

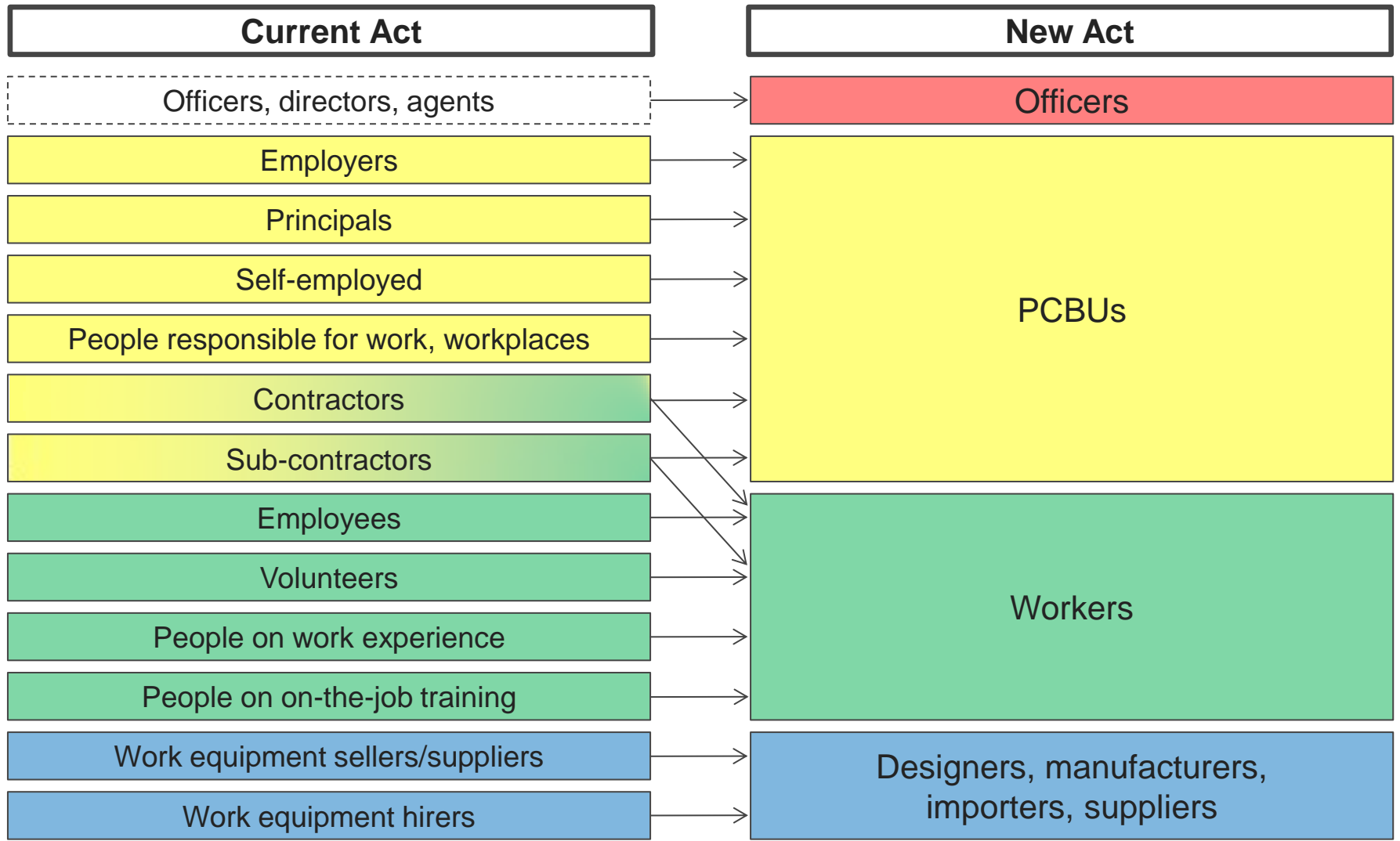


AON NEW ZEALAND COUNCIL FORUM

Workplace Health and Safety Reform

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Workplace health and safety reform: Key features — Structure

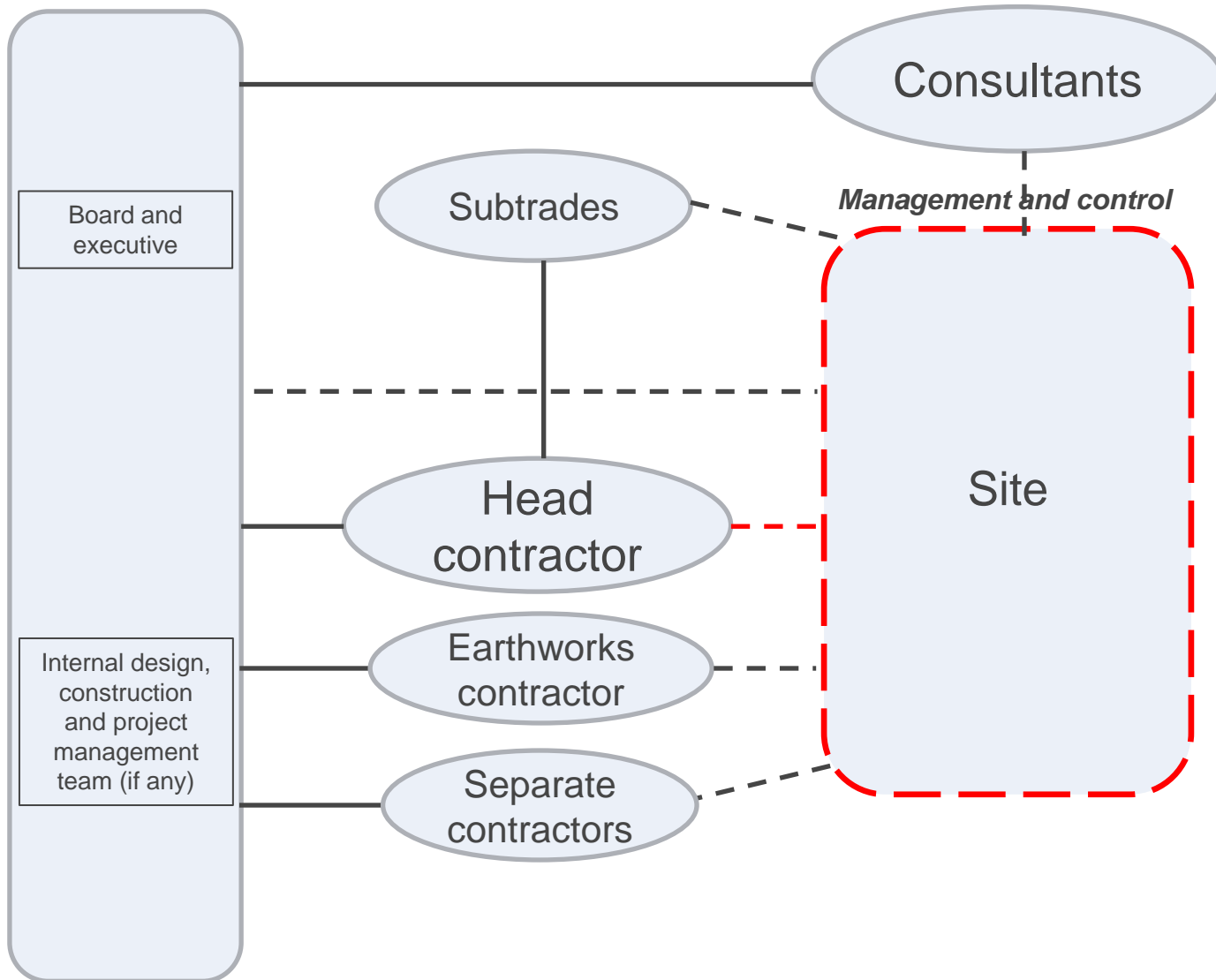


- “If more than one PCBU has a duty in relation to the same matter each PCBU with the duty must, so far as is reasonably practicable, consult, co-operate with, and co-ordinate activities with all other PCBUs who have a duty in relation to the same matter” – section 34



- Where there are a number of PCBUs involved with a site or project more than one of them may have the same duty
- Select Committee adjusted drafting: in this situation each person retains responsibility for that person's duty and must discharge it to the extent they have the ability (as opposed, formerly to the capacity) to influence and control the matter
- Intent: to limit duties to the actions PCBUs will be able to take in practice

The anatomy of a construction project



Issues

- Contractor/Subcontractor Health & Safety plans
- Audit and inspection regime for Contractors/subcontractors
- Drug and alcohol policies
- Accident and near-miss collection
- Reporting and information provision
- Obligation to participate in audits and training)
- Site access control and “passport” requirements
- Co-operate, consult, co-ordinate

Workplace health and safety reform: Key features – Worker participation

The worker participation requirements in the proposed new Act look like this:

All PCBUs must engage with workers on health and safety matters

All PCBUs must have effective worker participation practices

Workers or PCBUs *may choose* to have Health and Safety representatives (HSRs)

- Functions and powers of HSRs
- Obligations of PCBUs about and towards HSRs

Workers or PCBUs *may choose* to have Health and Safety committees (HSCs)

- Functions of HSCs
- Obligations of PCBUs about and towards HSCs

All workers may refuse to do unsafe work

All workers have protections from adverse conduct

The proposed new Act makes it clear that all PCBUs have two overarching duties for worker participation – a duty to engage with workers, and a duty to have effective agreed participation practices regarding health and safety matters.

Workplace health and safety reform: Key features —Worker engagement

- Duty for PCBU's to “so far as reasonably practicable” engage with workers who are, or are likely to be, affected by “a matter relating to health and safety”
- PCBU's and workers may agree process of engagement
- The duty includes where a PCBU is identifying hazards and assessing risks, making decisions re risks, or proposing changes that may affect health and safety of workers
- Engagement includes – providing relevant information, views being expressed, contribution to decision making and views taken into account

Workplace health and safety reform: Key features —Worker engagement

- What is reasonably practicable in the particular circumstances may depend on factors such as the:
 - Size and structure of the PCBU
 - Nature of the work that is carried out
 - Nature and severity of the particular hazard or risk
 - Nature of the decision or action, including the urgency to make a decision or take action
 - Availability of the relevant workers and any health and safety representatives
 - Work arrangements, such as shift work and remote work

Workplace health and safety reform: Key features — Worker participation

- Organisations of all sizes must have worker participation practices appropriate to the organisation providing reasonable opportunity for workers to participate in improving work health and safety
- There is to be an election for health and safety representatives and the establishment of health and safety committees, but only if workers request it or a PCBU initiates it

Workplace health and safety reform: Key features — Worker participation

- Functions and powers of health and safety representatives and committees are specified including the right to enter and inspect the workplaces, request information, seek assistance for another person, accompany an inspector, and consult the regulator
- A health and safety representative can make recommendations; PCBU must adopt, or explain why not
- A trained health and safety representative may issue a “provisional improvement notice” requiring fix of actual or likely contraventions of the Act or regulations
- Workers can cease unsafe work, health and safety representatives can direct the cessation of unsafe work

Questions

