

September 2021

What we mean by ‘adventure activity’

This policy’s purpose

The Health and Safety at Work (Adventure Activities) Regulations 2016 (the Regulations) define ‘adventure activity’ in regulation 4(1)(a). The definition is made up of several elements that are not further defined in legislation.

Here we explain how we interpret these elements so operators, the Registrar, and WorkSafe inspectors can determine if an operation is an adventure activity.

A [decision tree](#) and a table of specific activities that are likely to be, might be, or are not likely to be adventure activities provide additional supporting information.

When is an operation an adventure activity?

An operation is an adventure activity when:

- it meets all the elements in regulation 4(1)(a) and isn’t excluded under regulation 4(2)-4(5).

This means the operator must obtain and pass a safety audit and seek registration.

An operation is not an adventure activity when:

- it meets none or some (but not all) elements, or
- it meets all the elements **and** is excluded under regulation 4(2)-4(5).

This means the operator doesn’t need to seek a safety audit and registration, but as a PCBU they’ll still have duties under the Health and Safety at Work Act 2015. For example, they must ensure that any equipment they provide is fit for purpose and safe for use, and people are aware of the risks associated with using it.

How we interpret the elements of ‘adventure activity’

Regulation 4(1)(a) defines ‘adventure activity’ as an activity:

- that is provided to a participant in return for payment; and
- that is land-based or water-based; and
- that involves the participant being guided, taught how, or assisted to participate in the activity; and
- the main purpose of which is the recreational or educational experience of the participant; and
- that is designed to deliberately expose a participant to a serious risk to his or her health and safety that must be managed by the provider of the activity; and
- in which:
 - failure of the provider’s management systems (such as failure of operational procedures or failure to provide reliable equipment) is likely to result in a serious risk to the participant’s health and safety; or
 - the participant is deliberately exposed to dangerous terrain or dangerous waters.

We interpret each of the key elements as follows:

ELEMENT	WHAT WE MEAN BY THIS ELEMENT
provided to a participant in return for payment	<p>A participant is any person who takes part in an operator's activity and pays them to provide the activity to them. The activity can be provided directly by the operator, or indirectly through a worker or any other person. The payment can be:</p> <ul style="list-style-type: none"> - made directly or indirectly from participant to operator - received directly by the operator or indirectly (such as through a booking agent) - for profit, for charitable or fundraising purposes, or for any other purpose - included in the price of another activity, good, or service (such as an activity included in an accommodation package).
land-based	<p>An activity that takes place in, on, or around any land in New Zealand. This includes both private-owned and public land.</p>
water-based¹	<p>An activity that takes place in, on, or around water. This includes the territorial sea of New Zealand, the internal waters of New Zealand, and all rivers and other inland waters of New Zealand.</p> <p>This could include any part of a water-based activity that doesn't occur in a boat or takes place in a boat not covered by a Maritime document.²</p>
guided, taught how, or assisted to participate	<p>'Guided' means participants are accompanied, directed, led, advised, trained, controlled, influenced, or supervised. 'Taught how' means participants are taught skills or activity management specific to the activity being provided. This includes instructions on how to complete the activity itself.</p> <p>'Assisted' means participants are given a level of help that makes the activity possible for them to complete. This element is likely to be met if the participant:</p> <ul style="list-style-type: none"> - requires or is given physical assistance - has the operator on hand to provide immediate assistance of any kind in the event of difficulties - is supervised (including at a distance) with the intent to guide, teach how, or assist the participant. <p>Regulation 4(2)(b) excludes activities where equipment or infrastructure is provided but participants are primarily responsible for their own actions.</p>
recreational or educational	<p>Recreational activities are done for enjoyment, generally when the participant isn't working. This may include competitive activities unless they are exclusively for professional athletes.</p> <p>Educational activities are done for the purposes of teaching, training, and learning to improve knowledge and develop skills.³</p>
designed to deliberately expose a participant to a serious risk to his or her health and safety that must be managed by the provider of the activity	<p>An activity:</p> <ul style="list-style-type: none"> - provided and controlled by an operator directly or indirectly (for example, by a worker or contractor); and - where exposure to serious risk is intentional or chosen, including in actions associated with the activity (like accessing where the activity takes place); and - where the risk is: <ul style="list-style-type: none"> - significant or worthy of concern (such as one that could result in a notifiable event); and - could adversely affect the participant's health and safety (including physical health, mental health, or safety); and - the risks need to be managed by the operator.
dangerous terrain	<p>Dangerous terrain is land with features that are steep, slippery, or unstable; or land that is exposed to one or more significant natural hazards. This includes terrain that:</p> <ul style="list-style-type: none"> - to be traversed safely, requires use of special equipment, and/or application of special skills or techniques - is exposed to avalanche danger - has significant risk of a fall from heights.
dangerous waters	<p>Dangerous waters are any body of water that is fast-moving, strong, contains obstacles or is isolated from assistance. This includes significant hazards such as:</p> <ul style="list-style-type: none"> - rapids of Grade 2 and higher - a current which prevents participants from making upstream progress without the use of an engine-powered craft - open waters (more than 100m from a safe landing on shore, excluding islands) - hazardous combinations of swells and sea-bed or shore - low water temperatures.

¹ Anyone carrying out water-based activities should also read our guidance [Information for providers of maritime activities](#)

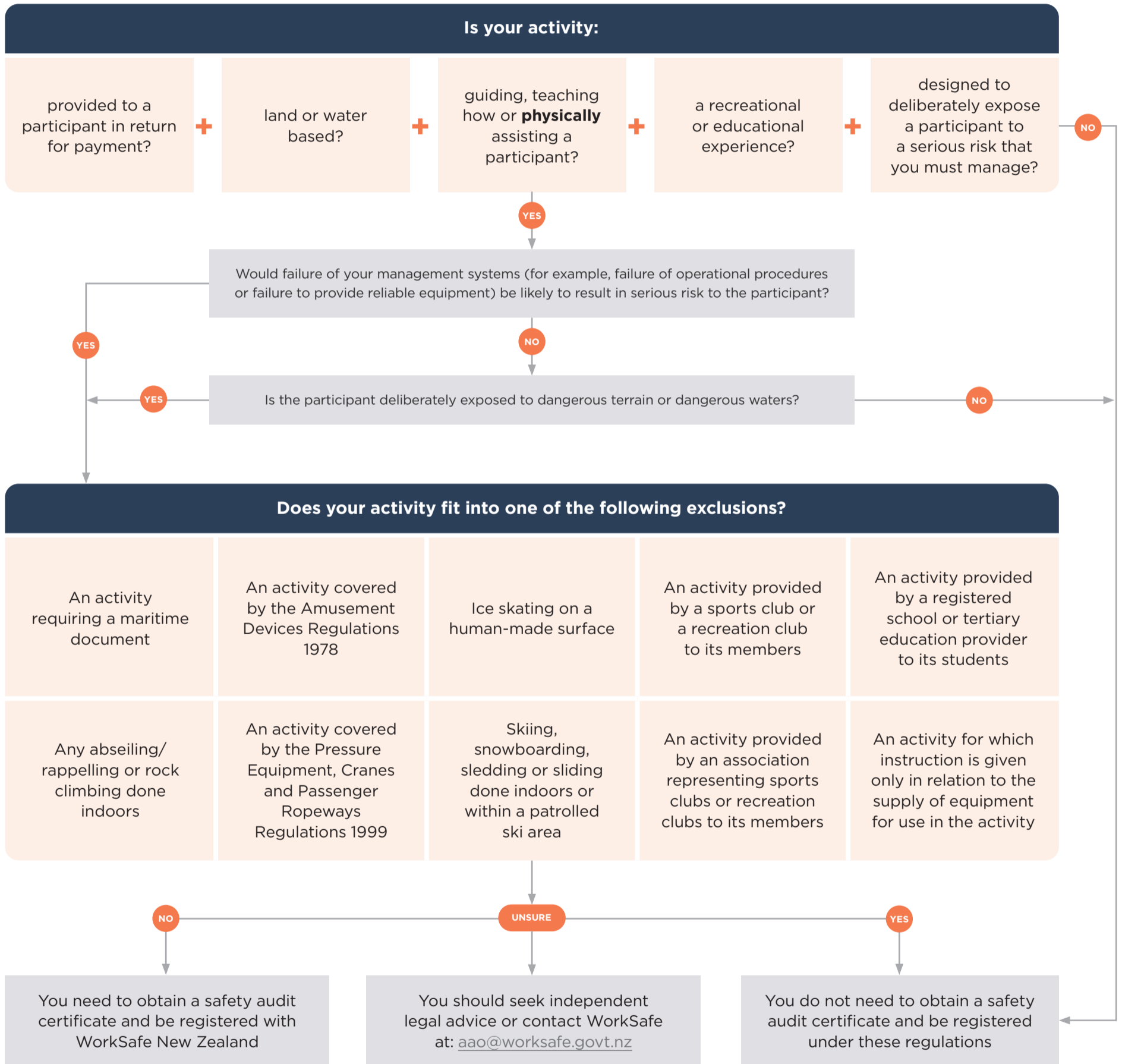
² Defined in the preliminary provisions in the [Maritime Transport Act 1994](#)
Water-based activities where a Maritime document is required (usually if the activity takes place on a boat with a motor) are regulated by Maritime New Zealand.

³ A registered school or tertiary education provider (as defined in section 10(1) of the Education and Training Act 2020) are excepted even though their main purpose is education.

DECISION TREE

Does this operation meet the definition of 'adventure activity'?

Health and Safety at Work (Adventure Activities) Regulations 2016



Activities that are likely to be, might be, or are not likely to be adventure activities

ACTIVITIES NEARLY CERTAIN TO BE SUBJECT TO THE REGULATIONS	ACTIVITIES THAT MIGHT BE SUBJECT TO THE REGULATIONS UNDER CERTAIN CIRCUMSTANCES	ACTIVITIES NEARLY CERTAIN NOT TO BE SUBJECT TO THE REGULATIONS
<ul style="list-style-type: none"> - Abseiling (outdoors) - Back-country skiing - Bridge swinging - Bungy jumping (although most are covered by the Amusement Devices Regulations) - Canyon swinging - Canyoning - Glacier walking - High rope, high wire activities - Zip wire (over 2m high) - Mountaineering - River boarding - Rock climbing (outdoors) - Snow Caving - SCUBA (except in a swimming pool) - White water rafting 	<ul style="list-style-type: none"> - Alpine hiking/tramping - Canoeing and kayaking - Caving - Coasteering - Fishing (land-based) - Horse trekking - Hunting (for example, alpine) - Mountain biking - Off-road vehicle driving, quad biking or trail biking - Ropes/challenge courses 2-3m high - Sailing (small craft) - Snorkelling/free diving - Skiing, snowboarding or sliding on snow (outdoors and outside a patrolled ski area) - Surfing/stand up paddle boarding - Tramping/trekking - Waka, Waka Ama 	<ul style="list-style-type: none"> - Cycling – non specialist (for example, on cycle paths, roads, around vineyards etc) - Guided walking (formed tracks) - Skiing, snowboarding or sliding on snow (indoors or within a patrolled ski area) - Swimming with seals/dolphins (Maritime NZ) - Adventure aviation (Civil Aviation Authority), for example, ballooning, microlights, stunt flights, skydiving, paragliding and hang gliding - Boating (Maritime NZ) - Jet boating (Maritime NZ)