

Emails to and from Worksafe starting 22 Feb 2018

Hi Worksafe

I am working on training materials for a person acting as a "Spotter" on a construction site.

The only GPG I can find is Excavator Safety, page 20 section 4.1 Safe Systems of Work, 4.4 talks about JSA and TA would a SWMS fit here

A Safe Work Method Statement would set up protocols and procedures for doing this task.

I have found some info from Worksafe Victoria (MSC672Worksafe Booklet) thats relevant as well, but does Worksafe have any other material.

I do use the Fact sheet Keeping Safe around moving plant

Regards Phillip Hawken Operator Training Ltd

Hi Phillip

Thank you for contacting WorkSafe about paperwork for your business.

A Good Practice Guideline is not enforceable by law, it is a suggestion to show what good looks like. The Health and Safety at Work Act and its Regulations are in most instances not prescriptive about what paperwork is required, leaving it largely up to the business to decide what paperwork they will keep, this will be based on the type of business, its size, risks its creates or is exposed to, public interface etc. Paperwork is a good way of showing health and safety management systems exist and provide information for staff.

I am not aware of any other information on WorkSafe's site that relates to your enquiry. When WorkSafe doesn't have appropriate guidance that you visit Health and Safe web sites from UK (Britain), Australia, and Canada as much of their legislation is similar to New Zealand.

Regards Margaret Harvey Support Officer Worksafe

So why does the BPG Heights and others say., guidelines and adherence to them may be relevant as evidence in a court of law?? Phillip 6/3/2018

Hi Phillip

The guidance is correct in that adherence to them may be relevant in any court proceedings. However, unlike the Health and Safety at Work Act and Regulations, guidelines and codes of practice are not legally enforceable documents. They outline a series of steps or a process which if followed will likely go a long way to proving to the court that everything reasonably practicable was done to manage the particular risk. You may use another means of managing risk so long as it can be demonstrated that the method used met or exceeded the standard outlined in the guidance. Any prosecution action is taken is in relation to a failure to comply with the Act or Regulations, not a failure to comply with guidelines.

**Regards Bill Botherway Senior Advisor Operational Projects Operations and Support Services
6/3/2018**

Would you mind another question relating to Forklifts and Telehandlers?

I am on the NZ register for Forklift trainers and train a Telehandler for the Osh Certificate (using approved materials) unit 10851. If a person trained the unit 23637 Operate a Telehandler, would Worksafe consider that sufficient for that Operator or should they also hold 10851 Osh cert?

Regards Phillip Hawken 15/3/2018

Hi Philip My reply can be used for whatever purpose you see fit. 15/3/2018

It is up to the PCBU (business) to ensure that an operator of machinery is trained and competent to safely operate that machinery. Guidance recommends that all forklift operators are trained to the standard referred to in the guidance and that they have an F endorsement. The F endorsement is a road transport requirement and is only applicable if the forklift is to be used on a road, which they often can be. For general workplace use, the PCBU would need to demonstrate, if required, that the operator was trained to meet or exceed the recognised standard.

Regards **Bill Botherway Senior Advisor Operational Projects Operations and Support Services**

Hi Bill thank for you prompt reply.

I have attached a photo of a Telehandler working.

A Telehandler is a wheeled machine that works as a Forklift but requires a W endorsement to drive on a road. So a person needs an Osh Certificate to operate a Forklift, is that not sufficient?
see attached info Regards Phillip 15/3/2018

a picture of a telehandler lifting a pallet up onto a container was sent

As pointed out previously, the standard to which workers are trained for a particular role or to operate plant or machinery is a matter for the PCBU. If a PCBU decides to train staff to another standard that is fine, as long as it meets or exceeds the standard contained in guidance. It is not the role of WorkSafe as the regulator to direct you as to what that standard should be. Each case is assessed on its merits when assessing whether the “so far as is reasonably practicable” threshold has been met. See attached quick guide explaining the term reasonably practicable, <https://worksafe.govt.nz/dmsdocument/848-reasonably-practicable> . Regards

Bill Botherway Senior Advisor Operational Projects Operations and Support Services 15/3/2018