Health and Safety Reform
survey overview
June 2024
NZISM is extremely grateful to our members and the others who took the time to respond to this major survey. We estimate that the response rate of 1,300+ equates to around one-third of health and safety generalists in New Zealand (health and safety advisors, managers and consultants).

The results show that while the profession agrees on the end goals of keeping workers and others safe at work there is a robust debate around the best means of doing so.

There are elements of widespread consensus, however:

- The Health and Safety at Work Act 2015 is not viewed as fundamentally broken. Most of those replying to our survey think the main elements of the Act are either working well or only requires minor changes.
- The existing regulations are also seen as working well or in need of small tweaks.
- Respondents want the Government to complete the suite of regulations planned when the Health and Safety at Work Act 2015 was passed. Following Australia’s lead, there is a strong call for greater regulation of psychosocial harm.
- Across the Board, there is a call for greater guidance and information as to how to meet duties under the Act and regulations. WorkSafe guidance is referred to often but could be improved and expanded.
- Those surveyed want WorkSafe to get back on its feet by being adequately resourced and effectively managed. WorkSafe inspector capacity and capability is an area of significant potential investment.

In analysing these results, we have been struck by the similarity to the problems diagnosed by the Independent Taskforce on Workplace Health and Safety. The Taskforce called out the incomplete regulations and lack of guidance to industry as major problems. The Taskforce also recommended a strong and effective health and safety regulator.

These are fundamental issues with the health and safety system which require urgent attention. We need a system that can help us deal with emerging risks (such as a significant increase in climate-related risks) and new technologies (such as AI) along with wicked problems such as the toll of work-related disease.

NZISM and our members stand ready to work with the Government and other system players to tackle these issues.

Jeff Sissons
NZISM CEO
Executive summary

A major survey of health and safety experts (primarily NZISM members) was undertaken in late April 2024 to ascertain their views on possible changes to the Health and Safety at Work Act 2015 and supporting regulations. Over 1,321 health and safety professionals (estimated to be more than a third of health and safety generalists in New Zealand\(^1\)) contributed to this survey.

Health and Safety at Work Act 2015

Participants were asked for their views on the major sections of the Health and Safety at Work Act 2015, specifically whether these sections worked well, would benefit from small changes or required major revisions.

Participants were also able to provide detailed comments and we received hundreds of valuable entries under each section.

The Health and Safety at Work Act 2015 was broadly thought to be fit for purpose with respondents recommending either no change or only minor changes.

The most significant call for change was in relation to fines and sentences where more than a third of respondents called for major improvement. The majority of comments provided under the ‘Offences and fines’ section suggested that fines or sentences needed to be increased to act as more of a deterrent; however, conversely, there was also a minority who believed existing fines and sentences were already too harsh.

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\(^1\) High level analysis undertaken for *Building the Professions: HASANZ Health and Safety Workforce Pipeline Report* (November 2019) estimated 3,500 people were working in generalist health and safety.
Health and Safety regulations

Participants were also asked about the major regulations in place to support the Health and Safety at Work Act 2015. Again, they were asked whether these sections worked well, would benefit from small changes or required major revisions. In addition, because some regulations (eg. major hazard facilities/asbestos) are quite specialised, an option was provided to clarify ‘never used’.

In summary, there was no overwhelming call for a major overhaul of the regulations - although in every case there were significant numbers calling for small changes.

Potential regulatory gaps

Participants were asked to comment on a range of possible regulatory areas. (Primarily those earmarked for further regulation when the Health and Safety at Work Act 2015 was passed but such work didn’t transpire.)

Participants were asked whether greater regulatory clarity would assist; whether a focus on WorkSafe or industry guidance would be preferable but without regulation; or whether the area was already sufficiently regulated. Once again, a fourth option was provided for those who held no opinion.
Respondents called strongly for either new regulations or greater guidance in relation to all topics. The strongest call was for regulation of psychosocial risks (more than half of respondents) but most topics had more than 40% of respondents requesting more regulatory clarity.

The exception was excavations with just over 30% of respondents calling for greater regulation.

In all cases, most of the other responses called for more guidance from WorkSafe or industry

**WorkSafe New Zealand**

Participants were asked how often they referred to WorkSafe guidance; which guidance they used; and how useful they found it. There was high usage of WorkSafe guidance and nearly all respondents found the guidance useful or somewhat useful. Various suggestions for new guidance were made.

Of the respondents who had interacted directly with WorkSafe in the previous year, almost 4 out of 5 found the experience positive.

Respondents were asked for other comments on WorkSafe and the most common sentiment was a plea for greater resourcing for WorkSafe, followed by requests to upskill and retain inspectors.

**The Health and Safety system**

Respondents were asked whether the health and safety system was well-coordinated.

Approx. 30% said “No”; 57% said “Sometimes”; and 13% said “Yes.”

Respondents were asked what would improve the health and safety system. The hundreds of replies were extremely varied and defy easy categorisation but some major themes were:

- The importance of education about health and safety both on the job and as part of the education system.
- A strong and capable regulator with adequate resources and a clear intervention strategy.
- Clearer regulations and guidance.
- Greater focus on driving better performance in small and medium enterprises.
- Better worker participation.
- Lessons learned from previous few years and a review of what has worked and has not worked.
# Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreword</td>
<td>2</td>
</tr>
<tr>
<td>Executive summary</td>
<td>3</td>
</tr>
<tr>
<td>Methodology</td>
<td>8</td>
</tr>
<tr>
<td>Demographics</td>
<td>9</td>
</tr>
<tr>
<td>NZISM member</td>
<td>9</td>
</tr>
<tr>
<td>Primary role</td>
<td>9</td>
</tr>
<tr>
<td>Time in OHS industry</td>
<td>9</td>
</tr>
<tr>
<td>Company size</td>
<td>9</td>
</tr>
<tr>
<td>Industry</td>
<td>10</td>
</tr>
<tr>
<td>Health and Safety at Work Act 2015</td>
<td>11</td>
</tr>
<tr>
<td>Risk assessment and the reasonably practicable test</td>
<td>11</td>
</tr>
<tr>
<td>Officers due diligence duties</td>
<td>11</td>
</tr>
<tr>
<td>Shared duties between PCBUs including collaboration and supply chains</td>
<td>12</td>
</tr>
<tr>
<td>Worker engagement, participation and representation</td>
<td>12</td>
</tr>
<tr>
<td>Offences and fines</td>
<td>13</td>
</tr>
<tr>
<td>Overall comments on Health and Safety at Work Act 2015</td>
<td>13</td>
</tr>
<tr>
<td>Current health and safety regulations</td>
<td>16</td>
</tr>
<tr>
<td>Health and Safety at Work (General Risk and Workplace Management)</td>
<td>16</td>
</tr>
<tr>
<td>Regulations 2016</td>
<td>16</td>
</tr>
<tr>
<td>Health and Safety at Work (Worker Engagement Participation and Representation) Regulations 2016</td>
<td>16</td>
</tr>
<tr>
<td>Health and Safety at Work (Major Hazard Facilities) Regulations 2016</td>
<td>17</td>
</tr>
<tr>
<td>Health and Safety at Work (Asbestos) Regulations 2016</td>
<td>17</td>
</tr>
<tr>
<td>Health and Safety at Work (Hazardous Substances) Regulations 2017</td>
<td>18</td>
</tr>
<tr>
<td>Potential regulatory gaps</td>
<td>19</td>
</tr>
<tr>
<td>Mobile plant and vehicles</td>
<td>19</td>
</tr>
<tr>
<td>High risk plant</td>
<td>19</td>
</tr>
<tr>
<td>Excavations</td>
<td>20</td>
</tr>
<tr>
<td>Working at height</td>
<td>20</td>
</tr>
<tr>
<td>Psychosocial harm</td>
<td>20</td>
</tr>
<tr>
<td>Officers due diligence duties</td>
<td>21</td>
</tr>
<tr>
<td>Industry specific regulations</td>
<td>21</td>
</tr>
</tbody>
</table>
WorkSafe New Zealand

How often do you refer to guidance from WorkSafe? 22
Which guidance do you use most frequently? 22
Do you find WorkSafe's guidance useful? 22
Which topics would benefit from further WorkSafe guidance? 23
If you interacted with WorkSafe in the past 12 months, was the experience positive? 23
Other comments on WorkSafe 23

System performance

Do you think the system is well co-ordinated? 24
What would help improve New Zealand's health and safety performance the most in your view? 24
Methodology

The survey was open for 18 days between the dates of 10/4/24 - 28/4/24. During this time 1,321 people responded to the survey. The majority of respondees (79.3%) were NZISM members but the wider industry was also encouraged to participate.

HASANZ has estimated there are 3,500 OHS generalists in New Zealand. If accurate, this survey captures the input of 37.7% of generalist OHS professionals and serves as an robust point of reference for Government's proposed reform development.

13.9% of respondents were OHS consultants. A further 70.4% of respondents classed themselves as OHS Managers or OHS Advisors. More than half have worked in occupational health for more than 10 years.

88.1% of respondents worked for large businesses (classed as 20+employees) whilst 11.9% worked for SME’s with 1-19 employees.

Respondents hailed from a wide variety of industries (see pg 7); most prevalent were construction (36.1%) and manufacturing (23.6%).

There is an enormous amount of wisdom in the replies (particularly the thousands of comments) which we cannot do full justice to in this short analysis. NZISM is happy to talk to researchers about possible further uses of the data.
Demographics

NZISM member

<table>
<thead>
<tr>
<th></th>
<th>RESPONSES</th>
</tr>
</thead>
<tbody>
<tr>
<td>NZISM member</td>
<td>79.3%</td>
</tr>
<tr>
<td>Non-member</td>
<td>20.7%</td>
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</table>

Primary role

<table>
<thead>
<tr>
<th>Role</th>
<th>RESPONSES</th>
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<tbody>
<tr>
<td>Health &amp; Safety Manager or Advisor</td>
<td>70.4%</td>
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<tr>
<td>Health &amp; Safety Consultant</td>
<td>13.9%</td>
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<tr>
<td>Other Health &amp; Safety role</td>
<td>10.9%</td>
</tr>
<tr>
<td>Health &amp; Safety Representative</td>
<td>3.0%</td>
</tr>
<tr>
<td>Student</td>
<td>0.8%</td>
</tr>
<tr>
<td>Academic</td>
<td>0.5%</td>
</tr>
<tr>
<td>Health &amp; Safety lawyer</td>
<td>0.5%</td>
</tr>
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</table>

Time in OHS industry

<table>
<thead>
<tr>
<th>Time Frame</th>
<th>RESPONSES</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 5 years</td>
<td>18.4%</td>
</tr>
<tr>
<td>6 - 10 years</td>
<td>27.4%</td>
</tr>
<tr>
<td>11 - 15 years</td>
<td>20.6%</td>
</tr>
<tr>
<td>16 - 20 years</td>
<td>11.7%</td>
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<tr>
<td>&gt; 20 years</td>
<td>21.9%</td>
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</tbody>
</table>

Company size

<table>
<thead>
<tr>
<th>Company Size</th>
<th>RESPONSES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Large business (20+ workers)</td>
<td>88.1%</td>
</tr>
<tr>
<td>SMEs (1 - 19 workers)</td>
<td>11.9%</td>
</tr>
<tr>
<td>TOTAL</td>
<td>1,303</td>
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### Industry

<table>
<thead>
<tr>
<th>Industry Choices</th>
<th>Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction</td>
<td>36.1%</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>23.6%</td>
</tr>
<tr>
<td>Warehouse and distribution</td>
<td>11.7%</td>
</tr>
<tr>
<td>Transport - road</td>
<td>11.1%</td>
</tr>
<tr>
<td>Agriculture</td>
<td>11.0%</td>
</tr>
<tr>
<td>Govt - central</td>
<td>11.0%</td>
</tr>
<tr>
<td>Govt - local</td>
<td>10.5%</td>
</tr>
<tr>
<td>Hazardous industries</td>
<td>10.1%</td>
</tr>
<tr>
<td>Transport - logistics</td>
<td>9.9%</td>
</tr>
<tr>
<td>Education and training</td>
<td>9.6%</td>
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<tr>
<td>Healthcare and medical</td>
<td>9.5%</td>
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<tr>
<td>Retail and distribution</td>
<td>6.6%</td>
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<tr>
<td>Chemical and laboratory</td>
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<tr>
<td>Horticulture</td>
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<tr>
<td>Forestry</td>
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<tr>
<td>Community and public service</td>
<td>5.4%</td>
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<tr>
<td>Waste management</td>
<td>5.3%</td>
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<tr>
<td>Resources (oil, gas, mining)</td>
<td>4.8%</td>
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<tr>
<td>Automotive</td>
<td>4.5%</td>
</tr>
<tr>
<td>Maritime industries</td>
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<tr>
<td>Regulatory agency</td>
<td>4.0%</td>
</tr>
<tr>
<td>Emergency Services</td>
<td>3.9%</td>
</tr>
<tr>
<td>Science and technology</td>
<td>3.7%</td>
</tr>
<tr>
<td>HR and recruitment</td>
<td>3.5%</td>
</tr>
<tr>
<td>Hospitality and tourism</td>
<td>3.1%</td>
</tr>
<tr>
<td>Transport - aviation</td>
<td>3.1%</td>
</tr>
<tr>
<td>Transport - rail</td>
<td>2.9%</td>
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<tr>
<td>Aged care</td>
<td>2.4%</td>
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<tr>
<td>Defence Forces</td>
<td>2.3%</td>
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<tr>
<td>Fishing</td>
<td>1.9%</td>
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<tr>
<td>Steel</td>
<td>1.9%</td>
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<tr>
<td>Legal</td>
<td>1.8%</td>
</tr>
<tr>
<td>Security</td>
<td>1.7%</td>
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<tr>
<td>Sport</td>
<td>1.6%</td>
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<tr>
<td>Recreation</td>
<td>1.5%</td>
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<tr>
<td>IT</td>
<td>1.4%</td>
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<tr>
<td>Communication services</td>
<td>1.1%</td>
</tr>
<tr>
<td>Advertising, Arts, Film, Media</td>
<td>1.0%</td>
</tr>
<tr>
<td>Health and fitness</td>
<td>0.9%</td>
</tr>
<tr>
<td>R&amp;D</td>
<td>0.9%</td>
</tr>
<tr>
<td>Marketing and customer service</td>
<td>0.8%</td>
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</tbody>
</table>

Total Respondents: 1,311

"Other" generated the following responses, many of which could have been catered for in the main list:

- Electricity distribution/utilities (x15)
- Utilities (x9)
- Electrical (x7)
- Water / waste treatment (x5)
- Civil Works (x5)
- Financial services, incl insurance (x5)
- Infrastructure (x3)
- Demolition and asbestos remediation (x2)
- Earthworks or quarries (x2)
- Funeral (x2)
- Housing (x2)
- Veterinary (x2)
- Professional services (x2)
- Commercial property (x2)
- Disability (x2)
- Food (x4)
- Intellectual disability and mental health (x2)
- Road and construction
- Crane, hiab and transport
- Ports
- Electronics and security
- Animal welfare and enforcement
- Aquaculture
- Childcare and outdoor adventure
- Corrections
- Tourism
- Environmental monitoring
- Forestry, farming and horticulture
- Wind and solar
- Rope access
- Iwi governance
- Port
- Entertainment
- Not For Profit
- Petrochemical
- Meat works
- Forklift
- Vehicle rental
- Importing natural stone
- Recycling
- Traffic management
- Energy sector and greenspace management
- Safety products supplier
- Gaming
- Mining
- Real Estate
- Emergency management
- Dairy
- Biodiversity and conservation
- Museum
- Fuel storage
- Volunteer rescue services
- Occupational diving
- Pharmaceuticals
Risk assessment and the reasonably practicable test

Summary of comments

Some respondents thought this was an area that had majorly improved under HSWA. Strong call for more guidance and training (particularly tailored to particular industries and risks) on how to do risk assessments and definition of reasonably practicable. Several practitioners noted that ‘reasonably practicable’ tends to be subjective. Many businesses (including officers and workers) lack competence to properly risk assess and some are complacent (“ignorance is bliss”). Critique of some risk assessment tools such as 5 x 5 consequence matrix. Hindsight bias during investigations noted. Several submitters called for greater focus on critical risks.

Several survey respondents noted the challenge for small businesses who are looking for clarity (including a checklist or ‘what to do’). One respondent called for mandatory documentation of risk assessment processes for companies over 5 people. Another noted the weakness of occupational health exposure monitoring (comment 259).

Officers due diligence duties

Summary of comments

A number of commenters suggested that the duties themselves were clear enough. Several called for a clearer definition of “who is an officer.” Some suggested a requirement to identify the officers of your organisation.

Strong call again for greater guidance and education (though others argued the duties are clear).

Many respondents called for greater investigation, enforcement and case law around these duties (several mentioned the unsuccessful prosecution of the Buttres in the Whaakari tragedy). Some critiqued “legal loopholes” and limited liability as a way to escape liability.

Critique of officers remaining ignorant or “passing the buck” to lower level managers and health and safety specialists. Relatedly some concern about H&S specialists reporting to lower level managers (rather than CEO or Board). Particular challenge for SMEs to get access to appropriate advice (due to cost or time).

One submitter called for more specific officers’ duties to be built into specific regulations (such as Hazardous Substances or Major Hazard). A couple of submitters called for corporate manslaughter provisions to be added as part of drive for higher sentences and deterrence.
Shared duties between PCBUs including collaboration and supply chains

**Summary of comments**

Some submitters commented on the increased focus on working together by PCBUs they have seen "at an all time high".

Concern that principals still think they can "contract out" of their responsibilities or attempt to do something similar via pre-qualifications or massive MOUs. Examples of head contractors enforcing these duties until they get in the way of agreed delivery and issuing unsafe instructions. Totika mentioned several times with mixed views as to its effectiveness.

Many commented on the confusion that these duties cause. Strong desire for better explanation and understanding of "shared duties" and how to discharge these in practice (including industry specific guidance).

Some specific commentary on the weak understanding by importers of machinery as to their responsibilities.

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Worker engagement, participation and representation

**Summary of comments**

Mixed views on the merits of the WEPR framework. Some respondents noted that the systems in their workplace worked well (including engagement, committees, HSRs). Several positive comments on 2023 changes. Some comments that this works best in unionized workplaces. Some calls for mandatory "agreed" systems or committees (particularly in workplaces over a certain size).

Others commented that the legislation was too prescriptive (particularly questioning the value of HSRs to small businesses). Ratios of HSRs to workers named as tricky to comply with in very large or very small businesses. Some calls for more responsibility for HSRs (eg. Ability to remove for poor or non-performance). Some critique of PINs as weaponized by HSRs or unions. A couple of comments that unions crowd out voice of non-unionised workers.

Many respondents noted the challenges of getting workers to engage meaning that HSR was not often a popular job ('pressed men'). Challenges around release time, recognition and training were mentioned along with HSRs being delegated tasks by officers.

Some respondents commented that the WEPR framework was split into too many pieces between the Act and WEPR regulations and would benefit from consolidation.
**Summary of comments**

This was the area of the Act with the highest proportion of respondents stating that “major improvement” was needed.

Responses to this questions were divided.

Many respondents suggested that fines were too low and various means to increase these (including corporate manslaughter or other uplift) should be applied. Concern that WorkSafe never sought maximum fine levels and that our levels of sentences were well below comparable jurisdictions (particularly Australia). Consideration of fines scaled to company turnover was suggested. Several respondents cited Whaakari prosecutions as highlighting these issues. Some concern that high profile companies were being let off by way of agreed enforceable undertakings.

A minority of respondents expressed concern that high levels of fines were creating a culture of fear. Some noted that the regulator focused too much on the level of harm done rather than the severity of the breach. Critique around the length of time taken by WorkSafe to bring charges.

A number of respondents called for greater use of the infringement regime (eg. spot fines). Several comments called for greater prosecution of workers where they are demonstrably at fault.

Comments included a critique of WorkSafe for inconsistent application of the law and a critique of prosecution strategy (and competence of staff). Some noted the ACC bar on litigation has made businesses complacent.

**Overall comments on Health and Safety at Work Act 2015**

Many of the comments state the Health and Safety at Work Act 2015 is good or at least fine. The problem is the implementation and enforcement of the Act.

Most of the comments recommending reform of the Act picked up similar threads to the comments on specific parts of the Act – clearer definitions (particularly reasonably practicable) and amendments or passage of various regulations (see below).

**Three of the more interesting comments:**

- The HSWA could be stronger and could incorporate innovations from similar jurisdictions. For example, we could have roving representatives in sectors where most workplaces are SMEs. I’m glad to see the requirement for representation applied to all workplaces regardless of size, and doubt it will greatly increase the number of representatives (see Australia, where number of reps did not increase by any measure of significance). If a workplace HAS seen an increase in people wanting representation or wanting to become representatives should be delighted that their staff are willing to organise and cooperate. Reps get training and can really help business owners, especially family-run or small businesses, see ‘risks’ and manage hazards they are probably not yet aware of. Risk Management needs diversity of thought, perspective and experience.

- While not directly related to HSWA itself, I would like to see much higher appreciation and use of international and academic research. There are so many excellent resources available that most employers – not just those without dedicated H&S advisors/managers - will have no idea about. We need to start engaging with experts. While a business owner may well be an expert in their own field, if they haven’t sat on a Standards-setting panel for a field they are highly unlikely to be an expert in that other field; we should use the expertise available rather than write it off as not being our own experience.
The Minister says that the law doesn’t actually specify how to keep people safe. The place to look for specifics is the International Standards Organisation documentation. WorkSafe and/or MBIE should provide free advice to businesses that very closely follows ISO documentation (without ‘unintellectualising’ it - it’s already written in plain English). The current resources provided by MBIE/WorkSafe do not adequately cover each Standard’s contents, and requiring SMEs to purchase costly Standards is unrealistic. If PCBUs and workers had free access to the guidance contained in AS/NZS 4804:2001, AS/NZS ISO 9001:2016, AS/NZS ISO 31000:2009 and its companion AS/NZS HB 436:2013, AS/NZS ISO 45001:2018, AS/NZS IEC 31010:2020, and ISO 45003:2021 we would already be doing a whole lot better. If the HSWA specified that as a function of the WorkSafe (or MBIE) and requiring PCBUs to follow applicable guidance issued by WorkSafe (or MBIE) then we *would* know what to do to keep people safe.

Lastly I would like to say that while NZISM (HASANZ) and groups like the Business Leaders Health and Safety Forum are doing a great job of lifting H&S capability for practitioners and larger organisations, workers at NZ SMEs are unlikely to be benefitting from this work, because their leaders won’t be able/incentivised to invest in CEO training or hiring an accredited NZISM consultant. Workers at NZ SMEs experience the most harm. We urgently need interventions for them, and SMEs must welcome expert advice from a well-resourced, expert WorkSafe (or MBIE). It’s time to get real.

I don’t feel that massive change to legislation is going to have the impact people are led to believe. There is still an underlying culture of resistance to “Health and Safety” from an area of the NZ population. I feel this comes from the perception that H&S have ridiculous requirements - anecdotal evidence of stories of H&S “gone mad” eg. taking away toasters because they’re dangerous in the workplace. I don’t believe these “stories” are true, but they are proliferated within the media, social media etc. So when “H&S” is raised as an issue or conversation it is met with derision and this element of the discussion enables people to believe that their personal control is being taken away, which in turn leads people to ignore guidelines etc. The NZ culture towards H&S is what needs to be addressed and changed, which takes time and continued effort, not just changing a few laws.

I think the gap is an education and implementation one rather than an issue with the legislative framework. When HSWA came out there was an insufficient investment in education services given that it was known that the regulated community tend to focus on the wrong things and create anecdotal work of mouth myths and ghost stories. I spoke to about 30 PCBUs a day during that period and many of them had zero understanding that they were regulated under HSE1992 and thought that health and safety was something that was new, either that or they believed road cones, paper-based systems and high viz were the sum total of controls or that WorkSafe was responsible for their business and would come in and implement health and safety for them.

There were several early education initiatives that were commendable such as the establishment of HASANZ, resources for small businesses and Safer Farms which tried to cater for audiences rather than be written by Wellington for Wellington (a Wellingtonian is saying this) but it left gaps. WorkSafe does not even have its own contact centre for information provision, instead it has a generic service run by MBIE – this service does not hire staff for their experience in health and safety but instead it hires generically to answer calls from a number of MBIE services eg. the companies office, residential tenancies or consumer law. WorkSafe often creates guidance and should do more to provide good information to support guidance and foster a basic understanding. It has a responsibility to do so under s10(f) of the WorkSafe Act. There are limitations on such an information service but it could maintain its arms length by teaching PCBUs how to fish and giving them practical/basic things to consider while being clear that a PCBU is responsible for that decision. This would help them understand HSWA and make them better clients for health and safety professionals. To be clear, I understand the PCBU is the duty holder but I want to highlight the practical outcome of leaving an education gap rather than the typical who is ultimately responsible one – misinformation, confusion and inaction.

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1 Brooke van Velden’s 7 April 2024 *“Sunday” interview* with Jack Tame
One of the benefits of HSE was that the elements of prescription forced a model approach which while it thwarted innovation and created a paper focused compliance culture which didn’t do well in workplaces with low literacy and set some on the wrong path by focussing on paper rather than outcomes, at least there was a path for some that just needed to get started. A hairdresser might find risk management a daunting academic exercise if they don’t have access to a model risk register etc. These basic tools are dangerous without the right messages accompanying them but some people in the system just need to know where to start, they are never going to be the next Pike River or Whakaari but they can create a lot of distracting noise if their basic needs aren’t met.

WorkSafe works on a high-level engagement with associations on the hope that the information trickles down into small businesses and it targets a limited selection of industries that are high frequency risk or known as high risk. It does not focus services to small businesses or general safety outside of its current priorities. If there isn’t an association or if the association isn’t good at disseminating the information, then PCBU will form beliefs without knowledge and focus on the wrong things and share that ignorance with their peers or become an anecdote for a minister.

This consideration of reform will slow investment in health and safety and performance will inevitably dip as businesses wait for change (even if the risk management responsibility and known controls largely won’t be changing because the words in the Act change). There is a productivity and opportunity cost for not completing the regulatory reform promised under HSWA eg. plant and structures, doing more that a lift and shift/consolidation of Hazard Substances regulation. The independent taskforce had the ambition that the system would map out all sources of catastrophic harm (across the regulatory system), hazardous substances and HHU industries is a good start but there are some gaps. I don’t know what made MBIE stifle that ambition by slowing the reform. WorkSafe could have provided guidance in lieu of change but they were waiting before making an investment like the rest of us for a future that never came.
Current health and safety regulations

Health and Safety at Work (General Risk and Workplace Management) Regulations 2016

![Graph showing responses to Q6: Risk assessment and the reasonably practicable test](image)

Summary of comments

Few comments recommended wholesale changes to these regulations. Some praised them as clear whereas others thought they were inaccessible (particularly to small businesses) and could use translation, explanation and diagrams.

The most commonly referenced regulations related to the prescribed risk assessment process and the hierarchy of controls. Several commentators noted that this process should apply to all risks.

The second most referenced regulations related to worker health and exposure monitoring (given the burden of harm caused by occupational disease). Some interesting calls for wider testing or a national register. Some caution that currently this testing is very expensive. Comment that noise should be included or recognized better. Also some concern about the impact of pre-existing conditions and non-work causes of harm.

In relation to emergency planning, some respondents noted the lack of urgency and cohesion with (for example) FEMA processes. Some noted the problems demonstrated by the Auckland floods.

Some other specific comments around minimum ages for dangerous work (eg. clear age restriction of 13+ for construction sites) and the need for more clarity around requirements for remote or isolated work.

Health and Safety at Work (Worker Engagement Participation and Representation) Regulations 2016

![Graph showing responses to Q12: Health and Safety at Work (General Risk and Workplace Management) Regulations 2016](image)

Summary of comments

Although almost half of respondents said that these regulations worked well (and a further third thought small changes would help), those who left comments had a prevalent view that worker engagement, participation and representation (WEPR) was too fragmented, too technical and too prescriptive. The 1:19 ratio of representatives for workers was seen as too difficult given barriers to getting engaged representatives.
On the other side, several commenters noted that the content of the regulations was okay but needed more education and guidance. A few submitters commented on the value of WorkSafe’s health and safety representatives resources and programmes (along with work by others such as Site Safe and NZISM).

Several commented on the difficulty of getting genuine worker engagement (one commenter noted that this is only as effective as the company culture). Several submitters identified executive buy-in as a barrier.

Some submitters commented on the need for better training pathways for HSRs.

A number of commenters said that health and safety representatives and committees did not work for all businesses (particularly smaller ones) and that different forms of engagement should be permitted. A small number of submitters (<5) commented that these regulations unduly empowered unions.

Health and Safety at Work (Major Hazard Facilities) Regulations 2016

![Graph showing percentage responses]

**Summary of comments**

Most respondents had never worked with these regulations.

Commenters provided a range of views on the effectiveness of the regulations. Some thought that the compliance burden was too high (in terms of paperwork for safety cases and record keeping). Several said that greater alignment with the hazardous substances regulations were needed.

A useful comment made by a few commenters was that the MHF regulations have sharp boundaries and that more consideration was needed for sites that operated just under the MHF boundaries (including a possible “intermediate MHF” designation). Further consideration was needed for controls when hazardous substances are in transit.

Health and Safety at Work (Asbestos) Regulations 2016

![Graph showing percentage responses]

**Summary of comments**

Some critique of the regulations not providing enough clarity or sanction for those who avoid or skirt regulatory requirements. Some commenters suggested greater use of infringement notices for unlicensed removalists. A few commenters noted that inspection and enforcement needed greater focus.
A few commenters suggested that the barriers to entry caused by the licensing regime meant a lack of competition in the market. A couple of commenters suggested that collusion between assessors and removalists meant that the intent of the regulations has been subverted.

Health and Safety at Work (Hazardous Substances) Regulations 2017

Summary of comments

Commenters were split on the ease of use of the hazardous substances regulations. A significant number of commenters noted the length of these regulations (almost 600 pages) and the complexity. Several commenters noted that the complexity meant that expert advice was almost always needed and that this advice was in short supply.

A number of commenters noted that the regulations are out of date (for example they refer to outdated Standards) and that an update had been planned by now. Several commenters noted the need to align these regulations with the Global Harmonised System and Australian Model WHS regulations.

Several commenters were particularly complimentary of the hazardous substances calculator as a useful tool.
Potential regulatory gaps

Mobile plant and vehicles

Almost half of submitters (43.6%) thought that additional regulatory clarity would be useful. However, many of the commenters thought that the key intervention was clearer and more enforced guidance by WorkSafe. A number of commenters mentioned out of date guidance relating to forklifts. Others commented on particular WorkSafe guidance that they considered high quality.

A couple of submitters mentioned the UK Provision and Use of Work Equipment Regulations 1998 as exemplars of good practice. Others suggested greater harmonisation with Australia. Some commenters noted the exclusions for mobile plant as a problem. A couple of interesting comments on the suitability of crush protection devices and rollover protection devices suggested that a technical solution would be difficult to implement.

High risk plant

Like mobile plant, many (43.6%) respondents thought that improving regulatory clarity would be useful but many of the commenters thought that industry guidance was a more useful first step. Some commenters noted the need to consider of emerging technology such as AI and robotics.
Excavations

Summary of comments

This is an area where a reasonable number of commenters praised existing WorkSafe guidance (some called for this to be updated or raised to ACOP status).

Working at height

Summary of comments

A significantly higher proportion of respondents (23%) considered that risks associated with work at heights were sufficiently regulated. Some commenters argue that this area over regulated.

Some commenters quite liked the WorkSafe Good Practice Guide but several others suggested particular areas for improvement (eg. fall control and other restraint systems). Some commenters suggested that certificates of competency improvements would assist with scaffolding.

Psychosocial harm
Summary of comments

More than half of respondents thought that psychosocial harm would benefit from greater regulation. A number of commenters were more wary and asked what regulation might look like. Some were concerned about WorkSafe’s capacity and capability to effectively regulate psychosocial harm. A few raised ACC’s lack of cover for most forms of mental injury as a block.

A significant number of commenters suggested we should adopt or adapt the Australian Model Regulations relating to psychosocial harm.

Several commenters noted the link with the Employment Relations Act 2000 (and the crossover between health and safety and HR).

Officers due diligence duties

Summary of comments

Comments on this topic largely mirrored those on the officer’s due diligence duties under the Health and Safety at Work Act 2015 (question 7).

Several commenters mentioned the work of IoD, GM Safety Forum and Business Leaders Health and Safety Forum on various guides. Some suggestions of structured guidance around agenda and board discussions.

Industry specific regulations

Summary of comments

The comments were quite divided on this topic between those advocating for industry-specific regulations (eg. Australian, UK, or South African construction regulations), those suggesting that New Zealand forges our own path, and those suggesting that regulation is too rigid and prescriptive to deal with evolving risk and complex workplaces.
How often do you refer to guidance from WorkSafe?

- At least weekly: 27.3%
- Once or twice a month: 45.2%
- Two or three times a year: 19.2%
- Yearly: 5.9%
- Less often: 2.4%

Which guidance do you use most frequently?

- Working at height
- Hazardous substances
- Asbestos
- Excavation
- Confined space
- Scaffolding
- Mobile plant
- Machinery
- Overlapping duties
- Cranes
- Fatigue
- Forklifts
- Forestry
- Tools
- Traffic management
- Notifiable events
- Manual handling
- Mentally Healthy Work
- Worker participation
- HSR
- Manufacturing
- PCBU

Do you find WorkSafe’s guidance useful?

- Yes: 40.7%
- Sometimes: 54.1%
- No: 5.2%
Which topics would benefit from further WorkSafe guidance?

- Hazardous substances
- Psychosocial/mental health
- Asbestos
- Mobile plant
- Machinery
- Working at height
- Manual handling
- Noise
- Forklifts
- Construction
- Health risks
- Risk assessment
- Critical risk
- Due diligence
- Fatigue
- Electrical

If you interacted with WorkSafe in the past 12 months, was the experience positive?

![Bar chart showing 77.0% Yes and 23.0% No]

Other comments on WorkSafe

**Summary of comments**

The most common comment was a plea for better resourcing for WorkSafe. Lack of current resourcing was reflected in WorkSafe becoming less proactive and responsive (and investing less in harm prevention). The WorkSafe website was mentioned as in need of work.

Often mentioned were low rates of pay for inspectors with consequential high turnover. Several commenters mentioned the need for WorkSafe to employ trained health and safety experts as inspectors or to train inspectors properly.

Some regions mentioned good relationships with local WorkSafe staff.

A number of respondents (including former WorkSafe staff) mentioned poor workplace culture at WorkSafe.
System performance

Do you think the system is well co-ordinated?

Summary of comments
A number of commenters were unsure what was meant by “the health and safety system.”

Other commenters pointed to a disjointed system (both regulators and system players). WorkSafe’s coordination with ACC and MBIE were noted as particular issues a few times.

A number of commenters suggested that WorkSafe should be empowered to take more of a lead.

What would help improve New Zealand’s health and safety performance the most in your view?

Summary of comments
Responses to this question were extremely varied (and there were 750+ replies) so summarising is challenging.

Some major themes were:

- The importance of education about health and safety both on the job and as part of the education system.
- A strong and capable regulator with adequate resources and a clear intervention strategy.
- Clearer regulations and guidance.
- Greater focus on driving better performance in small and medium enterprises.
- Better worker participation.
- Lessons learned from previous few years and review of what has worked and has not worked.