

NZ Plant Producers Inc. Submission on the Health and Safety at Work Act Amendment Bill

To: Education and Workforce Committee

Submitted by:

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NZPPI wishes to be heard in support of this submission.

Introduction

New Zealand Plant Producers Incorporated (NZPPI) represents businesses engaged in propagating and growing plants, supplying critical inputs into New Zealand's horticulture, viticulture, forestry, amenity, and native planting sectors. Our members play a role in enabling the productivity and sustainability of the country's primary industries and the urban and natural environment.

The plant production sector, commonly referred to as nursery production, has experienced sustained growth in recent years. This growth has been driven by increasing demand for sustainable production systems, alongside policies that support environmental restoration, forestry expansion, and changing land use. The sector is estimated to contribute approximately \$500 million annually to the New Zealand economy and is comprised of around 350 businesses employing approximately 4,500 workers.

Plant production is closely aligned with the wider horticulture sector. Businesses often share a skilled labour source and operate within similar production environments. As a result, they are exposed to comparable health and safety risks, including machinery operation, vehicle movements, hazardous substances, working at height, and physically demanding manual tasks.

NZPPI appreciates the opportunity to submit on the proposed Health and Safety at Work Act reforms. We support the overarching purpose of the Bill to clarify and simplify health and safety requirements, and to enable greater participation, particularly by small and medium-sized enterprises. We also support reforms that improve safety outcomes for workers while ensuring the system remains practical and workable for industry.

Maintaining a Focus on Serious Harm

NZPPI supports a stronger focus on critical risks and serious harm, as this reflects the most significant hazards managed within plant production operations. These include machinery and vehicle use, hazardous substances such as agrichemicals and work undertaken at height. An emphasis on these high-consequence risks is appropriate and aligns with the realities of our operating environment.

However, it is essential that this shift in focus does not result in the deprioritisation of everyday risks that occur across the sector. Plant producers routinely manage a wide range of lower-consequence but high-frequency risks, particularly those associated with manual handling, repetitive tasks, awkward postures, slips, trips, and fatigue during peak production periods. These risks contribute to worker harm and lost productivity, even if they do not meet the threshold of notifiable or serious harm.

NZPPI's position is that while prioritising critical risks is appropriate, the legislation, guidance, and enforcement approach must continue to reinforce that all risks are to be managed so far as reasonably practicable. A system that inadvertently signals that non-critical risks are of lesser importance could lead to poorer overall health and safety outcomes.

Approved Codes of Practice (ACOPs)

NZPPI strongly supports the proposed expansion and strengthening of Approved Codes of Practice as a central mechanism for improving clarity and usability of the health and safety system. Well-designed ACOPs have the potential to translate legislative duties into practical, actionable guidance for both employers and workers.

However, there is a significant concern that smaller primary industries, including plant production, may not be adequately supported to develop and implement such guidance. The development of high-quality ACOPs requires access to skilled health and safety professionals with subject matter expertise in areas such as hazardous substances and specialised production systems. These resources are not readily accessible to smaller sectors, which limits their ability to participate effectively in guidance development.

Our experience reflects that of the wider horticulture sector, where horticulture is often excluded from agriculture-focused ACOPs despite operating in similar environments and facing comparable risks. Engagement by WorkSafe has tended to prioritise larger agricultural sectors first, with smaller sectors engaged later in the process. By that stage, available resources and capacity are often finished, meaning the sectors have ad-hoc and incomplete guidance.

NZPPI strongly supports the development of co-designed ACOPs that are either specific to horticulture and plant production or ensure that horticulture is explicitly included within agriculture ACOPs. For these to be effective, they must be underpinned by genuine stakeholder involvement, including producers, labour providers, workers, technical experts, and WorkSafe. In addition, there must be sufficient funding, appropriate regulatory oversight, regular review, and a publicly accessible register to ensure ACOPs remain current and practical.

Without these elements, there is a real risk that the benefits of ACOP reform will not be realised for our sector, meaning there are winners and losers in the health and safety system.

The Small Business Carve-Out

NZPPI recognises the intent behind the proposed small PCBU category, particularly in reducing compliance burdens for smaller businesses that may lack access to technical expertise and formal health and safety systems. We acknowledge that there are potential benefits in making the system more accessible for small operators.

However, we are cautious about the practical implications of this proposal for the plant production sector. Our industry is predominantly made up of small businesses, alongside the larger operators. A key concern is that the carve-out may lead to inconsistent expectations across the industry.

In plant production, many of the most common health and safety risks relate to ergonomic strain, manual handling, and repetitive tasks. These risks may not fall within the definition of critical risk. Under the proposed framework, small nursery businesses may not be required to manage these risks to the same extent as larger businesses, which would still be expected to address the full range of workplace hazards. This creates an uneven playing field and undermines the development of consistent industry-wide practices.

Such an approach risks entrenching a two-tier system in which larger businesses are more engaged with, and supported by, the health and safety system, while smaller businesses and sectors receive less attention and support. This is inconsistent with the goal of improving safety outcomes across the entire workforce.

Further complexity arises from the nature of employment within plant production. Many businesses operate with a small permanent workforce supplemented by seasonal labour during peak periods. The Bill requires greater clarity on how to count seasonal workers, labour-hire staff, and contractor-supplied labour, and how the “reasonable expectation” test is to be applied when workforce numbers fluctuate due to production cycles, seasonal patterns, and labour availability.

In addition, the widespread use of contractors within plant production creates environments where multiple PCBUs operate simultaneously. This increases the risk of confusion regarding responsibilities

and may lead to shifting liability between parties. The legislation must provide clear and practical guidance on how overlapping duties are to be managed in these situations, including expectations for consultation, cooperation, and coordination.

NZPPI's position is that while reducing unnecessary compliance burden is important, a carve-out for small businesses should not replace the need for clear, practical guidance, tools, and support. The system must avoid creating inconsistent obligations within the same industry and ensure that all businesses are supported to manage risks effectively.

Alignment with Other Regulatory Regimes

Plant producers operate within a complex regulatory landscape that includes hazardous substances regulations, Environmental Protection Authority requirements, the Agricultural Compounds and Veterinary Medicines (ACVM) regimes.

NZPPI encourages the recognition that compliance with these adjacent regulatory regimes may contribute towards meeting obligations under the Health and Safety at Work Act. Reducing duplication across regulatory systems is important for improving efficiency and reducing unnecessary administrative burden.

However, there is currently a lack of clarity around when and how such equivalence applies. Businesses need clear guidance to understand when compliance with another regime is sufficient to meet health and safety duties.

NZPPI supports better alignment across regulatory frameworks but emphasises that cross-recognition must be carefully managed. It should only apply where the alternative regime delivers an equivalent or higher standard of protection. Under no circumstances should alignment result in a lowering of standards or weaker protections for workers.

The Role of WorkSafe

NZPPI supports a balanced role for WorkSafe that includes the development of guidance and ACOPs, the provision of practical tools and education, the use of safe work instruments where appropriate, and proportionate enforcement.

It is important that WorkSafe retains sufficient discretion to apply the most appropriate intervention depending on the nature of the risk and the circumstances of the business. A flexible and responsive regulatory approach is essential to achieving improved safety outcomes. This needs to be more than a casual visit for engagement, as WorkSafe staff should have staff that are aware of industry practice and risks.

At the same time, there is a need to ensure that WorkSafe engagement is equitable across sectors. Smaller industries such as plant production must have meaningful access to guidance, support, and participation in the development of regulatory tools. Without this, there is a risk that reforms will disproportionately benefit larger sectors while leaving smaller industries underserved. Smaller industries have been underserved in this regard for many years.

NZPPI therefore supports a strengthened role for WorkSafe, coupled with a clear expectation that it will engage effectively with all parts of the primary sector, including smaller and emerging industries.

Conclusion

NZPPI supports the intent of the Health and Safety reform to create a clearer, more practical, and more effective system. However, for plant producers, the success of the reforms will depend on how well they reflect the realities of our industry.

This includes maintaining a balanced focus on both critical and everyday risks, ensuring that ACOPs are practical and inclusive of horticulture and plant production, avoiding the creation of a two-tier system through the small business carve-out.

Plant production businesses are committed to improving health and safety outcomes for their workers. To support this, the regulatory system must be practical, inclusive, and designed in a way that enables all parts of the industry to participate effectively. NZPPI looks forward to continued engagement as the reforms progress.

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