employment hero

FACTSHEET

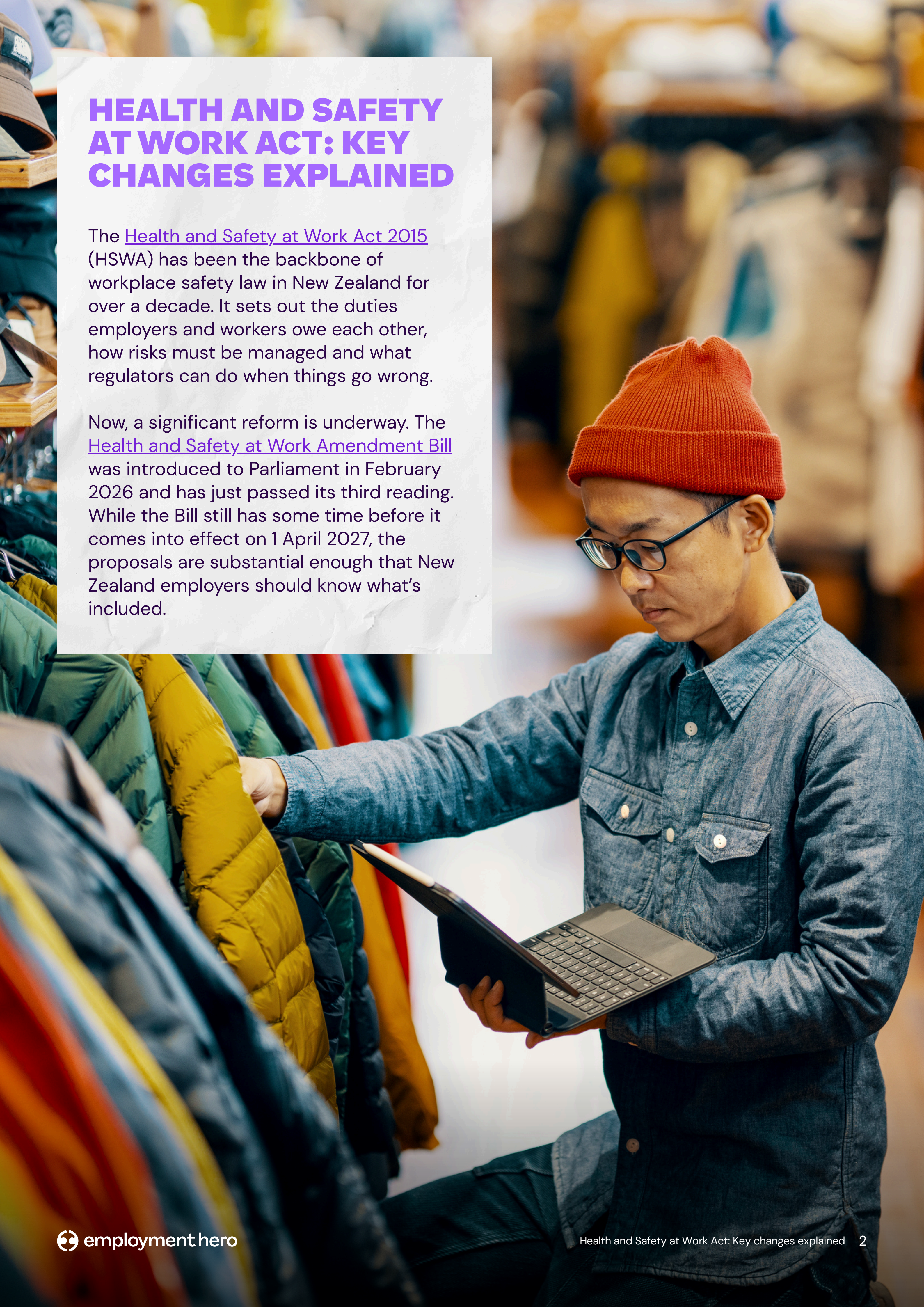
HEALTH AND SAFETY AT WORK ACT

Key changes explained

HEALTH AND SAFETY AT WORK ACT: KEY CHANGES EXPLAINED

The Health and Safety at Work Act 2015 (HSWA) has been the backbone of workplace safety law in New Zealand for over a decade. It sets out the duties employers and workers owe each other, how risks must be managed and what regulators can do when things go wrong.

Now, a significant reform is underway. The Health and Safety at Work Amendment Bill was introduced to Parliament in February 2026 and has just passed its third reading. While the Bill still has some time before it comes into effect on 1 April 2027, the proposals are substantial enough that New Zealand employers should know what's included.



AN OVERVIEW

According to MBIE, the driving purpose behind the Bill is to cut down on compliance burden, give businesses a clearer picture of what's actually expected of them and keep pushing down the rate of serious workplace harm.

There are eight main areas of proposed change. Those are:

- A formal definition of "critical risk" sitting at the centre of the Act, with all duties now oriented around it.
- Separate and distinct duties for small PCBUs compared to larger businesses, based on that critical risk definition.
- Approved Codes of Practice, which can lead to genuine safe harbour status.
- Clearer and more tightly scoped officer duties.
- A carve-out removing duties to people using land for recreational purposes.
- Clarification that complying with another piece of legislation covering the same subject matter satisfies the equivalent HSWA duty.
- Clearer rules around what injuries and incidents must be notified to WorkSafe.
- A reorganisation of WorkSafe's functions.

Let's look at these in further detail.

A NEW DEFINITION OF CRITICAL RISK

Relevant for: All New Zealand businesses

The Bill introduces a formal definition of "critical risk" for the first time. It would become the organising concept around which most other duties in the Act would sit.

A risk would be deemed critical if it's tied to a hazard listed in the proposed new Schedule 1A of the Act. Schedule 1A covers a wide range of hazards including asbestos, hazardous substances, mental health, working at heights, remote or isolated work, mining operations and adventure activities.

If none of the Schedule 1A hazards apply, businesses would still need to assess whether their hazard could plausibly result in death, a notifiable incident, injury or illness, or an occupational disease.

RECREATIONAL LAND USE

Relevant for: Landowners including farmers, councils and schools

If your workplace includes open land and someone lawfully uses it for recreational purposes, you would no longer owe them a duty under the amended Act. The only exception would be if their activity is part of your business or you have other work happening in that location at the same time.

The same logic applies to buildings that are earthquake-prone under the Building Act 2004: if the building owner is meeting their obligations under that legislation, no additional action would be required.

This proposal is designed to address the reluctance some landowners have felt about allowing public access to their properties, given uncertainty about where their liability began and ended.

DIFFERENT DUTIES FOR SMALL PCBUS

Relevant for: Businesses with fewer than 20 workers

The Bill creates a formal distinction between small PCBUs and everyone else. A small PCBU is a business where fewer than 20 workers carry out work in any capacity. For businesses whose workforce fluctuates across the year, such as those relying on seasonal labour, the test is whether headcount sits below 20 for at least 9 of the 12 months of the financial year.

Small PCBUs would only be required to manage critical risks under the Act's primary duty provisions, including training and supervision obligations and PPE requirements. They must still provide basic worker welfare facilities like adequate lighting, washing facilities and first aid in full, regardless of whether those relate to a critical risk.

Larger businesses would continue managing all risks but are required to actively prioritise critical risks across all their compliance obligations.

APPROVED CODES OF PRACTICE NOW OFFER SAFE HARBOUR PROTECTION

Relevant for: All businesses operating in a sector with an applicable ACOP

Currently, Approved Codes of Practice (ACOPs) can be used in court as evidence of whether a duty had been met. The Bill goes further by giving ACOPs genuine safe harbour status. If a business follows an ACOP that applies to their sector and the relevant risk, they will be treated as having met their duty for that risk. Following an ACOP remains optional and businesses can still demonstrate compliance through other means, but for those who want certainty this is a significant shift.

In the Bill, ACOPs could also be developed by worker representatives, employer groups or industry bodies, rather than just by WorkSafe, before being reviewed and potentially recommended to the Minister for approval.

Two existing ACOPs would carry the new safe harbour status from the outset: the 2024 code for loading and unloading cargo at ports and ships and the 2025 forestry and harvesting operations code. Other existing ACOPs would retain their current status until reviewed and reapproved.

OFFICER DUTIES ARE TIGHTENED AND BETTER SCOPED

Relevant for: Directors, business owners and anyone who exercises significant influence over a business

There's been longstanding confusion about how far an officer's health and safety due diligence duty extends, particularly for owner-operators, partners and chief executives. Many officers have been doing more than required, duplicating work that sits with managers and creating unnecessary overhead.

The Bill addresses this directly. An officer's duty would only apply to their role as an officer. If someone is both a director and a worker, their day-to-day activities as a worker would fall outside the scope of the officer duty. The Bill also converts the current due diligence steps from an open-ended list into a closed one, giving officers a clearer picture of exactly what their governance obligations require.

OVERLAP WITH OTHER LEGISLATION

Relevant for: Businesses operating in industries regulated under other legislation, such as maritime or aviation

In the Bill, if you comply with a requirement under another piece of legislation that covers the same subject matter as an HSWA duty, you would be treated as having met the relevant HSW Act duty as well.

This means that the Act wouldn’t function as a catch-all backstop sitting on top of other regulatory systems. PCBUs would still need to meet any specific duties set out in HSW regulations but the general duty won't require anything further where another system already addresses the risk.

CLEARER NOTIFICATION REQUIREMENTS

Relevant for: All New Zealand businesses

The Bill adds definitions and examples to the current rules around what injuries and incidents must be reported to WorkSafe. Categories like serious head injuries, burns, eye injuries and spinal injuries have plain-language descriptions of what falls within them. Key terms around the urgency and type of treatment involved are formally defined in the proposals, to reduce guesswork about when the reporting threshold has been crossed.

Businesses have previously faced real uncertainty about whether a given incident needed to be reported. These changes intend to make that call more straightforward.

WORKSAFE'S FUNCTIONS ARE REORGANISED

Relevant for: All New Zealand businesses

The Bill formally separates WorkSafe's core responsibilities from its broader set of functions, creating a clearer hierarchy of what WorkSafe is primarily there to do. The same reorganisation applies to the other designated regulators, Maritime New Zealand and the Civil Aviation Authority.

Take the pain out of compliance

Keeping up with legislative change is one of the more demanding parts of running a business in New Zealand. From health and safety reforms to employment law updates and minimum wage changes, the compliance landscape shifts regularly and the cost of getting it wrong is high.

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