

May 2019

POLICY CLARIFICATION

Recreational access and the Health and Safety at Work Act (2015)

Purpose

There's often uncertainty about how the Health and Safety at Work Act (2015) (HSWA) applies when people access land for recreation. This document clarifies our view, particularly:

- the responsibilities of the Person Conducting the Business or Undertaking (PCBU) and visitors, and
- how we'll manage and respond to concerns.

You should read this policy clarification if:

- your land is accessed, or could be accessed, for recreation, or
- you want to access public or private land for recreational activities.

You should read this clarification in conjunction with the [frequently asked questions about recreational access](#)

What's recreational access and what does HSWA have to do with it?

Recreational access is when people use the land's features (eg forests, cliffs or waterways) for different outdoor activities (eg walking, cycling, kayaking, hunting, fishing, rock climbing and swimming).

Sometimes people need to use or cross land that's a workplace, or is affected by a PCBU's work, to do these activities. This land can be:

- public/Crown-owned (eg Department of Conservation land, Council land, Crown-owned forestry land or school land), or
- private (eg working farms).

What does HSWA say?

Wherever there's work happening, PCBUs have duties under HSWA. They need to make sure that, so far as is reasonably practicable, no-one is at risk from the work.

HSWA doesn't cover:

- whether or not the public have the right to access land, or
- injuries that happen as a result of doing a recreational activity.

What does this mean for recreational access?

HSWA only applies to recreational access when the land is affected by a PCBU's work activities or is part of a workplace.

This means a PCBU whose land is being accessed for recreation is:

- **only** responsible for risks arising from the work or workplace, and is
- **not** responsible for the risks associated with the recreational activities.

PCBUs can usually meet their duties to recreational visitors in simple ways (eg using signs, emails, or verbal warnings to let people know about work hazards).

These duties apply whether the recreational activities are commercial or not.

The only exception is when the PCBU's business or undertaking also provides the recreational activity. In this case, they're also responsible for managing risks associated with that activity, so far as is reasonably practicable.

Visitors have responsibilities too, regardless of whether there's a legal right of access. Anyone accessing land for recreation needs to follow:

- any reasonable health and safety instructions the PCBU gives them regarding the work or workplace, and
- other reasonable requests (eg shutting farm gates and not frightening stock during lambing).

HSWA doesn't cover injuries sustained by someone who's accessed land for recreation and hurts themselves as a result of the recreational activity.

When will WorkSafe intervene?

If we're notified of an incident, we'll follow the process outlined in [When Will WorkSafe Intervene](#)

We won't get involved in disputes over land access as this isn't our role.

Where appropriate, we'll refer enquiries to the [Walking Access Commission](#) which can:

- provide information and advice
- offer a free disputes resolution service, and
- create recreational access easements.

Further information

For further information see:

- [Frequently asked questions about recreational access](#)
- [Reasonably practicable](#)