

# Recognised surveyors

HEALTH AND SAFETY AT WORK ACT (2015) | GUIDANCE

## What this guidance document contains

This guidance provides information about the Health and Safety at Work Act 2015 (the HSWA) for recognised maritime surveyors.

## Introduction

Under HSWA all businesses (PCBUs) have a primary duty to ensure so far as is reasonably practicable:

- > the health and safety of their workers while they are at work; and
- > the health and safety of other workers whose work is influenced or directed by the work of the PCBU.

A PCBU must also ensure, so far as is reasonably practicable, that the health and safety of other people is not put at risk from work carried out by the PCBU.

## PCBU

A business that carries out maritime surveying is a PCBU.

A PCBU is a 'person conducting a business or undertaking'. The word 'person' should not be taken literally. Normally a PCBU will be an organisation – e.g. a company, but it can also be a sole trader.

PCBUs must eliminate risks to health and safety that arise out of their work, so far as is reasonably practicable. If elimination is not reasonably practicable, the PCBU must minimise those risks so far as is reasonably practicable.

A PCBU's duty to eliminate or minimise a risk is tempered by their ability to influence and control that risk. In a maritime context, the maritime operator is usually in the best position to ensure health and safety risks in a maritime operation are being appropriately managed.

## Overlapping duties

Under HSWA, more than one business (PCBU) can have duties in relation to the same matter. Businesses with overlapping duties share responsibility for health and safety. The Act requires those businesses, so far as is reasonably practicable, to consult, co-operate with, and co-ordinate activities with each other.

## ‘Upstream duties’

Upstream responsibilities are specific duties established under HSWA aimed at supporting other PCBUs to fulfil their duties, and not passing risk on to other PCBUs in the ‘supply chain’. People who have upstream duties include designers, suppliers and manufacturers. Recognised maritime surveyors are not considered to have upstream duties. However, surveyors should be aware that these duties exist.

The risks to the health and safety of workers can increase further down the supply chain. Duties on upstream PCBUs are important because some potential risks are best eliminated at an early stage.

To the extent that they influence and control a matter, PCBUs with upstream duties must ensure (so far as is reasonably practicable) that plant is without risks to the health and safety of the people in the workplace who use it. Under HSWA ‘plant’ includes a vessel and any machinery on board.



## Duties of recognised surveyors

Design approval and surveying work is not directly addressed by the HSWA.

Broadly speaking, the role of maritime surveyors is to ensure that a ship is fit for its intended purpose and operating limits, and that the ship’s design and construction achieves the requirements of relevant maritime and marine protection rules.

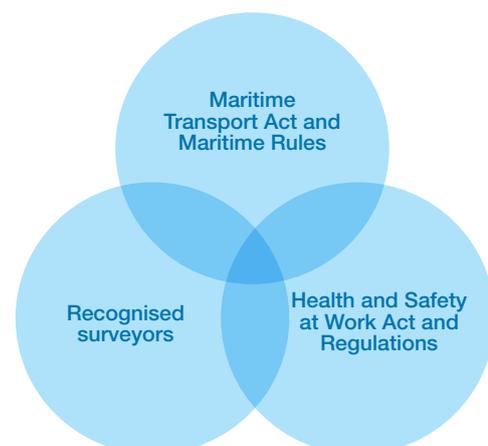
Under HSWA, a business that carries out maritime surveying has a primary duty as a PCBU to ensure (so far as is reasonably practicable) the health and safety of the workers in their business and any other workers they influence or direct while carrying out their surveying work. They must also ensure that the health and safety of other people is not put at risk from their work.

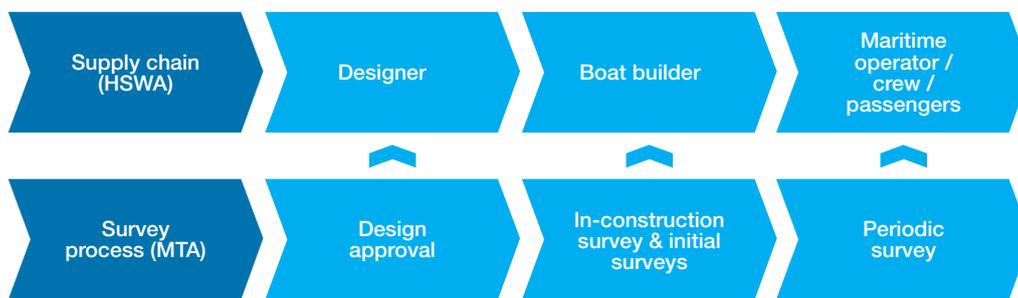
## Working under both the Maritime Transport Act and HSWA

Recognised maritime surveyors perform a role under the Maritime Transport Act 1994 (the MTA) and have duties under HSWA. In some situations their responsibilities under the MTA and their duties under HSWA may overlap.

Design approval and survey work runs parallel with the supply chain and interacts with it. However, it is not a surveyor’s role to consider the whole maritime operation.

The Maritime Rules are prescriptive. The role of the recognised surveyor is to determine whether or not the requirements have been met. A surveyor must determine whether a ship is fit for its intended purpose and operating limits, and meets minimum requirements in the relevant rules.





## The risk-based approach under HSWA

While the role of a recognised surveyor under the MTA is to determine compliance with relevant Maritime Rules, the duties of a maritime operator under HSWA are broader.

As a PCBU, a maritime operator must eliminate risks to health and safety that arise out of their work so far as is reasonably practicable. This means that in some cases an operator will need to exceed the minimum requirements of the rules. For example:

- > A 750 mm high guard rail located near the bottom of a steep stairway may meet the minimum standards prescribed in the Rules, but may not be high enough to prevent a person who slips down the stairs from pitching over the rail.
- > The location and size of water freeing ports may comply with the Rules but water could build up against the bulwark if no water freeing ports are placed in the stern.
- > A passenger vessel with no propeller guard may comply with the Rules, but pose a safety risk to people if the vessel is used for swimming operations.

Under HSWA, in these examples it would be reasonably practicable for the operator to fit a higher barrier; install an additional water freeing port; or fit a suitable propeller guard, even though these measures are not specifically required by the Rules.

## Duties of a survey company to their workers and other workers

A business that carries out maritime surveying must ensure (so far as is reasonably practicable) the health and safety of their workers and other workers whose work they influence or direct.

In practice this means that survey companies should take appropriate steps to eliminate or minimise risks to the health and safety of their surveyors while they are carrying out a survey. Survey companies should also be mindful of the health and safety of other workers that might be impacted by the survey (for example any crew of a vessel who may be assisting with the survey).

When a survey company is working on board a ship, they also have a duty to discuss the work they are doing with other PCBUs working on the ship, agree on the health and safety controls that apply to that work, and agree who is responsible for what.

## Duties of a surveyor as a worker

A surveyor has duties under HSWA as a worker when they are carrying out a survey. Surveyors must take reasonable care of their own health and safety. They must also take reasonable care that the things they do (or omit to do) don't adversely affect the health and safety of other people.

For example, surveyors typically encounter confined or enclosed spaces on a ship. These spaces contain potential risks such as toxic or explosive atmospheres, uncontrolled substances, or excessive heat. In these situations surveyors should avoid putting themselves or others at risk by applying appropriate control measures.

## For general information on the Health and Safety at Work Act

Visit the WorkSafe New Zealand website: <http://www.business.govt.nz/worksafe/hswa/legislation>