

October 2023

## Changes to the Adventure Activities regime – what they mean for you

### Who is the guidance for?

This guidance is for:

- registered Adventure Activity Operators (AAO)
- persons conducting a business or undertaking (PCBU) looking to register as an AAO
- safety auditors.

**Note:** Where the word ‘you’ is used in this guidance it is referring to you as an AAO.

### What this guidance is about

The Health and Safety at Work (Adventure Activities) Regulations 2016 have been amended.

There have also been changes to the Safety Audit Standard.

The changes take effect from 1 April 2024.

This guidance highlights the changes most likely to affect the way you operate and what they mean if you are an AAO.

The full changes to the Regulations can be seen at [Health and Safety at Work \(Adventure Activities\) Amendment Regulations 2023](#)

Changes to the Safety Audit Standard can be seen at [Safety Audit Standard \(version 2.0\)](#)

### Changes to the Regulations

These include:

#### YOU MUST TELL PEOPLE LOOKING TO TAKE PART IN AN ADVENTURE ACTIVITY WHAT THE RISKS ARE

- You must take all reasonably practicable steps to inform people of any serious risks they may face by taking part in an adventure activity.

- You must let them know **before** they commit to taking part, for example, before they buy the ticket. This could be via promotional material or website. If the booking is through a booking agent, you must take all reasonably practicable steps to ensure that the risks are communicated to the booking agent.
- You need to tell confirmed participants of serious risks they may face by taking part in the activity, directly before and during the activity, so that they can make informed decisions and are as safe as practicable.
- You should make sure that all information is easily understood by people with different communication needs such as non-English speakers.

#### YOU NOW REGISTER DIRECTLY WITH THE REGISTRAR OF ADVENTURE ACTIVITIES (THAT IS, WORKSAFE NEW ZEALAND)

- When you obtain your safety audit certificate you will need to fill in an application form and pay the application fee **directly** to WorkSafe. This is different than what you previously did when the registration was submitted by your safety auditor.
- You will need to provide some additional information in your application, such as an indication of the numbers of customers.
- The application form will be made available on the WorkSafe website.

#### WORKSAFE HAS GREATER POWERS TO SUSPEND, CANCEL AND REFUSE REGISTRATION

The full list of grounds on which WorkSafe may refuse, cancel or suspend a registration can be found in the [Health and Safety at Work \(Adventure Activities\) Amendment Regulations 2023](#) – see sections (7) and (7Q).

There are two significant provisions that you should be aware of.

### Where an operator 'may not safely provide an activity'

- If WorkSafe considers that there are grounds to think an operator 'may not safely provide an activity' it may suspend, cancel or refuse a registration.
- The wording 'may not safely provide an activity' means that an incident does not have to have occurred.

### Where there is imminent serious risk

- WorkSafe may suspend an operator **immediately** if they think the operator's activity 'may pose an imminent serious risk' to health and safety.
- Examples of imminent serious risk could be:
  - following a serious incident or fatality
  - operating in a high-risk location where they are not meant to operate
  - negligence in using sub-standard equipment, craft or structure that is critical to safety.
- Immediate suspensions may last up to 14 days. If WorkSafe proposes to suspend or cancel the operator's registration, the immediate suspension continues until WorkSafe makes a decision about the proposal.

### WORKSAFE MAY PLACE CONDITIONS ON AN OPERATOR'S REGISTRATION FOLLOWING A SUSPENSION

- Following a suspension, WorkSafe may place conditions on an operator's registration. Typically, these might be on:
  - the types of adventure activity an operator may provide
  - how the operator must provide an adventure activity, and/or
  - the circumstances in which the operator is permitted to provide the adventure activity
  - the provision of information to WorkSafe.

### THERE ARE NEW NOTIFIABLE INCIDENTS, INCLUDING NATURAL HAZARDS

The Regulations include a list of new notifiable incidents. This is on top of notifiable incidents already set out under Section 24 of HSWA. The list can be found here: ([S19A Declaration of notifiable incidents](#))

You should note that notifiable incidents that cause or have the potential to cause death or serious injury now include:

- a natural hazard that occurs (for example a storm, flooding, avalanche, landslip, rockfall, icefall, or volcanic activity) that is not routinely encountered during the ordinary course of the adventure activity.
- any time where safety-critical equipment used to provide an activity fails or malfunctions while in use, or is found to be defective and at risk of failing or malfunctioning while in use.

## Changes to the Safety Audit Standard

These include:

### YOU MUST TAKE ACCOUNT OF NATURAL HAZARDS IN YOUR RISK MANAGEMENT PLANNING

- You must identify what natural hazards may affect your activities and how much risk they pose. For example, if you operate on a river then flooding is a likely natural hazard. If you operate on a river that passes through a canyon or gorge, then landslides and rockfalls may also be a natural hazard.
- You must eliminate serious risks arising from natural hazards in an operating area. If it is not reasonably practicable to eliminate serious risks, you must minimise these risks so far as is reasonably practicable, for example, by taking alternative routes to avoid the natural hazard or changing the timing of the activity.
- In this context, a **natural hazard** means any atmospheric or land or water-related occurrence which could adversely affect a place where an adventure activity is provided. These include volcanic activity, landslip, storm, flooding, avalanche, rockfall or icefall.

### YOU SHOULD HAVE A POLICY TO DETERMINE WHEN YOU CALL OFF AN ACTIVITY

You should have a clear policy to:

- determine when risks from natural hazards are unacceptable and an activity is called off. You must have staff responsible for calling off an activity before and during the activity if they identify increased risks that threaten the safety of any person associated with the activity. You must make sure that all staff know who is responsible.

### THERE IS A NEW REQUIREMENT OF TECHNICAL ADVISERS, PARTICULARLY REGARDING NATURAL HAZARDS

Technical Advisers are people with high-level recognised qualifications, or are qualified through extensive knowledge, skills and experience, who you might bring in to assist with technical tasks or to review policies and procedures.

If natural hazards have been identified as a source of serious risk then the Technical Adviser must have knowledge and experience of those risks and how best to manage them, or bring in people who do have that knowledge and experience.