

WorkSafe New Zealand Bill

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Health and Safety (Pike River Implementation) Bill as reported from the Transport and Industrial Relations Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- this bill comprising clauses 1 and 2, Part 1, and Schedule 1
- Health and Safety in Employment Amendment Bill comprising Part 2 and Schedules 2 and 3
- Mines Rescue Bill comprising Part 3 and Schedule 4.

WorkSafe New Zealand Bill

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Simon Bridges

WorkSafe New Zealand Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the WorkSafe New Zealand Act **2013**.

2 Commencement

This Act comes into force on **16 December 2013**.

5

Part 1 Preliminary provisions

3 Interpretation

In this **Act**, unless the context otherwise requires,—

board means the board of WorkSafe New Zealand 5

chief executive means the chief executive of MBIE

collective agreement has the same meaning as in section 2 of the State Sector Act 1988

employment agreement has the same meaning as in section 5 of the Employment Relations Act 2000 10

MBIE means the Ministry of Business, Innovation, and Employment

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this **Act** 15

relevant health and safety legislation means—

- (a) the Health and Safety in Employment Act 1992 and any regulations made under that Act:
- (b) the Machinery Act 1950 and any regulations made under that Act: 20
- (c) any provisions of the following Acts (or any regulations made under those Acts) under which WorkSafe New Zealand has functions:
 - (i) Electricity Act 1992: 25
 - (ii) Gas Act 1992:
 - (iii) Hazardous Substances and New Organisms Act 1996

transferred employee means a person referred to in **section 11** who has been offered and has accepted employment in WorkSafe New Zealand 30

workplace has the meaning given to place of work in section 2(1) of the Health and Safety in Employment Act 1992

WorkSafe New Zealand means the entity established by **section 5**. 35

4 Act binds the Crown

This **Act** binds the Crown.

Part 2 WorkSafe New Zealand

5 WorkSafe New Zealand established

5

This section establishes WorkSafe New Zealand.

6 WorkSafe New Zealand is Crown entity

(1) WorkSafe New Zealand is a Crown entity for the purposes of section 7 of the Crown Entities Act 2004.

(2) The Crown Entities Act 2004 applies to WorkSafe New Zealand except to the extent that this **Part** and **Schedule 1** expressly provide otherwise. 10

7 WorkSafe New Zealand's board

(1) The Minister must appoint at least 5, but not more than 9, persons as members of the board. 15

(2) When appointing a member of the board, the Minister must have regard to the need to ensure that WorkSafe New Zealand has among its members persons who have, collectively, knowledge and experience of, and capability in, the following:

(a) public sector governance: 20

(b) central government processes:

(c) New Zealand's workplace health and safety environment, including workplace illness and occupational disease:

(d) perspectives of workers: 25

(da) perspectives of employers:

(e) administration of workplace health and safety legislation and risk management frameworks:

(f) business generally.

(3) The Minister may not appoint any member of the board unless the Minister has first publicised an invitation for nominations from interested parties and considered any nominations received. 30

8 Advisory groups

- (1) WorkSafe New Zealand may establish an advisory group—
- (a) to provide a forum for dialogue and co-operation between the Government, employers, and workers on workplace health and safety matters; and 5
 - (b) to provide advice to WorkSafe New Zealand that represents the views of the Government, employers, and workers on workplace health and safety matters.
- (2) WorkSafe New Zealand may establish 1 or more other advisory groups to provide advice to it on matters relating to its functions. 10
- (3) An advisory group referred to in **subsection (1) or (2)** may (but is not required to) be established in accordance with clause 14(1)(a) of Schedule 5 of the Crown Entities Act 2004.

WorkSafe New Zealand's main objective and functions 15

9 WorkSafe New Zealand's main objective

- (1) WorkSafe New Zealand's main objective is to promote and contribute to securing the health and safety of workers and workplaces. 20
- (2) When performing its functions under the relevant health and safety legislation, WorkSafe New Zealand must act in a way that furthers any relevant objectives or purposes stated in that legislation.

10 WorkSafe New Zealand's functions 25

- WorkSafe New Zealand's functions are to—
- (a) advise on the operation of the workplace health and safety system, including co-ordination across the different components of the system:
 - (b) make recommendations for changes to improve the effectiveness of the workplace health and safety system, including legislative changes: 30
 - (c) monitor and enforce compliance with relevant health and safety legislation:

-
- (d) make recommendations about the level of any funding (including fees or levies) that WorkSafe New Zealand requires to effectively carry out its functions:
 - (e) develop codes of practice:
 - (f) provide guidance, advice, and information on workplace health and safety to— 5
 - (i) persons who have duties under the relevant health and safety legislation; and
 - (ii) the public:
 - (g) promote and support research, education, and training on or in workplace health and safety: 10
 - (h) collect, analyse, and publish statistics and other information relating to workplace health and safety:
 - (i) engage in, promote, and co-ordinate the sharing of information with other agencies and interested persons that contribute to workplace health and safety: 15
 - (j) foster a co-operative and consultative relationship between persons who have duties under the relevant health and safety legislation and the persons to whom they owe duties and their representatives in relation to workplace health and safety: 20
 - (k) promote and co-ordinate the implementation of workplace health and safety initiatives by establishing partnerships or collaborating with other agencies or interested persons in a coherent, efficient, and effective way: 25
 - (l) perform or exercise any other functions or powers conferred on WorkSafe New Zealand by or under any other enactment:
 - (m) perform any additional function that the Minister directs under section 112 of the Crown Entities Act 2004. 30

Part 3
Transition to WorkSafe New Zealand and
consequential amendments

Transfer of employees

- 11 Restriction on compensation for technical redundancy** 5
- (1) An employee of MBIE is not entitled to receive any payment or other benefit on the ground that the position held by the employee in MBIE has ceased to exist if—
- (a) the position ceases to exist as a result of a transfer of functions from MBIE to WorkSafe New Zealand; and 10
- (b) in connection with that transfer of functions,—
- (i) the employee is offered equivalent employment in WorkSafe New Zealand (whether or not the employee accepts the offer); or
- (ii) the employee is offered, and accepts, other employment in WorkSafe New Zealand. 15
- (2) In **subsection (1), equivalent employment** to the employee's employment in MBIE is employment in WorkSafe New Zealand that is—
- (a) in substantially the same position; and 20
- (b) in the same general locality; and
- (c) on terms and conditions of employment that are no less favourable than those that applied to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and 25
- (d) on terms that treat the period of service with MBIE (and any other period of service recognised by MBIE as continuous service) as if it were continuous service with WorkSafe New Zealand. 30
- (3) This section overrides Part 6A of the Employment Relations Act 2000.
- 12 Terms and conditions of transferred employees**
- The employment of a transferred employee does not—
- (a) constitute new employment for the purposes of the ~~KiwiSaver Act 2006~~; or 35

- (b) ~~treat the employee as a new employee for the purposes of the Employment Relations Act 2000.~~

12 Employment of transferred employee to be treated as continuous employment

The employment of a transferred employee by WorkSafe New Zealand is to be treated as continuous employment for the purposes of any enactment. 5

13 Transferred employees bound by collective agreement

- (1) This section applies to a transferred employee who was bound by a collective agreement with the chief executive immediately before the employee transferred to WorkSafe New Zealand. 10
- (2) On and after the commencement of this **Act**,—
- (a) the employee continues to be bound by the collective agreement and may enforce the collective agreement against ~~WorkSafe~~ WorkSafe New Zealand; and 15
- (b) WorkSafe New Zealand must be treated as if it were a party to the collective agreement instead of the chief executive; and
- (c) unless the context otherwise requires, every reference in the collective agreement to the chief executive or MBIE must be read as a reference to WorkSafe New Zealand. 20

14 Government Superannuation fund

- (1) Any person who, immediately before becoming an employee of WorkSafe New Zealand, was a contributor to the Government Superannuation Fund under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purpose of that Act, to be employed in the Government service as long as the person continues to be an employee of WorkSafe New Zealand. 25 30
- (2) The Government Superannuation Fund Act 1956 applies to the person in all respects as if the person's service as an employee of WorkSafe New Zealand were Government service.

- (3) **Subsection (1)** does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of WorkSafe New Zealand is the controlling authority. 5

Transfer of contracts

15 Transfer of contracts to ~~Worksafe~~ WorkSafe New Zealand

- (1) This section applies to a contract (other than an employment agreement) that— 10
- (a) was made between the chief executive or MBIE and another person; and
- (b) is identified by MBIE and relates solely to a function or power of the chief executive under the relevant health and safety legislation before the commencement of this **Act** that becomes a function or power of WorkSafe New Zealand on that commencement. 15
- (2) On and after the commencement of this **Act**,—
- (a) the contract must be treated as if WorkSafe New Zealand were the party to the contract instead of the chief executive or MBIE (as the case requires); and 20
- (b) unless the context otherwise requires, every reference in the contract to the chief executive or MBIE is to be read as a reference to WorkSafe New Zealand.

15A Transfer of other documents to WorkSafe New Zealand 25

- (1) This section applies to a document that is issued by the chief executive or MBIE and that relates solely to a function or power of the chief executive under the relevant health and safety legislation before the commencement of this **Act** that becomes a function or power of WorkSafe New Zealand on that commencement. 30
- (2) On and after the commencement of this **Act**,—
- (a) the document must be treated as if it were issued by WorkSafe New Zealand instead of the chief executive or MBIE; and 35

- (b) unless the context otherwise requires, every reference in the document to the chief executive or MBIE is to be read as a reference to WorkSafe New Zealand.

Consequences of transfers of functions, etc

- 16 Consequences of transfer of functions under relevant health and safety legislation to WorkSafe New Zealand** 5
- (1) This section applies to a function of the chief executive under the relevant health and safety legislation that is transferred to WorkSafe New Zealand as a consequence of the amendments to the relevant health and safety legislation made by this **Act**. 10
- (2) On and after the commencement of this **Part**,—
- (a) all information that relates solely or principally to the function and that is held by the chief executive or MBIE is held by WorkSafe New Zealand; and
- (b) all money payable to or by the chief executive or MBIE in relation to the function becomes payable to or by WorkSafe New Zealand; and 15
- (c) all rights, liabilities, entitlements, and engagements of the chief executive or MBIE in relation to the function become the rights, liabilities, entitlements, and engagements of WorkSafe New Zealand; and 20
- (d) all directions to the chief executive or MBIE that relate to the function and that are in force immediately before the commencement of this **Act** become directions to WorkSafe New Zealand; and 25
- (e) anything done, or omitted to be done, or that is to be done, in relation to the function by, or in relation to, the chief executive or MBIE is to be treated as having been done, or having been omitted to be done, or to be done, by, or in relation to, WorkSafe New Zealand; and 30
- (f) the commencement, continuation, or enforcement of proceedings relating to the function by or against the chief executive or MBIE may instead be carried out by or against WorkSafe New Zealand without amendment to the proceedings; and 35
- (g) a matter or thing relating to the function that would, but for this section, have been completed by the chief ex-

ective or MBIE may be completed by WorkSafe New Zealand.

- (3) On and after the commencement of this **Act**, property identified by MBIE as being owned by the chief executive or MBIE solely or principally for the purposes of the function and that should be transferred to WorkSafe New Zealand is vested in WorkSafe New Zealand. 5
- (4) The transfer of information from the chief executive or MBIE to WorkSafe New Zealand under **subsection (2)(a)** does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993. 10

16A Transitional provision relating to legal services in respect of functions transferred to WorkSafe New Zealand

- (1) For the purposes of **section 16(2)**, a lawyer who is employed by MBIE may, in the course of his or her employment, provide legal services to WorkSafe New Zealand in respect of a function or power of the chief executive under the relevant health and safety legislation that is transferred to WorkSafe New Zealand if the legal services are provided in connection with a matter or thing that— 15
- (a) arose, in whole or in part, before the commencement of this **Act**; and
- (b) would, but for **section 16(2)**, have been undertaken or completed by the chief executive or MBIE. 20
- (2) **Subsection (1)** applies despite anything to the contrary in the Lawyers and Conveyancers Act 2006. 25
- (3) In **subsection (1)**, **lawyer** and **legal services** have the same meanings as in section 6 of the Lawyers and Conveyancers Act 2006.

17 Consequences of transfer of collective agreement or contract to WorkSafe New Zealand 30

- (1) This section applies to—
- (a) a collective agreement to which WorkSafe New Zealand has become a party under **section 13**; and
- (b) a contract transferred to WorkSafe New Zealand under **section 15**. 35

- (2) On and after the commencement of this **Act**,—
- (a) all rights, liabilities, and entitlements of the chief executive or MBIE under the contract become the rights, liabilities, and entitlements of WorkSafe New Zealand; and 5
 - (b) anything done, or omitted to be done, or that is to be done by, or in relation to, the chief executive or MBIE is to be treated as having been done, or having been omitted to be done, or to be done by, or in relation to, WorkSafe New Zealand; and 10
 - (c) the commencement, continuation, or enforcement of proceedings by or against the chief executive or MBIE may instead be carried out by or against WorkSafe New Zealand without amendment to the proceedings.
- Continuation of appointments under relevant health and safety legislation* 15
- 18 Continuation of inspectors and enforcement officers**
- (1) A person who, immediately before the commencement of this **Act**, held office as an inspector, a geothermal inspector, or an enforcement officer (as the case may be) under a provision specified in **subsection (2)** continues in office on and after that commencement,—
- (a) if the person is a transferred employee, as if WorkSafe New Zealand appointed the person; or
 - (b) if **paragraph (a)** does not apply, as if WorkSafe New Zealand had, with the approval of the Minister, delegated the power to appoint the person to the person who made the appointment. 25
- (2) The provisions are—
- (a) section 29 of the Health and Safety in Employment Act 1992: 30
 - (b) section 5 of the Machinery Act 1950:
 - (c) regulation 3 of the Geothermal Energy Regulations 1961:
 - (d) section 97B of the Hazardous Substances and New Organisms Act 1996. 35

18A Continuation and renaming of departmental medical practitioners

A person's appointment as a departmental medical practitioner before the commencement of this **Act** for the purposes of section 34 of the Health and Safety in Employment Act 1992 continues on and after that commencement as if—

- (a) WorkSafe New Zealand appointed the person; and
- (b) the person were appointed as a health and safety medical practitioner under that Act.

Amendments to other enactments

10

19 Amendments to other enactments

Amend the enactments specified in **Schedule 1** as set out in that schedule.

• • • • •

Schedule 1**s 19****Amendments relating to WorkSafe New Zealand****Part 1****Amendments to Acts**

5

Accident Compensation Act 2001 (2001 No 49)

In section 6(1), insert in its appropriate alphabetical order:

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.

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In section 280(2), replace “Department of Labour” with “Ministry of Business, Innovation, and Employment, WorkSafe”.

In the heading to section 286(1), replace “**Department of Labour**” with “**Ministry of Business, Innovation, and Employment and to WorkSafe**”.

15

Replace section 286(1) to (4) with:

“(1) The Corporation must provide to the chief executive of the Ministry of Business, Innovation, and Employment or to WorkSafe any information held by the Corporation under this Act that—

20

“(a) relates to—

“(i) employers; or

“(ii) workplaces; or

“(iii) claims for work-related personal injury; and

“(b) is of a type specified for the purpose of this section in an agreement between the Corporation and the chief executive of the Ministry of Business, Innovation, and Employment or WorkSafe as the case may be.

25

“(2) The chief executive of the Ministry of Business, Innovation, and Employment and WorkSafe may use the information only for 1 or more of the following purposes:

30

“(a) to support the Ministry of Business, Innovation, and Employment in its administration of any provisions of the relevant Acts:

“(aa) to support WorkSafe in carrying out its functions under any provisions of the relevant Acts:

35

Part 1—*continued*

Accident Compensation Act 2001 (2001 No 49)—*continued*

“(b) to ensure appropriate co-ordination of activities with the Corporation and other relevant agencies:

“(c) in the case of the Ministry of Business, Innovation, and Employment, to support the Ministry’s responsibilities for workforce development and employment creation. 5

“(3) The power conferred on the chief executive of the Ministry of Business, Innovation, and Employment and on WorkSafe by **subsection (2)** includes (without limitation) power to provide information received under this section to any agency designated under section 28B of the Health and Safety in Employment Act 1992, but only for the purpose of supporting the agency’s functions under that Act. 10

“(4) The Corporation must provide the information in accordance with the agreement referred to in **subsection (1)(b)**.”

After section 286(5)(1), insert: 15

“(m) **Part 1 of the Health and Safety (Pike River Implementation) Act 2013.**”

Crown Entities Act 2004 (2004 No 115)

In Schedule 1, Part 1, insert in its appropriate alphabetical order:

Name	Exemption from acquisition of securities, borrowing, guarantee, and derivative rules				Exemption from section 165 (net surplus payable to Crown)
	s 161	s 162	s 163	s 164	
WorkSafe New Zealand					✓

Crown Minerals Act 1991 (1991 No 70) 20

In section 2(1), repeal the definition of **Health and Safety Regulator**.

In section 2(1), definition of **regulatory agency**, replace paragraph (d) with:

“(d) WorkSafe New Zealand.” 25

Part 1—*continued***Crown Minerals Act 1991 (1991 No 70)**—*continued*

In section 2(1), insert in its appropriate alphabetical order:

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.

In section 29A(3)(b), replace “the Health and Safety Regulator” with “WorkSafe”. 5

In the heading to section 33A, replace “**Health and Safety Regulator**” with “**WorkSafe**”.

In section 33A(1) and (2)(a) and (b), replace “the Health and Safety Regulator” with “WorkSafe”. 10

In section 33A(2)(c), replace “the Health and Safety Regulator’s” with “WorkSafe’s”.

In the heading to section 33B, replace “**Health and Safety Regulator**” with “**WorkSafe**”.

In section 33B(1), replace “The Health and Safety Regulator” with “WorkSafe”. 15

In section 33B(2), replace “the Health and Safety Regulator’s” with “WorkSafe’s”.

In section 41C(3)(b), replace “the Health and Safety Regulator” with “WorkSafe”. 20

In section 90E(1), replace “the Health and Safety Regulator” with “WorkSafe”.

In section 90E(1)(b), replace “the Health and Safety Regulator’s” with “WorkSafe’s”.

Electricity Act 1992 (1992 No 122) 25

In section 2(1), replace the definition of **Minister** with:

“**Minister** means the Minister of the Crown who, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.

In section 2(1), replace the definition of **Ministry** with: 30

“**Ministry** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.

Part 1—*continued***Electricity Act 1992 (1992 No 122)**—*continued*

In section 2(1), replace the definition of **Secretary** with:

“**Secretary** means the chief executive of the Ministry”.

In section 2(1), insert in its appropriate alphabetical order:

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.

In the cross-heading above section 5, after “*powers of*”, insert “*WorkSafe and*”.

Replace section 5 with:

“**5 Functions of WorkSafe** 10

“(1) The functions of WorkSafe under this Act are—

“(a) to carry out such inquiries, tests, audits, or investigations as may be necessary to determine whether a person is complying with this Act:

“(b) to take all such lawful steps as may be necessary to ensure the safe supply and use of electricity: 15

“(c) to perform such other functions as are provided for under this Act.

“(2) This section is subject to **section 5A**.

“**5A Functions of Secretary** 20

“(1) The Secretary—

“(a) must carry out the functions conferred on the Secretary under this Act or regulations made under this Act; and

“(b) may carry out a function conferred on WorkSafe under a specified provision of this Act or regulations made under this Act in relation to a specified matter. 25

“(2) The Prime Minister may, by notice in the *Gazette*, specify—

“(a) 1 or more matters in relation to which the Secretary may carry out functions conferred on WorkSafe under this Act; and 30

“(b) 1 or more provisions of this Act or regulations made under this Act that confer functions on WorkSafe and under which the Secretary may exercise functions in relation to the specified matter.

Part 1—*continued***Electricity Act 1992 (1992 No 122)**—*continued*

- “(3) If the Secretary carries out a function in relation to a specified matter, every reference to WorkSafe in the relevant specified provision must be read as if it were a reference to the Secretary.
- “(4) Without limiting **subsection (3)**, the Secretary has the powers necessary to carry out the functions in a specified provision in relation to a specified matter in accordance with this Act. 5
- “(5) WorkSafe and the Secretary must work co-operatively to ensure that their functions under this Act and any regulations made under this Act are carried out in an effective and efficient manner. 10
- “(6) In this section,—
 “**specified matter** means a matter that is specified in a *Gazette* notice under **subsection (2)(a)**
 “**specified provision** means a provision that is specified in a *Gazette* notice under **subsection (2)(b)**. 15
- “**5B WorkSafe and Secretary must share information**
- “(1) WorkSafe must provide information to the Secretary if the information is necessary or desirable for the Secretary to carry out his or her functions under this Act. 20
- “(2) The Secretary must provide information to WorkSafe if the information is necessary or desirable for WorkSafe to carry out its functions under this Act.”
- In section 6(1) and (3), replace “the Secretary’s” with “WorkSafe’s”.
 In section 6(4), replace “he or she” with “WorkSafe”. 25
 In sections 6, 8, 9, 11, 13, 15 to 20, 38, 40 to 42, 57, 59, 165A, 165B, 169(1)(2)(d), 169(1)(8), and 169(1)(9), replace “the Secretary” with “WorkSafe” in each place.
 In section 8(2A), replace “The Secretary’s” with “WorkSafe’s”.
 In the headings to sections 8, 13, 19, and 20, replace “**Secretary**” with “**WorkSafe**”. 30
 In sections 8, 18, 36, 37, 39, 165B, and 165D, replace “The Secretary” with “WorkSafe” in each place.

Part 1—*continued***Electricity Act 1992 (1992 No 122)**—*continued*

In the heading to section 9, replace “Secretary’s” with “WorkSafe’s”.

Replace section 16A with:

“16A Transfer of accident information

“(1) In this section, **specified matter** means a matter that is specified in a *Gazette* notice under **section 5A(2)**. 5

“(2) If WorkSafe is notified of an accident under section 16 and the accident relates to a specified matter, WorkSafe must provide the notice and any particulars that WorkSafe has received to the Secretary. 10

“(3) If an accident relates to a specified matter, a person required to provide notification of any accident under section 16 may notify the Secretary in accordance with that section instead of WorkSafe.”

Replace section 40(6) and (7) with: 15

“(6) Despite section 73 of the Crown Entities Act 2004, WorkSafe must not delegate to any person the power conferred by this section.

“(7) **Subsection (8)** applies if, pursuant to **section 5A(3) and (4)**, the Secretary may exercise the power conferred by this section in relation to a matter specified in a *Gazette* notice under **section 5A(2)**. 20

“(8) Despite section 41 of the State Sector Act 1988, the Secretary must not delegate to any person the power conferred by this section.” 25

Repeal section 43A.

In section 149(n), delete “by the Secretary”.

In section 169(1)(26B), replace “the Board or” with “the Board, WorkSafe, or”.

In section 169(1)(30), replace “the Board or” with “the Board, WorkSafe, or”. 30

In section 169(2)(b)(ii), replace “section 20” with “**section 20A**”.

In section 169(3), replace “Acts Interpretation Act 1924” with “Interpretation Act 1999”.

Part 1—*continued***Electricity Act 1992 (1992 No 122)**—*continued*

In section 169(3), replace “the Secretary” with “WorkSafe, the Secretary,” in each place.

Energy (Fuels, Levies, and References) Act 1989 (1989 No 140)

In section 1B, insert in its appropriate alphabetical order:

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.

Repeal section 14(1)(a)(ii).

In section 14(1), replace “the Department of Labour” with “WorkSafe” in each place.

In section 26(1), replace “this Part” with “section 24”.

Replace section 30 with:

“30 Payment of levy into account

“(1) All money received by the Secretary under section 22 or 23 must be paid into a Crown Bank Account.

“(2) All money received by the Secretary under section 24 must be paid into the Departmental Bank Account of the responsible department of State.”

Gas Act 1992 (1992 No 124)

In section 2(1), replace the definition of **Secretary** with:

“**Secretary** means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act”.

In section 2(1), insert in its appropriate alphabetical order:

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.

In the cross-heading above section 6, after “*powers of*”, insert “*WorkSafe and*”.

Replace section 6 with:

“6 Functions of WorkSafe

“(1) The functions of WorkSafe under this Act are—

Part 1—*continued***Gas Act 1992 (1992 No 124)**—*continued*

- “(a) to carry out such inquiries, tests, audits, or investigations as may be necessary to determine whether a person is complying with this Act:
- “(b) to take all such lawful steps as may be necessary to ensure the safe supply and use of gas: 5
- “(c) to perform such other functions as are provided for under this Act.
- “(2) This section is subject to **section 6A**.
- “6A Functions of Secretary**
- “(1) The Secretary— 10
- “(a) must carry out the functions conferred on the Secretary under this Act or regulations made under this Act; and
- “(b) may carry out a function conferred on WorkSafe under a specified provision of this Act or regulations made under this Act in relation to a specified matter. 15
- “(2) The Prime Minister may, by notice in the *Gazette*, specify—
- “(a) 1 or more matters in relation to which the Secretary may carry out functions conferred on WorkSafe under this Act; and
- “(b) 1 or more provisions of this Act or regulations made under this Act that confer functions on WorkSafe and under which the Secretary may exercise functions in relation to the specified matter. 20
- “(3) If the Secretary carries out a function in relation to a specified matter, every reference to WorkSafe in the relevant specified provision must be read as if it were a reference to the Secretary. 25
- “(4) Without limiting **subsection (3)**, the Secretary has the powers necessary to carry out the functions in a specified provision in relation to a specified matter in accordance with this Act. 30
- “(5) WorkSafe and the Secretary must work co-operatively to ensure that their functions under this Act and any regulations made under this Act are carried out in an effective and efficient manner.
- “(6) In this section,— 35

Part 1—*continued***Gas Act 1992 (1992 No 124)**—*continued*

“**specified matter** means a matter that is specified in a *Gazette* notice under **subsection (2)(a)**

“**specified provision** means a provision that is specified in a *Gazette* notice under **subsection (2)(b)**.”

“6B WorkSafe and Secretary must share information” 5

“(1) WorkSafe must provide information to the Secretary if the information is necessary or desirable for the Secretary to carry out his or her functions under this Act.

“(2) The Secretary must provide information to WorkSafe if the information is necessary or desirable for WorkSafe to carry out its functions under this Act.” 10

In section 7(1) and (3), replace “the Secretary’s” with “WorkSafe’s”.

In section 7(4), replace “he or she” with “WorkSafe” in each place.

In sections 7, 9, 10, 12, 14, 16 to 21, 39, 41 to 43, 51, 54(1)(b)(iv), (1)(d), (1)(n), (1)(o), and (3), and 57B to 57D, replace “the Secretary” with “WorkSafe” in each place. 15

In section 9(3A), replace “The Secretary’s” with “WorkSafe’s”.

In the headings to sections 9, 14, 20, and 21, replace “**Secretary**” with “**WorkSafe**”.

In the heading to section 10, replace “**Secretary’s**” with “**WorkSafe’s**”. 20

In sections 9, 19, 37, 38, 40, 57C, and 57E, replace “The Secretary” with “WorkSafe” in each place.

Replace section 17A with:

“17A Transfer of accident information” 25

“(1) In this section, **specified matter** means a matter that is specified in a *Gazette* notice under **section 6A(2)**.

“(2) If WorkSafe is notified of an accident under section 17 and the accident relates to a specified matter, WorkSafe must provide the notice and any particulars that WorkSafe has received to the Secretary. 30

“(3) If an accident relates to a specified matter, a person required to provide notification of any accident under section 17 may

Part 1—*continued***Gas Act 1992 (1992 No 124)**—*continued*

notify the Secretary in accordance with that section instead of WorkSafe.”

Replace section 41(6) and (7) with:

“(6) Despite section 73 of the Crown Entities Act 2004, WorkSafe must not delegate to any person the power conferred by this section. 5

“(7) **Subsection (8)** applies if, pursuant to **section 6A(3) and (4)**, the Secretary may exercise the power conferred by this section in relation to a matter specified in a *Gazette* notice under **section 6A(2)**. 10

“(8) Despite section 41 of the State Sector Act 1988, the Secretary must not delegate to any person the power conferred by this section.”

In section 54(1)(r), after “authorising”, insert “WorkSafe or”.

In section 54(2)(b)(ii), replace “section 20” with “**section 20A**”. 15

In section 54(4), replace “the Secretary” with “WorkSafe, the Secretary,” in each place.

Hazardous Substances and New Organisms Act 1996 (1996 No 30)

In section 2(1), insert in its appropriate alphabetical order: 20

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.

Replace section 97(1)(a) with:

“(a) WorkSafe must ensure that the provisions of this Act are enforced in any place of work:” 25

Replace section 97(1)(b) with:

“(b) WorkSafe must ensure that the provisions of this Act are enforced in, on, at, or around any distribution system, gas installation, or gas appliance:” 30

In section 97B(3), definition of **enforcement agency**, replace paragraph (a) with:

“(a) means WorkSafe:”.

Part 1—*continued***Health and Safety in Employment Act 1992 (1992 No 96)**

In section 2(1), repeal the definition of **departmental medical practitioner**.

In section 2(1), insert in its appropriate alphabetical order:

“**health and safety medical practitioner** means a person for the time being appointed under section 34(1)”.

In section 19H(4), replace “the Secretary” with “WorkSafe”.

In section 25(2)(b) and (3)(a) and (b), replace “the Secretary” with “WorkSafe”.

Replace section 25A with:

“25A Transfer of accident information

“(1) If WorkSafe is notified of an accident under section 25 and the accident relates to a specified matter, WorkSafe must provide the notice and any particulars that WorkSafe has received to the Secretary.

“(2) In this section, **specified matter** means a matter that is specified in a *Gazette* notice under **section 5A(2)** of the Electricity Act 1992 or **section 6A(2)** of the Gas Act 1992.”

In section 28B(4), replace “the Secretary were references to the chief executive of the agency.” with “WorkSafe were references to the chief executive of the agency.”

In section 29(1), replace “The Secretary” with “WorkSafe”.

In section 29(2) and (3), replace “the Secretary” with “WorkSafe”.

In section 31(4), replace “the Secretary” with “WorkSafe”.

In the cross-heading above section 34, replace “~~departmental~~ *Departmental medical practitioners*” with “~~health~~ *Health and safety medical practitioners*”.

In the heading to section 34, replace “**departmental medical practitioners**” with “**health and safety medical practitioners**”.

Replace section 34(1) with:

“(1) WorkSafe may appoint any medical practitioner to be a health and safety medical practitioner.”

In section 34(2), (3), and (4), replace “departmental medical practitioner” with “health and safety medical practitioner” in each place.

In section 34(2) and (3), replace “the Secretary” with “WorkSafe”.

Part 1—*continued***Health and Safety in Employment Act 1992 (1992 No 96)**—*continued*

In the heading to section 35, replace “**departmental medical practitioners**” with “**health and safety medical practitioners**”.

In section 35, replace “departmental medical practitioner” with “health and safety medical practitioner” in each place.

In the heading to section 36, replace “**Departmental medical practitioners**” with “**Health and safety medical practitioners**”. 5

In section 36, replace “departmental medical practitioners” with “health and safety medical practitioners” in each place.

In the heading to section 37, replace “**Departmental medical practitioners**” with “**Health and safety medical practitioners**”. 10

In section 37(1), replace “departmental medical practitioner” with “health and safety medical practitioner” in each place.

In section 37(1)(c), replace “departmental medical practitioner’s” with “health and safety medical practitioner’s”.

In section 38, replace “departmental medical practitioners” with “health and safety medical practitioners”. 15

In section 38, replace “departmental medical practitioner” with “health and safety medical practitioner”.

In the heading to section 54, replace “**Secretary**” with “**WorkSafe**”.

In section 54(1) and (2)(b), replace “the Secretary” with “WorkSafe”. 20

In section 54(2), replace “The Secretary” with “WorkSafe”.

In section 54A(2)(c), replace “the Secretary” with “WorkSafe”.

In section 54C(1)(b) and (3), replace “the Secretary” with “WorkSafe”.

In section 56G, replace “The Secretary” with “WorkSafe”. 25

Machinery Act 1950 (1950 No 52)

In section 2, repeal the definition of **Secretary**.

In section 2, insert in its appropriate alphabetical order:

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**.” 30

Part 1—*continued***Machinery Act 1950 (1950 No 52)**—*continued*

Replace section 5(1) with:

“(1) WorkSafe may appoint any employee of WorkSafe to be an Inspector for the purposes of this Act.”

In section 26A(2), replace “The Secretary” with “WorkSafe”.

In section 26B(2)(a), replace “the Secretary” with “WorkSafe”. 5

Replace section 26C with:

“26C Proof of codes of practice

“(1) In any proceedings, the production of a copy of a code of practice purporting to be issued by the following persons is sufficient evidence that the code of practice has been issued under section 26A and approved under section 26B: 10

“(a) for a code of practice issued before 16 October 1989, the Chief Inspector of Factories or the Chief Construction Safety Engineer:

“(b) for a code of practice issued on or after 16 October 1989 and before ~~1 December 2013~~ 16 December 2013, the Secretary of Labour: 15

“(c) for a code of practice issued on or after ~~1 December 2013~~ 16 December 2013, WorkSafe.

“(2) **Subsection (1)** does not affect any other method of proof by which it may be established that a code of practice has been issued under section 26A and approved under section 26B.” 20

Repeal section 41.

Ombudsmen Act 1975 (1975 No 9)

In Schedule 1, Part 2, insert in its appropriate alphabetical order: 25
“WorkSafe New Zealand”.

Privacy Act 1993 (1993 No 28)

In section 97, definition of **specified agency**, insert after paragraph (i):

“(ia) WorkSafe New Zealand:” 30

Part 1—*continued***Privacy Act 1993 (1993 No 28)**—*continued*

In section 97, definition of **specified agency**, replace paragraph (e) with:

“(e) the Ministry of Business, Innovation, and Employment.”

In Schedule 5, the third column of the item relating to Motor Vehicles Register, replace the item relating to Department of Labour with: 5

WorkSafe New Zealand (access is limited to name and address details of persons who are or were previously registered in respect of a specified vehicle for the purposes of enforcing the health and safety in employment legislation)

Ministry of Business, Innovation, and Employment (access is limited to name and address details of persons who are or were previously registered in respect of a specified vehicle for the purposes of enforcing immigration legislation)

Railways Act 2005 (2005 No 37)

In section 4(1), insert in its appropriate alphabetical order:

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**.” 10

In section 8(2), replace “the department” with “WorkSafe”.

Repeal section 8(3).

Part 2

Amendments to regulations

15

Amusement Devices Regulations 1978 (SR 1978/294)

In Schedule 1, forms 1 and 6, replace “the Department of Labour” with “WorkSafe”.

Electricity (Hazards from Trees) Regulations 2003 (SR 2003/375)

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In regulation 32(6), replace “the secretary” with “WorkSafe”.

Electricity (Safety) Regulations 2010 (SR 2010/36)

In the headings to regulations 19, 85, and 86, replace “**Secretary**” with “**WorkSafe**”.

Part 2—*continued***Electricity (Safety) Regulations 2010 (SR 2010/36)**—*continued*

In regulations 19, 53, 54, 55, 74E, 74F, 74G, 75, 78(3), 78(5), 78(6), 83, 84, 85, 86, 87, 91, 108, 109, 110, 111, 112, 112A, 112B, and 119, replace “the Secretary” with “WorkSafe” in each place.

In regulations 18A, 83, 84, 85, 86, 108, 109, 110, 111, 112A, 112B, and 119, replace “The Secretary” with “WorkSafe” in each place. 5

In the cross-heading above regulation 108, replace “*Secretary’s*” with “*WorkSafe’s*”.

In the headings to regulations 108 and 109, replace “**Secretary’s**” with “**WorkSafe’s**”.

In Schedule 3, forms 1 and 2, replace “Secretary/Registrar*” with “WorkSafe/Secretary/Registrar*”. 10

In the heading to Schedule 5, replace “**Secretary**” with “**WorkSafe**”.

Gas (Safety and Measurement) Regulations 2010 (SR 2010/76)

In regulations 3, 10, 31, 37, 38, 39, 52G, 52H, 52I, 54, 55, 57, 59, 60, 61, 62, 63, 64, 65, 67, 69, 73, 79, 82, 85, 85D, 85E, 86, 87, and 88, replace “the Secretary” with “WorkSafe” in each place. 15

In the headings to regulations 10, 61, and 62, replace “**Secretary**” with “**WorkSafe**”.

In regulations 59, 60, 61, 62, 64, 69, 82, 85, 85D, 85E, 86, and 91, replace “The Secretary” with “WorkSafe” in each place. 20

In the heading to regulation 85, replace “**Secretary’s**” with “**WorkSafe’s**”.

Geothermal Energy Regulations 1961 (SR 1961/124)

In regulation 2(1), revoke the definition of **Secretary**.

In regulation 2(1), insert in its appropriate alphabetical order: 25

“**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.

In regulations 2, 3, 4, 11, and 35, replace “the Secretary” with “WorkSafe” in each place. 30

Part 2—*continued***Geothermal Energy Regulations 1961 (SR 1961/124)**—*continued*

Replace regulation 3(1) to (2D) with:

“(1) For the purposes of the Act and these regulations, WorkSafe may appoint a Chief Geothermal Inspector and as many Geothermal Inspectors as may be required.

“(2) In addition to the powers of a Geothermal Inspector, the Chief Geothermal Inspector has the powers specified in these regulations or as may be reasonably necessary to carry these regulations into effect. 5

“(2A) WorkSafe must supply the Chief Geothermal Inspector and every Geothermal Inspector with a certificate of appointment.” 10

In regulations 11, 16, and 35, replace “The Secretary” with “WorkSafe”.

Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001 (SR 2001/117)

In regulation 30, replace “the chief executive of the department that is for the time being responsible for the administration of the Health and Safety in Employment Act 1992” with “WorkSafe New Zealand”. 15

Health and Safety in Employment (Adventure Activities) Regulations 2011 (SR 2011/367)

In regulation 3, revoke the definition of **Secretary**. 20

In regulations 3, 7, 11, 12, 17, 18, and 21, replace “the Secretary” with “WorkSafe” in each place.

Replace regulation 8(2) with:

“(2) Any other adventure activity operator who provides an adventure activity to a participant in the period starting on 1 May 2012 and ending on 31 December 2013 must, before providing the first such activity, give a written notice to— 25

“(a) the Secretary, if the first such activity is provided in the period starting on 1 May 2012 and ending on 30 November 2013; or 30

“(b) WorkSafe, if the first such activity is provided in the period starting on ~~1 December 2013~~ 16 December 2013 and ending on 31 December 2013.”

Part 2—*continued***Health and Safety in Employment (Adventure Activities) Regulations 2011 (SR 2011/367)—*continued***

In the heading to regulation 9, replace “Secretary” with “WorkSafe”.

In regulation 9(1), replace “The Secretary” with “WorkSafe”.

In regulation 9(2), replace “the Secretary’s” with “WorkSafe’s”.

Replace regulation 9(3) with:

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“(3) However, WorkSafe must not give a written notice if, when the notice is to be given,—

“(a) the Secretary has received a notice given under regulation 8(4) or (5) that includes evidence that the operator has passed a safety audit of the operator’s provision of the adventure activities; and

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“(b) the safety audit was passed within the last 3 years and any period of validity specified for the safety audit has not ended; and

“(c) WorkSafe considers that the auditor that provided the safety audit had the appropriate experience and qualifications to do so.”

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~~In regulation 9(3)(c), replace “the Secretary” with “WorkSafe”.~~

In regulations 11, 12, 13, 17, 18, 19, 20, and 21, replace “The Secretary” with “WorkSafe” in each place.

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Health and Safety in Employment (Asbestos) Regulations 1998 (SR 1998/443)

In regulations 20, 21, 24, 25, 26, 27, 28, 30, and 31, replace “the Secretary” with “WorkSafe” in each place.

In regulations 20 and 27, replace “The Secretary” with “WorkSafe” in each place.

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In the headings to regulations 20, 21, 24, 26, and 27, replace “Secretary” with “WorkSafe”.

Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013 (SR 2013/208)

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In regulations 3, 22, 23, 24, 26, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 43, 45, 48, 49, 50, 51, 55, 56, 58, 59, 62(2), 72, 73, 74, 75, 76, 78,

Part 2—*continued***Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 2013 (SR 2013/208)—*continued***

79, 80, and 85 and Schedules 4 and 5, replace “the Secretary” with “WorkSafe” in each place.

In the headings to regulations 29, 30, 32, 33, 35, 38, 40, 50, 58, 73, 74, and 75, replace “Secretary” with “WorkSafe”.

In regulations 30, 31, 32, 33, 34, 35, 37, 38, 40, 47, 49, 56, 58, and 75, replace “The Secretary” with “WorkSafe” in each place.

In regulation 49(2), replace “his or her” with “its”.

In regulation 58(2), replace “his or her” with “its”.

Health and Safety in Employment (Pipelines) Regulations 1999 (SR 1999/350)

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In regulations 2, 9, 11, 12, 13, and 17, replace “the Secretary” with “WorkSafe” in each place.

In regulation 9, replace “The Secretary” with “WorkSafe” in each place.

In Schedule 1, replace “the Secretary of Labour” with “WorkSafe”.

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In the heading to Schedule 2, replace “Secretary” with “WorkSafe”.

In Schedule 2, headings to Part 1 and Part 2, replace “Secretary” with “WorkSafe”.

Health and Safety in Employment (Pressure Equipment, Cranes, and Passenger Ropeways) Regulations 1999 (SR 1999/128)

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In regulations 5, 6, 17, 22, 23, 25, 29, and 35, replace “The Secretary” with “WorkSafe” in each place.

In regulations 5, 6, 9, 10, 15, 17, 22, 23, 24, 25, 28, 34, 35, and 37, replace “the Secretary” with “WorkSafe” in each place.

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Health and Safety in Employment Regulations 1995 (SR 1995/167)

In the headings to regulations 28, 29, 36, 38, and 39, replace “Secretary” with “WorkSafe”.

In regulations 19, 28, 39, and 65, replace “The Secretary” with “WorkSafe” in each place.

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WorkSafe New Zealand Bill

Part 2—*continued*

Health and Safety in Employment Regulations 1995 (SR 1995/167)—*continued*

In regulations 19, 28, 29, 36, 37, 38, 39, 40, 42, 43, and 65, replace “the Secretary” with “WorkSafe” in each place.

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Legislative history

12 November 2013

Divided from Health and Safety (Pike River Implementation) Bill (Bill 130–2) by committee of the whole House as Bill 130–3A
