



New Zealand Health and Safety Legislative Change



WHY HAS THE LEGISLATION CHANGED?

Pike River Mine Tragedy



The new Health and Safety at Work Act (HSWA) 2015 came into play on 4th April 2016.

HSWA 2015 is the result of five years of investigation, recommendations and reforms that followed the 2010 Pike River mine tragedy.

In particular three areas gained focus through the reforms:

- Responsibility for Health and Safety is to be shared across all people and levels in a business
- Improving worker engagement and participation
- Higher penalties for non-compliance

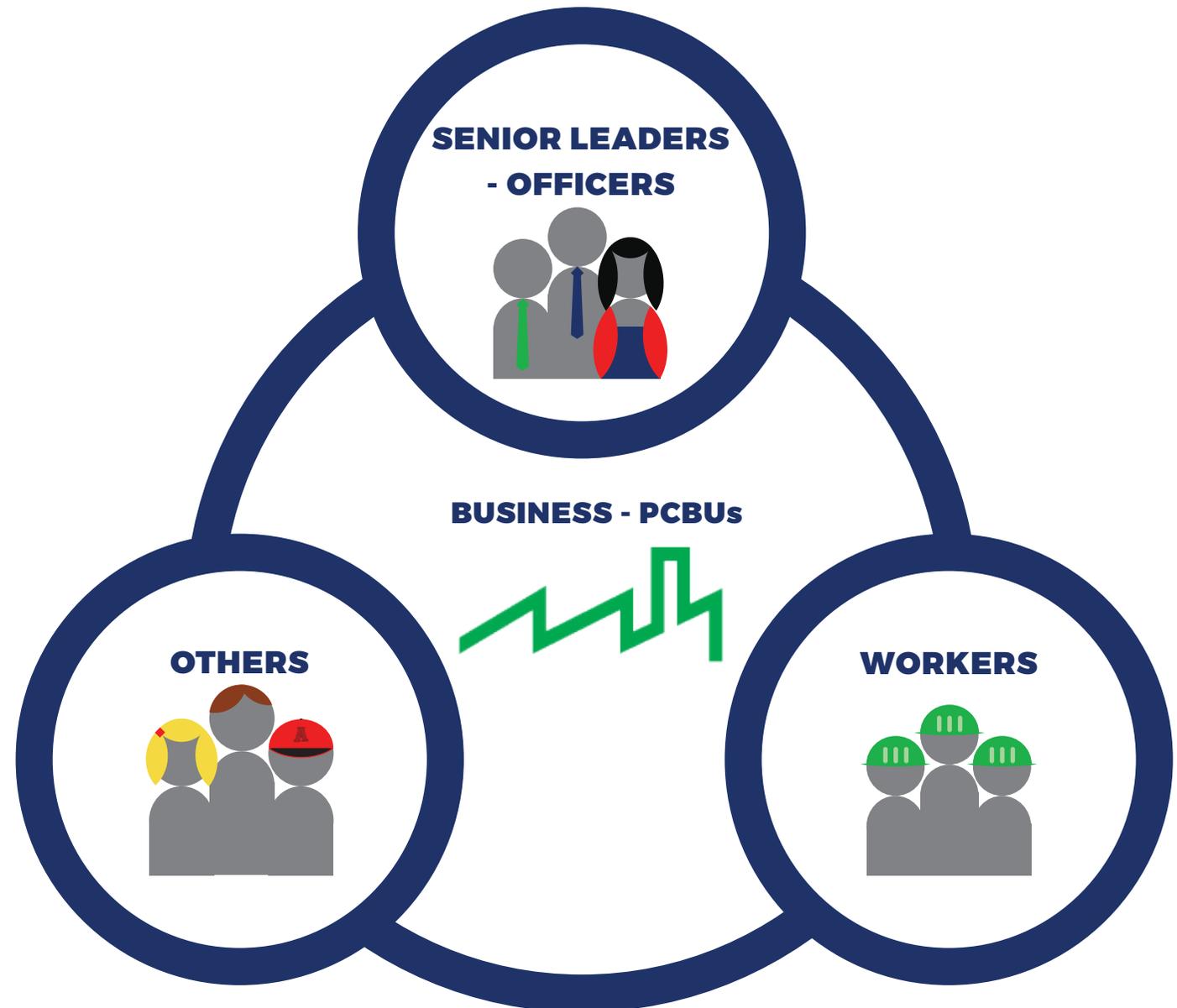
In 2013 the Government established WorkSafe NZ to lead and regulate Health and Safety efforts to reduce workplace injuries and deaths by 25% by 2020.



WORKSAFE
NEW ZEALAND | MAHI HAUMARU
AOTEAROA

EVERYONE HAS A ROLE TO PLAY

Together we are responsible for making sure we all get home safe at the end of a working day





SHARING RESPONSIBILITY

What is a PCBU?

**Person Conducting a
Business or Undertaking
(PCBU)**

These are typically:

- a business or company
- a sole-trader
- a self-employed individual.

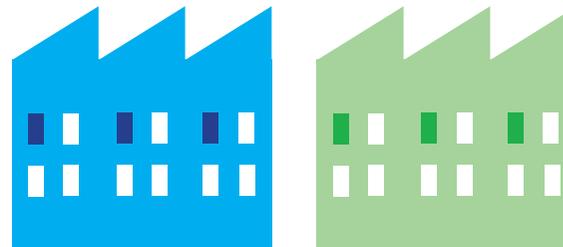
BUSINESS - PCBU_s

Duties and responsibilities:

- The PCBU holds the “**primary duty of care**” to ensure Health and Safety as they are in the best position to control risks in the workplace
- The PCBU must ensure, so far as reasonably practicable, the Health and Safety of workers (employees, contractors, temps and regular volunteer workers), and other persons who may come into contact with work they are carrying out (customers, visitors or casual volunteers).

Primary duty of care includes:

- Providing and maintaining a work environment that does not pose risks to Health and Safety
- Safe structures, plant and systems
- Adequate facilities for workers welfare
- Providing appropriate information, training, instructions and/or supervision.



SHARING RESPONSIBILITY



Who are Officers?

An Officer is a person holding a senior position that allows them to exercise significant influence over the management of a business.

They are typically:

- Directors or similar
- CEO
- Board Members
- Partner in a business.

SENIOR LEADERS - OFFICERS

Duties and responsibilities:

- Officers need to exercise **due diligence** to make sure that the PCBU complies with its Health and Safety duties
- There is no “sitting back” and Officers must be actively engaged in Health and Safety
- An Officer should understand how their Health and Safety management system works, and take steps to make sure it is working.

Exercising due diligence includes:

- Keep themselves current with Health and Safety knowledge and matters
- Understand the risks in their business and how they are controlled
- Ensure appropriate resources are available to eliminate or minimise risks
- Ensure the PCBU has processes for complying with any duty or obligation (e.g. worker engagement, Health and Safety management system), and handling Health and Safety concerns
- Regularly review and verify their processes and systems are in place and effective.



SHARING RESPONSIBILITY



Who are Workers?

A Worker is an individual who carries out work in any capacity for a business.

They are typically:

- Employees
- Contractors
- Labour hire
- Apprentices
- Trainees
- Regular volunteer workers.

WORKERS

Duties and responsibilities:

- Workers need to take reasonable care for their own Health and Safety
- Workers must take reasonable care that what they do or do not do does not adversely affect the Health and Safety of others
- Workers must co-operate with any reasonable workplace Health and Safety policy or procedure that has been notified
- Workers must comply, so far as reasonably able, with any reasonable instruction given by the PCBU, so the PCBU can comply with HSWA and regulations.



SHARING RESPONSIBILITY



Who are Other Persons?

Other Persons in a workplace include any member of the public who could come into contact with a businesses work activity.

They are typically:

- Customers
- Visitors
- Casual Volunteers.

OTHER PERSONS

Duties and responsibilities:

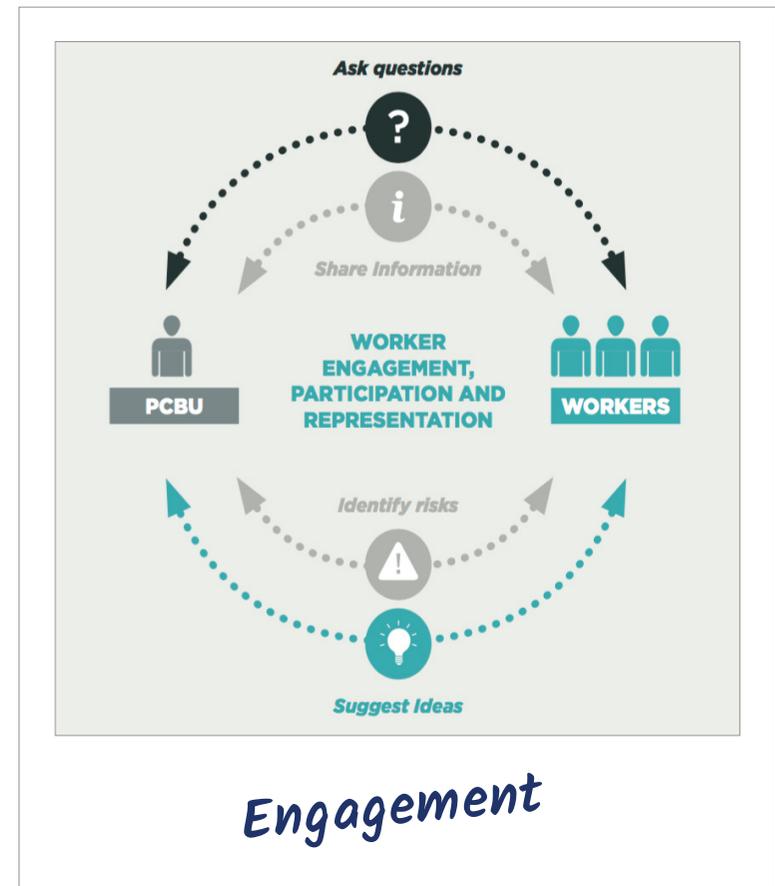
- Take reasonable care for their own Health and Safety
- Take reasonable care that others are not harmed by something they do, or do not do
- Comply as far as they are reasonably able with the PCBU's reasonable Health and Safety instructions that are given, to ensure the PCBU can comply with HSWA regulations.



WORKER ENGAGEMENT AND PARTICIPATION

PCBUs must:

- Ensure **worker's views** on Health and Safety matters are **asked for** and taken into account (**engagement**)
- If the business employs **more than 20 employees** the business must have a **Health and Safety Committee**. If the business is smaller than this you can elect to have a Health and Safety Representative
- Have clear, effective and **on-going ways** for workers to suggest improvements or raise concerns on a day-to-day basis (**participation**)
- **Engagement** is how a business involves its workers in work Health and Safety matters and decisions.
- **Participation** practices are the on going way for workers to raise Health and Safety concerns, be part of making decisions which affect Health and Safety, and offer suggestions for improving Health and Safety.



ENFORCEMENT

Reckless

Up to \$3m for a company; \$600k/5 years prison for individual “officer”; \$300K/5 years other individuals.

Exposing individual to risk of serious harm or death

Up to \$1.5M for company; \$300K for individual “officer”; \$150K other individuals.

Failing to comply with duty

Up to \$500K for a company or \$100K for individual “officer”; \$50K other individual.

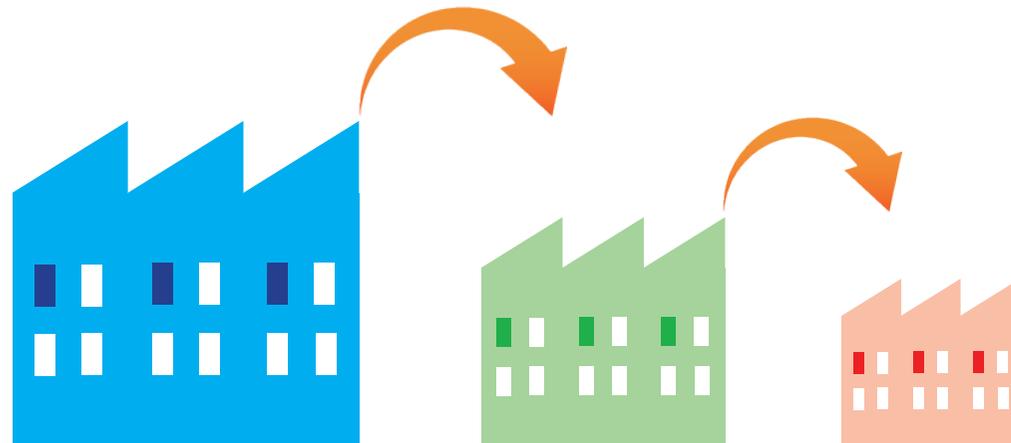
***Higher fines -
company and
personal***

SPECIAL NOTES

HSWA 2015 also calls for additional cooperation and coordination between PCBUs collaborating and working together for a specific project or on a common workplace.

Upstream PCBUs such as designers and manufacturers have a duty of care to downstream PCBUs as they are in a primary position to influence/effect levels of risk.

***One person
is hurt on a
workplace in NZ
every 8 minutes.
This has to
change!***



WHERE TO START?

***Did you know
in 2015 more
than 23,000
people were
severely injured
or killed in NZ
workplaces?***

Different businesses will have different Health and Safety risks

- A Healthy and Safe workplace starts with identifying and understanding what your Health and Safety risks are, particularly those that have the potential to cause people serious injury or illness
- It then involves doing what is reasonable, what is practical, and what you are able to do to eliminate risks. When risks cannot be eliminated, they are to be minimised.

**Know your business Health
and Safety **RISKS** and **MANAGE**
them proportionately.**



A STARTING POINT

PCBU

- Gain a solid record of all Health and Safety risks across the business, and the controls in place to manage them
- Implement a simple Health and Safety management system/structure so everyone in the business understands their roles and responsibilities
- Track, monitor and review Health and Safety performance indicators to help guide resources to the areas that need it most
- Make a point of working through root cause analysis for any Health and Safety issues or incidents to help prevent recurrence
- Ensure any contractors are fully aware of your expectations of them and record agreements
- Ensure your induction and training provides everything a worker needs to know to keep themselves safe and what to do in case of emergency
- Be enablers for worker participation and engagement – start informally by having conversations.

OFFICER

- Charter PCBU Officer commitment to Health and Safety
- Understand the businesses hazards and risks, controls and effectiveness of controls
- Sponsor worker engagement and participation
- Prioritise Health and Safety conversation in all Officer meetings
- Monitor Health and Safety performance through review of audits, management plans and report, risk assessments and incident investigations
- Ensure the PCBU has adequate resources and expertise to be successful implementing and managing the PCBUs duties and obligations



We tailor our Health and Safety packages to meet your unique business needs

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021 911 011



homesafe@saferteam.co.nz



www.saferteam.co.nz

