


# Legal

This section outlines the key legislation that applies to the adventure tourism and commercial outdoor-recreation sectors.

All providers have responsibilities under the Health & Safety at Work Act 2015, and many providers are legally required to have an audit.

WorkSafe NZ, Maritime NZ, and Civil Aviation NZ regulate different sectors and they require providers to be audited, as does the Department of Conservation.

 **Note!** It's good practice for every provider to have an external safety audit, whether or not you're legally required to.

## Health and Safety at Work Act 2015

While a specific regulation such as a Maritime NZ Rule or the Adventure Activities Regulations may cover part of your work, the Health and Safety at Work Act covers all aspects.

Compared to the previous Act, the Health and Safety at Work Act 2015 brings a focus to:

- Identifying and managing risks.
- Consulting, cooperating, and coordinating with other parties when there are shared responsibilities, eg a landowner or hire company.

### Information and guidance

WorkSafe's [quick guide](#) introduces the Health and Safety at Work Act 2015. It summarises the key components of the Act, including the roles and responsibilities of PCBUs (person conducting a business undertaking), officers, workers, and others in managing workplace health and safety risks.

WorkSafe NZ has also published [information and resources](#) to help you understand the law and manage health and safety in the workplace.

## Adventure Activities Regulations 2023

These regulations set out the process for becoming registered as an adventure activity provider and make it an offence for unregistered providers to offer or advertise adventure activities.

This means that your first onsite audit will include a technical expert evaluating your activity or activities with representative, non-paying participants. Alternatively, a condition may be set requiring an activity evaluation when practicable.

See: [Health and Safety at Work \(Adventure Activities Regulations\) 2023](#).

### Are you covered by the regulations?

Interpretation of legislation can be difficult. In particular, providers are often unsure if they're subject to the regulations.

WorkSafe has published guidance to help providers work this out:

- [What is an adventure activity?](#)
- [Information for contractors and organisations using contractors](#)
- [Decision tree](#)
- [Information for providers of maritime activities](#)
- [Guidance for PCBU](#)s (person conducting a business or undertaking)

If you're still unsure, you can discuss your proposed activity with the adventure activity team at: [aao@worksafe.govt.nz](mailto:aao@worksafe.govt.nz)


## Safety audits

A provider must have a satisfactory safety audit to be registered.

The [Safety Management System Requirements 2023](#) (safety audit standard) sets out the requirements of a safety management system for providers. Audits of other providers will also measure them against this standard where relevant. See [Information on the rules auditors must work to](#).

## Safety Management Plan

See the [Safety Management Plan \(SMP\) template](#). This is designed to help you develop an SMP that meets the *Safety Management System Requirements*.

 **Note!** As with all templates, it's a good place to start but you'll need to modify it to fit your operation, eg you need to specify the planning documents that make up your SMS.

## The audit and registration process

Providers can choose their audit provider from one of the recognised providers available. See: [The audit and registration process, including auditor contact information](#).

## Surveillance activities

Auditors will monitor an operation throughout its certification period to ensure it's continuing to conform to the *Safety Management System Requirements*.

This could include:

- An onsite surveillance audit, which could focus on areas of weakness and internal reviews of the SMS.
- An onsite technical expert review of an activity.
- A declaration of conformity in which you provide evidence to confirm that you continue to conform with the standard, that is, a remote document review.
- A special audit due a change of your circumstances, eg complaints, incidents, or senior staff changes.

## Managing re-registration

Providers are required to undergo a full audit at least every three years.

WorkSafe can't re-register you until you have a current safety audit certificate. You should plan for this well in advance.

If you don't achieve at least conditional certification and submit your registration to WorkSafe before your current audit certificate's expiry date, then your registration will lapse and you can't legally operate.

## Noncompliance

Auditor providers can suspend or withdraw the scope of certification.

They'll advise the activity provider and WorkSafe and the Registrar may suspend or cancel registration. Providers will be given an opportunity to respond.

## Who is registered?

See the public list: [registered adventure activity operators](#).

# Aviation law

Aviation law is relevant to operations involving air transport and employees involved in operating aircraft. These laws are relevant to recreational hunting air operations and to heliskiing.

## Civil Aviation Act 1990

This Act establishes rules of operation and divisions of responsibility to promote aviation safety.

It includes requirements for entry into the civil aviation system, eg registering aircraft. The roles, powers, and duties of the key players in the system are defined, including the Civil Aviation Authority of New Zealand (CAA), and it creates a range of offences, including safety offences.

[Read more](#)

# Maritime law

These laws aim to prevent drowning and near-drowning accidents as well as injuries from falls on ships, and accidents from machinery and equipment.

They're relevant to businesses providing water transport and to staff operating boats, rafts, kayaks, and canoes on marine or inland waterways. Providers who use any vessel with a motor are likely to require some sort of approval or certification from MNZ.

## Maritime Transport Act 1994

This Act describes the role and functions of Maritime New Zealand – [www.maritimenz.govt.nz/](http://www.maritimenz.govt.nz/) – and sets out the legal framework for maritime safety and protection of the marine environment.

[Read more](#)

### Local Government Act 1974

This Act deals with local navigational safety matters that aren't covered by the Maritime Transport Act.

Regional councils can make bylaws relating to navigation within their regional waters, eg reserving areas for specified craft in the interests of navigation safety.

[Read more](#)

## Crimes law

### Arms Act 1983

This Act promotes the safe use and the control of firearms and other weapons. It's relevant to operations that involve firearms in any capacity, including the storage of firearms.

[Read more](#)

### Crimes Act 1961

This Act sets out the law relating to a range of different crimes, including negligence. It applies to the outdoor sector but the Health and Safety at Work Act 2015 is more likely to be applied.

[Read more](#)

### Evidence Act 2006

This Act enables a pre-trial anonymity order for a witness if the safety of the witness or another is likely to be endangered. This is particularly relevant in the case of an incident.

[Read more](#)

## Environmental law

The National Parks and Walking Access Acts contain provisions regarding the safety of the public in public lands. Providers using public land, especially conservation/reserve land must apply for a licence or concession to a local council or the Department of Conservation (DOC) if required.

### Applying for a DOC concession

If you want to run a business or activity on public conservation land to you must get a DOC concession. This applies to international as well as New Zealand providers.

[Read more](#)

### The Conservation Act 1987

This Act promotes the conservation of natural and historic resources.

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[Read more](#)

### The National Parks Act 1980

This Act provides for the continuance of existing national parks, the creation of new parks, and the management of all national parks.

[Read more](#)

### Walking Access Act 2008

This Act is to provide the New Zealand public with free, certain, enduring, and practical walking access to the outdoors, including around the coast and lakes, along rivers, and to public resources.

[Read more](#)

### Resource Management Act 1991

This Act promotes the sustainable management of natural and physical resources.

Providers must ensure their activity has no harmful impact on the quality of land, air, and water resources or their sustainability.

[Read more](#)

## Other law

### Accident Compensation Act 2001 (ACC)

ACC provides no-fault accident insurance cover for all New Zealand citizens, residents, and visitors to New Zealand. In return, individuals don't have the right to sue for personal injury, other than for exemplary damages.

Every provider in New Zealand pays ACC levies.

[Read more](#)

### Building Act 2004

This Act sets out the rules for the construction, alteration, demolition, and maintenance of buildings in New Zealand.

Its purpose is that people can use buildings safely and without endangering their health. It could include, eg climbing and abseiling structures.

[Read more](#)

### ***Building Code***

The code was developed under the Building Act. All building work must comply with the Building Code, even if it doesn't require a building consent.

[Read more](#)

### **Civil Defence Emergency Management Act 2002**

This Act creates a framework within which New Zealand can prepare for, deal with, and recover from emergencies.

[Read more](#)

### **Consumer Guarantees Act 1993**

This Act applies to any workplace offering goods or services for domestic use.

[Read more](#)

### **Fair Trading Act 1986**

This Act creates an obligation for a provider to ensure that their services are as expected by their clients, based on the business's advertising and the information provided. This information should include any risk inherent in the activity.

[Read more](#)

### **Fire Safety and Evacuation of Buildings Regulations 2006**

These regulations cover fire safety in buildings. Each provider must ensure that they have fire-management equipment, written emergency procedures, and that fire-emergency information is available to everyone on each work site.

[Read more](#)

### **Fire and Emergency New Zealand Act 2017**

This Act created Fire and Emergency New Zealand (FENZ), bringing together rural, urban, paid, and volunteer firefighters. It covers emergencies, fire control, industry brigades, water supply, and evacuation schemes.

[Read more](#)

### **Food Act 2014**

This Act applies to all food businesses. You must apply to register your food control plan or national programme business three months before the final date for registration.

The Ministry of Primary Industries has created a tool to help you find out what rules you need to follow.

[Read more](#)

## Hazardous Substances and New Organisms Act 1996

This Act aims to protect the environment and people by preventing or managing the adverse effects of hazardous substances and new organisms. It includes a toolbox of regulations to manage hazardous substances, including labelling, packaging, storage, transportation, manufacture, use, and disposal.

It's relevant to operations that use hazardous substances (particularly in large quantities), such as petrol, cleaning products, solvents, and agrichemicals.

[Read more](#)

## Local Government Act 2002

This Act sets out the general powers of councils and planning and accountability requirements.

Local government bylaws can restrict use of waterways and public land by providers, or can institute a permit or licence system. They can impose fines for the misuse of resources, or poor waste management, among other things.

[Read more](#)

## Misuse of Drugs Act 1975

This Act controls the use of controlled drugs, including in the workplace.

It could have particular relevance to operations that want to maintain a more specialised and extensive first-aid kit containing controlled medications.

[Read more](#)

## New Zealand Public Health and Disability Act 2000

This Act promotes and protects the rights of health consumers and disability service consumers. It's especially relevant to businesses that cater to people with disabilities and those that need to screen clients with disabilities.

[Read more](#)

## Privacy Act 2020

This Act provides the general framework for promoting and protecting individual privacy and applies to both public and private-sector agencies. It establishes principles with respect to the collection, use, disclosure of, and access to people's information.

It also established the role of Privacy Commissioner to investigate complaints about interference with individual privacy.

[Read more](#)