

18 March 2026

Committee Secretariat
Education and Workforce Committee
Parliament Buildings
Wellington

Submitted via Parliament website

SUBMISSION ON THE HEALTH AND SAFETY AT WORK AMENDMENT BILL

Thank you for the opportunity to provide a submission on the Health and Safety at Work Amendment Bill (the Bill).

Te Kāhui Inihua o Aotearoa | The Insurance Council of New Zealand (ICNZ) represents general insurers our members accept the risks of over NZ\$2 trillion of New Zealand's assets and liabilities. ICNZ's members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, and motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, cyber insurance, forestry and horticulture insurance, livestock insurance, commercial property insurance, and directors' and officers' insurance).

ICNZ has members who offer statutory liability insurance policies which may provide cover for defence costs as a result of an allegation of a breach of the Health and Safety at Work Act 2015 and for reparation orders following a prosecution under the Act.

General comments

ICNZ supports the introduction of the Bill and supports in principle the focus on critical risks, particularly for small PCBUs (persons conducting a business or undertaking). We consider this represents a practical approach to mitigating the most serious risks to health and safety.

However, we note the importance of appropriate funding for the regulator and guidance for businesses, particularly smaller businesses.

Responses to key topics

1. Shift to risk prioritisation for small PCBUs

We support the Bill's introduction of the concept of a "small PCBU" (under twenty workers) (clause 8) which will focus on managing critical risks while larger PCBUs obligations will continue to manage all risks, but with a greater emphasis on risk prioritisation. This approach is seen as a realistic response recognising the capacity constraints faced by small businesses. Reducing the compliance burden on small businesses will encourage focus on more meaningful engagement with high impact risks rather than a checklist-style of risk management.

However, the Bill does not clearly define "critical risks" and the different obligations for large and small PCBUs, which may create confusion. For example, where a large business engages a small business (under the 20 employee threshold), the small business need only manage and assess critical risks, while the larger business must manage all risks—creating a potential mismatch in expectations and risk management.

The proposed section 22A introduces "critical risks" by reference to hazards that are 'likely' to result in serious harm, but it is unclear what criteria determine 'likelihood' (for example, whether the assessment is made with or without existing controls in place). The effectiveness of this change will depend on clear definitions and on the criteria, framework and principles applied in practice. A framework (or set criteria) to be used to determine the likelihood of a risk or critical risk would be highly beneficial to ensure consistency.

2. Risk of repeating past regulatory failures

There is concern that reducing regulatory oversight risks may undo the hard-won lessons learned from past regulatory failures, such as Pike River and Whakaari / White Island. These events underscore the importance of strong, competent and initiative-taking regulation. Weakened regulatory oversight or enforcement could recreate the conditions that contributed to past systemic failures, regardless of the policy intent of the reforms.

While similar legislative frameworks operate successfully in Australia and the United Kingdom, their effectiveness depends on highly professionalised and well-resourced regulators.

It would be useful for the legislation to impose a reporting requirement on the regulator to publish data on serious harm and fatalities (especially for small PCBUs) so that the effectiveness of the new regime can be monitored.

3. Concerns about moving WorkSafe toward an advisory role

The proposal to shift WorkSafe's primary function from regulatory enforcement to advisory and education raises significant concerns. In the context of New Zealand's comparatively poor workplace safety outcomes, a reduced emphasis on enforcement is seen as particularly risky, with advisory guidance alone unlikely to drive behavioural change in high risk sectors. We have concerns about whether a reduced enforcement emphasis could undermine safety outcomes over time.

There is uncertainty as to whether WorkSafe currently has the capability and resourcing required to operate credibly and effectively in an advisory-led model.

WorkSafe should be required to publish its approach to education, engagement and enforcement to ensure a consistent approach nationwide.

4. Safe harbour provisions and accountability

The Bill proposes a safe harbour where compliance with an Approved Code of Practice (ACOP) would be treated as compliance with the Health and Safety at Work Act (clause 29). This raises concerns about the balance between compliance certainty versus accountability.

While codes of practice have the benefit of reflecting particular industry practices, there is the risk that some groups could develop an ACOP with lower standards than the regulations it would replace.

5. Officers' duties reframed as governance, not operational

Clarification that officers' duties relate to governance oversight (rather than day-to-day operational conduct) is welcomed (clause 21). This provides greater certainty and clearer boundaries for directors and officers.

6. Clarification of overlapping legislative compliance

The Bill provides that if a person complies with relevant requirements under other legislation to manage a risk, they must be treated with having followed the relevant duties under the Health and Safety at Work Act (clause 12). We welcome this clarification as it will reduce confusion and regulatory friction.

7. Open spaces and recreational accessibility

The Bill clarifies the responsibilities of PCBUs relating recreational use of land (clause 14). This is a sensible clarification that should remove unnecessary restrictions on public access to such land.

8. Resourcing and implementation capacity

The reforms assume greater engagement, guidance, and education by WorkSafe, but without clear funding commitments. An advisory-led regulator requires more time, capability and more outreach, not fewer resources. The proposed approach would require capability uplift and cultural change within WorkSafe, and sustained funding.

In the absence of clear commitments to added resources, there is a risk that implementation will be uneven or superficial. An under-resourced reform could leave the regulator ineffective both as an advisor and as an enforcer, increasing system-wide risk rather than improving health and safety outcomes.

9. Need for supporting guidance

As small PCBUs will be required to manage only critical (not all) risks, it would be useful if WorkSafe could publish guidance aimed at small PCBUs to assist them to identify and assess critical risks, supported by practical examples and illustrations of good practice.

This guidance should be practical and in plain language, and help small PCBUs identify and assess critical risks, with sector-specific examples of what good risk management looks like in practice. Without a clear "critical risk" definition there is a risk of confusion, inconsistent application and serious hazards not being adequately controlled.

Thank you again for the opportunity to make this submission.

Ngā mihi,

A handwritten signature in black ink, appearing to read "Susan Ivory". The signature is fluid and cursive, with a prominent initial "S" and a large "I".

Susan Ivory
Regulatory Affairs Manager
Insurance Council of New Zealand