



The Health and Safety at Work Act

at a Glance

Maritime NZ has developed this brochure to help you understand your obligations under the Health and Safety at Work Act (HSWA) 2015.

It explains how HSWA and the Maritime Transport Act (MTA) work together and introduces some new terms and duties under HSWA. It also includes a profile of a hypothetical maritime operator and explains how those involved meet their duties. *HSWA at a Glance* is a companion document to Maritime NZ's *Health and Safety: A guide for mariners*.

How the MTA and HSWA work together

HSWA doesn't replace your duties under other legislation. You must comply with the Maritime Transport Act 1994 and all relevant Maritime Rules, as well as HSWA.

In broad terms, the MTA and the Maritime Rules focus on the safety of the vessel and navigational safety, while HSWA focuses on the health and safety of the people on board.

There is some overlap between HSWA and some Maritime Rules. For example,

the Maritime Operator Safety System (MOSS) addresses many – but not all – of the duties that operators need to meet under HSWA. In some cases, meeting your HSWA obligations will mean exceeding the minimum requirements of the Maritime Rules.

Key things to know about HSWA

HSWA came into effect in April 2016. The Act replaced the Health and Safety in Employment Act 1992 (HSE) but many of the duties under HSWA are the same, or very similar to, the HSE duties.

HSWA introduced some new terms and duties which are explained below.

PCBU – A PCBU is a 'person conducting a business or undertaking'. The word 'person' should not be taken literally. Normally a PCBU will be an organisation – eg a company, but it can also be a self-employed person or a government agency.

A maritime operator is a PCBU. A business such as a contractor that works on a ship, but doesn't operate that ship, is also a PCBU.

PCBUs have a 'primary duty of care' to ensure so far as reasonably practicable, that the health and safety of workers and other persons is not put at risk by the work they do.



Officer – An ‘officer’ is a person with significant influence over the management of the business (PCBU). Company directors, partners in a partnership, and chief executives are officers.

Officers must exercise ‘due diligence’ to make sure the PCBU meets its health and safety obligations.

Worker – A worker is a person who does work in any capacity for a business (PCBU). This includes an employee, a sharefisher, a ‘labour only’ contractor, a person working for a contractor or sub-contractor, a person working for a labour hire company, a trainee or a person gaining work experience and a regular volunteer.

Workers must take reasonable care to keep themselves and others healthy and safe when they are doing work.

Other – Other people at workplaces include passengers, visitors, customers and casual volunteers.

Others at the workplace must keep themselves safe and not cause harm to others. They must follow reasonable health and safety-related instructions made by the PCBU in control of the workplace.

People who visit the workplace in the course of their work (for example observers, officials, sales

people or contractors) are not ‘other’ people in that capacity – they have the duties of workers.

Workplace – Under HSWA a commercial vessel is a workplace.

‘Reasonably practicable’

Many duties under HSWA apply ‘so far as is reasonably practicable’. Something is ‘practicable’ if it is possible or capable of being done. ‘Reasonably’ doesn’t mean that an operator or businesses must do everything humanly possible – but it does mean doing what reasonable operators or businesses would do in the same situation.

What would be considered to be reasonably practicable should take into account:

- how likely the hazard or the risk is to occur
- the degree of harm that could result
- what measures exist to control the risk
- whether ways to eliminate or minimise the risk are available and suitable.

Cost shouldn’t be the main factor when considering what steps to take. A PCBU should only consider cost after assessing the risk and the available ways to eliminate or minimise it. Once these steps are done, the PCBU should assess whether the cost would be grossly disproportionate to the risk.



Profile of Seacatch Ltd

The following profile shows how a typical maritime business could go about meeting their HSWA obligations. Every business is different, so the way businesses meet their HSWA obligations will vary.

About the business

James and Liz Smith own Seacatch Ltd, a fishing business that owns and operates three 12-metre 'day boats'. The Smiths live out of town and employ George as chief executive to run the business. Three ships' masters and 12 fishermen work on the boats.

Under HSWA

- Seacatch is a PCBU
- James, Liz and George are officers
- the masters and fishermen are workers.

How Seacatch Ltd meets its HSWA duties

Due diligence – The Smiths and George work together to stay up to speed on health and safety in general and the risks associated with the Seacatch operation. To keep informed, the Smiths join their local fishing association and subscribe to updates from WorkSafe NZ and Maritime NZ. The Smiths visit the vessels several times each year to hear directly from staff about health and safety matters. Following these visits they meet with George to review their safety system. George provides the Smiths with quarterly health and safety updates and informs them of any notifiable events that occur on any of the vessels.

Overlapping duties – The ships' masters consult and manage health and safety issues with contractors when any work is carried out on the boats.

Asbestos – One of the older fishing boats tested positive for asbestos. George needs to develop an asbestos management plan that will ensure precautions are taken when the crew or anyone else works on the boat. He may need to engage workers licensed to deal with asbestos.

Worker engagement and participation – George has identified health and safety champions for the crew of each boat. These crew organise tool box talks and are the 'go to' person on their boat for health and safety concerns. Crew suggestions are taken to George for consideration. Since fishing and aquaculture are classed as 'high risk' under HSWA regulations, George must organise elections for health and safety representatives at the request of any of the crew.

Worker protection – All crew are issued with lifejackets and safety gear such as foul weather clothing, suitable gloves, steel toed gumboots and sunblock.

Emergency management plan – Seacatch has an emergency management plan and conducts regular drills. Staff induction includes training on what to do in an emergency.

Training and supervision – All ship's masters and crew are required to have the right qualifications and certificates for the vessel's operating limits. New crew receive a health and safety induction and are supervised by the ship's master.

Facilities – The vessels have toilets, a galley, drinking water and hand-washing facilities. They are also equipped with first aid kits and each has a small cabin for eating and taking a rest.



HSWA duties

A summary of the duties in the Health and Safety at Work Act 2015

Primary duty of care	Ensure, so far as is reasonably practicable, the health and safety of: <ul style="list-style-type: none">■ workers who work for the PCBU■ workers whose activities in carrying out work are influenced or directed by the PCBU■ other persons.
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Due diligence*	Officers must make sure that the businesses they have oversight of meet their health and safety obligations.
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Overlapping duties*	Consult cooperate with and coordinate activities with all other PCBUs who share the workplace or have a duty in relation to the same matter.
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Worker engagement, participation and representation*	Engage with workers, provide ways for workers to take part in health and safety on an on-going basis, and respond to requests for an election of health and safety representatives and health and safety committees.
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Manage risks	Identify your risks and hazards. Put in place controls to eliminate or minimise risks and hazards. Keep applying these controls and periodically review them.
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Manage specific hazards*	<p>Asbestos:</p> <ul style="list-style-type: none">■ Eliminate or minimise exposure to airborne asbestos in the workplace■ Follow prescribed requirements when doing routine maintenance and servicing work or refurbishment that could involve asbestos. <p>Limit exposure to noise.</p> <p>Make sure that a raised or lifted object cannot drop or be lowered while a worker is under it.</p> <p>Make sure that cleaning, maintenance or repair of machinery is not done while the machinery is moving and may cause harm to a worker.</p> <p>Make sure that woodworking and abrasive grinding machinery has the prescribed protective devices eg control switches and guards.</p>
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Provide means to stop workers falling from a height of more than 3 metres.

Training and supervision

Provide workers with information, training, instruction, or supervision.

Protect workers

Provide first aid and personal protective equipment and make sure that workers use or wear it.

Plan for emergencies

Prepare an emergency plan. Practice it to see that it works and keep it up to date.

Notify MNZ

Notify Maritime NZ when events such as accidents and injuries occur, preserve the site of an event, and keep records.

Facilities*

Provide and maintain adequate workplace facilities.

*These duties are either new or have been expanded under HSWA.



For more information

Maritime NZ is your primary source of information on health and safety in the maritime sector. WorkSafe NZ is your source for more general information on HSWA.



Maritime NZ

Information and guidance can be found on the Maritime NZ website: www.maritimenz.govt.nz

If you have a general enquiry, please contact our Wellington office:

New Zealand (toll free):
0508 22 55 22

Call from outside of New Zealand:
+64 4 473 0111

Fax: **+64 4 494 1263**

Email: hswa@maritimenz.govt.nz



WorkSafe New Zealand

More information and guidance on HSWA can be found on the WorkSafe website at www.worksafe.govt.nz

WorkSafe runs a Contact Centre that answers general questions about health and safety issues. The Contact Centre operates during business hours and can be reached on **0800 030 040**.

Disclaimer

This brochure provides information and guidance on the general application of the Health and Safety at Work Act and its regulations. Maritime NZ has made every effort to ensure that the information is accurate and up to date. However it is not intended to provide comprehensive or specific legal advice. Legislation is amended from time to time and we recommend that readers confirm that they are operating to the latest version of the Act.