

March 2025

Health and Safety Management System clause for orchard lease or management contracts

This document provides a standard Health and Safety Management System clause for orchard lease or management contracts where the orchard owner is not the PCBU.

Health and safety is critical to the kiwifruit industry. Regardless of orchard ownership or management arrangement, growers have a legal and moral duty to uphold the health and safety of those on an orchard.

If you have any questions regarding this or other health and safety matters, please contact NZKGI by email info@nzkgi.org.nz or phone 0800 232 505.

The standard clause was developed in 2017 and reviewed in 2025.

NZKGI has taken care and prepared this information in good faith and has made this information available on a timely basis. As NZKGI is not a contracting party to the supply or other industry agreements NZKGI makes no warranty or representation as to the accuracy or the completeness of this information. NZKGI does not accept responsibility or liability should any grower or other party incur any loss, injury or damages arising from that or any other person's reliance on this information

The following is a draft clause that orchard owners should consider including in their management or lease contracts where it has been determined that the orchard owner is not the primary PCBU i.e. where the property is leased or fully managed by a third party.

Health and Safety Management System

The primary PCBU shall implement and maintain appropriate health and safety risk management processes and systems, as well as physical work practices that ensures the safety of all persons on the site in accordance with the Health and Safety at Work Act 2015 (HSWA). The management system includes, but is not limited to, the following elements:

- *An appropriate Site Health and Safety Management Plan (HSMP).*
- *Procedures, processes and tools that detail requirements for identifying, assessing and controlling health and safety risks that do or may exist on the Site.*
- *A register of health and safety risks for the site which includes any identified hazards, the date it was identified, the levels of risk it poses and details of required control measures or requirements.*
- *Processes and practices to report and record hazards, incidents and near misses and the investigation thereof.*
- *Procedures and practices that provide appropriate training for workers to perform their roles safely and maintenance of the training records.*
- *Processes to effectively manage the activities of subcontractors, suppliers and visitors.*
- *Procedures and processes to manage and maintain workplace equipment and plant.*
- *Procedures and processes to manage and maintain workplace chemicals and hazardous substances.*
- *Procedures and processes to ensure effective consultation and cooperation between PCBUs and their workers.*
- *Procedures and processes to manage emergencies and natural disasters.*

The processes, systems and physical work practices are required to be reviewed and maintained by the primary PCBU as frequently as required to ensure the safety of all persons on the Site. They shall also be reviewed prior to the commencement of a new scope of work not previously identified or contained within the contract. Records of reviews shall be maintained.

Where non-conformances or significant failures to meet these obligations are discovered, the primary PCBU will be required to maintain oversight and obtain evidence that corrective actions have been developed and implemented.

In the event of a notifiable incident as per HSWA, the Primary PCBU should out of courtesy notify the land owner of the incident.

Subcontractor Management

A subcontractor is a PCBU that is contracted by the primary PCBU to conduct works on Site. The primary PCBU is responsible for the health and safety all workers on site and ensuring that the sub-

contractors have implemented effective health and safety risk management practices and processes prior to work commencing.

The PCBU shall require all subcontractors to provide information to the primary PCBU detailing how they will control the risks associated with the works they will be conducting.

The primary PCBU is responsible for reviewing and, once deemed acceptable, approving the management processes and plans of subcontractors. All subcontractors will be required to co-ordinate their health and safety management practices and activities with that of the primary PCBU.

For the avoidance of doubt, control of the workplace by the primary PCBU includes those parts of the workplace where separate subcontractors will be/ are working.

Health and safety information shall also be reviewed prior to commencement of a new scope of work not previously defined in the contract. Records of reviews shall be kept within the document.

Assurance and Performance Monitoring

The primary PCBU is required to conduct regular assurance reviews to ensure the subcontractors it has engaged are meeting all its HSWA obligations, both in terms of appropriate processes and systems, as well as physical work practices.

Where non-conformances or significant failures to meet these obligations is discovered, the subcontractor will be required to maintain oversight and obtain evidence that corrective actions have been developed and implemented.