

17/03/2026

Tēnā koe

Health and Safety at Work Amendment Bill – Select Committee Submission

Toi Mata Hauora | The Association of Salaried Medical Specialists (ASMS) is the union and professional association of salaried senior doctors and dentists. We were formed in April 1989 to advocate and promote the industrial and professional interests of our members. We have over 6,000 members across Manatū Hauora | Ministry of Health, Te Whatu Ora | Health New Zealand, the Accident Compensation Corporation, and many other smaller healthcare providers, including community and iwi-based health providers.

Alongside this submission, Toi Mata Hauora supports the submission by Te Kauae Kaimahi | New Zealand Council of Trade Unions.

Shift to Critical Risk

As stated by the Bill, it “amends the main purpose of the HSW Act and WorkSafe’s objectives under the WorkSafe Act to explicitly prioritise critical risks.” This “focusing the system on critical risks is designed to direct attention and resources towards preventing serious workplace harms and away from more minor issues.”¹ Aotearoa’s high level of workplace deaths is no secret.^{2 3} However, as demonstrated by Figure 1, while there have been marginal reductions in fatal injuries and serious non-fatal injuries, injuries resulting in more than a week away from work are increasing. Additionally, as demonstrated by Figure 2, less serious injuries have significantly increased. The proposed changes will minimise the importance of ‘non-critical risk’ at a time when these less serious injuries are increasing. Employers will no longer be encouraged to address issues such as musculoskeletal harm, work-related mental harm, and fatigue, all of which have serious impacts on workers’ lives and safety.

¹ Health and Safety at Work Amendment Bill, Nos 244–1 (2026). P.2.

² Samantha Gee and Nelson Marlborough /. Te Tauihu reporter, ‘NZ Workers More Likely to Die than in Australia or UK, New Research Shows’, RNZ, 14 November 2025, <https://www.rnz.co.nz/news/business/578834/nz-workers-more-likely-to-die-than-in-australia-or-uk-new-research-shows>.

³ Lincoln Tan, ‘Kiwi Workers Twice as Likely to Die on the Job as Aussie Counterparts’, NZ Herald, accessed 26 February 2026, <https://www.nzherald.co.nz/nz/lack-of-workplace-health-and-safety-slammed-in-new-report-workers-twice-as-likely-to-die-in-nz-than-in-australia/RCSB6P2MFFGBTEDGVSUCHSXEPE/>.

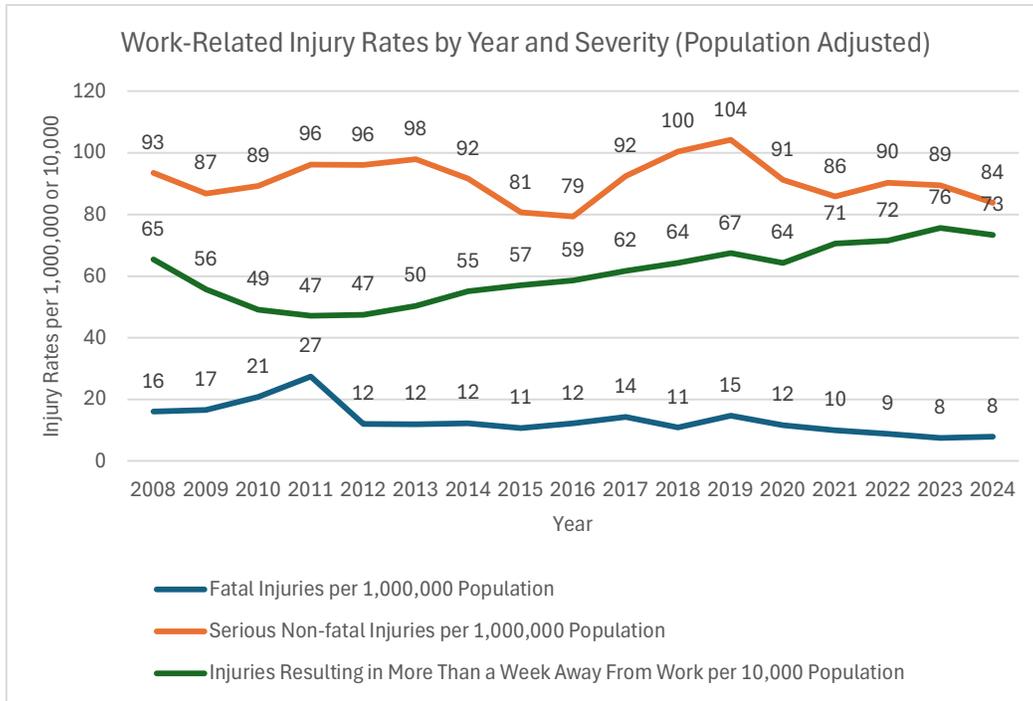


Figure 1: Work-related injury rates by year and severity. Data from StatsNZ⁴ and adjusted by Treasury population statistics.

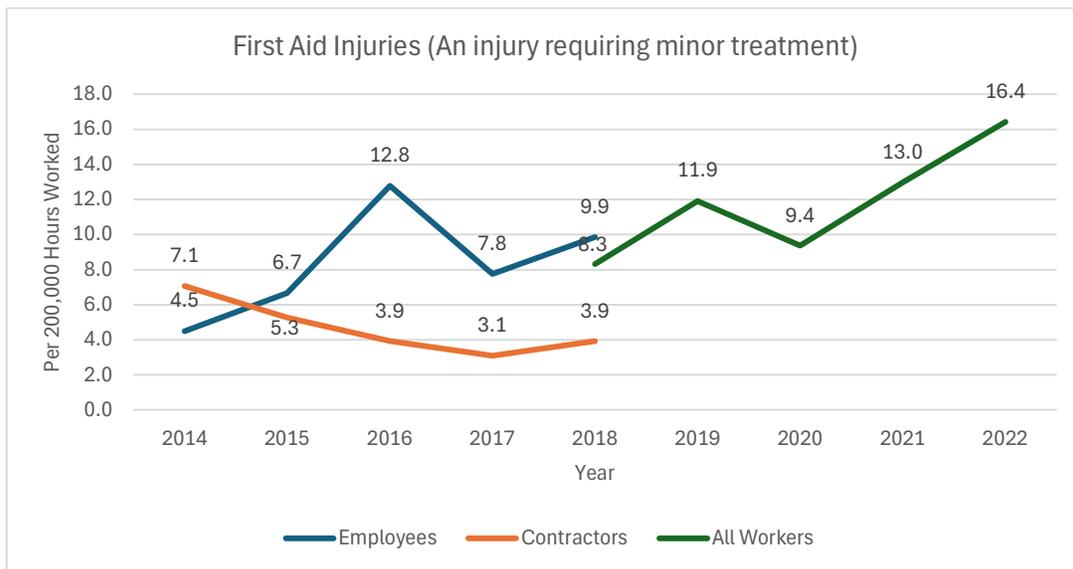


Figure 2: First Aid Injuries. Data from Business Leaders' Health & Safety Forum.^{5 6} Note: the method of data collection changed from separating employees and contractors to combining them in 2018.

⁴ *Serious Injury Outcome Indicators: 2000–2024* (StatsNZ, 2025).

⁵ *2018 Benchmarking: Summary of the Findings* (Business Leaders' Health & Safety Forum, 2019).

⁶ *2022 Benchmarking: Summary of the Findings* (Business Leaders' Health & Safety Forum, 2023).

Near Misses and Serious Incidents

Research demonstrates a correlation between near-miss reporting and subsequent reduction in accidents, including serious ones. Key to this is that reporting alone isn't sufficient; safety improvements come from acting on reports, adjusting processes, and closing gaps.

Inagaki et al. show “a company's adequate response to near-misses reported by workers and the formation of a safety culture that allows workers themselves to recognise the safety measures taken by the company may contribute to a reduction in the number of occupational accidents.”⁷

This is supported by Haas et al., who show that near-miss reports improve organisational management. Near misses recorded and reported by workers can raise awareness of potential causes of injury and prompt safety management initiatives.⁸

Focusing the system on preventing serious workplace harm and away from minor issues will undermine early notification to PCBUs and regulators of potential issues that could become serious causes of harm. These changes have the potential to shift the system from a harm-prevention model to a reactive one. Harm needs to be prevented, not managed.

Many impactful risks, such as back injuries, occupational diseases, and work-related mental harm, are unlikely to be covered by 'critical risk'. However, they cause significant harm to workers, and impact their whānau if they are unable to work. While critical risks are very important, the shift proposed by the Bill ignores evidence that most injuries do not result in serious harm. However, these 'more minor' risks account for 75% of ACC's work injury costs.⁹

Self-Accessing

The catch-all test, whereby a PCBU self-accesses “whether the hazard is likely to result in one of the serious outcomes”, leads to little oversight and conflicts of interest.

Aotearoa has experimented with a self-management approach under the Health and Safety in Employment Act 1992 (HSE). The performance-based rather than prescriptive approach expected businesses to identify and manage risk themselves. Research on sectors such as manufacturing showed an abject failure of the framework. Using welding as a proxy, Walls and Dryson showed that only 40% of businesses met the most basic regulatory requirements to control health and safety risks. Fundamental safety issues were ignored by more than 50% of businesses.¹⁰

Furthermore, asking businesses to judge whether death or serious injury is *likely* requires a highly subjective analysis. Given that no criteria are provided, the scope for 'likely' will vary greatly across

⁷ Mizuho Inagaki et al., 'Relationship between a Company's Adequate Response to near-Misses and Occupational Accidents: A 1-Year Prospective Cohort Study', *Journal of Occupational Health* 66, no. 1 (2024): uiae053, <https://doi.org/10.1093/joccu/huiae053>. P.1.

⁸ Emily J. Haas et al., 'Learning from Workers' Near-Miss Reports to Improve Organizational Management', *Mining, Metallurgy & Exploration* 37, no. 3 (2020): 873–85, <https://doi.org/10.1007/s42461-020-00206-9>.

⁹ 'Muddled Health and Safety Reforms Will Confuse Businesses', NZISM, 2026, <https://www.nzism.org/news/muddled-health-and-safety-reform-will-confuse-businesses>.

¹⁰ C. B. Walls and Dryson, 'Failure after 5 Years of Self-Regulation: A Health and Safety Audit of New Zealand Engineering Companies Carrying out Welding', *Occupational Medicine* 52, no. 6 (2002): 305–9, <https://doi.org/10.1093/occmed/52.6.305>.

employers as perceptions about the likelihood and severity of harm differ widely. Moreover, the perception of risk will differ between employers directing the work and employees performing it.

Repercussions

The changes lack repercussions for businesses that fail to prioritise critical risks. Without means of enforcement, education, and support, it is unclear what the purpose of this reprioritisation is.

Reduction of Regulation for Small PCBUs

Of the 612,417 businesses in Aotearoa, 594,573, or 97%, have fewer than 20 employees.¹¹ Small businesses make up an overwhelming proportion of Aotearoa's industries, with the highest rates of fatal injuries (shown in Figure 3), namely, Agriculture, forestry, and fishing (98.53%); Transport, postal, and warehousing (96.31); construction (97.93%); and Manufacturing (91.01%). Reducing regulation and oversight for the vast majority of high-risk industries will likely have a detrimental effect on worker safety. The Bill's rudimentary shift in oversight fails to account for the fact that small businesses are often higher risk.

Additionally, the Bill fails to account for the roles of supply chains and subcontracting. This oversight will encourage gamification, where businesses could be split up to meet the small PCBU definition. Without a strong regulatory framework, small businesses are also incentivised to undercut competitors' prices by cutting health and safety initiatives. The Bill encourages small businesses to abdicate responsibility for health and safety, especially for less severe risks. This race to the bottom on health and safety will jeopardise worker safety, increase national health costs (including to the Accident Compensation scheme), and decrease business productivity.

¹¹ 'Data for Business', Business.Govt.Nz, accessed 26 February 2026, <https://www.business.govt.nz/browse-our-resource-library/business-planning-online-learning/data-for-business>.

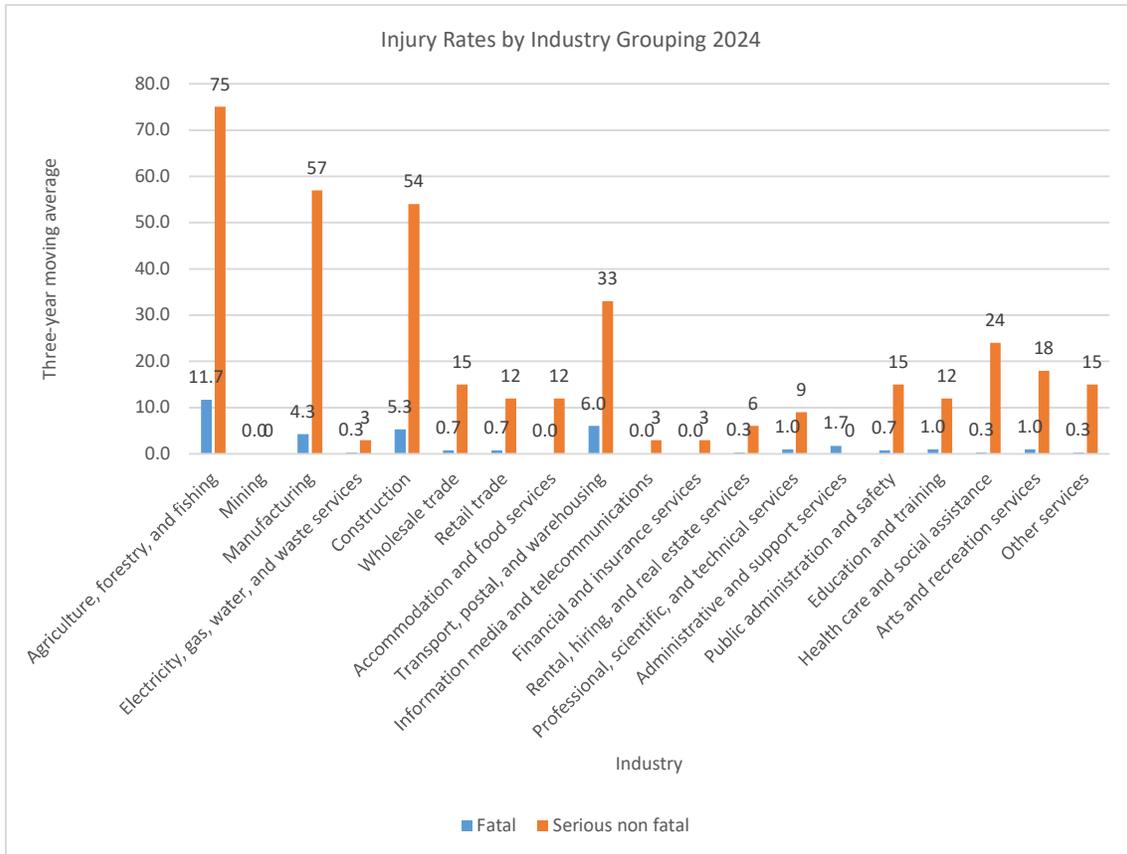


Figure 3: Injury rates by industry grouping. Data from StatsNZ¹² Note: Work-related fatal injuries, by industry 2022-2024 provisional data; Work-related serious non-fatal injuries, by industry 2024 provisional data.

Approved Codes of Practice (ACOPs)

The changes to the ACOPs encourage businesses to follow them to the letter and no more. Continuous improvement is disincentivised. Moreover, the Bill does not account for what happens when an ACOP becomes out of date and when ways of working change.

Notification Requirements

The exclusion of non-critical risks in the clarified notification requirements and more relaxed notification requirements will result in less oversight of workplace health and safety.

Regulatory Impact Statement

When discussing 'Options for defining low-risk sectors' in the Regulatory Impact Statement, the preferred (and eventually chosen) option, 3, states that "By not defining 'low risk', some harm may be missed which may result in higher occurrences of less than serious/critical harm." Areas that the

¹² *Work-Related Injury Targets at a Glance: 2008–2024* (StatsNZ, 2026), <https://www.stats.govt.nz/information-releases/serious-injury-outcome-indicators-2000-2024/>.

preferred option rated highly in relation to ease of self-assessment (allowing for more transparency and certainty), ease to legislate, and greater flexibility and durability. When the safety component of health and safety legislation takes a back seat to greater ease for business and government, the legislation misses the point.

Conclusion

If the Health and Safety at Work Amendment Bill is adopted in its current form, there will be significant consequences for the safety of Aotearoa's workers and for the economy, directly through increased ACC costs and indirectly through declining productivity. There are alternatives available, such as addressing WorkSafe staffing insufficiency, increasing worker participation in health and safety, or increasing guidance and oversight. To discuss this submission further, please get in touch with James Roberts, Policy and Research Advisor, via james@asms.org.nz

Nāku noa, nā



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