



Working Safer

**A blueprint for
health & safety
at work**

ISBN 978-0-478-41382-3 (print)

ISBN 978-0-478-41383-0 (online)

August 2013

© Crown Copyright 2013

The material contained in this report is subject to Crown copyright protection unless otherwise indicated. The Crown copyright protected material may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material being reproduced accurately and not being used in a derogatory manner or in a misleading context. Where the material is being published or issued to others, the source and copyright status should be acknowledged. The permission to reproduce Crown copyright protected material does not extend to any material in this report that is identified as being the copyright of a third party. Authorisation to reproduce such material should be obtained from the copyright holders.

Working Safer

A blueprint for health and safety at work

Contents

Foreword from the Minister of Labour	3
Changing the way we manage health and safety at work	4
Introduction	5
Drivers for change	5
Our vision	8
Working smarter	13
Providing clarity through more effective legislation	14
Creating a clearer hazardous substance regime	17
Establishing a health and safety professionals alliance	18
Building capability	19
Improving data and research	20
Targeting risk	21
Creating a better regulator – WorkSafe New Zealand	22
Responding to non-compliance	25
Regulating major hazards	26
Increasing focus on occupational health	27
Working together	26
Developing a workplace health and safety strategy	30
Better coordination between agencies	31
Strengthening government accountability and leadership	33
Improving worker participation	34
Promoting leadership by business	35
Supporting the Canterbury rebuild	36
Appendix One: Further information	38

Foreword from the Minister of Labour



We are at an important turning point in workplace health and safety in New Zealand. We have an opportunity to create a world-class system.

The report of the Royal Commission on the Pike River Coal Mine Tragedy was a serious wake-up call for us all. The legacy we leave to the Pike River 29 is to ensure such a tragedy never happens again. We also owe this to the families of the 75 New Zealanders who die each year in our workplaces.

In 2012 the Government established the Independent Taskforce on Workplace Health and Safety (the Taskforce) to advise on possible ways to meet our goal of reducing the rate of fatalities and serious injuries in the workplace by at least 25 per cent by 2020.

The Government has carefully considered the recommendations of the Taskforce and our response – *Working Safer* – outlines the programme of change necessary to improve health and safety at work. *Working Safer* represents the most significant reform of New Zealand’s workplace health and safety system in 20 years.

This reform includes an overhaul of the law to provide clear, consistent guidelines and information for business, additional funding to strengthen enforcement and education with a focus on high-risk areas, and better coordination between government agencies.

We’ve already made progress towards achieving a step-change in performance by setting up a stand-alone workplace health and safety Crown agent – WorkSafe New Zealand. This agency will play the lead role in delivering on this major package of reform.

But this is not a job for government alone. Success requires government, businesses and workers to work collaboratively to drive solutions. Success will not be achieved by telling people what to do, but what they need to achieve, and breaking down the “us and them” barriers in order for everyone to recognise their shared purpose.

Good workplace health and safety is an investment in good business. It aids business through better productivity and reliability, and better staff engagement. Not only does good health and safety make good business sense, it’s the right thing to do. Workers and their families have the right to expect they will return home safe from work every day.

A handwritten signature in black ink, appearing to read 'S Bridges', written in a cursive style.

Hon Simon Bridges

Minister of Labour

Changing the way we manage health and safety at work

“

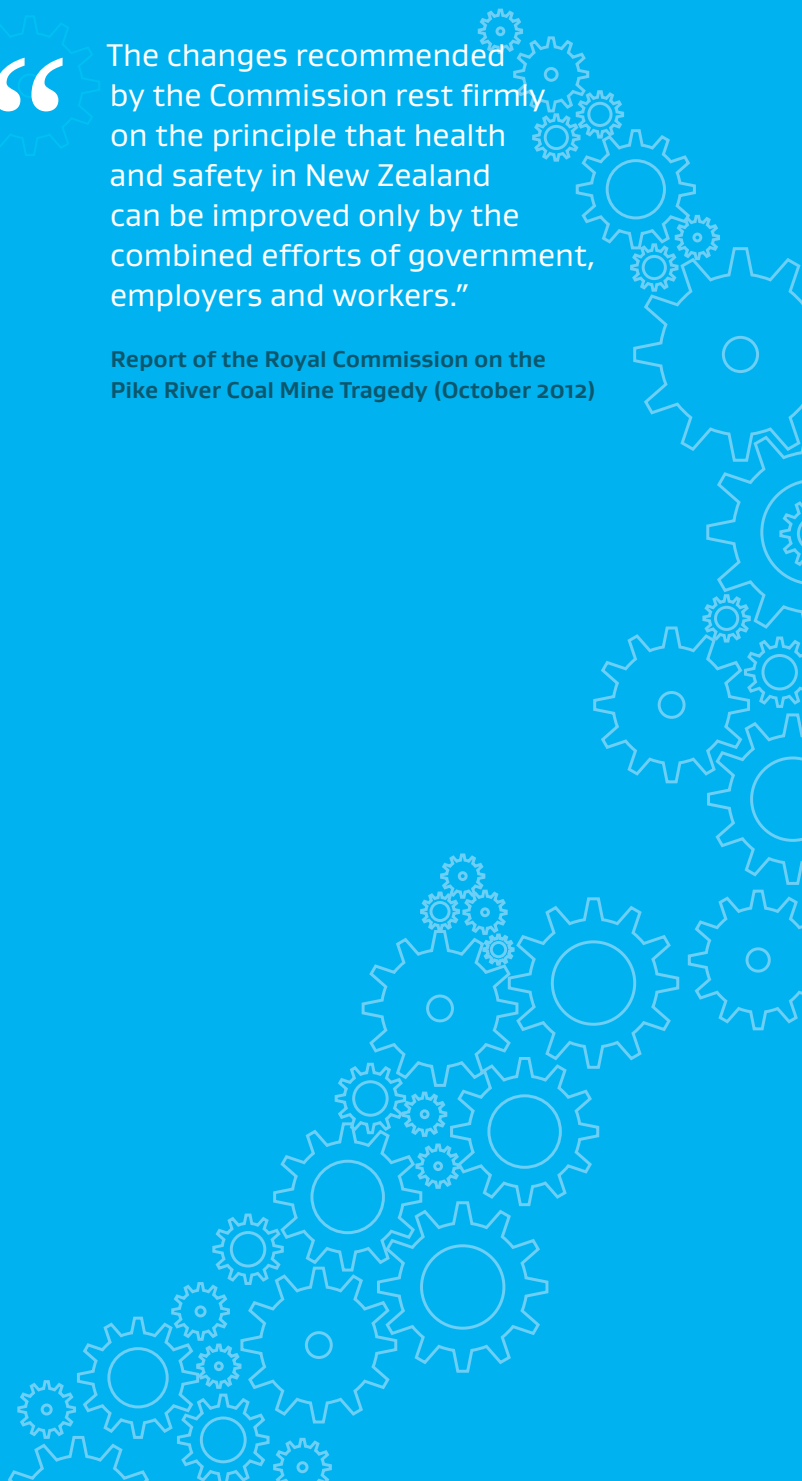
We call for an urgent, sustainable step-change in harm prevention activity and a dramatic improvement in outcomes to the point where this country's workplace health and safety performance is recognised among the best in the world in 10 years' time.”

Report of the Independent Taskforce on Workplace Health and Safety, (April 2013)

“

The changes recommended by the Commission rest firmly on the principle that health and safety in New Zealand can be improved only by the combined efforts of government, employers and workers.”

Report of the Royal Commission on the Pike River Coal Mine Tragedy (October 2012)



INTRODUCTION

Too many people are being harmed and killed while at work in New Zealand. Our serious injury, fatality and occupational disease rates are unacceptably high. In addition, they are not showing significant improvement in contrast to other countries we like to compare ourselves to, such as the United Kingdom and Australia. In these countries, their approach to the issues is producing significant decreases to their rates of workplace harm.

Each year about 75 people are killed at work and there are conservative estimates of 600 to 900 deaths from work-related diseases such as asbestosis and various cancers. Around 1 in 10 workers are harmed each year, with about 200,000 claims being made to the Accident Compensation Corporation (ACC) for costs associated with work-related injuries and illnesses.

Work-related fatalities and serious injuries come at a high social, financial, and personal cost. Direct costs, such as to employers' short-term production, and the human capital costs of occupational illness and injury were conservatively estimated at \$3.5 billion in a 2010 cost-of-injury estimate prepared for the New Zealand Injury Prevention Strategy (NZIPS).¹

Working Safer outlines the Government's plan to improve New Zealand's workplace health and safety system with the involvement and support of businesses and workers. The Government has set an ambitious target of at least a 25 per cent reduction in workplace injuries and fatalities by 2020 – it's going to take us all working together to make this happen.

DRIVERS FOR CHANGE

On 19 November 2010 an explosion at the Pike River coal mine resulted in the deaths of 29 men, a tragedy that was a serious wake-up call for us all. The Government established the Royal Commission on the Pike River Coal Mine Tragedy (the Royal Commission) to report on what had happened and recommend changes to prevent similar tragedies occurring.

The Royal Commission made 16 recommendations in its final report in October 2012. A number of these addressed the way New Zealand approaches workplace health and safety, while others related specifically to mining. The Government accepted all of the Royal Commission's recommendations and has committed to implementing them by the end of 2013. This includes the establishment of a new Crown agent, WorkSafe New Zealand, in December 2013, and establishing a new regulatory regime for mining in New Zealand.²

Following the Pike River tragedy, the Government also established the Independent Taskforce on Workplace Health and Safety (the Taskforce). The Taskforce was asked to research and evaluate New Zealand's workplace health and safety system, and to recommend a package of measures that would achieve the 25 per cent reduction target. The Taskforce undertook a robust and extensive engagement process throughout New Zealand and presented its report to the Minister of Labour on 30 April 2013, listing 15 main recommendations and calling for "an urgent, sustainable step-change in harm prevention activity and a dramatic improvement in outcomes".³

The weaknesses of the current workplace health and safety system are set out in Diagram 1.

1. O'Dea D. and Wren J. (2012) New Zealand Estimates of the Total Social and Economic Cost of Injuries. For All Injuries, and the Six Priority Areas. For Each of Years 2007 to 2010, At June 2010 prices. Report to New Zealand Injury Prevention Strategy. Wellington, New Zealand.

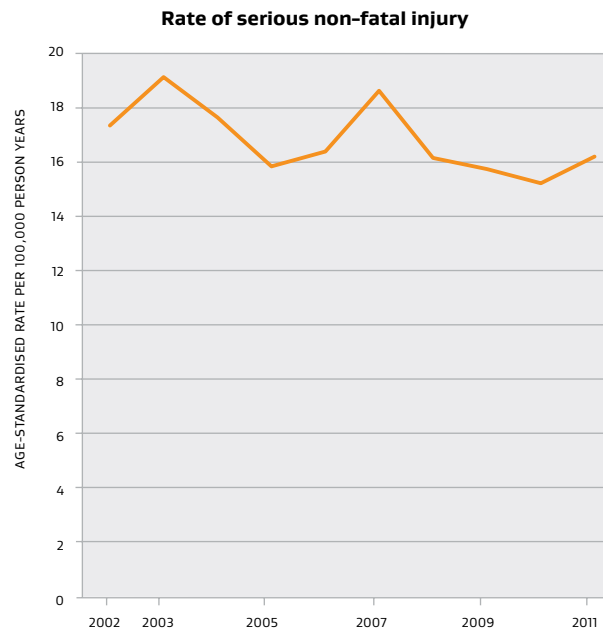
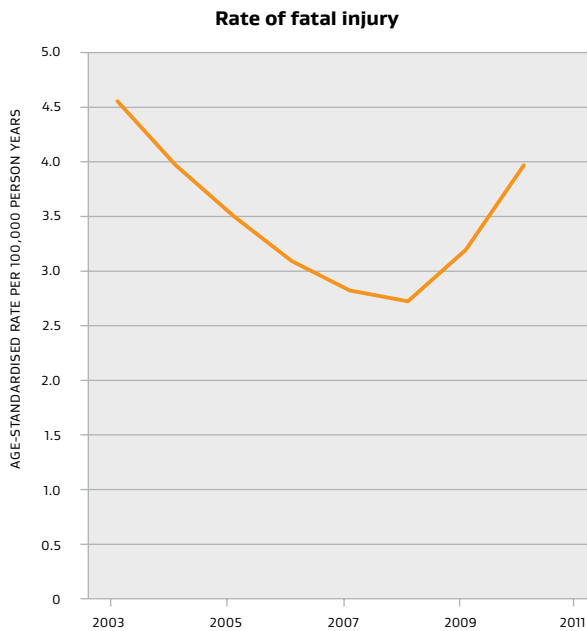
2. Details of the Government's Pike River Implementation Plan are at <http://www.mbie.govt.nz/what-we-do/pike-river-implementation-plan/pike-river-implementation-plan>

3. Executive Report of the Independent Taskforce on Workplace Health and Safety (2013), page 3

The case for change and opportunity to do better

New Zealand's rates of serious injury and fatality and occupational disease are too high, costing us an estimated \$3.5 billion or more annually, as well as taking a huge social toll.

RATES OF SERIOUS INJURY AND FATALITY



LEGISLATION

“The idea was to replace ‘prescriptive’ legislation and regulation, which tended to focus on specific hazards in specific industries, with principles that could be flexibly applied to the health and safety hazards confronted by all employers. ...The move towards more self-management by the employer was appropriate but the necessary support for the legislation, through detailed regulations and codes of practice, did not appear” – *Pike River Royal Commission*

“The performance-based Robens Model for Health and Safety legislation, which underlies the existing legislation is sound... however, New Zealand’s implementation of the Robens model has been weak.” – *Independent Taskforce*

Other issues:

The HSE Act is over 20 years old and the changing nature of working arrangements and the increasing complexity of supply chains makes it difficult for businesses and workers to identify and understand their duties.

Legislation itself needs to be clearer, to enable better targeting of high-risk firms and to ensure costs are minimised for low risk firms.

PRIMARY REGULATOR

“The Taskforce considers that the overarching problem with the primary regulator has been a failure to provide the system with sufficient certainty” – *Independent Taskforce*

The regulator lacks some important functions and funding to enable the regulator to perform the basic role of a health and safety regulator in comparable jurisdictions. Previous enforcement focus on SMEs not large firms was misguided.

There are significant capacity and capability gaps within the regulator, and lack of oversight of the regulators’ performance.

DATA AND RESEARCH

“The Taskforce is left with a profound unease about the quality of data in New Zealand. We are deeply concerned that we do not have a clear, reliable picture of New Zealand’s performance.” – *Independent Taskforce*

No single agency that has sufficient data to provide an overview of how the system as a whole is functioning.

This means that links are not made, the quality of data is variable and affects how we can make informed interventions.



“The Taskforce has found that there is no single critical factor behind this poor performance. Instead, we see significant weaknesses across the full range of workplace health and safety system components, coupled with the absence of a single strong element or set of elements to drive major improvements or to raise expectations.” – **Independent Taskforce on Workplace Health and Safety**

FRAGMENTATION AND POOR COORDINATION OF DELIVERY

“Regulatory effectiveness is compromised by inadequate coordination across a multiplicity of agencies.” – *Submission to Independent Taskforce on Workplace Health and Safety Leadership*

LEADERSHIP

“While the regulatory system has not provided the right incentives and enforcement measures to drive high standards of leadership, all influential stakeholders need to step up and be accountable for workplace health and safety” – *Independent Taskforce*

CAPABILITY

“There are major capacity and capability constraints among workers, managers, health and safety practitioners, business leaders and the regulator that contribute significantly to New Zealand’s poor workplace health and safety record” – *Independent Taskforce*

MAJOR HAZARDS

“While death and injury statistics are important, there needs to be a better focus and strategy to understand and manage risks inherent in areas like mining” – *Pike River Royal Commission*

There is a range of high hazard areas and facilities that have the potential for catastrophic failure. The current regulatory framework for high hazards has limited coverage beyond mining and petroleum production and pipelines, and there are real risks that the next Pike River may be in a workplace such as a chemical plant.

HSNO

“One of the biggest challenges to managing occupational health risks and exposure to hazardous chemicals is that confusion can arise between different legislation” – *Submission to Independent Taskforce*

We have two regimes that do not work well together. These need to be simplified for businesses that do not understand their obligations and often don’t comply with many of the controls.

OCCUPATIONAL HEALTH

“Occupational health has been left in the too-hard basket” – *Independent Taskforce*

Occupational health injuries and fatalities are significantly higher than traumatic workplace injury but it is even harder to collect data on these and there is not enough focus given to preventative measures.

There is a lack of awareness, knowledge and understanding about specific occupational health risks by employers, managers and staff.

WORKER PARTICIPATION

“Worker involvement in workplace health and safety is a critical weak link” – *Independent Taskforce*

“Worker participation is essential to strong safety performance.” – *Submission to Independent Taskforce on Workplace Health and Safety*

Worker participation, a key component of the Robens model, is not being implemented properly, levels of worker engagement in workplace health and safety issues are inconsistent across businesses.

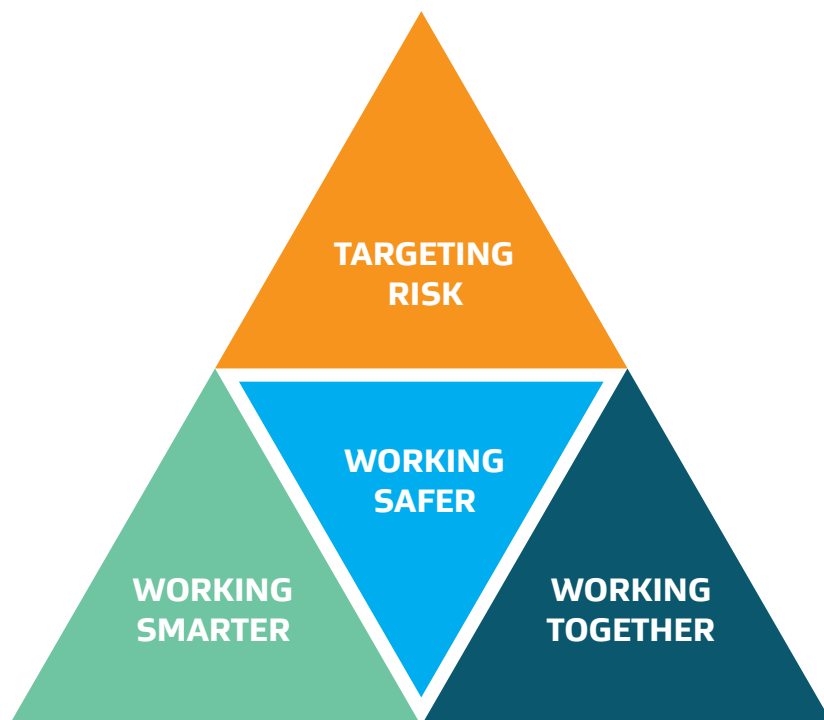
INCENTIVES

“New Zealand does not have the right mix and weightings of positive incentives and deterrents” – *Independent Taskforce*

Low levels of inspection and prosecution have contributed to high levels of non-compliance.

More could be done to incentivise good health and safety practices and reward high-performing employers.

OUR VISION



Working safer

The Pike River Royal Commission and Taskforce reports indicate that there is no one problem and no one solution to improve the workplace health and safety system in New Zealand. The Government is committed to working with businesses and workers to implement a comprehensive package of system-wide changes in order to create an effective workplace health and safety system.

The creation of WorkSafe will make a significant contribution to this, but further change is needed in order to meet the 2020 target. We need to make meaningful changes across the workplace health and safety system and this will require investment, focus, and commitment.

Working Safer presents a once in a life-time opportunity to take an effective, system-wide approach to workplace health and safety in New Zealand. It will help foster a New Zealand culture that recognises that health and safety is not a burden but an investment in good business practice, improved productivity and reliability, and an engaged workforce.

This package of initiatives refreshes and recalibrates our approach. To achieve our vision we will *work smarter*, *target risk*, and *work together* to ultimately *work safer*.

The Government has broadly accepted the Taskforce's recommendations and shares its ambition for a new, high-functioning system for health and safety at work.

This package of change will deliver:

- › **strengthened leadership by government** through a strategic national workplace health and safety system that is coordinated and integrated; the creation of an effective health and safety regulator, WorkSafe; and government agencies working together and showing commitment to workplace health and safety in their own activities as employers and purchasers

- › a **greater focus** through legislation, prevention activities with business, education, enforcement and incentives **on addressing acute, chronic and catastrophic harm including high-risk sectors** (industries which have the highest numbers of fatalities and serious injuries) and **major hazard facilities** (operations which have the potential for one-off catastrophic events, such as large chemical plants)
- › a system that **gets the balance right and is proportionate for small and large low-risk businesses**, where regulation, guidance and information makes it clear that businesses need health and safety practices which are proportionate to the risks in their workplace and the requirements are easy to comply with.
- › a **new legislative framework**, which continues the current performance-based approach, but which is modelled on the most recent version of this – the Australian Model law (see the *Model Work Health and Safety Law* text box on p.15). This approach recognises that a well-functioning health and safety system relies on participation, leadership, and accountability by government, business and workers. This includes:
 - › the appropriate level of regulations and guidance to ensure people understand their obligations and can comply with them, without being overly prescriptive
 - › an effective enforcement regime with graduated categories of offences and penalties to provide better guidance to the Courts about appropriate fine levels
 - › obligations being placed on the people in a work environment who create the risk and are best able to manage the risk
 - › a law which is flexible enough to work appropriately for small and large businesses and high and low-risk sectors, without imposing unnecessary compliance costs
 - › a worker participation model which provides for better levels of participation and helps workers to have the knowledge and accountability to keep their colleagues safe
- › a **well-resourced regulator with a firm regulatory stance focused on the areas of most risk**, that holds people to account and performs critical roles relating to guidance, education and providing incentives for injury prevention
- › **more resourcing and targeted activity** to address the challenge and opportunity the Canterbury re-build provides in relation to workplace health and safety
- › **robust data, monitoring, reporting, analysis and evaluation of the system** to understand system performance and to enable government and others to best target effort
- › **greater partnership and collaboration that makes the most of the skills and relationships of all government agencies** operating in the workplace health and safety system to achieve the most efficient and effective collective impact of government's investment. For example, ACC and WorkSafe creating an injury prevention action plan, which is focused on delivering the best outcomes, as well as an effective performance rating scheme linked to levy discounts for businesses
- › **work within the regulator, and with industry bodies, to develop more depth and capability** within the system and to develop agreed professional standards for health and safety professionals.

A joint effort

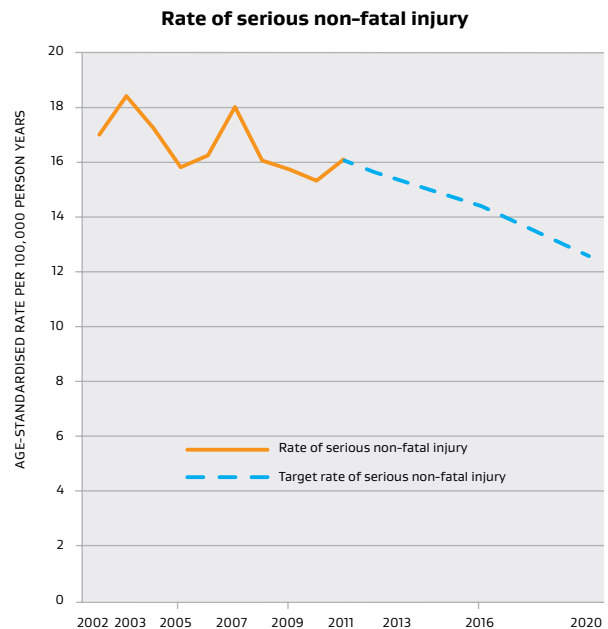
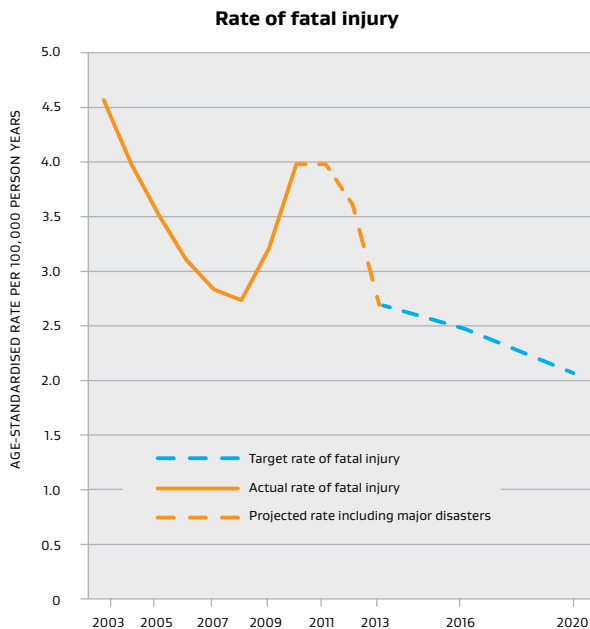
Collective action and shared responsibilities throughout the system – by workers, business and government – will be needed to ensure the success of the new health and safety system. The changes outlined in this document aim to give everyone the tools and knowledge needed to play their part in improving health and safety at work.

Our target is a 25 per cent reduction in serious workplace injuries and fatalities by 2020 – supported by a number of interim targets so we stay on track. By 2016 we want to achieve: a 10 per cent reduction in the rate of fatal work-related injury; a 10 per cent reduction in the rate of serious non-fatal work-related injury; and a 10 per cent reduction in the rate of work-related ACC claims for more than a week away from work. We will measure our progress against the 2008–2010 average.

Our response



TARGET RATES OF SERIOUS INJURY AND FATALITY



LEGISLATION

New legislation

- A new Act based on the Australian Model law
- Clarify duty holders and duties
- Cover alternative working relationships
- Positive duty on directors
- Will contain controls to manage hazardous substances in the workplace

Provide appropriate regulations and guidance without being overly prescriptive

A suite of new compliance and enforcement tools, including:

- Stronger penalties
- New compliance tools and Court powers
- Cost recovery mechanism for prosecutions

The Minister of Justice is considering corporate manslaughter and the general corporate liability framework. There will also be legislative changes to support improvements to other parts of the system.

DATA AND RESEARCH

- New research, evaluation and monitoring function in WorkSafe NZ
- More focus on occupational health data and analysis
- Will augment its own data with information from other agencies (MBIE, Statistics NZ, ACC, and other regulators)
- Ability to share data with other agencies
- Checks in place to keep personal information private

HSNO

- Better alignment of HSNO and Health and Safety at Work hazardous substances regimes and workplace controls under health and safety legislation
- Most businesses will have one set of more simplified requirements covering all workplace hazards

PRIMARY REGULATOR

- Set up WorkSafe to not only enforce, but also educate, guide and coordinate implementation across the system
- Work with MBIE to develop regulations
- Develop Approved Codes of Practice and guidance for business
- Greater role in: education; injury prevention (with ACC); research, monitoring and evaluation; high hazard facilities, occupational health, hazardous substances; and supporting the Canterbury rebuild.
- Will have available to it greater resources and use of compliance and enforcement tools
- Focus on increasing internal capability
- Cross Board membership with EPA and ACC

CAPABILITY

- WorkSafe will build its own internal capability first to carry out functions
- National Workplace Health and Safety Strategy will develop actions to address the capacity and capability gaps from the end of 2014

MAJOR HAZARDS

- Map risk landscape and expand to include all major hazard facilities (for example large chemical facilities)
- Prioritise the types of major hazard facilities for inclusion, thresholds for automatic inclusion and powers to classify lower levels
- Ensure that appropriate regulations are developed for the priority sectors
- Ensure the regulator is resourced to provide rigorous oversight and compliance with the new framework

OCCUPATIONAL HEALTH

- Increased focus on, and resourcing of, occupational health throughout WorkSafe's functions

INCENTIVES

- Stronger compliance and enforcement tools
- Implementation of a new Safety Star Rating scheme and consideration of its use in Government procurement processes
- Improved ACC incentive programmes

COORDINATED DELIVERY

- Roles and expectations further clarified in strategies, and cross-agency oversight groups
- Removing gaps, duplication and confusion
- New regulatory regime for regulating hazardous substances
- New provisions for injury prevention in the workplace and design and delivery of products to incentivise Health & Safety

LEADERSHIP

- National Workplace Health and Safety Strategy which will be owned by the Minister of Labour and developed by MBIE, WorkSafe and other relevant agencies
- MBIE and WorkSafe to provide leadership on workplace health and safety across government
- MBIE will work with industry to establish a representative body for Health & Safety professionals

WORKER PARTICIPATION

Representation

- Worker perspectives on the Board of WorkSafe
- Expert advisory groups containing worker representation

Strengthen the legal framework for worker participation

- Specific obligations on all employers to support worker participation
- Expand powers and responsibilities of H&S representatives
- Protections for workers who raise H&S issues
- Requirement that businesses of all sizes must have worker participation practices appropriate to the business

Building the capability and education of workers to participate

Diagram 3: Timeline of Phasing

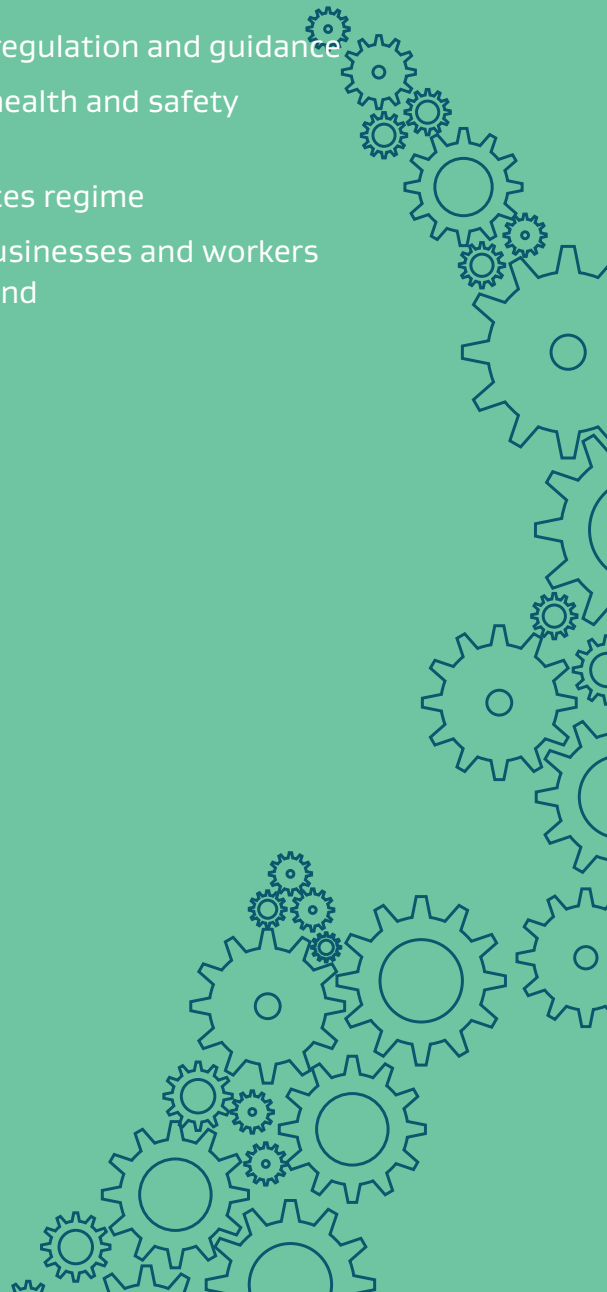


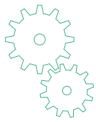
Working smarter

We aim to work smarter by making sure everyone has access to the knowledge they need to understand what is expected of them, make informed decisions and then implement them. This set of changes will give businesses and workers the knowledge and guidance necessary to prevent serious harm and fatalities at work. Government agencies will also have better information to help them target the work they do to where it is needed most.

We will do this by:

- providing clarity through legislation, regulation and guidance
- setting up a representative body for health and safety professionals
- creating a clearer hazardous substances regime
- building capability of the regulator, businesses and workers through information and education, and
- improving data and research.





PROVIDING CLARITY THROUGH MORE EFFECTIVE LEGISLATION

RECOMMENDATION 2 & 12⁴

What's happening ...	... and when
Clearer duties in a new Health and Safety at Work Act to cover health and safety at work, based on Australia's Model WHS Law	Introduced into the House by December 2014
New Health and Safety at Work Act passed	By the end of 2014
Regulations, codes of practice and other guidance for specific sectors, activities and duty holders developed	On-going development from December 2013

What's happening

■ The vision for a new Act

New Zealand's current primary workplace health and safety legislation, the Health and Safety in Employment Act 1992 (HSE Act), follows what is known as the Robens model. The Robens approach introduced an emphasis on reduced levels of prescriptive regulation and a shift towards a 'performance based' rather than a 'compliance based' approach. Performance-based general duties cover a broad range of work and workplaces. The advantage of this approach means that the legislation does not date quickly, they support innovation and they provide flexibility. The duties are underpinned by industry- or hazard-specific regulations; approved codes of practice and guidance where further clarity is needed.

The new Health and Safety at Work Act will be based on the recently developed Australian Model Work Health and Safety Law (the Australian Model Law, see the textbox below) and adapted where necessary for New Zealand conditions. Australia has been through an extensive modernisation process to develop this legislation, drawing on its own and international experience. We can capitalise on that work and at the same time generally align ourselves with our neighbours.

The benefits of adopting and adapting the Australian Model Law include the following:

- › it is the most recent approach to the Robens performance-based legislation, and is a sound approach to workplace health and safety legislation
- › the performance-based approach allocates duties to the people who are best placed to manage them
- › the Australian Model Law is sufficiently novel that New Zealand duty holders and regulators will realise that they need to change their approach to health and safety at work
- › it will make it easier to create the extensive body of regulations and guidance needed to effectively implement the Robens approach, as we can draw upon the significant resources and body of knowledge already developed in Australia, and
- › it will simplify workplace health and safety for trans-Tasman businesses.

4. This notes which of the Taskforce recommendations the actions in this section correspond with. Details of the Taskforce recommendations can be found in the *Report of the Independent Taskforce on Workplace Health and Safety* at <http://hstaskforce.govt.nz/documents/report-of-the-independent-taskforce-on-workplace-health-safety.pdf>

New Zealand's new Act will help us work smarter by improving clarity for the regulator, businesses and workers. These changes include:

- › a fundamental change to the definition of duty holder by moving to the more inclusive definition of a 'person conducting a business or undertaking' (PCBUs) to allocate duties to those people in the best position to control risks to health and safety in the workplace
- › a clearer test to determine what is a 'reasonably practicable' action for PCBUs to take, given risk and other circumstances
- › a positive due diligence duty so that those with governance roles in firms and organisations must actively manage workplace health and safety, and will face consequences if they fail to perform their duties, and
- › a modified penalties structure (for more information see the 'Response to non-compliance' section, p.25).

■ Providing clarity through regulation and guidance

Regulations, guidance and Approved Codes of Practice (ACOPs) will be developed to provide PCBUs and workers with certainty about how the law and regulations will apply to them, without being unnecessarily prescriptive. In their submissions to the Taskforce businesses indicated that they wanted more guidance in order to better understand how to fulfil their responsibilities and design their own compliance systems. Guidance material will be particularly important in helping duty holders to understand and implement key concepts contained within the new law, such as PCBU, and 'reasonable practicability'. Lack of guidance was identified as a weakness of the current legislative regime. This will promote better health and safety outcomes, and make it easier for businesses to achieve compliance.

The current health and safety legislation can be misinterpreted and wrongly applied – especially in small low-risk businesses. Our focus will be on creating guidance that is appropriate for the types of risk faced and size of business. We will consult with and provide guidance to managers and workers to increase knowledge and awareness of health and safety, including through WorkSafe's national harm reduction programmes.

We will use the Australian regulations, codes of practice and guidance as a starting point, but recognise in some areas:

- › there are differences in the arrangements and practices in Australia and New Zealand (such as our hazardous substances regime)
- › some New Zealand regulations have only recently been developed and will not require substantial changes, so they will be amended to fit with the new Act.

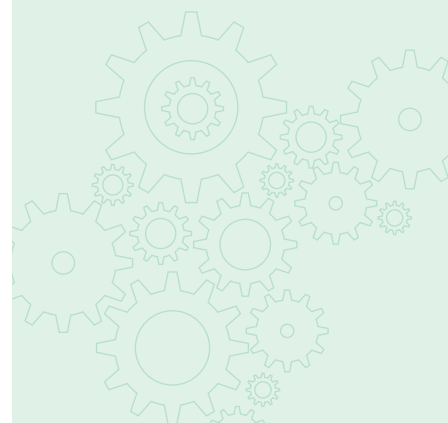
We will consult widely to ensure that there is balance and clarity of obligation. We want to avoid unnecessary prescription and make it easier for businesses to comply. WorkSafe will need to dedicate significant resource to the development and maintenance of ACOPs and guidance.

The creation of regulations, ACOPs, standards and guidance will be a phased process, based on priority. WorkSafe will have resources to make additional improvements and ensure that they are kept up-to-date with any changes in working arrangements.

Model Work Health and Safety Law

The Australian Model Work Health and Safety Law was developed following an extensive national review in 2008–09 to determine the optimal content of a workplace health and safety Act. In a bid to achieve national harmonisation of legislative provisions, each of the nine Australian jurisdictions was to use the Model Law as a template for new State legislation, making adaptations as necessary for their context. The Model Law consists of the Model Work Health and Safety (WHS) Act, supported by model WHS regulations, model Codes of Practice, guidance documents and a National Compliance and Enforcement Policy.

The aim is to provide all workers in Australia with the same standard of health and safety protection regardless of the work they do or where they work. A stronger national approach means greater certainty for businesses (particularly those operating across state borders) and, over time, reduced compliance costs for business.



Person conducting a business or undertaking (PCBU)

The new legislation will allocate duties to those people in the best position to control risks to health and safety, as are appropriate to their role in the workplace. The core duty is that of a PCBU:

A person conducting a business or undertaking must ensure, so far as is reasonably practicable, the health and safety of:

- (a) workers engaged, or caused to be engaged by the person; and*
- (b) workers whose activities in carrying out work are influenced or directed by the person, while the workers are at work in the business or undertaking.*

There is also a duty owed by the PCBUs to other people affected by the work being done. Specific duties extend to upstream participants in the supply chain (e.g. PCBUs that are designers, manufacturers, importers and suppliers of plant, substances, and structures).

What does this mean?

There may be multiple businesses or undertakings and therefore multiple PCBUs involved in work at the same location or on the same project. For example:



The diagram above shows a typical supply chain in the construction industry. All of the members of the chain (except the worker) are a PCBU. PCBUs must firstly consult with their workers, and secondly consult, coordinate and cooperate with other duty holders regarding matters affecting health and safety. The PCBU at the head of the contracting chain (in this case the construction firm) needs to ensure that the principal contractors, contractors and sub-contractors are properly selected and managed via the contract and instruments such as compliance guides. Each PCBU has to manage the health and safety performance of the parties beneath them in the chain through supervision and monitoring. The construction firm and principal contractor will lead the coordination of the work, and health and safety performance of all the parties.

Other examples of people who might be PCBUs if they have people working to them, are:

- The owner of a multi-tenanted shopping centre, the manager of the shopping centre, each of the businesses operating from shops in the shopping centre and those carrying out ancillary activities such as cleaning, security and shopping trolley collection.
- A service station owner, the service station operator (if different from the owner), the mechanic (if running a separate business), the PCBU carrying out the supply of gas cylinders to the public at the service station and the operator of an attached fast-food outlet.

What this means

- › clearer obligations for duty holders back up with regulations, ACOPs, standards and guidance to make it easier for businesses and workers to understand and fulfil their roles and responsibilities
- › duties will be allocated to those people in the best position to control risks to health and safety
- › up-to-date law that reflects modern employment arrangements, has better coverage and less duplication
- › a consistent trans-Tasman approach that will reduce transaction costs for firms and individuals operating in both countries, and
- › architects, engineers and other upstream duty-holders are more aware of workplace health and safety issues and reflect this in their work.



CREATING A CLEARER HAZARDOUS SUBSTANCE REGIME RECOMMENDATION 5A

What's happening ...	... and when
Moving regulation of workplace hazardous substance use to the new Health and Safety at Work Act	Act to be passed by December 2014
Improvements to the Hazardous Substances and New Organisms Act 1996	As above

What's happening

Hazardous substances are currently regulated by two different and overlapping Acts: the HSE Act and the Hazardous Substances and New Organisms Act 1996 (the HSNO Act). The following are the primary government agencies currently involved:

- › **the Ministry for the Environment (MfE)**, which administers the HSNO Act, including the default controls for hazardous substances set out in regulations under that Act
- › **the Environmental Protection Authority (EPA)**, which considers applications for hazardous substances, identifies their hazardous properties, sets controls (as conditions to its approval) and produces guidance, and
- › **the Health and Safety Group within the Ministry of Business, Innovation and Employment (MBIE)**, which is responsible for compliance and enforcement regarding use of hazardous substances in workplaces under both the HSNO and HSE Acts.

For the significant majority of the estimated 150,000 New Zealand businesses using hazardous substances, the key difference is that they will only have to engage with one agency (i.e. WorkSafe), which will provide complete and integrated information of workplace health and safety requirements, including for the first time, hazardous substances. This will make it easier for businesses to understand their obligations and comply. Firms whose core business is the introduction of hazardous substances into the market will continue to deal with the HSNO regime for approvals and compliance. They will also interact with the workplace health and safety regime to ensure the safety of workers.

For the agencies involved roles and responsibilities will be divided in a clearer and more user friendly way. The regulatory framework will keep the overarching responsibilities for hazardous substances with the EPA, which is the agency most capable of classifying hazardous substances and determining base controls for safely managing them. The EPA will also have a new focus on ensuring substances being introduced into the market comply with HSNO controls. The use of hazardous substances in the workplace will transfer to regulations under the new Health and

Safety at Work Act, and will be administered by MBIE and enforced by WorkSafe. Hazardous substances will continue to be classified, assessed and have controls assigned by the EPA via an updated and improved HSNO Act that makes controls for hazardous substances simpler.

This approach will enable hazardous substance controls to be simplified so safety requirements can be more easily communicated to users.

What this means

- › greater certainty and clarity for users of these hazardous substances
- › reduced workplace illness and improved occupational health for workers
- › businesses and workers will have a better understanding of how to manage hazardous substances as part of their total workplace health and safety management rather than having to comply with two different approaches, saving them time and cost.



ESTABLISHING A HEALTH AND SAFETY PROFESSIONALS ALLIANCE RECOMMENDATION 14C

What's happening ...	... and when
Establishment of a representative body for health and safety professionals	June 2014

What's happening

There are a number of professional bodies for different occupational health and safety professions. The establishment of a representative peak body to bring these groups together as a Health and Safety Professionals Alliance (HaSPA), was an action in the Workplace Health and Safety National Action Agenda 2010–2013, but has not yet happened. MBIE will work with and support the professional bodies to establish HaSPA by June 2014.

There are several benefits in establishing a peak body for workplace health and safety professionals. These include having overarching accreditation, professional development, and a consistent quality of advice. HaSPA will provide more effective engagement on education and developing the sector's skills. The creation of a peak body will ensure that there is a clear and agreed understanding of what good standards look like, and an easy way for people to access them. It will be able to steer firms in the right direction for advice or services and assurance that the providers are competent. Finally, it will provide a first point of contact for government when a professional health and safety perspective is needed.

What this means

- › workplace health and safety will be recognised more consistently as an area of professional practice
- › duty-holders will be able to find and engage high-quality professional advice where necessary, and
- › as a representative professional body, it will be easier for occupational health and safety professionals to engage with government and for government to consult with them.



BUILDING CAPABILITY RECOMMENDATIONS 14A, B & D

What's happening ...	... and when
Workforce development plan formulated, as part of the Workplace Health and Safety Strategy	Beginning from December 2014
Increased capability of WorkSafe so that it can carry out its new functions	On-going

What's happening

There will be a focus on building the capability needed for WorkSafe to carry out its role. It is clear there has been a gap between the type and extent of the skills, knowledge and experience in the regulator and what WorkSafe will need to carry out its enhanced functions (see *Establishing WorkSafe New Zealand* section for more information, p.22). Other initiatives to build capability in the system will rely on WorkSafe taking the lead in new areas. It will require a broad range of expertise including knowledge of good workplace health and safety practices; occupational health expertise including knowledge of hazardous substances; specialist knowledge of high hazard industries such as petroleum, mining, chemicals; skills and knowledge to develop safety incentive programmes, assessors and test certifiers. MBIE has already started the process of strengthening the regulator's capabilities ahead of the intention to transition to WorkSafe in December 2013 with its *Lifting Our Game* programme.

Once WorkSafe is fully up and running, a workforce development plan will be developed as part of the new Workplace Health and Safety Strategy (see the *Workplace Health and Safety Strategy* section for more information, p.30). This will involve WorkSafe, MBIE, other government agencies and a wide range of industry and sector stakeholders identifying where improvements are needed and develop a plan to address them. These agencies will need to develop the skills of their staff, both in relation to the new legislation and to support compliance outcomes generally.

WorkSafe and MBIE will also help develop workforce skills by working with education agencies to investigate further opportunities to improve health and safety capability within priority sectors. This work will start by exploring how to embed workplace health and safety standards in relevant New Zealand Qualifications Framework (NZQF) qualifications at levels 1–6. The tertiary education system will support the preparation and on-going ability of all duty holders and advisors by building awareness, knowledge and skills.

What this means

- › WorkSafe will have the capability to carry out all the functions necessary to be an effective regulator
- › greater focus on health and safety at work in vocational training to prepare people for the workforce
- › more people (at all levels, including managers) either in or entering the workforce who are aware of their workplace health and safety obligations and rights, and
- › workers will have the knowledge and skills they need to keep themselves and their colleagues healthy and safe at work.



IMPROVING DATA AND RESEARCH

RECOMMENDATION 13

What's happening ...	... and when
A research, evaluation and monitoring function will be set up within WorkSafe	June 2014

What's happening

A research, evaluation and monitoring function will be set up within WorkSafe to ensure a constant focus on high quality workplace health and safety information, analysis, and evaluation. A priority will be improving the quality of information and statistics.

WorkSafe and other agencies will also be able to share data for the purpose of developing better workplace health and safety statistics (as long as people's private information is not easily identifiable) and to share and coordinate data which will improve operational intelligence.

WorkSafe will be responsible for a comprehensive programme to:

- › coordinate the documentation of work-related injury data sets and produce guidance on the statistics available
- › improve existing data, including a review of the data-recording systems used by inspectors
- › develop minimum data sets for work-related injury and illnesses and develop a system-wide suite of performance indicators
- › publish and disseminate its findings and make monitoring data available to partner agencies and key stakeholders.

This programme builds on MBIE's current work with Statistics New Zealand and ACC to:

- › redevelop the work-related injury indicators
- › improve the consistency of work-related injury data, accessibility to this data, and timeliness of the outputs, and
- › link ACC data into the Statistics New Zealand linked employer-employee dataset (LEED) to build a better understanding of who is getting injured and where they are getting injured.

What this means

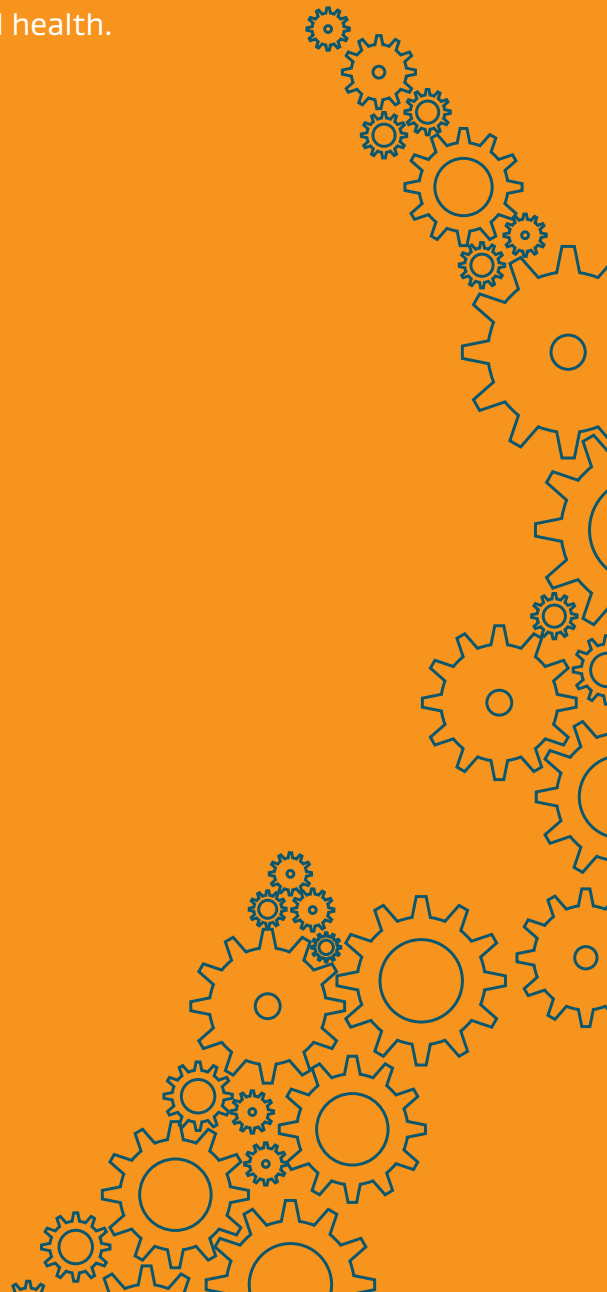
- › WorkSafe and other workplace health and safety agencies will have better information to help them target activities
- › we will have access to complete, timely and comparable data on the number of people seriously injured each year
- › agencies and others will have clarity on which numbers to use, when to use them and how to interpret them
- › good information on the links between people's jobs and workplace injury rates
- › we will understand the trends and better be able to target initiatives to reduce harm in the workplace
- › we will be able to measure whether programmes and enforcement are working or not, and
- › there will be more reliable research to help businesses see how well they are doing compared to others and to improve their own approach to health and safety at work.

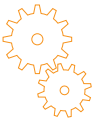
Targeting risk

Government actions and the focus of the new regulator, WorkSafe, will be based on levels of risk. Businesses in high hazard industries, or at risk of acute, chronic, or catastrophic harm will need to do more, but businesses with lower levels of risk will find it easier to comply and will have minimal costs. There will be more focused prevention activity by the government and businesses in higher risk industries.

We will do this by:

- creating a better targeted and more focused regulator
- strengthening the response to non-compliance
- regulating major hazard facilities, and
- giving more attention to occupational health.





CREATING A BETTER REGULATOR – WORKSAFE NEW ZEALAND RECOMMENDATION 1 & 15

What's happening ...	... and when
MBIE's <i>Lifting our Game</i> operational structure in place	July 2013 onwards
Government's main workplace health and safety regulatory role transfers to WorkSafe	December 2013

What's happening

■ Lifting Our Game

Even before the Royal Commission made its final recommendations and the Taskforce was formed, the government and the former Department of Labour (one of the foundation agencies of MBIE) were looking at ways to improve health and safety delivery.

In April 2012 Cabinet agreed to additional funding of \$37 million over four years to enable MBIE's health and safety group to improve service delivery, through the *Lifting Our Game* programme.

This programme is underway and its key objectives include:

- › **a new service delivery model** for the inspectorate from 1 July 2013. The new service model includes an increased focus on targeting high-risk activity, improved and nationally consistent practice, increased visibility and presence in workplaces, and tougher enforcement. Teams will specialise in response (triaging), investigations and assessments (planned proactive visits)
- › **fully resourcing the High Hazard Unit** covering off-shore petroleum, geothermal and mining industries
- › **ensuring that inspectors and managers are fully trained** and hold warrants under both the HSE and the HSNO Acts
- › **engaging with stakeholders in the highest risk sectors**, particularly forestry, agriculture, construction, and manufacturing, and continuing to develop action plans and harm reduction programmes in these sectors
- › **establishing a small programme team** to start planning and coordinating services required to support the **Canterbury Recovery**
- › **making some initial improvements to the core computer systems** supporting the inspectorate to improve productivity and accuracy of information recording
- › **increasing operational intelligence**, and
- › **strengthening the operational relationship with ACC**, including joint development of focus areas.

■ Establishing WorkSafe New Zealand

In February 2013 the Government decided to establish WorkSafe as a standalone Crown entity with a sole focus on workplace health and safety. It is the intention for WorkSafe to be in place in December 2013 and it will take the lead in harm prevention in workplaces and enforce health and safety at work regulations. It will also work collaboratively with business and workers to promote good workplace health and safety practices.

In particular, WorkSafe will:

- › **monitor and enforce compliance** with the primary workplace health and safety legislation
- › **develop codes of practice** in accordance with the primary workplace health and safety legislation
- › **provide guidance, advice and information** on workplace health and safety to duty holders under the primary workplace health and safety legislation and also to the community

- › **promote and support education and training** on workplace health and safety matters
- › **collect, analyse and publish statistics** relating to workplace health and safety
- › **foster a co-operative, consultative relationship** between duty holders, workers and their representatives in relation to workplace health and safety matters, and
- › **engage, promote and co-ordinate the implementation** of workplace health and safety, including the sharing of information, with regulators and other agencies that contribute to workplace health and safety.

■ Next steps

When WorkSafe is established it will have the functions and powers of the existing regulator (MBIE). However, additional functions are needed to enable it to perform the basic role of a health and safety regulator in comparable jurisdictions.

The extra funding provided for *Lifting Our Game* only covered some of the regulator's functions. The system-wide reform outlined in this document involves new roles and functions, which will require additional funding. These functions include:

- › **significantly larger standard-setting and operational policy functions**
- › **the development of expert advisory groups** to support the process of developing legislation, regulation, ACoPs and other Crown agent initiatives
- › **a stronger educational role**
- › **an extended harm prevention function** (through targeted national programmes)
- › **more support for high-risk sector action plans and the Canterbury recovery** so the government can play a key leadership role in reducing harm in these areas
- › **a new research, monitoring, reporting and evaluation function** to collect, analyse and publish data
- › **an extension of the high hazard unit functions** to additional identified major high hazard facilities (such as chemical plants)
- › **an expanded role in occupational health and hazardous substances**
- › **working with ACC to develop a Safety Star Rating scheme** (see the *Better coordination between agencies* section for more information, p.31)
- › **an increased coordination role with ACC and EPA**
- › **a key skills development role**, first in developing its own capability and skills through training and development, and then on a workforce development programme, and
- › **the use of additional enforcement tools.**

Diagram 4 shows the changing role of the regulator as WorkSafe is established. The most important change is towards using a broader range of tools (including enforcement, education, harm reduction programmes and other incentives) to deliver better results. WorkSafe will have a leadership role as the primary regulator and will be a key source of information for other agencies and businesses.

How will WorkSafe focus on what's important?

New workplace health and safety legislation will lay out the framework for WorkSafe to work within and the Workplace Health and Safety Strategy will set out WorkSafe's priorities. The focus will be on increasing compliance without creating a burden for businesses, and better management of high and catastrophic risk.

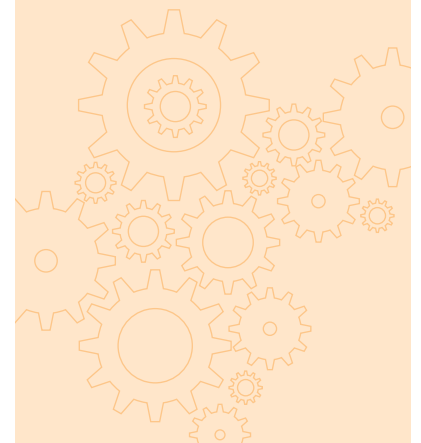
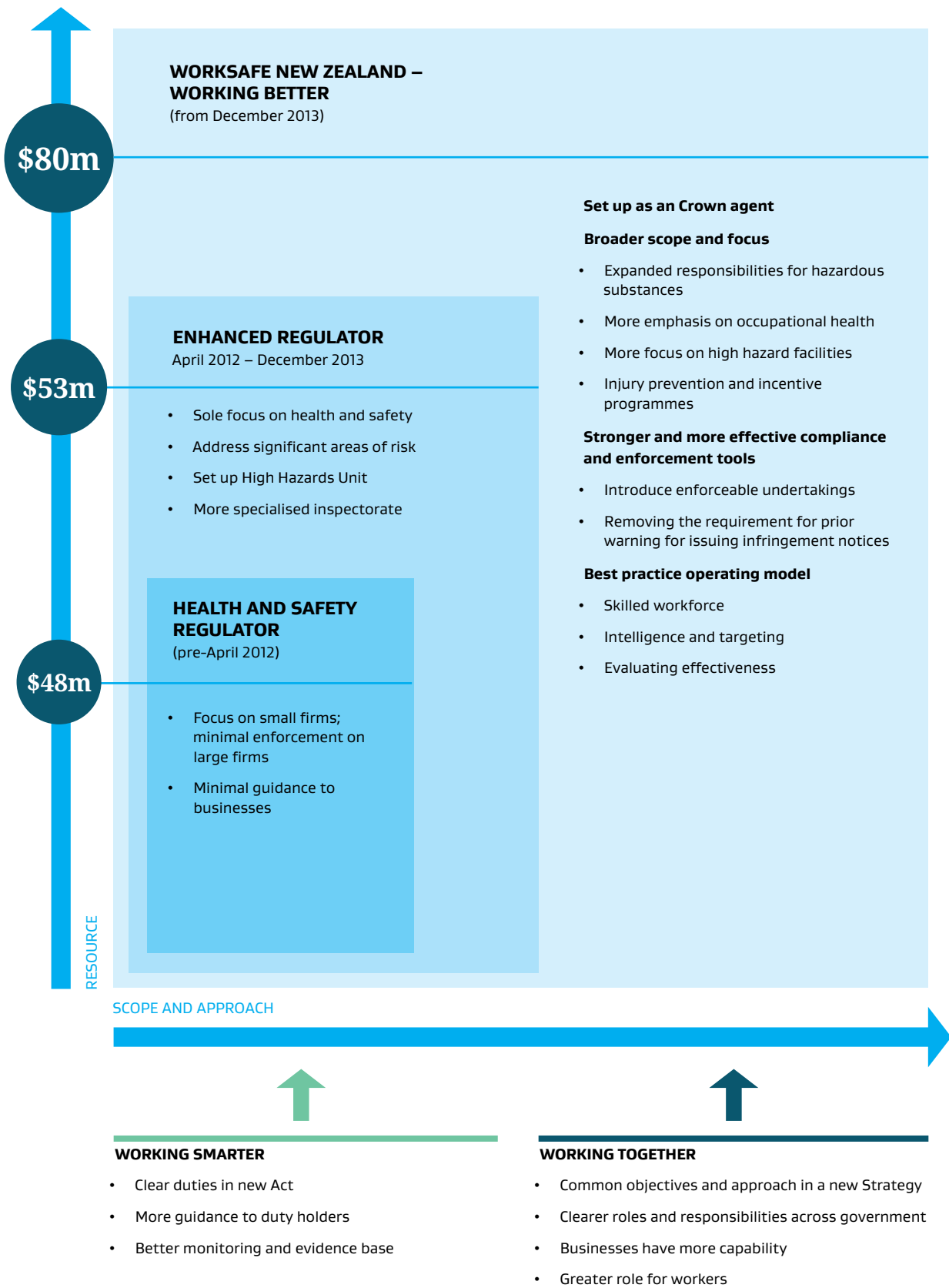
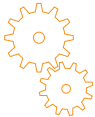


Diagram 4: A significant shift in the nature and scope of the regulator



What this means

- › businesses will find it easier to work with WorkSafe and to understand their health and safety obligations
- › more support for business from inspectors, who will make more proactive visits
- › a greater focus on prevention, better guidance and support for businesses and workers
- › improved information and support for currently hard-to reach groups of employers and workers.



RESPONDING TO NON-COMPLIANCE RECOMMENDATION 11

What's happening ...	... and when
Additional powers for the regulator and the courts established in the new Health and Safety at Work Act	Act to be passed by December 2014
Additional guidance developed for inspectors, the regulator and the Courts on health and safety at work	From December 2013

What's happening

WorkSafe will be established under the existing functions and powers that exist under current legislation. It will keep the enforcement tools that have proven effective in motivating compliance and will introduce additional tools. The Australian Model Law provides for a range of compliance and regulatory tools, most of which are equivalent to existing tools in the HSE Act. Changes include:

- › **accepting enforceable undertakings from duty holders** given in connection with a contravention or alleged contravention
- › **removing the requirement for prior warning for infringement notices and increasing penalties.** Currently, at least two visits are required before an infringement notice can be issued, which has contributed to low numbers being issued
- › **the regulator publishing information about its enforcement actions** after the appeal period has passed
- › **investigating extending the existing manslaughter offence to corporations,** as recommended by the Taskforce. This is being considered by the Minister of Justice.
- › **introducing a hierarchy of offences and corresponding penalties** in line with those set out in the Australian Model Act and the Taskforce recommendations. This will result in a new tiered penalty regime and a significant increase in maximum levels, including up to five years imprisonment for the most serious offences involving reckless conduct that exposes people to serious risks. This will create a greater deterrent for duty holders, while the use of graduated categories of offences and penalties will provide better guidance to the Courts about appropriate fine levels, and

Easing the compliance burden

The changes to the health and safety system also focus on easing the burden that small and large low-risk businesses can face in complying with health and safety requirements.

The regulatory system will make it clear low-risk businesses only need health and safety practices which are in proportion to the risks in their workplace. For businesses in low-risk sectors, this means the requirements will not be of the same magnitude as for businesses that face higher risks.

The legislative changes will be supported by clear guidance as we recognise that many (particularly smaller) businesses would rather adopt existing material than design their own compliance systems.

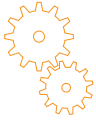
WorkSafe will take a deliberate and strategic approach to compliance, based on better data about higher-risk and high-hazard sectors and activities. This will provide businesses with greater certainty about how rules will be applied in practice by the regulator.

The changes will mean some initial costs to businesses – as with any regulatory change, businesses need to understand the changes and if necessary adapt their systems. This can particularly affect small business. Over time, the legislation and systems changes should provide greater certainty and reduce on-going compliance costs for small and large low-risk business, and even make it easier to comply for high-risk businesses.

- › **improving the tool-kits for judges including enabling them to order wrong-doers to:** publicise their failures, take action to remedy their failures, and pay the regulator’s costs of bringing the proceedings.

What this means

- › Stronger enforcement tools will incentivise firms to comply with their workplace health and safety obligations so they can avoid the increased penalties, and
- › better tools for judges and the regulator to encourage compliance.



REGULATING MAJOR HAZARDS RECOMMENDATION 8

What’s happening ...	... and when
Changing the approach to major hazards via the new Health and Safety at Work Act	Act to be passed by December 2014
Increased guidance for, and enforcement in, major hazard facilities	On-going from the establishment of WorkSafe
Implementing the necessary regulations	By January 2015

What’s happening

The High Hazards Unit in MBIE is now well established. The scope of the High Hazards Unit is limited to mining, petroleum production, geothermal activities and pipelines. Other major hazard facilities where chemicals, harmful substances, or large quantities of fuel or chemical dust are stored, used or produced are not currently subject to the same scrutiny. Some of their activities are covered under other regimes such as the HSNO Act, but there is no consistent approach. Our early estimates suggest there may be around 60 higher-risk major hazard facilities in New Zealand not currently overseen by the High Hazards Unit.

We will continue to investigate the number of major hazard facilities define the responsibilities of different regulators in relation to these major hazard facilities. This assessment will also help us to define the scope of major hazard facilities in the legislation. We will use models from other jurisdictions to extend the High Hazards Unit. We will implement the necessary legislative provisions and regulations based on international best practice before January 2015 to prevent and mitigate the effects of major accidents at major hazard facilities.

Operators of major hazard facilities which already have effective controls across plant, equipment, safety management systems, procedures, and people to prevent a major accident are expected to incur marginal compliance costs. Operators of major hazard facilities that need to carry out significant remedial work to improve the effectiveness of their controls are expected to incur more significant costs.

Regulatory changes will include a new regime where:

- › **a facility or proposed facility will automatically be a major hazard facility if quantities of particular dangerous substances are (or will be) processed, handled, or stored on site** that exceed defined thresholds prescribed in the regulations
- › **WorkSafe may also carry out an assessment and designate a facility a major hazard facility** if it meets certain criteria. WorkSafe will follow a process set out in the new Health and Safety at Work Act and regulations to show a facility has the ability to cause catastrophic harm to people and the environment.

Major hazard facilities must:

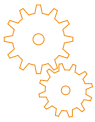
- › **prepare a safety case for assessment by WorkSafe** containing details of the dangerous substances, the facility, the management system, the potential for major accidents, and the measures to be taken to prevent, control and mitigate the effects of major accidents
- › **prepare and implement an emergency response plan**, in consultation with emergency services and the relevant territorial authority
- › **investigate any dangerous occurrence and report to the regulator** on the outcome of the investigation, and
- › **involve members of the workforce in the preparation and review of the safety case, safety management system, and emergency response plan.**

WorkSafe will also:

- › **promote existing guidance**, including the Approved Code of Practice for Managing Hazards to Prevent Major Industrial Accidents, and **carry out compliance monitoring against those obligations** until the new regulations are implemented
- › Be able to **stop the operation of a major hazard facility where the measures taken by the operator for the prevention and mitigation of major accidents are not sufficient**
- › **engage with territorial local authorities** on the land use planning implications associated with proposed major hazard facilities, and existing or proposed developments in the vicinity of existing major hazard facilities
- › **develop guidance material and codes of practice** to clarify expectations and support duty holders to comply with the new regulations, and
- › **build capacity and capability within the High Hazards Unit** to carry out a comprehensive compliance strategy. Initial inspection and standard setting resources should be in place by June 2014 and full capacity by June 2017.

What this means

- › risks associated with major hazards and major hazard facilities will be better monitored and regulated, and also better controlled by operators
- › better management will reduce the likelihood of a major accident occurring
- › operators that need to come up to best practice standards will need to change their systems and will face more rigorous assessments, and
- › workers should be more involved in the process of assuring that the systems in their workplaces are effective.



INCREASING FOCUS ON OCCUPATIONAL HEALTH RECOMMENDATION 7

What's happening ...	... and when
Integrate occupational health at different levels of the structure of WorkSafe	December 2013
WorkSafe will develop goals and programmes focused on occupational health and safety	June 2014
Key regulations, guidance and standards will be in place	2016/2017

What's happening

It can be hard to establish causal links for occupational disease. There is a lack of reliable data in this area, so occupational illness and disease prevention is often overlooked in favour of injury risks that are easier to identify, treat and measure. However, an estimated 600–900 New Zealanders die prematurely from occupational illness every year. Simply put, occupational health needs to be a focus of WorkSafe.

The functions related to improving occupational illness and disease will be integrated within WorkSafe's operations. We believe that integration with other workplace safety actions is preferable and will ensure that occupational health is considered throughout the system with the appropriate expertise.

WorkSafe will:

- › start by **focusing on the occupational causes of chronic ill-health**, on preventative measures, and monitoring and enforcing those measures
- › **set goals and develop programmes for reducing exposure, preventing workplace illness, and removing disease hazards**
- › **issue accessible guidelines for employers and workers** to help them manage identified occupational health hazards
- › **address occupational health in national programmes and harm prevention programmes** it undertakes with business and workers
- › **work with other agencies, including ACC, to identify emerging trends and issues relating to occupational health and compensation claims**, and
- › **apply information on trends and compensation claims throughout its functions** for example through guidance material, compliance and enforcement focus and consider how to integrate occupational health into new incentive programmes.

What this means

- › WorkSafe will focus on chronic occupational harm, and
- › businesses and workers will have a better understanding of occupational health hazards and what they need to do to manage them as part of their total workplace health and safety management through guidance, education, enforcement, and targeted prevention campaigns.

Working together

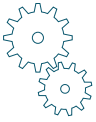
We need everyone to re-evaluate how they approach health and safety at work: we all have an interest in reducing workplace injury and death, so we all need to do our part at making the system better.

In this section we set out how government agencies, business and workers will collaborate to improve workplace health and safety. Government agencies will ensure better coverage and reduce duplication of effort and resources on health and safety issues. Agencies will communicate with business and workers in a clear way with consistent messages. Businesses will take on enhanced leadership roles with the support of government and their workers. They will also find it easier to deal with agencies, and have more clarity about the different roles of agencies. Worker participation will be encouraged through additional powers and better guidance. Collaboration, cooperation and a collective commitment is essential to improving health and safety at work.

We will do this by:

- developing a workplace health and safety strategy
- better coordination between agencies
- strengthening government accountability and leadership
- promoting leadership by business
- supporting the Canterbury rebuild, and
- improving worker participation.





DEVELOPING A WORKPLACE HEALTH AND SAFETY STRATEGY ADDITIONAL RECOMMENDATION

What's happening ...	... and when
The workplace health and safety strategy will be developed by MBIE and WorkSafe in conjunction with other agencies and stakeholders	From December 2014

What's happening

The new Act will create a legal requirement for a Workplace Health and Safety Strategy to make sure it is given appropriate attention and resource. The Strategy will start to be developed by MBIE, WorkSafe and others in late 2014 and approved by the Minister of Labour. It will be evaluated and reported on regularly.

The new WHS Strategy will:

- › **be developed in consultation with stakeholders** including businesses, workers, health and safety specialists, and other relevant government agencies such as ACC, transport agencies⁵, Ministry of Health and the Environmental Protection Authority (EPA)
- › **have its performance measured** through outcomes, intermediate targets, priorities, and key performance indicators for health and safety interventions based on data and analysis
- › **address issues associated with high-risk populations**
- › **take a system-wide approach including the government agencies** involved in health and safety, and existing strategies and initiatives, and
- › **include a workforce development component** (see the *Building capability* section above, p.19).

What this means

- › business and workers will be involved in the development of the Strategy and will be able to contribute to it
- › the strategy will include clear targets that can be evaluated
- › WorkSafe and MBIE will have the resources to provide sector leadership on this strategy, and
- › better coordination and less duplication of workplace health and safety activities amongst agencies.

5. Civil Aviation Authority, Maritime New Zealand, the New Zealand Police, Ministry of Transport and the New Zealand Transport Agency



BETTER COORDINATION BETWEEN AGENCIES RECOMMENDATIONS 5 & 10

What's happening ...	... and when
Roles and functions of various agencies clarified in the Health and Safety at Work Act	Act to be passed by December 2014
ACC and EPA coordination relationships and mechanisms set up and operating	December 2013
The joint workplace injury prevention action plan will be developed by ACC, MBIE and WorkSafe	In December 2013
EPA, WorkSafe, MBIE and MfE will work to transition and simplify the hazardous substances regime	By June 2014
Safety Star Rating scheme Implementation Plan developed	December 2014

What's happening

The roles and responsibilities for workplace health and safety are spread over a range of agencies and organisations. The role each agency plays is varied and includes direction-setting, delivery and supporting roles. We will improve partnership and collaboration to make the most of the skills and relationships of all government agencies operating in the workplace health and safety system. This will achieve the most efficient and effective collective impact of government's investment.

■ The roles of MBIE and WorkSafe

MBIE will continue to have a leadership role for general policy and system-wide advice to government on health and safety at work. This includes working in partnership with WorkSafe on the development of the workplace health and safety strategy, to be owned by the Minister of Labour. MBIE will also lead the development of the new Health and Safety at Work Act and regulations under the new Act.

WorkSafe will lead the development of ACOPs and guidance to support the new regulatory system, provide technical and expert input into regulations and provide feedback on the workability of legislation. MBIE and WorkSafe will take a partnership approach to this work and will be working to achieve shared outcomes. This will include joint engagement with stakeholders where it is appropriate.

This approach will harness the comparative strengths of WorkSafe and MBIE to achieve the best collective impact on health and safety outcomes in New Zealand. WorkSafe will have the ability to draw on its expertise, networks and deep knowledge of the sector to influence policy, and has the ability to make independent recommendations for change when needed. As well as leadership on workplace health and safety law, MBIE has influence over a range of levers which can incentivise health and safety outcomes: the regulatory environment for business, leadership on skills and employment, business development and innovation systems, business facing services and government procurement. It also has extensive experience in the design of effective regulatory systems, a broad understanding of strategic government policy goals and established relationships with Ministers, other government agencies, both in New Zealand and overseas.

■ Better coordination between the regulator and ACC

ACC plays an important role in the workplace health and safety system. Under the law it has a function to prevent injuries and to provide rehabilitation and compensation. ACC and WorkSafe will work together effectively to help meet the Government's 2020 target to reduce workplace serious injuries and fatalities by 25 per cent. To ensure strong connections and effective working relationships between them, the two agencies will develop a partnership agreement and share a Board member. Injury prevention and incentive programmes are two of the areas that the agencies will cooperate on.

Injury prevention

The Taskforce recommended that there should be a partnership between the new agency and ACC to oversee how workplace injury prevention activities are funded.

The Workplace Health and Safety Strategy and ACC's injury prevention priorities must take account of each other. ACC and WorkSafe will work together to plan their workplace injury prevention action plan. As part of this ACC and WorkSafe may agree for WorkSafe to deliver specific workplace injury prevention activities that ACC will fund, using some of the money collected from levies on employers.

Effective workplace injury prevention means better support for businesses. Strong connections between WorkSafe and ACC will ensure businesses get consistent and clear messages from the two agencies about how to prevent injuries. A joint approach will reduce duplication to make the most of the government's and levy payers' investment in injury prevention.

Voluntary incentive programmes

Financial incentives are used to motivate businesses to promote safety, improve their practices and promote knowledge of what good health and safety practice looks like. Businesses can receive a discount on their ACC levy by participating in ACC's voluntary incentive programmes, such as the Workplace Safety Management Practices programme. The government is making it easier for ACC to adjust incentive programmes over time to improve them and to respond to businesses' needs.

A new scheme, the Safety Star Rating scheme, is currently being designed and tested and is drawing on suggestions from businesses and the Taskforce. It needs to take account of the new health and safety legislation and a 'proof of concept' will be completed in June 2014. The primary objectives of Safety Star Rating are to encourage a proactive focus on injury prevention, compliance with health and safety legislation, and more effective workplace health and safety practices. A Safety Star Rating scheme will create a credible standard to allow customers or other stakeholders to compare businesses' health and safety practices and performance.

■ Better coordination between agencies that regulate hazardous substances

As the regulation of workplace use of hazardous substances is being integrated into workplace health and safety legislation, the agencies involved will need a new approach to how they work together. MBIE, MfE, EPA and WorkSafe will develop ways to work together on the production of guidance, and the identification of, and response to, emerging issues about hazardous substances. The coordination process between the agencies may include a joint monitoring Board to bring agencies together for regular communication; development of joint actions and monitoring; EPA/WorkSafe cross-Board membership; WorkSafe representation on the EPA assessment committee; and the sharing of datasets. This better coordination of the agencies' work will mean higher quality guidance and support for businesses.

The following work is already underway:

- › MBIE and the EPA have signed a memorandum of understanding to clarify the agencies' respective roles and responsibilities, improve how they work together and achieve more effective compliance and enforcement
- › MBIE and the EPA have identified industries to target for compliance in the 2013/14 year, and will develop and deliver targeted guidance, and

- › MfE and the EPA have a regulatory work programme that includes simplifying hazardous substances controls and the process for developing and amending those controls, improving the quality of the test certifier regime, developing additional enforcement tools and simplifying the relationship with the Resource Management Act (RMA).

What this means

- › it will be easier for workers and businesses to understand which agency does what and why
- › businesses will get more effective services for their ACC levies
- › businesses will get a more complete picture of their health and safety requirements, with reduced risk of contradictory messages, due to better links between the workplace health and safety regime and ACC scheme
- › better alignment of incentives, education and compliance
- › the responsible agencies will find it easier to operate, will have more visible and effective leadership, and will make better use of their resources
- › agencies will have a higher level of joint planning and programme integration, and will benefit from more data sharing and joint training
- › less duplication and fewer gaps
- › better communication from agencies, with consistent messages
- › alignment of activities and better coordination, cooperation and collaboration, and
- › improved clarity of the regulator’s role in improving health and safety outcomes.



STRENGTHENING GOVERNMENT ACCOUNTABILITY AND LEADERSHIP RECOMMENDATION 9

What’s happening ...	... and when
Assessment of government agencies whose workplaces are high-risk or have high hazards completed	December 2014
Consideration of procurement practices in the development of the Safety Star Rating scheme Implementation Plan	December 2014

What’s happening

It is important that the government and state sector lead by example in workplace health and safety as employers and purchasers of goods and services. We will consider how the Safety Star Rating scheme could be linked to government procurement opportunities. This would allow government to consider a business’ health and safety systems and performance when awarding contracts. This can create competitive pressure for companies to improve their health and safety systems in order to tender for government contracts.

MBIE will continue the process of identifying where there are any particular government agencies (including Crown entities and state owned enterprises) operating in high-risk or high hazard areas of workplace health and safety, and that require greater guidance and support. Once WorkSafe is established it will work together with MBIE and the assessment will be completed by the end of 2014. Following this, WorkSafe will develop ways to work with any identified agencies to target and manage risk.

What this means

- › The use of government procurement processes to encourage better compliance by businesses will be explored
- › government agencies that operate in high-risk or high hazard areas will be given greater guidance and support to lift their health and safety performance, and
- › government will use its leadership role to set an example in health and safety at work as an employer.



IMPROVING WORKER PARTICIPATION RECOMMENDATIONS 3 & 4

What's happening ...	... and when
Strengthening the role of worker representatives in the new Health and Safety at Work Act	Act to be passed by December 2014
Greater support for worker engagement through guidance and enforcement by WorkSafe	Immediately

What's happening

One key to the success of any health and safety system is that workers are given the opportunity to participate in health and safety, and that they know how to keep themselves and their colleagues safe. Through the actions of WorkSafe and changes to the legislation, we will ensure broader worker participation, more enforcement of these requirements, and more support for health and safety representatives. The workforce are the eyes and ears on the ground and need to be encouraged to speak up about what is not working and offer suggestions as to how it could be improved.

Improvements we will make include:

- › **requiring the Board of WorkSafe to include perspectives of workplace participants** to ensure that the views of workers will be fully considered
- › **WorkSafe setting up expert advisory groups containing worker representatives**, that will be used to test the development of new legislation, regulation and guidance
- › **providing for more effective worker participation in health and safety through the regulatory regime and accompanying guidance**, with the ability to differentiate requirements where necessary for high-risk industries, and
- › **prevention and enforcement efforts focussed on workers** and increasing their understanding.

The worker participation system will include a general duty to involve and consult workers on health and safety matters. All duty holders will be required to have worker participation practices appropriate to the workplace, not just workplaces with more than 30 employees, or where a worker or union has requested it, as is the case under current legislation. This will mean that, for all workplaces:

- › if workers want to have health and safety representative/s, the duty-holder must consult the representative/s, allow them time off for training, pay for training, provide time and resources to perform their role, and give them information
- › the legislation will specify powers and functions for representatives and committees, including the powers for trained health and safety representatives to direct unsafe work to cease (balanced by safeguards against improper use) and issue a provisional improvement notice to an employer requiring them to address a health and safety concern in the workplace, and

- › if the workers and/or the PCBU want to have a health and safety committee, workers must make up at least half of the committee, the PCBU must consult the committee, the PCBU must allow the committee time to perform its role, and the PCBU must give the committee information.

Regulations and guidance will be developed for representatives, committees and duty-holders about how the worker participation provisions apply to them. These will include materials targeted at smaller workplaces, as these are less likely to have representatives or committees for workplace health and safety and they will need to consult and involve their workers in other, more informal ways.

WorkSafe will also consult with specific industry sectors to develop targeted regulations and guidance for those sectors. Other actions which will help to create effective worker participation, and ultimately safer workplaces, include the following:

- › health and safety representative training will be reviewed and updated to reflect new powers/ requirements
- › these changes would be backed up by stronger protections for workers who raise health and safety issues and greater enforcement, including more connections between inspectors and health and safety representatives
- › employers will be able to apply to the regulator to disqualify representatives who have misused their powers, and
- › existing rights for unions to enter workplaces will not change.

What this means

- › PCBUs will be required to consult and involve workers
- › it will be easier to understand how effective worker participation systems can be developed and maintained within and tailored to the needs of different workplaces
- › worker representatives and committees will have greater powers and responsibilities and their role will be clearer
- › workplaces' health and safety systems will be more effective because they will take more account of workers' views and ideas
- › workers (including non-employees) will feel confident raising health and safety concerns in the workplace because they know they are protected by law, and
- › government will have a bigger role in supporting and enforcing worker participation.



PROMOTING LEADERSHIP BY BUSINESS ADDITIONAL INITIATIVE

What's happening ...	... and when
National programmes geared up in high-risk sectors	From December 2013

What's happening

Sector Actions Plans, which were developed from mid-2011 to early 2012, are national programmes that target the five industries at high-risk for fatalities and serious injuries: construction, forestry, manufacturing, agriculture and fishing. They are at various stages of implementation. There is also an action plan covering occupational health.

Lessons learned so far from the implementation of these action plans include:

- › **the action plans have been good tools to help understand what health and safety initiatives are taking place within each sector** and to identify any gaps

- › **considerable government time and effort was needed** to bring together business leaders and set up governance structures and frameworks for taking the action plans forward
- › **campaigns work best if they are integrated with the regulator’s guidance, education and enforcement strategies and are done in partnership with ACC and MBIE** to make the most of the funding and skills available, and
- › **in areas of strong business leadership they can gain real traction**, for example, in some of the action plans, a number of the initiatives are being led and implemented by the sector itself.

Under this reform programme more national initiatives will be rolled out to focus on harm reduction. National programmes will promote sector leadership and development of initiatives. With ACC’s agreement, WorkSafe will be able to access injury prevention funding derived from ACC levies, which will be used on priority injury prevention activities in high-risk priority sectors to support planning, coordination and monitoring (see *Better coordination between the regulator and ACC* for more information, p.32).

What this means

- › further development of national programmes
- › better leadership by industry in priority sectors, and
- › industry agreement on key priorities for action, and co-ordination of activity.



SUPPORTING THE CANTERBURY REBUILD ADDITIONAL INITIATIVE

What’s happening ...	... and when
Launching the Canterbury Safety Charter	July 2013
A dedicated rebuild inspection team will be established and expanded	2013/2014

What’s happening

MBIE and ACC have developed a partnership with industry leaders in Canterbury and have played a significant role in the development and launch of the Safety Charter. The Charter aims to lift the standard of health and safety practice across the rebuild and increase the visibility of the health and safety inspectorate. It was launched on 4 July 2013 and is an innovative model for government and industry collaboration. MBIE has also created a dedicated team of inspectors for the Canterbury rebuild and ACC is channelling significant resources into injury prevention activities for the rebuild.

Additional work will be done to address the risks presented by the rebuild effort in Canterbury:

- › **WorkSafe will work with industry to assure the Safety Charter is being met**
- › **an inspectorate team skilled in construction will focus on enforcement activities** on high-risk issues and work activities that will come with the rebuild
- › **development of targeted guidance to clarify obligations**
- › **running targeted education and briefings for industry**
- › **targeting high-risk communities and populations** across the rebuild
- › **more focused intervention on asbestos** to increase resource and increase compliance activities across the rebuild, and
- › **increased and enhanced focus on occupational health hazards and risks** across the rebuild.

Additional funding has been allocated to support this work and shows the Government's commitment to rebuilding Canterbury in a safe and sustainable way. This investment is likely to benefit the construction sector nationwide.

What this means

- › the construction industry will be supported by the government to reduce potential harm as a result of the Canterbury rebuild
- › better protection for workers on the Canterbury rebuild
- › a safer and more sustainable approach to construction in Canterbury, and
- › broader benefits for construction nation-wide as a result of the work initiatives put in place to support the Canterbury rebuild.

Appendix One: Further Information

Detailed information about Government decisions and actions to improve health and safety at work

More detailed information on the actions and initiatives set out in *Working Safer* can be found in the suite of Cabinet papers that led to these decisions. These papers have been made available to the public on the MBIE website. The Cabinet papers can be found here:

<http://mbie.govt.nz/>

Recommendations of the Royal Commission on the Pike River Coal Mine Tragedy

The Royal Commission released its final report in October 2012 and made 16 recommendations to address the failures it identified as contributing to the Pike River disaster. A number of these addressed the way New Zealand approaches workplace health and safety, while others related specifically to mining. The final report and further information can be found here:

<http://pikeriver.royalcommission.govt.nz/>

Recommendations of the Independent Taskforce on Workplace Health and Safety

In its report of April 2013, the Taskforce made 15 main recommendations. These were divided into groups based on three behavioural levers: accountability, motivation and knowledge. The final report of the Taskforce and information about their consultation process can be found here:

<http://hstaskforce.govt.nz/index.asp>

Safe Work Australia: Model work health and safety laws

The new Health and Safety at Work Act will be based on the recently developed Australian legislation, the Model Work Health and Safety Law (the Australian Model Law) and adapted where necessary for New Zealand conditions. Information on the Australian Model law, including the development and implementation process can be found here:

<http://www.safeworkaustralia.gov.au/sites/swa/model-whs-laws/pages/model-whs-laws>

