

Massive health and safety shakeup gives inspectors greater powers

By Grant Nicholson and Olivia Moller

The government recently announced WorkSafe New Zealand, a new Crown agency which will replace the Labour Group within the Ministry of Business, Innovation and Employment ('MBIE') as the regulator of health and safety in the workplace. The new agency will take effect from 1 December this year.



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Response/triage inspectors

This team will be responsible for making an initial assessment of the seriousness of incidents notified throughout New Zealand via the WorkSafe 0800 number and determining the appropriate response. Their role is to ensure a consistent approach to notifications throughout the country. In less severe instances they may request a duty holder review be completed setting out what happened, what caused the incident and what you intend to do about it.

The agency's establishment is a result of the recommendations of the Royal Commission on the Pike River Mine Tragedy and the Independent Taskforce on Workplace Health and Safety.

WorkSafe's main objective will be to promote and contribute to the prevention of harm to all people at work or in the vicinity of, a workplace. The agency aims to work collaboratively with employers and employees to promote good workplace health and safety practices, set standards and provide guidance to businesses. This is on top of its compliance and enforcement role.

The creation of WorkSafe is just one facet of an overall package of reform that is set to overhaul the current workplace health and safety system in New Zealand in favour of a regime that is more closely aligned to the Australian Model Law. More details of these reforms were released on 7 August as part of the government's 'Working Safer' blueprint document.

Inspector's roles divided so they can delve deeper

Since 1 July this year, MBIE has been actively preparing for the implementation of the new regime and has included the introduction of a new model inspectorate. From now on there will be three types of labour inspectors:

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Assessment (or proactive) inspectors

Assessment inspectors are tasked with working with businesses that need assistance to lift their game. They will be focussing on some key areas including – forestry, The Canterbury Re-build, working at heights, safe machinery use, and quad bikes.

Investigative inspectors

Investigative inspectors will be those that undertake investigations of the most severe workplace serious harm incidents. Their role will be to understand what went wrong, how businesses can improve practices so that the event doesn't occur again and determine if enforcement action is required.

Impact on high risk sectors

Businesses in construction, agriculture, manufacturing, forestry and fishing will be a key focus for the new agency.

However, all businesses will need to re-assess how they deal with health and safety in the workplace, particularly in terms of policies and procedures to respond to the obligations set out under the Health and Safety in Employment Act 1992 (and its likely replacement legislation).

Increasing worker participation in health and safety initiatives will also become a major focal area for businesses.

Enforcement will bring hefty fines

It is likely we will see more enforcement action being taken against business, employers and

employees who do not come up to standard. The Working Safer reform package indicates the Australian tiered model will serve as the basis for new offences and penalties.

Under this system, a Category One offence (Reckless Conduct) would see an individual facing a maximum fine of \$600,000 and up to five years in prison, while a corporate could be looking at a \$3m fine. It is possible an offence of corporate manslaughter may be adopted.

For now, all businesses should take the time to ensure their health and safety systems are in order.

Some key questions to ask are:

- Do you have paperwork to support your system?
- Do you have a process to review hazards?
- Do your Standard Operating Procedures and Job Safety Assessments cover off exposure to hazards?
- Are you documenting toolbox meetings, staff meetings, and health and safety meetings?
- Do you have an appropriate emergency response plan?
- What investigation procedures do you have in place?

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