



A Simple Guide to the New Zealand Health and Safety at Work Act 2015





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Introduction

On 4 April 2016 New Zealand's workplace health and safety law came into effect.

The legislation is an updated framework for health and safety at work.

For business leaders, this raised a number of questions and concerns:

- What is the 2015 law?
- What are the changes?
- What are my responsibilities under the updated legislation?
- What are the penalties?
- What changes do I need to make in my business?

Now that the reformed system has had time to settle in, the answers to these questions continue to become clearer.

This white paper has been compiled by the Paramount Safety Group as a summary of the Health and Safety at Work Act 2015, and how it may affect you.

Paramount Safety is a leading supplier of safety equipment in New Zealand. Each of our specialty brands meet the specific safety requirements of the Act and core safety segments including:

Personal Protective Equipment (PPE)



Workplace Hydration



Height Safety



Safety Signs and Labels



Storage, Emergency Response and Environmental Protection



Why Do We Need Health and Safety Reform?

Each year in New Zealand workplaces:

- 50–60 people die on the job
- hundreds more are seriously injured
- a further 600–900 die from work-related diseases.*

The royal commission into the 2010 Pike River coal mine tragedy, along with other workplace safety reviews, shone a light on New Zealand's health and safety record.

In 2013 the Independent Taskforce on Workplace Health and Safety reported that New Zealand's work health and safety system was failing.

This was the catalyst for the most significant overhaul of workplace health and safety in New Zealand in 20 years.

“Everyone who goes to work should come home healthy and safe.”

WorkSafe New Zealand

* Source: WorkSafe New Zealand



The Legal Framework

The 2015 Act

- The Health and Safety at Work Act 2015 (HSWA) is New Zealand's workplace health and safety law which came into effect on 4 April 2016.
- HSWA repeals the Health and Safety in Employment Act 1992.
- The Act ensures everyone has a role to play and everyone's responsibilities are clear.
- The Act applies to nearly all work situations in New Zealand, except some situations involving the Armed Forces and community volunteer associations.

The Regulator

- WorkSafe New Zealand began operation in 2013 as part of a comprehensive workplace health and safety reform program.
- WorkSafe NZ is the principal regulator of workplace health and safety.
- WorkSafe NZ continues to work with industry groups to further develop industry-specific health and safety frameworks.

The Goal

- WorkSafe NZ aims to reduce death and serious injury rates by at least 25 percent by 2020.



What's Changed?

1. A New Way of Thinking about Health and Safety

The Health and Safety at Work Act (HSWA) recognises that to improve our poor health and safety performance we all need to work together.

2. Everyone Is Responsible for Safety

Everyone from executives to workers has health and safety responsibilities. Doing nothing is not an option.

3. Due Diligence

The Act places greater legal responsibility on directors and executives of a business to manage risks and keep people safe.

4. Worker Engagement and Participation

There is a stronger emphasis on worker engagement and participation with in health and safety.

5. Risk Management

There is a more proactive approach to identifying and managing risks.

6. Stronger Fines and Penalties

The Act significantly increases the categories of offences and can impose greater fines and penalties.

“Everyone needs to work together on health and safety.”

WorkSafe New Zealand

Important Terms and Concepts

To understand the new Health and Safety at Work Act you need to understand these important new terms and concepts.

Source: Adapted from www.WorkSafe.govt.nz and HSWA Quick Reference Guide – WorkSafe New Zealand

PCBU

The HSWA introduces the key term “**person conducting a business or undertaking**” (PCBU).

Despite its name, a PCBU is not necessarily one person. It may refer to a business entity such as a company or organisation.

A PCBU may also be an individual running their own business as a sole trader.

A **business** is defined as an enterprise conducted to make a profit.

An **undertaking** is defined as a not-for-profit organisation such as a school, government department, local council or charity.

PCBU Responsibility – Primary Duty of Care

The PCBU has the primary duty of care for the health and safety of workers, and anyone affected by its work.

Officer

Officers are people in senior positions who have significant influence over the management of the PCBU.

This includes chief executives, senior managers, partners, directors, board members and anyone else at that level.

A person who simply advises someone in a senior position is not considered an officer.

Sole traders have the obligations of both a PCBU and an officer.

Officer Responsibility – Due Diligence

Officers must do due diligence to make sure the PCBU understands and is meeting its health and safety responsibilities. Officers are now personally liable under the Act if they fail to meet their due diligence obligations.

Worker

Workers are people who carry out work for the PCBU including employees, contractors and subcontractors.

Under the Act, workers can also be employees of labour hire companies, apprentices, trainees, work experience students and some volunteer workers.

Worker Responsibility – Reasonable Care

Workers must take reasonable care for their own health and safety and ensure their actions don't adversely affect the health and safety of others. They must also follow any reasonable health and safety instruction given to them by the PCBU.

Other Person

Other persons in the workplace may include visitors or customers – for example, a courier driver delivering something to site, associates attending a meeting or customers coming into reception.

Other Person Responsibility – Reasonable Care

Other persons who visit the workplace must take reasonable care for their own health and safety and ensure their actions don't adversely affect the health and safety of others. They must also follow any reasonable instruction given to them by the PCBU.

The Meaning of “So Far as Reasonably Practicable”

Many duties under the Act apply “so far as is reasonably practicable”. It's an important concept that involves doing what is reasonably able to be done to ensure people's health and safety under the given circumstances.

Something is “practicable” if it is possible or capable of being done. “Reasonably” doesn't mean doing everything humanly possible to manage a risk. It means doing what other businesses would reasonably do in the same situation.

Different businesses have different risks – it all depends on the type of work you do.

What every business needs to understand is:

- what its work-related health and safety risks are – particularly those that have the potential to cause workers and others serious injury or illness
- the likelihood of those risks occurring
- the degree of harm that could result from those risks
- the options to eliminate the risks
- the options to minimise the risks (where they can't be eliminated)
- the associated costs.

Consideration of cost should only take precedence over safety when it is grossly disproportionate to the risk.

TIP:

The old term was “all practicable steps”. Change the wording in your health and safety documents and employee and subcontractor handbooks to “reasonably practicable”.

The Meaning of “Worker Engagement and Participation”

Under the 2015 Act, all businesses must have worker engagement and participation practices, regardless of size, level of risk or the type of work carried out.

A business must:

- ensure workers’ views on matters that could affect their health and safety are asked for and taken into account (engagement)
- have clear, effective and ongoing ways for workers to raise concerns or suggest improvements on a day-to-day basis (participation).

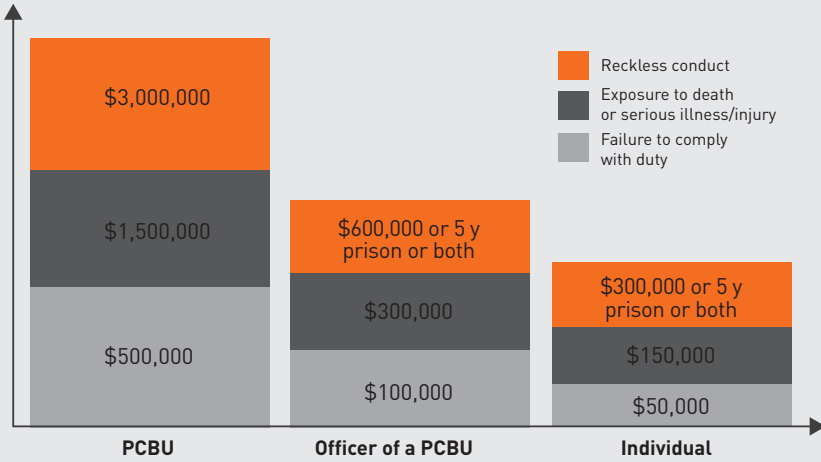


Your Responsibilities in Detail

<p>PCBU e.g. business entity</p>	<p>Primary duty of care</p>	<p>The PCBU must, as far as is reasonably practicable:</p> <ul style="list-style-type: none"> • Provide and maintain a work environment that is without risk to health and safety. • Provide and maintain safe plant and structures, and safe systems of work. • Ensure the safe use, handling and storage of plant, structures and substances. • Provide adequate facilities for the welfare of workers. • Provide the information, training, instruction or supervision necessary to protect people from risks to their health and safety arising from work. • Monitor the health of workers and the conditions at the workplace for the purpose of preventing injury or illness.
<p>Officer e.g. chief executive, senior manager, partner, director, board member</p>	<p>Due diligence</p>	<p>An officer must exercise due diligence by taking reasonable steps to:</p> <ul style="list-style-type: none"> • Keep up to date about work health and safety matters. • Understand the hazards and risks associated with the business. • Ensure the business has resources and processes to eliminate or minimise risks. • Ensure timely processes for responding to incidents, hazards and risks. • Ensure processes for complying with duties under the HSWA. • Verify that health and safety processes are in place and being used.
<p>Worker e.g. employee, contractor</p>	<p>Reasonable care</p>	<ul style="list-style-type: none"> • Take reasonable care to ensure their own health and safety. • Ensure their actions don't adversely affect the health and safety of others. • Follow instructions given by the PCBU. • Workers have the right to refuse to undertake unhealthy or unsafe work.
<p>Other person e.g. visitors, customers</p>	<p>Reasonable care</p>	<ul style="list-style-type: none"> • Take reasonable care for to ensure their own health and safety. • Ensure their actions don't adversely affect the health and safety of others. • Follow instructions given by the PCBU.

Source: Adapted from HSWA Quick Reference Guide – WorkSafe New Zealand

Maximum Penalties for Offences under the Health and Safety at Work Act



What You Need to Do:

ACTION CHECKLIST

If you had good health and safety systems in your workplace under the previous law, you will probably only need to make minor changes to comply with the Act.

If your systems could be better, it's a great opportunity to start afresh with your health and safety culture.

It's about ensuring you comply under the law – and it's simply the right thing to do.

As a minimum, start here:

- ✓ **Develop Policies and Procedures**
- ✓ **Engage Your Workers**
- ✓ **Identify and Manage Your Risks**
- ✓ **Review Your Staff Training**
- ✓ **Report and Record Incidents**
- ✓ **Keep Good Records**

✓ **Develop Policies and Procedures**

Do you have written policies and procedures for workplace health and safety? Have you communicated your policies and procedures to everyone in your organisation? Structured processes support a strong health and safety culture.

If you already have policies and procedures in place, conduct a review to ensure your content and terminology align with the Act.

✓ **Engage Your Workers**

Make it easy for workers to participate in workplace health and safety by:

- electing Health and Safety Representatives (compulsory if 20 or more workers or high risk)
- setting up a Health and Safety Committee (compulsory if 20 or more workers or high risk)
- providing a whiteboard where workers can write health and safety hazards and suggestions
- holding regular safety meetings
- conducting regular toolbox talks.

✓ Identify and Manage Your Risks

Ensure you have a system to:

- identify hazards
- assess the risk for each hazard
- control and monitor hazards.

You need to document these steps. A range of standard health and safety templates such as hazard identification templates are available at:

<http://www.worksafe.govt.nz/worksafe/tools-resources/health-and-safety-templates/hazard-id-pdf>

✓ Review Your Staff Training

Do you provide quality induction and training to ensure all workers know how to work safely while under your watch? If not, it's time for an upgrade. Novices must be closely supervised when potentially dangerous equipment and environments are involved. You should keep a register of each staff member's training.

✓ Report and Record Incidents

Review your methods of recording, investigating and reporting workplace incidents. You should also have a written emergency plan for your organisation.

Under the Act, you must notify WorkSafe when certain work-related events occur, including:

- a death
- a notifiable injury or illness
- a notifiable incident.

For detailed definitions of "notifiable injury or illness" and "notifiable incident" together with the relevant forms visit:

<http://www.worksafe.govt.nz/worksafe/notifications-forms/notifiable-event>

✓ Keep Good Records

Good record keeping is essential. Not only is it the most professional and robust way of managing your health and safety system, it reinforces your standing as a business that does the right thing by its workers and the community.

If required by the regulator, such documentation can also help satisfy the question: "What due diligence steps did you take to ensure the PCBU complied with its duties?"

Is a Health and Safety Committee Compulsory?

A Health and Safety Representative (HSR) or a Health and Safety Committee made up of workers provides a great forum for raising issues and suggesting improvements. Under the Act, this is legally required if a PCBU has 20 or more workers or operates in a high risk industry. If you have fewer than 20 workers or are not in a high risk sector this is not compulsory but can be valuable.

Working with Other Businesses

What happens when two or more PCBUs are working at the same time on a site? This is termed “overlapping duties”.

Overlapping Duties

WorkSafe’s HSWA Quick Reference Guide states:

“Where work overlaps, businesses need to **communicate, consult, cooperate and coordinate** activities to meet their health and safety responsibilities to workers and others, so far as is reasonably practicable.”

Tips for Effective Consultation

- Plan ahead, think about the stages of your work and who will be affected by it.
- Identify the risks to be managed and together agree how to control those risks and who is best placed to do so.
- Define roles, responsibilities and actions, and explain these to workers and other businesses so they know what to expect.
- Carry out reasonable and proportionate monitoring to ensure health and safety risk management is maintained.

Source: HSWA Quick Reference Guide – WorkSafe New Zealand

Upstream PCBUs

The Act also places duties on businesses that are upstream in the supply chain. Examples are architects, engineers, manufacturers and importers who are in a strong position to eliminate or minimise risks to health and safety within the design and manufacturing process.

How Paramount Safety Can Help Your Compliance Under the Act

PPE and the 2015 Act

Under the Act, employers have a duty to provide personal protective equipment (PPE) and workers have a duty to wear or use it.

An employer cannot satisfy the duty by paying an allowance or extra remuneration instead of providing the equipment. Neither can they comply by requiring the employee to provide their own equipment or clothing as a condition of an employment agreement.

However, a worker may voluntarily choose to provide their own PPE for reasons of comfort or convenience.

ProChoice Safety Gear – New Zealand’s Safe PPE Choice

All ProChoice Safety Gear is compliant with the relevant AS/NZS Standards. In addition, many ProChoice Safety Gear items are Certified Products. This means products are regularly independently audited by a JAS-ANZ accredited Conformance Assessment Body (CAB) like SAI Global or Benchmark. This ensures the relevant manufacturing processes and Standards criteria are maintained, as verified by a third party expert.

Products branded THORZT Hydration, LINQ Height Safety, SignViz Signs and Labels and Pratt Safety Systems all go through the same stringent Compliance and Certification process.

Australian/New Zealand
Standard Number

Licence assigned after
Certification has
been granted

Australian
Standard

AS/NZS1716:2012

Lic 1508 SAI Global



Paramount Safety Can Prove Certification where Applicable

Certification schedules are available on request. Just ask your ProChoice, THORZT, LINQ, SignViz or Pratt stockist.

Where to Buy Paramount Safety Brands in New Zealand

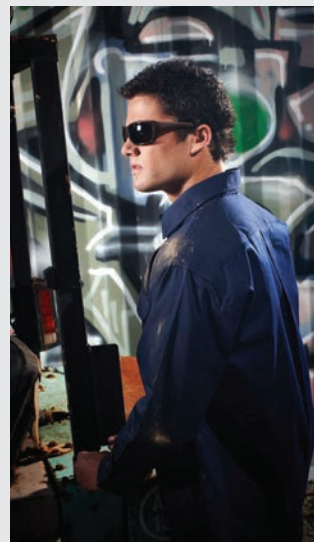
Paramount Safety brands are available in New Zealand through our valued trading partners and safety equipment distribution network.

Our distribution network is supported by our local Paramount Safety New Zealand team. For a list of outlets currently selling ProChoice Safety Gear, THORZT Hydration, LINQ Height Safety, SignViz Signs and Labels and/or Pratt Safety Systems contact our New Zealand office:

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Paramount Safety can also provide a workplace site safety compliance audit in relevant safety categories upon request. Contact us for more information.



WANT TO KNOW MORE?

WorkSafe New Zealand

www.worksafe.govt.nz

Visit the WorkSafe New Zealand website for further information about the 2015 law.

You'll find a wide range of resources including guidance by industry as well as detailed information about hazard management and working safely with specific types of equipment.

Other helpful resources include tips on writing health and safety documents for your workplace plus much more.

In addition, you'll find a detailed explanation of what qualifies as a notifiable event and how you should handle one.

It's also the place to go for templates and compliance forms.

For handy reminders and updates, check out WorkSafe New Zealand's Facebook and Twitter pages.

Health and Safety at Work Act:

Quick Reference Guide

<http://www.worksafe.govt.nz/worksafe/information-guidance/all-guidance-items/hswa-quick-reference-guide>

This quick reference guide published by WorkSafe New Zealand provides an overview of the law in plain language.

Health and Safety at Work Act 2015 (HSWA)

<http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html>

Refer to the actual law here. Sometimes it's useful to consult the original source.

TEST YOUR KNOWLEDGE

WorkSafe New Zealand Quizzes

<http://www.worksafe.govt.nz/worksafe/hswa/working-smarter/tools-and-resources/quizzes>

Here's a fun way to test your knowledge of the new health and safety landscape in New Zealand. The WorkSafe New Zealand website includes online quizzes in the following areas:

- primary duty of care
- directors' responsibilities
- overlapping duties
- worker engagement and participation
- notifiable events.



DISCLAIMER

Information contained in this white paper should be used as a guide only and does not take into account individual workplace circumstances. Please refer to the Health and Safety at Work Act 2015 as the definitive information source for your workplace.

Paramount

SAFETY PRODUCTS



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