

Safety and Health in Forest Operations:

**ROLES AND RESPONSIBILITIES OF PRINCIPALS
AND CONTRACTORS**

November 2014

ACKNOWLEDGEMENTS

In recognition of the valuable contribution made towards the development of this Approved Code of Practice, WorkSafe New Zealand would like to thank the members of the working group and those who provided input and feedback during reviews and consultation.

NOTICE OF APPROVAL

This amendment to the Approved Code of Practice for Safety and Health in Forest Operations (the ACOP) has been developed following a short term review of the ACOP and was approved on 8 September 2014.

It provides guidance to principals and contractors in the forestry industry on how they can meet their obligations under the Health and Safety in Employment Act 1992.

The ACOP was developed in partnership with industry representatives, workers, and other agencies. It focuses on improving safety practices and reducing workplace accidents in the industry.

The short term review enables immediate strengthening of the ACOP. A comprehensive review of the ACOP is planned for 2015, and will take into account the Industry Forestry Safety Review, the joint Coronial investigation, and the regulatory changes currently underway.

An Approved Code of Practice is a statement of preferred work practices (section 20A, Health and Safety in Employment Act). Therefore a court may consider it when considering compliance with relevant sections of that Act.

A handwritten signature in black ink, appearing to read 'S Bridges', with a long horizontal flourish extending to the right.

Hon Simon Bridges
Minister of Labour

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INTRODUCTION

This amendment is supplementary to the Approved Code of Practice for Safety and Health in Forest Operations (the ACOP), published in December 2012.

WorkSafe New Zealand has developed the amendment for principals and contractors involved in forest operations. It gives advice on how to apply the Health and Safety in Employment Act 1992 (the Act) operationally. Please note this advice is mainly relevant to harvest operations, but it can also apply to silviculture and thinning operations.

Competenz, key industry stakeholders, union and worker participants helped WorkSafe develop this amendment.

THE AMENDMENT HAS BEEN SPLIT INTO THREE PARTS:

Part One – principals

“Principal” means a person who or that engages any person (otherwise than as an employee) to do any work for gain or reward¹.

Part One is for principals, and explains the section of the Act that is relevant for them. It includes ACOP advice, and breaks it down into practices principals can use to fulfill their responsibilities.

Part Two – contractors

“Contractor” means a person engaged by any person (otherwise than as an employee) to do any work for gain or reward.

Part Two is for contractors, and explains sections of the Act that are relevant for them. It breaks ACOP advice down into practices which could fulfill the contractors’ responsibilities.

If you are a contractor, you have responsibilities as one or more of these people:

- > a self-employed person
- > an employer, if you employ others to do work for you
- > a principal, if you engage sub-contractors to work for you.

When a contractor engages a sub-contractor, they also become a principal, and should refer to Part One for guidance.

Part Three – other duties

Other sections of the Act also outline responsibilities. These are explained in Part Three. For these sections of the Act, multiple people might have responsibilities.

Principals, contractors, employers, and self-employed people cannot contract out of any liability under the Act.

HSE

Blue boxes contain sections of the Act involving duties. Some of the sections have been shortened or re-formatted for readability.

ACOP

Orange boxes contain relevant rules from the Approved Code of Practice for Safety and Health in Forest Operations 2012.

¹ All definitions are taken from Section 2(1), Health and Safety in Employment Act 1992.

01/

PART ONE: PRINCIPALS' DUTIES

“Principal” means a person who or that engages any person (otherwise than as an employee) to do any work for gain or reward.

1.1 SECTION 18 OF HSE ACT

HSE	<p>Section 18 – Duties of principals</p> <p>Every principal shall take all practicable steps to ensure that:</p> <ul style="list-style-type: none"> > no employee of a contractor or subcontractor; and > if an individual, no contractor or subcontractor, <p>is harmed while doing any work (other than residential work) that the contractor was engaged to do.</p>
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As a principal engaging a contractor to work for you, you should:

- > engage competent, safe contractors
- > give contractors information they need to keep healthy and safe while working
- > monitor contractors' health and safety performance, and
- > coordinate contractors' activities.

CHOOSING A CONTRACTOR

ACOP	<p>2.4.1 The principal shall verify that the employer has in place a documented safety management system before commencing operations and shall periodically audit the effectiveness of this system.</p>
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When choosing a contractor, the principal or their agent should assess their suitability, including their health and safety processes and experience, so they can choose the best one.

Consider:

- > the contractor's incident and hazard reporting procedures
- > an independent assessment of their health and safety (H&S) performance
- > any workplace injuries or near misses over the last five years, plus any investigation results
- > information on any enforcement and prosecution they have undergone, and
- > their finances, and capacity to do the work.

Where the contractor is also an employer, the principal should:

- > consider the contractor's ability to provide competent workers and equipment needed for the job
- > ensure they have a staff training plan and evidence that the training was conducted
- > take into account and consider worker turnover and any issues arising i.e. ensure that they have written employment agreements² which include healthy and safe working conditions for staff. These can include (but are not limited to):
 - an alcohol and drug policy, including provision for testing
 - working hours (including travel time, rest and meal breaks)
 - availability of facilities
 - shelter, and
 - personal protective equipment and clothing supply.
- > effective worker participation and representation, and
- > the existence of trained health and safety representatives.

² Under section 65(1) of the Employment Relations Act 2000 (“ERA”) individuals who are not subject to a collective agreement must have a written employment agreement. NB: as of 1 July 2011, employers are required to retain a signed copy of the employment agreement or the current signed terms and conditions of employment. The employer must retain the “intended agreement” even if the employee has not signed it. Employees are entitled to a copy on request.

THE CONTRACT

ACOP

2.4.3 The principal shall ensure contract agreements clearly incorporate and define responsibilities and duties under:

- > the Act
- > the Regulations
- > the Hazardous Substances and New Organisms Act 1996 (HSNO Act).

The principal (or their agent) and contractor should also discuss:

- > who interacts with all stakeholders and interested parties including:
 - WorkSafe
 - regional councils and territorial authorities
 - power and gas companies if the work is near their assets³
 - local Māori.
- > site security – who is responsible and what it will involve and include
- > how to manage emergencies, including accidents, weather emergencies, fire
- > who will notify WorkSafe about notifiable work or serious harm accidents
- > how the principal will monitor the contractor’s activities throughout the contract
- > how and when the contractor will report to the principal
- > reasonable work schedules, including flexibility around delivery dates if the contractor can’t complete the work because of issues like weather or worker illness
- > minimum site design and roading standards, including skid site infrastructure
- > use of vehicles on site
- > plant and equipment, and their certification, maintenance, and repair
- > informing the principal about WorkSafe assessments and results
- > crew size and composition
- > responsibilities for ensuring employment law requirements are met
- > log transport and compulsory standards
- > subcontracting processes, and
- > safe work systems, including:
 - identifying and managing hazards
 - health and safety training
 - employee participation and representation
 - worker competence and responsibilities
 - crew training systems
 - competent supervisors
 - fatigue management
 - PPE and how it is provided to workers
 - communication procedures and equipment
 - managing adverse working conditions such as weather, poor visibility and lighting
 - documentation to be held on site
 - reporting incidents and accidents to the principal and others
 - policies about working alone, and
 - drug and alcohol policies and standards.

³ Refer to ACOP – Safety and Healthy in Tree Work Part 2: Maintenance around power lines (July 1994) and Guide to Electrical Safety for Woodlot felling and Logging Operations (July 2013).

Principals should ensure the contract terms let them take action if the contractor or the contractor's workers do not meet stated health and safety standards. Worker management is the contractor's responsibility.

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.

- emergency location points or references
- site location and access
- a preliminary site plan
- waterways and sites of historical or cultural significance
- earthquake and fire risks.
- > site-specific hazard identification form, describing how each hazard will be managed and by whom
- > how to report accidents and incidents
- > who will notify WorkSafe of hazardous work
- > who will notify WorkSafe about serious harm accidents
- > information about the proposed work, including:
 - mean tree height
 - piece size
 - start and finish dates
 - transport plans, roads and road maintenance.
- > agreed standards, systems and processes
- > skills and equipment to do the work
- > plans for working around power lines, taking into consideration whether a utility arborist is required⁴
- > communicating deadlines and change management
- > who will control the work, and how.

PLANNING THE WORK

Principals and contractors should share health and safety information. Contractors should know about any potential work or workplace hazards, and other health and safety requirements.

Contractors should also tell the principal about any significant work or workplace hazards.

The principal should plan the work and talk with the contractor about it. When both have agreed on the work's scope, the principal should provide a job prescription, also known as a harvest or logging plan, planting or spraying prescription, or job specification. This should detail the work plan and scope, including procedures to change them.

Examples of information to put in the job prescription include:

- > recent maps of the worksite (not an aerial photo) showing:
 - locations of site-specific hazards identified by the principal. The contractor can add to them as the site is worked over time.

⁴ Refer to Guide to Electrical Safety for Woodlot felling and Logging Operations (July 2013).

PERFORMANCE MONITORING

ACOP

2.4.1 The principal shall verify that the employer has in place a documented safety management system before commencing operations and shall periodically audit the effectiveness of this system.

Principals should monitor how the contractor puts the agreed health and safety processes into practice, and report back to the contractor with the results. This doesn't mean principals have to constantly check for hazards, but at the least they should tell the contractors about unsafe work practices or conditions.

Principals can and should conduct their own audits (including site visits) or review the frequency and quality of the contractor's audits. They should set out a regular (or specified) schedule of communication, in person or by phone or email, with the contractor, with routine issues and concerns raised.

Principals should also consider the hazard management process in sections 7 - 10 of the Act. While principals (unless they are employers) do not have to follow this process, if charged or subject to enforcement action, the Courts will consider whether a principal has complied with the Act when deciding whether all practicable steps have been taken.

1.2 ENGAGING AN AGENT

Often a principal will act through an agent or manager. The agent may plan the work, run the tendering process, choose contractors, write the contract, and manage the operation from start to finish. However, the principal is still engaging the contractors who do the work. The agent may have control of the principal's accounts, and may pay the contractor on the principal's behalf, but they do not owe a principal's duties.

Principals or contractors cannot "contract out" of their liability under the Health and Safety in Employment Act 1992 by making another party take responsibility for the principal or contractor's safety performance. A principal, who is a corporate entity, may be held liable for the action or inaction of its employees or agent.

02/

**PART TWO:
CONTRACTORS'
DUTIES**

"Contractor" means a person engaged by any person (otherwise than as an employee) to do any work for gain or reward.

Contractors should plan the work and tell the principal about:

- > hazards caused by the work they are doing
- > site-specific hazards
- > any changes, including number or workers, new equipment
- > safety procedures for other people who may be affected by that work, including the public
- > plant to be used, and
- > necessary safety equipment.

Contractors should confirm they have the relevant health and safety information from the person they are working for, such as:

- > hazards in the place where they are working
- > company health and safety rules
- > emergency procedures and supply of first aid, and
- > how to report new hazards.

If you are a contractor, you have responsibilities as one or more of these roles:

- > a self-employed person
- > an employer, if you employ others to do work for you
- > a principal, if you engage contractors or subcontractors to work for you.

A self-employed person might also have duties as a principal, a contractor, or both.

If you hire subcontractors, you are a principal under the Act. As well as looking after your own health and safety, you also have a principal's duties towards subcontractors and their employees. Refer to Part One for guidance on how to fulfil them.

Where a contractor employs workers, they are subject to employer's duties under the Act.

2.1 AS A SELF-EMPLOYED PERSON

HSE

Section 17 - Duties of self-employed people

Every self-employed person shall take all practicable steps to ensure that no action or inaction of the self-employed person while at work harms the self-employed person or any other person.

As a self-employed person you must look after your own safety and the safety of others, but the principal who engages you also has duties under the Act towards you. Talk about health and safety with the principal and agree to a work plan that takes health and safety into account.

In particular, ask if they know about any hazards related to the work or workplace, and how those hazards will be managed. You should also tell the principal of any hazards your work may involve (including site-specific hazards that you have found), and how they will be managed. This should be documented, and both parties should have a copy.

2.2 AS AN EMPLOYER

An employer is a person who or that employs any other person to do any work for hire or reward; and, in relation to any employee, means an employer of the employee⁵. Where a contractor has employees, under the Act they have specific duties as an employer.

NB: An employer is required under the Employment Relations Act 2000 (ERA) to have written employment contracts and keep copies of those agreements and provide them to employees if asked⁶.

HSE

Section 7 – Identification of hazards

Every employer shall ensure that there are in place effective methods for—

- > systematically identifying existing hazards to employees at work; and
- > systematically identifying (if possible before, and otherwise as, they arise) new hazards to employees at work; and
- > regularly assessing each hazard identified, and determining whether or not it is a significant hazard.

Where there occurs any accident or harm in respect of which an employer is required by section 25(1) to record particulars, the employer shall take all practicable steps to ensure that the occurrence is so investigated as to determine whether it was caused by or arose from a significant hazard.

Section 8 – Significant hazards to employees to be eliminated if practicable

Where there is a significant hazard to employees at work, the employer shall take all practicable steps to eliminate it.

Section 9 – Significant hazards to employees to be isolated where elimination impracticable

Where—

- > there is a significant hazard to employees at work; and
 - > either there are no practicable steps that may be taken to eliminate it; or all practicable steps to eliminate it have been taken, but it has not been eliminated,—
- the employer shall take all practicable steps to isolate it from the employees.

Section 10 – Significant hazards to employees to be minimised, and employees to be protected, where elimination and isolation impracticable

Where—

- > there is a significant hazard to employees at work; and
 - > either there are no practicable steps that may be taken to eliminate it; or all practicable steps to eliminate it have been taken, but it has not been eliminated; and
 - > either there are no practicable steps that may be taken to isolate it from the employees; or all practicable steps to isolate it from the employees have been taken, but it has not been isolated,—
- the employer shall take the steps set out in subsection (2).

⁵ Health and Safety in Employment Act 1992, s.2.

⁶ Section 65(1) of the ERA.

HSE

The steps are—

- > to take all practicable steps to minimise the likelihood that the hazard will be a cause or source of harm to the employees; and
- > to provide, make accessible to, and ensure the use by the employees of suitable clothing and equipment to protect them from any harm that may be caused by or may arise out of the hazard; and
- > to monitor the employees' exposure to the hazard; and
- > to take all practicable steps to obtain the employees' consent to the monitoring of their health in relation to the hazard; and
- > with their informed consent, to monitor the employees' health in relation to exposure to the hazard.

HEALTH AND SAFETY MANAGEMENT SYSTEM

ACOP

2.5.2 Employers shall have a documented health and safety system that is effective and meets the requirements of the Act and the Regulations and codes of practice relevant to the operation being undertaken, incorporating the following components as a minimum:

- > A health and safety policy
- > A drug and alcohol policy, including testing
- > Training and supervision
- > Safety meetings
- > Hazard management
- > Auditing and inspection programmes
- > Accident/incident reporting and investigation
- > Emergency procedures
- > HSNO management.

Your system should also include:

- > clearly allocating roles and responsibilities
- > workplace hazard inspections by workers and supervisors
- > stress and fatigue management
- > health monitoring, including lung function and hearing loss
- > first aid equipment and training
- > plant and equipment inspection and maintenance
- > managing sub-contractors
- > managing visitors
- > worker competency assessment plans
- > return-to-work policies and assessments
- > how to handle changes, particularly changing safety environments
- > stop-work processes for weather extremes and upset conditions
- > lighting
- > management of work around live power lines
- > vehicles, transport and mobile plant
- > working at height
- > landing size and maximum capacity, and
- > helicopter landings, where necessary.

Reassess and tailor safety systems to each successive harvest area. Set up written processes that show the system is being followed.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

HSE	<p>Section 10(2)(b) - PPE</p> <p>Employers must provide, make accessible to, and ensure the use by employees of suitable clothing and equipment to protect them from any harm that may be caused by or may arise out of the hazard.</p>
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HSE	<p>Section 10(3)</p> <p>An employer does not comply with subsection 10(2)(b) by—</p> <ul style="list-style-type: none"> > paying an employee an allowance or extra salary or wages instead of providing the protective clothing or equipment; or > requiring an employee to provide his or her own protective clothing or equipment as a precondition of employment or as a term or condition in an employment agreement.
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ACOP	<p>3.1.1 The employer shall provide all appropriate personal protective equipment to protect employees from harm due to any hazard at the work area, and shall ensure it is used correctly, inspected, and maintained to fulfil its protective function.</p>
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The Act requires employers to supply appropriate PPE to their workers and check the PPE fits them correctly. Employers' systems should include regularly checking PPE for wear or damage, and replacing PPE that is too worn or damaged to safely use.

Clothing protecting workers from bad weather is likely to be required in forestry. Wet weather gear should be included as PPE, as well as sun block and hats with neck cover in summer. A good health and safety management system should also ensure that any visitors to the site are equipped with appropriate PPE.

SITE SUPERVISION

ACOP	2.5.1 The employer shall ensure that a competent person is in charge of each operation, who shall supervise and ensure work is supervised and performed in a safe manner.
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Employers shall ensure a competent person is always in charge of the work. This person must be able to effectively supervise, control the work and enact emergency procedures. This person must also competently manage the employer’s health and safety systems.

WORKER COMPETENCE

ACOP	2.3.1 Every person undertaking forestry work shall be either under documented training and close supervision, or deemed competent.
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Employers should check all workers are competent or under training and close supervision for the tasks they do. When assessing worker competence, take into account whether the worker has the training, experience, knowledge and skills to work safely. If a worker is in training, they must be supervised at all times.

Someone with suitable knowledge and experience of the plant, substances, tasks or processes the workers are using should conduct competency tests. The tests should begin on a new worker’s first day of employment when they are assigned their first task.

REASSESSMENT

Competent supervisors or auditors should regularly monitor and assess each worker to check they can still perform their tasks safely. Assessments should test knowledge and practical skills. If an assessment shows a worker is not competent, return the worker to training, under direct supervision, until they can work safely again.

Build a competency development plan for each worker. They should contain agreed goals and aims to further develop and improve their competency. The plan should include supervision records.

EMPLOYEE PARTICIPATION

HSE	<p>Section 19B(1) – Employee participation</p> <p>Every employer must provide reasonable opportunities for the employer’s employees to participate effectively in ongoing processes for improvement of health and safety in the employees’ places of work.</p>
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The Act requires all employers to allow workers a reasonable opportunity to participate in the ongoing improvement of health and safety at work.

‘Reasonable opportunity’ means opportunities for employee participation that are reasonable in the circumstances, taking into consideration things such as:

- > the number of employees that an employer has
- > the number of different places of work run by the employer and the distance between them
- > the likely potential sources or causes of harm in the workplace
- > the nature of the work and the way that it is arranged
- > the nature of the employment arrangement, including the extent and regularity of employment for seasonal or temporary employees
- > the willingness of any employee and union to develop employee involvement in H&S.

Employers and workers must deal with each other in good faith seeking agreement on, developing and maintaining a system of employee participation.

The employer, employees and any unions representing them must work together to develop a **formal** employee participation system where:

- > the employer employs 30 or more employees (whether at one or multiple workplaces), or
- > the employer employs fewer than 30 employees, and one of those employees, or a union representing them, requests an employee participation system.

If the parties can't agree about the employee participation system, default provisions are set out in the Act.

If health and safety representatives are elected, they must have paid leave to attend approved training courses.

Before a health and safety representative can issue a hazard notice, the representative must have tried to discuss the hazard with the employer. If the employer refuses to discuss the matter, or if the representative and the employer cannot agree on how to resolve the health and safety problem, then the representative can issue a hazard notice.

Throughout the process, even if a hazard notice is issued, the employer and the employee must work together in good faith to try and resolve the problem. This may mean that they have to seek expert information and advice, either from someone else at work or an expert.

A hazard notice doesn't have any penalty or fine attached. But if an inspector comes to the workplace and notices the same hazard, the inspector may treat the hazard notice as prior warning for issuing an infringement notice.

HSE	<p>Section 46A - Trained site health and safety representatives may issue hazard notices</p> <p>A trained health and safety representative may issue a hazard notice to an employer if:</p> <ul style="list-style-type: none"> > they believe there is a workplace hazard, and > have brought it to the employer's attention; and either <ul style="list-style-type: none"> - the employer refuses to discuss, or take steps to deal with, the hazard; or - the employer and representative do not agree on the steps that must be taken or the time within which the steps must be taken to deal with the hazard; or - the representative believes on reasonable grounds that the employer has failed to meet the requirements of section 6 in relation to the hazard within a time agreed during the discussion.
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VISITOR SAFETY

HSE	<p>Section 15 - Duties of employers to people who are not employees</p> <p>Every employer shall take all practicable steps to ensure that no action or inaction of any employee while at work harms any other person.</p>
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ACOP

2.7.1 Visitors to a work area shall have approval of the person in charge. The person in charge shall ensure that any visitors are:

- > briefed on the relevant hazards, site rules and emergency procedures
- > designated a safe area
- > guided so that they are not harmed in the place of work.

2.7.2 The signing of a visitors register, on its own, shall not qualify as visitor management.

2.7.3 The person in charge of the work area shall stipulate the minimum requirements for protective clothing and equipment for visitors.

The people covered under section 15 include contractors or visitors to the workplace, an employee's family, passers-by and anyone who may be affected by the work.

It includes a duty to stop anyone on the site harming others through skylarking, doing other things or not doing things, when it is reasonably foreseeable that another person could be harmed.

As an example, work with hazardous substances could harm members of an employee's family. Employers should check that employees do not carry the substances to their homes or other places on their work clothes or in vehicles.

03/

**PART THREE:
OTHER DUTIES**

For some sections of the Act, multiple people might have responsibilities.

3.1 PERSONS IN CONTROL OF A PLACE OF WORK

HSE

Section 16 – Duties of persons who control places of work

A person who controls a place of work must take all practicable steps to ensure that no hazard that is or arises in the place harms:

- > people in the vicinity of the place, or
- > people who are lawfully at work in the place as
 - employees of the person; or
 - contractors engaged by the person; or
 - subcontractors to a contractor engaged by the person; or
 - as employees of a contractor.

A person who controls a place of work (other than a home occupied by the person) must take all practicable steps to ensure that no hazard that is or arises in the place harms people:

- > who are in the place with the express or implied consent of the person; and
- > who have either paid the person to be there or to undertake an activity there; or are there to undertake activities that include buying or inspecting goods from whose sale the person derives or would derive (directly or indirectly) any gain or reward.

A “person who controls a place of work” includes a person who owns, leases, subleases or occupies a place of work, or who owns, leases or subleases plant or equipment used in a place of work.

It is possible under section 16 of the Act to be a person who controls a place of work and a principal, a self-employed person, an agent, or an employer. If this is the case, you must do what the Act sets out for all those roles. You cannot choose to comply with the duties and responsibilities of only one or the other. However, the obligations for both groups will be to take all practicable steps to keep the place of work safe.

On a forestry site, the owner of the forest, the logging company, the contractors who work for the logging company, and the employer of the supervisor or foreman may all be people who control that place of work. The fact that a number of people have the same duties under the Act does not lessen each person’s requirement to comply fully with those duties. Each person’s duties will be different, depending on how much effective control each person has over the place of work.

1. A person who controls a place of work must take all practicable steps to ensure that no hazard harms workers, contractors, and other people in the vicinity.
2. A person who controls a place of work has duties in relation to visitors to the workplace and certain statutory officers. These duties include warning the visitors about significant and unusual hazards that result from work being done in the place.
3. A person who controls a place of work has duties in relation to customers, or people who pay to be in a workplace.

Practicable steps for a person who controls a place of work could include site security, being aware of all persons who enter the site, induction processes which include provision of PPE and information about significant hazards for all visitors, and clearly marking areas restricted to competent workers.

3.2 NOTIFIABLE WORK

HSE

Regulation 26 - Notifiable work

Every employer who intends to commence any notifiable work or any work that will at any time include any notifiable work shall take all practicable steps to lodge notice of that intention in accordance with this regulation.

In this regulation, the term “employer” includes a person who controls a place of work.

Regulation 26 of the HSE Regulations 1995 requires employers to provide at least 24 hours' notice to WorkSafe of particularly hazardous work. The Regulations define hazardous work as being 'more than usually dangerous'. This includes any restricted work involving asbestos, and logging and tree-felling work for commercial purposes.

Where there are multiple duty holders, who will notify should be decided and documented from the planning stage. It could be in the contract that the contractor will do it, or the principal may submit multiple notifications on a yearly basis.

There are two ways to notify hazardous work to WorkSafe:

1. Notify online – Complete the online notification form.
2. Complete and return a paper form – Download the notification form [[58 KB PDF](#)]. Post, email or fax the completed form to:

The Registrar
WorkSafe New Zealand
PO Box 105146
Auckland 1143

Email:

healthsafety.notification@worksafe.govt.nz

Fax: (09) 984 4115

3.3 RECORDING AND NOTIFYING SERIOUS HARM

HSE

Regulation 26 - Notifiable work

Every employer shall maintain a register of accidents and serious harm; and shall record in the register the prescribed particulars relating to—

- > every accident that harmed (or might have harmed) any employee at work; or any person in a place of work controlled by the employer; and
- > every occurrence of serious harm to an employee at work, or as a result of any hazard to which the employee was exposed while at work, in the employment of the employer.

Every self-employed person must maintain a register of accidents and serious harm, and must record in the register the prescribed particulars relating to—

- > every accident that harmed the self-employed person at work; and
- > every accident resulting from the work of the self-employed person that harmed (or might have harmed) any person; and
- > every occurrence of serious harm to the self-employed person while at work; or as a result of any hazard to which the self-employed person was exposed while at work.

Every principal must maintain a register of accidents and serious harm, and must record in the register the prescribed particulars relating to—

- > every accident that the principal becomes aware of that harmed (or might have harmed) a self-employed person while at work and contracted to the principal; and
- > every accident that the principal becomes aware of resulting from the work of a self-employed person while at work and contracted to the principal; and that harmed (or might have harmed) any person; and
- > every occurrence of serious harm to a self-employed person while at work and contracted to the principal, or as a result of any hazard to which the self-employed person was exposed while at work and contracted to the principal.

If there occurs any serious harm or accident to which this subsection applies, the employer, self-employed person, or principal concerned must,—

- > as soon as possible after the occurrence becomes known to the employer, self-employed person, or principal, notify WorkSafe of the occurrence; and
- > within 7 days after the occurrence, or, if the occurrence is not known to the employer, self-employed person, or principal within that period, as soon as possible after it becomes known, give WorkSafe written notice, in the prescribed manner, of the circumstances of the occurrence.

ACCIDENT REGISTERS

The Act requires **employers, the self-employed and principals** to keep a register of work-related accidents and serious harm. An "accident" means an event that causes any person to be harmed; or in different circumstances, might have caused any person to be harmed.

Principals are required to keep a register of all accidents they know about that hurt or could have hurt anyone working while contracted to the principal.

Employers also have to keep an accident register. They should tell their principal about every incident. They have to investigate all accidents, causes of harm and near-misses to find out if a significant hazard caused them. "Serious harm" is defined as:

- > conditions that amount to or result in permanent loss of bodily function, or temporary severe loss of bodily function: respiratory disease, noise-induced hearing loss, neurological disease, cancer, dermatological disease, communicable disease, musculoskeletal disease, illness caused by exposure to infected material, decompression sickness, poisoning, vision impairment, chemical or hot-metal burn of eye, penetrating wound of eye, bone fracture, laceration, crushing
- > amputation of body part
- > burns requiring referral to a specialist medical practitioner or specialist outpatient clinic
- > loss of consciousness from lack of oxygen
- > loss of consciousness, or acute illness requiring treatment by a medical practitioner, from absorption, inhalation, or ingestion, of any substance
- > any harm that causes the person harmed to be hospitalised for a period of 48 hours or more commencing within 7 days of the harm's occurrence.

The employer (or their agent) must investigate accidents to find out the accident's root cause. They also have to find out if new hazards were involved or if existing hazard management needs to be reviewed and updated.

They must tell the workers about investigation results, focusing on root causes, new hazards and how to manage them safely.

NOTIFICATION

Tell WorkSafe about serious harm accidents by phoning 0800 030 040 as soon as possible after the employer finds out about the accident.

In addition, complete the accident report form available at www.business.govt.nz/worksafe/notifications-forms/accident-serious-harm within seven days.

MANAGING THE ACCIDENT SCENE

HSE

Section 26 - No interference at accident scene

Where a person is seriously harmed while at work, no person shall, unless authorised to do so by an inspector, remove or in any way interfere with or disturb any wreckage, article, or thing related to the incident except to the extent necessary—

- > to save the life of, prevent harm to, or relieve the suffering of, any person; or
- > to maintain the access of the general public to an essential service or utility; or
- > to prevent serious damage to or serious loss of property.

When an accident happens, contact emergency services by phoning 111.

If there is a hazardous substances emergency, call the New Zealand Fire Service on 111.

After calling emergency services, phone WorkSafe's Response Team on 0800 030 040 (24 hours) and choose option 1. A health and safety inspector will tell you if WorkSafe will investigate the accident and what you can do in the meantime.

Emergency management processes should include how to communicate an accident to a victim's family, and provide support to everyone involved, including workers who may be affected.

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**APPENDIX A
OTHER
RESOURCES**

APPENDIX A - OTHER RESOURCES

These are available from WorkSafe:

- > Guidelines for the Provision of Facilities and General Safety and Health in Forestry Work
- > Safety and Healthy in Tree Work Part 2: Maintenance around power lines (July 1994)
- > Guide to Electrical Safety for Woodlot felling and Logging Operations (July 2013)
- > Health and Safety in Contracting Situations, and
- > A Principal's Guide to Contracting to meet the Health and Safety in Employment Act.

DISCLAIMER

WorkSafe New Zealand has made every effort to ensure that the information contained in this publication is reliable, but makes no guarantee of its completeness.

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WorkSafe New Zealand


Level 6, 86 Customhouse Quay
PO Box 165
Wellington 6011

Phone: +64 4 897 7699

Fax: +64 4 415 4015

0800 030 040

www.worksafe.govt.nz

 @WorkSafeNZ

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