



**TEU**

**TERTIARY EDUCATION UNION**  
**TE HAUTŪ KAHURANGI**

Submission of

**Te Hautū Kahurangi | Tertiary Education  
Union**

to the

**Education and Workforce Select Committee**

on the

***Health and Safety at Work Amendment Bill***

18 March 2026

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## 1. Introduction

- 1.1. Te Hautū Kahurangi | Tertiary Education Union (TEU) welcomes the opportunity to submit on the Health and Safety at Work Amendment Bill.
- 1.2. TEU represents academic and professional staff across polytechnics, universities, wānanga, and other tertiary education providers throughout Aotearoa New Zealand. Our members work in a wide range of teaching, research, technical, professional, and support roles and are directly affected by the effectiveness of New Zealand's workplace health and safety framework.
- 1.3. TEU supports the core purpose of the Health and Safety at Work Act 2015 (the HSW Act): to protect workers and others from harm by requiring those who create or control risks to manage them. A strong and coherent health and safety system is essential for ensuring safe workplaces, preventing harm, and supporting the wellbeing of workers across all sectors, including education and training.

## 2. TEU Position

- 2.1. For the reasons outlined in this submission, TEU strongly opposes the Health and Safety at Work Amendment Bill (the Bill).
- 2.2. We are concerned that the Bill narrows the scope and effectiveness of the current framework. In particular, the proposed focus on "critical risks," differentiated duties for small PCBUs, and changes affecting the role of other legislation and approved codes of practice will weaken the preventative and system-wide approach that underpins the HSW Act. Such changes will, in practice, introduce uncertainty and reduce protections for workers.
- 2.3. We also note that workplace harm is not evenly distributed across the workforce. Evidence indicates that Māori and Pacific workers experience higher rates of workplace injury and illness and are over-represented in several high-risk industries.<sup>1</sup>
- 2.4. Furthermore, many of the most common forms of workplace harm arise from cumulative health risks – both physical and psychosocial – which are prevalent in sectors such as education, health, and care work where women make up a large proportion of the workforce.<sup>2</sup>

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<sup>1</sup> See <https://www.worksafe.govt.nz/about-us/who-we-are/worksafe-strategy>, accessed 11 March 2026.

<sup>2</sup> See <https://www.worksafe.govt.nz/research/new-zealand-psychosocial-survey/>, accessed 17 March 2026.

2.5. As such, changes that narrow the scope of workplace health and safety duties will have uneven impacts across the workforce and reduce attention to risks that significantly affect many workers' health and wellbeing.

### 3. TEU Recommendations

3.1. TEU strongly recommends that the Bill is withdrawn.

3.2. Specifically, we recommend the Committee reject the Bill based on the following points.

SUMMARY OF RECOMMENDATIONS	
<i>Defining "critical risk"</i>	We strongly recommend that the Committee reject the proposed approach to focusing the health and safety system on "critical risks." In our view, the changes will create uncertainty, weaken protections for workers, and undermine the preventative, system-wide framework established by the HSW Act.
<i>Changes relating to small PCBUs</i>	We strongly recommend that the Committee reject the proposed reduction in health and safety duties applying to small PCBUs. In addition to creating a two-tier system of worker protection, these changes raise important equity concerns. Māori are disproportionately represented in small businesses in Aotearoa New Zealand, meaning that weakening duties in these workplaces will create uneven protections and disproportionately affect Māori workers.
<i>Areas of confusion</i>	We strongly recommend that the Committee reject the proposed amendments relating to overlap with other legislation. The proposed changes will fragment the health and safety framework, create regulatory uncertainty, and reduce protections for workers in key sectors, including tertiary education.
	We strongly recommend that the Committee reject the proposed changes relating to recreational use of land. The amendments will weaken accountability for managing health and safety risks and undermine the principle that those who control environments or activities should remain responsible for ensuring they are safe.
<i>Strengthening approved codes of practice</i>	We strongly recommend that the Committee reject the proposed provisions granting approved codes of practice (ACOPs) safe harbour status. Granting ACOPs a complete defence against enforcement will reduce regulatory flexibility, discourage continuous improvement, and weaken the effectiveness of the health and safety framework.
<i>Breach of international conventions</i>	We strongly recommend that the Committee rejects the Bill on the basis that it risks placing Aotearoa New Zealand in breach of its international obligations pertaining to ILO Convention 155 and the principles reflected in ILO Convention 187.

## 4. Focusing the system on critical risks

### *Defining “critical risk”*

- 4.1. The Bill seeks to refocus the health and safety system on “critical risks,” with the stated intention of reducing compliance burdens and directing attention to risks most likely to cause death or serious harm. In our view, this approach will undermine the preventative purpose of the HSW Act and weaken protections for workers.
- 4.2. First, the Bill requires businesses to determine whether death or serious injury is “likely” in order to identify a critical risk. This introduces a highly subjective assessment. The legislation provides no clear criteria for determining likelihood, and it is well established that perceptions of risk can differ significantly between employers and workers who perform the work itself. Without clearer guidance, the term “likely” will be interpreted inconsistently across workplaces, leading to underestimation of risks and uneven levels of protection for workers.
- 4.3. Second, the proposed framework will diminish attention to health and safety risks that are not classified as “critical” but nonetheless have significant impacts on workers’ wellbeing. Many of the most common forms of workplace harm arise from cumulative health risks – both physical and psychosocial – including violence and aggression towards staff, musculoskeletal injury, and work-related mental harm.
- 4.4. These risks already affect some groups of workers disproportionately, including Māori and workers in insecure or lower-paid roles.<sup>3</sup> Additionally, these types of harm are particularly prevalent in sectors with high proportions of women workers, including education, healthcare, and social services. International occupational health research has shown that women workers are more likely to experience psychosocial hazards, workplace violence, and musculoskeletal disorders associated with repetitive or care-related work.<sup>4</sup>
- 4.5. These factors highlight the importance of maintaining a health and safety framework that addresses a wide range of risks rather than focusing narrowly on critical risks. By prioritising only a narrow category of risks, the Bill will

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<sup>3</sup> See <https://www.worksafe.govt.nz/research/new-zealand-psychosocial-survey/>, accessed 17 March 2026.

<sup>4</sup> See <https://www.mdpi.com/2313-576X/10/2/47>, accessed 17 March 2026.

inadvertently encourage employers to deprioritise these issues, despite their serious consequences for workers' health and livelihoods.

- 4.6. The Bill also does not appear to include meaningful mechanisms to ensure that businesses actually prioritise critical risks. The absence of clear repercussions for failing to do so raises questions about the practical impact of the proposed prioritisation. Without adequate education, enforcement, and support mechanisms, it is unclear how the intended shift in focus will be achieved in practice.
- 4.7. This concern is heightened by the Bill's express statement that the Bill does not create an offence for failure to prioritise critical risks. If the legislation places substantial weight on prioritisation but does not attach any distinct enforcement consequence to failing to do so, it is unclear how this aspect of the regime will operate in practice or improve safety outcomes.
- 4.8. Additionally, the definition of "critical risk" proposed in the Bill appears overly restrictive and outdated. The definition relies heavily on risks identified in existing regulations, some of which date back many years, including references to regulations under the Health and Safety in Employment Act 1992 framework.
- 4.9. **RECOMMENDATION:** We strongly recommend that the Committee reject the proposed approach to focusing the health and safety system on "critical risks." In our view, the changes will create uncertainty, weaken protections for workers, and undermine the preventative, system-wide framework established by the HSW Act.

#### *Changes relating to small PCBU's*

- 4.10. The Bill introduces specific provisions for small PCBU's (persons conducting a business or undertaking), including limiting certain duties so that small businesses are primarily required to focus on managing "critical risks." We have significant concerns about the implications of this approach.
- 4.11. The proposed changes effectively establish a two-tier system of workplace health and safety obligations. Under the Bill, workers employed in small businesses will receive a lower level of protection than those working in larger organisations, even when undertaking the same work and facing the same hazards. Health and safety protections should not depend on the size of the employer; all workers should be entitled to consistent standards of protection.
- 4.12. There is also evidence that smaller businesses can face higher levels of risk in some sectors, due to factors such as limited resources, fewer dedicated health

and safety personnel, and less formalised systems.<sup>56</sup> Reducing the scope of duties in these workplaces will increase the likelihood that risks go unidentified or unmanaged.

4.13. The amendments will also create practical challenges in situations where small and large businesses operate together. In many industries, large organisations regularly engage smaller businesses through contracting and supply chain arrangements. Under the proposed framework, full duties would continue to apply to the larger organisation while reduced duties apply to the smaller contractor. This will create fragmented and inconsistent health and safety systems within the same workplace. Workers performing related tasks will end up operating under different expectations and processes, making coordination more difficult and thereby weakening overall risk management. In addition, larger organisations will have limited ability to require improvements in health and safety practice from smaller contractors if the statutory duties applying to those businesses have been reduced.

4.14. The proposed definition of a small PCBU will also create incentives for businesses to restructure or divide their operations in order to fall within the lower-duty category. Such “gaming” of the regulatory framework will undermine the intention of the legislation and further fragment workplace responsibilities.

4.15. These changes will also distort tendering and procurement processes. Businesses operating under reduced health and safety obligations will be able to undercut competitors who maintain higher standards and more comprehensive safety systems. This will place pressure on organisations to reduce health and safety investment in order to remain competitive.

4.16. For these reasons, we assert that the proposed provisions relating to small PCBUs will lead to inconsistency in worker protections, complicating shared workplace arrangements, and undermining the overall effectiveness of the health and safety system.

4.17. **RECOMMENDATION:** We strongly recommend that the Committee reject the proposed reduction in health and safety duties applying to small PCBUs. In addition to creating a two-tier system of worker protection, these changes raise important equity concerns. Māori are disproportionately represented in small

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<sup>5</sup> See <https://www.stats.govt.nz/information-releases/injury-statistics-work-related-claims-2023/>, accessed 6 March 2026.

<sup>6</sup> See <https://www.worksafe.govt.nz/research/work-health-and-safety-an-overview-of-harm-and-risk-in-aotearoa-new-zealand-2024/>, accessed 6 March 2026.

businesses in Aotearoa New Zealand, meaning that weakening duties in these workplaces will create uneven protections and disproportionately affect Māori workers.

## 5. Areas of Confusion

### *Overlap with other legislation*

- 5.1. The Bill seeks to clarify areas of perceived overlap between the HSW Act and other legislative frameworks. We are concerned that the approach proposed in the Bill will give rise to unintended consequences and weaken the coherence of the current health and safety system.
- 5.2. First, the proposed provision goes beyond clarifying overlap. The Bill provides that compliance with requirements in another enactment on the same subject matter is treated as compliance with the relevant duty under the HSW Act, even where that other enactment is not intended to manage health and safety risks. Although specific regulatory duties may still apply, this approach will weaken the independent, preventative framework of the HSW Act and create gaps in worker protection. This is particularly concerning in tertiary education, where institutions operate under multiple regulatory regimes that are not designed to replace the HSW Act's overarching health and safety duties.
- 5.3. The amendments will also remove significant categories of activity from the scope of the HSW Act duties where those activities are already subject to sector-specific regulatory regimes. While sectors such as transport, healthcare, and education and training are subject to their own regulatory frameworks, those frameworks are typically designed to address operational, professional, or service standards rather than the full range of workplace health and safety risks faced by workers.
- 5.4. Second, many of the enactments identified as overlapping with the HSW Act pre-date the introduction of the 2015 Act and were developed for purposes other than workplace health and safety. In many cases, these statutes were not designed to provide comprehensive protection for workers and do not incorporate the preventative, risk-management framework that underpins the HSW Act. Relying on such legislation to address workplace risks will likely result in gaps in coverage and weaken the overall effectiveness of the health and safety system.
- 5.5. Sectors such as education and healthcare employ large numbers of women workers and are characterised by significant psychosocial and cumulative health risks – both physical and psychosocial – including violence from clients or

students, high workloads, and repetitive physical tasks.<sup>7</sup> Ensuring that these risks remain clearly covered by the health and safety framework is therefore important for maintaining equitable protections across the workforce.

5.6. We are also concerned that the proposed approach will introduce greater regulatory uncertainty rather than resolving existing confusion. Allowing non-health and safety legislation to override or limit the primary duties established under the HSW Act will create ambiguity about which obligations apply in particular situations. This will only complicate compliance for employers and reduce clarity for workers about their rights and protections. The HSW Act was originally designed to provide a clear, overarching framework for managing workplace risks across all sectors. Any amendments that weaken the primacy of that framework will undermine the consistency and clarity that the Act was intended to achieve.

5.7. **RECOMMENDATION:** We strongly recommend that the Committee reject the proposed amendments relating to overlap with other legislation. The proposed changes will fragment the health and safety framework, create regulatory uncertainty, and reduce protections for workers in key sectors, including tertiary education.

#### *Duties relating to recreational use of land*

5.8. The Bill proposes to clarify duties relating to recreational use of land by limiting the circumstances in which landowners who are PCBUs owe health and safety duties. Under the proposed change, duties would apply only where the recreational activity is “connected to” the PCBU’s business. This change will weaken protections in situations where a PCBU exercises significant control over land used for recreational activities, but the activity itself is not considered sufficiently connected to the business.

5.9. This narrowing of duties is particularly concerning in light of recent events in Aotearoa New Zealand, including weather-related disasters that have resulted in fatalities at recreational sites such as campgrounds. In such contexts, the actions of landowners or operators can have a direct impact on the safety of people using those spaces.

5.10. The health and safety framework established by the HSW Act is based on the principle that all parties who influence work and the environments in which

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<sup>7</sup> See <https://www.mdpi.com/2313-576X/10/2/47>, accessed 17 March 2026.

activities occur share responsibility for managing risks. By limiting duties in situations where a PCBU may still exercise significant control over the relevant environment or activity, the proposed amendment will act as a shift away from this foundational principle.

5.11. **RECOMMENDATION:** We strongly recommend that the Committee reject the proposed changes relating to recreational use of land. The amendments will weaken accountability for managing health and safety risks and undermine the principle that those who control environments or activities should remain responsible for ensuring they are safe.

## 6. Strengthening approved codes of practice

6.1. The Bill proposes to strengthen the role of approved codes of practice (ACOPs), including providing a form of “safe harbour” where compliance with an ACOP may serve as a defence to enforcement action. We are concerned that this approach will have unintended consequences for the effectiveness of the health and safety system.

6.2. Providing safe harbour status to ACOPs will significantly limit the ability of regulators to take enforcement action where harm occurs but an organisation can demonstrate technical compliance with an ACOP. This will shift the focus of health and safety management toward demonstrating compliance with prescribed guidance rather than ensuring that risks are effectively identified and managed in practice.

6.3. Furthermore, many existing codes are already out of date, particularly in areas where work practices, technology, or organisational arrangements have changed rapidly. Aotearoa New Zealand has historically faced challenges in developing and updating ACOPs in a timely manner, and recent reductions in resourcing for the regulator will make this even more difficult. If outdated guidance is given safe harbour status, it will unintentionally lock in practices that no longer reflect current risks or best practice.

6.4. The proposed changes will also create incentives for organisations to follow ACOPs narrowly and no further, rather than pursuing continuous improvement in health and safety management. The proposed “safe harbour” status for ACOPs will also conflict with broader international commitments. This aspect of the Bill is inconsistent with the continuous improvement principle reflected in the International Labour Organisation (ILO) Convention 187 on the Promotional Framework for Occupational Safety and Health (see below), as it will incentivise

minimum compliance rather than progressively improving health and safety standards.

- 6.5. **RECOMMENDATION:** We strongly recommend that the Committee reject the proposed provisions granting approved codes of practice (ACOPs) safe harbour status. Granting ACOPs a complete defence against enforcement will reduce regulatory flexibility, discourage continuous improvement, and weaken the effectiveness of the health and safety framework.

## 7. Breach of international conventions

7.1. We have serious concerns that aspects of the Bill will place Aotearoa New Zealand at risk of breaching its obligations under key international labour standards. Aotearoa New Zealand has ratified International Labour Organisation (ILO) Convention 155 on Occupational Safety and Health,<sup>8</sup> and although it has not formally ratified Convention 187 on the Promotional Framework for Occupational Safety and Health,<sup>9</sup> both conventions are recognised as fundamental instruments underpinning global occupational health and safety standards. As an ILO member state, Aotearoa New Zealand is expected to uphold the principles contained in these conventions.

7.2. Several elements of the Bill are inconsistent with the requirements of Convention 155. The de-prioritisation of enforcement activity raises questions about compliance with Article 9, which requires adequate and appropriate systems of labour inspection. The absence of meaningful engagement with representative worker organisations during the development of the reforms sits uneasily with provisions requiring consultation with the most representative organisations of workers. The proposed removal of certain obligations – such as requirements relating to personal protective equipment for non-critical risks in small PCBUs – and the creation of asymmetrical duties where small and large PCBUs operate together will undermine the convention’s requirement that employers ensure workplace safety so far as is reasonably practicable and cooperate effectively in shared workplaces.

7.3. **RECOMMENDATION:** We strongly recommend that the Committee rejects the Bill on the basis that it risks placing Aotearoa New Zealand in breach of its

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<sup>8</sup> See [https://www.ilo.org/sites/default/files/2025-08/ILO\\_Global\\_Ratification\\_Campaign\\_Factsheet01\\_r4\\_0.pdf](https://www.ilo.org/sites/default/files/2025-08/ILO_Global_Ratification_Campaign_Factsheet01_r4_0.pdf), accessed 17 March 2026.

<sup>9</sup> See [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40asia/%40ro-bangkok/%40ilo-kathmandu/documents/genericdocument/wcms\\_873091.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40asia/%40ro-bangkok/%40ilo-kathmandu/documents/genericdocument/wcms_873091.pdf), accessed 17 March 2026.

international obligations pertaining to ILO Convention 155 and the principles reflected in ILO Convention 187.

## **8. Inadequate consultation and submission timeframe**

- 8.1. The time provided for public submissions on the Bill is insufficient given the scale and significance of the proposed reforms. The Bill proposes fundamental changes to Aotearoa New Zealand's primary workplace health and safety legislation and the broader regulatory system that supports it. A one-month submission period does not provide adequate time for all impacted parties to assess the implications of these changes and develop informed responses.
- 8.2. This concern is compounded by the limited and narrowly targeted consultation undertaken during the policy development process. While the Regulatory Impact Statement indicates that consultation occurred on the work health and safety system, the consultation undertaken to inform the Bill is inadequate relative to the breadth and significance of the proposed amendments.

## **9. Conclusion**

- 9.1. TEU supports efforts to improve clarity and effectiveness in Aotearoa New Zealand's health and safety framework. However, we are concerned that the proposed amendments will weaken the preventative, system-wide approach established by the HSW Act.
- 9.2. In particular, the proposed focus on "critical risks," differentiated duties for small PCBUs, and changes affecting the role of other legislation and approved codes of practice will reduce protections for workers and introduce greater uncertainty into the system.
- 9.3. These changes will also narrow attention away from cumulative harms – both physical and psychosocial – which are significant in sectors like education and care work and affect many workers, including women.
- 9.4. The Bill also fails to consider broader equity implications. Workplace harm is not evenly distributed across the workforce, and Māori workers experience higher rates of workplace injury and illness. Changes that narrow the scope of health and safety duties will have uneven impacts across different groups of workers.
- 9.5. We strongly oppose the Bill and recommend it is withdrawn.