

## Submission on the Health and Safety at Work Amendment Bill

**To: The Education and Workforce Select Committee**

**From:**

Professor Joanne Crawford, Dr Danaë Anderson and Dr Christopher Peace

**Date**

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### Who we are and why this Bill matters to us

We are three senior academics and health and safety professionals who now teach and research workplace health and safety as a subject specialisation.

#### Professor Joanne Crawford

Joanne is Professor of Health and Safety at Victoria University of Wellington. She has a PhD from the Robens Occupational Health Centre at Surrey University and a Master of Science in Engineering degree in Work Design and Ergonomics. Joanne has worked as a researcher, lecturer, consultant and expert witness in her 36 years of practice. She is a UK Chartered Ergonomist and Human Factors Specialist.

#### Dr Danaë Anderson

Danaë has a PhD and MPhil in industrial relations, and extensive experience in workplace health and safety and industrial relations across both industry and the tertiary sector. She has held operational and advisory roles supporting organisations to strengthen safety practice and manage employment issues, and now teaches at university level. Her work combines practical industry expertise with academic expertise in worker wellbeing and safety leadership.

#### Dr Christopher Peace

Chris has a PhD in Management, MSc in Risk Management and Safety Technology and BSc (Hons) in Environmental Health. He is a Certified Fellow of the New Zealand Institute of Safety Management, Chartered Fellow of the Great Britain Institution of Occupational Safety and Health and has 52 years postgraduate experience in occupational health and safety as a regulator, manager, and consultant.

### Objectives of the Bill

Using our combined experience of more than 120 years in workplace health and safety practice, teaching and research in New Zealand, Great Britain, Australia, and the USA, our submission compares the objectives of the Bill with our experience and knowledge.

*The objectives of the Bill are to <sup>1</sup>:*

- *reduce unnecessary compliance costs; and*
- *increase certainty for businesses and organisations about what they need to do; and*
- *support continued reductions in the incidence of workplace fatalities, injuries, and illnesses.*

*The Bill seeks to achieve these objectives by focusing the work health and safety system on critical risks, clarifying areas of confusion, creating greater certainty through strengthening approved codes of practice and prioritising regulators' functions.*

### Abbreviations

Unless otherwise stated in this submission:

- HSWA means the existing Health and Safety at Work Act
- PCBU means person conducting a business or undertaking
- WHS means workplace health and safety.

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<sup>1</sup> Page 1, explanatory note for the Health and Safety at Work Amendment Bill

## **Our overall position on the Bill**

The Coalition Agreement refers to the Act Party policy to “Reform health and safety law and regulations” (Luxon & Seymour, 2023). There are some areas of current legislation that require clarification. However, the proposed amendments to the HSWA remove statutory protections for workplace health and safety for many workers and other persons and are unacceptable.

While the Government asserts that the Bill aims to “*reduce unnecessary compliance costs*” and “*increase certainty*” for businesses, the amendments as drafted instead increase legislative complexity, create greater ambiguity around duty expectations, and risk undermining consistent national standards of workplace safety.

We are concerned that the Bill introduces definitions, duty hierarchies, and compliance pathways that are more fragmented and confusing than those under the existing Health and Safety at Work Act 2015 (HSWA).

### **Key issues for us**

A fundamental concern with the proposed amendments is the absence of robust, publicly-available evidence demonstrating that the reforms will achieve their stated objectives of reducing harm, improving clarity, or lowering compliance costs. Despite the scale of the legislative shift, neither the Explanatory Note nor publicly released policy materials provide empirical justification for the introduction of a critical-risk-only model or the creation of divergent duty systems for small versus large PCBUs.

### **Commencement of the amendments**

Section 2 of the Bill shows that the amendments come into force on the day after Royal Assent. This will mean that businesses, their advisers, workers and their representatives, and regulatory agencies will have insufficient time to prepare for the changes and many PCBUs may be immediately in breach of the Act. The HSWA had a 12-month lead time from Royal Assent in 2015 to commencement in 2016.

As we show in our submission some of the proposed changes will require at least 12 months to change current standard operating procedures to comply with the amended Act. We can only guess that such changes will increase compliance costs considerably in the medium term.

## **Amended purposes of HSWA – section 3 of the Bill**

### **Proposed section 3**

Section 3(1) of the Bill changes the existing balanced framework set out in the HSWA to a framework that prioritises the critical risks that arise from work.

This will unbalance the existing framework to move the focus to rare events causing serious injuries or fatalities at the expense of non-critical risks that caused the great majority of the \$5.4 billion ACC claims in 2024 (Eaqub & Collins, 2025).

Prioritising critical risks will mean that PCBUs may not achieve “the highest level of protection against harm ...”

Section 3(2) rewords the existing balanced framework to support the priority for critical risks. This is unnecessary if the new and unbalanced framework does not become law.

Section 3(3) simply rewords the existing section 3(2) HSWA and conflicts with the proposed new section 3(1).

This introduces *more* uncertainty, not less, particularly when the existing HSWA deliberately avoided creating such rigid risk categories.

## **Section 7 of the Bill**

### **Section 16 HSWA amendments**

We discuss critical risk later.

**Prioritise** is defined to mean:

*in relation to critical risks, includes:*

- (a) *managing critical risks before managing other risks:*
- (b) *monitoring, reviewing, and revising controls relating to critical risks more often than controls relating to other risks:*
- (c) *applying a higher proportion of risk management resources to the management of critical risks compared with other risks*

*Managing critical risks before managing other risks* will mean that the majority of risks that are non-critical risks will receive insufficient assessment and then management. Non-critical risks that cause the great majority of ACC claims and the majority of the \$5.4 billion ACC claims in 2024 will continue to receive insufficient management attention (Eaqub & Collins, 2025).

This may appear to simplify compliance but instead forces PCBUs – particularly small ones – to engage in complex classification and interpretation exercises. The shift creates a system where organisations must determine whether a hazard is “likely to cause death or serious harm” and whether it falls within new Schedule 1A hazard categories.

However, many common workplace harms (e.g., musculoskeletal strain, fatigue, psychosocial risks) are not included in Schedule 1A, creating confusion and likely inconsistent interpretations across industries. Slow-onset and cumulative harms may be deprioritised not because they are low-risk, but because the Bill’s definitions are too narrow to capture them.

When examining ACC data across the sectors of manufacturing, retail, wholesale, transport & logistics, there continues to be high levels of claims for injuries relating to the back/spine, hand/wrist and upper/lower arm. Such injuries are often where human factors and ergonomics has not been considered in the work design process. Over the last ten years this has cost New Zealand \$280 million in new claims costs and in 2025, \$172 million in new and active claims. These data do not include the high-risk sectors for musculoskeletal harm of construction and healthcare. Examining injuries associated with lifting and carrying, this has cost New Zealand \$614 million in the last 10 years, in 2025, the cost of new and active claims was \$136 million. These numbers do not include those people with cumulative damage over time.

The proposed change to focus on critical risks is not going to reduce these numbers and could potentially make things worse. The shift away from a more balanced framework that encourages prevention of all risks by all PCBUs regardless of size, including work-related musculoskeletal harm, is not going to address the significant harm and cost resulting from such risks.

*Monitoring, reviewing, and revising controls relating to critical risks more often than controls relating to other risks* will mean that controls for rare events causing serious injuries or fatalities will receive considerable management attention whereas controls for non-critical risks will receive insufficient attention.

Worse, some non-critical risks may have controls over other risks that have no relationship to workplace health and safety causing unintended consequences for PCBUs.

*Applying a higher proportion of risk management resources to the management of critical risks compared with other risks* will similarly increase compliance costs while failing to reduce workplace serious injuries or fatalities.

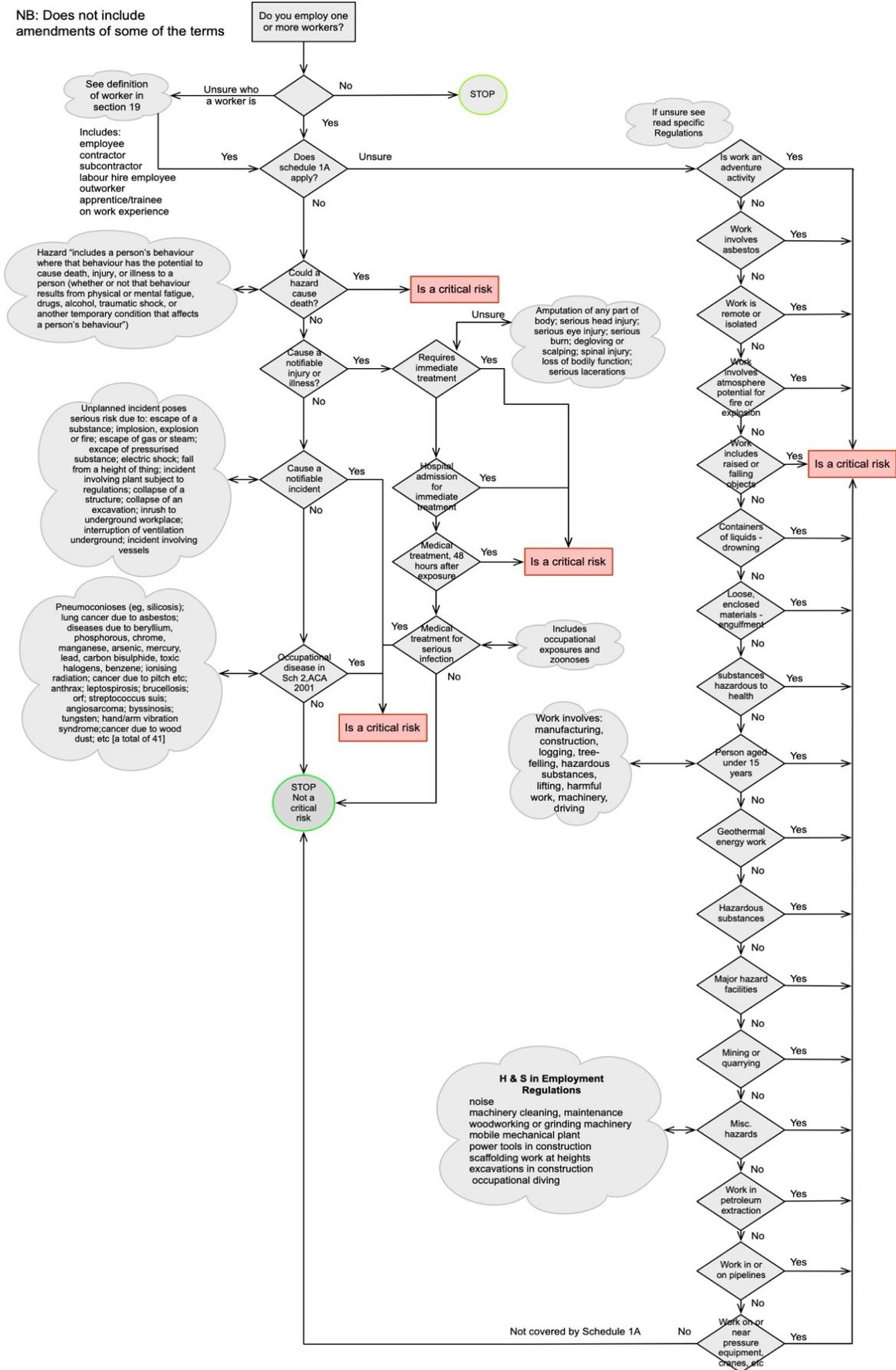
The alternative for PCBUs will be to hire more specialist workers or consultants increasing compliance costs but failing to reduce workplace serious injuries or fatalities. It should be for officers and management to decide where and how to allocate scarce resources to achieve the best results.

## **New section 22A Meaning of critical risk**

The proposed section 22A(1) defines critical risk by reference to new Schedule 1A, and a hazard of any kind that may have with one or more of four outcomes. We have tried to develop a simple decision tree that might show how a PCBU could determine whether they have a critical risk but the definition is complex and introduces much uncertainty. Our final result is therefore complex (see Figure 1 below).

Figure 1. Decision tree for a critical risk

NB: Does not include amendments of some of the terms



## New section 22B amendment of schedule 1A

Section 22B(3) limits changes to schedule 1A (which forms part of the definition of critical risk) to:

*a hazard of any kind that is likely to result in any 1 or more of the following:*

- (i) *a death*
- (ii) *a notifiable injury or illness*
- (iii) *a notifiable incident*
- (iv) *an occupational disease listed in Schedule 2 of the Accident Compensation Act 2001.*

This assumes that current legislators (1) have sufficient foresight to anticipate the consequences of future as yet unknown hazards and (2) accept the current appalling number and costs of hazards that do not cause serious injuries or fatalities but that incapacitate workers and disrupt business activities.

### Prioritising critical risks

A PCBU might spend time working through such a decision tree such as Figure 1 and determine it has no critical risks to prioritise (as defined in proposed amendment of section 16). However, it may have overlooked some part of the definition of critical risk resulting in a serious injury or fatality. Failure to prioritise the critical risk may be an offence for a PCBU that employs more than 20 workers but not a small PCBU (proposed section 25A(2)).

### Serious risk and critical risk

As shown above, a critical risk could be a hazard that is likely to result in a notifiable incident subject to HSWA section 24(1). That section includes incidents that expose workers or any other person to a **serious risk** to their health or safety. No guidance is given to distinguish a critical risk from a serious risk to health or safety or to state if the two are the same.

### Hazard

Section 16 HSWA defines hazard to include:

*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).*

The definition of critical risk in section 22(A)(1)(b) includes use of the word hazard. However, the definition then limits the range of possible consequences to death, a notifiable injury or illness, a notifiable incident or an occupational disease. These exclude behaviours of a person such as bullying or verbal abuse unless it leads to the suicide of a worker.

### Small PCBUs (section 17 HSWA amendment)

Section 17 HSWA is to be amended to add the term small PCBU:

*In this Act, unless the context otherwise requires, small PCBU means a PCBU in whose business or undertaking fewer than 20 workers carry out work in any capacity.*

The Bill establishes a major structural division between:

- small PCBUs (<20 workers): required to manage *only* critical risks
- all other PCBUs: required to manage *all* risks but prioritise critical ones.

Commentary from Copeland McAllister Law notes that 97% of New Zealand businesses fall into this new "small" PCBU category (Foster, 2026). This means most workplaces will be operating under different duty expectations than larger businesses, fragmenting national safety obligations. We believe this may also affect our international trade agreements.

This two-speed system will:

- increase confusion for contractors working across businesses of different sizes
- create misalignment in supply chains (e.g., small subcontractors vs large principal contractors)
- introduce ambiguity around liability when risk classification differs between parties.

Instead of simplifying compliance, the Bill introduces multiple divergent compliance pathways, making interpretation and enforcement more complex.

### Meaning of “fewer than 20 workers”

It is not stated if “fewer than 20 workers” means full time workers or part time workers and how many hours per week or month is a fulltime equivalent. This creates uncertainty for small PCBUs and medium-size PCBUs, and adds to compliance costs.

### Workers within or contracted to a small PCBU

HSWA section 19 defines worker to include an employee; a contractor or subcontractor; an employee of a contractor or subcontractor; or an employee of a labour hire company who has been assigned to work in the business or undertaking.

If a small PCBU hires a contractor to carry out work during its 31 March financial year it will need to track the fluctuating numbers of the contractor’s workers. The contractor may in turn hire subcontractors or employees of a labour hire company (perhaps without telling the principal small PCBU). Those numbers will also need to be tracked and analysed for a 1 July financial year. This adds complexity, uncertainty and compliance costs to the employment by small PCBUs of “fewer than 20 workers”.

### Effect of diminished duties of small PCBUs

In many workplaces it is normal to find several PCBUs at work in the same area at the same time, on the same work. For example, a major construction project will employ large PCBUs over most of the life of the project while smaller specialist PCBUs work intermittently, as needed. Some preparatory work will be carried out offsite (perhaps by subcontractors) and some onsite. Some of the PCBUs may be small PCBUs while others may be large. It will become extremely difficult for the principal PCBU to organise the work when small PCBUs have duties that are different from larger PCBUs. This will inevitably lead to failures to comply with section 34 HSWA (the duty to consult, co-operate with and co-ordinate with all PCBUs).

### Deterrent to growth

The proposed amendment of section 17 refers to “fewer than 20 workers”. This may act as a deterrent to growth of a small PCBU that could grow its business beyond 20 workers but then has to develop health and safety systems to meet the full requirements of the HSWA that had been excluded by the Bill.

This is contrary to the economic development policies and objectives of this Government.

### Scope of duties of small PCBU (new sections 25A to 25C)

#### Section 25A: small PCBUs

New section 25A(1) sets out the scope of duties that a small PCBU must comply with. If there is a critical risk, new section 25A(1)(a)(i) requires a small PCBU to comply with sections 36 to 43 of HSWA “except section 36(3)(e)” which requires:

*(e) the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities.*

Such facilities include toilets, hand washing facilities, drinking water, etc. However, new 25A(1)(b) then requires a small PCBU:

*(b) to comply with section 36(3)(e) according to its terms [emphasis added]*

It is not clear what “according to its terms” means, and introduces uncertainty for small PCBUs and the cost of legal or other advice for their particular circumstances. Nor is it clear what objection the government has to basic sanitary facilities in small workplaces.

25A(1)(a)(ii) then names three duties under the Health and Safety at Work (General Risk and Workplace Management) Regulations that must be complied with.

Thus, in relation to critical risks, a small PCBU will not be required to comply with:

- managing risks associated with remote or isolated work (regulation 21)
- managing risks associated with atmosphere for potential for fire or explosion (regulation 22)
- managing risks associated with ignition sources (regulation 23)

- managing risks associated with working under raised objects (regulation 24)
- managing risks associated with falling objects (regulation 25)
- managing risks associated with containers of liquids (regulation 26)
- managing risks associated with loose but enclosed materials (regulation 27)
- managing risks associated with substances hazardous to health (regulation 28)
- ensuring prescribed exposure standards for substances hazardous to health are not exceeded (regulation 29)
- when exposure monitoring is required (regulation 30)
- when health monitoring is required (regulations 31-42)

#### ***Young people***

A small PCBU will not be required to comply with the duty to:

- ensure young persons do not carry out night work, ie, between 10pm and 6am (regulation 48)
- ensure young persons (aged under 15 years) do not carry out certain work (regulations 43-47)
  - they must not work in the manufacture of goods for trade or sale
  - they must not work in construction, logging or tree-felling
  - they must not work with hazardous substances
  - they must carry out other work likely to harm the health or safety of a person aged under 15 years
- use, operate or ride on machinery or vehicles.

Thus, it will be legal for young people to carry out the kind of work often described as child labour that has been long since outlawed in NZ in accordance with International Labour Organization agreements (eg, ILO, 1973). New Zealand as a signatory is required to comply with such labour standards.

#### **Young person vulnerability, poor risk understanding etc.**

Research globally highlights that small businesses are more at risk of fatalities and serious injuries. Across the European Union, small and medium-sized businesses make up 99% of businesses and research has highlighted that small businesses are more at risk of serious and fatal injuries. The reasons for this are linked to limited resources, limited knowledge and a lack of access to support for health and safety (Walters et al., 2018).

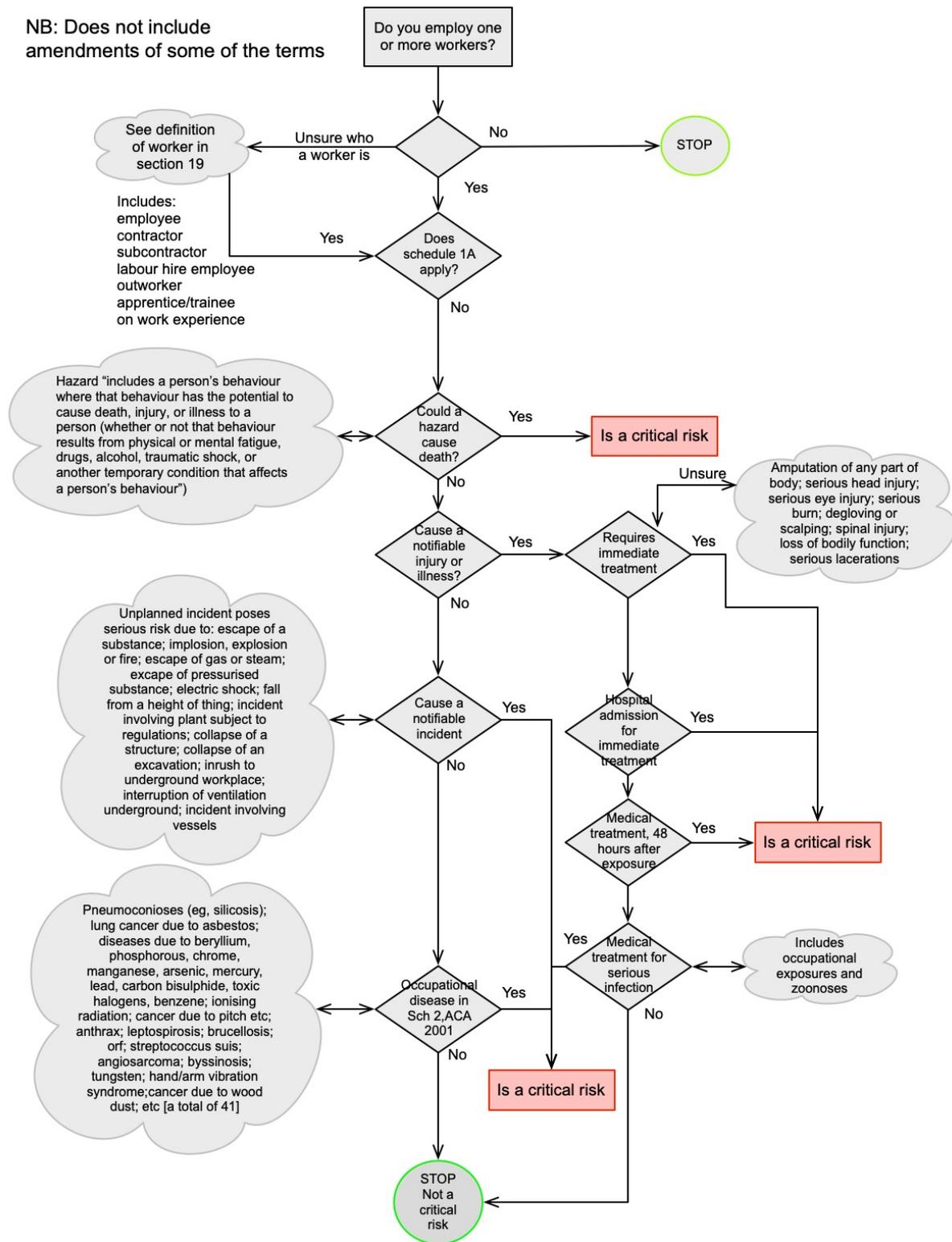
More locally the CTU analysed ACC data and identified that across all sectors, 23% of workers were more likely to suffer a severe injury and 57% more likely to suffer any injury in an SME (Rosenberg, 2016). While this varies by sector, the increased risk for SMEs is evident in agriculture, construction and support services, including port services.

These reports are from 10 years ago but there is little evidence to show that the situation has improved for SMEs. To quote the report, “policies to reduce the health and safety requirements of SMEs are misguided”

Figure 1 above has been revised to include the effect of new section 25A(1)(a)(ii) on the definition of critical risk in relation to a small PCBU – see Figure 2 below. Even after removing much of the compliance obligations, the decision tree remains complex – a reflection of the requirements in the Bill. Those requirements will add to uncertainty, the time to comply and compliance costs.

Figure 2. Decision tree for critical risk in a small PCBU

NB: Does not include amendments of some of the terms



### **New subsection 25A(2)**

This new subsection allows that:

*A small PCBU's failure to prioritise critical risks in accordance with subsection 1(c) is not an offence.*

If the definition of critical risk (new section 22A) is inserted into the new section 25(2) the Bill will allow that:

*A small PCBUs failure to prioritise a hazard described in schedule 1A, or a hazard of any kind that is likely to result in 1 or more of: a death, a notifiable injury or illness, a notifiable incident, or an occupational disease in accordance with subsection 1(c) is not an offence.*

A practical effect of this clause is that while small PCBUs are still required to manage critical risks, they cannot be prosecuted for failing to prioritise them, meaning they face no legal consequence for misclassifying hazards, placing critical risks lower on their risk-management hierarchy, or allocating resources elsewhere even when dealing with hazards listed in Schedule 1A or those likely to cause death, notifiable injury or illness, a notifiable incident, or an occupational disease.

In practice, this makes the central requirement of the Bill – prioritising critical risks – effectively optional for small PCBUs, weakening enforceability, creating inconsistent obligations across business sizes, diminishing worker protections, and undermining the coherence of the proposed critical-risk framework. It will increase uncertainty about compliance and compliance costs.

### **New subsection 25A(3)**

This new subsection further limits the application of HSWA to a small PCBU.

*The provisions of this Act and regulations must, so far as they relate to the duty of a small PCBU under a critical risk provision, be read subject to the limitation set out in subsection (1)(a).*

The examples given make clear that officer due diligence, the work of health and safety representatives and an inspector issuing an improvement notice can only related to critical risks. This will remove regulatory and governance oversight in small PCBUs. Failure to prioritise critical risks by a small PCBU will not be an offence and therefore not subject to the due diligence obligations in section 44 HSWA.

This will add uncertainty to the management of critical risks by a small PCBU. It will add to compliance costs as small PCBUs will require competent advice about the scope of their duties.

### **Affected PCBUs and workers**

New section 25A will remove almost of the current level of statutory protection for workers from death, a notifiable injury or illness, a notifiable incident, or an occupational disease.

These reduced requirements for small PCBUs will affect about 97% of NZ businesses and about 650,000 (22.5%) workers (Statistics NZ, 2025).

This is a reversion to the state of affairs in NZ in the period 1880-1991 (Martin, 1996) and may breach International Labour Organization conventions such as the Minimum Age Convention (ILO, 1973).

### **New section 25B**

New subsection 25B(1) will require that:

*A PCBU that is not a small PCBU is required:*

*(a) to prioritise critical risks when complying with this Act (except section 36(3)(e)) and regulations; and*

*(b) to comply with section 36(3)(e) according to its terms [emphasis added]*

Section 36(3)(e) HSWA requires:

*(e) the provision of adequate facilities for the welfare at work of workers in carrying out work for the business or undertaking, including ensuring access to those facilities.*

It is not clear what “according to its terms” means, and introduces uncertainty for PCBUs and the cost of legal or other advice for their particular circumstances.

Such facilities include toilets, hand washing facilities, drinking water, etc. However, new 25A(1)(b) then then requires a small PCBU to comply. It is not clear what objection the government has to toilets in workplaces.

It is not clear what “according to its terms” means in subsection 25B(1)(b). This will add uncertainty to the management of critical risks by a PCBU and will add to compliance costs as PCBUs will require competent advice about the scope of their duties.

### **New subsection 25B(2)**

This new subsection allows that:

*A PCBU's failure to prioritise critical risks in accordance with subsection 1(c) is not an offence.*

If the definition of critical risk (new section 22A) is inserted into the new section 25B(2) the Bill will require

It is not an offence for a PCBU to fail to prioritise a hazard described in schedule 1A, or a hazard of any kind that is likely to result in 1 or more of: a death, a notifiable injury or illness, a notifiable incident, or an occupational disease in accordance with subsection 1(c).

In practice, this means that although PCBUs are required to identify and manage critical risks, they cannot be prosecuted for failing to *prioritise* those risks – even when the hazard is one listed in Schedule 1A or is capable of causing death, notifiable injury or illness, a notifiable incident, or an occupational disease.

Because failure to prioritise critical risks is explicitly *not an offence*, such failures also fall outside the scope of officers' due diligence obligations under section 44 HSWA, meaning officers cannot be held liable for inadequate oversight of how critical risks are prioritised.

The result is that prioritisation – the central organising principle of the Bill – becomes effectively unenforceable. PCBUs may misclassify critical risks, delay addressing them, or focus attention on lower-level hazards without legal consequence. This weakens WorkSafe's enforcement leverage, creates inconsistent compliance expectations across the system, and exposes workers to higher residual risk because the law no longer requires PCBUs or their officers to give the most serious hazards any enforceable priority.

### **New section 25C(2)**

This new subsection applies to all PCBUs when a PCBU is determining if a risk is a critical risk and requires:

*(2) The PCBUs determination must determine based on an assessment that takes into account what the PCBU knows, or ought reasonably to know, about*

- (a) their business or undertaking; and*
- (b) the hazard with which the risk is associated; and*
- (c) whether the hazard, if it does not relate to a matter described in Schedule 1A, is likely to result in 1 or more of the consequences referred to in section 22A(1)(b)(i) to (iv).*

Clause (c) requires all PCBUs to review schedule 1A. However, small PCBUs are effectively exempt from this requirement by 25A. Will they have to comply with 25C(2)(c) as a new compliance obligation or will it be acceptable to ignore the requirement? This will add uncertainty to the management of critical risks by a PCBU and will add to compliance costs as PCBUs will require competent advice about the scope of their duties.

Much of this clause is already set out in section 22 HSWA (the definition of reasonably practicable) which uses words and concepts that have been tested in British courts since the 1850s (and cited in cases in NZ) and in NZ courts since 1992. Should a PCBU pay greatest attention to new section 25C(2) or section 22? The result is likely to be extended (and expensive) legal arguments.

While the Government promotes the critical-risk model as a mechanism to reduce unnecessary compliance costs, no published dataset demonstrates that:

- PCBUs currently over-prioritise minor risks
- the proposed model would reduce serious harm rates

- risk reclassification will achieve improved safety outcomes.

In fact, academic and industry commentary suggests that serious harm in New Zealand remains high due to structural and cultural factors, including inconsistent regulatory practice, variable quality of safety management, and persistent sector-specific risks and not because the existing HSWA requires PCBUs to manage “too many” low-level hazards.

Without transparent evidence that the Bill’s approach is suited to New Zealand’s risk profile – and given the acknowledged deficiencies in national data – the amendments lack a sound empirical foundation.

## **Approved Codes of Practice**

The Bill proposes to strengthen Approved Codes of Practice (ACOPs) so that following an ACOP creates a presumption of compliance with HSWA. While ACOPs are important guidance tools, elevating them to quasi-regulatory status raises concerns, including:

- ACOPs should not developed without the close oversight and scrutiny of the relevant regulatory agency to help ensure national consistency of language, references to legislation, and use of plain English
- ACOPs should be developed using evidence from applied research or from a comparable jurisdiction with similar ACOPs (eg Safe Work Australia), or both.

This will help avoid industries with more lobbying or organisational capacity securing ACOPs that favour lower-effort compliance or exclusion of some businesses. It will also help avoid a patchwork of “safe harbour” regimes that diminish the clarity and authority of primary legislation.

## **Impact of the proposed changes**

### **Redefinition of WorkSafe’s purpose further blurs regulatory expectations**

The Bill shifts the regulatory agencies statutory objectives toward prioritising “critical risks”. This raises multiple issues.

- Regulators may deprioritise widespread but lower-severity risks, contradicting long-standing best practice in harm prevention.
- The shift introduces uncertainty about what WorkSafe will enforce, making it harder for PCBUs to anticipate their compliance obligations.
- Confusion increases when combined with new duty splits based on business size.

A regulatory system becomes less predictable when the regulator’s own statutory purpose is narrowed and partially redefined.

### **The Bill’s Claimed Objective of Reducing Compliance Costs Is Not Supported by Its Structure**

Although the Government asserts the Bill will “reduce unnecessary compliance costs”, legal and professional analysis consistently highlights that the amendments will instead require:

- more extensive documentation to justify risk classification decisions
- greater expertise to interpret critical vs non-critical risks
- increased compliance activity for larger PCBUs that remain responsible for all risks.

This reform represents a “reorientation” that increases the importance of correct interpretation, and misclassification becomes a new liability exposure. This is the opposite of simplification.

## **Recommended amendments to the Bill**

In its current form, the Bill:

- Increases legislative and operational complexity.
- Reduces clarity for PCBUs, workers, and regulators.
- Creates inconsistent duty regimes across business sizes.
- Introduces ambiguous risk categories that conflict with modern safety science.
- Expands reliance on ACOPs in ways that dilute parliamentary oversight.

These changes risk weakening the coherence and effectiveness of New Zealand's health and safety framework.

## Recommendation

That the Select Committee reconsider the Bill's structural approach entirely, and either:

1. Remove the critical-risk prioritisation model,
2. Refrain from creating separate duty pathways for small PCBUs, and
3. Maintain ACOPs as guidance rather than safe-harbour instruments.

Alternatively:

Delay passage pending wider consultation with OHS professionals, academic experts, unions, and small-business representatives.

## Conclusion

The Coalition Agreement was for reform, not wholesale removal of protections for workers. The Bill does not respond to changes that were publicised in 2024 by business leaders, academics and senior health and safety professionals (Barton & Beaglehole, 2024; Belich & Callinan, 2024; Bourne, 2024; Business Leaders' Health & Safety Forum, 2024; Lill, 2024; Nicholson & Wray, 2024; NZISM, 2024; Peace, 2024)

## References

- Barton, F., & Beaglehole, T. (2024). A disgraceful tale of déjà vu: New Zealand's repeated health and safety failures. *New Zealand Journal of Health and Safety Practice*, 1(2). <https://doi.org/10.26686/nzjhsp.v1i2.9514>
- Belich, C., & Callinan, E. (2024). Why Aotearoa New Zealand Needs a Corporate Homicide Bill. *New Zealand Journal of Health and Safety Practice*, 1(2). <https://doi.org/10.26686/nzjhsp.v1i2.9549>
- Bourne, C. (2024). A trade union perspective on the New Zealand health and safety system. *New Zealand Journal of Health and Safety Practice*, 1(2). <https://doi.org/10.26686/nzjhsp.v1i2.9545>
- Business Leaders' Health & Safety Forum. (2024). *Been there Done that – a report into New Zealand's repeated health and safety failings* [Review]. Author, Wellington. <https://www.forum.org.nz/>
- Eaqub, S., & Collins, R. (2025). *State of a Thriving Nation: Health, Safety and Wellbeing in New Zealand*. Business Leaders' Health and Safety Forum, Wellington. <https://www.forum.org.nz/>
- Foster, L. (2026). *Major overhaul of New Zealand's Health and Safety laws: Understanding the 2026 Amendment Bill*. Copeland McAllister. Retrieved 28 February 2026 from <https://cmalaw.co.nz/>
- ILO. (1973). *Minimum Age Convention* [Convention C138]. International Labour Organization, Geneva. <https://normlex.ilo.org/>
- Lill, J. (2024). Comparing health and safety sentencing in NZ to abroad. *New Zealand Journal of Health and Safety Practice*, 1(2). <https://doi.org/10.26686/nzjhsp.v1i2.9476>
- Luxon, C., & Seymour, D. (2023). *Coalition Agreement: New Zealand National Party & ACT New Zealand* [Coalition Agreement]. Wellington.
- Martin, J. (1996). *Holding the balance: a history of New Zealand's Department of Labour, 1891-1995*. Christchurch. Canterbury University Press.
- Nicholson, G., & Wray, E. (2024). Crime and Punishment: Is the existing offence for reckless breaches of health and safety duties working, or does New Zealand need something new? *New Zealand Journal of Health and Safety Practice*, 1(2). <https://doi.org/10.26686/nzjhsp.v1i2.9544>
- NZISM. (2024). *Health and Safety Reform: survey overview* [Report]. New Zealand Institute of Safety Management Inc, Auckland.
- Peace, C. (2024). What's missing in the New Zealand workplace health and safety ecosystem? *New Zealand Journal of Health and Safety Practice*, 1(2). <https://doi.org/10.26686/nzjhsp.v1i2.9550>
- Rosenberg, W. (2016). *Are small businesses less safe?* [Research paper 177]. New Zealand Council of Trade Unions, Wellington. CTU-Monthly-Economic-Bulletin-177-March-2016.pdf
- Statistics NZ. (2025). *New Zealand business demography statistics: At February 2025*. Author. Retrieved 5 March 2026 from <https://www.stats.govt.nz/>
- Walters, D., Wadsworth, E., Hasle, P., et al. (2018). *Safety and Health in micro and small enterprises in the EU: Final report from the 3-year SESAME project* [Research Report]. European Agency for Safety and Health at Work, Luxembourg. <https://doi.org/10.2802/29855> <https://data.europa.eu/doi/10.2802/29855>