

**Health and safety in the workplace is covered by the Health and Safety at Work Act 2015 (HSWA). Maritime New Zealand (MNZ) administers the HSWA and associated regulations for work on board vessels and vessels as a place of work.**

Under HSWA the person with the primary duty within an operations is called the PCBU. The PCBU can be an individual, several persons or a company entity. The Act also includes officers (Directors) and workers. Depending on your operation you have one or more of these roles.

**I own my own boat ...** as someone who owns their own boat and works on it either alone or with crew you are a worker and a person conducting a business or undertaking (PCBU) and an officer (people with significant influence over the management of the business).

**I have a family trust that owns and operates the boat ...** if a family trust owns and operates the vessel, the trust is a PCBU.

If you and your family member are trustees, both of you are officers.

If you and your family member carry out work for the trust, you're both workers.

**I work on a vessel ...** you are a worker.

All crew are workers, regardless of whether they are employed fulltime or as contractors. If you are a trainee, this includes you!

**I am a Share Fisher who works on someone else's vessel ...** you are a worker and a PCBU and an officer.

**I am self-employed and my family member works for me ...**

If you are self-employed and run the business on your own, you are a PCBU.

If you carry out work for the business (i.e., you are the master), you are also a worker.

If someone else, such as a family member, works for you, they are also a worker.



## WHAT IS MY DUTY?

**I have a limited liability company and both my family member and I are Directors ...** your company is a PCBU.

As you and your family member are Directors of the company you are both officers under HSWA.

If both of you carry out work for the company – i.e., you're the master and your family member does the paperwork and admin – both of you are also workers.

**Everyone involved in a seafood operation has responsibilities under the Health and Safety Work Act 2015 (HSWA).**

**Are you meeting yours?**

## Here are some important terms you need to know:

**A PCBU** – a Person Conducting a Business or Undertaking.

**An officer** – a person with significant influence over the management of the business.

**A worker** – a person who does work in any capacity for a business.

**A hazard** is something that can cause harm.

**A risk** is the chance that a hazard will actually cause that harm and how severe the harm will be.

**“Reasonably practicable”** means all steps at a particular time which could be taken weighing up all relevant matters.

**Keep reading for the duties imposed on workers, PCBUs and officers**

**Whether you are a PCBU, officer or worker, or possibly all three, determines what duties you have under the HSWA. Remember you may have more than one duty!**

PCBU



**Person Conducting a Business or Undertaking (PCBU)** – these can be a business entity e.g. Joe Smith Fishing (sole trader). PCBUs have a primary duty of care (HSWA, Section 36) to ensure that they take all reasonable practicable steps to keep their workers/others in their workplace safe.

**Vessels are a workplace!**

**HSWA and MOSS**

Vessel operators must meet both maritime operator safety systems (MOSS) and HSWA requirements to: manage risks, ensure the safety of others in the workplace, develop emergency management plans, notify events, periodically review workplace controls, provide health and safety information to workers.

### Due Diligence

Includes having up-to-date knowledge of health and safety matters, understanding the hazards and risks of the work, and making sure there are appropriate processes and resources to minimise risks, for receiving and considering information about incidents, hazards, and risks and for complying with HSWA, and ensuring they are applied.

As a **PCBU**, you must **look after the health and safety of workers and anyone else who could be affected by the work you do**. This is known as the primary duty under the HSWA. You do this by:

- Making sure that the work area is free of risks and managing hazards, and ensuring that machinery or equipment (plant) doesn't pose a threat to anyone.

Officer



**Officers** must exercise “**due diligence**” to ensure that the business meets its health and safety obligations. This means you cannot leave health and safety to others to look after. You need to satisfy yourself that the business you are an officer of is meeting its health and safety obligations as well as its MOSS requirements.

Worker



As a **worker** you must take “**reasonable care**” to **keep yourself and others healthy and safe**. This includes making sure others are not affected by the work you do.

Other



Examples of **others** in your workplace are visitors, voluntary workers and contractors. Others also have a duty to take reasonable care to keep themselves and those around them safe.

**Do not be lulled into a false sense of security by believing that following your Maritime Transport Operator Plan (MTO) is all you need to do to comply with the HSWA in relation to operating your vessel!**

### HSWA - Other Duties

These are duties not covered in MOSS which are also required by HSWA, e.g. overlapping duties, upstream duties, officers' due diligence, duty to manage asbestos, worker engagement, participation and representation, contractors, and requirement to provide facilities.

Link: [worksafe.govt.nz](https://www.worksafe.govt.nz)

- Engaging with your workers about health and safety and making sure they follow the safety rules and procedures you put in place.
- Providing adequate facilities such as a toilet, drinking water, and areas for workers to take a break.
- You also need to **consult, cooperate with, and coordinate** your activities **with other PCBUs** working in the same place.

**Risks to health and safety must be eliminated so far as is “reasonably practicable”. If a risk cannot be eliminated, it must be minimised so far as is “reasonably practicable”.**



## Thinking about health and safety, DO ...

- Focus on a **safe workplace** as your primary goal.
- Investigate what you need to do. **Ask for help** if you are uncertain.
- Identify hazards that create **risk**. Eliminate or minimise risks and apply effective controls.
- Have a **written record or plan** to keep track of the processes you have in place and to verify you are following your own system. If something goes wrong, this is the first thing an investigator/Maritime Officer will ask for.
- Seek help if you are not good at bookwork or plans, etc. There are people out there who can work with you to help you create your **plan and procedures**.
- **Follow any procedures** you do create.
- Remember accidents and incidents often happen when working outside of the usual routine, or where other parties come into your workplace. Include plans for keeping everyone safe at these times!
- Remember if there is an incident, near miss or accident, to **review your procedures**. Consider whether they need tweaking or improving

to avoid a future incident or accident. Also consider whether you need to make a report to MNZ and take advice if you are unsure.

- **Work with your employees** or fellow crew/workers to improve health safety and wellbeing. It is everyone’s responsibly to do so!
- **Speak up** if you see something unsafe!
- Remember to look after the wellbeing of workers!
- Provide appropriate **facilities for workers**.
- Conduct regular **training and emergency drills**.
- Provide and/or use personal protective equipment.
- Ensure MNZ is notified as soon as possible after becoming aware that a **notifiable event** arising out of the conduct of the business has occurred. Make sure you know and follow these **notification requirements** where there is an incident or accident.
- Read the **Maritime New Zealand Guide: Health and Safety, a guide for Mariners**. Link: <https://www.maritimenz.govt.nz/commercial/safety/health-and-safety/documents/HS-guide-for-mariners.pdf>



## Thinking about health and safety, DO NOT...

- Leave health and safety to luck or rely on a previous good safety record. Improvements can always be made!
- Think that just because you have been doing something a particular way for years, that it is safe. That could just mean you have been lucky!
- Create a plan or procedure and then ignore it! Unfortunately, this often happens and this makes it very hard to argue that you were taking all reasonably practicable steps when something goes wrong!
- Leave health and safety to someone else! The best health and safety systems involve everyone working together.

- Think this is just a compliance or box ticking issue. It is not. It is a safety matter! People can get hurt because of unsafe practices!
- Forget to co-operate with other PCBUs and contractors who work in the same area or have overlapping duties.
- Forget to engage with workers on health and safety matters.
- Leave workers to their own devices. You need to provide workers with training and supervision to protect them from risks to health and safety.
- Ignore the obligation to report, if you fail to report an incident as required, it can be an offence even if no one is harmed.