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**ACTION**

*Real Workplace Training*

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**WORKSAFE**  
NEW ZEALAND | HAKI KAWHANGA  
AOTEAROA

# **HEALTH AND SAFETY REPRESENTATIVE TRANSITION TRAINING**

## **COURSE MANUAL**

# HEALTH AND SAFETY REPRESENTATIVE TRANSITION TRAINING

Designed for workers who have completed training as a Health and Safety Representative under the Health and Safety in Employment Amendment Act 2002 and require this training to fulfil their functions and powers under the Health and Safety at Work Act 2015.

## COURSE CONTENTS

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## ACKNOWLEDGMENTS

Safety 'n Action acknowledges the use and content of material produced by WorkSafe.

**NOTE:** Information in this training does not cover the specific functions of HSRs in the mining sector

## Useful Links

<http://www.business.govt.nz/worksafe/about/reform>

<http://www.mbie.govt.nz/info-services/employment-skills/workplace-health-and-safety-reform/development-of-regulations-to-support-the-new-health-and-safety-at-work-act/exposure-drafts-of-phase-one-regulations>

## **INTRODUCTION TO THE COURSE**

Welcome to the Safety 'n Action Health and Safety Representative Transition Training short course. The fact that you are here shows that you are ready to update your knowledge so you can operate effectively as a health and safety representative (HSR) under the Health and Safety at Work Act (Act).

### **Course Objectives**

At the conclusion of this training programme, you will have obtained the skills and knowledge about how to be an effective HSR under the new Act.

To achieve these objectives, you will learn the following:

- 1 An understanding of the new Act and how it applies to your role
- 2 How to effectively fulfil your role as an HSR
- 3 How to promote and foster constructive worker involvement in health and safety matters
- 4 How to encourage open and honest communication and consultation between the PCBU and workers
- 5 How to work with the person conducting a business or undertaking (PCBU) to promote and foster successful health and safety management systems amongst members of the workforce
- 6 When and how to use the new HSR powers given under the Act

## 1.0 Setting the Scene

We have a problem in this country. Too many New Zealanders die or are seriously hurt while working. In comparison with other similar countries, our workplace health and safety record is woeful. Every year:

- 52 people die on the job
- Hundreds more are seriously injured, and
- 600-900 die from work-related diseases

Something has to change. We all need to work smarter and work together to do something about it.

On 4 April 2016, the Health and Safety at Work Act (HSWA) comes into force bringing new responsibilities for everyone in the workplace. The new law is part of a reform package aimed at reducing the number of serious work-related injuries and deaths in New Zealand by at least 25 percent by 2020.

Everyone who goes to work deserves to come home healthy and safe.

WorkSafe (2016). *Why is the law changing?* Retrieved from: <http://www.business.govt.nz/worksafe/hswa/mythbusting/general#who>

The Act will be enforced by the stand-alone Crown agency WorkSafe whose aim is to work closely with employers, employees and others to educate them about their workplace health and safety responsibilities, and engage with them in making changes that reduce the chances of harm. The emphasis of the new legislation is on managing risk. It's all about recognising things that might go wrong before they do and managing them to prevent harm to workers.

And you, as an HSR, have a unique and special role to help this change come about and improve our statistics in health and safety.

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## 2.0 New Terminology

### 2.1 Person Conducting a Business or Undertaking (PCBU)

Despite the name, a PCBU will usually be a business entity, such as a company, but may also be an individual person. A person might be a PCBU if they are a sole trader or a self-employed person.

PCBUs are in the best position to control risks to work health and safety as they are the ones carrying out the business or undertaking. This is why the PCBU will have the primary duty of care under the new Act.

The 'primary duty of care' is the duty of the PCBU to ensure, so far as is reasonably practicable, the health and safety of workers and that other people are not put at risk by its work.

This means ensuring, so far as is reasonably practicable:

- The health and safety of workers who work for the PCBU (e.g. employees or contractors, including their subcontractors or workers) while they are at work in the business or undertaking
- The health and safety of workers whose work activities are influenced or directed by the PCBU while the workers are carrying out the work (e.g. a service station or construction site)
- That other persons are not put at risk by the work of the business or undertaking (e.g. a visitor to the workplace, or members of the public who could be affected by a work activity)
- A PCBU who is a self-employed person must also ensure, so far as is reasonably practicable, his or her own health and safety while at work

Examples of a PCBU include but are not limited to:

- A retail business
- A manufacturing business
- An import business
- A self-employed person operating their own business
- A government department
- A business partnership
- A building company
- A volunteer organisation that employs admin staff

## **You're not a PCBU if you are:**

Employed or engaged solely as a worker or an officer (for example a company director) of the business or undertaking.

### **2.2 Officer**

An officer is a person who holds a very senior leadership position and has the ability to significantly influence the management of a PCBU. Organisations can have more than one officer.

Officers are:

- Company directors (even if they do not have 'director' in the title)
- Any partner in a partnership (other than a limited partnership)
- Any general partner in a limited partnership
- Any person who holds a position comparable to a director in a body corporate or an unincorporated body
- Any person who exercises significant influence over the management of the business or undertaking (e.g. the Chief Executive)

Officers must exercise due diligence to make sure that the PCBU complies with its health and safety duties. They must exercise the care, diligence and skill a reasonable officer would exercise in the same circumstances, taking into account matters including the nature of the business or undertaking, and officer's position and nature of their responsibilities and ability to influence and control.

This includes taking reasonable steps to:

- Acquire, and keep up to date, knowledge of work health and safety matters
- Gain an understanding of the nature of the operations of the business or undertaking of the PCBU and generally of the hazards and risks associated with those operations
- Ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking
- Ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under the Act
- Ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information

- Verify the provision and use of the resources and processes referred to above

Officers of large PCBUs cannot rely on the fact that their organisation has a health and safety management system in place. They should understand how it works, and take steps to make sure it is working. In smaller PCBUs, officers are more likely to have a hands-on role in health and safety. They might talk directly with workers, supervise health and safety practices and investigate incidents.

Officers that only have a passive role or interest in work health and safety are not taking 'reasonable steps'.

### **Who is not an officer?**

To avoid confusion the Act states the meaning of officer does not include a person who merely advises or makes recommendations to a person who occupies the position of an officer.

So a person who provides health and safety or other advice, or makes recommendations to senior leadership is not an officer on this basis.

Some examples of people who are not officers (unless they also fall into one of the officer categories described above) include:

- Health and safety managers
- Team leaders, line managers and supervisors
- Workplace health and safety officers and advisors
- People that have 'officer' in their job title, such as Corrections Officer, Police Officer or Administration Officer

## **2.3 Worker**

The definition of worker under the Act means an individual who carries out work in any capacity for a PCBU, including work as:

- An employee
- A contractor or subcontractor
- An employee of a contractor or subcontractor
- An employee of a labour hire company
- An outworker (including homeworker)
- An apprentice or trainee
- A person gaining work experience or undertaking a work trial



- A volunteer worker

Under the new law, all workers have a duty to:

- Take reasonable care of their own health and safety
- Take reasonable care that what they do or don't do doesn't adversely affect the health and safety of others
- Cooperate with any reasonable policies or procedures the business or undertaking has in place on how to work in a safe and healthy way
- Comply with any reasonable instruction given by the business or undertaking so that they can comply with HSWA and the regulations

## 2.4 Definition of Workplace

A workplace is defined in the Act as:

- A place where work is being carried out, or is customarily carried out, for a business or undertaking
- Includes any place where a worker goes, or is likely to be, while at work



Under the Act the term *place* includes a vehicle, vessel, aircraft, ship, or other mobile structure. Also, any waters and any installation on land, on the bed of any waters, or floating on any waters so covers any place where a person may work. Some examples of this would include: ships, aircraft and oil rigs.



## 3. Risk Management

The Act makes the move away from hazard management to risk management.



A hazard is anything that may cause harm, such as chemicals, electricity or working from ladders.

The risk is the chance that somebody could be harmed or something damaged by these.

Under this new regime there will be a two tier approach. Firstly, eliminate the risk. Where this is not possible the second approach is to, so far as is reasonably practicable, minimise the risk.

To establish the level of risk posed by the hazard a risk assessment will have to be done. This is simply a careful examination of what, in your work, could cause harm to people, so that you can weigh up whether you have taken enough precautions or should do more to prevent harm.

If the risk cannot be eliminated the PCBU must, so far as is reasonably practicable, minimise risks to health and safety by implementing risk-control measures in accordance with the regulations by doing one or more of the following:

- 1) Substituting (wholly or partly) the hazard posing the risk with something that poses a lesser risk
- 2) Isolate the hazard giving rise to the risk so as to prevent any person from coming into contact with it
- 3) Implementing engineering controls

The remaining risk, once control measures are in place, is called residual risk. Again the PCBU must minimise this so far as is reasonably practicable through administrative controls provision and use of suitable PPE.

Risk assessments should not only focus on the risks that can cause immediate harm but should also consider those that may cause harm or illness to manifest over time.

The Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 are intended to set out the requirements for risk management.

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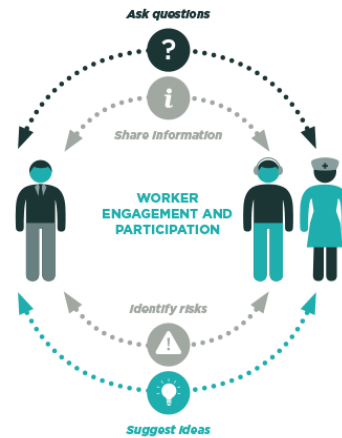
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## 4. Worker Engagement and Participation Practices

Worker engagement and participation practices are separate duties.

All PCBUs must have worker engagement and participation practices regardless of their size, level of risk or the type of work they carry out. These twin duties are equally important and together they empower workers to have a real say in improving work health and safety.

What is done to meet one duty can help meet the other. Both involve two-way communication; a 'conversation' about health and safety.



### 4.1 Worker Engagement

A PCBU has a general duty to engage (i.e. consult) with workers on work health and safety matters and there are specific circumstances when they must engage. These are when:

- Identifying hazards and assessing risks to health and safety
- Proposing changes that may affect workers' health or safety
- Making decisions about:
  - 1) Ways to eliminate or minimise health and safety risks
  - 2) Procedures for resolving health or safety issues
  - 3) Whether facilities for workers' welfare (e.g. tearooms) are adequate
  - 4) Engaging with workers
  - 5) Monitoring workers' health
  - 6) Monitoring workplace conditions
  - 7) Providing information and training for workers
  - 8) Developing worker participation practices, including when determining work groups

A PCBU's engagement with workers must meet all these requirements:

- Relevant information about a health and safety matter must be shared with workers in a timely manner
- Workers must be given a reasonable opportunity:
  - 1) To express their views and to raise work health or safety issues in relation to the matter
  - 2) To contribute to the decision-making process relating to the matter.



- The PCBU must take workers' views into account
- Workers must be promptly advised of the outcome of the engagement

If workers are represented by an HSR, then engagement must involve that representative.

## 4.2 Participation Practices

Worker participation practices are what the PCBU puts in place to allow workers the opportunity to have a say on improving work health and safety, they:

- Give workers a voice on health and safety on an ongoing basis
- Make it easy for workers to continually get and share information about health and safety issues that need to be addressed
- Allow workers to contribute to decision-making
- Keep workers informed about health and safety decisions

Participation practices are flexible and should be whatever suits the PCBU best in terms of its size and risk profile and allows workers to engage and participate effectively. The PCBU must engage with workers when developing participation practices so the practices will work for everyone.

Health and safety representatives and committees are well established examples of participation practices and also support worker engagement.

When participation practices are effective:

- Workers know how to participate and use opportunities to do so
- Decision-makers in the PCBU consider and respond to workers' contributions

## 5. Health and Safety Committees (HSC)

A Health and Safety Committee (HSC) is a participation practice that supports the ongoing improvement of health and safety and is one way to support worker engagement and participation.

If 5 or more workers or an HSR request an HSC to be established, the PCBU must make a decision on the request within two months of receiving it.

The PCBU may decline to establish an HSC if they have practices that give workers reasonable opportunities to participate effectively. Matters such as the number of workers, the number of workplaces and the Company's health and safety risks must be considered. If a PCBU refuses a HSC for this reason, they must inform the workers who have an interest in the decision in writing as soon as is practicable and no later than 14 days after making the decision.

Businesses with fewer than 20 workers that are not in a specified high risk sector do not have to decide whether to have an HSC. If a PCBU refuses a HSC for this reason they must inform the workers making the request in writing within a reasonable time.



## 6. Election of HSRs

If a worker requests the election of an HSR for their work group the PCBU must initiate an election within two months unless the following exceptions apply:

- 1) If the PCBU is not in a specified high risk sector and has fewer than 20 workers, then the PCBU is not required to hold an election. If the PCBU refuses a request for an HSR on these grounds it must inform the workers in writing within a reasonable time of the decision
- 2) If the number of candidates for the position of HSR is less than or equal to the number of vacancies in the work group then those candidates will be treated as having been elected and may be appointed as an HSR without holding an election

Any workers in the work group may stand as a candidate to be elected as an HSR for that work group. The candidate may vote in the election but may not participate in the conduct of the election.

If a secret ballot is requested by a member of the work group, the PCBU or the candidate, then the election must be conducted by secret ballot.

The term of office of the HSR is for a maximum of three years but the PCBU and members of the relevant work group may agree a lesser period of time.

The HSR may be re-elected for any number of terms and may, with the agreement of the PCBU, stay in office after their term has expired until a successor is found.

If the PCBU thinks it is necessary it can decide to have an election for an HSR even if the workers don't request it.

To be eligible to act as an HSR the candidate must:

- Be a worker within the work group
- Be nominated by self or others within the work group
- Be willing to act as an HSR
- Work sufficiently regularly and for a sufficient amount of time to be able to exercise their powers and functions as an HSR



## 7. Function and Powers of the HSR

HSRs are one of the more common methods of worker representation. HSRs are workers themselves and not expected to be experts in work health and safety. They are not the person with overall responsibility for health and safety in their workplace. Their job is simply to represent their fellow workers on health and safety matters.

The Act sets out the functions and powers of the HSR. It clarifies and strengthens the role of the HSR while having checks and balances in place to ensure their position is not abused.

The functions and powers of the HSR are generally limited to their particular work group and may only be exercised in relation to matters that affect, or may affect the health and safety of workers in that work group.

The functions of the HSR are to:

- Represent the workers in their work group on health and safety matters
- To investigate health and safety complaints from workers in their work group
- Monitor the PCBU's health and safety measures
- Provide feedback to the PCBU about whether the requirements of the Act or regulations are being complied with
- Inquire in to anything that appears to be a risk to health or safety of workers in the work group
- Represent workers when requested by a worker in matters relating to health and safety (including a complaint)
- Make recommendations related to health and safety
- Promote the interests of injured workers in terms of rehabilitation and return to work



Under the Act, HSRs who have been appropriately trained, now have additional new powers to issue provisional improvement notices and to direct unsafe work to cease. These are covered in sections 10 and 11 of this manual respectively.

An HSR is not there to deal with non-safety related matters.

An HSR may consult with an inspector on any work health and safety issue.

If an HSR of one group is unavailable or on leave, an HSR from another work group may represent those workers in their HSR's absence if requested to do so.

An HSR must at all times respect a worker's privacy in matters relating to health and safety.

## 7.1 Workplace Inspections

The HSR may enter and inspect any area of a workplace to perform their health and safety functions and powers. This can only be done at a reasonable time.

Before entering and inspecting a workplace, the HSR must give the PCBU at that workplace, reasonable notice of this intention and whether the HSR will be accompanied by another person for assistance.

However, an HSR does not have to give notice if there is an incident or a situation involving a serious risk to the health or safety of a person arising from immediate or imminent (about to happen) exposure to a hazard.

At all times whilst inspecting a workplace, the HSR and any person accompanying them must abide by any reasonable safety procedures and requirements.

## **7.2 Assistance**

The HSR may also be assisted by another person when carrying out their functions or exercising their powers; for example a person with technical knowledge of the work or potential risk.

## **7.3 Request for Information**

If the HSR requires information on health and safety matters they may make a request of the PCBU to provide information (safety data sheets, approved codes of practice, operating instructions, risk assessments) and the PCBU must provide this information to the HSR. They can only use information obtained as an HSR for health and safety purposes.

## **7.4 HSR may attend interview**

HSRs may attend interviews relating to work health and safety matters with workers they represent at that or those workers request. This may be between the PCBU or the PCBU's representative and worker(s) or a WorkSafe inspector and the worker(s).

## **7.5 Protections for the HSR**

Nothing in the Act imposes a duty (responsibility) on the HSR. What this means is the HSR cannot be held responsible for any health and safety failings that occur while carrying out their role as an HSR. However, they still continue to have their duty as a worker to take all reasonably practicable steps to ensure their own safety and that nothing they do causes harm to another worker.

***The HSR is protected against criminal and civil liability for anything they do or omit to do while performing their functions of an HSR and done in good faith.***

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## 8. Obligations of the PCBU to the HSR

The PCBU has obligations under the Act towards the HSR in that:

- It must consult so far as is reasonably practicable, with the HSR on health and safety matters relating to the HSR's work group.
- It must confer with the HSR when reasonably requested to do so by the HSR to ensure the safety of the workers in the work group.
- It must allow as much time as is reasonably necessary for the HSR to be able to carry out their role
- It must provide relevant information to the HSR to help the HSR in their role. This may include safety data sheets, risk assessments and approved codes of practice
- When requested by a worker from their work group, the PCBU must allow the HSR to attend a health and safety interview with the worker and the PCBU, or the worker and a WorkSafe inspector
- The PCBU must permit the HSR to accompany a WorkSafe inspector during an inspection of the workplace where a worker in the work group works
- If a person is assisting the HSR, the PCBU must allow them access to the work area unless they have reasonable grounds to refuse this
- It must consider any health and safety recommendations made by the HSR and within a reasonable time either adopt these or give a written reason as to why not
- The PCBU must pay the HSR while acting in the role of HSR. It is a contravention of the Act to deduct the HSR's pay
- The PCBU must allow a total number of days training each year for HSRs in accordance with the WEPR regulations
- The PCBU must provide the HSR with any resources, facilities or assistance that are reasonably necessary or prescribed by regulations to enable them to carry out their functions and powers
- It is also an offence for the PCBU to engage in adverse conduct towards the HSR

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## 9. Work Groups

If a worker requests an HSR, or the PCBU initiates an election of an HSR, then the PCBU must determine one or more work group in accordance with the Act.

Unless the PCBU decides otherwise, there will be a single work group that includes all workers in the business. In this situation the PCBU must determine the number of HSRs to be elected according to the prescribed ratio, which is one HSR for every nineteen workers.

If the PCBU decides that a single work group would be inappropriate for the structure of the PCBU and decides to have more than one work group, it must ensure the workers are grouped in a way that:

- Most effectively enables the health and safety interests of the workers to be represented
- Takes account of the need for an HSR to be accessible to the workers that they represent
- Has regard for any prescribed requirements

When determining work groups the factors a PCBU must consider include the following:

- The number of workers
- The views of workers in relation to the number of HSRs and work groups
- The different places of work and the distance between them
- The number and grouping of workers who carry out the same or similar types of work
- The nature of the areas or places where work is carried out
- The extent to which a worker must move from place to place while at work
- Diversity of workers and their work
- The nature of hazards or risk at the workplace
- Work patterns (full-time, part-time), the times at which work is done, and the arrangements for overtime or shift work



The PCBU must ensure workers are grouped so that representation is accessible and effective.

## **10.0 Provisional Improvement Notice**

A Provisional Improvement Notice (PIN) is a new power for the HSR, replacing the previous Hazard Notice. A PIN can only be issued by an HSR who has completed transitional training or initial training provided under the Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations (WEPR).

A PIN can be issued to a person when an HSR reasonably believes that the person is, or is likely to, contravene a provision of the Act or regulations. Before issuing a PIN the HSR must consult with the person to attempt to resolve the health and safety issue and then only issue a PIN if they have failed to reach an agreement to resolve this.

Once issued the PIN requires the person to remedy the contravention or prevent a likely contravention from occurring or remedy the things or activities causing or likely to cause the contravention.

A PIN cannot be issued if an inspector has already issued an improvement notice or prohibition notice in relation to the same matter.

The HSR must provide a copy of the PIN to the PCBU as soon as practicable.

### **10.1 Content of a PIN**

The PIN must be in writing and state:

- That the HSR believes the person is contravening or likely to contravene the Act or regulations
- What part of the Act or regulations is being, or is likely to be contravened. How that part of the Act or regulations is being, or is likely to be contravened
- The day (at least 8 days after the notice is issued) by which the person is required to remedy the contravention or likely contravention

### **10.2 Recommendations**

The HSR may include in the PIN recommendations to remedy or prevent the contravention or likely contravention. These may refer to approved codes of practice or offer the recipient a choice of ways to remedy or prevent the contravention or likely contravention. However, these are not mandatory.

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### **10.3 Minor Changes to PIN**

The HSR may make minor changes to the PIN for clarification or to correct errors or references or to reflect any changes of address or circumstances.

### **10.4 Irregularities in a PIN**

A PIN does not become invalid because of an irregularity, omission or defect as long as it does not cause a substantial injustice or because of a failure to use the correct name of the person to whom it is issued to, as long as it sufficiently identifies the person.

### **10.5 Issuing a PIN**

The PIN must be issued to a person in accordance with Sec 116 of the Act:

- 1) By delivering it personally to the person; or
- 2) By sending it to the person by post or electronic transmission; or
- 3) By leaving it at the persons usual or last known place of business or residence with a person over the age of 16 who appears to reside or work there; or
- 4) By leaving it for the person at the workplace to which the notice relates, with a person who is or appears to be in charge of the workplace; or
- 5) In a prescribed manner

### **10.6 Cancelling the PIN**

An HSR may cancel the PIN at any time, by giving written notice to the person who was issued the notice.

### **10.7 Display of PIN at workplace**

The person to whom the PIN has been issued must, as soon as practicable, display the notice in a prominent place at or near the workplace where work is being carried out that is affected by the notice. A person must not intentionally destroy, deface or damage a PIN while it is in force.

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**10.8 Review of the PIN by WorkSafe**

The person is required to comply with the PIN by remedying, or avoiding the likely contravention within the specified timeframe.

A PCBU, or the person who the PIN was issued to, can within 7 days of the PIN being issued, ask WorkSafe to appoint an inspector to review the PIN. The PIN is stayed (put on hold) while it is reviewed. If WorkSafe is asked to appoint an inspector to review the PIN, WorkSafe must ensure that as soon as practicable:

- An inspector reviews the PIN; and
- Makes inquiries into the circumstances that are subject to the PIN

An inspector may review the notice even if the period for compliance with the notice has expired.

After reviewing the PIN, the inspector must:

- Confirm the notice; or
- Confirm the notice with changes; or
- Cancel the notice

The inspector must give a copy of their decision to the person who requested the review and the HSR who issued the PIN.

If an inspector confirms a PIN, it must be treated as an Improvement Notice issued by the inspector under the Act.

If at any time an HSR believes the PCBU/duty holder has not complied with the PIN in the required time they may consult with an inspector.

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## 11. Cease unsafe work

Directing unsafe work to cease is a new power for the HSR and should always be a last resort action.

An HSR may direct a worker in their work group to cease unsafe work if the HSR reasonably believes the work being carried out exposes the worker, or any other person, to a serious risk to their health and safety, arising from the immediate or imminent exposure to the hazard.



The HSR must first consult with the PCBU and attempt to resolve the issue before directing unsafe work to cease.

The only exception being if the HSR believes the risk is so serious and immediate or imminent, that it is not reasonable to consult with the PCBU before giving the direction.

In this case, the HSR must inform the PCBU immediately after directing a worker to cease unsafe work.

If the work being undertaken carries an understood level of risk because of the nature of the work, the HSR cannot order the work to cease unless the risk has materially increased beyond the understood risk.

**NOTE:** Any worker is able to cease, or refuse to carry out work without the direction of the HSR if they believe the work being carried out exposes them to a serious risk to their health or safety from an immediate or imminent exposure to a hazard.

The PCBU may direct a worker who has ceased work to do alternative duties at the same or another workplace until the worker can continue with their normal work.

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## 5.0 WorkSafe New Zealand



### 5.1 Introduction to WorkSafe New Zealand

WorkSafe New Zealand is a stand-alone Crown Agency, set up in December 2013 with a vision: *Everyone who goes to work, comes home healthy and safe.*

WorkSafe is the primary work health and safety regulator in New Zealand. It works closely with other health and safety regulatory agencies such as NZ Police, Maritime New Zealand, Civil Aviation Authority and New Zealand Transport Authority to enforce health and safety compliance.

### 5.2 Role of WorkSafe

WorkSafe's focus is to embed and promote good workplace health and safety practices. Their approach is to:

- **Educate** stakeholders (industry bodies, operators, duty holders and their representatives) about their workplace health and safety responsibilities by providing relevant information, advice and guidance
- **Engage** with stakeholders in making changes that reduce the chances of harm
- **Enforce** workplace health and safety legislation

For further information refer to the WorkSafe web site.

### 5.4 WorkSafe and the HSR

The HSR may consult with WorkSafe on any work health and safety issue.

### 5.5 WorkSafe contact details

WorkSafe has a main contact line that serves all of its locations. It has a network of 20 locations around the country.

WorkSafe can be contacted at any time on: 0800 030 040

Street Address	Postal Address
National Office Level 6, 86 Customhouse Quay Wellington 6011	PO Box 165 Wellington New Zealand 6140

### ***Glossary of terms used in the new legislation***

Term	Explanation
Worker Engagement	<p>A PCBU (Person Conducting a Business or Undertaking) has to engage with its workers. A PCBU engages by:</p> <ul style="list-style-type: none"> <li>• Talking with its workers, and their representatives, about work health and safety matters.</li> <li>• Sharing information about health and safety matters so that workers are well-informed and know what is going on.</li> <li>• Giving workers reasonable opportunities to contribute their views and to participate in decision-making.</li> <li>• Listening to and considering what workers have to say.</li> <li>• Taking these views into account when decisions are being made.</li> <li>• Updating workers about what decisions have been made and what will happen next.</li> </ul>
Good faith	<p>Good faith is about treating others in the way you would like to be treated. It requires an honest and sincere intention to deal fairly with others. This does not mean that an employer should not act firmly where appropriate but employees should always have a fair opportunity to have a say before a decision is made, and neither party should treat the other in a degrading or humiliating manner</p>
Health and Safety at Work Act 2015 (Act)	<p>The HSW Act is the key work health and safety law in New Zealand. This covers nearly all work and workplaces. Part 3 of the HSW Act covers worker engagement, participation and representation.</p>
Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations 2016	<p>A series of regulations support the HSW Act.</p> <p>The Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations will outline additional requirements for businesses with Health and Safety Committees (HSCs) and Health and Safety Representatives (HSRs).</p> <p>These regulations will be available in February 2016 and will:</p> <ul style="list-style-type: none"> <li>• Prescribe matters relating to work groups, HSRs and HSCs.</li> <li>• Specify the health and safety issues that an inspector, appointed by the regulator, may assist parties to resolve.</li> </ul>

Health and Safety Committee	<p>A Health and Safety Committee (HSC) supports the ongoing improvement of health and safety at work. A committee enables PCBU representatives, workers and other committee members to meet regularly and work co-operatively to ensure workers' health and safety.</p> <p>One of a committee's main functions is to assist in developing standards, rules, and policies or procedures relating to work health and safety.</p> <p>An HSC can also perform other functions that are agreed between the PCBU and the HSC, or specified by the Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations.</p>
Health and Safety Representative	<p>A Health and Safety Representative (HSR) is a worker elected by the members of their work group to represent them.</p> <p>Throughout this guide, the term HSR means an elected representative who meets the requirements of the Act and Regulations.</p> <p>It does not apply to people who are referred to as HSRs under other arrangements, but who are not elected under the HSW Act.</p>
Officer	<p>An officer is a person who holds a very senior leadership position and has the ability to significantly influence the management of a PCBU. For example, the director of a company or a Chief Executive.</p> <p>Officers must exercise due diligence to ensure the PCBU meets its health and safety obligations.</p>
Person Conducting a Business or Undertaking (PCBU)	<p>PCBU stands for 'Person Conducting a Business or Undertaking'. In most cases a PCBU will be a business entity, such as a company. However, an individual carrying out business as a sole trader or self- employed person would also be a PCBU.</p> <p>The definition of a PCBU does not include workers or officers of a PCBU, volunteer associations with no employees, or home occupiers that employ or engage a tradesperson to carry out residential work.</p>
Business or Undertaking	<p>The commonly understood meanings of these terms are:</p> <p>Business: an activity carried out with the intention of making a profit or gain.</p> <p>Undertaking: an activity that is non-commercial in nature (e.g. certain activities of a local authority).</p>
Primary Duty of Care	<p>A PCBU must ensure, so far as is reasonably practicable, the health and safety of its workers, and that other persons are not put at risk by the PCBU's work. This is called the 'primary duty of care'.</p>
Regulations	<p>See: Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations [available February 2016]</p>
So Far as is Reasonably Practicable	<p>Many duties in relation to worker engagement must be carried out by a PCBU 'so far as is reasonably practicable'. The Act defines this term see section 22</p> <p>In general terms:</p> <ul style="list-style-type: none"> <li>• Something is 'practicable' if it is possible or capable of being done.</li> <li>• 'Reasonably' means that people do not have to necessarily do everything humanly possible; they have to do what is</li> </ul>



	reasonably able to be done.
Work Group	A work group comprises all the workers in a business or undertaking, unless a PCBU determines otherwise. If a PCBU decides to have other work groups, workers must be grouped in a way that effectively enables their health and safety interests to be represented and has regard for the need for HSRs to be accessible. The Health and Safety at Work (Worker Engagement, Participation and Representation) Regulations will outline what else must be taken into account when determining the number and composition of work groups and the number of representatives to be elected.
Worker	<p>A worker carries out paid or unpaid work for a PCBU. A worker may be an employee, a contractor or sub-contractor, an employee of a contractor or sub-contractor, an employee of a labour hire company, an outworker (including a homeworker), an apprentice or a trainee, a person gaining work experience or on a work trial, or a volunteer worker.</p> <ul style="list-style-type: none"> <li>• Note 1): The Worker Engagement, Participation and Representation part of the HSW Act does not apply to: <ul style="list-style-type: none"> <li>○ a volunteer worker</li> <li>○ a worker who is a prisoner who is carrying out work inside a prison</li> </ul> </li> <li>• Note 2): Certain provisions of the Worker Engagement, Participation and Representation part of the HSW Act do not apply to members of the Armed Forces</li> </ul>
Worker Participation Practices	<p>Worker participation practices are what the PCBU puts in place so that workers can help to improve work health and safety.</p> <p>These practices make it possible for workers to share ideas and information, raise issues, and contribute to decision-making.</p> <p>Effective worker participation practices help a PCBU to meet its duty to engage with workers.</p>
Workplace	<p>A workplace is any place where a worker goes or is likely to be while at work, or where work is being carried out or is customarily carried out.</p> <p>Most duties under the HSW Act relate to the conduct of work.</p> <p>However some duties are linked to workplaces.</p>
Work Safe New Zealand (WorkSafe)	<p>WorkSafe is the government agency that is the work health and safety regulator. WorkSafe collaborates with PCBUs, workers and other duty holders to embed and promote good work health and safety practices, and enforce health and safety law.</p> <p>Other government agencies can be designated to carry out certain health and safety functions, for example, Maritime New Zealand and the Civil Aviation Authority.</p>