Rural eSpeaking

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Welcome to the Autumn 2026 edition of *Rural eSpeaking*.

We hope you find the articles both interesting and useful.

If you would like to talk further about any of the topics we have covered in *Rural eSpeaking*, or indeed on any other legal matter, please do not hesitate to contact us. Our details are on the top right.

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WorkSafe's heightened focus on farm safety

Development of Approved Codes of Practice

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KiwiSaver changes open the door to first farm ownership

Good news for rural workers

The government has announced important changes to KiwiSaver that will make it easier for farmers and rural workers to use their KiwiSaver to buy their first farm. These reforms acknowledge the unique way in which farms are owned and operated in New Zealand.

For many in the rural sector, particularly sharemilkers, contract milkers and farm managers eager to climb the ownership ladder, this represents a meaningful step toward farm ownership.

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'Biosecurity System Action Plan' is released to guide an overhaul of current legislation and other related practices.

Employee v contractor

On 21 February 2026, a new 'gateway test' was introduced to determine whether an individual is an employee or a contractor in terms of employment law. It has important ramifications for farming employers.

Wills and EPAs: essential for the rural sector

For people responsible for farms and other major rural assets, it's important to ensure you have a current will and EPAs.

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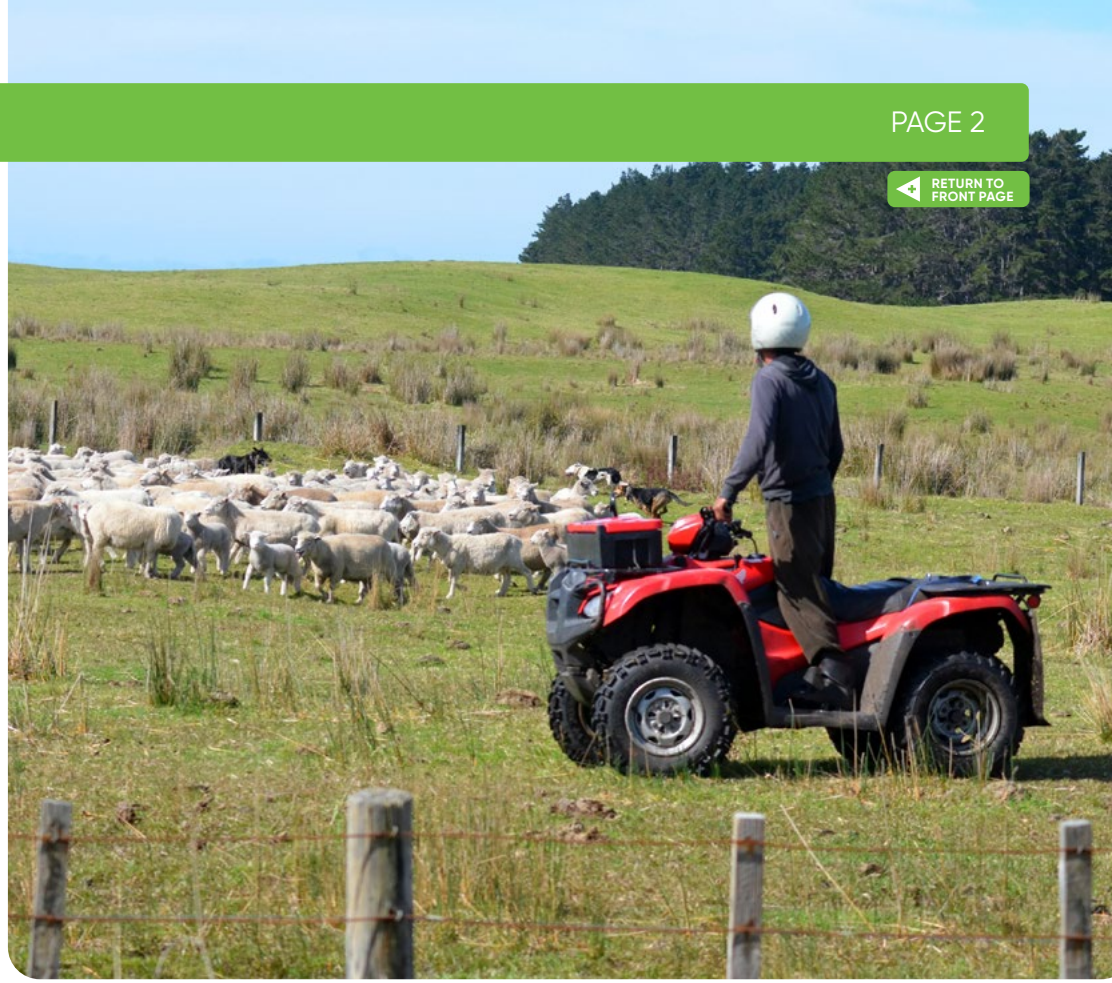
WorkSafe's heightened focus on farm safety



Development of Approved Codes of Practice

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In recent years, WorkSafe has significantly increased its focus on the agricultural sector reflecting the industry's persistently high rates of serious injury and fatalities. Farming remains one of the most hazardous occupations in New Zealand, and WorkSafe's evolving approach aims to address the root causes of harm while working more collaboratively with those on the land.

A key development has been the designation of agriculture as a priority high-risk sector. Alongside the other sectors classified as high-risk (construction, manufacturing and forestry), farming now receives a significantly greater share of WorkSafe's attention and resources.

This prioritisation is embedded in the regulator's broader strategy which centres on reducing fatalities, minimising serious injuries and targeting the activities most likely to cause harm. Rather than applying a one-size-fits-all regulatory model, WorkSafe is increasingly tailoring its interventions to reflect the unique risks present on farms.

Greater attention

One of the most visible aspects of WorkSafe's effort is the development of Approved Codes of Practice (ACOPs) specific to agriculture. These codes are designed to clarify what 'good practice' looks like in practical, farm-based scenarios.

Current and emerging ACOPs focus heavily on the use of vehicles and machinery – areas consistently identified as leading causes of death and injury on farms. This includes guidance on quad bikes, tractors, utes and side-by-side vehicles, as well as their safe operation on uneven terrain and proper maintenance procedures.

Additional codes address responsibilities in multi-operator environments and provide clearer expectations around child safety on farms – an issue of ongoing concern in rural communities.

Alongside regulatory guidance, WorkSafe has expanded its on-the-ground presence. Inspectors are increasingly visiting farms not only to assess compliance, but also to engage directly with farmers and workers.

Hundreds of visits have been carried out in concentrated periods, with around 1,000 farm visits conducted between October and December 2025 with a focus on observing real-world practices involving machinery, hazardous substances and general risk management.

These visits are not purely enforcement-driven; they are also intended to provide practical advice and identify common issues across the sector. This hands-on approach allows WorkSafe to gather valuable data while building relationships within the farming community.

More collaboration

Another important element of WorkSafe's strategy is its emphasis on education and industry collaboration. Acknowledging that lasting improvements in safety require cultural change, the regulator has partnered with industry groups and events to promote safer practices. Campaigns and resources such as 'Keep safe, keep farming' aim to integrate health and safety into everyday decision-making on farms.

By working with organisations that already have credibility in rural communities, WorkSafe's aim is to influence behaviour in a way that traditional enforcement alone cannot achieve.

Perhaps the most notable shift in WorkSafe's approach is its move toward a more balanced model of regulation, combining enforcement with proactive guidance.

While WorkSafe retains the ability to take enforcement action where necessary, there is now a stronger emphasis on helping farmers understand and meet their obligations before incidents occur.

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Legislation giving effect to these changes will be introduced to Parliament in the middle of the year.

Key changes

Until now, KiwiSaver first-home withdrawals have been limited to residential property purchases, with strict requirements that the buyer both owns and lives in the home. This has created barriers for those pursuing farm ownership, as farms are often:

- Purchased through companies or trusts, rather than in an individual's name, and
- Used as both a business and a place of residence, sometimes with accommodation arrangements tied to employment.

The upcoming changes are designed to address these challenges by allowing eligible KiwiSaver members to withdraw their funds to buy a first farm, even where the ownership structure is more complex.

Who can benefit?

The updated rules will apply to people who would ordinarily qualify for KiwiSaver first-home withdrawal, who have contributed to KiwiSaver for at least three years and not previously owned a home (or being approved as a 'second chance' buyer). The changes are aimed at first-time farm buyers, not those expanding existing farming operations.

Key conditions

While the rules are becoming more flexible, there are still some important conditions for first-time farm buyers:

- Control of the farm: You must have a meaningful ownership interest in the entity purchasing the farm (for example, a majority shareholding or controlling interest). This ensures KiwiSaver is being used to support genuine ownership, not passive investment
- Connection to the property: The farm must still have a residential element connected to you. While the strict 'live in the home' rule is being relaxed, the purchase must still align with the intent of helping you secure your primary place of living and working
- First property focus: The withdrawal remains limited to your first property purchase (or equivalent approved situation), and
- Standard application process: You will still need to apply through your KiwiSaver provider, providing supporting documents such as a signed sale and purchase agreement and statutory declarations.

Why this matters for farmers

For many in the dairy and wider farming sector, progressing from employment or sharemilking into ownership has always required significant capital. KiwiSaver is often one of the few accumulated assets available to younger farmers. By allowing KiwiSaver funds to be used in farm purchases – and recognising company and trust structures – the law is now better aligned with how farming businesses actually operate.

This change is expected to improve access to deposits for first-time farm buyers, support succession planning within the rural sector and help younger farmers transition into ownership earlier.

Considerations before proceeding

While the changes are positive, there is still some complexity involved. Before relying on KiwiSaver funds for a farm purchase, it is important to consider:

- How the farm purchase will be legally structured
- Whether your level of ownership meets the control requirements
- The impact on lending and finance arrangements, and
- Ensuring your application meets your KiwiSaver provider's requirements.

We recommend you seek legal and financial advice early in the process; this will help ensure everything is set up correctly from the outset.

Final thoughts

These reforms mark a practical and long-overdue shift in KiwiSaver policy. By acknowledging that farms are both homes and businesses, the government will create a more realistic pathway for rural New Zealanders to enter farm ownership.

With the changes in the legislative pipeline, if you are considering farm ownership, now is a good time to start planning and take advice on how best to position yourself.

Over the fence

Biosecurity overhaul

In July 2025, the Ministry of Primary Industries released its proposed 'Biosecurity System Action Plan.' It is intended to guide new legislation to amend the Biosecurity Act 1993, and to overhaul current biosecurity regimes to improve process, obligations and rights. This will impact importing/exporting, practices on farm and government accessibility to farms.

The action plan is presented in two tranches. The first focuses on immediate priorities – clarifying roles, modernising processes and providing training tools. The second tranche will build on successful initiatives, consider social and cultural impacts and develop long term resolutions. Significant progress on both tranches by 2030 is proposed.

Key proposed amendments following submissions and consultation include:

- Placing greater decision-making discretion with regional councils and management agencies – including the ability to create exemptions, issue permits for pests and produce small scale management plans
- Increasing and introducing new penalties, including for obstructing a lawful search
- The ability to grant one-off or ad hoc permits for imported goods, and
- Removing the need for the current exemption for regional councils to enter private land to manage pests.

A draft bill is anticipated to be presented to Parliament in late 2026.

To read more on the Biosecurity System Action Plan, the steering group workshops and the proposed next steps, click **here**.

Employee v contractor

On 21 February 2026, a new 'gateway test' was introduced to determine whether an individual is an employee or a contractor in terms of employment law. The gateway test does not apply retrospectively.

Gateway test: An individual is a contractor if they meet all the gateway test criteria. These are:

- There must be a written agreement stating they are an independent contractor or are not an employee
- No restriction from working for others (except while undertaking agreed work)
- They are not required to work at a specified time/period OR they can subcontract the work, subject to legally required or justifiable vetting
- Additional future work can be declined without the arrangement being terminated, and
- There has been a reasonable opportunity to seek independent advice before entering into the arrangement.

If all criteria are satisfied, the individual is a contractor. If any of the criteria is not met or for claims brought prior to 21 February 2026 the common law test (below) applies.

The four factors below are considered *together* to determine whether an individual is a contractor:

1. **Intention** – what did the parties intend the relationship to be? Consider entitlements received – for example, contractors are not entitled to holiday pay.
2. **Control v independence** – high employer control over hours, work and methods may be indicative of an employer/employee relationship
3. **Integration** – is the role fundamental to an employer's business and continuous in nature, and
4. **Fundamental/economic reality** – does the economic reality reflect a person in business on their own account? Consider fee structure, tax obligations, ability for the individual to profit and who bears financial risk.

The distinction between an employee and contractor is highly relevant for the rural sector as you may have both contractors (such as sharemilkers and contract milkers) and employees (farm hands, managers, etc) working on your property.

Wills and EPAs: essential for rural sector

For people who are responsible for farms and other major assets, it is important to ensure you have a current will and Enduring Powers of Attorney (EPAs). If you don't have these and you die unexpectedly, lose mental capacity, or are unable to attend to your personal affairs for a period, it could lead to not only farming operations being disrupted, but also family uncertainty and having to spend time and money on sorting things out.

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WorkSafe's heightened focus on farm safety (continued)

This reflects an understanding that many farmers operate in complex, resource-constrained environments where practical, accessible advice can be more effective than punitive measures alone.

Looking ahead

WorkSafe New Zealand's activities in the agricultural sector represent an evolving strategy.

Through targeted regulation, increased farm visits, collaborative education efforts and a focus on the most significant risks, the regulator is working to improve safety outcomes across one of New Zealand's most vital industries. While challenges remain, the current approach signals a commitment to reducing harm through both accountability and support.

To read more on WorkSafe's ACOPs, click **here**. +

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Over the fence (continued)

Will: Your will sets out your instructions about the distribution of your property to your family after you die. Even if you have a will, it is good practice to regularly review it, so it reflects your current situation and wishes.

If you don't have a will, there is legislation[1] that decides how your estate is divided up; this arrangement may not be what you would wish. To prevent this, it's optimal (and much easier) to ensure you have a valid will that reflects your wishes. Your family will thank you for it.

EPA: An EPA is a legal document that allows a trusted person (your attorney) to manage your affairs and personal care. There are two forms of EPA – one covering property affairs and the other about your personal wellbeing. An EPA for personal care only applies if you lose mental capacity, while an EPA for property can also apply while you have capacity.

For a property EPA, your attorney could be a trusted friend or relative, or you could appoint a trustee company to manage your property matters.

For a personal care and welfare EPA, you can only appoint a person as your attorney.

We can help you set up EPAs and a will or, if you already have them, review them so they reflect your current situation. +

1 Administration Act 1969.

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The next edition of *Rural eSpeaking* will be published at the end of **July**.

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