



## How to...

**Manage  
overlapping  
responsibilities  
on the job**



## Shared workplaces and HSWA

A forestry work site will usually be a shared work site with more than one business working as part of the operation. Even if they work separately, what they do – and the risks their work creates – will affect other businesses at the work site.

A forestry operation also often involves a contracting chain, where contractors and subcontractors work for a principal contractor or client – now known under the Health and Safety at Work Act 2015 (HSWA) as “PCBUs”, or “person conducting a business or undertaking”.

HSWA says all businesses have a **duty of care** to keep everyone on, or coming onto, that work site safe. The law also says businesses on a shared work site share the duty – or responsibility – for keeping workers safe where they have the **ability to influence or control risk**.

A lot of the time one business can influence and control the same work as another business, so they both have the responsibility – a joint responsibility – to ensure safety in that area.

This joint responsibility is called **shared or overlapping duties**. Where that happens, HSWA says businesses must **cooperate, coordinate** and **consult** with each other about workplace risks and their controls.

The idea is to create a web of overlapping responsibilities to make sure there are no gaps in health and safety coverage, and that everyone involved manages the risks.

Creating this web needs to start when the operation is being planned and then continued while the work is underway.

This booklet covers how to manage overlapping responsibilities during a forestry operation, looking at how responsibilities are shared and change through the supply chain.

This resource is part of a series of booklets about the changes under HSWA. Also see:

- ▶ *How to... manage health and safety under HSWA*
- ▶ *How to... plan work when there are overlapping responsibilities*
- ▶ *How to... identify and manage critical risks*

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## The duty of care stays with each business

HSWA makes it clear a business can't "contract out" of its safety duties.

It's not acceptable to say it was part of the work contract that those doing the work are responsible for their own safety. It's no longer good enough for a business – a PCBU – to say it believed those doing the work were following their own safety procedures.

However, businesses can make reasonable arrangements with others involved in the work to ensure the risks are collectively managed. An example might be a contract schedule that describes what each business involved needs to do, making their responsibilities clear.

Likewise, a site agreement or work prescription might detail who will do what to keep the operation safe, helping avoid safety management gaps or unnecessary overlaps.

All of this is good business.

## Workers' responsibilities

While this booklet concentrates on a business' responsibilities and duty of care for safety, workers have responsibilities too.

HSWA says everyone must take reasonable care of their own health and safety, and make sure what they are doing doesn't harm the health and safety of other people.

That can usually be done by always acting safely on the job and following any reasonable instructions.

Workers also have a right to stop or refuse to do unsafe work.

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## Consult, cooperate and coordinate

Right from the planning stage and through to the work being finished, all businesses with overlapping responsibilities are legally required to **consult**, **cooperate** and **coordinate** with each other.

These are sometimes known as “the 3 Cs”. But there’s a critical fourth “C” too – communicate. To be able to consult, cooperate and coordinate, everyone involved in an operation must keep communicating right throughout the job.

### Businesses on the job

The types of businesses (PCBUs) working on a forestry operation could include the:

- ▶ forest owner
- ▶ harvest management company
- ▶ harvesting contractor
- ▶ earthworks contractor
- ▶ roading contractor
- ▶ engineering company
- ▶ silvicultural contractor
- ▶ log transport company
- ▶ land owner or their representative
- ▶ supplier of support services (e.g. fuel deliveries).



#### Shared duties

All businesses involved in the work have shared responsibilities to make sure everyone is safe from harm within the areas of the business they can influence and control.

This duty is similar to the current best practice, set out Section 2.4.4 in the Approved Code of Practice for Safety and Health in Forestry Operations (ACoP):

*The principal shall identify significant hazards specific to each work area which are caused by operations over which they have control and then:*

- ▶ *supply the employer with documentation on the hazards*
- ▶ *jointly with the employer, determine measures to control the hazards.*

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Each business has a responsibility to identify and manage risks, particularly critical risks, created by the work they do. For more on assessing and managing risk see page 8.

Consulting, cooperating and coordinating means everyone is clear about what needs to happen and avoids:

- ▶ one business thinking the other is taking care of a safety issue – when it’s not
- ▶ businesses not understanding what the other does and how that adds to workplace risks
- ▶ the situation where the business that’s managing a risk is not the best one to be doing it
- ▶ doubling up unnecessarily – on instruction, supervision, monitoring.

Taking these steps means it’s less likely any responsibilities or things that need to be done will fall between the cracks.

## Overlapping responsibilities – through the supply chain

Safety responsibilities shift and overlap a lot in a forestry operation. This is because many businesses are involved in getting the logs to market – from planning the harvest, to preparing the site, doing the harvesting and extraction, to transportation.

Here are some examples of where responsibilities will overlap during an operation, and how those shared health and safety responsibilities could be managed.

**Note:** These are a few examples only and there will be situations where each business may have responsibilities additional to those listed here.

### Forestry access road

The forest gate is the point where responsibilities can begin to overlap. From there the forest owner, harvest manager, log transport company, road maintenance company and harvesting contractor – all PCBUS – can have overlapping responsibilities.

The **forest owner** or **harvest manager** (sometimes called the “road control authority”) has a responsibility to:

- ▶ make sure the access road is fit for what it is to be used for
- ▶ make sure anyone entering the forest knows about any restrictions or conditions related to road use or forest entry – this might include emergency instructions, speed restrictions, radio call-ups and restrictions, or requirements such as central tyre inflation (CTI).



The **transport company** has a responsibility to:

- ▶ make sure their drivers know those rules and restrictions and have the right skills and licences
- ▶ make sure the trucks are fit to drive on the roads, and meet any access conditions (such as CTI for steeper sections).

The **road maintenance company** has a responsibility to:

- ▶ warn road users about what they are doing, usually by putting up signage or using other temporary road controls
- ▶ ensure their own workers' safety while fixing the road
- ▶ make sure their workers follow any instructions from the forest owner or management company.

The **harvesting contractor** has a responsibility to:

- ▶ manage access if tree felling or extraction operations are within two tree lengths of the road.

So the duty of care for a road user's safety on that access road must be jointly managed by the:

- ▶ **forest owner or harvest manager**
- ▶ **transport company**
- ▶ **road maintenance contractor**
- ▶ **harvesting contractor.**



Remember, signage at the gate can be very helpful in warning road users about risks ahead, but it should be backed up by calling ahead to talk with people working in the area.

## **A truck driver about to go into the work site**

When a truck driver goes into the harvesting operation area, the responsibilities change. The driver, whose safety was under the **transport company's** responsibility (or their own if they're an owner/operator) is now also under the control of the **harvesting contractor**. The **forest owner or harvest manager** may also have entry or loading requirements.

The harvesting contractor's crew runs the work site, so the driver must follow the crew's instructions – usually given by the loader operator. These can be given over the RT.

The **harvesting contractor** has a responsibility to:

- ▶ make sure the driver knows what risks to expect:
  - ▷ knows to follow the instructions of the loader operator (or whoever else is in charge)
  - ▷ follows any specific safety requirements of the forest owner/management company (e.g. chain up area)
  - ▷ agrees to and stays in a safe area while loading is going on
  - ▷ knows to ask permission from the loader operator if they need to leave the agreed safe area
- ▶ make sure the safe area is indeed in a safe area
- ▶ make sure the loader operator is competent
- ▶ load the logs on the truck the way the driver wants them.

The **log transport company** (or the driver if they are a self-employed owner/operator) has a responsibility to:

- ▶ make sure drivers know the rules about being on a harvesting work site, and have the right skills and licences to manage their vehicle safely
- ▶ make sure the driver knows about any specific safety requirements set by the forest owner/management company
- ▶ ensure the trucks are fit to drive and have all the equipment needed to safely transport the load.

The **driver** has a responsibility to:

- ▶ consult with the loader operator on the loading process and any specific safety risks or requirements
- ▶ follow all reasonable instructions from the crew
- ▶ stay in the agreed safe area – and ask permission before leaving
- ▶ take reasonable care of their own health and safety
- ▶ take reasonable care that their actions don't affect anyone else's safety
- ▶ make sure the load is loaded and secured according to industry standards.

So the duty of care for the driver's safety must be jointly managed by the:

- ▶ **harvesting contractor** (and the loader operator)
- ▶ **log transport company, or the driver if they are an owner/operator**
- ▶ **forest owner or harvest manager**
- ▶ **driver themselves.**



## Leaving the work site

After leaving the work site the driver is again under the joint responsibility of both the **forest owner or harvest manager**, and the **log transport company**.

The **forest owner or harvest manager** has a responsibility to provide:

- ▶ a suitable level area just off the landing site where the driver can finishing chaining up (chain up bays)
- ▶ enough space for a truck and trailer near the forestry gate so the driver can stop to check the load for movement and adjust the tension on the chains.

The **log transport company** has the responsibility to ensure the driver:

- ▶ chains up in the required and correct way
- ▶ checks the load and does anything necessary to make sure it's secure
- ▶ follows requirements such as speed restrictions and R/T call-ups.

So the duty of care must be jointly managed by the:

- ▶ **forest owner**
- ▶ **harvest manager**
- ▶ **log transport company, or the driver if they are an owner/operator.**

## Out the gate and on the road

Once a logging truck is back on public roads, the driver is back under the responsibility of the **log transport company**.

So the duty of care must be jointly managed by the:

- ▶ **log transport company, or the driver if they are an owner/operator**
- ▶ **driver themselves.**

Similarly, if a business supplies a **work vehicle** (such as a ute or crew van) they have a responsibility to ensure it's roadworthy and that any drivers are licensed and fit to drive. **Drivers** also have responsibilities. They must follow any instructions or safety advice their employer gives.

## Reaching the unloading point

When arriving at the mill or port, or wherever the logs are going, the duty of care for keeping the driver safe – or anyone else affected by the work – will change again.

The **business running the port or mill** has a responsibility to:

- ▶ make sure the truck driver understands any site-specific safety rules or requirements (this is often done by security at the site gate, a pre-qualification site induction and/or entry point signage).

The **log transport company** has the responsibility to ensure:

- ▶ the driver knows, understands and follows those rules
- ▶ the driver is competent to operate any plant/equipment on the site (e.g. a gantry crane for trailer lifting)
- ▶ the truck is fit for purpose and safe to be at that particular site.

**Other port users** may have different hazards associated with the work they do on leased port space so safety requirements can change as the driver travels along the port. This could include the log yard which may be controlled by another business and, if so, have its own induction and entry rules.

So the duty of care must be jointly managed by the:

- ▶ **the mill or port operator**
- ▶ **log transport company, or the driver if they are an owner/operator**
- ▶ **other businesses who lease space at the port.**



## **Adjoining operations**

Sometimes one operation can affect the safety of people working on another operation nearby.

For example: A forest owner is planning to aerial spray to control weeds. The spray site is next to where silviculture workers are thinning trees.

The **forest owner** has a responsibility to:

- ▶ give a work plan (prescription) to the helicopter company and confirm they understand what work needs to be done
- ▶ give information about any known physical hazards (such as power lines) that could affect flying safety
- ▶ make sure the helicopter company has the necessary licences and insurances
- ▶ confirm that weather conditions on the day mean the operation can be safe and successful
- ▶ tell any other operations going on next to the site what's happening, so they can take steps to protect their workers' health.

The **helicopter company** has a responsibility to:

- ▶ confirm they have read the hazard information and put in place effective controls
- ▶ follow the work plan, or prescription
- ▶ stop their operations if conditions become unsafe.

The **thinning crew** has a responsibility to:

- ▶ follow advice and work a safe distance away from the spraying – this might include stopping work or working somewhere else while spraying is going on.

So the duty of care must be jointly managed by the:

- ▶ **forest owner**
- ▶ **helicopter company**
- ▶ **thinning crew.**

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## Assessing risks and risk management

Under HSWA, each business has a responsibility to identify any hazards or risks caused by the work it does and decide how to control the risks – especially critical and particular risks (see boxes on page 9).

As far as reasonably practicable, the business must ensure the safety of:

- ▶ its own workers while at work
- ▶ any other workers whose work the business influences or controls
- ▶ authorised visitors or anyone else who could be put at risk by the work.

To do that, the business must:

- ▶ provide and maintain:
  - ▷ a safe work environment
  - ▷ safe plant (machinery and equipment) and structures (such as access roads and bridges)
  - ▷ safe systems of work – agreed ways of doing things that come after looking closely at the work risks and their most suitable controls
- ▶ ensure the safe use, handling and storage of equipment and substances (such as chemicals)
- ▶ provide proper facilities for workers' wellbeing and make sure they can access them (such as shelter for breaks, and encouraging workers to take breaks)
- ▶ provide any necessary health and safety information, training, instruction and/or supervision
- ▶ monitor worker health and workplace conditions so no-one gets sick because of their work.

Suppliers, manufacturers, designers and importers also have duties when machinery, structures or substances need to be used to get work done. If equipment is leased or bought, ask the supplier for information to help the machine to be safely operated and maintained.



### Buyer beware

Businesses should make a product's health and safety features part of their buying decision when buying plant, equipment or hazardous substances.

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## Managing work-related risk

Some risks can be tolerated but others can't – such as critical and particular risks – so it's important a business has a sound process to find and manage the risks its work creates.

To manage risk businesses need to:

- ▶ **identify** any hazards associated with its work
- ▶ **assess** the level of risk with each hazard
- ▶ **manage** the risks created
- ▶ **monitor** to ensure control measures are working effectively.

And always communicate the risks and controls to anyone who could be affected by them.



## Eliminate or minimise risk

Managing risk under HSWA is a two-tier system. The business must:

- ▶ **eliminate** risks as far as reasonably practicable
- ▶ if the risks can't be eliminated, they must be **minimised** as far as reasonably practicable.

## What does reasonably practicable mean?

To find what's reasonably practicable businesses must assess, manage and monitor risks taking into account:

- ▶ the **likelihood of** the hazard or the risk happening
- ▶ the **degree of harm** – how badly someone could be hurt
- ▶ how much is **known** about the hazard or risk
- ▶ what controls are **available** and **suitable** to eliminate or minimise it.

And after considering all that, take into account:

- ▶ the **cost** of the controls, and whether the costs far outweigh the benefits.

Basically, this means businesses must do their best, but don't have to do everything humanly possible, or constantly carry out impractical risk assessments to manage risks.



### Critical risks

These are risks to do with tasks or activities that are known to cause serious injuries or death because accidents or serious close calls have happened before. **Critical risks must be managed.**

New activities or changed processes or work methods can also have critical risks. By the time the work gets going, all businesses must have identified their critical risks – the ones they can foresee and any others they believe might happen – and know how to manage them.

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### Particular risks

HSWA (in Part 2 of the General Risk and Workplace Management regulations) has defined a handful of serious risks – or particular risks – that must be managed.

For forestry these include risks associated with:

- ▶ remote or isolated work (working alone)
- ▶ fire, explosion and things that can start fires
- ▶ working under raised objects (repairing machinery, working around a machine boom)
- ▶ falling objects (e.g. sailers, hazardous trees, loading logs)
- ▶ substances that can harm health (e.g. agrichemicals).

The regulations set out a management process for each of these specific risks. The hierarchy of control include substituting whatever is creating the risk for something less hazardous, **isolating** it or putting in place **engineering controls** – e.g. a chain brake on a chainsaw or automatic fire suppression system on a machine.

If the risk then remains, **administrative controls** – e.g. a standard or rule that must be followed – must be put in place, and the proper **personal protective equipment** (PPE) must be used.

## **Common risks and controls**

Many risks are common to most forestry businesses, or businesses in general, so there may already be agreed controls (acceptable industry standards) that can be used to control them. These might be found in forestry's Approved Code of Practice for H&S (ACoP), good practice guidance and training materials.

## **Monitoring risk controls**

Monitoring work activities is an essential way to make sure the planned work is being done safely and that all critical risks are being managed as agreed.

Businesses need to agree on what needs to be monitored, how it's done, who will do it, when it will be done and to what standard.

**For example:** If tree falling is going on, the faller's employer should monitor work standards to make sure they are using the agreed controls to manage risk, and that the controls are working as supposed to. The business that's paying the company to do the falling might ask to see examples of the monitoring, and they could also choose to do their own monitoring, assessments or audits.

This helps make sure work and safety standards are kept up, any problems are sorted out, and helps the "officers" – people such as company directors or CEOs – meet their **due diligence** requirements under HSWA.

Basically, that means actively ensuring there are health and safety policies in place and being used, and that everyone has what they need to stay safe.



## Responsibilities start before arriving at the site

Businesses have a responsibility to keep people safe when they are coming onto the work site.

This is done by having early warning signage and hazard boards letting visitors know what's going on up ahead, and what hazards and risks to expect. This is followed by a safety briefing on arrival about what they need to do to stay safe.

### Early warning signs

Highly visible advance warning signs are a first point of contact for visitors. They should be put where drivers can be warned about what operations are going on.

### Hazard boards

It's good practice to put up a hazard board at the start of all harvesting operational areas. It covers off the critical risks and how they are managed. It's also a chance to give visitors any early safety instructions before they get onto the site.

### Safety briefings

Once on site, visitors should be taken to a safe area and be given a safety briefing, also known as an induction, giving them more information about workplace risks and what they need to do to stay safe.

Use this opportunity to find out what risks the visitors might be introducing to the workplace and how they are managed.

They should also sign a visitor register to record information such as:

- ▶ why they are there
- ▶ where they need to go
- ▶ that they have the necessary PPE
- ▶ when they arrived and will leave
- ▶ whether they need to be supervised
- ▶ that they understand the site's safety requirements (e.g. hazards, RT requirements).

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**Any questions?** Never think a visitor knows the risks, even if they have visited before or look like they know what they're doing.

**No crew around:** If a crew is working away from their vehicles (such as roading or silviculture crews), leave safety information out where visitors can easily find and read it. Make sure the visitor knows what to read and sign, and how to contact the crew so they can get the OK to come into the work area.



**Right to refuse:** If it seems like a visitor is not going to follow instructions, remember the crew controls the site so any worker has the authority to turn them away.

## About this booklet

This resource is intended as a guide to help people working in forestry plan together with the new duty to share safety responsibilities under the Health and Safety in the Workplace Act 2015. It is not legal advice, nor is it a substitute for legal advice.

## About Safetree

Safetree is a source of information for New Zealand's forestry industry to find the guidance they need to do their jobs without injury.

Safetree provides videos, printable downloads and other resources to help people at all levels of the industry do their work safely. Whatever the task, and whatever their position in the crew, the message is always to do the job right, do it safely, every single time.

Safetree is managed by the Forestry Industry Safety Council (FISC) and has been developed with the support of:

- ▶ **Forest Owners Association** – [www.nzfoa.org.nz](http://www.nzfoa.org.nz)
- ▶ **Forestry Industry Contractors Association** – [www.fica.org.nz](http://www.fica.org.nz)
- ▶ **New Zealand Farm Forestry Association** – [www.nzffa.org.nz](http://www.nzffa.org.nz)
- ▶ **ACC** – [www.acc.co.nz](http://www.acc.co.nz)
- ▶ **Council of Trade Unions** – [www.union.org.nz](http://www.union.org.nz)
- ▶ **WorkSafe NZ** – [www.worksafe.govt.nz](http://www.worksafe.govt.nz)

## For more:

**Safetree:** Find a toolbox of resources on all parts of forestry operations. Go to [www.safetree.nz](http://www.safetree.nz) to register for updates and to find other resources to stay safe on the job.

**WorkSafe:** For more on HSWA, go to the Worksafe site: [www.business.govt.nz/worksafe/hswa](http://www.business.govt.nz/worksafe/hswa)

**Read WorkSafe's HSWA Position Statements:**

[www.business.govt.nz/worksafe/information-guidance/all-guidance-items/position-statements](http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/position-statements)

**Business Leaders Health and Safety Forum:** Zero harm workplaces information

- ▶ **12 success factors supporting good health and safety in a contracting chain**  
[www.zeroharm.org.nz/our-work/contractor-safety/gain-deeper-insights/success-factors/](http://www.zeroharm.org.nz/our-work/contractor-safety/gain-deeper-insights/success-factors/)
- ▶ **Case study with PF Olsen – Collaborating with contractors to lift safety performance**  
[www.zeroharm.org.nz/leadership/case-studies/pf-olsen/](http://www.zeroharm.org.nz/leadership/case-studies/pf-olsen/)

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