

Health and Safety at Work Amendment Bill

Legislative Statement

12 February 2026

Presented to the House in accordance with Standing Order 272.

This legislative statement supports the first reading of the *Health and Safety at Work Amendment Bill* (the Bill).

Overview

The Bill amends the Health and Safety at Work Act 2015 (the HSW Act), the WorkSafe New Zealand Act 2013 (the WorkSafe Act), and the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 (the GRWM Regulations).

The objectives of the Bill are to reduce unnecessary compliance costs, increase certainty for businesses and organisations about what they need to do, and support continued reductions in the incidence of workplace fatalities, injuries and illnesses.

To achieve these objectives the Bill focuses the system on critical risk, clarifies areas of confusion, creates greater certainty through strengthening Approved Codes of Practice (ACOPs), and prioritises the regulators' powers and functions.

Focusing the system on critical risks

The work health and safety system requires persons conducting a business or undertaking (PCBUs) to manage all their risks. The broad nature of PCBUs' general duties has led to confusion and overcompliance. Focusing the system on 'critical risk' is designed to direct attention and resources towards preventing serious workplace harms and away from more minor issues.

Sharpening the purpose of the HSW Act and the WorkSafe Act

To signal the overall intent of the reform to focus the system on critical risks, the Bill amends the main purpose of the HSW Act and WorkSafe New Zealand's (WorkSafe) main objective under the WorkSafe Act to explicitly prioritise critical risk.

Defining critical risk

To support this focus, 'critical risk' is defined as a risk that is associated with:

- a hazard to which certain regulations apply, with these regulations and hazards set out in *new Schedule 1A* of the HSW Act; or
- a hazard of any kind that is likely to result in a death, a notifiable injury, illness or incident (as defined in sections 23 and 24 of the HSW Act), or an occupational disease (as defined in Schedule 2 of the Accident Compensation Act 2001).

The first step for a PCBU is to check whether any of the regulations and hazards in *new Schedule 1A* apply to their work. The second step is a 'catch-all test' which requires the PCBU to check whether they have any other hazards that are likely to result in death or a notifiable injury, illness, incident or occupational disease.

Schedule 1A needs to be kept up to date so that people can readily understand what a critical risk is, and therefore the scope of core aspects of the HSW Act. An Order in Council may amend *new Schedule 1A* in response to changes to relevant regulations. The Order in Council may only be made if the amendment relates to a hazard that is consistent with the Bill's definition of critical risk as provided in the catch-all test for critical risk. A hazard can only be removed from *new Schedule 1A* if the hazard is not of a kind described in the catch-all test.

Limiting duties for small PCBU's and prioritising duties for other PCBU's

Small PCBU's are required to manage only critical risks under their duties in sections 36 to 43 of the HSW Act, and under requirements in the GRWM Regulations to provide information, supervision, training, instruction and personal protective equipment, and to ensure that personal protective equipment is worn or used.

Small PCBU's must continue to provide worker welfare facilities such as adequate lighting, washing facilities, and first aid in full.

Small PCBU's must prioritise critical risks over other risks when complying with other provisions.

All other PCBU's – those that are not small – must continue to manage all risks but prioritise critical risks under all duties.

Defining small PCBU

A 'small PCBU' is one that has fewer than 20 workers. Additional definitions account for PCBU's with a fluctuating workforce (eg, seasonal workers), with a basic requirement that there are fewer than 20 workers for at least 9 out of 12 months.

Clarifying areas of confusion

Clarifying overlaps with other legislation

Overlaps between the HSW Act and other systems that manage health and safety risks have resulted in some PCBU's thinking that the HSW Act requires them to do more to manage a specific risk than is required by another system, even if there is another system that manages that risk.

The Bill clarifies that, if a person complies with relevant requirements under other legislation to manage a risk, they must be treated as having complied with the relevant duty under the HSW Act. However, if a regulation sets a specific requirement, the PCBU must still comply with that requirement. An example illustrates an area of overlap with the maritime safety regulatory system.

An amendment to the duty of a PCBU who manages or controls a workplace creates a new exception that relates to workplace buildings and seismic risk regulated under the Building Act 2004. If a PCBU manages or controls a workplace that includes the whole or part of a building, and they are not in breach of specified obligations for earthquake-prone buildings imposed by the Building Act 2004 (if those are relevant to the PCBU), then the HSW Act does not require the PCBU to take any additional action in relation to seismic risk affecting the building.

Clarifying duties relating to recreational use of land

The duty of a PCBU who manages or controls a workplace has been associated with some confusion among landowners as to whether they are responsible for health and safety risks to people they allow onto their land for recreational purposes.

The Bill clarifies that PCBUs who manage or control a workplace that includes open space do not owe any duties to those lawfully accessing the land for recreational purposes, unless the recreation is connected with the PCBU's work or the PCBU has other work happening at the same place and at the same time as the recreational users are present.

Clarifying officers' duties

An officer of a PCBU includes a director, a partner, or anyone who exercises significant influence over the management of the business or undertaking. There has been some ambiguity about the extent of the duty, especially when an officer also has other roles in the PCBU, such as chief executives, owner-operators or partners.

The Bill clarifies that an officer's duty does not extend to activities they perform in another role within a PCBU. To reinforce that an officer duty applies to governance only, the Bill changes the current open (inclusive) list of due diligence steps into an exhaustive list of the due diligence steps required to meet the officer duty, and re-expresses some of the steps.

Clarifying notification requirements

PCBUs must notify the regulator of significant workplace events (deaths, serious injuries, serious illnesses, and incidents that expose the work or others to serious risks).

To improve understanding of existing notification requirements, the Bill adds definitions and examples to clarify notifiable events.

Strengthening Approved Codes of Practice (ACOPs)

ACOPs set out standards for how duty holders can comply with the HSW Act and regulations by providing the detail on how to meet the standard of 'reasonably practicable' in managing specific risks. However, relatively few have been developed since the HSW Act came into force and most existing ACOPs were carried over from the previous Health and Safety in Employment Act 1992.

Regulators develop the draft codes of practice and submit these to the responsible Minister for approval. The Minister may approve the draft only if satisfied that the legislated requirements for consultation with unions, employer organisations, and other affected persons and organisations have been met. The same applies to amendments to, and revocations of, ACOPs

This function of regulators remains, and the Bill also allows other persons or organisations (including worker or employer representatives, or representatives of a particular industry or sector) to develop and submit draft codes of practice to the regulator. The regulator must review these drafts, may amend them, and may recommend them to the Minister for approval. The regulator may not recommend approval to the Minister unless the regulator has ensured that the legislative consultation requirements have been met. The same applies to amendments to, and revocations of, ACOPs.

ACOPs are admissible as evidence of compliance. The Bill strengthens this provision by providing that, if a person acts in accordance with an ACOP for a specific risk, they are deemed to have complied with their duty relating to that risk.

The use of ACOPs remains non-binding; a person can still demonstrate compliance through other means.

Any ACOP approved after commencement of the Bill will be afforded the new “safe harbour” status. Most of the existing ACOPs were not drafted with this status in mind, and therefore, only the two most recent ACOPs, the Approved code of practice for loading and unloading cargo at ports and on ships (2024) and the Approved code of practice: Safe practice for forestry and harvesting operations (2025), will be afforded safe harbour status from commencement. Other ACOPs will retain their status unless reviewed and reapproved by the Minister.

Prioritising the regulators’ powers and functions

The HSW Act (section 190) and the WorkSafe Act (section 10) set out the functions of the regulators, with no indication as to whether any functions should be prioritised. This lack of prioritisation has not supported regulator decisions on how to balance their assistance and enforcement roles.

The Bill prioritises the existing functions of WorkSafe to be providing guidance and information, developing, reviewing and recommending codes of practice, developing safe work instruments, and monitoring and enforcing compliance with relevant legislation. WorkSafe’s other existing functions remain as additional functions.

The Bill applies the same prioritisation to the functions of the designated regulators (currently Maritime New Zealand and the Civil Aviation Authority).

Commencement

The Bill will commence on the day after Royal assent.