one company that rang OSH regarding a required barrier was told over the phone that they were going to be shut down. A different inspector visited the company and provided advice that enabled the company to address the problem in a weekend, avoid excessive costs and maintain productivity.

Companies and industry groups also raised the inconsistency of OSH advice nationally. One health and safety officer in a large fabricated metal company with a branch in another part of the country had found significant inconsistency between information given by different OSH branches. He cited the example of codes of practice and how one OSH branch said a particular code was legally binding while another branch had said it wasn't. Many industry groups felt that with 18 branches doing different things the resulting inconsistency amongst OSH inspectors means the 'impact [of OSH] on the ground is minimal'.

One industry group interviewed was not sure if inconsistency was real or merely a perception. Another felt that inconsistency of implementation of the HSE Act contributed to compliance costs.

Lack of clarity over the role of OSH

There were differing levels of support over what the role of OSH should be across all companies. Some companies wanted OSH to be more enforcement-orientated, where others wanted OSH to be more education-focused.

More enforcement less education

There was support for increasing OSH visits and enforcement, especially from employees. Some industry groups also thought OSH should increase its enforcement role and fine levels. The suggestion was for industry to lead information delivery with ACC taking on a more preventive role. This group felt that OSH's role would be clearer and would be viewed more positively if the education and enforcement roles were separated. OSH and ACC should provide a more complementary service.

More education less enforcement

In general however, companies were supportive of OSH adopting a more consultative approach and not being so enforcement oriented. OSH should be spending more time in the workplace establishing a working rapport rather than enforcing compliance. Despite this, a number of companies indicated that increased enforcement was required in relation to 'sweatshops' (back yard, small non-complying operators). These companies were not advocating an overall increase in OSH enforcement— only for the 'naughty boys' (see Example 3).

Example 3: large fabricated metal company -- reactive group
Support for less OSH enforcement and more relationship building

OSH is threatened by the industries becoming responsible for their own health and safety. They are worried that they would lose their jobs if they don't enforce and prosecute for minor issues. They take it a little too far. OSH should facilitate safety.

One company thought OSH had too much of a prosecution role and should be more focused on relationship building. Prosecution is far easier than actually asking why and trying to fix it. They did not think the OSH proposal for spot fines would lead to a culture change and if OSH increases its prosecution role, they will be more at arm's length than at present.

A number of companies criticised OSH's information role. Information from OSH was described as being quite disjointed, not specific enough, sometimes out of date and difficult to access. A general comment made was that WorkSafe Week is not effective, and provides a '*flash in the pan*' approach rather than day-to-day solutions. To be influential, OSH needs to focus on general managers who can then emphasise the need for better health and safety practices from within the company.

7. THE 21 CASE STUDIES

Companies' cost and benefit perceptions

The 21 companies clustered into three groups according to their perceptions of the costs and benefits of complying with HSE Act:

- Inactive companies: companies that perceive the costs and benefits of complying with HSE Act as low
- Reactive companies: companies that perceive the costs of complying with the HSE Act as high in relation to the benefits
- Proactive companies: companies that perceive health and safety costs as an investment – not a cost.

This chapter describes in detail these perceptions by examining each group by the following categories:

- the nature of cost/benefit perceptions
- the company's health and safety approach
- the company's understanding of the HSE Act
- the company's relationship with OSH

Inactive Companies

There were seven companies in this group:

- three small to medium sized companies from the clothing industry
- two small to medium sized companies from the fabricated metal industry
- two large companies from the clothing industry
- no large companies from the fabricated metal industry.

Nature of cost/benefit perception

The inactive group saw the costs and benefits of compliance as either non-existent or minimal. Where employers did identify costs, they generally thought of them as reasonable. Benefits, beyond simple compliance with the HSE Act, were not readily identified. The only exceptions were two small to medium sized clothing companies: one acknowledged that there are returns for the company if employees are at work and not off injured; the other mentioned reduced ACC premiums, but was not sure about any other benefits.

It might have stopped a few accidents but I don't really know.

(Owner, small to medium sized clothing company — inactive group)

The majority of costs that were identified tended to be as a result of their interactions with OSH. These companies did not always agree with OSH requests, but as costs were minimal they were not overly concerned.

They made us put a sign on the steps, make sure gloves and goggles were used while washing screens, and requested that we tidied up electrical cords. It was quite reasonable and we were not too worried. I spent four hours on a Saturday fixing it up. It was not very expensive.

(Owner, small to medium clothing company — inactive group)

The owner thought it was obvious that the stairs were steep and did not see the need for a sign stating this. Nor could the owner see the point of the gloves and goggles as there was no real harm in the procedure. OSH also supplied an accident register for recording all accidents. The owner thought this was unnecessary as they had only had one accident, which was 13 years previously (see Example 4).

The costs reflected the fact that companies were largely compliance driven and did not do much beyond meeting OSH requirements.

None of the companies in this group thought complying with HSE Act had impacted on their competitiveness or ability to innovate.

Example 4: large clothing company -- inactive group

One employer's view of Government and OSH

This owner of a large clothing company had a very sceptical view towards all government regulation and did not think 'they' live in the accountable world.

They (OSH) have a bottomless pit for money, we don't. They have to come down to company level and what is viable.

The owner did not think the costs imposed on them by OSH were unnecessary, but qualified this by saying if the situation over 'the chairs' had turned out differently, and they were not able to work it through with OSH, he would find it difficult to say there were no unnecessary costs.

OSH thought the chairs that the machinists sat on could be updated. It would have cost around \$10,000. The owner thought that the OSH inspector had not really worked through the costs versus the benefits of the chairs. He asked the OSH person to bring in a chair and demonstrate what advantages would be. Basically there were not any real health and safety advantages, only that 'it would be nicer'. They did not have to buy the chairs.

Two clothing companies talked of the costs of health and safety consultants. ACC changes motivated one company to hire a private consultant to undertake an audit. This cost the company \$700 which they considered reasonable, because as a result of the audit the company received lower ACC premiums. The consultant also introduced a requirement for new employees to identify any pre-existing medical conditions. The owner believed this had potential cost savings and every company should know about the need to do this.

These things could be hidden and could fall back on you.

(Owner, small to medium sized clothing company -- inactive group)

The other clothing company perceived the health and safety consultant as more of a nuisance than of being a benefit (see Example 5).

Example 5: large clothing company -- inactive group

A manager's perspective of the head office health and safety consultant

A large clothing company was required by their head office to work with its health and safety consultant. Their parent company was very concerned about health and safety, as the health and safety consultant said they owned a number of dangerous companies. The managing director of the clothing company said they hire expensive consultants to advise its subsidiaries about health and safety practices.

We are required to have a consultant hired by (company's head office). He goes through a pedantic chat about health and safety. He is an expert. He photographs things around the place (such as something covering a fire extinguisher), writes a report and we are required to fix things.

The managing director thought this was all a bit over the top and more a nuisance than of real benefit.

Dangers are really identified to the point that it could be a bit childish. For example, we've identified that the zip has very hot water in it and that people should be careful.

Health and safety approach

The companies in this inactive group largely perceived their workplaces as low risk. They tended to assess risks to health and safety as low and to consider that they worked in a low risk environment. Management tended not to be proactive on health and safety issues and they placed a high reliance on employees' common sense. The perception was that risk is minimised by hiring experienced staff and trades people. They were prepared to implement what OSH told them to do after a visit. However, it is unlikely they would have taken actions prior to the OSH visit or that they would look to further improve health and safety in their workplaces.

The majority had a short-term approach to health and safety management. Health and safety was an add-on, not part of the way they did business. There was very little attention given to examining health and safety in a systematic way. Standard practices mentioned included fire drills, training for new staff and on new machines, and health and safety manuals. Most said they had an accident register but did not think it necessary as there were few accidents.

These companies generally focused on the obvious physical hazards (e.g. wearing a hard hat). There was little reference to how occupational health issues were dealt with. There was a perception that occupational health problems were not real and that employees were not to be trusted in this area (e.g. OOS). Two large clothing companies were concerned that employees were abusing the ACC system and claiming for health problems that were not work-related.

Employee participation in health and safety initiatives was low and none of the companies had a dedicated health and safety representative nor held regular health and safety meetings. A director from a small to medium sized fabricated metal company expressed concern about stopping production for health and safety meetings:

What? Stop the plant and have a meeting? If I need to say something I just go and tell them.

(Owner, large clothing company — inactive group)

One owner thought that employees need to take more responsibility and did not think that employees should rely on management to introduce more sophisticated health and safety systems.

Employee awareness of health and safety was low and overall there was little employee criticism of management's approach to health and safety. The general feeling was that management were 'pretty good' if you asked them to do anything regarding health and safety.

Understanding of HSE Act

All of the companies in this group said they supported the intent of the Act and said it was reasonable and based on common sense. One large clothing company owner thought the HSE Act had cleaned up all the 'naughty boys'. Another owner from a small to medium sized clothing company said they did not know a lot about the HSE Act but said:

The Act is there to ensure the health and safety of staff and OSH is there to ensure that it is done.

(Owner, small to medium sized company — inactive group)

None of the companies in this group demonstrated an in-depth understanding of the Act. Most appeared to be operating as if under the previous prescriptive legislation with a high reliance on OSH to 'tell them what to do' or were only undertaking their own simple safety procedures. There was also a general perception from a number of these companies that the HSE Act was not particularly relevant to their work.

It is just another Act that I have to tick off my to do list that is not directly related to what I have to do here.

(Managing director, large clothing company — inactive group)

When asked if would they do anything differently if there were no Act, most of the companies said they would take the same approach. Two exceptions were companies who said they would probably not have done the things that OSH wanted them to. For example, one director said this was because they saw no point to some of OSH's requests.

If there was no Act, we would have taken short cuts and missed out a few things and saved money.

(Director, small to medium sized fabricated metal company — inactive group)

The majority of companies did not mention any major problems with obtaining health and safety information. OSH was seen as a good source of information by three small to medium sized companies.

An exception was an owner who thought information from OSH was not very useful and needed to be more business-oriented. The owner also thought health and safety consultants were too expensive for the service they provide.

One large clothing company obtained health and safety information from a range of sources: the company's health and safety consultant, its insurance company and Occupational Health nurses in OSH. One small to medium sized fabricated metal company said that it did not need any information and had no involvement with OSH, as most of its staff were experienced in safety practices.

Relationship with OSH

Companies in this group generally described their relationship with OSH as positive. Most companies in this group thought that some of OSH's requests were unnecessary or impractical but they were not particularly concerned as the costs associated with these requests were seen as relatively minor. There was one exception to this (see Example 6).

Example 6: small to medium sized fabricated metal company — inactive group

Impracticality of OSH's requests

A director of a small to medium metal company perceived recent requests by OSH as unreasonable and impractical. The OSH inspector had asked the employer to put a guard on a machine that they had operated for 50 years. The employer thought this was impractical and unnecessary but the inspector said there were rules and regulations that needed to be followed. The company thought its previous OSH inspector was better because he had given educational and practical advice. The new OSH inspector was seen as '*stupid*', was not an engineer and did not know anything about their operation. The company had written a few letters to OSH about the impracticality of its requests. OSH replied saying if anything goes wrong it was the company's fault. The company decided to take full responsibility if there was an accident, as it was not going to do anything it thought was impractical.

A small number of companies thought the outcome of an OSH visit was highly dependent on the individual OSH inspector.

The lady who came here was really good. If you strike the right person, it makes a difference. She was really good, she didn't hit you with a hammer.

(Manager, small to medium sized clothing company — inactive group)

One company owner thought its positive attitude towards the OSH inspector had helped the outcome. When OSH visited the owner just let the inspector look around and made recommendations. According to the owner the company up the road '*got a bit smart and OSH came down on them hard*'.

Reactive Companies

There were five companies in this group:

- one small to medium sized company from the clothing industry
- one small to medium sized company from the fabricated metal industry
- three large companies from the fabricated metal industry.

Nature of cost/benefit perceptions

Companies in this group perceived the costs of complying with the HSE Act as relatively high in relation to the benefits they received. These companies identified a number of benefits associated with complying with the HSE Act, including:

- Quality assurance
- Lower levels of occurrence of accidents
- Lower ACC premiums.

However, the employers believed that the costs still outweighed any benefits.

The perception that health and safety costs were high appeared to be almost entirely the product of a firm's interactions with OSH. The consensus was that OSH's actions and rulings were costly, unnecessary and, in some cases, ridiculous. OSH inspectors were said to be too enforcement-orientated, rigid, and pedantic. In some cases it was a single interaction with OSH that had resulted in a company's perception of a high-cost health and safety regime. For a small to medium clothing company, the cost of demonstrating compliance was very stressful.

There is the stress. You are always worried that you are not complying with the whole raft of legislation, not just the HSE Act. Maybe it would have been better to have remained ignorant.

(Owner, small to medium sized clothing company — reactive group)

Two large fabricated metal companies talked of the potential cost of employee negligence – what one called employees' 'sudden impulses'. They expressed concern about employees' lack of responsibility for their behaviour and thought it unfair that employers were held responsible for this behaviour. One manager thought that employees do not see health and safety as their responsibility, as there is a strong 'macho' attitude: e.g., it is not 'cool' to wear masks or ear muffs. Some employers saw making staff aware of health and safety responsibilities as a cost. One director had insured against employee negligence in case of being sued following a work-related accident.

A number of companies thought spending money on health and safety had impacted negatively on their competitiveness. One owner explained how there are extra costs in ensuring a new process is safe. The owner saw this as a necessary cost even though competitors did not have safe processes and as a result were able to offer a cheaper product. Another small to medium clothing company owner perceived that they had to compete against companies that do not comply. 'It costs less to run a sweatshop'. The owner commented margins are very tight and suspected that companies who are doing well are not complying with the HSE Act.

Creating a better environment has impacted negatively on our competitiveness but we prefer to work in a nicer environment.'

(Owner, small to medium sized clothing company — reactive group)

Another director worked on a tender basis and had to be very competitive to win contracts. Health and safety costs are built into hourly rates, which impact, on competitiveness. The director qualified this by saying they considered it a social responsibility.

Though a number of companies identified some benefits from improving health and safety (for example creating a nicer environment) these did not appear to outweigh the perceived high costs.

Health and safety approach

The majority of companies in this group were concerned about reducing their liability under the Act, and many were concerned about employee negligence. The majority in this group were heavily focused on compliance with HSE Act and a number appeared to be highly motivated by a fear of OSH prosecution. Most companies had had an employee who had been injured in the past and/or had a negative perception of OSH. A number believed that past accidents were due to employee negligence. Two had been previously prosecuted, they believed unfairly, by OSH (see Example 7).

Fear of prosecution did not necessarily mean that companies were negligent of their legislated responsibilities. With one exception, all had assessed risk as high and had some form of health and safety system in place and a commitment to health and safety. All had some form of health and safety meetings: two of the larger companies held regular meetings with representation from each work site. Another had also held meetings but these had 'tapered off', as the company became busier. However, the focus appeared to be more on avoiding prosecution rather than continuous health and safety improvements.

Example 7: small to medium sized fabricated metal company -- reactive group

A company driven by the fear of prosecution

This company was a small to medium sized fabricated metal company. The company's approach to health and safety was strongly compliance orientated. Fear of prosecution was a major driver for spending money on health and safety so the company could 'prove' that they were doing something. The owner felt they needed to 'protect' themselves against employees who were not taking responsibility.

You don't bring staff to work every morning to mutilate them; you want them to go back home in one piece. It is important to have healthy and happy staff, but you can almost guarantee that an employee would touch a machine that they should not. You cannot stop human error, even if you spend thousands of dollars on health and safety, and our company has spent thousands. We believe that we have gone as far as we could to take practicable steps, but if any accidents happen, we know that the families of the victims will say [the company] did not do enough.

The company employed a private health and safety consultant that cost around \$12,000 per year. The owner saw the money spent on health and safety as a cost without any tangible return. The owner did not view it as an investment:

Only would if I went to court and I could defend myself. [There is] no other way to get it back.

The majority of these companies paid particular attention to the physical safety aspects such as guards on machinery. However, one company recognised and sought to address some occupational health issues (e.g. gave regular hearing and lung tests).

Understanding of the HSE Act

All companies in this category said they supported the general intent of the HSE Act and thought the Act had merit. The majority qualified this by saying enforcement of the Act by OSH was a problem.

Despite this support, very few demonstrated any in-depth understanding of the HSE Act as a performance-based piece of legislation promoting a flexible, self-managing approach. For example, the managing director of a large fabricated metal company thought that not only was OSH too rigid, but so were parts of the Act. The Act needed to be more flexible and straightforward, letting a workplace operate its own comprehensive health and safety regime.

There was a mixed response from companies when asked whether they would do anything differently if there were no Act. An owner of a large fabricated metal company, that had previously been

prosecuted by OSH, said they would not have embarked on OSH's unnecessary measures and made a comment about employee negligence: *'if you have clowns who are not responsible they would fool around with or without Acts'*. An employee from this company thought the HSE Act had made the environment safer and without OSH's intervention more accidents would have happened.

An employee from a small to medium sized fabricated metal company also thought management would do nothing if there were no Act.

'It is the big stick theory. Asking someone nicely to do something, while holding a big stick.'
(Employee, small to medium sized fabricated metal company — reactive group)

Two companies, however, said they would not have done anything differently if there were no Act. One general manager of a large fabricated metal company said this was because they were too much of a *'scaredy cat'*. A director of a similar company said the standard at which they were required to operate by their parent company, based overseas, exceeds HSE Act requirements and therefore they would have not done anything differently.

The majority had no complaint about access to health and safety information. For most, OSH was just one of a range of sources of health and safety information. All had received information from OSH, with a number believing that it was sufficient and specific enough for their work operations and easily available. In contrast to this, the general manager of a large fabricated metal company felt that the information OSH provided, even on specific procedures, was not detailed enough to be of much use. The information also seemed to change frequently and was sent out in *'drips and drabs'*, adding to the employers' confusion.

Other information sources mentioned were insurance companies, the Employers' Federation, the New Zealand Engineering, Printing and Manufacturing Union, Canterbury Employers and Chambers of Commerce. A number of companies said they received health and safety information from their suppliers. The director of a large fabricated metal company thought provision through their equipment/machinery suppliers was a cost-effective way of gathering health and safety information. The purchasing officer said they read the *Safeguard* magazine to check on court cases and thereby anticipate problem areas.

Relationship with OSH

Employers in this group described their relationship with OSH as negative. The majority thought OSH was inflexible, unreasonable and too enforcement-orientated. Two companies believed they had been prosecuted unfairly. The general manager of one described its prosecution as OSH taking a *'power trip'*. A supervisor in this workplace described the incident as *'OSH came in axe waving'*. The company thought it had followed the law by reporting an accident and instead got *'crucified'* for it. The other company prosecuted thought OSH had a *'blind attitude'* and was constantly making unreasonable requests.

Another two companies, who had not been prosecuted, described some of OSH's requirements as *'over the top'* and *'ridiculous'*. One company offered a different reason for their negative view of OSH's requirements (see Example 8).

Example 8: large fabricated metal company — reactive group

Health and safety being lead by an international company

A large, fabricated metal company was part of a large international group. This company had a negative view of OSH's requirements on it, but for different reasons to other companies in this group. The company indicated that the health and safety requirements imposed by the parent company overseas were much greater than those required by New Zealand legislation. The managing director felt that the health and safety standards of the parent company were sufficient and therefore compliance costs relating to administration of the HSE Act posed an extra cost.

The managing director also did not see any specific benefits from the Act. This was because it undertakes safety measures regardless of the HSE Act. The managing director said that in the past OSH inspectors had asked the company to make certain alterations to a staircase. The company questioned the inspectors' decision but was still required to make the changes, which cost it between \$15,000 and \$20,000. The managing director felt that the 'Act' should be more flexible and straightforward and let the company operate its own comprehensive health and safety regime, as it knows its business better than OSH.

A number of large fabricated metal companies expressed concern that OSH's targeting policies imposed unnecessary costs on larger companies. It was their belief that OSH '*picked on them*' unfairly because of their large size and when they should be targeting smaller companies with higher accidents rates.

This is not a fair playing field. Soft touches like us, large organisations, are easily picked on.

(General Manager, large fabricated metal company — reactive group)

These companies thought OSH should work more in partnership with companies rather than in opposition to them. One director felt OSH should be more flexible and let the workplace operate its own health and safety regime.

An exception to this, was a small to medium sized fabricated metal company, which had an amiable relationship with OSH. The director had no difficulty with OSH interaction and a different reason for perceiving the costs as high (see Example 4). One employee interviewed in this group of companies thought OSH should be more enforcement-orientated and make more snap inspections.

If we are meant to be proactive, so should OSH. Inspections would make a big difference. Policeman with a badge.

(Employee, small to medium sized fabricated metal company — reactive group)

The employee also felt that employees do not get a chance to speak privately with OSH inspectors following an accident to discuss '*what really happened*'.

Two companies thought OSH inspectors should come from within the industry so that they understand the industry-specific risks.

Proactive Companies

There were nine companies in this group:

- no small to medium sized companies from the clothing industry
- three small to medium sized companies from the fabricated metal industry
- three large from the clothing industry
- three large from the fabricated metal industry.

Nature of cost/benefit perception

These companies perceived the costs of complying with the HSE Act as an investment. Spending in health and safety was seen as an integral part of running an effective and efficient business and employers were more concerned about the cost of *not* investing in this area. All talked about the costs in terms of a worthwhile investment. The returns on their investment mentioned were:

- healthy staff
- fewer accidents and less down time
- a better working environment
- workers feeling valued
- increased communication between management and employees
- improved product quality
- a more productive workforce (see Example 9).

Example 9: large fabricated metal company -- proactive group

An employee perspective on the benefits of the HSE Act

A works engineer from a large fabricated metal company thought a major benefit was the improved communication between management and staff on health and safety issues.

'If there was no health and safety system in place, I don't think there would be as good a rapport between management and staff. Part of the system involves going and talking to staff, and of course we end up talking about other things beside health and safety. Getting out and talking to staff is good; otherwise it would be seen only as a management decision. I also think it leads to a stable work environment as staff see we have their health and safety interests in mind — we are not just interested in making money'.

Unlike the companies in the other two groups, the focus of this group was not on the costs of interaction with OSH. These companies did not identify any major costs in this area. These companies appeared to have moved beyond focusing purely on compliance issues to internalising health and safety costs into the day to day running of their company. Most of these companies were unable to quantify for the research team exactly how much money their company spent on health and safety, but the perception was that the expenditure was worthwhile:

For every dollar spent of health and safety, it has been a worthwhile investment... cost \$200,000 at the outset to get it right, then there's all the ongoing costs, but it all pays off.

(Operations Manager, large clothing company —proactive group)

A director from a small to medium sized fabricated metal company explained they spend time every day on health and safety, but it was often hard to distinguish between production and health and safety issues:

The benefits outweigh the costs. Health and safety meetings probably go for ½ to ¾ hour...it probably costs me more than I think... I've never really worked it out.

(Director, small to medium sized fabricated metal company —proactive group)

For a group of these companies the cost identified was time spent in health and safety meetings, or the time of a health and safety officer. One large fabricated metal company said they spent sixteen hours a week working on health and safety issues. If there were no HSE Act, they would spend about eight hours. The extra time was, however, seen as a good investment. The operations manager from a large fabricated metal company also said most of the costs relating to health and safety were for time spent in meetings.

Some companies talked about the costs in terms of forms that needed to be filled out, for example, accident reporting. One employee from a large clothing company mentioned that the reporting side is onerous. Another employee from a large fabricated metal company thought health and safety related paperwork slowed them down. However, company management mentioned neither of these perceptions.

A number of companies mentioned such costs as fire alarms, guards, and staff training. A sales manager felt some machine guards had made work more difficult. Over time, the company had used its own resources to modify guards, which had improved work progress. Another company initially had to put in new chairs, which they found costly, as they were cash poor. Now they believe that in the longer term it has been very beneficial.

Two small to medium sized fabricated metal companies have worked with health and safety consultants, one consultant was based in Australia. This person communicates new health and safety policies for all sites and undertakes full, in-depth, on-site assessments every five years. The other company hires a consultant at a cost of \$70 per month, who inspects the company once a month making recommendations for change as required and also deals with wider employment issues.

I don't have to worry about health and safety. He organises it. If he didn't, I would get too busy. He comes once a month. It is programmed and therefore it is dealt with.

(Managing Director, small to medium sized fabricated metal company — proactive group)

Two large fabricated metal companies in this group thought that while there were benefits to complying with HSE, regulation had impacted negatively on their competitiveness, as they thought their competitors were not complying. For example one company stated:

We spend a lot of money on health and safety but our competitors do not. Smaller companies do absolutely nothing. Some of them are disgusting. Large companies like us have to bear a lot of costs when it comes to health and safety.

(Works Manager, large fabricated metal company — proactive group)

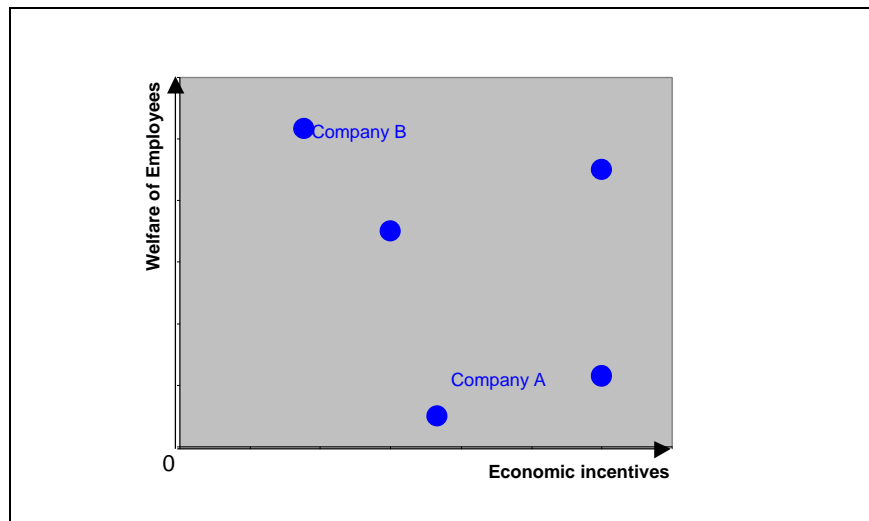
Health and safety approach

All of these companies had integrated health and safety activities into the day-to-day operation of their businesses. They had assessed the risk as high and had taken a proactive, comprehensive and systematic approach, following a strong commitment by management. The two main drivers for these companies were either:

- economic incentives – for example, the need to maintain or increase productivity
- the welfare of employees.

Some companies said they placed employee welfare above all else. For others, economic incentives appeared to be more the focus. In those companies that focused more on economic incentives, there was more likely to be a tension between productivity and health and safety (See figure 2).

Figure 2: Drivers of health and safety



Company A placed more importance on economic incentives (see Example 10). *Company B* placed more importance on the welfare of employees (see Example 11).

Example 10 Company A: large clothing company –– proactive group
Health and safety being driven by economic incentives

In order for this large clothing company to successfully compete, they saw the need to focus everything on achieving the highest level of productivity possible. This was achieved in a number of ways.

The company had a good understanding of how the HSE Act can increase productivity. They had taken a holistic approach to health and safety to ensure staff were able to continually work at their optimal level. Examples of this approach included:

- Time provided for daily exercise
- Active encouragement for staff (almost all of whom were women) to watch their weight and health
- Paid access to a doctor ‘we encourage people to look after themselves’.
- A mechanic who focused on continually modifying machinery to enhance productivity

The company had a health and safety committee to focus on the health and safety of the workers. The health and safety representatives thought if there was not an Act, companies would not do anything if they didn’t have to

[We are]Pretty lucky here, I know a lot of places start off with a hiss and bang and then health and safety falls down. It is maintained here because of the health and safety committee.

Example 11 Company B: large fabricated metal company -- proactive group

Health and safety being driven by the welfare of employees

'We were told by our general manager at a presentation that for anything to do with health and safety, cost is not an issue'.

In this large fabricated metal company the health and safety of workers was seen as a higher priority than production by management. The general manager had publicly stated the company's commitment to health and safety above production:

'I believe it is our responsibility to send staff home from work as fit and well as when they arrived. I believe we must give safety precedence over production'.

A full-time person was hired who was highly qualified in health and safety matters. This person led a health and safety team, which answered directly to the company directors. The team had implemented a number of initiatives such as programmes to improve health and safety among the different company units. The programme was site focused, with every site expected to develop a single strategy. Company policy was that all employees had the power to stop company work activities if they saw a dangerous situation, and the company had strong disciplinary procedures for anyone not complying. A senior operator said that improvements in health and safety had taken a long time but employees were beginning to take it on board. *'It's everyone's issue not just management's'.*

The company went beyond ensuring staff are healthy and safe for productivity purposes. The focus was on empowering employees. Staff benefits were seen as:

- they think that the company cares for them
- they go home everyday with their my fingers and toes
- knowing that if their employer is not complying with the HSE ACT, that they have the right to take action
- gaining skills which can by used outside work

A senior operator said it has led to increased communication throughout the company and the guys *'are beginning to speak up'.*

The majority of companies in this group focused on both physical safety and occupational health. The companies recognised that monitoring health had the long-term benefit of reduced costs. Many had sophisticated monitoring programmes in place with regular audits of health and safety. For example, one large clothing company:

- ran the Heart Beat Programme
- provided twice daily staff exercise time
- gave hearing tests to staff
- ran an OOS prevention programme (see Example 12).

Example 12: large fabricated metal company — proactive group

Company dealing with 'health' aspects

'I would like to decrease costs if it was possible but at the end of the day, when dealing with people, from a practical point of view I don't think you can lower costs'

The main concern of a managing director of a large fabricated metal company was how work impacts on his employees, as it is they who bring in the profit. The company had put in place an OOS prevention system where jobs are rotated every two hours. There is a down time of 20 minutes every 2 hours. It is a considerable cost to the company, however it is seen as a necessary cost of having a healthy workforce.

The companies in this group generally had good communication between employees and management on health and safety issues. Most employers encouraged staff to identify hazards. In one small to medium sized fabricated metal company, staff had health and safety notebooks in which they recorded any issues. A manager from a small to medium sized fabricated metal company said that most suggestions for improvements come from the shop floor. Management in one large fabricated metal company implements all employee suggestions, even if they believe they will fail. All had in place some form of employee participation through health and safety committees, ranging from one meeting two-monthly to those that were integrated meetings into their day-to-day operations.

There was a strong perception from employers that employees needed to be cared for. For those more focused on the economic incentives, employees were primarily resources to maintain or increase productivity. A manager from a large clothing company driven by economic incentives described the employees as racehorses that needed to be looked after to ensure they were able to continually work at their optimal level.

...because the benefits are so obvious. If I was training racehorses I'd do the same thing. They're the greatest asset we have. Why bugger them up?

(Manager, large clothing company — proactive group)

The companies that were more focused on the welfare of employees felt people deserved to go home safe.

We definitely got benefits from it. We've made the environment better for staff.

(Managing Director, large fabricated metal company — proactive group)

None of the companies in this group expressed any concern about employees being negligent about health and safety.

Understanding of HSE Act

All of these companies said they supported the intent of the Act and thought it was good to have a standard to adhere to. They all had someone within the company or relied on an external source who understood the performance-based nature of the Act. The majority said they liked the flexibility of the HSE Act. A works manager from a large fabricated metal company liked its 'practicality' as it allows *'for a chain of command rather than requiring direct supervision'*. Another person in this company thought the Act was very broad, could cover anything and leaves much open to interpretation. Nevertheless they felt it is better not to be too prescriptive:

this can be hard but it is better than having guidelines that say 'you must do it this way' which can become unworkable. Flexibility enables you to be innovative at the least cost to the company.

(Works Engineer, large fabricated metal company — proactive group)

A health and safety manager from another large fabricated metal company also thought performance-based legislation was more effective than prescriptive, but acknowledged it is more difficult for OSH to enforce. *'At the end of the day it means that you, as a manager, need to decide what's important for*

your company. This is more difficult than being told what to do, but it makes people think.’ He also thought the Act was harder for smaller companies who do not have the resources to know exactly what to do. Smaller companies, therefore, need greater intervention. *‘Big companies can afford people like me, small companies need to muddle through.’*

Only a few of this group said that if there were no Act they would not have done anything differently. One director from a small to medium sized fabricated metal company said they probably wouldn’t have done anything differently.

I’ve always been into having a good, clean, tidy set-up. In that respect there has been no real change to what I would have done normally, although the staff are better trained now.

(Director, small to medium sized fabricated metal company — proactive group)

A health and safety co-ordinator from a large clothing company thought they would probably not do anything differently because the work they do for ACC aligns with the company’s health and safety practices. The remainder indicated that they would probably not have done as much without the Act. A number thought they would not have been as thorough, and the Act had helped to focus them.

I think most companies want a structure, if there were not an Act, there would be no focussed approach to doing this.

(Sales Manager, small to medium sized fabricated metal company — proactive group)

An employee from a large fabricated metal company thought the company would not have done as much, as the fear of fines plays a major role in the company’s approach. In another large fabricated metal company, the works manager commented that the company would need a lot more discipline to set up its own health and safety procedures. The Act gave them a base line: it would be easier to do nothing otherwise. An employee from the same company thought without the Act the company would be tempted to do less (see Example 13).

Example 13: large fabricated metal company —proactive group

The HSE Act as a safeguard for employees

In a large fabricated metal company where the general manager had made a strong commitment to health and safety, the manager of health and safety was not so certain the company would have done so much without the Act. The general manager was very committed but he did not think the wider company management were as committed and would have done as much without the Act. He also commented that there was no external pressure from overseas regarding health and safety that many international based companies have. He thought if people were more educated on the costs of accidents, this might lead to increased efforts to avoid them.

There were no consistent trends in terms of where information on health and safety was obtained. Some obtained information from a range of sources while others relied on a single source (e.g. OSH, ACC or a health and safety consultant). One company said it got all its information from a private provider and had never had to go to OSH.

A number said they received some information from OSH and found the information reasonably good but generally OSH information was just one of a number of sources. Others mentioned were ACC, the New Zealand Engineering, Printing and Manufacturing Union, Employers’ Federation, other similar companies, the Fire Service, and suppliers selling health and safety products. One company received information from its parent company in Australia. Another used the media to follow health and safety incidents/accidents in order to anticipate future health and safety problems.

A number of companies highlighted problems with OSH information:

- OSH guidelines are not specific enough for their particular industry; for example there is nothing on the foundry industry, so they obtain this information from the Foundry Association.

- Health and safety information seems quite disjointed.
- Getting information on specifics is fine and codes of practice are quite good, but it is difficult to get information on the whole Act.
- The OSH 3-step package is quite useful but aimed at small companies rather than large companies and is a very basic starting point only.
- Some companies mentioned that a lot of good information from OSH is now out of print. People now have to go through OSH head office, which makes information less accessible.

A small number of companies expressed concern about private providers. One company thought safety consultants led smaller companies down the garden path and greater intervention is needed by the government to prevent this. Another said that private providers send things through the mail with the message ‘*comply [with the Act] or you will be fined*’.

I personally think that [private consultants'] advice is conning and milking companies like us. Their health and safety manual costs from \$2,000 to \$50,000. All it does is just what we have produced in our health and safety manual. There are a lot of people who have set up their own company to sell advice on health and safety.

(Works Manager, large fabricated metal company — proactive group).

Relationship with OSH

These companies in this group described their relationship with OSH as generally positive. The majority found OSH very accessible and its requests reasonable. Compared to the reactive and inactive groups, these companies had a good understanding of the HSE Act and sound understanding of what was required to maintain health and safety in their workplaces. They were generally not compliance-driven, and were less likely to view their encounters with OSH negatively. A number actually invited OSH to view their health and safety procedures. One large clothing company in 1994 achieved ‘Self Management Status’: OSH now visits only when invited.

There was a perception in a number of large companies that outcomes of an inspection largely depends on the individual OSH inspector. One large fabricated metal company had been prosecuted three times and still had a good relationship with OSH. The inspector involved took both an enforcement and relationship building approach. Another company described a situation where after an accident the first inspector they dealt with over the phone was very enforcement-orientated and threatened to shut the company down. However, the inspector who visited was very good and worked with the company to fix the problem. Inconsistency of OSH advice was also mentioned by a number of companies who found they received different messages from OSH inspectors around the country. Two would like increased communication and visits from OSH.

Two large companies made some comments about OSH’s targeting policies. One large fabricated metal company thought that smaller non-complying companies ‘get away with it’, as OSH is not targeting them. Another large fabricated metal company commented that the likelihood of being caught is low as inspectors tend to stay away from companies that are difficult, or where they think they lack specialist knowledge.

A number of companies discussed OSH’s education/enforcement role. The company that had been prosecuted three times by OSH did not think the dual role was a problem and quoted the police as an example where it works. Another thought the education/enforcement mix was a problem and that OSH needed an increased education role. They felt that if OSH prosecuted it could affect the education partnership relationship negatively. Both thought that OSH was currently under-resourced and appeared to be being ‘wound down’.

A health and safety manager thought it was difficult for OSH to work under a performance-based Act, but did not think the prescriptive approach was as effective in making a difference. This company also thought OSH and ACC should provide a complementary service. Another thought that, under the new Act, OSH did not carry out in-depth audits anymore, and that the compliance rating system went into less depth.

8. CONCLUSION

The objectives of the research were to identify the major costs and benefits to companies of complying with the Health and Safety in Employment Act 1992; and determine, if appropriate, how such costs can be minimised without undermining the intention of the Act.

The study revealed that companies had considerable difficulty in identifying and quantifying the costs and benefits associated with the HSE Act. For the majority of companies it was difficult to separate health and safety costs out from normal day-to-day operational costs of running a business. The research also found the focus of the companies was not so much on how much was spent but rather was on the perceived benefits gained from money spent. In addition the companies perception of costs were more influential on their health and safety behaviour than the actual costs. Perceptions of what constituted a 'cost' and 'benefit' varied considerably across companies and companies clustered into groups based on these perceptions:

- Inactive companies who perceived both the costs and benefits of compliance as low
- Reactive companies who perceived the costs of compliance were high in relation to benefits
- Proactive companies who perceived health and safety costs as an investment - not a cost

Overall employers generally considered that the HSE Act did not impose significant costs, though reactive companies found that their unnecessary costs arose out of OSH's administration of the Act and as a result of some areas of uncertainty relating to the interpretation of the Act.

One major factor influencing how companies perceived the costs and benefits of complying with the HSE Act was their perception of the seriousness of the health and safety risk. These perceptions of risk resulted in different views on the costs and benefits of spending money to reduce these risks. Inactive companies perceived themselves to be low risk and therefore did not see the need to spend too much on health and safety. Reactive companies perceived the risk as high. While these companies had taken some steps towards creating a safe and healthy workplace health and safety management was not integrated into their day-to-day business. Spending on health and safety was seen as a cost. A number were particularly concerned that they could not control the risks, especially with regard to employee negligence. As a result these companies had a strong fear of prosecution.

Proactive companies perceived the risk of health and safety as relatively high and viewed money spent on health and safety as an investment into their business and employees. These companies were not focused on compliance but saw managing health and safety as part of their business — either to improve productivity and/or ensure workers were not injured.

In general, across all companies, the HSE Act compared favourably to other Acts. The research found that companies were generally supportive of the notion of improving workplace health and safety. However, there was wide variation in both the levels of understanding of what compliance means under a performance-based Act and how to achieve improved health and safety. Proactive companies demonstrated a good understanding of what compliance means under performance-based legislation and liked the flexibility this type of legislation allowed. Inactive and reactive companies did not have such a good understanding of the legislation and many took a prescriptive approach to health and safety, and relied on OSH to tell them what to do.

Given the differing perceptions of how workplace health and safety could be improved, there were also differing perceptions of OSH's role. These ranged from companies that relied heavily on OSH to those that were not reliant on OSH. Generally, reactive companies relied on OSH more heavily than the other companies and were also more negatively affected by OSH rulings. Where they disagreed with those rulings, conflict was more likely. The majority of these companies perceived the rulings made by OSH during an inspection as unreasonable and unnecessary.

In contrast inactive and proactive companies were less concerned about OSH. Proactive companies were less troubled by poor experiences with OSH as they had integrated health and safety into their business and tended to view rulings more objectively (i.e. the rulings were a means of improving health and safety). Inactive companies were less concerned about OSH rulings because, as they saw it, health and safety played a minimal role in their business and the requests made from OSH were relatively minor. However, there were a number of concerns about OSH raised across all three groups — in particular the perceived failure of OSH's targeting policies and the lack of consistency in their approach.

The research grouped companies by their differing perceptions to the costs and benefits of complying with HSE Act. An area of further research could be to look at what the motivators are for changing perceptions and health and safety behaviour. For example what, if anything, would motivate a company to move from operating as an inactive or reactive company to operating as a proactive company.

This study focused on only one component of the health and safety environment — the costs and benefits of complying with HSE Act. Further research is being undertaken by OSH to explore the social and economic consequences of workplace injury and illness — the consequences of non-complying.

APPENDIX 1: COMPANY INTERVIEW GUIDE

1. What is your company's approach to health and safety in the workplace?

Introductory question. Let the person give their complete overview, listen/note the 'flags' they give and go back and explore each in turn. This is likely to cover many of the areas below. Be sensitive to the enterprise clusters on health and safety.

Probe: Vision, specific health and safety policies and work practices? Who are the people accountable for health and safety? (health and safety co-ordinator, HR manager, production manager, supervisor, team leader, operators, process workers) What are the systems, procedures and practices?

Listen for: what view does the owner/CEO have of health and safety? Is health and safety at the top of the agenda or the bottom? Are there monthly health and safety meetings? Who attends? Is health and safety monitored during daily/weekly team briefs?

2. Do you know what activities your company had to undertake (or would need to undertake) to comply with the HSE Act?

Probe: Specific activities/costs. Any additional activities or costs associated with demonstrating compliance to OSH? Listen for: Are they seen as fixed costs, variable costs, an investment?

3. How did you know what you had to do?

Probe: What do they know about the Act? How easy it was for them to get information, and understand it? If problems, how could it be improved? Listen for: Do they understand what it means to be complying with the Act?

4. If there was not an HSE Act, do you think your company would do anything different in terms of health and safety?

Listen for: Are there any unnecessary activities/costs due to the HSE Act. If there are, how they think these could be reduced/eliminated and still maintain the health and safety of employees at work? (If they haven't already mentioned them) Are there any benefits or other effects on your company in having to comply with HSE Legislation?

Listen for: examples of benefits and effects on competitiveness/innovation?

5. How do you think the HSE Act compares with other Acts that you comply with? (e.g. Building Act, Resource Management Act, Electricity and Gas Act)

6. How does the HSE Act or legislation fit together with other Acts?

Probe: Any conflicts, duplication? Benefits? Listen for: whether the effects are serious or minor. How it rates against other legislation in terms of costs.

7. Can you suggest ways that the HSE regime could be improved while maintaining the intent of the Act?

Probe: codes of practice, guidelines, voluntary codes, education.

8. Is there anything else you would like to add? (THANK-YOU)

APPENDIX 2: EMPLOYEE INTERVIEW GUIDE

1. We'd like to talk to you now about health and safety in _____ What is your role?
Introductory question. Let the person give their complete overview, listen/note the 'flags' they give and go back and explore each in turn. This is likely to cover many of the areas below. If not, probe further.
2. What is your company's approach to health and safety?
Probe: Ask them to base their answer on the work they do relating to health and safety. Ask for examples.
3. Do you know what activities your company had to undertake to comply with the HSE Act? Have you been involved in any of these activities?
Probe: Ask for a description of specific activities. Do they have any comments about how they think the Act could be improved?
Listen for: What they know about the Act and where they received the information. Do they understand what it means for their company to be complying with the Act? Do they know how this impacts employees?
4. Are there any other impacts that the HSE Legislation has had on your company?
Probe: Examples: benefits, costs, impact on ability to compete?
If there was not an HSE Act, do you think your company would do anything different in terms of health and safety in your workplace?
Listen and probe for: Their knowledge and insights about whether there are any unnecessary activities/costs due to the HSE Act. And, if there are, whether they could be reduced/eliminated without a negative impact on employee health and safety? During the interview listen for any comments on:
How they see the HSE Act comparing with other Acts that their company needs to comply with? (Examples Building Act, RMA)
If it is appropriate, probe for conflicts, duplication? Benefits? Whether they comment on any ways that health and safety could be approached, other than through legislation?
If it is appropriate, probe for codes of practice, guidelines, voluntary codes, education.
5. Is there anything else you would like to add? (THANK-YOU)

APPENDIX 3: SUMMARY OF INTERVIEWEES

Small to Medium Clothing Companies:

1. Interviewed Co-owners and Production Manager (6 employees)
2. Interviewed Owner and a Machinist (12 employees)
3. Interviewed Co-owners together and a Machinist (14 employees)
4. Interviewed Manager (15 employees)

Small to Medium Sized Fabricated Metal Companies:

5. Interviewed General Manager and Operations Manager (3 employees)
6. Interviewed Director and Operations Manager (6 employees)
7. Interviewed Sales Manager and an Employee (12 employees)
8. Interviewed Managing Director and Employee (12 employees)
9. Interviewed Owner and a Foreman (13 employees)
10. Interviewed a Co-owner and Employee (18 employees)

Large Clothing Companies:

11. Interviewed Factory Manager and Owner together and a Floor Supervisor (50 employees)
12. Interviewed Health and Safety Co-ordinator, a Production Supervisor, and a Manager Director (52 employees)
13. Interviewed Managing Director, a Accountant, and a First Aid Officer (Supervisor) (60 employees)
14. Interviewed Operations Manager, a Quality Assurance Manager, a Factory Manager, and two Employee Health and Safety Committee Members (200 employees)
15. Interviewed Health and Safety Co-ordinator, a Company Secretary, and a Supervisor (260 Employees)

Large Fabricated Metal Companies:

16. Interviewed General Manager and Plant Supervisor together and a Supervisor (45 employees)
17. Interviewed Manager of the Health and Safety and Environment Programme, a Operations Manager, and a Supervisor (50 employees)
18. Interviewed General Manager, a Supervisor, and a Workshop Foreman (50 employees)
19. Interviewed Managing Director, a Purchasing Officer, and a Health and Safety Representative (100 employees)
20. Interviewed Works Manager, a Works Engineer, and a Supervisor (120 Employees)
21. Interviewed Managing Director, Health and Safety Officer, Supervisor (350 employees)

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