

Overview of HSWA duty holders

The [Health and Safety at Work Act 2015](#) (HSWA) is New Zealand's key work health and safety law.

All work and workplaces are covered by HSWA unless they have been specifically excluded. For example, HSWA does not apply to the armed forces in certain situations.

HSWA sets out the work health and safety duties that duty holders must comply with.

There are four types of duty holder under HSWA:

- a person conducting a business or undertaking (PCBU)
- an officer
- a worker
- an 'other person' at the workplace.

Most duties under HSWA relate to **how** work is carried out. However some duties are linked to **where** work is carried out: the workplace.

A **workplace** is a place where work is being carried out or usually carried out for a business or undertaking. It includes any place where a worker goes or is likely to be while at work [section 20 of HSWA](#)

DUTY HOLDER	WHO THEY ARE?	EXAMPLES	WHAT ARE THEIR DUTIES?	FOR MORE INFORMATION
Person Conducting a Business or Undertaking (PCBU)	<p>A person conducting a business or undertaking (PCBU) may be an individual person or an organisation.</p> <p>PCBUs can be small (less than 20 workers) or large (20 or more workers).</p>	<ul style="list-style-type: none"> - a business - a self-employed person - partners in a partnership - a government agency - a local council - a school or university. 	<p>A PCBU has many duties. Key duties are summarised below.</p> <p>Primary duty of care section 36 of HSWA</p> <p>A PCBU must ensure, so far as is reasonably practicable, the health and safety of workers, and that other persons are not put at risk by its work.</p> <p>Scope of PCBU duties</p> <p>Small PCBUs are required to comply with the critical risk provisions (sections 36-43 (but not s36(3)(e)) of HSWA, and regulations 9, 15(2) and 19 of the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016) only in relation to critical risks. For all other HSWA and regulatory requirements, small PCBUs must prioritise and manage critical risks over other risks.</p> <p>Large PCBUs must manage all risks but prioritise and manage critical risks.</p>	<p>Introduction to the Health and Safety at Work Act 2015</p>

Blue shading is used to denote content based on proposed changes to the Health and Safety at Work Act.

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	<p>The following are not PCBUs:</p> <ul style="list-style-type: none"> - officers - workers - other persons at a workplace - volunteer associations that do not have employees - home occupiers (such as home owners or tenants) who pay someone to do work around the home <p>section 17 of HSWA</p>		<p>Managing risks section 30 of HSWA</p> <p>Risks to health and safety arise from people being exposed to hazards (anything that can cause harm). A PCBU must manage work health and safety risks.</p> <ul style="list-style-type: none"> - A PCBU must first try to eliminate a risk so far as is reasonably practicable. This can be done by removing the source of harm <ul style="list-style-type: none"> - for example, removing faulty equipment or a trip hazard. - If it is not reasonably practicable to eliminate the risk, it must be minimised so far as is reasonably practicable. <p>Overlapping duties section 34 of HSWA</p> <p>When PCBUs have the same duty, each PCBU must, so far as is reasonably practicable, consult, cooperate and coordinate with the other PCBUs.</p> <ul style="list-style-type: none"> - Small PCBUs are required to cooperate with other PCBUs for critical risks. Small PCBUs may choose to cooperate in relation to risks other than critical risks. - Large PCBUs are required to cooperate with other PCBUs for all relevant risks. <p>Involving workers: worker engagement, participation and representation Part 3 of HSWA</p> <p>A PCBU must, so far as is reasonably practicable, engage with their workers (or their workers' representatives) about health and safety matters that will directly affect the workers.</p> <p>A PCBU must have worker participation practices that give their workers reasonable opportunities to participate in improving health and safety on an ongoing basis.</p>	<p>Identifying, assessing and managing work risks</p>
<p>Upstream PCBU</p>	<p>A PCBU in the supply chain</p>	<ul style="list-style-type: none"> - a designer - a manufacturer - a supplier - an importer - an installer, constructor, or commissioner. 	<p>Upstream PCBU sections 39-43 of HSWA</p> <p>An upstream PCBU must ensure, so far as is reasonably practicable, that the work they do or the things they provide to other workplaces do not create health and safety risks.</p> <p>These provisions only apply to small PCBUs in relation to critical risks.</p>	<p>Introduction to the Health and Safety at Work Act 2015</p>

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Officer	A specified person or a person who exercises significant influence over the management of the business or undertaking section 18 of HSWA	<ul style="list-style-type: none"> - a company director - a partner or general partner - a chief executive. 	<p>Officer section 44 of HSWA</p> <p>An officer must exercise due diligence that includes taking reasonable steps to ensure that the PCBU meets their health and safety duties.</p> <p>An officer's duties exclude activities they carry out in another role within the business, for example as a worker.</p>	Introduction to the Health and Safety at Work Act 2015
Worker	An individual who carries out work for a PCBU section 19 of HSWA	<ul style="list-style-type: none"> - 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 homeworker) - an apprentice or trainee - a person gaining work experience or on work trials - a volunteer worker. 	<p>Worker section 45 of HSWA</p> <p>A worker must take reasonable care of their own health and safety, and take reasonable care that they do not harm others at work.</p> <p>A worker must cooperate with reasonable policies and procedures the PCBU has in place that the worker has been told about.</p> <p>A worker must comply, as far as they are reasonably able, with any reasonable instruction given by the PCBU so the PCBU can meet their legal duties.</p>	Introduction to the Health and Safety at Work Act 2015
Other person at the workplace	An individual present at a workplace (not a worker)	<ul style="list-style-type: none"> - a workplace visitor - a casual volunteer (not a volunteer worker) - a customer. 	<p>Other person at the workplace section 46 of HSWA</p> <p>An 'other person' has a duty to take reasonable care of their own health and safety, and not adversely affect the health and safety of anyone else.</p> <p>They must comply with reasonable instructions relating to health and safety at the workplace.</p>	Introduction to the Health and Safety at Work Act 2015