

# Roles and Responsibilities in Agriculture

## Draft ACOP Public Consultation document

# WORKSAFE

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### **How the proposed Health and Safety at Work Act (HSWA) Amendment Bill is reflected in this draft**

WorkSafe is working through what the government's proposed changes to the Health and Safety at Work Act might mean in practice for businesses.

As a result:

- this draft has only been updated to reflect the clearer, more settled proposed changes. These updates are showing in blue shading; and
- other proposed changes that are still being worked through (for example, how the changes may affect small and large businesses working together) have not yet been included in this draft.

### **Feedback**

Feedback will be considered only in relation to this draft document. Comments on the proposed changes to the Health and Safety at Work Act are outside the scope of this consultation and will not be considered.

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# **PART A Introduction**

*Draft for public consultation*

## 1.0 Purpose

### 1.1 About this draft ACOP

1.1.1 This draft approved code of practice (ACOP) describes methods of compliance for various duties under the *Health and Safety at Work Act 2015* (HSWA) relating to roles and responsibilities in agriculture.

1.1.2 The draft ACOP focuses on responsibilities when farmers have the same health and safety duties as others.

### 1.2 Who this draft ACOP is for

1.2.1 This draft ACOP is for:

- **farmers** – in this draft ACOP we use the term “farmer” to mean a “person conducting a business or undertaking” (PCBU) on the farm, and the term also covers horticulture growers
- **farm workers** – people who work for the farmer, including farm managers, farm workers, temporary or seasonal workers, apprentices or trainees, and voluntary workers
- **contractors** – including subcontractors and their workers that come on to the farm to do jobs they are contracted to do – such as rural contractors, fencers, shearers, trades people or delivery drivers
- **manufacturers, suppliers and installers** – who provide goods and products to farms.

1.2.2 The document is also useful for health and safety advisors or consultants.

1.2.3 Use the diagram in Figure 1 to find the right part for you. A person can have more than one role.



**Figure 1: Agriculture roles in this draft ACOP**

1.2.4 For the definitions of roles used in this draft ACOP, see Section 2.3. See Appendix 2 for an overview of the types of duty holders in the legislation.

- 1.2.5 Part A describes the purpose and scope of this draft ACOP. Part B introduces key legal concepts. The other parts explain health and safety duties for agriculture roles, and they include examples to show how to meet the legal duties.

## 2.0 Scope and how to use

### 2.1 What this draft ACOP covers

2.1.1 This draft ACOP applies to all types of farms, including livestock farming, dairy farming, arable farming, horticulture and mixed farming operations.

2.1.2 The draft ACOP covers:

- how to meet legal health and safety duties that relate to roles and responsibilities when farmers work with contractors or other PCBUs
- what to do when the legal health and safety duties of farmers overlap with the duties of others
- actions to take to comply with this draft ACOP.

### 2.2 What this draft ACOP does not cover

2.2.1 The draft ACOP does not cover:

- general risk management practices
- specific practices such as vehicle safety, hazardous substances
- other aspects of safe farming practice. WorkSafe has a range of general guidance and tools on the [WorkSafe website](#) to support health and safety on farms.

### 2.3 How to use this draft ACOP

2.3.1 This document is written as a 'safe harbour' draft ACOP.

2.3.2 If a business follows what a safe harbour ACOP sets out, they would be treated as having complied with the relevant legal duty. For safe harbour to apply, duty holders need to follow all the actions set out in the ACOP to comply with the stated HSWA duty.

2.3.3 If a duty holder follows most, but not all, actions they may still meet their duty, but safe harbour will not apply.

2.3.4 Table 1 shows the terms for agriculture roles used in this draft ACOP, and shows which parts of the document apply.

**Table 1: Terms used for agriculture roles in this draft ACOP**

<b>Term</b>	<b>What this term means in this document</b>	<b>Parts of this draft ACOP</b>
<b>Farmer</b>	<p>The PCBU who operates the farm. This term also includes horticulture growers.</p> <p>This may include the owner/operator situation, where the farmer owns the land and operates the farm.</p> <p>It may also include a PCBU who manages and controls the farm and the work on behalf of someone else, for example, a farm management business that is contracted to run the farm for the farm owner.</p> <p>More than one person can be considered “the farmer” on a farm, for example where family members jointly own, manage and control the farm.</p>	B and C
<b>Landowner (who is not also the farmer)</b>	<p>A person or entity who owns the land but leases it out to a farmer.</p> <p>Ownership arrangements vary across agriculture. If in doubt, seek legal advice about which HSWA duty holder type applies.</p>	B
<b>Farm worker</b>	<p>A worker is any person who works for the farmer or grower, including:</p> <ul style="list-style-type: none"> <li>- farm managers (when employed and acting on instruction from the farmer)</li> <li>- farm workers</li> <li>- temporary or seasonal workers</li> <li>- apprentices or trainees</li> <li>- voluntary workers.</li> </ul> <p>Does not include contractors.</p>	D
<b>Contractor</b>	<p>A PCBU contracted to provide goods or services to the farm.</p> <p>Includes subcontractors.</p>	B and E
<b>Worker of contractor or subcontractor</b>	<p>A person who works for a contractor or subcontractor.</p>	E

Term	What this term means in this document	Parts of this draft ACOP
<b>Manufacturer/ supplier/ installer of farming equipment</b>	A PCBU manufacturing, supplying or installing products and equipment (plant, substances or structures) for farms.	B and F
<b>Worker of manufacturer/ supplier/ installer</b>	A person who works for a manufacturer, supplier or installer of products and equipment for farms.	F

2.3.5 Duty holders do not have to follow the actions set out in this draft ACOP. They can choose to meet their duties under HSWA and the regulations in other ways, as long as they achieve a standard of work health and safety that is equal to or higher than what is described in this draft ACOP.


2.3.6 Farmers and other duty holders have more legal health and safety duties than those covered by this draft ACOP.

2.3.7 Links to explanatory guidance are provided for readers that need further information.

## 2.4 Terms and symbols in this draft ACOP

2.4.1 Throughout this draft ACOP, different terms are used to show whether something is a legal requirement, or whether it is an action you need to take to comply with this draft ACOP. See Table 2.


**Table 2: Terms for legal duties or practices used in this draft ACOP**

Term or symbol	Meaning in this document
PCBU	Person conducting a business or undertaking.
<b>'must'</b> and/or 	Shows a legal requirement under HSWA or its regulations. You must follow these requirements.
'make sure', 'do not', 'check' or similar wording	Actions to take to comply with this draft ACOP. For safe harbour to apply, duty holders need to follow all the actions set out in the ACOP to comply with the stated HSWA duty. If a duty holder follows most, but not all, actions they may still meet their duty, but safe harbour will not apply.
Blue shading	Content based on proposed changes to the Health and Safety at Work Act.

## 2.5 Examples in this draft ACOP

- 2.5.1 The examples in this draft ACOP are fictional but based on real situations.
- 2.5.2 The examples are used to illustrate and reinforce the content. They are not intended to set a minimum standard.
- 2.5.3 While the examples do not cover all circumstances, they show how you can comply with the legal health and safety duties in similar situations on your farm. For example, if you are a deer farmer engaging a contractor to build a fence, the examples will be useful even though the work, farm types and types of contractors are different from yours.
- 2.5.4 The key points at each example show actions you can take in similar situations to comply with this draft ACOP.
- 2.5.5 When you manage work health and safety risks, take your particular situation into account and determine what is reasonably practicable. You might need to do more than what you see in the examples in this draft ACOP to adequately manage your risks. See Section 3.2 for requirements to manage critical risks.

# PART B Introduction to the Health and Safety at Work Act (HSWA)

Term or symbol	Meaning in this document
PCBU	Person conducting a business or undertaking.
'must' and/or 	Shows a legal requirement under HSWA or its regulations. You must follow these requirements.
'make sure', 'do not', 'check' or similar wording	Actions to take to comply with this draft ACOP. For safe harbour to apply, duty holders need to follow all the actions set out in the ACOP to comply with the stated HSWA duty. If a duty holder follows most, but not all, actions they may still meet their duty, but safe harbour will not apply.
Blue shading	Content based on proposed changes to the Health and Safety at Work Act.

## 3.0 About HSWA

### 3.1 Key HSWA concepts

3.1.1 The Health and Safety at Work Act 2015 (HSWA) is New Zealand's primary legislation for health and safety at work. All work and workplaces, including in agriculture, are covered by HSWA.

3.1.2 A **workplace** is any place where work is being done for a business or undertaking. It includes any place where a worker goes or is likely to be while at work.

3.1.3 Under HSWA, different people have different duty holder roles based on their influence and control over the work. **A person can have more than one duty holder role.**

3.1.4 There are four HSWA duty holder types:

- Persons conducting a business or undertaking (PCBU)
- Officers
- Workers
- Other persons.

3.1.5 See Appendix 2 for more information about the different types of HSWA duty holders.

### 3.2 Critical risks

3.2.1 Critical risks are defined as:

- risks that stem from hazards listed in Schedule 1A of HSWA
- risks that are likely to result in death, a notifiable injury, illness or incident, or an occupational disease listed in Schedule 2 of the Accident Compensation Act 2001.

### 3.3 How PCBUs must manage risks depends on their size

3.3.1 A small PCBU has fewer than 20 workers.

3.3.2 Small PCBUs **must** manage their critical risks to meet their general HSWA duties for sections 36 to 43, and the requirements to provide information, training, instruction, supervision and personal protective equipment under the

Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.

- 3.3.3 Other PCBUs must prioritise managing critical risks. They **must** also still provide worker facilities such as adequate lighting, washing facilities and first aid.

### **3.4 Who is the PCBU on a farm?**

- 3.4.1 HSWA uses the term “person conducting a business or undertaking” (PCBU) for the main duty holder. You need to know who holds the duty of the PCBU on the farm.
- 3.4.2 The PCBU can be a business or an individual. Ownership models vary in agriculture. There may be more than one PCBU on the farm. Get legal advice if you are unsure whether you are a PCBU.
- 3.4.3 When the terms “the farmer” or “the contractor” are used in this draft ACOP, it means a PCBU.
- 3.4.4 The HSWA duty holder role of “worker” is held by anyone working for the farmer (PCBU) and acting on the instruction of the farmer. This includes farm managers, when they are employed by someone who has the decision-making influence over the farm. As a worker, the farm manager might have a delegated responsibility for everyday operations, but the legal PCBU duties sit with the farm’s PCBU. Get legal advice if you are a farm manager and are in doubt about whether your situation gives you the HSWA duty holder status as worker or PCBU.

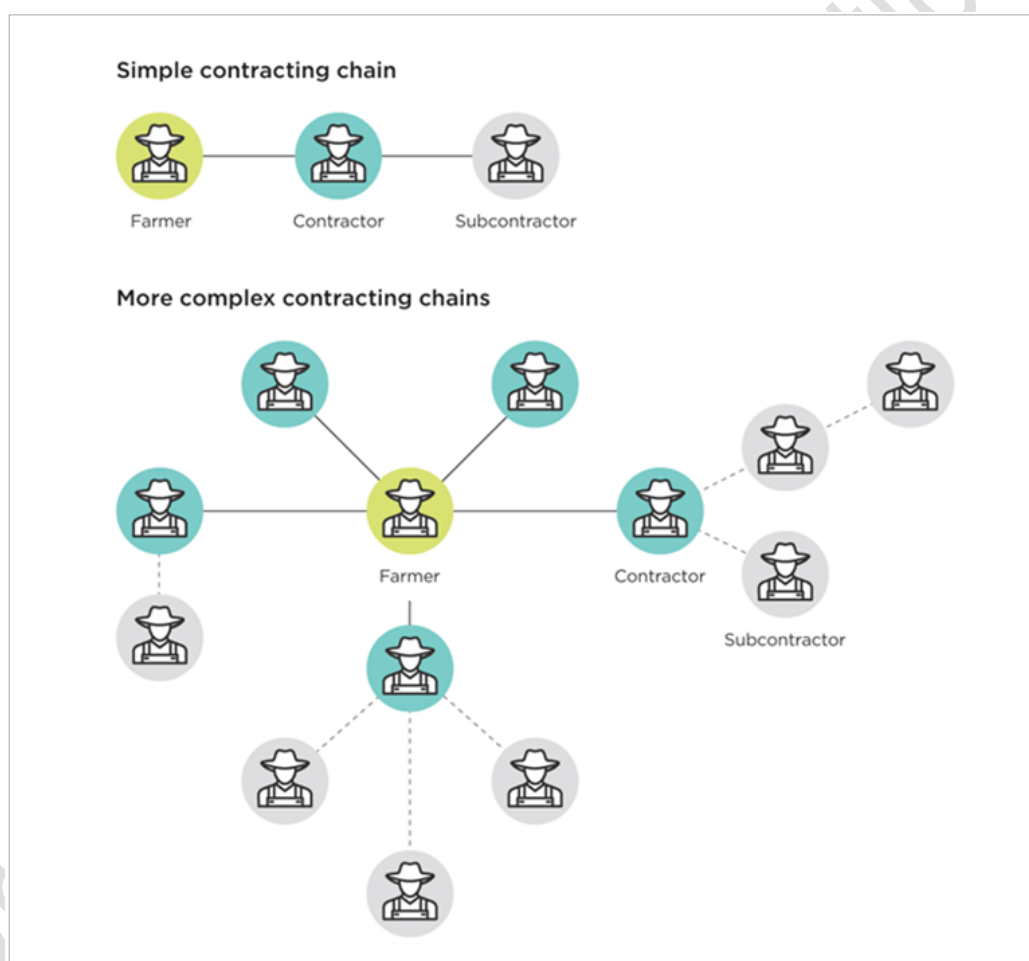
### **3.5 About overlapping duties**

- 3.5.1 It is a HSWA requirement that farmers work with contractors or other health and safety duty holders when they have the same health and safety duty (overlapping duties). This section explains the concept of overlapping duties.

### **3.6 How PCBU duties can overlap in a contracting chain**

- 3.6.1 A PCBU may have more than one duty.
- 3.6.2 More than one PCBU may have the same duty. These are called “overlapping duties”.

- 3.6.3 PCBUs that work together can have overlapping duties for a workplace, work activity or person.
- 3.6.4 PCBUs do not need to have a contract with each other to have the same duties. This can happen in shared workplaces, such as when different contractors work close to each other.
- 3.6.5 More than one PCBU can have duties in a contracting chain. This happens when contractors and subcontractors provide services to a principal contractor (usually the farmer). This can happen in both simple and more complex contracting chains (see Figure 2).

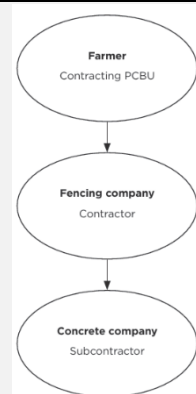


**Figure 2: Simple and more complex contracting situations**

**Example 1: Simple contracting chain on a farm**

A farmer hires a fencing company to build a new stock yard on his farm. The fencing company brings on a concrete mixing company to pour a concrete slab. In this scenario:

- the farmer is the contracting PCBU
- the fencing company is the contractor
- the concrete mixing company is the subcontractor.



### 3.7 How duties can overlap in a shared workplace

- 3.7.1 Farmers and other PCBUs do not need to have a contract with each other to have the same duties. This can happen in shared workplaces, such as when different contractors work close to each other.

**Example 2: Duties in a shared workspace**

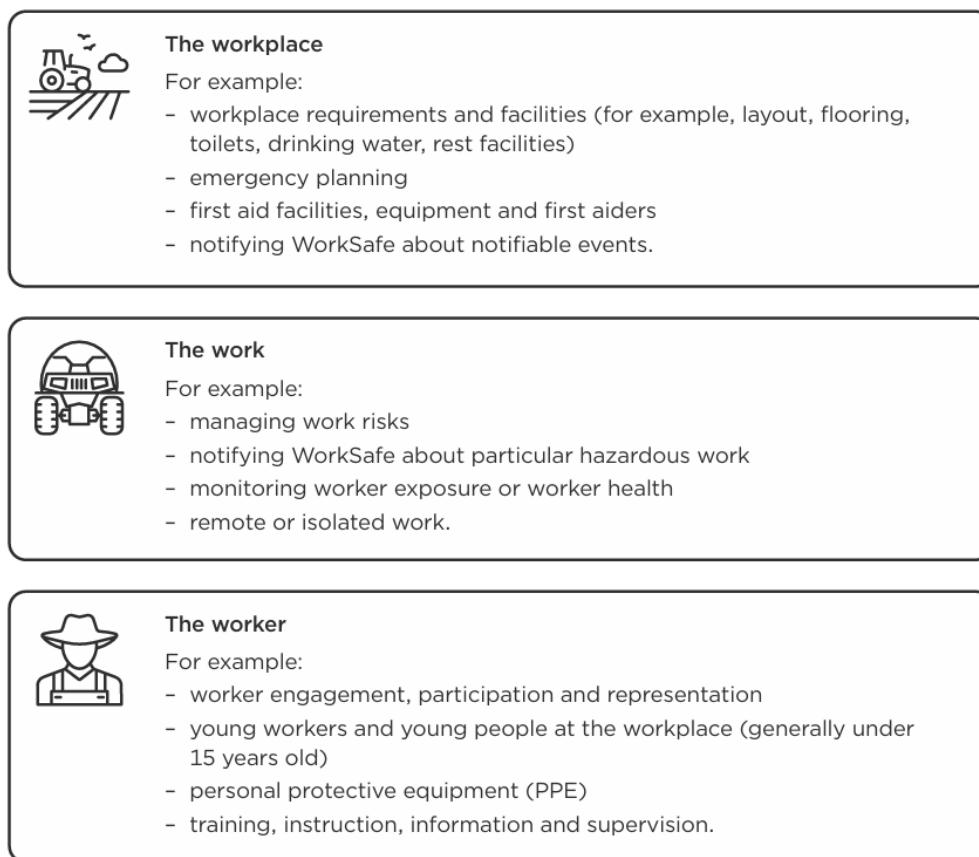
A farmer hires a forestry company to harvest the trees on his small forestry block on the farm. The forestry company brings their subcontractor to do the tree felling.

- The farmer is the contracting PCBU.
- The forestry company is the contractor.
- The self-employed contractor, who is doing the tree felling, is the subcontractor.

When the work is carried out on site, these three PCBUs have overlapping health and safety duties while they are sharing their workspace on the farmland.

### 3.8 Examples of health and safety duties that may apply to multiple PCBUs

- 3.8.1 Figure 3 shows examples of duties that more than one PCBU may have in a contracting chain or in shared workplaces.



**Figure 3: Examples of duties that more than one PCBU may have**

3.8.2 Other legal duties may also apply. For example, if the work involves substances hazardous to health (for example, welding fumes), hazardous substances, or work under raised objects or falling objects.

3.8.3 Small PCBUs **must** only manage critical risks. For all other HSWA and regulatory requirements, they **must** prioritise critical risks over other risks. Other PCBUs **must** manage all risks but prioritise critical risks.

### **3.9 PCBUs can have duties for the same workers**

3.9.1 As shown in Figure 4, under HSWA:

- contractors and their employees are considered workers of the farmer
- subcontractors and their employees are considered workers of both the farmer and the contractor.

3.9.2 Also, a person self-employed as a sole trader can be a worker as well as a principal contractor, contractor or subcontractor.

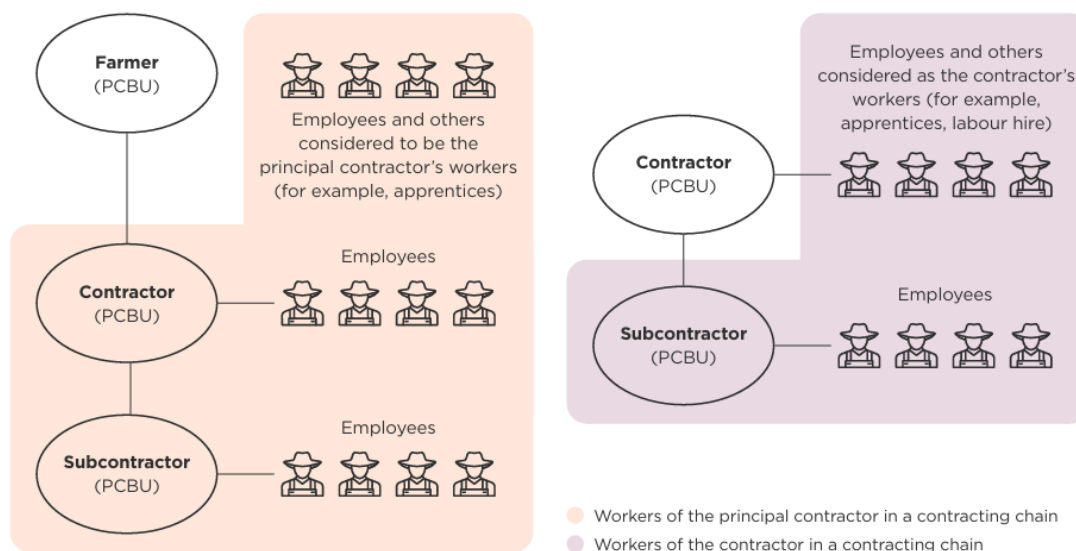


Figure 4: Workers for farmers, contractors and subcontractors

### 3.10 What must farmers and contractors do if they have overlapping health and safety duties?



3.10.1 When farmers and contractors have the same health and safety duties, all the PCBUs **must**, so far as is reasonably practicable:

- consult with each other
- cooperate with each other
- coordinate their activities.

3.10.2 If you are a small PCBU, when managing risk, this duty applies only to critical risks. For all other HSWA and regulatory requirements, you **must** prioritise critical risks over other risks.

3.10.3 Figure 5 shows how to consult, cooperate and coordinate with other PCBUs.

## PCBUs must consult, cooperate and coordinate when they have overlapping health and safety duties

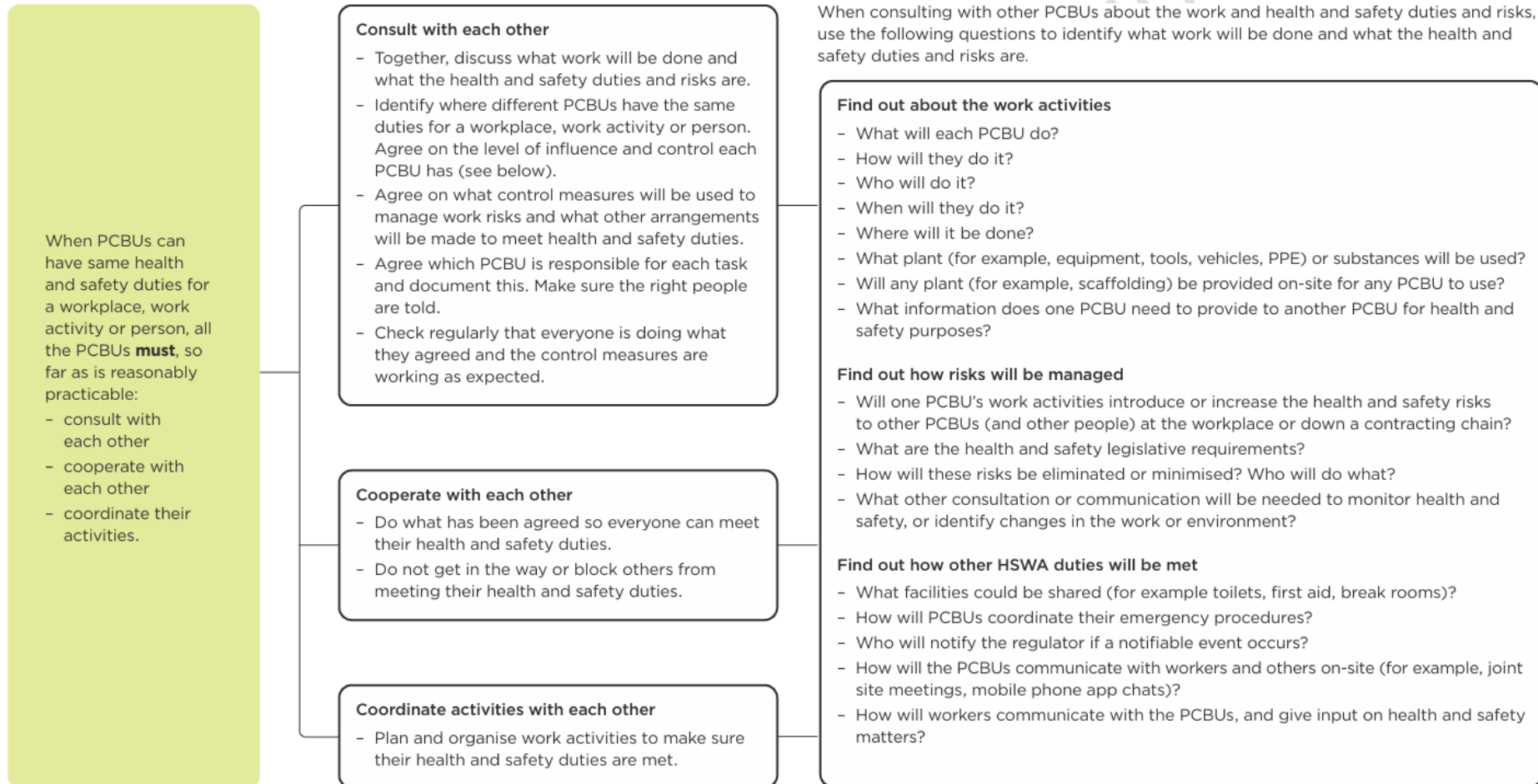


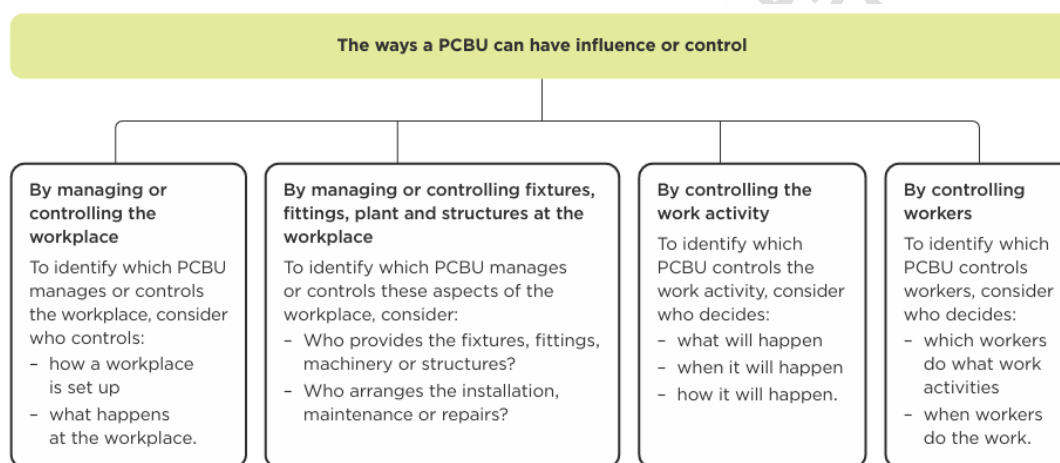
Figure 5: How to consult, coordinate and cooperate with other PCBUs

## 3.11 Responsibilities depend on influence and control

**!** 3.11.1 When PCBUs have the same health and safety duties, each PCBU **must** meet these duties to the extent it can (or would have but for an agreement or arrangement to limit or remove that ability) influence and control the matter (the workplace, work activity or person).

3.11.2 A PCBU with the most influence and control is likely to be in the best position to deal with the matter.

3.11.3 Figure 6 shows how to work out the level of influence and control each PCBU has. The level of influence and control can change as the work progresses.



**Figure 6: How PCBUs can have influence and control**


## 3.12 PCBUs can work together to manage responsibilities, but they still have duties

3.12.1 Each PCBU is still responsible for meeting their own duties.

**!** 3.12.2 Duty holders may not transfer health and safety duties to others.

3.12.3 PCBUs do not need to duplicate each other's efforts. PCBUs may work together and make reasonable agreements about how duties will be managed, to the extent which they have the ability to influence and control the matter.

## PART C For farmers

Term or symbol	Meaning in this document
PCBU	Person conducting a business or undertaking.
'you'/'your'	Refers to the farmer (PCBU) in this part.
' <b>must</b> ' and/or 	Shows a legal requirement under HSWA or its regulations. You must follow these requirements.
'make sure', 'do not', 'check' or similar wording	Actions to take to comply with this draft ACOP. For safe harbour to apply, duty holders need to follow all the actions set out in the ACOP to comply with the stated HSWA duty. If a duty holder follows most, but not all, actions they may still meet their duty, but safe harbour will not apply.
Blue shading	Content based on proposed changes to the Health and Safety at Work Act.

## 4.0 Introduction to Part C

### 4.1 Using Part C

- 4.1.1 This part of the draft ACOP is for farmers, including horticulture growers. In this draft ACOP, “farmer” means a PCBU. When we use the word “you” in this part, we mean the farmer or grower.
- 4.1.2 In this draft ACOP farm managers are considered workers when they are employed to manage everyday farm operations under instruction. See Part B for health and safety duties that apply to farm workers.



- 4.1.3 This part explains your legal health and safety duties for roles and responsibilities and overlapping duties. See Section 3.5 for an introduction to the concept of overlapping duties and see Appendix 2 for an overview of the duty holder types.
- 4.1.4 Throughout this part, you will find real-life scenarios showing how you can meet your duties. Even if your type of farming is different, or if your situation is different to the scenarios we describe, you can still use the same approaches. The key points for each example tell you the actions you need to take in similar situations to comply with this draft ACOP.

## 5.0 Health and safety duties for farmers

### 5.1 Key legal duties for farmers

5.1.1 The *Health and Safety at Work Act 2015* (HSWA) is New Zealand's primary legislation for work health and safety. It sets out your health and safety duties. You also have health and safety duties under other legislation.



5.1.2 Your primary duty of care as a PCBU is to ensure, so far as is reasonably practicable, the health and safety of workers, and to make sure other people are not put at risk by the farm work.

5.1.3 You also have a duty to, so far as is reasonably practicable, consult, cooperate and coordinate activities with other PCBUs when your duties overlap.

5.1.4 If you are a small PCBU with less than 20 workers, these duties only apply in relation to critical risks. For all other HSWA and regulatory requirements, you **must** prioritise critical risks over other risks.

### 5.2 Reasonably practicable

5.2.1 To manage health and safety risks, you need to consider your specific situation. HSWA uses the term "so far as is reasonably practicable". As farms and farming types vary, what is considered reasonably practicable on one farm may not be on another farm.



5.2.2 You **must** eliminate risks so far as is reasonably practicable. If you cannot eliminate the risk, you must minimise it so far as is reasonably practicable. You must do this to the extent that you have, or would reasonably be expected to have, influence and control over the matter the risk relates to.

5.2.3 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

5.2.4 For questions to help you understand what is reasonable in your situation, see our guidance: [Reasonably practicable](#).

## 5.3 You can delegate tasks, but not the legal duties

5.3.1 As a farmer, you can delegate a task to someone else, for example to a worker or a contractor. But you cannot transfer your duty or contract out your legal duty as a PCBU.

5.3.2 Because you are a PCBU, you still keep your legal health and safety duties even if you arrange for someone to do the work for you.

## 6.0 Overlapping health and safety duties on the farm

### 6.1 How to consult, cooperate and coordinate with other PCBUs

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6.1.1 When your health and safety duties overlap with the duties of contractors or other PCBUs, you **must**, so far as is reasonably practicable, consult, cooperate and coordinate to manage risks.

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6.1.2 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

6.1.3 Consulting, cooperating and coordinating is about communicating with the other people involved. In simple situations on the farm, a short conversation might be enough to set clear expectations with those your duties overlap with, or people affected by your work. For more complex situations or contract arrangements, document what you and the other parties spoke about and agreed on. This also helps to avoid disputes.

6.1.4 You need to be able to show that you have taken reasonable steps to consult, cooperate and coordinate in a way that is in proportion to the task and the risk, for example by noting the interaction in a farm journal.

6.1.5 To meet the duty to consult, cooperate and coordinate with contractors:

- share information with the contractor about hazards on your farm
- check with the contractor whether their work is a risk to other farm work activities or other people on the farm – and agree with the contractor how these risks will be managed

- tell the contractor about other work on the farm that can affect the contractor's work, and let them know how you will manage risks posed by your farm work
- agree with the contractor how you will both communicate during the work
- let the contractor know about any changes to conditions on the farm, which could impact on their work
- tell the contractor about any relevant rules and emergency procedures on your farm.

6.1.6 In more complex contracting arrangements with several PCBUs:

- communicate with the contractor and other PCBUs in the contracting chain, to agree on roles and responsibilities
- keep a record of any agreements, and share them with the other parties.

**Example 3: Managing overlapping duties with a contractor**

Martin, a dairy farmer, books Sione, a ground-spreading contractor, to apply liquid fertiliser on the back paddocks. Before Sione arrives, Martin checks the paddock and notes the creek that runs along the boundary where the truck will need to travel. Because Martin controls access and farm traffic routes, he can identify these farm-specific risks early.

Martin calls Sione and says, "Let us have a chat when you get here, so we are both clear on the plan."

When Sione arrives, they confirm who controls which parts of the job. Martin explains the authorised route for the truck and points out the areas that are out of bounds unless agreed. He shows Sione the soft ground near the creek where the truck could slide or damage the bank. Martin marks a clear "no go" buffer with tape that is easy to see from the cab.

Sione controls the mobile plant and the spreading process. He checks that his driver understands the truck's limits on the terrain. He also confirms a spill kit is on board and ready to use if needed.

Before any work starts, they agree on simple rules: where the truck may drive and what action they will take if conditions change. They agree on a stop rule: if heavy rain starts or the ground begins to cut up, Sione must stop and call Martin before continuing. They also agree that Sione will send a quick text to confirm when the job is finished and the truck has left the property safely.

**Key points:**

- Agree on clear ground rules, such as route, no go areas and stop rule, before the contractor starts work.

- Agree on whether the overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Consider who has influence and control when you manage overlapping duties. The farmer knows the hazards on the farm and controls access; the contractor controls the truck and their specific tasks.
- Agree on how you will communicate during the job.

#### **Example 4: Keeping contractors informed about changes on the farm**

Sam, a beef farmer, expects a lines company to replace a power pole near Paddock 4. Early that morning, he moves a breeding bull into the paddock.

Before the line company's crew arrives, Sam updates the hazard information he has already shared with the utility provider. This helps the crew plan their access safely.

Sam may not be at the house when the crew arrives, so he calls Liam, the supervisor for the line company, beforehand. They agree on what the crew should do at the gate: The crew will call or text before entering and will wait for confirmation about which areas are safe to enter.

When the crew reaches the gate, Liam follows the "no contact, no entry" rule Sam has set. They stop, check the work order, and call Sam to confirm which paddocks they can enter. Sam confirms the bull is in Paddock 4, so they agree on an access route that avoids this paddock. If they had not been able to contact Sam to confirm the latest hazards, they had agreed that they would wait or reschedule instead of entering.

During the job, Liam keeps in touch with Sam. He checks before opening gates and uses Sam's hazard map to guide their movements.

#### **Key points:**

- Agree before arrival on what contractors should do when they reach the gate (for example, call/text for confirmation, wait, or proceed under an agreed plan). Choose a practical approach that suits your farm and the job.
- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Share hazard updates and confirm access before entry, especially when conditions change, such as when moving stock.

**Example 5: Managing overlapping duties when using subcontractors**

Peter contracts a forestry management company to harvest a pine block on his farm. The forestry company brings in their logging crew and hires a trucking subcontractor to cart logs. Everyone needs to use the main road through the farm, and Peter also needs the road to move cattle back to the farm buildings.

Before any machinery arrives, Peter and Mateo (the forestry company manager) check who will use the road, when they will use it, and who controls access at different times. They confirm the work happens entirely on the farm and does not involve a public road where the general Road Rules apply.

They agree on a traffic plan that separates forestry traffic and moving stock. To prevent conflicts, they set agreed times for truck movements and separate times for moving stock.

They agree who has the authority to pause work if conditions change. For example, work may stop if weather softens the verge, if stock has to be moved earlier than planned, or if a contractor arrives early.

Mateo confirms he will make sure the trucking company understands the farm rules, including speed limits, stock awareness, and no-go areas.

On the day of the job, Peter shares information about soft verges and tight corners. The truck driver explains blind spots and stopping distances, so everyone knows where it is safe to stand.

Because forestry crews often use radio communication, while the farm workers rely on mobile phones, they choose a reliable communication method that reaches everyone. They keep in touch at key times, such as “truck entering the race” or “cattle approaching the bridge”. They tell each other about any changes, so forestry work and farm work remain separate. Signs at the entrance support the plan and help inform anyone arriving on site.

**Key points:**

- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Tell the contractor about hazards on the farm. Share knowledge about vehicle limits, such as blind spots and stopping distances, and update each other when conditions or timing change.
- Agree on a simple traffic plan and confirm who controls the road access at different times.
- Agree on who notifies WorkSafe of notifiable work, such as tree felling.

- Use communication tools that work for everyone in the chain. Do not assume one tool fits all. Support communication with signage where needed.

## 6.2 Influence and control



6.2.1 When PCBUs have overlapping duties, each PCBU **must** meet these duties to the extent it can (or would have but for an agreement or arrangement aiming to limit or remove that ability) influence and control the matter (the workplace, work activity or person).

6.2.2 If you are a small PCBU, when managing risk, this duty applies only in relation to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

6.2.3 As a farmer, you have influence and control over farming operations. When you bring a contractor onto the farm to do a job, the contractor as a PCBU will usually have influence and control over the task they are doing and over the equipment or vehicles they operate. Both you and the contractor keep your legal health and safety duties, as the duties cannot be transferred, but it is reasonable to divide responsibilities according to what each of you control. Make sure you both clearly understand these responsibilities.

6.2.4 If you are unsure who is responsible for actions to manage risks, the PCBU who has the most influence or control will be best placed to take responsibility for the actions.

### Example 6: Managing a contracting chain according to influence and control

Graham owns a dairy farm and has a 50/50 contract milking arrangement with Kiri. Kiri runs the day-to-day farm operation as her own business, so she has practical control of daily work activities on the farm. This means Kiri has PCBU duties. Graham still has influence over the workplace because he owns the property and controls farm systems such as tracks, yards and traffic routes. His PCBU duties overlap with Kiri's duties.

When is it time to make baleage, Kiri calls Sanjay, the baleage contractor, to book the job. She organises a short prestart catch up that includes Graham. They agree early on who will control what on the day.

- Kiri will be the on-site contact and will coordinate farm movements, such as milking, stock shifts and access on farm.
- Sanjay will control and supervise his baleage operation and his workers.
- Graham will stay involved and will manage any farm system or property risks that could affect the job.

They also agree that, although tasks can be allocated, health and safety duties cannot be transferred. Each PCBU keeps its own duties, and they must work together where their duties overlap.

During the catch up, Kiri explains the farm's conditions and risks that affect the contractor. She points out stock locations, tight tracks, and where she wants bales stacked so trucks do not need to reverse near people. Sanjay explains how his team will cut, wrap and shift bales. He notes that Nick, a truck driver, will arrive later as a subcontractor. Because Nick may not attend the catch up, they agree that Sanjay will give Nick the same information.

They set clear house rules for the job. These include speed limits, who opens gates, where to park, what to do if someone arrives during stock moves, and what to do if visibility drops. They also set a simple check in and check out routine, so everyone knows who is on site and where work is happening. Sanjay agrees to brief Nick about the site rules, the hazards and who to contact if anything changes.

On the morning of the job, Nick calls Sanjay at the gate. Before any bales move, Sanjay explains where to drive, where to stay clear, and what to do if visibility drops or stock move near access ways. Sanjay stays in contact with Kiri during the day, so bale movements and truck drop offs do not clash with milking or stock movements. Graham checks in with Kiri once to confirm the plan is still working and to manage any new risks, such as ground conditions, or unexpected arrivals.

Clear roles, shared rules and consistent communication help coordinate the contracting chain and reduce risks.

**Key points:**

- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Agree early on who controls what and set clear house rules.
- Coordinate timing and movements so work activities do not clash.
- Keep communication consistent across the chain. Make sure subcontractors get the same site rules and safety information as the main contractor.

- 6.2.5 HSWA duties can also overlap when the workspace is shared with other PCBUs, for example, when different contractors work close to each other. Their duties can overlap even when they are not in a contractual relationship.

**Example 7: Managing duties for a shared workspace**

Tom, a farm owner, brings builders onto the farm to re-roof the calf shed. The day before the work starts, he walks the site with Rick, who is the construction lead for the builders. They set an exclusion zone around the shed and plan an alternative route for Leilani, the contract milker, so she can reach the milking shed without entering the construction area. Tom updates the signage, so the route is clear and the no-go area stands out.

The next morning, the builders set up their scaffolding. When Leilani arrives, she uses the agreed route. She sees the fenced exclusion zone and the green scaffold tag and reaches the pit without entering the construction site.

During the morning, Tom checks in with the builders and makes sure the layout still works as conditions change. When full separation is not possible, Tom and the construction lead agree on how to keep Leilani away from the work area and prevent exposure to construction hazards. Leilani confirms to Tom that the route remains safe.

Everyone is kept safe through clear communication and separate workspaces.

**Key points:**

- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Consult with the contractor about any risks their work may create and agree on how to manage them.
- Agree who is responsible for informing others who may be affected by the work.
- Coordinate with other duty holders throughout the day and keep affected workers informed so access stays safe as work conditions change.

## Other people affected by your work

6.2.6 Farm work can affect other people than just the other PCBU your duties overlap with.



6.2.7 As the farmer, you **must** ensure, so far as is reasonably practicable, the health and safety of workers, and that other people are not put at risk by the work on your farm. “Other people” can include visitors to your farm, neighbours or anyone who may be affected by farm activities.

6.2.8 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

6.2.9 When you plan a job with a contractor, agree on who will inform any other people who may be affected.

### Example 8: Managing overlapping duties affecting others

Raj, a vegetable grower, hires a helicopter pilot to spray fungicide over a maize block. The helicopter company confirms it holds a current agricultural aircraft operator certificate issued under Civil Aviation Rule 137 and that the pilot has a current agricultural rating issued under Civil Aviation Rule 61.

The block borders Grace’s neighbouring dairy farm. Raj notifies Grace at least a day before spraying. He tells her which chemical they will use, when the spraying will start, and how long the boundary area needs to stay clear. Grace tells Raj she plans to shift a break fence near the boundary, so they adjust the timing together.

On the morning of the spray run, Raj sends Grace a confirmation text. Sione, the pilot, also checks in. Raj and Sione agree on a boundary buffer, and Sione fits low-drift nozzles to reduce spray drift. During the job, Sione monitors the wind and is ready to stop when needed.

Grace stays clear of the boundary during the spray window because she knows exactly when the helicopter will fly overhead. When the wind shifts sideways, Sione immediately pulls out and calls “stopping now”.

Early notification, agreed buffers, and clear stop conditions protect both farms.

**Key points:**

- Consult with the contractor to find out whether the work is likely to affect others. Agree on how you will manage any risk to those affected by the job.
- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Agree with contractors who is responsible for keeping other affected people informed. Remember the communication goes both ways. If you are the one to inform the neighbours, then coordinate with the contractor by sharing relevant information from the neighbours with the contractor.
- Notify neighbours early. Check your district plan for any rules for how much notice neighbours need to be given.
- Whenever a job involves aviation, for example aerial spreading, check that the aviation company meets the Civil Aviation Rules.

## 6.3 Duties towards workers extend to the workers of contractors

6.3.1 As the farmer, you have health and safety duties under HSWA towards your workers. When you hire a contractor to come on to your farm to do a job, they might bring their own workers to do the work.



6.3.2 While work is going on at your farm, you **must** ensure the health and safety, so far as is reasonably practicable, of the workers of your contractor as well as your own workers. This also applies to workers of subcontractors while they are on your farm to do the work.

6.3.3 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

**Example 9: Collaboration and duties towards workers**

Anna, a sheep farmer, hires a shearing crew to shear 2,000 ewes. She yards the sheep, then fixes a broken grate in the catching pen before anyone steps on it. When the shearers arrive and set up, Anna, her farm workers, and the shearing crew work side by side in a tight space. Because they all share the shed, power and facilities, Anna and the shearing contractor both take responsibility for keeping a safe workplace and a clear workflow.

Before anyone starts work, Anna and Rawiri, the shearing contractor's leading hand, walk through the work area. They point out the repaired grate. They check the power supply and confirm the Residual Current Device (RCD) protection. They show the crew where the amenities and break areas are.

They also discuss any equipment provided by Anna that the shearers will use, such as the wool press and grinder. They agree what "safe to use" means, including guards in place, equipment in good condition, and protective gear (PPE) available with clear expectations about its use. Anna confirms the wool press has been maintained and is safe to operate. Rawiri confirms that one of the crew will operate it as part of the workflow. They finish by agreeing on rules for the shared space, so people do not get in each other's way. With roles and risks clear, the job starts safely.

**Key points:**

- Cooperate and coordinate to manage shared-space risks before work starts.
- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Set clear rules for overlapping workgroups to prevent confusion and reduce risk in shared spaces.
- If you are a farmer providing equipment, make sure it is safe for others to use, has guards in place, and is up to date with maintenance. Provide PPE with clear expectations for its use. Include key equipment, such as the wool press, in the walk through.

## 7.0 Facilities shared with others

### 7.1 What to do if you have a shared facility on your farm

7.1.1 As a farmer, you might share facilities with others. It could be shared boundary fences, or it could be a facility on a farm used by others, such as an airstrip used by aviation companies to service farms in the area.



7.1.2 When you share responsibility for maintenance of facilities with other PCBUs, you will usually have overlapping health and safety duties. This means you and the other PCBUs that have a duty related to the facility **must** consult, cooperate and coordinate with each other.

7.1.3 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

7.1.4 Consider who has influence and control when deciding who starts work on the facility and who takes responsibility for different tasks. For example, the farmer usually controls access to the farm where the facility is located and knows the hazards on their land. A maintenance contractor would control the work they do on the facility and the vehicles they use.

#### **Example 10: Managing responsibilities for shared facilities**

Hannah has an airstrip on her remote farmland. At a time when no flights are expected for a few weeks, Hannah plans the annual tidy up of the airstrip. She calls Tama, a contractor, and Jim, the pilot and suggests: “Let’s do a walkthrough together first, then agree on a plan.” They choose a maintenance window with no scheduled flights, put up an “Airstrip closed – maintenance in progress” sign, and nominate one main contact for the day. They agree that on the day everyone will sign in, receive a short briefing, and decide on the safe areas for parking and walking.

Before work starts, they check the conditions. They confirm the weather forecast and walk the airstrip to make sure the surface is firm enough for machinery and the edges are stable. If conditions were not suitable, they would postpone the work.

During the walkthrough, Hannah points out potholes, soft edges, long grass, and anything that could obstruct aircraft during take off or landing.

She and Tama check the access road and culverts, and confirm the bridge can take the loads. They move bins and a diesel tank away from the strip, and they secure a loose winch cable and stabilise a shed roof section. Jim identifies a wire near the approach, and they mark it clearly and include it in the hazard briefing.

Before work begins, Hannah and Tama set a simple rule: “If the weather changes, the surface breaks up, or the job changes, we stop and talk.” They set check in times, keep visitors away from the work zone, and complete a final sweep so nothing is left on the strip. Hannah updates Jim on any changes and confirms when the strip is safe to use again.

**Key points:**

- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Agree on roles and decide who will keep other affected people informed.
- Check conditions before starting work and during the job. Update affected parties when things change.
- Comply with Civil Aviation Rules, including Rule 157, which applies to some airstrips and heliports.

## 8.0 Working with manufacturers and suppliers to manage risks

### 8.1 What to be aware of when you buy or install equipment



8.1.1 You have a duty as a PCBU to ensure, so far as is reasonably practicable, the health and safety of workers, and to make sure other people are not put at risk by the farm work.


8.1.2 When you buy farm equipment, check that the manufacturer, supplier or installer has done everything they can to make sure that the equipment is safe for use.

8.1.3 You need to:

- discuss your safety feature requirements with the salesperson

- check the manufacturer's information for safety features and follow the manufacturer's instructions for the safe use of the equipment
- make sure workers who will use the equipment receive all the information they need
- check whether you or your workers will need training to use the equipment safely and make sure they can competently use the equipment safely.

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 8.1.4 When equipment is installed on the farm, you and the supplier or installer are likely to share a health and safety duty while the supplier or installer is on site. You **must** consult, cooperate and coordinate with the supplier or installer to make sure they have a safe area to complete the installation or delivery.

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8.1.5 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.


8.1.6 You also need to make sure that workers who could be affected know the work is happening.

8.1.7 For information about the health and safety duties of manufacturers, suppliers and installers, see Part F.

## 9.0 Farmers' duties towards farm workers

### 9.1 Keeping your workers healthy and safe


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 9.1.1 As the farmer, you **must**, so far as is reasonably practicable, provide adequate facilities for workers on the farm and **must** make sure workers have access to these facilities.

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9.1.2 See our guidance [Workplace and facilities requirements](#) for more details on this duty.

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 9.1.3 If you have workers on your farm, you **must**, so far as is reasonably practicable, engage with your workers or with worker representatives about health and safety matters that directly affect them.

9.1.4 You **must** also provide the information, training, instruction or supervision needed to protect workers and other people from risks to their health and safety from the farm work. Small PCBUs only need to do this for critical risks.

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- 9.1.5 Make sure the workers on the farm are equipped and trained to do their job, or given supervision when it is needed. You have added responsibilities for young workers (see Section 10).

**Example 11: Checking the competence of a new worker using a quad bike**

Callum, a farmer, welcomes Tariq (19) as a new farmhand. Tariq says he has ridden quad bikes “a lot at home,” but Callum checks Tariq’s capability rather than relying on his confidence. Before Tariq works on hills, Callum asks him to complete a practical ride on flat paddocks so Callum can observe his skills on the farm’s quad bike.

Because they have to work in wet conditions on a steep and slippery slope, the risk is higher, Callum decides that the quad bike is not suitable for Tariq yet. Instead, he pairs Tariq with an experienced worker and sends them out in a side-by-side vehicle, which is better suited to the terrain.

On the job, Tariq wears a helmet and learns from his buddy. Callum books formal quad bike training for Tariq so he understands how the machine behaves on slopes. Callum verifies Tariq’s skills, chooses the safest vehicle, and supports him step-by-step.

**Key points:**

- Agree on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Check your workers’ competence, and choose the safest vehicle or equipment for the task and environment, especially for new workers.
- Provide training, verify skills and supervise when needed.

## 10.0 Farmers’ duties towards young workers

### 10.1 What to be aware of if you have workers younger than 15 years old

- 10.1.1 Young workers (under 15 years old) may not have the judgement or physical strength of adults. Consider ways to manage hazards using extra control measures, or restrict tasks and offer higher levels of supervision.

## 10.2 What activities are not classed as “farm work”?

- 10.2.1 Young people often do activities on farms, whether they live there or visit. Some activities are not considered “farm work”.
- 10.2.2 For example, a family may run a commercial beef farm and also keep chickens for themselves. A young person collecting eggs is not doing “farm work”, even though the activity takes place on a farm.

## 10.3 Young workers are not allowed to do some tasks

- 10.3.1 Make sure work tasks are age-appropriate, scheduled during appropriate hours and supervised when needed. Do not assume that labour hire companies, schools, or training providers have fully trained young workers.




- 10.3.2 PCBUs **must**, so far as is reasonably practicable, consult, cooperate and coordinate when they have overlapping duties for young workers.

- 10.3.3 For small PCBUs, this only applies in relation to critical risks.

- 10.3.4 Table 3 describes the legal restrictions on what work young people are allowed to do.

**Table 3: Restrictions on work young people may do**

 <b>PCBUs must ensure, so far as is reasonably practicable, young workers (under 15) do not:</b>	<b>Except under these conditions:</b>
- do work likely to harm them	Except if carrying out administrative or retail work in a business that carries out this type of work.
- do construction work	
- carry out logging or tree-felling	
- manufacture or prepare goods for sale or trade	
- make, use or generate hazardous substances	
- lift any weight or perform any task likely to harm their health	
- work or assist with (or at) any machinery	
- drive a vehicle	Except if the worker is 12 years or older and is driving or riding on a tractor or mobile plant 700kg or less
- ride on a vehicle while it is drawing an implement	

PCBUs must ensure, so far as is reasonably practicable, young workers (under 15) do not:	Except under these conditions:
- ride on a vehicle while an implement (for example a trailer) is attached	for agriculture work, and if the young worker is fully trained (or being trained) to ride that specific tractor.
- ride on an implement (other than a sled or trailer designed or adapted exclusively or principally for the carriage of passengers or goods) drawn by or attached by a vehicle.	
- work between the hours of 10 pm and 6 am (in this case it applies specifically for workers under 16 years old)	Except if the work complies with an ACOP for that work by a young person during those hours. At the time of publication, there is no such ACOP.

## 11.0 Worker accommodation

### 11.1 What to be aware of if you provide accommodation for workers



11.1.1 If you provide accommodation and workers must live there because other accommodation is not reasonably available, then you **must**, so far as is reasonably practicable, maintain the accommodation.

11.1.2 The accommodation **must** be maintained so that workers are not exposed to health and safety risks from it.

11.1.3 For more information, see our guidance on [Worker accommodation](#).

### 11.2 Be clear about work duties and non-work activities

11.2.1 Farm workers who live on the farm move around on the farm when they are not working. HSWA only applies to work situations, and to areas where work takes place on the farm.



11.2.2 You **must** ensure, so far as is reasonably practicable, the health and safety of workers, and must make sure other people are not put at risk by the farm work.

## 11.2.3 Your HSWA duties depend on the situation:

- When farm workers are working, you have duties towards them as workers.
- When workers are not working, you **must** still make sure they are not put at risk by work that is happening on the farm. This is the same duty you have towards any other people who could be at risk from work on the farm. This duty extends to any family of the workers that live in the worker accommodation.

## 11.2.4 If you are a small PCBU, these duties only apply in relation to critical risks.

11.2.5 Farm workers' duties under the HSWA duty holder status of "worker" apply only when they are working. If they are on the farm when they are not working, they may have the duties of "other persons" instead. Avoid confusion by making it clear which activities are work, and what are recreational activities workers do in their own time.

**Example 12: Clarifying tasks for workers living on the farm**

Priya provides a cottage on her farm for Harry, one of her farm workers. When Harry moves in and the tenancy agreement is completed, they discuss what is considered "home" responsibility and what is considered "paid work". Keeping the cottage grounds tidy and mowing the lawn is tenancy upkeep. Any task Priya directs as part of farm operations is paid work. They write this in the tenancy agreement and Harry's work plan, so both understand it from the start.

When Harry mows only the cottage area in his own time it is treated as a tenancy upkeep. If Priya asks him to mow as part of his work duties, or beyond the cottage area, then it is work. It will be managed like any other farm task, using the farm's normal approach to equipment, instruction and agreed controls.

Priya and Harry also agree on a simple rule: if a task is not clearly covered in the tenancy agreement or work plan, they stop and clarify it before it is done.

**Key points:**

- Be clear about what is "tenancy or home" activity and what is "paid work". Put this in writing.
- When a task is paid work, manage it like other work tasks. Provide instruction, confirm equipment is safe, and agree on controls appropriate to the hazards.

## **12.0 When the farm is also your home**

### **12.1 Where HSWA applies around your farm and home**

- 12.1.1 HSWA duties apply at workplaces. On the farm, the legal health and safety duties apply to the farm buildings and any structures or areas immediately surrounding them that are necessary for operating the farm.
- 12.1.2 The family home or other parts of the farm are only included in HSWA duties if work is being done there, or if people pass through those areas while working.

## **13.0 Farmers' duties towards children on farms**


### **13.1 Children taking part in farm life**

- 13.1.1 Farms are both homes and workplaces. This means children and young people (under 15 years old) are part of daily farm life. They are also exposed to unique hazards.
- 13.1.2 Manage risks instead of excluding children from farm life.

### **13.2 Health and safety duties towards all children and young people at the workplace**

- 13.2.1 As a farmer, you have legal duties towards all children and young people at your workplace, whether they are workers or not. Table 4 outlines some of these duties. For more on young workers, and the restrictions that apply for their work, see Section 10.0.

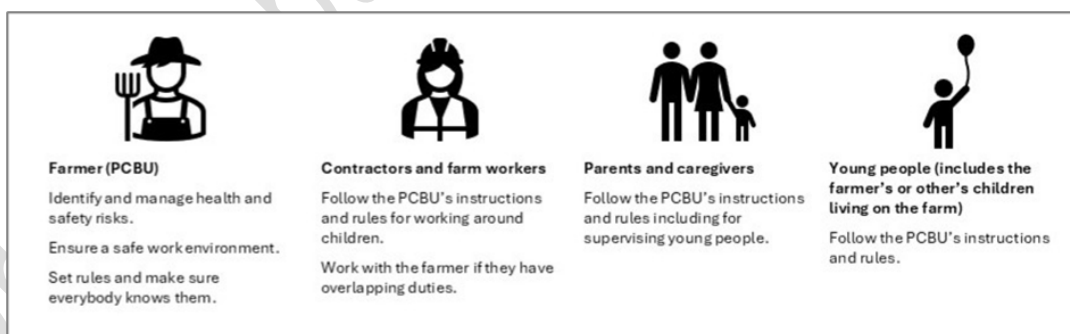
**Table 4: Restrictions for children on farms**

	<p><b>A farmer or other PCBU must ensure, so far as is reasonably practicable, that no person under 15 years old is present in any area of the workplace at any time when:</b></p> <ul style="list-style-type: none"> <li>- goods are being prepared or manufactured for trade or sale</li> <li>- construction work is happening</li> <li>- logging or tree-felling is happening</li> <li>- hazardous substances are being made, used or generated</li> <li>- the work is likely to harm the young person</li> </ul>	<p><b>Unless the young people are at all times:</b></p> <ul style="list-style-type: none"> <li>- under direct and active adult supervision that is appropriate for the age and nature of the work risks</li> <li>- in any part of that area the public has access to</li> <li>- on a guided tour of that area</li> <li>- in any part of that area that is used only for selling goods or services.</li> </ul>
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### 13.3 Children who live on farms

13.3.1 Children who live on farms are often involved in farm activities. As a farmer, you need to clearly assign roles, educate, communicate and supervise children to keep them safe.

13.3.2 Figure 7 shows the people who have a role in keeping all children and young people safe on farms. A person can have more than one role.



**Figure 7: The people who have a role in keeping all children safe on farms**

13.3.3 As a farmer, you are likely to have the greatest influence and control over the health and safety of children on the farm.

13.3.4 When you live with your own children on the farm, you have responsibilities as a parent as well as legal health and safety duties as a farmer (PCBU). This draft ACOP focuses on work health and safety duties, not parenting responsibilities.



13.3.5 Parents, caregivers and young people who visit the farm and do not work on the farm are classed as “other persons at the workplace” under HSWA. They **must** follow your reasonable instructions.

13.3.6 Table 5 describes actions to take to manage the risks related to children living on farms.

**Table 5: Actions to take when young people are living on the farm**

Task	Actions
Identify the risks to children and put control measures in place	<ul style="list-style-type: none"> <li>- Find out the risks to children on your farm, including your own children, and other children living on the farm.</li> <li>- To manage risks, put control measures in place that take into account the experience and skill level of the child.</li> <li>- Identify age-appropriate tasks - dependent on the specific circumstances, farm hazards and young person’s maturity.</li> <li>- Restrict children’s access to high-risk areas such as milking sheds and high-traffic areas.</li> <li>- Set clear rules for children and their parents or caregivers.</li> <li>- Make sure everyone on the farm knows the rules for children on your farm.</li> <li>- Communicate clearly about acceptable behaviour and risks.</li> <li>- “Childproof” the farm:               <ul style="list-style-type: none"> <li>- Create fenced safe play areas away from machinery, animals, and water hazards.</li> <li>- Keep workshops, chemical sheds, and restricted areas locked.</li> <li>- Remove keys from vehicles and do not leave engines running.</li> <li>- Manage all water hazards, cover tanks and wells, and fill disused holes.</li> </ul> </li> </ul>
Help children understand farm risks, what is needed to keep themselves safe and what to do if	<ul style="list-style-type: none"> <li>- Walk around the farm with children and identify hazards together, such as effluent ponds, dams, steep slopes or tracks, and farm vehicles.</li> <li>- Teach children safe behaviour, including washing hands after touching animals, staying clear of machinery and avoiding hazards.</li> </ul>

Task	Actions
something goes wrong.	<ul style="list-style-type: none"> <li>- Teach children how animals behave, so they learn what to expect.</li> <li>- Teach children to use protective equipment (PPE) and other equipment (for example hi-vis clothing, helmets or footwear) in certain areas.</li> <li>- Teach children about their responsibility to keep themselves safe.</li> <li>- Make sure children know what to do in the case of an emergency.</li> </ul>
Know where the children are. Make sure the children are adequately supervised.	<ul style="list-style-type: none"> <li>- Always know where children are on the property, for example, knowing when young people are riding horses on tracks.</li> <li>- Make sure children are easy to see. High visibility vests or bright clothing can help.</li> <li>- Closely supervise younger children. You <b>must</b> make sure children have direct and active adult supervision appropriate for their age and the nature of the work risks, if they will be present in an area where the work is likely to harm them.</li> </ul>
Make sure workers and contractors know how to work safely around children.	<ul style="list-style-type: none"> <li>- Make sure workers and contractors understand how to work safely around children. For example, use eye contact and communication between an adult and child before an activity starts.</li> <li>- Tell the workers and contractors whether the children or young people are working, visiting or living on the farm.</li> <li>- Make sure anyone who brings children into a hazardous area tells all workers in that area that children are present.</li> <li>- For safe vehicle operation around children, see the ACOP for Safe Farm Vehicle Operation.</li> </ul>

## 13.4 Children visiting farms

13.4.1 Children visit farms for different reasons. They could be children visiting a parent who works on the farm, a school friend staying for the weekend, or a group of children visiting as part of a school trip.

13.4.2 Children who are not familiar with farms are more vulnerable to risks. To manage these risks, put control measures in place that are appropriate for the experience and skill level of the young person.



13.4.3 You **must** make sure, so far as is reasonably practicable, that young people under 15 years are not present in any area of the workplace at any time when work in that area is likely to cause them harm. If young people are present when this work is happening, you **must** make sure they:

- are on a guided tour, or
- have direct and active adult supervision appropriate for their age and for the level of risks, or.

13.4.4 Make sure you talk with the supervising adults (parents, caregivers or teachers) about farm hazards and restricted areas. You also need to agree with those adults about who will:

- supervise the children during the visit
- brief the children on where they can and cannot go, and the safe places and boundaries
- make sure all children are accounted for at the end of the visit
- tell everyone working on the farm when visiting children are present
- keep children away from high-risk areas
- check that children are visible to all farm workers. This could be by requiring the children to wear high visibility vests or bright clothing.

**Example 13: Keeping children safe when they visit the farm for activities**

On Friday afternoon, Simon (the farm owner) and Rangī (a sharefarmer on Simon's farm) talk about the weekend. Rangī says his children want to come to the farm to ride dirt bikes on Sunday. Simon agrees and they discuss what else is happening on the farm on the weekend, which areas will be off limits, and who will be around.

They check the diary and note that a contractor will deliver feed, and Simon will move stock near the main track. To keep the children away from work activity, they choose a riding area well away from sheds, yards, tracks and vehicle routes. They also agree on clear rules and supervision.

On Sunday, Rangī walks the children around the riding area and explains hazards and boundaries in words they understand. He checks that they wear approved helmets and sturdy closed-in footwear. He keeps them on age-appropriate bikes in a flat paddock near the house, not on farm tracks.

Simon locks the workshop, shuts gates to the yards, and removes keys from vehicles and bikes the children should not use. They agree that if work vehicles arrive early, the children will stop riding and return to the house until it is safe. Planning, supervision and separation keep the children safer.

**Key points:**

- Talk with the parent or caregiver before the children's visit and agree on who will supervise the children or introduce them to the farm.
- Manage risks to children by planning safe areas, supervising actively, and keeping children away from vehicles and hazardous farm work.
- Small PCBUs only need to manage critical risks.

**Example 14: Managing school children on an organised farm visit**

Liam often lets the local primary school bring groups of children on to his sheep and beef farm. A few weeks before such a visit, Liam gets a call from Alice, a teacher, about bringing a class for a farm tour.

Liam agrees and plans early. He chooses a simple walking route away from working areas, machinery sheds, and steep or wet ground. He checks what farm work is planned for that day and moves any work that could put the visiting children at risk. For example, he postpones spraying and avoids moving stock near the route.

On the morning of the visit, Liam sets a meeting point at the entrance and provides a safe place for the bus to stop. He welcomes the group, completes sign in, and gives a short safety briefing in plain language. He tells them to stay with their adults, not touch equipment, not go through gates unless he says so, and keep their distance from animals unless invited to approach. He explains unexpected hazards like electric fences and moving vehicles and tells them what to do if someone becomes separated or unwell.

During the walk, Alice and parent helpers supervise small groups while Liam leads and keeps everyone in the agreed areas. At the end of the visit, Liam confirms with Alice that everyone has signed out and tells his team the visitors have left before work starts again.

**Key points:**

- Discuss the visit with the organiser or caregivers beforehand and agree on roles, including who supervises children during the visit.
- Plan early so you can manage visitor safety by controlling the routes, using sign-in/sign-out, and keeping visitors away from work areas and hazards.

- Set and enforce simple visitor rules, and give a clear briefing to the children and their supervisors when they arrive.
- Small PCBUs only need to manage critical risks.

## 14.0 Farmers' duties towards visitors to the farm

### 14.1 Keeping visitors safe

14.1.1 Your primary health and safety duty as a farmer is to ensure the health and safety of your workers and others affected by the work on your farm. When you invite visitors onto your farm, you also have health and safety duties towards them.

14.1.2 If you are a small PCBU, this duty only applies in relation to critical risks.

14.1.3 The visitors have a HSWA duty to:

- take reasonable care for their own health and safety
- take reasonable care that they do not adversely affect the health and safety of others
- follow your reasonable instructions.

14.1.4 Your visitors will not know your farm as well as you do. Verbal briefings can be used for low-risk, informal visits. Make sure you let the visitors know:

- about hazards and risks
- what they can safely do
- where they can safely go.

#### **Example 15: Hosting a farm open day**

Sandra and Carl plan to host an open farm day on their deer farm, where they also grow crops and keep a stone fruit orchard. A week before the open day, they walk through the areas the public will see and keep the plan simple. They choose a route with good footing, away from sheds, yards and vehicle movement. They shift higher-risk work, such as spraying or moving stock, to another day, and put up clear signs showing where people can and cannot go.

On the day, Sandra and Carl set one entry point, clearly mark a safe parking area, and brief their farm workers and family helpers. They greet visitors on arrival, and give a short, friendly introduction with simple rules for the day: "Please stick to the marked track, keep children close, and do not go into paddocks or sheds unless they are with you". They point out

hazards visitors may not expect, such as electric fences and farm dogs, and explain what to do if someone becomes separated or unwell. They also introduce the person carrying the first aid kit.

During the event, helpers stand along the route, answer questions, and redirect anyone who wanders. Sandra and Carl keep gates secured, park machinery, and keep all farm work well away from the visitor area. At pack down, they confirm everyone has signed out and clear the area before normal work resumes.

**Key points:**

- Plan ahead and manage the farm related risks to visitors.
- Make sure everyone helping at the event understands their roles.
- Use clear rules and guidance to coordinate crowd movement and supervision, so visitors are not put at risk from farm work.
- Small PCBUs only need to manage critical risks.

## 14.2 Events hosted by others

14.2.1 If someone else organises an event on your farmland and they are a PCBU, you may have overlapping duties with them. You control the work on your farm, and you know the hazards, so you still have all the usual health and safety duties.



14.2.2 You **must** ensure, so far as is reasonably practicable, the safety of your workers and others affected by the work.

14.2.3 In the case of events and recreational activities, this duty only applies when the recreation activity is connected with your work on the farm, or when you have other work happening at the same place at the same time.

14.2.4 The organiser controls the running of the event. They will have health and safety duties as a PCBU over the aspects they manage, and will be responsible for managing the risks from their own activities.

14.2.5 You need to coordinate and collaborate with the organiser. Discuss the event and agree on who is responsible for what. Consider influence and control when deciding on roles and responsibilities for the event. Consult with the other PCBU and agree on who will give a safety briefing and supervise event participants and visitors. Make sure the agreements are carried out.

**Example 16: Working with others on a charity trail ride**

Wiremu runs a high-country sheep farm. He agrees to let a large nationwide charity can host a fundraising trail ride on his farm. On the day of the event, he also has contractor repairing a track on a remote block.

A week before the event, Wiremu meets Hannah from the charity on site. They drive the route together, and Wiremu says they should make it easy for people to do the right thing. They decide exactly where riders can go, where they cannot, and how to keep the ride separate from the contracting work.

On the day, Wiremu locks the gate to the block where work is happening and puts bright tape at key corners to stop shortcuts over this block. Hannah places marshals at junctions and gives a friendly safety briefing at the start line: "Stick to the marked track, slow down near farm traffic, and do not go through taped or locked gates."

Wiremu checks in with the contractor before work starts. They agree that if anyone sees riders heading the wrong way, they stop work and call straight away. Planning and separating activities protects both riders and contractors.

**Key points:**

- Discuss the event with the organisers and agree on roles and responsibilities. Agree on how you will communicate on the day of the event.
- Tell organisers in advance about farm conditions and hazards, and update them on any changes before or during the event.
- Plan ahead, and separate activities so visitors and contractors can share the farm safely.
- Small PCBUs only need to manage critical risks.

## 14.3 Unannounced visitors

14.3.1 Some visitors might come onto the farm uninvited, but lawfully. It could, for example, be inspectors or pest control.



14.3.2 As the farmer you **must** make sure the farm work does not put others at risk.

14.3.3 If risks exist from work that has been done, such as spraying of hazardous substances, then you need to manage these risks for visitors.

14.3.4 This duty only applies to areas where work is happening, as well as in relation to farm buildings and structures and the areas immediately surrounding the

farm buildings. Farmers do not have health and safety duties for people crossing a farm in non-work areas and away from farm buildings.

- 14.3.5 Take reasonable action to keep people safe on your land if you know they are likely to enter your farm in specific places, such as by a track that goes on to your farmland from a public car park. For example, you could put up a sign explaining rules for access, or you could block access with a fence or gate.
- 14.3.6 When communicating with people who have to come on to your farm uninvited and unannounced, set clear expectations.

## 14.4 People entering the farm unlawfully

- 14.4.1 You do not owe a legal health and safety duty to people who enter the farm for an unlawful purpose.

### **Example 17: Managing visitors who request access**

Helen receives a call from Keisha and Niko who want to hunt pigs in the forest block on her farm. Helen responds politely but firmly. She tells them the block is unsafe for visitors this week because contractors are working there in that area and pest control teams are also there. She suggests a safer nearby option on public land instead, and reminds them that hunting on her property is by invitation only.

Helen supports safe access through clear rules. She has “Private property / No unauthorised entry” signs at entry points, and she has set up a sign in point at the shed. She asks invited visitors to text when they arrive and when they leave. She requires that dogs are kept under control, and that visitors stay on agreed tracks.

A few days later, a neighbour tells Helen that he has just seen two hunters crossing the back boundary and driving into her forest block. Helen does not enter the block to confront them directly. Instead, she tells her workers to avoid the area. She notes the vehicle location, and contacts the appropriate authorities about trespass. Because loose dogs may worry stock, Helen moves vulnerable stock away from nearby boundary paddocks and closes gates to contain stock.

When one of the visitors, Keisha, later calls out that they are “just here to get the dogs”, Helen follows her plan for uninvited visitors. She tells them to stop and wait at a safe boundary point until she can escort them as they bring the dogs out on a route that avoids stock and work areas.

Once the immediate risk is controlled, Helen checks her stock, records what happened, and follows up calmly. She explains to Keisha and Niko

the difference between invited access (check in and follow rules), uninvited access (call first and wait for instructions), and trespass (no entry, especially while farm work is taking place). She updates signs to reinforce the rules.

**Key points:**

- Use clear and consistent access rules.
- Separate unauthorised visitors from hazards.
- Manage uninvited entry safely by keeping workers away from risk areas, and resolving the situation without adding further risk.
- Small PCBUs only need to manage critical risks.

## 15.0 Public access to the farm

### 15.1 What to be aware of when recreational activities take place on your farm

15.1.1 Recreational access is when people use the land's features, such as forests, cliffs or waterways, for outdoor activities. Activities could be things like walking, cycling, kayaking, hunting, fishing, rock climbing or swimming.

15.1.2 To do these activities, people might need to use or cross land that is a workplace or is affected by a PCBU's work. This can include working farms.

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

15.1.4 If you are a farmer whose land is being accessed for recreation, you are:

- only responsible for risks that come from the work or workplace
- not responsible for the risks that come from the recreational activities.

15.1.5 PCBUs only have a duty to people accessing their land for recreation activities when:

- the recreation activity is connected with the PCBUs work, or
- the PCBU has other work happening at the same place and at the same time.

15.1.6 Let recreational visitors know about work hazards, for example by using:

- signs
- emails

- verbal warnings.

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

15.1.8 The only exception is when you provide the recreational activity. In this case, you are also responsible for managing risks associated with that activity, so far as is reasonably practicable.



15.1.9 Visitors also have legal duties, even if they have right of access. Anyone accessing farmland for recreation **must** follow:

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

#### **Example 18: Managing public access through a working farm**

Paul farms a high-country sheep and beef farm. A public walking trail passes through the farm, and there are cabins for visitors, managed and hosted by Hine.

Paul plans for unpredictable visitor arrivals. He marks public routes and work areas on a simple map, installs clear signs at entry points, and provides a contact number for visitors to call or text. Each morning, he and his workers identify higher risk work, such as spraying, moving stock or using machinery. They plan how to keep this work away from the track.

Benji, a fencing contractor, comes to repair a boundary fence near the trail. Before Benji starts, Paul meets him at the gate. They agree on:

- where to park
- how to move equipment safely
- what to do when walkers arrive
- how to keep people separate from tools and vehicles.

Paul asks Hine to tell cabin guests about a short detour. He also asks her to remind them to wait if work is happening nearby. Paul sets a clear plan so everyone knows who will put up signs, who will manage the detour, and who will confirm when the area is safe at the end of the job.

When a family arrives to walk the trail, they see the signs and follow the detour. Paul signals from a distance to guide them onto the safer path.


When Benji finishes, he removes the temporary barriers and tells Paul that the track is tidy and safe again.

**Key points:**

- Coordinate with contractors and others affected by the work.
- Keep everyone informed about changes on the farm that may affect safety.
- Use clear rules and communication to keep public access compatible with farm work.

Draft for public consultation

## PART D For farm workers

Term or symbol	Meaning in this document
PCBU	Person conducting a business or undertaking.
'you'/'your'	Refers to the worker in this part.
' <b>must</b> ' and/or 	Shows a legal requirement under HSWA or its regulations. You must follow these requirements.
'make sure', 'do not', 'check' or similar wording	Actions to take to comply with this draft ACOP. For safe harbour to apply, duty holders need to follow all the actions set out in the ACOP to comply with the stated HSWA duty. If a duty holder follows most, but not all, actions they may still meet their duty, but safe harbour will not apply.
Blue shading	Content based on proposed changes to the Health and Safety at Work Act.

## 16.0 Introduction to Part D – for farm workers

### 16.1 Using Part D

- 16.1.1 This part of the draft ACOP is for farm workers. In this draft ACOP, “farm worker” means a person who works for the farmer or horticulture grower. This includes farm managers, farm workers, temporary or seasonal workers, apprentices or trainees, and voluntary workers. “You” in this part means the farm worker.
- 16.1.2 If you work for a contractor, and come onto the farm to do work for that contractor, see Part E of this draft ACOP.
- 16.1.3 If you are a self-employed farm manager (PCBU) engaged to manage and control the farm on behalf of an owner, see Part C.



- 16.1.4 This part describes your health and safety duties as a worker. It also explains how these duties relate to the duties of the farmer or the duties of contractors and others who come on to the farm.
- 16.1.5 The scenarios in this part are fictional examples that use real-life situations to show what workers need to do to meet their legal duties. Your situation might be a bit different, but you can still use the same approach.

## 17.0 Health and safety duties and rights for farm workers

### 17.1 Your duties as a worker

- 17.1.1 Everyone needs to work in a healthy and safe way. On the farm, everyone has a role to play to make sure the environment is safe. Most duties and responsibilities sit with the farmer, because they manage and control the

workplace, but workers have their own duties under the Health and Safety at Work Act 2015 (HSWA).

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17.1.2 As a farm worker, you **must**:

- take reasonable care of your own health and safety
  - take reasonable care that you do not harm others
  - cooperate with reasonable policies and procedures the farmer (or other PCBU) has in place and has told you about
  - comply with any reasonable instruction given by the farmer, as far as you are reasonably able, so the farmer can meet their legal duties
  - wear the personal protective equipment (PPE) provided for the work.
- 

17.1.3 These HSWA duties only apply while you are working, not while you are doing recreational activities outside of work.

## 17.2 Your rights as a worker

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17.2.1 As a worker under HSWA, you also have rights. Your farmer **must** ensure your health and safety at work. You have the right to:

- work in a safe environment
- get appropriate training before you start work
- work with safe machinery, vehicles, tools and equipment
- stop or refuse to do dangerous work
- access to health and safety information
- personal protective equipment (PPE)
- speak up about health and safety concerns
- be given a chance to have a say about health and safety at work
- health and safety representatives or committees
- clear instructions about what to do in an emergency.

17.2.2 You also have the right to be provided with:

- toilets and hand-washing facilities
  - clean drinking water
  - first aid facilities
  - a place to have a meal break in reasonable comfort and shelter.
- 

17.2.3 For more information about personal protective equipment, see [Personal protective equipment - a guide for workers](#).

- 17.2.4 Read more about your health and safety rights and responsibilities in our [factsheet](#) for workers. This fact sheet is available in English, Māori, Chinese, Fijian, Hindi, Samoan, Tagalog, Tongan, Bislama, Tuvaluan, Tok Pisin, Pijin, Rotuman, Kiribati, Cook Islands Māori, Tokelauan and Niuean.

## 18.0 Dealing with contractors

### 18.1 What to be aware of when you work with contractors

- 18.1.1 When contractors, such as drivers, fencers, sprayers or shearers, come onto the farm to do a job, they will usually have health and safety duties as PCBUs or as workers. Their health and safety duties will often overlap with the farmer's duties. In these situations, the farmer has a duty to consult, coordinate and cooperate with the contractors (as PCBUs).
- 18.1.2 As a worker on the farm, you still only have the legal health and safety duties listed above in Section 17.

### 18.2 The farmer can delegate a task, but not their duty

- 18.2.1 Your farmer might delegate a task to you or delegate an action to manage risks. But the farmer keeps their own legal duty to ensure work health and safety. As a worker, your legal health and safety duties remain the ones listed in Section 17.

#### **Example 19: Meeting a contractor**

Sione is a farm worker on a sheep and beef farm. Today, he is responsible for meeting Billy (a fencing contractor) at the farm gate and guiding her to a steep, remote back gully where she will be fencing. Hemi is the farmer and has arranged the job.

Before the day starts, Sione makes sure he knows the plan. The day before, Hemi had already spoken with Billy about the job, so he knows what gear Billy will bring, and knows of anything that could affect safety. Two hazards are identified early: a washout on the main track and overhead power lines near the work area. They also agree on a check in plan for remote work, including who to contact, when to check in, and what to do if there is no cell phone coverage.

On the morning of the job, Sione meets Billy at the gate. He introduces himself straight away as his day to day contact on site and confirms: “If you need anything today – hazards, access, or if you want to pause – come straight to me.”

Sione hands Billy a printed farm map with hazards marked, including the washout and the location of the power lines. Then he drives ahead so Billy does not take the wrong track and to make sure the route is safe to use. When they reach the work area, Sione points out the washout and the power lines, checks Billy understands what to do, and confirms how he will manage the area while he is working.

Before Sione leaves, they agree on how to communicate and set expectations for situations where they will need to stop work. Sione and Billy swap mobile numbers and confirm the check in times. Sione tells Billy he has full backing to pause the job if conditions change and the work becomes unsafe.

Billy starts work knowing who he is communicating with, what the main hazards are, and what to do if conditions change. The job begins with clear expectations and practical support in a remote area.

**Key points:**

- Ask the farmer for clear instructions and expectations for you and the contractor.
- Make sure you know about the hazards on the farm, so you can keep yourself safe and help keep the visiting contractor safe.
- Confirm with the contractor how you will communicate.
- Support safe decisions: if anything feels unsafe, stop work, make contact with the contractor or the farmer and reset the plan.

## 18.3 Taking care your work does not harm others

18.3.1 Farms are busy places, and you will often meet other people while you work. They may be contractors, visitors or family members living on the farm. You have a duty to take reasonable care that your work does not harm others.

18.3.2 When any activity seems unsafe to you, or you are unsure who is responsible, talk to your farmer or manager.

## 19.0 Restrictions for young workers

### 19.1 What young workers are not allowed to do

19.1.1 If you are under the age of 15 years old, there are some restrictions on what you can do as a farm worker. The work has to be appropriate for your age.

19.1.2 Table 6 shows the legal restrictions on the work of young people under 15.

**Table 6: Restrictions on work young people under 15 are allowed to do**

<b>PCBUs must ensure, so far as is reasonably practicable, young workers do not:</b>	<b>Except under these conditions:</b>
- do work that is likely to harm them	Except if doing administrative or retail work in a business that does this type of work.
- do construction work	
- carry out logging or tree-felling	
- manufacture or prepare goods for sale or trade	
- make, use or generate hazardous substances	
- lift any weight or perform any task likely to harm their health	
- work or assist with (or at) any machinery	
- drive a vehicle	Except if the worker is 12 years or older, is fully trained (or being trained) and is driving or riding on a tractor or mobile plant 700kg or less for agriculture work.
- ride on a vehicle with attachments (for example, trailer) connected, or ride on the attachments	
- work between the hours of 10 pm and 6 am (this applies for workers under 16)	Except if the work complies with an ACOP for that work by a young person during those hours.

## 20.0 What to be aware of if you live on the farm

### 20.1 Worker accommodation



20.1.1 If you live in accommodation that is provided to you on the farm, then the farmer **must** maintain the accommodation, so far as is reasonably practicable. The farmer needs to make sure you are not exposed to health and safety risks from the accommodation.

20.1.2 For more about accommodation for farm workers, see our guidance on [Worker accommodation](#).

### 20.2 Responsibilities for off-work activities on the farm

20.2.1 Your health and safety duties as a farm worker apply when you are at work. Check with the farmer what is considered work, and what activities are considered recreational activities that you do in your own time.

#### Example 20: Worker living on the farm and using farm equipment

Moana works on James' dairy farm and lives in a cottage on the farm. On Sunday, she wants to cut up a fallen tree for firewood. The tree is in a back paddock, so she plans to use the farm ute and chainsaw.

James had previously talked to Moana about his rules for living on the farm. For personal, non-work tasks around the home (like chopping wood for her own use) she needs to stay near the cottage. But if she is using farm gear or going into paddocks, she must follow the farm's safety rules. They had also agreed on what to do when she visits remote parts of the farm: Moana texts before she goes, and texts again when she is back.

Before she sets off to cut up the fallen tree, Moana:

- checks the chainsaw is in safe working order
- wears the right protective gear (PPE)
- uses only equipment she is trained to use.

Before she heads out, Moana texts James: "Heading to the back paddock for wood – will be back by 4." James replies: "Sweet as. If anything changes, yell out."

#### Key points:

- Follow reasonable instructions from the farmer or manager when you use farm equipment, even if it is for personal use.
- Only use equipment you are trained on and competent to use. Check it is safe to use, and wear protective gear suited for the task.
- Take extra care when you do unfamiliar tasks. Risks can be higher when it is a task you are not familiar with.
- Do a simple check-in for remote tasks: text before you go, and text again when you return.

20.2.2 You are responsible for your own health and safety when you are not working. But if you are on the farm for recreation on your days off, make sure the farmer knows you are there, so they can do their part to keep you safe. Tell the farmer where you plan to go, so they can let you know about any work activities you need to be aware of.

20.2.3 If you are allowed to use farm equipment for personal, off-work activities, follow the farm's health and safety rules and procedures in the same way you do when using the equipment for work.

#### **Example 21: Keeping safe with visitors on a day off**

Joe is a farm worker who likes spending his days off on activities around the scenic farmland. On a Sunday he wants to take his side-by-side vehicle down to the river for a picnic with a visiting friend. Before he goes, Joe checks in with Liam, the farmer, so he does not accidentally get in the way of the farm work on the day.

Liam is happy for workers to enjoy the property on their days off. He tells Joe: "All good. Just a heads-up: pest control is happening today, so there will be marked areas where we've put bait stations and traps, and we do not want people or animals going near them. Stay on the main track, do not enter any marked or taped-off areas, and do not cut across paddocks."

On the Sunday, Joe's visitor, Talia, arrives with a horse. Joe greets her: "Nice. Today we're sticking to the track. There is pest control work on, so we are not riding through paddocks or going near any marked areas."

Before they set off, Joe shares the expectations for safe behaviour on Liam's farm:

- Seatbelts and helmets for the side-by-side.
- Helmets for horse riders, too.

- We will leave gates as we find them.


Talia agrees. With information about what is happening on the farm, and clear expectations, they can enjoy a day off on the farm without creating extra risk while work continues.

**Key points:**

- You are responsible for your own health and safety when you are doing recreational activities outside of work.
- When you are on the farm, even on your days off, follow the farmer's reasonable policies and procedures. This could be about the protective gear you need to use, or where you can go on the farm when you are not working.
- If you bring visitors along, make sure they know the rules on the farm.

Draft for public consultation

## PART E For contractors

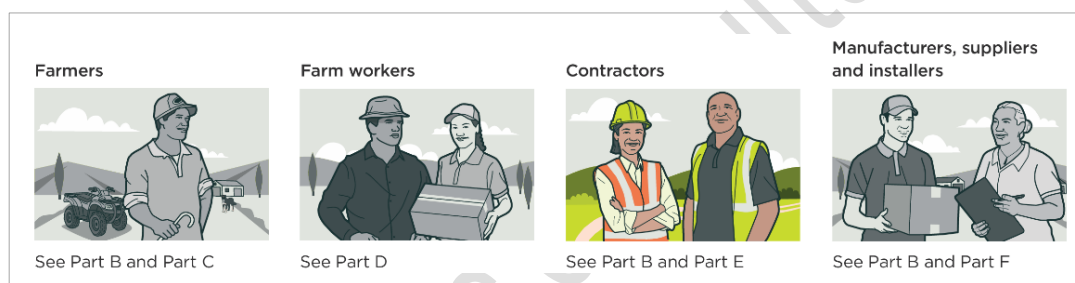
Term or symbol	Meaning in this document
PCBU	Person conducting a business or undertaking.
'you'/'your'	Refers to the contractor (PCBU) in this part, except in Section 28 where it refers to the worker of a contractor.
' <b>must</b> ' and/or 	Shows a legal requirement under HSWA or its regulations. You must follow these requirements.
'make sure', 'do not', 'check' or similar wording	Actions to take to comply with this draft ACOP. For safe harbour to apply, duty holders need to follow all the actions set out in the ACOP to comply with the stated HSWA duty. If a duty holder follows most, but not all, actions they may still meet their duty, but safe harbour will not apply.
Blue shading	Content based on proposed changes to the Health and Safety at Work Act.

## 21.0 Introduction to Part E – for contractors and their workers

### 21.1 Using Part E

21.1.1 This part of the draft ACOP is for **contractors (including subcontractors) and their workers**. “You” in this part means the contractor, except in Section 28 where it refers to workers of contractors.

21.1.2 In this draft ACOP, “**contractor**” means a PCBU which is contracted to come on to a farm to provide a service or product. It includes subcontractors (PCBU).



21.1.3 This part of the draft ACOP explains contractors’ legal health and safety duties relating to roles and responsibilities and overlapping duties.

21.1.4 If you work for a contractor, see Section 28.0.

21.1.5 See Section 3.5 for an introduction to the concept of overlapping duties and see Appendix 2 for an overview of the duty holder types. For more information about risk management, see Appendix 3.

21.1.6 Contracting situations vary from farm to farm and from contract to contract. The examples in this part of the draft ACOP show what contractors need to do, when they share health and safety duties with others in agriculture situations. Even if your situation is different, you can still use the same approaches to your specific situation.

## 22.0 Health and safety duties for contractors

### 22.1 Key legal duties for contractors

22.1.1 The *Health and Safety at Work Act 2015* (HSWA) is New Zealand’s primary legislation for work health and safety. It sets out health and safety duties for

contractors as PCBUs. Contractors also have duties under other health and safety legislation.



22.1.2 As a contractor, your primary duty of care as a PCBU is to ensure, so far as is reasonably practicable, the health and safety of workers, and to make sure other people are not put at risk by the work you do.

22.1.3 You also have a duty to, so far as is reasonably practicable, consult, cooperate, and coordinate activities with other PCBUs (for example the farmer or other farm PCBU) when your duties overlap.

22.1.4 If you are a small PCBU with less than 20 workers, these duties only apply in relation to critical risks. For all other HSWA and regulatory requirements, you **must** prioritise critical risks over other risks.

22.1.5 As a PCBU, you may also have other health and safety duties.

## 22.2 Contractors need to assess what is reasonably practicable

22.2.1 To manage health and safety risks, you need to consider your specific situation when you manage risks. HSWA uses the term “so far as is reasonably practicable”. As contracting work and farms vary, what can be considered reasonably practicable for one contracting situation may not be the same in another.



22.2.2 As a contractor, you must eliminate risks so far as is reasonably practicable. If you cannot eliminate the risk, you **must** minimise it so far as is reasonably practicable. You must do this to the extent you have, or would reasonably be expected to have, influence and control over the matter which the risk relates to.

22.2.3 If you are a small PCBU, this duty only applies in relation to critical risks.

22.2.4 For questions to help you identify what is reasonable in your situation, see our guidance: [Reasonably practicable](#).

## 22.3 Contractors can delegate a task, but not their legal duties

- 22.3.1 You might decide to delegate a task or a risk mitigation to someone else, for example one of your workers or a subcontractor. But you cannot transfer or contract out your duty.
- 22.3.2 This means that even if you arrange for someone to do the work for you, you still keep your legal health and safety PCBU duties related to that work.

## 23.0 Working with farmers to meet health and safety duties

### 23.1 How contractors can consult, cooperate and coordinate with farmers and other PCBUs



- 23.1.1 When you are contracted to come on to the farm to do a job, your health and safety duties as a PCBU may overlap with the duties of the farmer. Both you and the farmer **must**, so far as is reasonably practicable, consult, cooperate and coordinate to manage risks.
- 23.1.2 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.
- 23.1.3 Consulting, cooperating and coordinating are all about communicating with the other people involved in the work. In simple situations on the farm, a short conversation might be enough to set clear expectations with those you share duties with, or people affected by your work.
- 23.1.4 For more complex situations or contract arrangements, avoid disputes about responsibilities or agreements by keeping a record what you and the other parties spoke about and agreed on.
- 23.1.5 You need to be able to show that you have taken reasonable steps to consult, cooperate and coordinate in a way that is in proportion to the task and the risk.
- 23.1.6 To meet your contractor duty to consult, cooperate and coordinate:
- communicate with the farmer about where you or your team will be working

- check with the farmer whether other farm work activities could create risks where you or your team will be working
- tell the farmer what work you will be doing and what risks it could create for others, including the farmer. Discuss how you will manage and communicate those risks
- agree with the farmer how you will both communicate during the work
- tell the farmer about any changes in the work that may create new risks to people on the farm
- make sure the farmer has told you about any emergency procedures for the area you will be working in.

23.1.7 In more complex contracting arrangements with several PCBUs, you also need to:

- communicate with the other PCBUs in the contracting chain to agree on roles and responsibilities
- keep a record of any agreements and share them with the other parties.

#### **Example 22: Coordinating with the farmer**

Richard has been contracted to do aerial spraying at Linda's farm. He contacts Linda when he is planning the work. He confirms what will be sprayed, where, and when. He also checks whether the spray area is entirely within the farm boundary or close to neighbours.

Linda shares a map showing the house, sheds, stock areas, and sensitive spots like water troughs and boundaries. Richard makes sure the operation will meet Civil Aviation Authority (CAA) requirements and any permissions needed before he flies.

Richard talks Linda through how the operation will run, including the spray exclusion zone, and the weather conditions he needs for safe spraying. They agree on a simple confirmation method, so Richard gets an "all clear" from Linda before she starts. They also agree what happens if last minute changes occur (including who calls who, and when the job stops). The spray area is near the boundary to a neighbouring farm, so Richard builds that into the plan early, and they agree Linda will inform the neighbour.

On the day, Linda checks the area of the spraying and tells any visitors to stay well back. Richard reassesses conditions before starting. The wind does not suit safe spraying, so Richard calls Linda and reschedules instead of continuing. Clear roles and communication keep people and animals safe.

**Key points:**

- Agree with the farmer or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Talk to the farmer before the job to confirm roles and expectations. Agree on who will inform affected neighbours, and how you will communicate on the day.
- Meet any CAA requirements and get any required permissions before spraying begins. Aviation operators need to hold a current agricultural aircraft operator certificate under Civil Aviation Rule 137.
- Reassess conditions before and throughout the job, and keep the farmer informed if changing conditions affect the work.

**Example 23: Coordinating overlapping duties in a contracting chain**

Alex runs a silage contracting company and is booked to harvest silage on Wiremu's farm. Wiremu calls the day before: "Let's do a quick run through when you get here."

When Alex arrives, he meets Wiremu at the farm shed to review the hazard map and confirm the work area. They identify steep faces, soft spots and the safest route in and out. Alex confirms his operators are comfortable with the terrain and that his gear is in good working order.

They agree on a simple check in plan: Alex sends a text message before moving to a new paddock, and Wiremu updates Alex if anything changes.

Partway through the morning, Sione (a truck driver who is Alex' subcontractor) arrives early to collect silage and asks to use the farm tractor to load. Alex and Wiremu already agreed on a clear rule: no one uses farm machinery without Wiremu's approval. Wiremu meets Sione at the gate and directs him to a safe waiting area while he calls Alex.

Alex checks that the truck and tractor movements do not clash, and he makes sure everyone knows each other's location before work continues.

**Key points:**

- Agree with the farmer or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Talk to the farmer and confirm the plan before you begin. Get information from the farmer about hazards, routes and ground conditions, and confirm your people and gear fit the terrain.

- Coordinate with your work chain to confirm who is on site. Separate vehicle movements and prevent unapproved use of the farm's machinery.
- Coordinate with the farmer and any subcontractors if conditions change during the job.

## 23.2 Consider influence and control when agreeing on responsibilities



23.2.1 When there are overlapping duties, each PCBU **must** meet their duties to the extent they have, or would reasonably be expected to have, influence or control the matter relating to the risk.

23.2.2 If you are a small PCBU, this duty applies only in relation to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

23.2.3 As a contractor, you will usually have influence and control over the specific job you are engaged to do, and over the operation of the equipment or vehicles you bring to do the work. The farmer will have influence and control over farming operations, and they will know about changing hazards on the farm.

23.2.4 You and the farmer both still have legal health and safety duties, as the duties cannot be transferred. But it is reasonable to divide responsibilities during the work based on what each of you can control.

23.2.5 If you are unsure about who is responsible for actions to manage risks, the PCBU who has the most influence or control over the situation should take responsibility for the actions.

23.2.6 Discuss with the other PCBU who has control over what, and agree on who takes responsibility for which actions.

### **Example 24: Using control and influence to manage responsibilities where duties overlap**

Edmond is a self-employed irrigation contractor. He is hired by Tom, who grows a variety of crops on his farm, to dig trenches near the main entrance inside the farm boundary to upgrade water lines.

Because farm vehicles and vehicles used by other contractors will be using the same driveway and yard area on the farm, Tom and Edmond agree on a simple traffic plan for the day. It includes where to drive, a clearly marked “park here” spot away from the trench, and a quick sign in call before anyone enters the work area.

Tom has the control and influence over the running of the farm, so he takes responsibility for briefing Edmond about hazards on the farm, and for sharing information about other affected farm work during Edmond’s work on the farm.

Tom is also expecting a delivery this day. Since this has been arranged by Tom, he takes responsibility for coordinating with the delivery company about the safest delivery time.

Edmond confirms what he controls: the trenching work area, the exclusion zone around it, and how vehicles will move safely while he is operating equipment. He briefs anyone involved in the job on the key rules, including where to wait, when to move, and what “stop work” looks like if conditions change.

They also check the road status before the job. Edmond will have to drive on to the public road alongside the farm for part of the job, so he makes sure they follow the road rules for public roads (rather than treating this part like an on farm track).

Michael (the delivery driver) arrives and follows the plan. He phones Tom before pulling in and waits in the nominated safe area until Edmond confirms the driveway is clear and the trenching plant is paused. Tom reinforces a simple rule everyone follows: “Don’t walk around the blind side of trucks while vehicles move.”

Edmond leads the controls for vehicle movement and uses a spotter when vehicles are moving in the area. Calm, practical controls prevent near misses.

**Key points:**

- Agree with the farmer, grower or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Consult with the farmer about the work. Agree on responsibilities and document any agreements.
- Coordinate across the contracting chain, including briefing delivery drivers and any subcontractors on the agreed rules.
- Agree with the farmer on how you will communicate during the work, such as asking for a call or text message before anyone enters the work area and give positive “all clear” before drivers move.

- Set and enforce rules for the work, for example establishing an exclusion area around plant and trenches, controlling entry, and stopping work when vehicles need to move close to the work.
- Own what you influence and control; and coordinate the rest. Take charge of your work methods, operators, and equipment, and coordinate with the farm on site rules and conditions.

## 23.3 Contractors' duties for shared workspaces

- 23.3.1 HSWA duties can also overlap when the workspace is shared with other PCBUs, for example where different contractors work close to each other. These duties can overlap even when they are not in a contractual relationship.

### **Example 25: Working in a shared space with the leasing PCBU, farmer and contractor**

Maria leases space for beehives on several farms. She calls Carl, the farmer on one of the farms, to arrange a visit to his farm to place hives. Carl checks the week's plan and chooses a quiet time because the hives sit in a busy corner of the farmland. Before Maria arrives, Carl sends a message with a marked-up map that shows the best parking spot, the safe walking track, and no-go areas where vehicles move.

When Maria arrives, they discuss where Maria will work, what stock are nearby, what to do if a gate has to stay closed, and who to call if plans change. Because farm work changes quickly, they agree, "If anything feels off, stop and talk." If the weather turns or stock movements change unexpectedly, Maria pauses and checks in with Carl before entering the paddock. Carl also tells his farm workers where Maria works, so nobody drives past the hives unexpectedly.

Maria needs to add additional hives in an area of the farm that is difficult to access by vehicle. She decides she needs a helicopter to place the beehives at this new location. She contacts Josh (a helicopter operator) and Carl (the farmer) to set a date. The three of them agree on the plan. They confirm the landing and lift area, identify hazards like wires and trees, and agree how they will keep everyone well away during lifts. Carl confirms who will be on site, when they will start, and how the ground team will signal "all clear" before each lift.

They also clarify who will rig and prepare each load. Josh explains that slinging or rigging is a specialist task, so they agree that a competent person will do it. Josh has a trained member of his crew, Alex, who is

qualified for the rigging task. They agree Alex will check the lifting gear and secure the hives before Josh lifts, and they confirm exactly who is authorised to be inside the lift area at any time.

On the day, Josh confirms conditions and runs a quick pre-lift check against the agreed plan before lifting begins. Carl sets up an exclusion zone with clear boundaries and tells farm workers to stay out until the job finishes. The ground crew uses the agreed “all clear” signal before each lift, and Josh only starts once he has that signal. If wind picks up or visibility drops, they pause and reassess.

If they disagree about who should do what, they stop and sort it out before continuing. They use a simple rule: the PCBU with the most control and influence over a specific part of the work takes the lead on managing that risk. They record the agreement, so everyone is working to the same plan. They also recognise that even with agreements in place, each PCBU must still make sure its own duties are met and cannot contract out of health and safety responsibility.

**Key points:**

- Agree with the farmer or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Talk to the other affected PCBUs to consult, coordinate and cooperate before and during the work.
- Agree on roles and responsibilities, such as who will inform others and who will oversee work.
- Share information about hazards on the farm and risks relating to the work.
- Clarify the scope of work before you arrive. Confirm the landing/lift area, hazards (wires/trees), start time, and the “all clear” method, then work to that shared plan.
- Pause the work when conditions change (for example wind and visibility) and reassess with the other PCBUs before restarting.
- Meet any CAA requirements and get any required permissions before aerial work begins. When using helicopters to lift loads, make sure it meets the Civil Aviation Rules (see Part 133 for Helicopter External Load Operations).

## 23.4 Contractors' duties towards people affected by the work

23.4.1 Your work can affect other people than just the other PCBU your duties overlap with.



23.4.2 You **must** ensure, so far as is reasonably practicable, the health and safety of workers, and **must** make sure other people are not put at risk by the work.

23.4.3 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

23.4.4 “Other people” can include visitors to the farm where the work happens, as well as neighbours who may be affected by the work on the farm. When you plan a contract job with a farmer, agree on who will inform any other people who may be affected.

### Example 26: Keeping others informed during a job on the farm

Hemi is contracted to manage the building of a new cattle yard on Ben's farm. Before work starts, Ben and Hemi sit down and plan: they list who will come on site (including subcontractors and concrete drivers), decide where people will park, set vehicle routes, and mark out-of-bounds areas.

Hemi explains how he will brief his team and his subcontractors. Ben shares farm risks like stock movements, uneven ground and overhead hazards. They agree on a simple rule: everyone signs in, and everyone calls before they act if plans change.

When the concrete truck is due to arrive, Hemi confirms the delivery time with Ben, so the access track stays clear and nobody works in the truck's turning area. If a subcontractor arrives early, they wait at the meeting point instead of wandering onto the site. Ben and Hemi keep their communication practical: “who is here, where are they working, what is next”.

#### Key points:

- Agree on roles when several PCBUs work together.
- Agree with the farmer or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Decide who will brief subcontractors and keep them informed.

- Agree on practical ways to communicate with the farmer and other affected people during the work.

## 24.0 Contractors' duties towards workers

### 24.1 What to be aware of when your workers are doing the contract work on the farm

24.1.1 The overlapping health and safety duties between you and a farmer are PCBU duties. The person carrying out the contracted work on the farm will often be your employee. Your employee has duties as a worker (see Section 28), and you have the duties of a PCBU.

24.1.2 As a PCBU, you have legal health and safety duties even if your worker has been given a task and is responsible for carrying out the work. You cannot delegate your health and safety duties.



24.1.3 As the PCBU, you **must** ensure, so far as is reasonably practicable, the health and safety of workers. You must consult, cooperate, coordinate with the farmer or other PCBUs you have overlapping duties with.

24.1.4 If you are a small PCBU, this duty only applies in relation to critical risks.

24.1.5 Make sure your workers get the information they need to work safely from your communication with the farmer. This could include hazard information from the farm, or instructions about how to communicate with the farmer before and during the job. If the worker you are sending to the farm for a contract job is not familiar with that farm, let the farmer know so you can both consider whether an induction is needed.

#### **Example 27: Contractor's worker doing work on the farm**

Sophie runs a pig farm. She needs an electrician to replace wiring in a pig shed. She contacts the company she usually used for any electrical work on the farm. The company confirms they can do the job, but tells Sophie they will send the electrician Rawiri, who has not been on Sophie's farm before. She tells the company she will meet Rawiri at the entrance to the farm at the agreed time.

Before Rawiri arrives, Sophie tidies the work area and controls obvious hazards, especially waste sump tanks. She covers openings to the tank, installs barriers, and marks a clear walkway from the parking area to the shed.

Sophie knows that when her contractor's worker is on the farm to do the job, she has the same duties towards them as towards her own farm workers. So, when Rawiri arrives, Sophie runs a quick induction: where to park, which animals are nearby, where the first-aid kit is found, and how to get help quickly.

Rawiri explains how he will isolate the power, which other services could be affected, and what he needs kept clear while he works. They also discuss whether isolating the power will affect essential services such as pumps, lighting, or electric fences, and agree on how they will keep those services safe or use temporary alternatives.

Sophie checks in during the job and monitors changes like open gates or pig movements through the area. With hazards secured and a shared plan, they complete the job without surprises.

**Key points:**

- Agree with the farmer or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Ask the farmer if there is any information the worker doing the work needs before they get to the farm, and give information to the worker.
- Let the farmer know if the worker who will do the job is new to the particular farm, so the farmer can arrange an induction or tell the worker what to do when they arrive on the farm.

## 25.0 Responsibilities for workers in the contracting chain

### 25.1 Working together to meet duties towards workers

- 25.1.1 In a contracting chain, each PCBU has health and safety duties for its own workers. The contracting PCBU (usually the farmer) also has duties for the workers of the contractor or subcontractor, while the workers are on the farm. The contractor and subcontractor also still have their own duties for their workers.

- 25.1.2 If you are contracted to do a job on a farm, and you hire a subcontractor who sends their worker to do work on the farm, then all the PCBUs in the chain (the farmer, you and the subcontractor) will have duties towards this worker while they are working on the farm. See Section 3.9 for more on duties towards workers in the contracting chain.
- 25.1.3 Different PCBUs need to work together to ensure they meet the duties towards workers. If you are a small PCBU, this duty only applies in relation to critical risks.

## 26.0 Contractors' duties towards other people on the farm

### 26.1 Ensuring the safety of those affected by your work

26.1.1 Farms are dynamic environments. When you or your workers are on the farm to do a contract job, you are likely to meet other people, such as other contractors, farm staff, visitors or children.



26.1.2 As a contractor, you have a duty to ensure, as far as is reasonably practicable, the health and safety of workers and others affected by your work. If other people can be affected by the work you do on the farm, you **must** ensure their safety to the extent you can influence and control the situation.

26.1.3 If you are a small PCBU, this duty only applies in relation to critical risks.

26.1.4 This duty is likely to overlap with the health and safety duties of the farmer. So you both have a duty to consult, cooperate and coordinate to keep those affected by your work safe.

### 26.2 Contractors' duties towards children on farms

26.2.1 When children and young people are on the farm, whether they live there or just visiting, several people have a role in keeping them safe.

26.2.2 Figure 8 outlines the people who have a role in keeping all children and young people safe on farms, and the duties they each have. A person may have more than one role.



**Figure 8: People who have a role in keeping children safe on farms**

## 27.0 Contractors using equipment on the farm

### 27.1 What to be aware of when you use the farmer's equipment

- 27.1.1 As a contractor, you have influence and control over your own equipment when you bring it to a farm to do a contract job. You need to make sure this equipment is safe to use.
- 27.1.2 If you want to use equipment belonging to the farmer, make sure you have permission first. The farmer has a duty to provide and maintain safe equipment. But when you use the equipment, you will have influence and control over the operation of the equipment. The farmer is not required to modify equipment for the contractor's use, unless this has been specified and agreed on.
- 27.1.3 Follow the farm's rules for using the farm's equipment. These rules could include using protective gear (PPE), safeguards or seatbelts. They could also instruct where and how equipment may be used.

#### **Example 28: Managing a contractor's worker who uses the farmer's tractor**

Sione and his crew are contracted to clear scrub on Jack's farm. They need a tractor to shift debris. They ask Jack if they can use his tractor on the farm, and Jack gives them the OK.

Sione leads the safety conversation. He asks Jack what the tractor can and can't be used for on this farm, who is authorised to drive it, and what areas around their work are steep, slippery or prone to getting bogged.

Sione nominates Rick as the competent operator from his crew. He makes it clear that no one else will drive or “have a quick go.” Jack tells them the farm rules and points out the high-risk areas on the farm.

Sione and Jack both have duties towards the workers when they are on the farm, so they agree on the plan. It includes where the tractor will travel, and what the load limits and ground conditions are. They also decide on a simple stop rule: if the ground gets too wet or the slope feels unsafe, the operator stops and Sione calls Jack rather than continuing.

Before Rick starts the tractor, he completes a prestart check, and he uses the seatbelt because the tractor has rollover protection. Sione checks that Rick understands the route, the hazards, and the stop rule.

Throughout the job, Sione monitors conditions and pace, and reinforces that the crew sticks to the agreed use. The checks take time, but they reduce rollover risk and ensure borrowed gear is only used under the agreed and controlled plan.

**Key points:**

- Agree with the farmer or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.
- Get a clear agreement with the farmer before you use any equipment belonging to the farm.
- Understand and follow the farm’s rules for the specific equipment you use.
- Put a competent operator in control. For vehicles, nominate one authorised driver, confirm they can handle the terrain and conditions, and stop anyone else from driving the vehicle.

## 28.0 Duties and rights for workers of contractors

### 28.1 Duties for workers of contractors

- 28.1.1 If you are working for the contractor, then you have the legal duties of a worker. The contractor might delegate a task to you. But as the PCBU, the contractor keeps their legal duty for health and safety at the workplace.



28.1.2 As a worker under HSWA, you **must**:

- take reasonable care of your own health and safety
  - take reasonable care that you do not harm others
  - cooperate with reasonable policies and procedures the contractor (or other PCBU, such as the farmer, while you are working on the farm) has in place and has told you about
  - comply, as far as you are reasonably able, with any reasonable instruction given by the contractor, so they can meet their legal duties
  - wear the personal protective equipment (PPE) provided for the work.
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## 28.2 Rights for workers of contractors

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28.2.1 As a worker, you also have rights. The contractor **must** ensure your health and safety at work. You have the right to:

- work in a safe environment
- get appropriate training before you start work
- work with safe machinery, vehicles, tools and equipment
- stop or refuse to carry out dangerous work
- access to health and safety information
- personal protective equipment (PPE)
- speak up about health and safety concerns
- be given a chance to have a say about health and safety at work
- health and safety representatives or committees
- clear instructions about what to do in an emergency.

28.2.2 You also have the right to be provided with:

- toilets and hand-washing facilities
  - clean drinking water
  - first aid facilities
  - a place to have a meal break in reasonable comfort and shelter.
- 


28.2.3 For more information about personal protective equipment, see [Personal protective equipment - a guide for workers](#).

28.2.4 Read more about workers' health and safety rights and responsibilities in our [factsheet](#) for workers. This fact sheet is available in English, Māori, Chinese,

Fijian, Hindi, Samoan, Tagalog, Tongan, Bislama, Tuvaluan, Tok Pisin, Pijin, Rotuman, Kiribati, Cook Islands Māori, Tokelauan and Niuean.

Draft for public consultation

# PART F For manufacturers, suppliers and installers

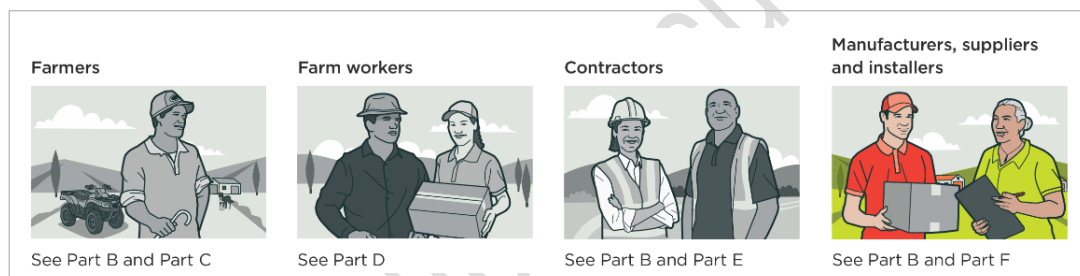
Term or symbol	Meaning in this document
PCBU	Person conducting a business or undertaking.
'you'/'your'	Refers to the manufacturer, supplier or installer (PCBU) in this part, except in Section 33 where it refers to the worker of a manufacturer, supplier or installer.
' <b>must</b> ' and/or 	Shows a legal requirement under HSWA or its regulations. You must follow these requirements.
'make sure', 'do not', 'check' or similar wording	<p>Actions to take to comply with this draft ACOP.</p> <p>For safe harbour to apply, duty holders need to follow all the actions set out in the ACOP to comply with the stated HSWA duty. If a duty holder follows most, but not all, actions they may still meet their duty, but safe harbour will not apply.</p>
Blue shading	Content based on proposed changes to the Health and Safety at Work Act.

## 29.0 Introduction to Part F – for manufacturers, suppliers and installers

### 29.1 Using Part F

29.1.1 This part of the draft ACOP is for **manufacturers, suppliers and installers** of products for farms.

29.1.2 In this draft ACOP, “manufacturers”, “suppliers” and “installers” means PCBUs which are manufacturing, supplying or installing products and equipment for farms. “You” in this part means the manufacturer, supplier or installer, except for Section 33 where “you” refers to workers of manufacturers, suppliers or installers.



29.1.3 This part of the draft ACOP explains the legal health and safety duties relating to roles and responsibilities and overlapping duties for manufacturers, suppliers and installers.

29.1.4 See Section 3.5 for an introduction to the concept of overlapping duties and see Appendix 2 for an overview of the duty holder types.

29.1.5 The examples in this part show what manufacturers, suppliers and installers need to do, when they share health and safety duties with others in specific agriculture situations. If your situation is different to the scenarios we describe, you can still use the same approach.

## 30.0 Health and safety duties for manufacturers, suppliers and installers

### 30.1 Key legal duties for manufacturers, suppliers and installers

30.1.1 The *Health and Safety at Work Act 2015* (HSWA) is New Zealand's primary legislation for work health and safety. It sets out your health and safety duties as a PCBU. As a manufacturer, supplier or installer, you also have duties under other health and safety legislation.



30.1.2 Your primary duty of care as a PCBU is to ensure, so far as is reasonably practicable, the health and safety of workers, and to make sure other people are not put at risk by your work. If you are a small PCBU with less than 20 workers, you only have to manage critical risks.

30.1.3 You also have a duty to, so far as is reasonably practicable, consult, cooperate and coordinate activities with other PCBUs (for example the farmer) when your duties overlap.

30.1.4 Under HSWA, you **must**, so far as is reasonably practicable:

- ensure what you supply is not a risk to health and safety
- identify hazards through testing, examination, and analysis
- eliminate risks or minimise them using effective controls
- provide clear, accurate, and usable safety information
- consult, cooperate and coordinate with other PCBUs where duties overlap.

30.1.5 If you are a small PCBU, these duties only apply in relation to critical risks. For all other HSWA and regulatory requirements, you **must** prioritise critical risks over other risks.

30.1.6 You also have other legal health and safety duties as a manufacturer, supplier or installer.

### 30.2 Reasonably practicable

30.2.1 As a manufacturer, supplier or installer, you need to consider your specific situation when managing health and safety risks. HSWA uses the term “so far

as is reasonably practicable”. As situations vary, what is reasonably practicable in one situation may not be in another.



30.2.2 As a manufacturer, supplier or installer, you **must** eliminate risks so far as is reasonably practicable. If you cannot eliminate the risk, you must minimise it so far as is reasonably practicable. You must do this to the extent that you have, or would reasonably be expected to have, influence and control over the matter the risk relates to.

30.2.3 For questions to help you identify what is reasonable in your situation, see our guidance: [Reasonably practicable](#).

**Example 29: Ensuring safety and compliance when supplying farm equipment**

John farms steep hill country in Waikato. He imports a specialist Swiss slope tractor with a low centre of gravity and stability features. He also plans to distribute these tractors in New Zealand, so he treats the import as a supply decision. He checks the manufacturer’s design and safety certification and confirms the tractor is compatible with the implements and attachments buyers are likely to use. He also makes sure the available manuals and safety information are clear for New Zealand operators.

When the tractor arrives, John arranges a full mechanical inspection to check it meets New Zealand expectations for rollover protection, operator safety, and cabin noise limits for agricultural vehicles. He registers the tractor with NZTA for on-road use. He also has it inspected under the Land Transport Rule: Vehicle Standards.

John completes operator training himself before he uses the tractor on slopes. He sets up practical training for other operators. The training starts on flat ground and progresses to sloping paddocks. It covers safe operation, emergency procedures, maintenance and hazard awareness. The training also covers the safety checks described in the manufacturer’s manuals and WorkSafe guidance.

After sales, John supports buyers by sharing service updates and helping them maintain the tractor safely.

**Key points:**

- Agree with the farmer or other PCBUs on whether any overlapping duties relate to a critical risk (see Section 3.2). If it does not relate to critical risks, the duty does not apply to small PCBUs.

- Make sure what you import and supply is safe for its intended use. Check design, stability, protective features and inspection/maintenance needs before use.
- Check compatibility of the products you supply. Make sure use of the equipment will not create new risks when combined with implements or attachments.
- Provide clear safety information for users of the equipment.
- Provide instructions to operators so they can develop their competence.
- Support safety after sale. Forward any updates on service and safety to buyers, and provide technical guidance so maintenance preserves safety features.

## 31.0 Working with farmers to manage risks for supply and installation

### 31.1 How to consult, cooperate and coordinate with farmers and other PCBUs



31.1.1 As a manufacturer, supplier or installer, your health and safety duties as a PCBU may overlap with the duties of the farmer when you visit the farm for supply or installation. Both you and the farmer **must**, so far as is reasonably practicable, consult, cooperate and coordinate to manage risks.

31.1.2 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

31.1.3 Consulting, cooperating and coordinating are about communicating with the other people involved. In simple situations on the farm, such as a straightforward delivery, a short conversation might be enough to set clear expectations with those you share duties with, or people affected by your work.

31.1.4 For more complex situations or supply arrangements, avoid disputes about responsibilities or agreements by documenting what you and the other parties spoke about and agreed on.

31.1.5 You need to be able to show that you have taken reasonable steps to consult, cooperate and coordinate in a way that is in proportion to the task and the risk.

31.1.6 To meet your duty to consult, cooperate and coordinate:

- communicate with the farmer about where you or your team will be working
- check with the farmer whether other farm work activities could create risks where you or your team will be working
- tell the farmer what you will be doing and what risks it might create for others (including the farmer). Discuss with the farmer how you will manage and communicate those risks.
- agree with the farmer how you will both communicate during the work
- tell the farmer about any changes in the work that may create new risks for others
- make sure you know the farm's emergency procedures.

31.1.7 In more complex contracting arrangements with several PCBUs:

- communicate with the other PCBUs in the contracting chain, to agree on roles and responsibilities
- keep a record of any agreements and share them with the other PCBUs.

## 31.2 Consider influence and control when agreeing on responsibilities

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31.2.1 When duties overlap, each PCBU **must** meet their duties to the extent they have, or would reasonably be expected to have, influence or control the matter relating to the risk.

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31.2.2 If you are a small PCBU, this duty applies only in relation to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

31.2.3 As a supplier or installer, you will usually have influence and control over the specific job you are engaged to do, and over the operation of the equipment or vehicles you bring to do the job. The farmer will have control and influence over farming operations, and they will know about changing hazards on the farm.

- 31.2.4 While you and the farmer both still have your legal health and safety duties, as the duties cannot be transferred, it is reasonable to divide the responsibilities according to what you can each control.
- 31.2.5 If you are unsure who is responsible for actions to manage risks, the PCBU who has the most control or influence over the situation will be best placed to take responsibility for the actions.

**Example 30: Managing overlapping duties during installation on a farm**

Claire runs a mixed dairy and arable farm. She decides to invest in new pivot irrigators for her cropping block. She hires an irrigation provider to supply the new irrigation system and manage the commissioning, installation, testing and training. The irrigation provider assigns one of their senior staff, Patrick, to oversee the project and work with Claire.

Patrick contacts Claire to consult about the job and the farm. They discuss where the pivot and the pipe runs will go, how installers will get access, and what farm activity is happening at the same time. They also discuss how the installation might affect existing services, such as water and electricity supply.

Patrick confirms he and his company will take responsibility for communicating and coordinating with other service providers. This includes the subcontractor his company brings on for the installation.

Claire confirms she will provide a safe work area, and that she will tell affected farm workers about the installation.

Before the work starts, Patrick documents all agreements with Claire as part of the purchase process.

During the installation, Patrick and his business manage what they control: installation methods, competence of their workers, and job-specific hazards that come with putting irrigation infrastructure in place.

After the installation, Patrick's on-site crew does a walkthrough with Claire. They show her and her staff how the pivot and control equipment works, including the pumps, timers and safety switches.

They explain hazards around moving parts and entanglement, and they let farm staff know how to use the equipment safely.

Claire leaves the walkthrough with clear expectations about what she and her team can do day-to-day. She also knows a competent person must do the maintenance.

**Key points**

- Talk to the farmer to understand what they need when a product is installed. Get information about hazards on the farm that could be relevant for your work.
- Coordinate with the farmer to make sure you have a safe place to work on the farm during installation.
- Agree with the farmer who will communicate with any subcontractors.

### 31.3 Suppliers' and installers' duties towards people affected by the work

31.3.1 Your work can affect other people than just the other PCBU your duties overlap with.



31.3.2 You **must** ensure, so far as is reasonably practicable, the health and safety of workers, and that other people are not put at risk by the work. "Other people" can include visitors to the farm where the work happens, or affected neighbours.

31.3.3 If you are a small PCBU, this duty applies only to critical risks. For all other HSWA and regulatory requirements, small PCBUs **must** prioritise managing critical risks over other risks.

31.3.4 When you plan a job with a farmer, agree on who will inform any other people who may be affected.

## 32.0 Responsibilities for workers while they are on the farm

### 32.1 What to be aware of when your workers are doing installation work on the farm

32.1.1 Overlapping health and safety duties between you and a farmer are PCBU duties. In many situations, the person doing the contracted work on the farm will be your employee. The employee has duties as a worker (see Section 33), and you have the duties of a PCBU.

32.1.2 Even if a worker has been given a task and has responsibilities for doing the work, you still have the legal health and safety of a PCBU. You cannot delegate the duty.



32.1.3 As the PCBU, you **must** ensure, so far as is reasonably practicable, the health and safety of workers. And you must consult, cooperate, coordinate with the farmer or other PCBUs you have overlapping duties with.

32.1.4 If you are a small PCBU, this duty only applies in relation to critical risks.

32.1.5 Make sure your workers get the information from your communication with the farmer that they need to do their work safely. This could include hazard information from the farm, or instructions about how to communicate with the farmer before and during the job. The farmers still have their HSWA duties. Tell the farmer if your worker is not familiar with their farm, so you can both decide if they need an induction.

## 33.0 Duties and rights for workers of manufacturers, suppliers and installers

### 33.1 Duties for workers of manufacturers, suppliers and installers



33.1.1 If you are working for manufacturers, suppliers or installers, then you have the legal duties of a worker. They might delegate a task to you, but as a PCBU, they keep their legal duty to ensure the health and safety at the workplace.

As a worker under HSWA, you **must**:

- take reasonable care of your own health and safety
- take reasonable care that you do not harm others
- cooperate with reasonable policies and procedures from your PCBU or another PCBU, such as the farmer, while you are doing work on the farm
- comply, as far as you are reasonably able, with any reasonable instruction given by your PCBU, so they can meet their legal duties
- wear the personal protective equipment (PPE) provided for the work.

## 33.2 Rights for workers of manufacturers, suppliers and installers

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33.2.1 As a worker, you also have rights. The employer **must** ensure your health and safety at work. You have the right to:

- work in a safe environment
- get appropriate training before you start work
- work with safe machinery, vehicles, tools and equipment
- stop or refuse to carry out dangerous work
- access to health and safety information
- personal protective equipment (PPE)
- speak up about health and safety concerns
- be given a chance to have a say about health and safety at work
- health and safety representatives or committees
- clear instructions about what to do in an emergency.

33.2.2 You also have the right to be provided with:

- toilets and hand-washing facilities
- clean drinking water
- first aid facilities
- a place to have a meal break in reasonable comfort and shelter.

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33.2.3 For more information about personal protective equipment, see [Personal protective equipment - a guide for workers](#).

33.2.4 Read more about your health and safety rights and responsibilities in our [factsheet](#) for workers. This fact sheet is available in English, Māori, Chinese, Fijian, Hindi, Samoan, Tagalog, Tongan, Bislama, Tuvaluan, Tok Pisin, Pijin, Rotuman, Kiribati, Cook Islands Māori, Tokelauan and Niuean.

# Appendices

## Appendix 1 Glossary

Term	Explanation
<b>ACOP/approved code of practice</b>	Sets out WorkSafe’s expectations about how to comply with legal duties imposed by the Health and Safety at Work Act (HSWA) and regulations. Other practices can be used to achieve compliance as long as the level of health and safety is equivalent to, or higher than, that in the ACOP.
<b>Arable farming</b>	The farming practice of cultivating soil to grow crops such as grains, vegetables, and other field-grown plants.
<b>Business or undertaking</b>	The usual meanings are: <ul style="list-style-type: none"> <li>- business: an activity usually carried out with the intention of making a profit or gain</li> <li>- undertaking: an activity that is non-commercial in nature (for example, certain activities of a local authority or a not-for-profit group).</li> </ul>
<b>Close supervision</b>	Direct and constant one-on-one supervision.
<b>Competent person</b>	Someone who can consistently demonstrate the skill and knowledge derived from experience and/or training for the type of work the person is tasked to do.
<b>Contract milking</b>	A business arrangement where a contractor is paid a set rate per kilogram of milksolids to manage and operate a dairy farm’s milking and day to day work.
<b>Contracting chain</b>	The sequence of contractual relationships from the main business or PCBU through to subcontractors who carry out work on a farm.
<b>Contracting PCBU/Principal</b>	A PCBU that engages another PCBU to do work for them (other than as an employee, apprentice, trainee or volunteer).
<b>Contractor</b>	A PCBU that has been engaged to do work by another PCBU (other than as an employee, apprentice, trainee or volunteer). Contractors and their workers are classed as workers of the contracting PCBU/principal.

Term	Explanation
<b>Contractual relationship</b>	A legally binding agreement between parties that sets out their responsibilities, rights, and obligations for work.
<b>Control measure</b>	A way of eliminating or minimising risks to health and safety.
<b>Critical risk</b>	A risk associated with a hazard described in Schedule 1A of the Act, or a hazard of any kind that is likely to result in: <ul style="list-style-type: none"> <li>- death</li> <li>- notifiable injury</li> <li>- notifiable incident</li> <li>- occupational disease listed in Schedule 2 of the ACC Act.</li> </ul>
<b>Dairy farming</b>	The farming practice of managing dairy cattle to produce milk for processing into dairy products.
<b>Duty</b>	A legal obligation to act responsibly according to the law.
<b>Duty holder</b>	A person who has a duty under HSWA. There are four types of duty holders: <ul style="list-style-type: none"> <li>- PCBUs</li> <li>- officers</li> <li>- workers</li> <li>- other persons at workplaces.</li> </ul> See Appendix 2 for more information.
<b>Eliminate</b>	To remove the sources of harm (for example, equipment, substances, or work processes).
<b>Emergency</b>	An uncontrolled event that has caused, or could cause: <ul style="list-style-type: none"> <li>- loss of life</li> <li>- injury</li> <li>- serious property damage.</li> </ul> It can include declarations of civil defence emergencies, catastrophic weather events, bushfires, or other significant events.
<b>Emergency plan</b>	An emergency plan is a written procedure that tells people what to do in an emergency.
<b>Fatigue</b>	A physiological state where someone is unable to mentally and physically function as they usually would. This is caused by four main factors:

Term	Explanation
	<ul style="list-style-type: none"> <li>- missing out on sleep</li> <li>- being awake for too long</li> <li>- working and sleeping in the wrong parts of the body clock cycle</li> <li>- workload (mental and physical).</li> </ul>
<b>Hazard</b>	Anything that can cause harm. Under HSWA, hazard is defined as ‘includes a person’s behaviour where that behaviour has the potential to cause death, injury, or illness to a person (whether or not that behaviour results from physical or mental fatigue, drugs, alcohol, traumatic shock, or another temporary condition that affects a person’s behaviour)’.
<b>Hazardous substances</b>	Any product or chemical that has properties that are explosive, flammable, oxidising, toxic, corrosive or toxic to the environment.
<b>Health</b>	A person’s physical and psychological health.
<b>Health and Safety at Work Act 2015 (HSWA)</b>	<p>The key work health and safety legislation in New Zealand. HSWA applies to all work and workplaces unless specifically excluded.</p> <p>You can find the full text of the Act on the New Zealand Legislation website.</p>
<b>Horticulture</b>	The cultivation of fruit, vegetables, nuts, and ornamental plants for food production or commercial growing.
<b>Landowner</b>	A person or entity that legally owns the land and has the authority to control, manage, or permit its use.
<b>Livestock farming</b>	The practice of raising animals such as cattle, sheep, pigs, and other farmed animals for food, fibre, or other agricultural products.
<b>Minimise</b>	To take steps that protect the health and safety of people by reducing the likelihood of an event occurring, reducing the level of harm to people if it does occur, or both.
<b>Mixed-use farming</b>	A farming system that combines both livestock farming and arable or crop production on the same property.
<b>Must</b>	Indicates a legal requirement that must be complied with.
<b>Notifiable event</b>	A death, notifiable injury or illness, or a notifiable incident that must be reported to WorkSafe because it arises from work.

Term	Explanation
<b>Officer</b>	<p>An officer is a person who occupies a specified position, or who occupies a position that allows them to exercise significant influence over the management of the business or undertaking. This may include company directors and chief executives.</p> <p>Officers must exercise due diligence to ensure the PCBU meets its health and safety obligations.</p> <p>See Duty Holder. See Appendix 2 for more information.</p>
<b>Other persons at the workplace</b>	<p>Includes workplace visitors, casual volunteers (who are not volunteer workers), and children or other relatives of workers or officers who are not undertaking work.</p> <p>These people have their own health and safety duties to take reasonable care to keep themselves safe and to not harm others at a workplace.</p>
<b>Overlapping duties</b>	<p>When a PCBU has health and safety duties that overlap with the duties of other PCBUs in relation to the same matter. When two or more PCBUs' duties overlap, the PCBUs must consult, co-operate and co-ordinate with each other.</p>
<b>PCBU</b>	<p>Person conducting a business or undertaking (PCBU) – a term used in the Health and Safety at Work Act 2015 (HSWA) for one of the duty holder roles under the Act. This can be an individual person or an organisation. There can be more than one PCBU on a farm.</p> <p>See Appendix 2 for more information.</p>
<b>Personal protective equipment (PPE)</b>	<p>Anything used or worn by a person (including clothing) to minimise risks to the person's health and safety.</p> <p>This may include – but is not limited to:</p> <ul style="list-style-type: none"> <li>- respiratory protective equipment</li> <li>- protective helmets</li> <li>- protective eyewear</li> <li>- protective boots</li> <li>- protective gloves</li> <li>- hearing protection</li> <li>- high-vis clothing</li> <li>- sunhats</li> <li>- sunscreen and lip protection</li> <li>- safety harness systems.</li> </ul>

Term	Explanation
<b>Plant</b>	Any machinery, equipment, appliance, container, implement, or tool, and includes any component or anything fitted, connected, or related to it.
<b>Principal</b>	See Contracting PCBU.
<b>Reasonable care</b>	Taking sensible and practical steps that a person could be expected to take to protect themselves and others from harm.
<b>Reasonably practicable</b>	<p>What is, or was, reasonably able to be done to ensure health and safety taking into account and weighing up relevant matters including:</p> <ul style="list-style-type: none"> <li>- the likelihood of the risk concerned occurring or workers being exposed to the hazard</li> <li>- the degree of harm that might result</li> <li>- what the person concerned knows, or ought reasonably to know, about: <ul style="list-style-type: none"> <li>- the hazard or risk</li> <li>- ways of eliminating or minimising the risk</li> </ul> </li> <li>- the availability and suitability of ways to eliminate or minimise the risk</li> <li>- after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.</li> </ul> <p>Control measures can only not be implemented where cost is grossly disproportionate.</p>
<b>Recreational user</b>	Someone accessing or using farm land for leisure activities such as walking, hunting, fishing, biking, or other non-work purposes.
<b>Remote work</b>	<p>Remote or isolated work includes:</p> <ul style="list-style-type: none"> <li>- working alone or separated from colleagues</li> <li>- working in a geographically isolated or inaccessible area –where the nearest emergency help (for example, fire service or hospital) is some distance away</li> <li>- working outside normal business hours or shift/night work</li> <li>- working in locations where communication is difficult.</li> </ul>

<b>Term</b>	<b>Explanation</b>
<b>Residual Current Device (RCD)</b>	A safety device that quickly cuts off power when it detects an electrical leakage to earth, protecting people from electric shock.
<b>Risk</b>	Arise from people being exposed to a hazard (a source of harm).
<b>Risk management controls</b>	The measures put in place to eliminate or minimise risks to health and safety by applying the most effective control options available.
<b>Risk mitigation</b>	The actions taken to reduce the likelihood or severity of harm by applying appropriate health and safety controls.
<b>Self-employed</b>	A person who works for themselves and is responsible for their own business activities, rather than being employed by someone else.
<b>So far as is reasonably practicable</b>	Term in the Health and Safety at Work Act 2015 (HSWA). Doing what is reasonably able to be done to ensure health and safety, after considering the likelihood of harm, how severe it could be, what is known about the risk, and the availability and cost of ways to control it.
<b>Sharemilker</b>	A person who contracts with a farm owner to milk their cows and operate the dairy farm in return for an agreed share of the milk income.
<b>Small PCBU</b>	A small PCBU has fewer than 20 workers for at least nine out of 12 months, allowing for seasonal or other changes in worker numbers.
<b>Subcontractor</b>	PCBUs hired by a contractor to work or provide services on their behalf. Sometimes subcontractors are referred to as suppliers.
<b>Upstream PCBUs</b>	PCBUs who design, manufacture, import or supply plant, substances or structures, or who install, construct or commission plant or structures. ‘Design’ includes the: <ul style="list-style-type: none"> <li>- design of part of the plant, substance, or structure, and</li> <li>- redesign or modification of a design.</li> </ul>

Term	Explanation
<b>Worker</b>	<p>An individual who carries out work in any capacity for a PCBU. A worker may be an employee, a contractor or subcontractor, an employee of a contractor or subcontractor, 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> <p>Workers can be at any level (for example, managers are workers too).</p> <p>A PCBU is also a worker if the PCBU is an individual who carries out work in that business or undertaking.</p> <p>See Appendix 2 for more information.</p>
<b>Worker exposure</b>	<p>The extent to which a worker comes into contact with a hazard, such as a substance, noise, or activity, that could affect their health or safety.</p>
<b>Workplace</b>	<p>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 HSWA relate to the conduct of work. However, some duties are linked to workplaces.</p>

## Appendix 2 Health and Safety at Work Act duties

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
<b>Person Conducting a Business or Undertaking (PCBU)</b>	<p>A person conducting a business or undertaking (PCBU) may be an individual person or an organisation</p> <p>The following <b>are not</b> PCBUs:</p> <ul style="list-style-type: none"> <li>- officers</li> <li>- workers</li> <li>- other persons at a workplace</li> <li>- volunteer associations that do not have employees</li> <li>- home occupiers (such as home owners or tenants) who pay someone to do work around the home</li> </ul> <p><a href="#">Section 17 of HSWA</a></p>	<ul style="list-style-type: none"> <li>- a business</li> <li>- a self-employed person</li> <li>- partners in a partnership</li> <li>- a government agency</li> <li>- a local council</li> <li>- a school or university</li> </ul>	<p>A PCBU has many duties. Key duties are summarised below.</p> <p><b>Primary duty of care</b> <a href="#">Section 36 of HSWA</a></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><b>Managing risks</b> <a href="#">Section 30 of HSWA</a></p> <p>Risks to health and safety arise from people being exposed to hazards (anything that can cause harm).</p> <p>A PCBU must manage work health and safety risks.</p> <ul style="list-style-type: none"> <li>- A PCBU must first try to <b>eliminate</b> a risk so far as is reasonably practicable. This can be done by removing the source of harm, for example, removing faulty equipment or a trip hazard.</li> <li>- If it is not reasonably practicable to eliminate the risk, it must be <b>minimised</b> so far as is reasonably practicable.</li> </ul> <p>Small PCBUs must only manage critical risks. For all other HSWA and regulatory requirements, they must prioritise critical risks</p>	<p><a href="#">Introduction to the Health and Safety at Work Act 2015</a></p> <p><a href="#">Identifying, assessing and managing work risks</a></p>

Duty Holder	Who They Are?	Examples	What Are Their Duties?	For More Information
			<p>over other risks. Other PCBUs must manage all risks but prioritise critical risks.</p> <p><b>Overlapping duties: working with other PCBUs</b> <a href="#">Section 34 of HSWA</a></p> <p>A PCBU with overlapping duties must, so far as is reasonably practicable, consult, cooperate and coordinate activities with other PCBUs they share duties with.</p> <p><b>Involving workers: worker engagement, participation and representation</b> <a href="#">Part 3 of HSWA</a></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><a href="#">Overlapping duties</a></p>
<b>Upstream PCBU</b>	A PCBU in the supply chain	<ul style="list-style-type: none"> <li>– a designer</li> <li>– a manufacturer</li> <li>– a supplier</li> <li>– an importer</li> <li>– an installer, constructor, or commissioner.</li> </ul>	<p><b>Upstream PCBU</b> <a href="#">Sections 39–43 of HSWA</a></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><a href="#">Introduction to the Health and Safety at Work Act 2015</a></p>
<b>Officer</b>	A specified person or a person who exercises significant influence over the management of the business or undertaking <a href="#">Section 18 of HSWA</a>	<ul style="list-style-type: none"> <li>– a company director</li> <li>– a partner or general partner</li> <li>– a chief executive.</li> </ul>	<p><b>Officer</b> <a href="#">Section 44 of HSWA</a></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>	<p><a href="#">Introduction to the Health and Safety at Work Act 2015</a></p>
<b>Worker</b>	An individual who carries out work for a PCBU <a href="#">Section 19 of HSWA</a>	<ul style="list-style-type: none"> <li>– an employee</li> <li>– a contractor or sub-contractor</li> <li>– an employee of a contractor or sub-contractor</li> <li>– an employee of a labour hire company</li> <li>– an outworker (including homeworker)</li> <li>– an apprentice or trainee</li> <li>– a person gaining work experience or on work trials</li> </ul>	<p><b>Worker</b> <a href="#">Section 45 of HSWA</a></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>	<p><a href="#">Introduction to the Health and Safety at Work Act 2015</a></p>

Duty Holder	Who They Are?	Examples	What Are Their Duties?	For More Information
		<ul style="list-style-type: none"> <li>– a volunteer worker.</li> </ul>		
<p><b>Other person at the workplace</b></p>	<p>An individual present at a workplace (not a worker)</p>	<ul style="list-style-type: none"> <li>– a workplace visitor</li> <li>– a casual volunteer (not a volunteer worker)</li> <li>– a customer.</li> </ul>	<p><b>Other person at the workplace</b> <a href="#">Section 46 of HSWA</a></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>	<p><a href="#">Introduction to the Health and Safety at Work Act 2015</a></p>

Draft for public consultation

## Appendix 3 Approach to managing risk

### Managing risk [section 30 of HSWA](#)

Risks to health and safety arise from people being exposed to a hazard (a source or cause of harm).

A PCBU must first try to **eliminate** a risk if this is reasonably practicable. If it is not reasonably practicable to eliminate the risk, it must be **minimised** so far as is reasonably practicable.

A PCBU must engage with workers and their representatives:

- when identifying and assessing risks, and
- when making decisions about how to eliminate or minimise the risks using appropriate control measures.

Follow the steps below to identify, assess and manage work health and safety risks.

#### STEP 1: IDENTIFY HAZARDS THAT COULD GIVE RISE TO WORK RISKS

With your workers, identify what could harm the health or endanger the safety of one or more workers or others (such as visitors, or bystanders).

#### STEP 2: ASSESS WORK RISKS

With your workers, identify and assess the risks arising from each work hazard. Ask:

- Who might be exposed to the hazard?
- What could happen?
  - How severe could the resulting injuries be?
  - How could people's health be affected?
  - How likely are these consequences?

Decide which risks to deal with immediately. For example, risks with potentially significant consequences such as serious injury or death, chronic ill-health, or those with a high likelihood of occurring.

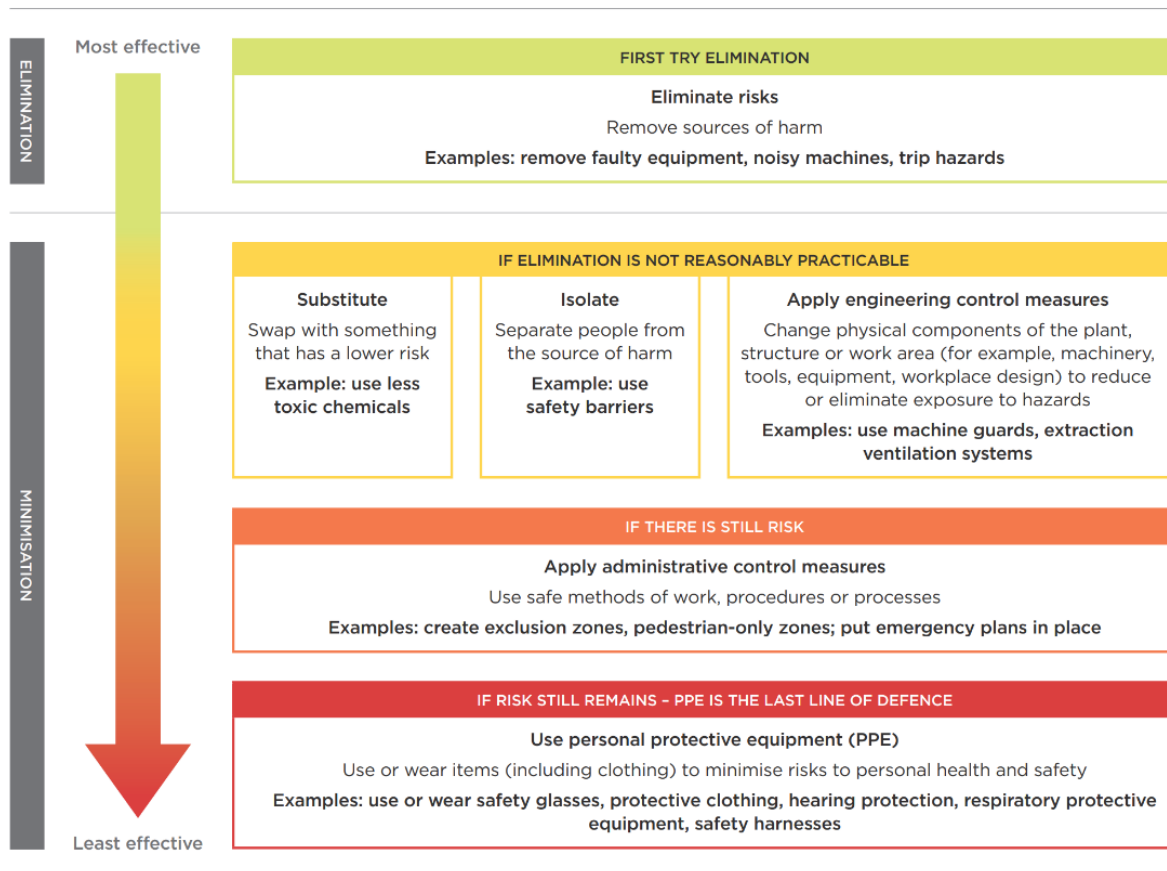
#### STEP 3: DECIDE HOW TO MANAGE EACH RISK

With your workers, decide how to manage work risks.

Multiple control measures may be needed to deal with a given risk. Give preference to control measures that protect many workers at the same time (for example, safety barriers, safety nets).

A PCBU can use the following hierarchy of control measures to work out the most effective control measures to use.

### Hierarchy of control measures



### **First try to eliminate**

First try to eliminate the risk, if this is reasonably practicable. This can be done by removing the source or cause of harm (such as faulty equipment, a noisy machine or a trip hazard).

### **Then try to minimise**

If it is not reasonably practicable to eliminate the risk, the risk must be minimised so far as is reasonably practicable.

Minimise the risk using one or more of the following actions:

- substitute/swap with something that has a lower risk
- isolate the hazard by separating people from the source of harm
- apply engineering control measures (where physical components of the plant, structure or work area are changed to reduce or eliminate exposure to hazards).

If the risk still remains after taking one or more of the actions above, try to minimise the risk with administrative control measures (safe methods of work, procedures or processes).

If there is still risk, use personal protective equipment (PPE) to minimise the risk. PPE is the least effective control measure, and should only be used when other control measures alone cannot adequately manage the risk.

### **STEP 4: PUT CONTROL MEASURES IN PLACE**

As soon as possible after a decision is made about the control measures, a PCBU should:

- put the control measures in place
- instruct and train workers (including new workers) about the control measures, including why it is important to use them and how to apply them.

### **STEP 5: REVIEW AND IMPROVE CONTROL MEASURES**

Control measures should remain effective, be fit-for-purpose, be suitable for the nature and duration of the work, and be used correctly.

With your workers, regularly monitor control measures to confirm that the measures are effective.

You should review control measures:

- when a new risk is identified
- when there is a change at the workplace or to the work
- when workers or their health and safety representative ask for a review
- when there is evidence that control measures may not be working effectively to manage the risk (for example, when you receive monitoring results or a report following an incident investigation).

Use guidance from WorkSafe or others (for example, industry associations) to help to identify, assess, and manage risks, and review control measures.

If you need help, WorkSafe recommends getting advice from a suitably qualified and experienced health and safety professional.

For more information, see our guidance: [Identifying, assessing and managing work risks](#).

## Appendix 4 So far as is reasonably practicable

### So far as is reasonably practicable [Section 22 of HSWA](#)

Certain PCBU duties (the [section 36–43](#) duties including the primary duty of care) must be carried out ‘so far as is reasonably practicable’.

### What to consider when deciding what is ‘reasonably practicable’

Just because something is possible to do, does not mean it is reasonably practicable in the circumstances.

Consider:

- What possible actions can be taken to ensure health and safety?
- Of these possible actions, at a particular time, what is reasonable to do?
- Think about the following questions.

#### WHAT IS KNOWN ABOUT THE RISK?

- How likely is the risk to occur?
- How severe is the illness or injury that might occur if something goes wrong?
- What is known, or should reasonably be known, about the risk?

#### WHAT IS KNOWN ABOUT POSSIBLE CONTROL MEASURES?

- What is known, or should reasonably be known, about the ways (control measures) to eliminate or minimise the risk?
- What control measures are available?
- How appropriate (suitable) are the control measures to manage the risk?
- What is the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk?

While PCBUs should check if there are widely used control measures for that risk (such as industry standards), they should always keep their specific circumstances in mind. A common industry practice might not be the most effective or appropriate control measure to use.

If PCBUs are not sure what control measures are appropriate, WorkSafe recommends getting advice from a suitably qualified and experienced health and safety professional.

For more information, see our guidance: [Reasonably practicable](#).