



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

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 15th day of February 2016

Present:

His Excellency the Governor-General in Council

These regulations are made under sections 211, 213, and 218 of the Health and Safety at Work Act 2015—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Workplace Relations and Safety made after complying with sections 213(3), 217, and 219 of that Act.

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Regulations

1 Title

These regulations are the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016.

2 Commencement

These regulations come into force on 4 April 2016.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Health and Safety at Work Act 2015

administrative control—

- (a) means a control measure that is a method of work, process, or procedure designed to minimise risk; but
- (b) does not include—
 - (i) an engineering control; or
 - (ii) the wearing or use of personal protective equipment

atmosphere with potential for fire or explosion means an atmosphere—

- (a) that does not have a safe oxygen level; or
- (b) in which the concentration of oxygen in the atmosphere increases the fire risk; or
- (c) in which the concentration of flammable gas, vapour, mist, or fumes exceeds 5% of the lower explosive limit for the gas, vapour, mist, or fumes; or
- (d) in which combustible dust is present in a quantity and form that creates a risk of fire or explosion

combustible dust means finely divided solid particles (including dust, fibres, or flyings) that are—

- (a) suspended in air or settle out of the atmosphere under their own weight; and
- (b) able to burn or glow in air; and
- (c) able to form an explosive mixture with air at atmospheric pressure and normal temperature

contaminant means a substance that may be harmful to health or safety

control measure, in relation to a risk to health and safety, means a measure to eliminate or minimise the risk

engineering control—

- (a) means a control measure that is physical in nature; and
- (b) includes a mechanical device or process

exposure monitoring—

- (a) means the measurement and evaluation of exposure to a health hazard experienced by a person; and
- (b) includes—
 - (i) monitoring of the conditions at the workplace; and
 - (ii) biological monitoring of people

health monitoring, in relation to an individual, means monitoring of the individual to identify any changes in his or her health status because of exposure to certain health hazards

ignition source means a source of energy capable of igniting flammable or combustible substances

limited-attendance child-care centre means any premises used regularly for the care of 3 or more children (not being children of the persons providing the care, or children enrolled at a school being provided with care before or after school) under the age of 6, none of whom attends for any period exceeding 2 hours per day, in circumstances where the children's parents or caregivers—

- (a) are in close proximity to the children and are able to be contacted; and
- (b) are able to resume responsibility for the children at short notice

lower explosive limit, in relation to any flammable gas, vapour, mist, or fumes, means the concentration of the gas, vapour, mist, or fumes in air below which the propagation of a flame would not occur on contact with an ignition source

mixture means a combination of, or a solution composed of, 2 or more substances that do not react to each other

occupational health practitioner means an individual who—

- (a) is a medical practitioner, a nurse practitioner, or a registered nurse; and
- (b) has the knowledge, experience, and skills in occupational health to carry out a task required by regulations

prescribed exposure standard means a workplace exposure standard or a biological exposure index that has the purpose of protecting persons in a workplace from harm to health and that is prescribed in—

- (a) regulations; or

- (b) a safe work instrument; or
- (c) an approval or a reassessment in accordance with section 77B of the Hazardous Substances and New Organisms Act 1996; or
- (d) a group standard approval issued under section 96B of the Hazardous Substances and New Organisms Act 1996

remote or isolated work, in relation to a worker, means work that is isolated from the assistance of other persons because of location, time, or the nature of the work

substance hazardous to health—

- (a) means a substance, or product containing a substance, that is known or suspected to cause harm to health; and
 - (b) includes—
 - (i) a substance classified as having toxic or corrosive properties under the Hazardous Substances and New Organisms Act 1996;
 - (ii) a substance for which a prescribed exposure standard exists;
 - (iii) a substance specified in a safe work instrument as requiring health monitoring.
- (2) Terms or expressions used and not defined in these regulations but defined in the Act have, in these regulations, the same meaning as in the Act.

Part 1

General duties

Risk management process to be followed by PCBU in specified circumstances

4 Application of regulations 5 to 8

Regulations 5 to 8 apply when managing particular risks to health and safety, as specified in regulations.

Compare: Model Work Health and Safety Regulations (Aust) r 33

5 Duty to identify hazards

A PCBU, in managing risks to health and safety, must identify hazards that could give rise to reasonably foreseeable risks to health and safety.

Compare: Model Work Health and Safety Regulations (Aust) r 34

6 Hierarchy of control measures

- (1) This regulation applies if it is not reasonably practicable for a PCBU to eliminate risks to health and safety in accordance with section 30(1)(a) of the Act.
- (2) A PCBU must, to minimise risks to health and safety, implement control measures in accordance with this regulation.

- (3) The PCBU must minimise risks to health and safety, so far as is reasonably practicable, by taking 1 or more of the following actions that is the most appropriate and effective taking into account the nature of the risk:
 - (a) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk;
 - (b) isolating the hazard giving rise to the risk to prevent any person coming into contact with it;
 - (c) implementing engineering controls.
- (4) If a risk then remains, the PCBU must minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.
- (5) If a risk then remains, the PCBU must minimise the remaining risk by ensuring the provision and use of suitable personal protective equipment.

Compare: Model Work Health and Safety Regulations (Aust) r 36

7 Duty to maintain effective control measures

A PCBU who implements a control measure to eliminate or minimise risks to health and safety must ensure that the control measure is effective, and is maintained so that it remains effective, including by ensuring that the control measure is and continues to be—

- (a) fit for purpose; and
- (b) suitable for the nature and duration of the work; and
- (c) installed, set up, and used correctly.

Compare: Model Work Health and Safety Regulations (Aust) r 37

8 Duty to review control measures

- (1) A PCBU must review and, as necessary, revise control measures implemented under regulations so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health and safety.
- (2) Without limiting subclause (1), the PCBU must review and, as necessary, revise a control measure in the following circumstances:
 - (a) if the control measure does not control the risk it was implemented to control so far as is reasonably practicable;
 - (b) before a change at the workplace that is likely to give rise to a new or different risk to health and safety that the measure may not effectively control;
 - (c) if a new relevant hazard or risk is identified;
 - (d) if the PCBU obtains a health monitoring report in relation to a worker under regulation 38 that contains—
 - (i) test results that indicate that the worker has been exposed to a substance hazardous to health at a concentration that may cause harm

- and has an elevated level of that substance or its metabolites in his or her body; or
- (ii) advice that test results indicate that the worker may have contracted a disease or an illness or suffered an injury as a result of carrying out work that involves a health hazard that triggered the requirement for health monitoring; or
 - (iii) a recommendation that the PCBU take remedial measures, including a recommendation as to whether the worker can continue to carry out the work that involves a health hazard that triggered the requirement for health monitoring:
- (e) if the results of exposure monitoring carried out under regulation 30 determine that the concentration of a substance hazardous to health at the workplace exceeds a relevant prescribed exposure standard:
 - (f) if the results of engagement with workers undertaken by the PCBU under the Act or regulations indicate that a review is necessary:
 - (g) if a health and safety representative requests a review under subclause (4).
- (3) Without limiting subclause (2)(b), a **change** at the workplace includes—
- (a) a change to the workplace itself or any aspect of the work environment; or
 - (b) a change to a system of work, a process, or a procedure.
- (4) A health and safety representative may request a review of a control measure if the representative reasonably believes that—
- (a) a circumstance referred to in subclause (2)(a), (b), (c), or (d) affects, or may affect, the health and safety of a member of the work group represented by the health and safety representative; and
 - (b) the PCBU has not adequately reviewed the control measure in response to the circumstance.

Compare: Model Work Health and Safety Regulations (Aust) rr 38, 352

Supervision, training, and instruction of workers

9 Duty to provide information, supervision, training, and instruction

- (1) A PCBU must ensure, so far as is reasonably practicable, that every worker who carries out work of any kind, uses plant of any kind, or deals with a substance of any kind that is capable of causing a risk in a workplace—
- (a) either—
 - (i) has adequate knowledge and experience of similar places, and work, plant, or substances of that kind, to ensure that the worker carrying out the work, using the plant, or dealing with the sub-

- stance is not likely to adversely affect the health and safety or cause harm to the worker or any other person; or
- (ii) is adequately supervised by a person who has that knowledge and experience; and
- (b) is adequately trained in the safe use of—
 - (i) all plant, objects, substances, or equipment that the worker is or may be required to use or handle; and
 - (ii) all personal protective equipment that the worker is or may be required to wear or use.
- (2) In complying with subclause (1), the PCBU must ensure that the supervision and training provided to a worker are suitable and adequate, having regard to—
 - (a) the nature of the work carried out by the worker; and
 - (b) the nature of the risks associated with the work at the time the supervision or training is provided; and
 - (c) the control measures implemented in relation to the work that the worker is undertaking.
 - (3) The PCBU must ensure, so far as is reasonably practicable, that the training is readily understandable by any person to whom it is provided.
 - (4) In this regulation, **training** includes the provision of information or instruction.
 - (5) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 s 13; Model Work Health and Safety Regulations (Aust) r 39

General workplace facilities

10 Duty in relation to general workplace facilities

- (1) A PCBU must ensure, so far as is reasonably practicable, that—
 - (a) the layout of the workplace allows, and the workplace is maintained to allow, persons to enter and exit the workplace and to move within it without risks to health and safety, both under normal working conditions and in an emergency;
 - (b) work areas have sufficient space for work to be carried out without risks to health and safety;
 - (c) floors and other surfaces are designed, installed, and maintained to allow work to be carried out without risks to health and safety;
 - (d) there is suitable and sufficient lighting to enable—

- (i) each worker to carry out work without risks to health and safety; and
 - (ii) persons to move within the workplace without risks to health and safety; and
 - (iii) safe evacuation in an emergency:
 - (e) there is suitable and sufficient ventilation to enable workers to carry out work without risks to health and safety:
 - (f) workers carrying out work in extremes of heat or cold are able to do so without risks to health and safety.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 40

11 Duty to provide certain workplace facilities

- (1) A PCBU must ensure, so far as is reasonably practicable, that adequate facilities are provided for workers at a workplace, including—
- (a) toilets:
 - (b) drinking water:
 - (c) hand-washing facilities:
 - (d) facilities where workers can eat and take breaks:
 - (e) if it is not reasonable for workers to leave the workplace if they become unwell, facilities where workers can rest.
- (2) In addition, a PCBU must ensure that the following facilities are provided for workers at a workplace if the work is of such a nature that the facilities are reasonably likely to be required:
- (a) facilities for washing the body:
 - (b) a place in which to change clothes that become contaminated or wet:
 - (c) facilities for keeping clothes that will not be used at work clean and dry:
 - (d) if it is reasonable for workers to perform work while seated, facilities for sitting:
 - (e) if it is not reasonable for workers to perform work while seated, facilities for sitting that enable workers to take any reasonable opportunity for rest that may occur in the course of the work:
 - (f) facilities that prevent workers from becoming wet from a wet floor, whether by way of drainage of the floor or otherwise:
 - (g) facilities that enable any airborne contaminants to be controlled as closely as possible to their source and to be treated or carried off.

- (3) A PCBU who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 rr 4(2)(i), (j), 5(2)(a)–(f); Model Work Health and Safety Regulations (Aust) r 41

12 Duty to provide workplace facilities in sufficient number and to maintain facilities

- (1) A PCBU must ensure, so far as is reasonably practicable, that the facilities provided under regulations 10 and 11 are sufficient in number and are maintained so as to be—
- (a) in good working order; and
 - (b) clean, safe, and accessible.
- (2) In complying with subclause (1), the PCBU must have regard to all relevant matters, including—
- (a) the nature of the work being carried out at the workplace;
 - (b) the nature of the hazards at the workplace;
 - (c) the size, location, and nature of the workplace;
 - (d) the number and composition of the workforce at the workplace.
- (3) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 r 7

First aid

13 Duty to provide first aid

- (1) A PCBU must ensure that—
- (a) adequate first aid equipment is provided for the workplace; and
 - (b) each worker at the workplace has access to the equipment; and
 - (c) workers have access to facilities for the administration of first aid.
- (2) A PCBU must ensure that—
- (a) an adequate number of workers are trained to administer first aid at the workplace; or
 - (b) workers have access to an adequate number of other persons who have been trained to administer first aid.

- (3) In complying with subclauses (1) and (2), the PCBU must have regard to all relevant matters, including—
 - (a) the nature of the work being carried out at the workplace:
 - (b) the nature of the hazards at the workplace:
 - (c) the size and location of the workplace:
 - (d) the number and composition of the workforce at the workplace.
 - (4) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.
- Compare: Model Work Health and Safety Regulations (Aust) r 42

Emergency plans

14 Duty to prepare, maintain, and implement emergency plan

- (1) A PCBU must ensure that an emergency plan is prepared for the workplace.
- (2) The emergency plan must—
 - (a) provide emergency procedures, including—
 - (i) an effective response to an emergency; and
 - (ii) evacuation procedures; and
 - (iii) procedures for notifying emergency service organisations at the earliest opportunity; and
 - (iv) medical treatment and assistance procedures; and
 - (v) procedures to ensure effective communication between the person authorised by the PCBU to co-ordinate the emergency response and all other persons at the workplace:
 - (b) provide for testing of the emergency procedures, including the frequency of testing:
 - (c) provide for information, training, and instruction to be given to relevant workers in relation to implementing the emergency procedures.
- (3) The PCBU must maintain the emergency plan for the workplace so that it remains effective.
- (4) In complying with subclauses (1) to (3), the PCBU must have regard to all relevant matters, including—
 - (a) the nature of the work being carried out at the workplace:
 - (b) the nature of the hazards at the workplace:
 - (c) the size and location of the workplace:
 - (d) the number and composition of the workforce at the workplace.

- (5) The PCBU must implement the emergency plan for the workplace in the event of an emergency.
 - (6) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.
- Compare: Model Work Health and Safety Regulations (Aust) r 43

Personal protective equipment

15 General duty of PCBU to provide personal protective equipment

- (1) This regulation and regulations 16 and 17 apply if personal protective equipment is to be used to minimise risks to health and safety.
- (2) A PCBU who directs the carrying out of work at a workplace must provide personal protective equipment to workers carrying out the work unless the personal protective equipment has been provided by another PCBU.
- (3) A PCBU who contravenes subclause (2) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 44

16 Worker may choose to provide personal protective equipment

- (1) A PCBU does not have to comply with regulation 15(2) if—
 - (a) a worker genuinely and voluntarily chooses to provide his or her own personal protective equipment for reasons of his or her comfort or convenience; and
 - (b) the PCBU is satisfied that the personal protective equipment provided by the worker is suitable in terms of regulation 17(1).
- (2) A worker who has chosen to provide his or her own personal protective equipment under subclause (1) may, after giving reasonable notice to the PCBU, choose that the PCBU provide personal protective equipment under regulation 15(2) instead of providing it himself or herself, and the PCBU must then provide the personal protective equipment to the worker.
- (3) This regulation does not apply to the Armed Forces.
- (4) A PCBU who contravenes subclause (2) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 s 10(4), (5)

17 Other duties of PCBU relating to personal protective equipment

- (1) A PCBU must ensure that any personal protective equipment provided by the PCBU under regulation 15(2), or that is provided by the worker under regulation 16(1), is—
 - (a) selected to minimise risks to health and safety, including by ensuring that the equipment is—
 - (i) suitable, having regard to the nature of the work and any hazard associated with the work; and
 - (ii) a suitable size and fit and reasonably comfortable for the worker who is to wear or use it; and
 - (b) maintained, repaired, or replaced so that it continues to minimise risk to the worker who uses it, including by ensuring that the equipment is—
 - (i) clean and hygienic; and
 - (ii) in good working order; and
 - (c) worn or used by the worker, so far as is reasonably practicable; and
 - (d) compatible with any other personal protective equipment that is required to be worn or used by the worker.
- (2) In addition, the PCBU must, in accordance with regulation 9, provide the worker with information about, and training and instruction in,—
 - (a) the proper wearing or use of personal protective equipment; and
 - (b) the storage and maintenance of personal protective equipment.
- (3) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 s 10(4), (5)

18 Duty of worker to wear or use personal protective equipment

- (1) This regulation applies to a worker—
 - (a) who has been provided with personal protective equipment by a PCBU under regulation 15(2); or
 - (b) who has chosen to provide his or her personal protective equipment under regulation 16(1).
- (2) The worker must wear or use the personal protective equipment in accordance with any information, training, or reasonable instruction by the PCBU.
- (3) The worker must not intentionally misuse or damage the equipment.
- (4) The worker must inform the PCBU of any damage to, defect in, or need to clean or decontaminate any of the equipment that the worker becomes aware of.

- (5) A worker who contravenes this regulation commits an offence and is liable on conviction to a fine not exceeding \$6,000.

Compare: Model Work Health and Safety Regulations (Aust) r 46

19 Duty of PCBU to ensure personal protective equipment worn or used by other persons

- (1) A PCBU who directs the carrying out of work at a workplace must ensure, so far as is reasonably practicable, that—
- (a) personal protective equipment to be worn or used by any person other than a worker at the workplace is capable of minimising risks to that person's health and safety; and
 - (b) the person wears or uses the equipment.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 45

20 Duty of other persons to wear or use personal protective equipment

- (1) A person other than a worker must wear or use personal protective equipment at a workplace in accordance with any information, training, or reasonable instruction provided by the PCBU at the workplace.
- (2) A person who contravenes this regulation commits an offence and is liable on conviction to a fine not exceeding \$6,000.

Compare: Model Work Health and Safety Regulations (Aust) r 47

Part 2

Management of particular risks

Remote or isolated work

21 Managing risks associated with remote or isolated work

- (1) A PCBU must manage, in accordance with regulations 5 to 8, risks to the health and safety of a worker who performs remote or isolated work.
- (2) To minimise risks to the health and safety of a worker associated with remote or isolated work, a PCBU must provide a system of work that includes effective communication with the worker.
- (3) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:

(b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 48

Atmospheres with potential for fire or explosion

22 Managing risks associated with atmosphere with potential for fire or explosion

- (1) A PCBU with management or control of a workplace must manage, in accordance with regulations 5 to 8, risks to health and safety associated with an atmosphere with potential for fire or explosion.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 52(1)

23 Managing risks associated with ignition sources

- (1) A PCBU with management or control of a workplace must manage, in accordance with regulations 5 to 8, risks to health and safety associated with an ignition source in an atmosphere with potential for fire or explosion.
- (2) Subclause (1) does not apply if the ignition source is part of a deliberate process or activity at the workplace.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 52

Raised and falling objects

24 Managing risks associated with working under raised objects

- (1) A PCBU must manage, in accordance with regulations 5 to 8, risks to health and safety associated with work being done under any object that has been raised or lifted by any means.
- (2) If it is not reasonably practicable to eliminate the risk referred to in subclause (1), the PCBU must minimise the risk by, so far as is reasonably practicable, providing supports or other devices to be placed or used under the raised object so that the object cannot fall or be lowered while a worker or other person is under it.
- (3) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:

(b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 r 16

25 Managing risks associated with falling objects

- (1) A PCBU must manage, in accordance with regulations 5 to 8, risks to health and safety associated with a falling object if the object is reasonably likely to fall on and injure a person.
- (2) If it is not reasonably practicable to eliminate the risk referred to in subclause (1), the PCBU must minimise the risk by providing and maintaining a safe system of work that includes—
 - (a) measures for preventing an object from falling freely, so far as is reasonably practicable; or
 - (b) if it is not reasonably practicable to prevent the object from falling freely, a system to arrest the fall; or
 - (c) if it is not reasonably practicable to comply with paragraph (a) or (b), providing an exclusion zone that persons are prohibited from entering.
- (3) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) rr 54, 55

Containers of liquids

26 Containers of liquids

- (1) A PCBU must ensure, so far as is reasonably practicable, where any container that contains liquids at the workplace presents a risk of drowning,—
 - (a) the container is securely covered; or
 - (b) the container is enclosed by a secure fence that—
 - (i) extends at least 1 metre above the adjoining floor, ground, or platform; and
 - (ii) is in a position that will provide adequate protection for any person who is near the container.
- (2) In subclause (1), **container**—
 - (a) means any enclosure, fixed vessel, pit, structure, sump, vat, or other container of a similar kind—
 - (i) that contains any liquid; and
 - (ii) the edge of which is less than 1 metre above the adjoining floor, ground, or platform; but

- (b) does not include any drinking trough for animals or any system of water collection, disposal, distribution, or storage.
 - (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.
- Compare: SR 1995/167 r 14

Loose but enclosed materials

27 Managing risks associated with loose but enclosed materials

- (1) A PCBU must manage, in accordance with regulations 5 to 8, the risks to health and safety associated with a worker becoming trapped or engulfed by material.
 - (2) In subclause (1), **material** means material—
 - (a) that consists of or includes solid material in such a form or state, or in pieces or particles so small, that it is capable of subsiding or flowing in such a manner as to trap or engulf any person; and
 - (b) that is enclosed in a structure.
 - (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.
- Compare: SR 1995/167 r 15

Substances hazardous to health

28 Managing risks associated with substances hazardous to health

- (1) A PCBU must manage, in accordance with regulations 5 to 8, risks to health and safety associated with substances hazardous to health at the workplace.
 - (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.
- Compare: Model Work Health and Safety Regulations (Aust) r 351

29 Ensuring prescribed exposure standards for substances hazardous to health are not exceeded

- (1) A PCBU with management or control of a workplace must ensure that no person at the workplace is exposed to a substance hazardous to health in a concentration that exceeds the prescribed exposure standard for the substance.

- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 49

30 When exposure monitoring required

- (1) For the purposes of regulation 29, if the PCBU is not certain on reasonable grounds whether the concentration of a substance hazardous to health at the workplace exceeds the relevant prescribed exposure standard, the PCBU must ensure that exposure monitoring is carried out in accordance with regulation 32 to determine the concentration.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 50

31 When health monitoring required

- (1) A PCBU must ensure that health monitoring is provided to a worker who works for the PCBU if—
- (a) the worker is carrying out ongoing work involving a substance hazardous to health that is specified in a safe work instrument as requiring health monitoring; and
 - (b) there is a serious risk to the worker's health because of exposure to the substance hazardous to health.
- (2) The health monitoring required by subclause (1) must be provided in accordance with regulations 33 to 42.
- (3) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 368

Part 3

Duties relating to exposure monitoring and health monitoring

Exposure monitoring

32 Duties relating to exposure monitoring

- (1) Exposure monitoring required by regulations must be carried out—

- (a) at appropriate intervals and after any significant change at the workplace that may affect exposure; and
 - (b) by, or under the supervision of, a competent person who has sufficient knowledge, skills, and experience in the appropriate techniques and procedures, including the interpretation of results.
- (2) The PCBU must ensure that the results of exposure monitoring carried out under subclause (1)—
- (a) are recorded and kept for—
 - (i) 40 years after the date on which the record is made, if the monitoring is undertaken in relation to asbestos;
 - (ii) 30 years after the date on which the record is made, in any other case; and
 - (b) are readily accessible to any person at the workplace who may be, or may have been, exposed to the health hazard.
- (3) A record of exposure monitoring results made available to any person at the workplace in accordance with subclause (2)(b) must not contain any information that identifies, or discloses anything about, an individual worker.
- (4) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.
- (5) A PCBU who contravenes subclause (2) or (3) commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$2,000;
 - (b) for any other person, to a fine not exceeding \$10,000.

Compare: Model Health and Safety Regulations (Aust) r 50

Health monitoring

33 Duty to inform worker of health monitoring

- (1) A PCBU who is required by regulations to provide health monitoring to a worker must give the information specified in subclause (2) to—
- (a) a person who is likely to carry out work that involves a health hazard; and
 - (b) a worker for the PCBU before the worker commences work that involves a health hazard.
- (2) The information is—
- (a) that the PCBU has a duty to carry out health monitoring; and

- (b) the health hazard that triggered the requirements for the health monitoring; and
 - (c) the nature of the health monitoring and how it will be carried out; and
 - (d) the information that will be provided to the occupational health practitioner; and
 - (e) that the PCBU has a duty to obtain a health monitoring report from the occupational health practitioner and the content of that report; and
 - (f) that the PCBU has a duty to notify the regulator and other relevant PCBUs; and
 - (g) the circumstances under which health monitoring reports will be retained, stored, and shared; and
 - (h) the purposes of the health monitoring, which are—
 - (i) to assist the PCBU to reduce the risk of exposure to health hazards in the workplace; and
 - (ii) to enable the PCBU and other PCBUs in the workplace to take remedial action within the workplace; and
 - (iii) to facilitate the treatment and protection of workers who have been exposed to health hazards; and
 - (iv) to inform the regulator, as required by regulation 41, when test results indicate that a worker may have contracted a disease or an illness or suffered an injury as a result of carrying out the work that triggered the requirement for health monitoring to enable the regulator to carry out its functions under the Act and the Work-Safe New Zealand Act 2013.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$6,000;
 - (b) for any other person, to a fine not exceeding \$30,000.

Compare: Model Work Health and Safety Regulations (Aust) r 369

34 Duty to ensure appropriate health monitoring is provided

- (1) A PCBU must ensure that health monitoring of a worker is of—
- (a) a type recommended by an occupational health practitioner with experience in health monitoring; or
 - (b) a type referred to in a safe work instrument (if any).
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:

(b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 370

35 Duty to ensure health monitoring is supervised

- (1) A PCBU must ensure that the health monitoring of a worker is carried out by or under the supervision of an occupational health practitioner with experience in health monitoring.
- (2) The PCBU must consult the worker in relation to the selection of the occupational health practitioner.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.
- (4) A PCBU who contravenes subclause (2) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$6,000:
 - (b) for any other person, to a fine not exceeding \$30,000.

Compare: Model Work Health and Safety Regulations (Aust) r 371

36 Duty to pay costs of health monitoring

- (1) A PCBU must pay all expenses relating to health monitoring of a worker.
- (2) If 2 or more PCBUs have a duty to provide health monitoring for a worker and have arranged for one of them to commission the health monitoring, the costs of the health monitoring for which any of those PCBUs is liable must be apportioned equally between each of the PCBUs unless they agree otherwise.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$6,000:
 - (b) for any other person, to a fine not exceeding \$30,000.

Compare: Model Work Health and Safety Regulations (Aust) r 372

37 Information that must be provided to occupational health practitioner

- (1) A PCBU who commissions health monitoring for a worker must provide the following information to the occupational health practitioner carrying out or supervising the health monitoring:
 - (a) the name and address of the PCBU; and
 - (b) the name and date of birth of the worker; and
 - (c) the type of work that the worker is, or will be, carrying out that has triggered the requirement for health monitoring; and

- (d) if the worker has started that work, how long the worker has been carrying out that work.
 - (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$6,000;
 - (b) for any other person, to a fine not exceeding \$30,000.
- Compare: Model Work Health and Safety Regulations (Aust) r 373

38 Duty to obtain health monitoring report

- (1) A PCBU who commissions health monitoring of a worker must, as soon as practicable after the monitoring is carried out in relation to the worker, take all reasonable steps to obtain a health monitoring report from the occupational health practitioner who carried out or supervised the health monitoring.
- (2) The health monitoring report must include the following information:
 - (a) the name and date of birth of the worker; and
 - (b) the name of the occupational health practitioner; and
 - (c) the name and address of the PCBU who commissioned the health monitoring; and
 - (d) the date of the health monitoring; and
 - (e) any test results that indicate whether the worker has been exposed to a health hazard; and
 - (f) any advice that test results indicate that the worker may have contracted a disease or an illness or suffered an injury as a result of carrying out the work that triggered the requirement for health monitoring; and
 - (g) any recommendation that the PCBU take remedial measures, including a recommendation as to whether the worker is able to continue to carry out the type of work that triggered the requirement for health monitoring.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 374

39 Duty to give health monitoring report to worker

- (1) A PCBU who commissions health monitoring of a worker must, as soon as practicable after the PCBU obtains the health monitoring report, give a copy of the report to the worker.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;

(b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 375

40 Duty to give health monitoring report to relevant PCBUs

(1) The PCBU who commissions health monitoring for a worker must, as soon as practicable after obtaining a health monitoring report, give a copy of the report to all other PCBUs who have a duty to provide health monitoring for the worker.

(2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding \$10,000:

(b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 377

41 Duty to give health monitoring report to regulator

(1) A PCBU for whom any worker is carrying out work for which health monitoring is required must, as soon as practicable after obtaining a health monitoring report, ensure that a copy of the report is provided to the regulator if the report contains—

(a) any advice that test results indicate that the worker may have contracted a disease or an illness or suffered an injury as a result of carrying out work that involves a health hazard that triggered the requirement for health monitoring; or

(b) any recommendation that the PCBU take remedial measures, including a recommendation as to whether the worker is able to continue to carry out work that involves a health hazard that triggered the requirement for health monitoring.

(2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—

(a) for an individual, to a fine not exceeding \$10,000:

(b) for any other person, to a fine not exceeding \$50,000.

Compare: Model Work Health and Safety Regulations (Aust) r 376

42 Health monitoring records

(1) A PCBU must ensure that a health monitoring report in relation to a worker who works for the PCBU is kept—

(a) as a confidential record that is identified as a record in relation to the worker; and

(b) for—

(i) 40 years after the date on which the record is made, if the monitoring is undertaken in order to detect asbestos-related disease:

- (ii) 30 years after the date on which the record is made, in any other case.
 - (2) The PCBU must ensure that the health monitoring report is not disclosed to another person without the worker's written consent.
 - (3) Subclause (2) does not apply if the record is disclosed under regulation 40 or 41.
 - (4) A PCBU who contravenes subclause (1) or (2) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$2,000;
 - (b) for any other person, to a fine not exceeding \$10,000.
- Compare: Model Work Health and Safety Regulations (Aust) r 378

Part 4

Young persons at workplace

43 Duty to ensure young persons do not carry out certain work

- (1) A PCBU must ensure, so far as is reasonably practicable, that no worker aged under 15 years carries out the following types of work:
 - (a) the manufacture or preparation of goods for trade or sale;
 - (b) construction work;
 - (c) logging or tree-felling;
 - (d) the manufacture, use, or generation of hazardous substances;
 - (e) any other work of a type that is likely to cause harm to the health and safety of a person aged under 15 years.
- (2) Subclause (1) does not apply in relation to a worker aged under 15 years who is carrying out administrative or retail work in a business or undertaking that does work of a type specified in any of paragraphs (a) to (e) of subclause (1).
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 r 54

44 General duties relating to young persons at workplace

- (1) A PCBU with management or control of a workplace must ensure, so far as is reasonably practicable, that no person aged under 15 years is present in any area of the workplace at any time when—
 - (a) goods are being prepared or manufactured in that area for trade or sale;
 - (b) construction work is being carried out in that area;

- (c) a logging operation or tree-felling operation is being carried out in that area;
 - (d) work involving the manufacture, use, or generation of hazardous substances is being carried out in that area;
 - (e) any work is being carried out in that area that is likely to cause harm to the health and safety of a person aged under 15 years.
- (2) Subclause (1) does not apply in relation to a person aged under 15 years who is present at all times—
- (a) in any part of that area to which the public generally has access; or
 - (b) under the direct and active supervision of an adult in that area that is appropriate to the age of the young person and the nature of the risks present in the workplace; or
 - (c) on a guided tour of that area; or
 - (d) in any part of that area that is used only for selling goods or services.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 r 59

45 Duty to ensure young persons do not perform harmful tasks

- (1) A PCBU with management or control of a workplace must ensure, so far as is reasonably practicable, that no worker aged under 15 years is required to lift any weight or to perform any task if lifting the weight or performing the task would be likely to be harmful to the worker's health.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 rr 55, 58C

46 Duty to ensure young persons do not work at or with machinery

- (1) A PCBU with management or control of a workplace must ensure, so far as is reasonably practicable, that no worker aged under 15 years—
- (a) works at or with any machinery at the workplace; or
 - (b) assists with work at or with any machinery at the workplace.
- (2) In subclause (1), **machinery**—

- (a) means an engine, motor, or other appliance that provides mechanical energy derived from compressed air, the combustion of fuel, electricity, gas, gaseous products, steam, water, wind, or any other source; and
- (b) includes—
 - (i) any plant by or to which the motion of any machinery is transmitted; and
 - (ii) a lifting machine, a lifting vehicle, a machine whose motive power is wholly or partly generated by the human body, and a tractor.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 rr 56, 58D

47 Duty to ensure young persons do not drive or ride upon certain vehicles

- (1) A PCBU with management or control of a workplace must ensure, so far as is reasonably practicable, that no worker aged under 15 years—
 - (a) drives a vehicle; or
 - (b) rides upon a vehicle while it is drawing an implement; or
 - (c) rides upon a vehicle while an implement is attached to it; or
 - (d) rides upon an implement (other than a sled or trailer designed or adapted exclusively or principally for the carriage of passengers or goods) drawn by or attached to a vehicle.
- (2) Subclause (1) does not apply to a worker aged 12 years or over who drives or rides on a tractor if—
 - (a) the tractor is being used in connection with agricultural work; and
 - (b) the worker—
 - (i) has been fully trained in the safe operation of the tractor and the safe use of any implement that is being drawn by or is attached to the tractor; or
 - (ii) is being trained in the safe operation of the tractor or the safe use of any implement that is being drawn by or is attached to the tractor.
- (3) In subclause (1), **vehicle** means—
 - (a) a tractor; and
 - (b) any self-propelled mobile mechanical plant, other than a car, a truck, a motorcycle, or machinery that has a mass of 700 kilograms or less.
- (4) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—

- (a) for an individual, to a fine not exceeding \$10,000:
- (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 rr 57, 58E, 60

48 Duty to ensure young persons do not carry out night work

- (1) A PCBU must ensure, so far as is reasonably practicable, that no worker aged under 16 years works between the hours of 10 pm on any day and 6 am on the next day.
- (2) Subclause (1) does not apply if the worker's work complies in all respects with an approved code of practice relating to the employment or engagement of persons under 16 years between those hours in work of the kind that the worker is carrying out.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: SR 1995/167 rr 58, 58F

Part 5

Limited-attendance child-care centres

49 Duty to ensure workers at limited-attendance child-care centres are suitable

- (1) A PCBU who operates a limited-attendance child-care centre must ensure, so far as is reasonably practicable, that every worker who is employed or engaged to care for children at the centre is suitable for that role.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 s 13A

50 Duty to carry out Police vetting of workers at limited-attendance child-care centres

- (1) A PCBU who operates a limited-attendance child-care centre must obtain a Police vet of every worker—
 - (a) whom the PCBU employs or engages, or intends to employ or engage, in a position at the centre; and
 - (b) who is to work at the centre during normal opening hours; and
 - (c) who is not a registered teacher or a holder of a limited authority to teach.

- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 ss 13B, 13C

51 Duty to ensure Police vet obtained before worker has unsupervised access to children

- (1) A PCBU who is required to obtain a Police vet under regulation 50 must—
- (a) apply for the Police vet no later than 2 weeks after the worker begins working at the centre; and
 - (b) obtain the Police vet before the worker has, or is likely to have, unsupervised access to children at the centre during normal opening hours.
- (2) A PCBU who contravenes this regulation commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 s 13D

52 Procedures relating to Police vets of limited-attendance child-care workers

- (1) A PCBU who applies for a Police vet of a person under regulation 50—
- (a) must ensure that strict confidentiality is observed for the Police vet; and
 - (b) must not take adverse action in relation to the worker who is the subject of a Police vet until—
 - (i) the worker has validated the information contained in the vet; or
 - (ii) the worker has been given a reasonable opportunity to validate the information, but has failed to do so within a reasonable period.
- (2) In subclause (1), **adverse action** has the same meaning as in section 97 of the Privacy Act 1993.
- (3) A PCBU who contravenes subclause (1) commits an offence and is liable on conviction,—
- (a) for an individual, to a fine not exceeding \$10,000:
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 s 13E

Part 6

Consequential amendments

53 Consequential amendments to Health and Safety in Employment Regulations 1995

This Part amends the Health and Safety in Employment Regulations 1995.

54 Regulations 5 and 6 revoked

Revoke regulations 5 and 6.

55 Regulations 14 and 15 revoked

Revoke regulations 14 and 15.

56 Parts 5 to 7 revoked

Revoke Parts 5 to 7.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 4 April 2016, are made under the Health and Safety at Work Act 2015 (the **Act**).

Part 2 of the Act imposes general duties on persons conducting a business or undertaking (**PCBUs**) to ensure, so far as is reasonably practicable, that the workplace is without risks to the health and safety of any person. The effect of these regulations, which are based on corresponding provisions in the Model Work Health and Safety Regulations (Aust), the Health and Safety in Employment Regulations 1995 (the **1995 regulations**), and the Health and Safety in Employment Act 1992 (the **former Act**), is to impose additional duties on PCBUs to ensure, so far as is reasonably practicable, health and safety in the workplace.

Part 1 (regulations 4 to 20) imposes general duties relating to the management of risks to health and safety in the workplace, including—

- imposing a duty on PCBUs to identify hazards in the workplace that could give rise to risks to health and safety (*regulation 5*):
- setting out a hierarchy of control measures that a PCBU must implement where it is not reasonably practicable to eliminate risks to health and safety (*regulation 6*):

- imposing a duty on PCBUs to maintain and review the control measures to ensure that they are, and remain, fit for purpose, suitable for the nature and duration of the work, and installed, set up, and used correctly (*regulations 7 and 8*);
- imposing a duty on PCBUs to provide information, supervision, training, and instruction to workers (*regulation 9*);
- imposing duties on PCBUs regarding the general working environment and facilities for workers at the workplace, including duties to provide first aid, to prepare, maintain, and implement an emergency plan, and to provide personal protective equipment and ensure that it is worn or used in the workplace (*regulations 10 to 20*).

Part 2 (regulations 21 to 31) relates to the management of particular risks and imposes duties on PCBUs in relation to the management of risks associated with certain work, including—

- imposing duties in relation to workers performing remote or isolated work (*regulation 21*);
- imposing duties in relation to hazardous atmospheres and the risks associated with ignition sources (*regulations 22 and 23*);
- imposing a duty to manage or minimise the risks associated with raised and falling objects (*regulations 24 and 25*);
- imposing duties in relation to containers of liquids (*regulation 26*);
- imposing duties in relation to working with loose but enclosed materials (*regulation 27*).

Part 3 (regulations 32 to 42) expands on the duties of PCBUs that relate to monitoring in the workplace, including—

- exposure monitoring (*regulation 32*);
- health monitoring of workers (*regulations 33 to 42*).

Part 4 (regulations 43 to 48) imposes specific duties on PCBUs in relation to young persons in the workplace. The provisions carry forward into these regulations various provisions of Part 5 of the 1995 regulations.

Part 5 (regulations 49 to 52) imposes specific duties on PCBUs who operate limited-attendance child-care centres to obtain a Police vet in respect of workers at the centre. The provisions carry forward into these regulations duties previously set out in the former Act.

Part 6 (regulations 53 to 56) consequentially amends the 1995 regulations to revoke provisions that are now included in these regulations.

Regulatory impact statement

The Ministry of Business, Innovation, and Employment produced a regulatory impact statement on 21 September 2015 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <http://www.mbie.govt.nz/info-services/employment-skills/workplace-health-and-safety-reform/document-and-image-library/ris-cabinet-paper-phase-one-regulations.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 18 February 2016.

These regulations are administered by the Ministry of Business, Innovation, and Employment.