

The Health and Safety (Pike River Implementation) Bill

The Health and Safety (Pike River Implementation) Bill has been introduced to Parliament following the Royal Commission on the Pike River coalmine tragedy, which concluded New Zealand's regulation of health and safety in the mining industry is ineffective.

The Royal Commission recommended that a new stand-alone Crown agency for workplace health and safety should be created and that an effective regulatory framework for mining be established urgently. The Government accepted the Royal Commission's findings, and the Bill implements its recommendations.

The Bill has three parts:

- The establishment of WorkSafe New Zealand ("**WorkSafe**"), a new workplace health and safety agency;
- Amendments to the Health and Safety in Employment Act 1992 ("**the HSE Act**"); and
- Creation of a new Mines Rescue Act 2013.

The Bill has been referred to the Transport and Industrial Relations Select Committee for consideration and public submissions. The committee's report is expected on 20 October 2013.

Submissions on the Bill can be made directly to the committee up until 25 July 2013.

WorkSafe New Zealand

WorkSafe will take on the operational functions currently managed by the Ministry of Business, Innovation and Employment that relate to workplace health and safety and energy safety. The purpose of WorkSafe is to improve health and safety in all workplaces through promoting and contributing to the prevention of harm to all people at work and in, or in the vicinity of, the workplace.

WorkSafe will function as a standalone Crown entity. The Ministry will continue to be responsible for providing policy advice to the Government on health and safety matters.

Among its many functions, WorkSafe will:

- Advise on the operation of workplace health and safety systems;
- Make recommendations to the Government for changes to improve the effectiveness of workplace health and safety systems;
- Monitor and enforce compliance with health and safety legislation;
- Develop codes of practice;
- Provide guidance and advice on workplace health and safety matters;
- Foster a co-operative and consultative relationship between employers and employees in relation to workplace health and safety; and
- Promote and co-ordinate the implementation of workplace health and safety initiatives.

Amendments to Health and Safety in Employment Act 1992

Amendments to the HSE Act are intended to set clear expectations concerning the management of hazards in the mining industry. The new regime will primarily be set out in new mining regulations, which will include processes for managing hazards, strengthening current minimum standards, requiring health and safety management systems, providing for new safety-critical roles and strengthening training and competency requirements.

Changes to be made to the HSE Act include:

- The scope of 'mining operations' will be extended to include both underground and surface coal and metalliferous mines, and certain quarries and tunnels to be defined by an Order in Council.

- Mine operators will be responsible for the health and safety of all workers. This extends beyond just employees and extends to include employees, self-employed contractors, employees of contractors and labour hire workers.
- Mining operations within scope will need to have a documented worker health and safety participation system and enable all mine workers (not just employees) to be part of that system.
- Results of health and safety monitoring must be given to all mine workers without the need for them to request the result.
- New powers will enable mine health and safety representatives to inspect and shut down mining operations if the representative believes that there is a likelihood of imminent serious harm to any person.
- The new role of mining industry health and safety representatives will be established. It is proposed that those representatives will be appointed by a union or a group of miners. They will have the same powers as a mine health and safety representative in addition to two industry specific functions:
 - Participate in investigations into accidents in mining operations; and
 - Assist with industry-wide initiatives to improve health and safety in mining operations.
- Improvement and prohibition notices will be issued where a mine inspector has a reasonable belief that a mine operator is likely to fail to comply with the HSE Act or the mining regulations – not just where there has been a failure to comply.
- The New Zealand Mining Board of Examiners will be created to add rigour and independence to the setting and assessment of the necessary competencies for people working in the mining industry.
- Regulation-making powers in the HSE Act will be extended to allow new mining regulations to be made, and to prescribe some of the details of the new worker participation obligations.

Mines Rescue

A new Mines Rescue Act 2013 will repeal the Mines Rescue Trust Act 1992.

The new Act will extend the coverage of the Mines Rescue Service beyond coal mines to include other underground mines and tunnelling operations which are, or are intended to be, at least 150 metres long. The expertise of the Mines Rescue Trust in irrespirable atmospheres means it can add value to those types of operations.

The Mines Rescue Service will continue to be funded by levies paid by mine operators. However, under the new Act, the levy rate can now be set by regulation, which will provide greater flexibility to change the rate when needed. The Rescue Act will also enable the Trust to recover unpaid levies and the costs of responding to particular emergencies from mine operators.

Further Information

If you would like further information on the Bill, or assistance in making submissions to the Transport and Industrial Relations Select Committee, please contact Nic Soper, Frazer Barton or Allie Cunninghame.