

# New Responsibilities for Worker Safety

The Health and Safety at Work Act 2015 becomes effective on 4 April 2016. The biggest change is who, or what, is ultimately responsible for worker safety.

"The aviation sector," says Mike Impey, Manager of the CAA's Health and Safety Unit, "is well placed to comply with the new health and safety requirements. That's because those requirements closely match the demands of the Civil Aviation Act 1990."

"It's the same with Safety Management Systems. If the SMS of an organisation is robust, that organisation will meet most of the new health and safety duties.

"For instance, both involve identifying hazards but are risk-based, and can make use of a risk matrix (see page 9).

"A big difference, however, lies in who – according to the new health and safety law – is responsible for what, in terms of worker safety and wellbeing," says Mike.

"There are four duty holder types in each organisation: Person conducting a business or undertaking (PCBU); Officers; Workers; and Others.

"The PCBU can be a physical human being, or it can be a company. 'Person' in this sense is just a legal term. Either way, the PCBU is ultimately responsible for the welfare of everyone affected by the work. They are therefore primarily accountable for anything that goes awry."

The Officers are the most senior members of the organisation such as the directors and CEO. They are to ensure the PCBU is carrying out their duties correctly and fully.

The Workers are obliged to do nothing that will harm anyone else, and so is the final group – Others – who don't work for the company, but visit from time to time, the public or couriers, for instance.

"If we have a lone aviation operator, owning the company, with maybe a handful of staff, they will be the PCBU, and Officer, and of course Worker – multiple roles, multiple obligations," says Mike.

There are added and increased penalties for anyone not carrying out their duty of care properly – up to five years imprisonment and/or a \$300,000 fine for an individual; or up to a \$3,000,000 fine for a company.

"You can't delegate this duty to an outsider, like you can quality assurance," says Mike. "It's yours, you own it – it's totally your responsibility."

Other changes are:

- » PCBUs must engage on health and safety matters with workers who carry out the work or may be affected by the work.
- » Suppliers also have duties to ensure that shipments are carried out in a safe manner.
- » Safety reps have increased powers – they can issue a 'provisional improvement notice', requiring the company to fix a health and safety concern in the workplace.
- » There's a much greater range in what must be reported, including minor occurrences, such as a small oil spill.
- » The CAA may investigate events that happen, not just while any aircraft is 'in operation' but also imminently prior to its departure.
- » PCBUs of two or more entities working on the same operation have to consult to ensure they jointly manage safety.

"For instance," says Mike, "A farmer is the PCBU of their business, and the manager of an agricultural aviation operation is the PCBU of theirs. They have to get together and discuss how safety will be managed in the air, and on the ground, during the operation."

Go to the WorkSafe web site for guidance on your obligations under the new health and safety law, [www.business.govt.nz/worksafe/hswa](http://www.business.govt.nz/worksafe/hswa). ■

