



NEW ZEALAND FOUR WHEEL DRIVE ASSOCIATION INC.

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www.NZFWDA.org.nz

12 April 2016

Dear Four Wheelers

RE: FARMS AND HEALTH & SAFETY AT WORK ACT 2015

You are aware that the Health and Safety at Work Act 2015 ("the Act") is now in force:

1. There have been questions about what this means for land access and farms.
2. The Act that provides that (Section 17(1)) **a person conducting a business or undertaking or PCBU**, means the person conducting a business or undertaking whether or not the business or undertaking is for profit or gain; and
3. You should note section **37 Duty of PCBU who manages or controls workplace** (Copy attached) states:
 - (1) A PCBU who manages or controls a workplace must ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace, and anything arising from the workplace are without risks to the health and safety of any person.
 - (2) Despite subsection (1), a PCBU who manages or controls a workplace does not owe a duty under that subsection to any person who is at the workplace for an unlawful purpose.
 - (3) **For the purposes of subsection (1), if the PCBU is conducting a farming business or undertaking, the duty owed by the PCBU under that subsection—**
 - (a) applies only in relation to the farm buildings and any structure or part of the farm immediately surrounding the farm buildings that are necessary for the operation of the business or undertaking;
 - (b) **does not apply in relation to—**
 - (i) **the main dwelling house on the farm (if any); or**
 - (ii) **any other part of the farm, unless work is being carried out in that part at the time. [My emphasis]...**
4. Sub-section 37(3) (above in bold) seems most relevant to farms and farmers.- so the workplace duties of a farmer do not apply to parts of the farm when work is not being carried out at that time.
5. I hope the above is of assistance to you and that the farmers will agree that you can have access to parts of their farms when work is not being carried out at that time on those parts of their farms.

Regards

JOHN HICKEY

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