

Workplace Health and Safety Reform November 2013

In August this year the government released a blueprint proposing significant changes to New Zealand's workplace health and safety system. The changes are based on the Australian Model Work Health and Safety Act and aim to provide clear and consistent information for employers on how to keep workers safe.

The key proposed changes are as follows:

WorkSafe: A stand alone crown agency, WorkSafe will be established by the end of 2013 and is said will play a key leadership role in regulating and improving New Zealand's health and safety system. WorkSafe will be responsible for developing codes of practice, educating duty holders under the new legislation, and monitoring and enforcing compliance.

Person conducting a business or undertaking or "PCBU": A new term to be used in the legislation. PCBUs will be required to ensure, so far as reasonably practicable, the health and safety of:

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

Under the proposed legislation workers will be owed broader duties than in the employer-employee relationship. There will be specific duties for PCBUs who manage or control workplaces, PCBUs who manage

or control fixtures, fittings or plant, and PCBUs who are designers, manufacturers, importers or suppliers of plant, substances or structures.

Directors' Due Diligence: Directors will have due diligence duties to proactively manage workplace health and safety. This will include ensuring they have a full understanding of the nature of the business operations and the risks involved, as well as ensuring that PCBUs comply with their duties.

Enforcement and Penalties: The Australian three tiered model will be used as the basis for new offences and will bring significantly higher penalties and fines aimed at deterring duty holders from breaching their health and safety duties.

Consultation and Worker Participation: PCBUs will have a duty to consult workers and other PCBUs on health and safety matters and ensure that appropriate worker participation practices are in place.

The new regime will be the most significant reform to New Zealand's workplace health and safety system in 20 years. It strives to reduce New Zealand's workplace injury and death toll by 25% by 2020.

The Minister of Labour has released an Exposure Draft of Part 2 (duties) and Part 3 (worker participation) of the proposed Health and Safety Reform Bill. The Exposure Draft provides an initial indication of the key matters that will be addressed by the new legislation, and allows public comment on various aspects of the draft before the select committee process.

If you would like further information about the proposed changes, please contact Shelley Eden on 09 300 8756 or email shelley.eden@shieffangland.co.nz

This paper gives a general overview of the topics covered and is not intended to be relied upon as legal advice.