

Data and Information Sharing

INTRODUCTION

1. This Schedule is produced under the Memorandum of Understanding (MOU) between WorkSafe New Zealand (WorkSafe) and Maritime New Zealand (Maritime NZ) (the Parties), dated 20 February 2024.

PURPOSE

2. This Schedule details the arrangements for data and information (information) sharing between the Parties, to ensure the Parties have the relevant information required to perform their respective regulatory functions under the Health and Safety at Work (Maritime New Zealand) Agency Designation 2023 (the Designation).
3. This Schedule defines the agreement between the Parties on:
 - a. the type of information that will be shared
 - b. how the information will be shared including agreed timeframes where applicable
 - c. safeguards that are to be put in place to protect the information; and
 - d. an acknowledgement that information will be shared within the bounds of the law and any contracts the Parties have agreed to.
4. The Schedule also:
 - a. clarifies apportioning of associated costs; and
 - b. names the position title/s responsible for matters related to this Schedule.

ROLES AND RESPONSIBILITIES OF THE PARTIES

5. The Parties are both regulators under the Health and Safety at Work Act 2015 (HSWA).
6. The Parties have roles and responsibilities under the Designation that require information from the other to perform their roles successfully.
7. Maritime NZ may perform all functions and exercise all the powers of the regulator under HSWA on ships and at Major Ports, except for functions named in the Designation that WorkSafe retains (covered below).
8. Under the Designation, WorkSafe retains the power, in relation to Major Ports to:
 - a. regulate Major Hazard Facilities within the meaning of the Health and Safety at Work (Major Hazard Facility) Regulations 2017
 - b. grant, issue, renew, vary, suspend, cancel, and replace Authorisations, and the power to grant, vary and revoke Exemptions; and
 - c. perform regulatory responsibilities where it is explicitly named in legislation.

PRINCIPLES

9. In relation to information sharing under this Schedule, the Parties agree to the following operating principles:
 - a. to work in the spirit of the principles expressed in the MOU
 - b. to provide information quickly and efficiently where possible
 - c. to provide clear explanation for the reasons why information is needed (where this not already clear within this Schedule)
 - d. to identify any barriers to providing information as per this Schedule in a timely way
 - e. to discuss and resolve issues using the appropriate contact in the *Designated Coordinators* Schedule.

INFORMATION SHARING BETWEEN THE PARTIES

10. To ensure the Parties have the relevant information required to perform their respective regulatory functions under the Designation in a timely way, the Parties agree to share information (where legally possible) from 1 July 2024.
11. The Parties agree to communicate any statutory timeframes when requesting information that relates to Authorisations and Exemptions.
12. Where information needs to be shared urgently, the Parties agree to communicate the need for urgency, and to outline the relevant timeframes for the situation. The Parties will endeavour to respond to urgent information sharing situations within the timeframe specified.

Information Sharing in HSWA

13. The requirements for information sharing between the Parties to support them performing their regulatory functions under the Designation are set in HSWA. They are:
 - a. the Parties must consider whether requests for information made by regulatory agencies are needed to perform that agency's functions [sections 197(1)(a) and (b)]
 - b. any condition can be imposed on information provided, including storage, access, use and retention [section 197(2)]; and
 - c. nothing in HSWA limits the Privacy Act 2020 [section 197(4)].
14. Decisions to release information under section 197 can only be made by staff who hold the appropriate delegation. The Parties will endeavour to ensure that decisions to release information under section 197 are made in a timely manner.
15. The Parties agree to provide any relevant context needed to support the other to make reasonable judgements about the provision of information under section 197 of HSWA.

USE OF INFORMATION

16. The Parties agree that all collections, uses and disclosures of information shared under this agreement will be in accordance with all applicable law, including:
 - a. the Privacy Act 2020
 - b. relevant health and safety legislation (as defined in section 16 of HSWA)
 - c. the Official Information Act 1982
 - d. the Criminal Disclosure Act 2008; and
 - e. the Protected Disclosures (Protection of Whistleblowers) Act 2022.
17. The Parties agree that information shared legally under this Schedule may only be used for the purpose for which the information has been shared.

INFORMATION TO BE SHARED

Notifications

18. If Maritime NZ receives a Notification relating to a function where WorkSafe is the regulator, Maritime NZ will refer the Notification to WorkSafe following the process outlined below.
19. If WorkSafe receives a Notification relating to a function where Maritime NZ is the regulator, it will refer the Notification to Maritime NZ following the process outlined below.
20. If either Party receives a Notification for notifiable work on pipework, or for a notifiable incident relating to pipework, that impacts the other Party's area of regulatory responsibility, that Party will provide all relevant information about the Notification to the other Party following the Notifications process outlined below.
21. If either Party receives a Notification about an incident where that incident impacts the other Party's area of regulatory responsibility, the Party who received the Notification will provide all relevant information about the Notification to the other Party following the process outlined below.
22. The Parties will provide each other with a monthly summary of the relevant Notifications they receive.
23. Annex 1 lists the specific data fields that the Parties will share with each other.

Authorisations and Exemptions

24. The Parties agree to share information relating to Authorisations and Exemptions in a timely way and in accordance with the *Authorisations and Exemption Schedule*. This includes information that one Party considers may assist the other Party in the performance or exercise of functions, duties or powers, in relation to General Regulatory

Activities that relate to Authorisations and Exemptions as outlined in the *Authorisations and Exemptions Schedule*.

Compliance Information of PCBUs Working on Major Ports

25. Where appropriate, the Parties agree in an ongoing capacity after 1 July 2024 to provide each other with information relating to any compliance action they take against PCBUs that work both on and off Major Ports.

HSWA Framework Information

26. Where appropriate, the Parties agree to share information about the HSWA Framework (such as operational policy, practice, and guidance material) on an as-needed and as-agreed basis.

PROCESS FOR SHARING INFORMATION

27. From 1 July 2024, the Parties agree to share information between each other using the following processes.

Notifications

28. Each Party will share Notifications that apply to the other Party. When the Notification relates to:
- a. a fatality, the Parties will share the Notification within 4 hours if received during business hours, and within 12 hours if received outside of business hours (4:30pm to 9am Monday to Friday and 4.30pm to 9am Friday to Monday)
 - b. notifiable incidents, the Parties will share the Notification within 24 hours; and
 - c. other matters, the Parties will share the Notification within three working days.
29. The Parties will share Notifications for a fatality or notifiable incident received during business hours by email, unless mutually agreed otherwise, via the contacts listed in the *Designated Coordinators Schedule*.
30. The Parties will share Notifications for a fatality or notifiable incident received outside of business hours (4:30pm to 9am Monday to Friday and 4.30pm to 9am Friday to Monday) via the After-hours Notifications phone numbers in the *Designated Coordinators Schedule*.

Authorisations and Exemptions

31. The Parties agree to share information relating to Authorisations and Exemptions via an encrypted service on an as-needed and as-agreed basis. The Parties acknowledge that this sharing may become more regular as information systems improve.

Compliance Information of PCBUs Working on Major Ports

32. Where appropriate, the Parties agree to share information relating to compliance information of PCBUs working on Major Ports on a fortnightly basis via an encrypted service.

HSWA Framework Information

33. Where appropriate, the Parties agree to share information relating to the HSWA framework that is not publicly available on a case-by-case basis by email. These relevant contact details for these emails are listed in the *Designated Coordinators Schedule*.

SECURITY OF INFORMATION

Security measures

34. The Parties agree they will:
- a. store information they receive under this Schedule in a secure system that protects the information against unauthorised use, access, modification, destruction or disclosure
 - b. ensure that any information shared under this Schedule relates to information the Parties have agreed to share and no other Personal Information
 - c. ensure that all information is shared as per the process described above; and
 - d. ensure that contractors and employees handling information that is to be exchanged or has been exchanged under this Schedule comply with the Privacy Act 2020, and any other applicable law.

Privacy breaches

35. If a Party becomes aware of, or suspects there has been:
- a. unauthorised access to, or unauthorised use, modification, destruction and/or disclosure of, information shared under this Schedule; and/or
 - b. a breach of any applicable law relating to the sharing of information under this Schedule or any security provision in this Schedule

That Party will notify the other Party as soon as possible; and the Parties will investigate the privacy breach to the extent they are able to do so, in accordance with their standard internal investigation processes.

36. Each Party will cooperate with the other in any such investigation and will provide such information and updates on the investigation as the other Party may reasonably request.
37. Either Party may suspend the sharing of any information under this Schedule while a privacy breach is being investigated or remedied.
38. Neither Party will comment publicly on a Privacy Breach that could affect the other Party without first consulting the other Party.

Protected Disclosures, Official Information Act and Privacy Act requests

39. All referrals of protected disclosures will be managed in accordance with the requirements in the Protected Disclosures (Protection of Whistleblowers) Act 2022 (the Protected Disclosures Act).
40. A Party that receives a protected disclosure may refer the protected disclosure to the other Party, if they believe the other Party is better suited to manage the protected disclosure or if the protected disclosure is about the other Party, under section 16(2) of the Protected Disclosures Act.
41. The Party who receives the protected disclosure must consult with the person who made the protected disclosure and the other Party before referring the protected disclosure, under section 16(3) of the Protected Disclosures Act.
42. If a Party receives a protected disclosure that relates to the work health and safety of PCBUs in an area where health and safety is regulated by the other Party, the receiving Party can refer the disclosure to the other Party, under section 16(2)(b) of the Protected Disclosures (Protection of Whistleblowers) Act 2022.
43. The Parties will use the relevant contact in the *Designated Coordinators* Schedule to refer a protected disclosure.
44. The Parties acknowledge they are responsible for complying with their own obligations under the Official Information Act 1982 (OIA) and the Privacy Act 2020.
45. Where one Party (the first Party) holds information on behalf of the other (the second Party) that is relevant to an OIA or Privacy Act request, the first Party will assist the second Party in responding to the request to the extent reasonably required.
46. If an individual makes a request under the Privacy Act 2020 to one Party for their Personal Information, or requests correction of their Personal Information, that Party does not need to consult the other Party, unless:
 - a. the information to which the request relates is held or substantially held by the other Party, such that the request may need to be transferred to the other Party; or
 - b. the other Party may have information supporting a good reason under Part 4 of the Privacy Act 2020 for refusing a request.

TERM, REVIEWING, VARIATION AND TERMINATION OF THIS SCHEDULE

47. The Parties will review this Schedule within 12 months after the date of signing, or earlier by mutual agreement. Thereafter, the Parties will review the Schedule annually.
48. Either Party can request a review of this Schedule at any time.
49. Amendments to this Schedule, such as to accommodate changes in the processes to share and receive information, will be made in writing by mutual agreement of the Parties.

- 50. If the Parties disagree with each other about the request, they will follow the process for resolving disputes set out in the MOU.
- 51. Annex 1 can be updated without re-signing this Schedule.
- 52. Amendments to Annex 1 are to be made in writing by the Parties. The Parties agree to update each other as soon as possible when changes affect the data fields described in Annex 1.

PUBLICATION OF THIS SCHEDULE

- 53. The Parties agree this Schedule can be published externally, subject to the withholding conditions outlined in the MOU.

COSTS

- 54. The cost of meeting the provisions of this Schedule will be met by the Party incurring the cost.

DESIGNATED COORDINATORS

- 55. The Parties’ designated coordinators for the purposes of this Schedule are listed below by title/s. The full names and contact details for the people in these roles in the *Designated Coordinators* Schedule. The roles of the designated coordinators are:

WorkSafe

Notifications:	Manager, Notifications
Authorisations:	Manager, Authorisations
Exemptions:	Manager, Exemptions and Certifications
PCBU Compliance Information:	Relevant Managers, Regional General Inspectorate
HSWA Framework:	Manager, Operational Policy

Maritime New Zealand

Notifications:	Manager, Notifications
Authorisations:	Manager, HSWA Regulatory Operations
Exemptions:	Manager, HSWA Regulatory Operations
PCBU Compliance Information:	Manager, HSWA Regulatory Operations
HSWA Framework:	Manager, HSWA Regulatory Operations

Signed



Kirstie Hewlett
Chief Executive and Director
Maritime New Zealand

Date 4 July 2024

Signed



Kane Patena
Deputy Chief Executive
WorkSafe New Zealand

Date 11th July 2024