



## How to...

**Manage health and  
safety under HSWA**



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## Manage health and safety under HSWA

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## What's new under the law

The Health and Safety at Work Act 2015 (HSWA) has strengthened responsibilities for everyone in the workplace, especially those at the very top.

Good operators are already doing many of the things HSWA requires. Essentially that's taking an active part in ensuring safety right through the supply chain, and involving workers in identifying risks and the controls to manage them.

The main changes in the law that affect forestry

- ▶ **Duty of care** – Those with control over the work carry the responsibility, or duty, for ensuring safety and are responsible for everyone on site, even if they aren't direct employees. They are now known as a "**PCBU**", or a **Person Conducting a Business or Undertaking**, and are usually a company, a business, not a person. Sometimes these responsibilities overlap with other PCBUs (businesses).
- ▶ **Officers must do due diligence** – Officers of a company, people such as directors and chief executives, have a legal requirement to keep their fingers on the pulse of their business when it comes to safety. It's not acceptable to say they didn't know about a health and safety risk.
- ▶ **Overlapping duties** – Often more than one business will need to take action to keep workers safe. When this happens, each must – as far as is reasonably practicable – consult, coordinate and cooperate with each other over the safety controls they will take.
- ▶ **Reinforced worker engagement, participation and representation in health and safety** – PCBUs are required to make sure everyone plays a part in ensuring safety, and that workers are able to have their say and are listened to.
- ▶ **Risk management** – Knowing what the risks from the work are, and ensuring everyone throughout the supply chain – including other businesses with responsibilities as a PCBU – understands the risks and the controls.

This booklet explains what a PCBU is and what responsibilities under HSWA that business has as part of a forestry operation.

HSWA topics in this booklet are set out in more detail in other safety resources. They include:

- ▶ *How to... plan work when there are overlapping responsibilities*
- ▶ *How to... manage overlapping responsibilities on the job*
- ▶ *How to... identify and manage critical risks*



## What is a PCBU?

The new Health and Safety at Work Act introduces the term, a “person conducting a business or undertaking”. The term “undertaking” is usually used only for non-profit making organisations, such as schools or community organisations. In this booklet, “a business” means a PCBU.

In a forestry operation a PCBU might be a:

- ▶ forest owner or management company
- ▶ trucking company
- ▶ roading contractor
- ▶ harvesting or silvicultural contractor
- ▶ a business supplying services (e.g. hose doctor, machine supplier, structure designer)
- ▶ self-employed operator or sole trader.

The PCBU is the top of the ladder in terms of taking responsibility for ensuring health and safety in the workplace.

### Overlapping responsibilities

There’s usually more than one business involved in a forestry operation and a lot of the time those businesses have the ability to influence and control risk in the same areas as each other.

When this happens, the responsibility to control those risks overlaps. Under HSWA, this means each business must share health and safety responsibilities for those risks, in as much as each has the ability to influence and control the risks.

These shared or overlapping responsibilities are explained on page 5 of this booklet.

### New duties for officers

Most businesses are led by people HSWA terms as “officers”. These are people such as directors or chief executives – people who have a lot of influence over how a business is managed.

HSWA requires them to do “due diligence” to make sure the business complies with its health and safety responsibilities. That means ensuring there are health and safety policies in place, and being used, and that everyone has what they need to stay safe.

It’s not an excuse to say they didn’t realise workers didn’t have the right safety equipment or weren’t following proper procedures. It’s now an officer’s legal responsibility to stay involved so they do know.

**Officers are not:** health and safety managers, team leaders, line managers or supervisors.

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## What does a PCBU do?

A PCBU, or business, has the duty of care because they have the most influence and control over the work.

That means the business is responsible for ensuring – **as far as reasonably practicable** – the health and safety of everyone who works for them while they're at work. That includes people not directly employed by the business (such as contractors).

They must also ensure "**other persons**" are not put at risk from the work carried out. For example, an authorised visitor coming onto or passing through the work site, and members of the public, such as someone driving on a forestry road where work is going on.

That means the business' obligations as a PCBU include:

- ▶ providing and maintaining:
  - ▷ a safe work environment
  - ▷ safe plant (equipment) and structures (roads and bridges)
  - ▷ safe systems of work
- ▶ eliminating, so far as is reasonably practicable, risks to health and safety – and if that's not possible, minimising those risks
- ▶ ensuring the safe use, handling and storage of equipment and substances (chemicals, etc)
- ▶ providing proper facilities for workers' wellbeing, and making sure they can access them (such as shelter for breaks, and encouraging workers to take breaks)
- ▶ providing any necessary health and safety information, training, instruction and/or supervision
- ▶ monitoring worker health and workplace conditions so no-one gets sick because of the work they are doing
- ▶ ensuring any accommodation provided to workers who need to stay near the site can't harm their health and safety.



**Safe systems of work** – A set of agreed ways to get a job done safely, which come after looking closely at the task to identify all risks – ones **already known** about or that could be **reasonably foreseen**. The idea is to follow the safe system of work to eliminate the risk or, if that's not possible, to minimise it.



## Risk management

This duty of care means the business must identify any risks caused by the work and decide on ways to control them. The business must then make sure everyone who could be affected by that risk knows about it and its controls.

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.

To explain **reasonably practicable**, a business' risk management assessment must take into account:

- ▶ how **likely** it is the risk will happen
- ▶ the **degree of harm** – how badly someone could be hurt
- ▶ what the person involved **knows** or **should reasonably know** about the hazard or risk, and the controls
- ▶ what controls are **available** and **suitable**.

**And after considering all that:**

- ▶ 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.

### Common risks and controls

Many risks are common to most forestry businesses, or businesses in general, so there may already be agreed controls being used for most risks. These can be found in forestry's Agreed Code of Practice (ACoP), good practice guidance and training materials.

### Particular risks

HSWA has defined a handful of common 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 close to a raised machine boom)
- ▶ falling objects (e.g. loading logs)
- ▶ substances that can harm health (e.g. agrichemicals).

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The regulations set out a management process for each of these particular risks. They include substituting it, isolating it, putting in place engineering and/or administrative controls, and using the proper personal protective equipment (PPE).

### Working together

It's important all businesses involved in an operation communicate well so they can stay on top of all risks, and in particular any that come from a change within an operation, such as personnel, processes, plant and equipment, etc.



**Review and revise** – All businesses must regularly review their safety procedures and controls to make sure they are still effective.

## Overlapping responsibilities

Most forestry operations will have more than one business, or PCBU, involved (the forest management company and the harvesting contractor, for example).

Sometimes the areas where they have responsibilities – also known as “duties” – to control risk will overlap because more than one business has the ability to influence or control that risk. Each business must then do all that’s reasonably practicable to control the risk.

All businesses involved must also **consult** and **cooperate** with each other. They must **coordinate** what they do so everyone knows who is doing what to control risk and make the workplace safe for everyone.

### Pre-work planning

Before the job starts, it’s a good idea to have a written and agreed work plan or site-wide understanding spelling out which duties each business is managing.

This means everyone should be 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.

For example, a forestry management company planning a harvesting operation should think about how other businesses involved might affect or influence the safety parts of the work plan.

That includes businesses such as:

- ▶ the earthworks company
- ▶ the engineering company (maybe to design and oversee a bridge construction)
- ▶ an environmental planning consultancy (perhaps to get consents)
- ▶ the land owner or someone who acts for them
- ▶ the harvesting contractor (if known at the planning stage).

This duty is similar to the current best practice, which is set out in Section 2.4 in the Forestry ACoP.

*2.4.4 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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### Two forestry examples of overlapping responsibilities

**1. Forestry access road:** The forest gate is often the point from where responsibilities can overlap. From there, the forest owner or management company, the log transport company, and a road maintenance company might have overlapping responsibilities because they are all PCBUs.

The forest owner or management company has a responsibility to:

- ▶ make sure the access road is fit for purpose
- ▶ tell anyone driving into the forest 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:

- ▶ ensure their drivers know those rules and restrictions
- ▶ ensure the trucks are fit to drive on the roads.

The road maintenance company has a responsibility to:

- ▶ warn road users of what they are doing, usually by putting up signage or using other temporary road controls.

The duty of care for a driver’s safety on that access road is shared between the **transport company**, the **road maintenance company** and the **forest owner/management company**. They must jointly manage that risk.

**2. Skid site:** If a mechanic comes to fix the hauler on a skid site, there are shared responsibilities between the mechanic’s boss, the business running the harvesting operation and the worker themselves.

The mechanic’s boss has a responsibility to:

- ▶ give the mechanic the information, training, instruction and supervision to do their job safely.

The harvesting contractor has a responsibility to:

- ▶ put the mechanic through a site induction when they arrive, ensuring they fully understand the risks, and then to supervise them onsite if necessary.

The worker has a responsibility to:

- ▶ do what they were told in the induction, take reasonable care of their own safety, and make sure they don’t put anyone else at risk.

## Worker engagement and participation in health and safety

The **Health and Safety at Work Act 2015 (HSWA)** says all businesses – known as **PCBUs**, or **Persons Conducting a Business or Undertaking** – must give workers opportunities to engage and participate in workplace health and safety (H&S).

**The benefits:** When all levels of a forestry operation share information, concerns and ideas we make better H&S decisions that keep us all safe – and more productive.

**Engagement** – Information is shared, workers are involved in H&S issues and decisions, given time to think and talk about concerns, their views considered, and businesses (PCBUs) feed back on outcomes.

Workers must be engaged when PCBUs are:

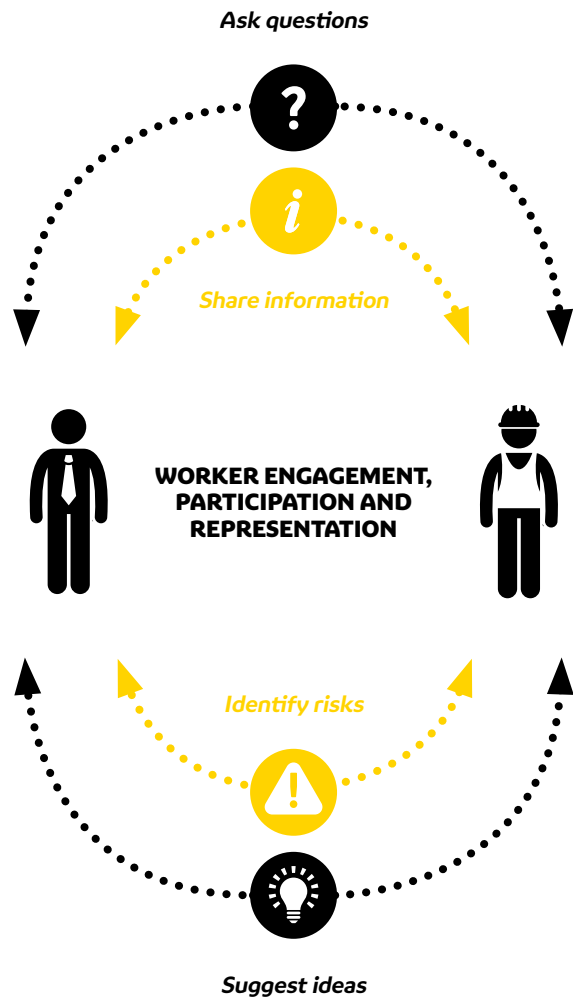
- ▶ identifying hazards, assessing safety risks and how to eliminate or minimise them
- ▶ deciding what things workers need to stay safe and healthy
- ▶ considering changes that may affect H&S
- ▶ making decisions about:
  - ▷ worker engagement
  - ▷ monitoring worker health and workplace conditions
  - ▷ giving workers information and training
  - ▷ resolving any workplace H&S issues
- ▶ organising how workers participate, including deciding on work groups.

**Participation** – All businesses must give workers reasonable opportunities to participate in improving health and safety.

What are considered **reasonable opportunities** in a workplace takes into account:

- ▶ number of employees
- ▶ number of workplaces, and how far apart
- ▶ number of H&S risks, and the risk level
- ▶ the work that's done, and how it's arranged and managed
- ▶ how workers are employed or contracted (regular or temporary workers)
- ▶ how willing workers and Health and Safety Representatives (HSRs) are to help develop ways workers can participate
- ▶ the duty to act in good faith – under Section 4, Employment Relations Act 2000.

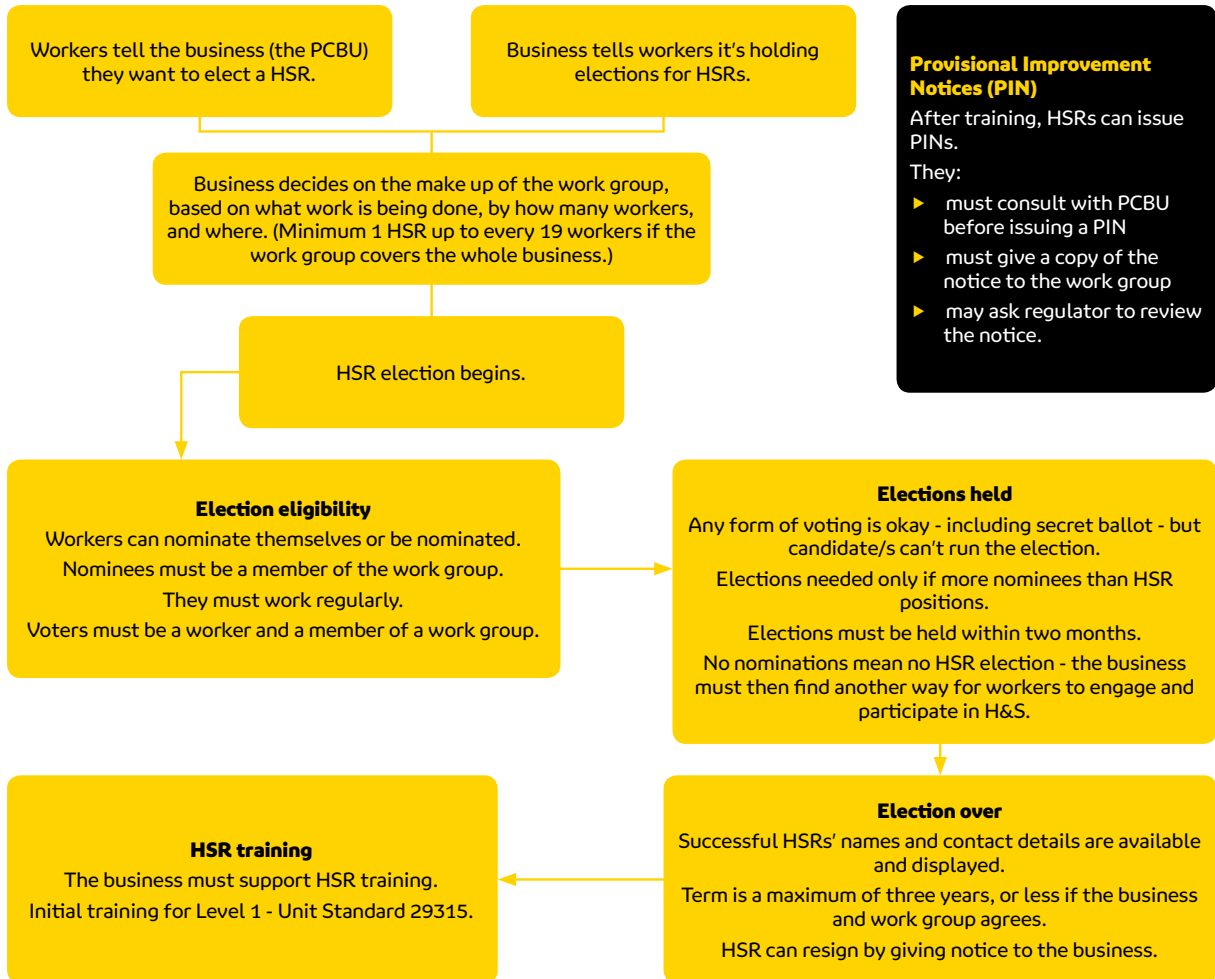
**How** workers are engaged and participate is up to each business - the important thing is that it's effective. Electing HSRs and setting up Health and Safety Committees (HSCs) are two ways - see the next page for more detail.





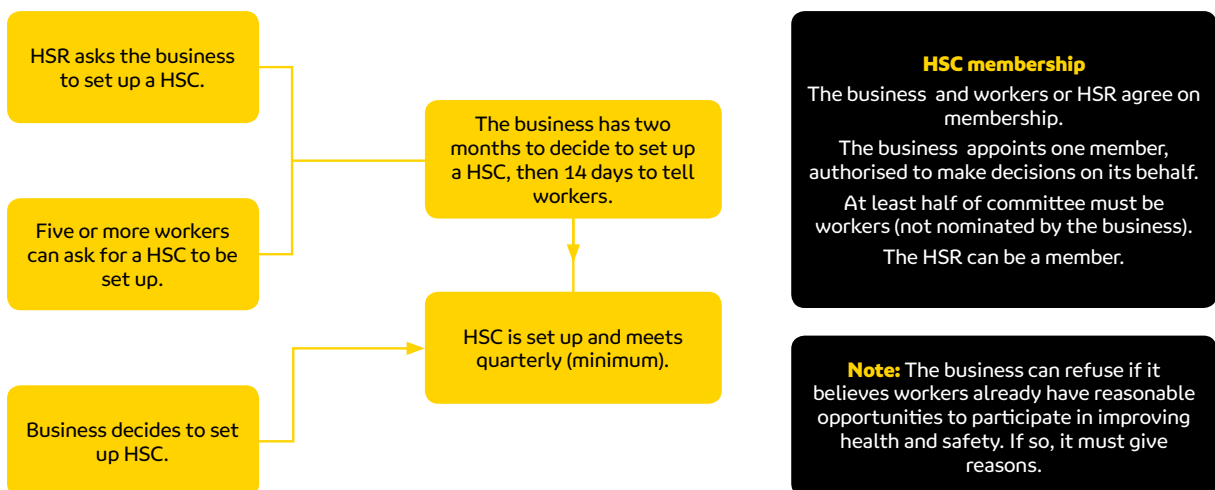
**Representation – How to elect Health and Safety Representatives and set up a Health and Safety Committee.** As a high-risk industry, forestry businesses must hold HSR elections and/or set up a HSC if asked. This flowchart shows the process of setting up each under the new law.

## Worker Representation



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## Health and Safety Committee



## Notifiable events

Forestry businesses must tell WorkSafe if certain work-related events happen so WorkSafe can decide how to respond.

WorkSafe must be notified as soon as possible if:

- ▶ **someone dies because of the work**
- ▶ **someone is seriously injured because of their work** and they would normally need to be admitted to hospital for immediate treatment, or if they suffer:
  - ▷ amputation
  - ▷ serious head or eye injury
  - ▷ serious burn or de-gloving (the skin comes away from the flesh)
  - ▷ spinal injury
  - ▷ loss of a bodily function (e.g. loss of consciousness, any of the senses, movement of arm or leg – but not sprain, strain or fainting)
  - ▷ serious cuts.
- ▶ **someone gets sick at work** because they were exposed to a toxic substance (such as an agrichemical spill or getting too close to poisonous fumes) and they need immediate hospital treatment, or treatment within 48 hours of the incident.

Any medical events that aren't related to the work don't need to be notified (e.g. heart attack, severe allergic reaction).

**WorkSafe must be told even after certain events or near-hits**, if something unplanned and uncontrolled happens that puts people in **immediate or almost certain danger**.

For example:

- ▶ a spill or leak of a substance
- ▶ an explosion or fire
- ▶ an escape of a pressurised substance
- ▶ an electric shock
- ▶ something falls from a height
- ▶ a structure collapses.

- ▶ 8 WorkSafe has more guidance on what's a notifiable event, and what to do if one happens, on its website in the Notification and Forms section. See: <http://www.business.govt.nz/worksafe/notifications-forms/notifiable-events>

### Notifiable work

Forestry operators must still notify WorkSafe in writing about any particularly hazardous work at least 24 hours before starting. This work includes:

- ▶ tree falling or logging
- ▶ work in any excavation in which any face has a vertical height of more than five metres and an average slope steeper than a ratio of one horizontal to two vertical
- ▶ work involving explosives.

Notification can be done online:

<http://www.business.govt.nz/worksafe/notifications-forms/particular-hazardous-work>

## How to... manage visitor safety at the work site

The Health and Safety at Work Act reinforces the responsibility of businesses to make sure everyone stays safe in the workplace. This includes any authorised visitors.

That means all visitors to the work site must get a safety briefing or induction on arrival.

### Why do a safety briefing

- ▶ To understand why the visitors are there, where they need to go and any risks their work creates for others on site.
- ▶ To tell them about any risks that could affect them and how they are managed, including:
  - ▷ where they can and can't go
  - ▷ checking if they need to be supervised or accompanied on the work site
  - ▷ checking they have the right personal protective equipment (PPE), and loaning it to them if they don't.
- ▶ So the visitor can ask any questions about keeping safe.
- ▶ To find out if the visitors are introducing any risks to the workplace, and if so how they are managed.
- ▶ So you can be confident they understand the safety requirements.

### Match briefing to risk level

Every forestry work site is different, with different hazards and different levels of risk.

The safety induction your visitors get needs to be matched to the site risks – so, someone going into a work site with high levels of risk might need to be told more information compared to someone entering a work site with fewer hazards and a lower level of risk.

Different types of work will also need a different type of induction, so briefings for harvesting, silviculture and road engineering work sites may not be the same. The important thing is to do one that suits the risks in your workplace.

### Good visitor management

Here are some ways you can keep your visitors safe.

#### Give advance warning

The highly visible advance warning signs are a first point of contact for visitors. Crews must position them to warn drivers about operations ahead.



### Have a hazard board

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.

### Talk about hazard information

When they arrive at the site, the visitor should be shown to the safe area for a safety briefing.

Once the crew member giving the briefing knows what the visitor needs to do, they can talk about the hazards or risks the visitor needs to know about – such as falling trees, heavy machinery – and what the controls are.

Also, make sure you tell them what to do if there's an emergency.

### Ask if the visitor has any questions

Never think a visitor knows what to watch out for, even if they have visited before and/or look like they know what they are doing.

### Sign the visitor register

They also need to fill out and sign a visitor register. See the next page for an example.

It's a good idea to keep the visitor register on a clipboard or folder, so it's easy to find. Keep it with any specific crew guidance, including some tips on how to give a safety briefing.

### Mobile crews

If the crew is mobile and 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 they know what to read and sign, and how to contact the crew.

They need to contact the crew and get the okay before coming into the work area. As a courtesy, visitors coming to see a mobile crew should pre-arrange a time and place to meet.

### Keep visitors updated

Conditions and work arrangements can change often and quickly, so make sure anyone who could be affected is up to date on any risks – maybe even before they get to the work site. Use the RT or a mobile phone if there's coverage.

### Log truck drivers

Log truck drivers follow the loader operator's safety instructions during unloading and loading. The loader operator must tell drivers about any hazards or risks on site that could affect their safety during loading. If there are any specific risks with access to the work site (such as surface flooding or vehicles leaving the site) they must warn drivers or provide instruction over the RT. Good communication is the key.

If the driver needs to move away from their designated safe area and into an active work area, like the skid site, they must be managed like any visitor. They must get permission to leave the agreed safe area and be given an induction.

If the loader operator doesn't know where the driver is, all loading must stop until they are back in a safe position.

### Right to refuse

If it seems like a visitor isn't going to follow instructions, remember the crew controls the site so any worker has the authority to turn them away.

## Stay safe

The introduction of HSWA gives forestry businesses a good reason to review their health and safety systems to make sure all risks are being managed properly.

Achieving good health and safety comes down to the following:

- ▶ Leading health and safety from the top, and building a better health and safety culture for everyone on site.
- ▶ All directors, officers and leaders keeping their fingers on the pulse – regularly monitoring and reviewing all activities.
- ▶ Coordinating and cooperating on safety issues, especially when they overlap and are shared between businesses, to make sure everyone knows how to stay safe.
- ▶ Identifying key risks and taking steps to prevent them causing harm.
- ▶ Engaging everyone in health and safety issues that affect them, and ensuring representation.
- ▶ Encouraging a culture of reporting incidents and reviewing what happened.
- ▶ Notifying WorkSafe if a work-related death, injury or illness happens.

To be safe a business needs to know its business well. That can only be a good thing, as a safe business is a more productive business.

### For more:

Safetree has 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.

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

**And remember: You are the key.**

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**Notes**

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**Notes**

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## About this book

This resource is intended as a guide to help people working in forestry operations understand their new responsibilities under the new Health and Safety at Work Act 2015.

It is intended as guidance only and is not legal advice, nor is it a substitute for legal advice. This document is provided for educational and informational purposes only.

## 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 to 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™ 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 information register at [www.safetree.nz](http://www.safetree.nz)



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**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 Position Statements on HSWA at

<http://www.business.govt.nz/worksafe/information-guidance/all-guidance-items/position-statements>

Check ***safetree.nz*** for more details



An introduction  
to Safetree™

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