

# **Health and Safety (Pike River Implementation) Bill**

Government Bill

As reported from the Transport and  
Industrial Relations Committee

## **Commentary**

### **Recommendation**

The Transport and Industrial Relations Committee has examined the Health and Safety (Pike River Implementation) Bill and recommends by majority that it be passed with the amendments shown.

### **Introduction**

The bill seeks to implement the recommendations of the Royal Commission on the Pike River Coal Mine Tragedy that require new or amended primary legislation. It would create a new WorkSafe New Zealand Act 2013, amend the Health and Safety in Employment Act 1992, and create a new Mines Rescue Act 2013 to replace the Mines Rescue Trust Act 1992, which the bill would repeal.

Part 1 of the bill would create a new WorkSafe New Zealand Act 2013 establishing WorkSafe New Zealand, a new standalone Crown agent responsible for workplace health and safety. This part of the bill would set out the objectives and functions of WorkSafe New Zealand, and prescribe the composition of its governance board. It would also

provide for the transfer of employees and assets from the Ministry of Business, Innovation and Employment to WorkSafe New Zealand.

Part 2 of the bill would amend the Health and Safety in Employment Act 1992 to support the introduction of a new regulatory regime for the management of hazards in the mining industry. The new regime itself would, for the most part, be set out in regulations; this part of the bill would provide the necessary regulation-making powers and definitions. In the bill as introduced, the scope of the new regulatory regime would extend beyond underground coal mining to include other hazardous operations; it would apply to underground and surface coal and metalliferous mines, and to some quarries and tunnels. The main amendment to the Health and Safety in Employment Act would be provision for a new approach to workers' participation in mining operations.

Part 3 of the bill would create a new Mines Rescue Act 2013, repealing the Mines Rescue Trust Act 1992. It seeks to reflect more closely the functions performed by the trust's operational arm, the Mines Rescue Service, and to extend the service's coverage to include all coal mines, underground metalliferous mines, and long tunnels. This part of the bill would also make some changes to the service's funding arrangements, for flexibility, and would limit the trust's liability for damage, in line with that of other emergency services.

### **Further health and safety legislation**

The bill focuses on mining health and safety, so does not deal with the more general recommendations of the Independent Taskforce on Workplace Health and Safety. Since it was introduced, however, the Government has announced its intention to introduce new health and safety legislation to replace the Health and Safety in Employment Act 1992 as New Zealand's main workplace health and safety legislation. The new legislation would implement recommendations by the taskforce, and would be modelled on Australia's Model Work Health and Safety Act (the Australian Model Act).

### **Proposed amendments**

The following commentary discusses the more significant amendments we recommend to the bill. It does not discuss minor or technical amendments.

We consulted the Regulations Review Committee on the proposed regulation-making powers in the bill, and are recommending some amendments to take account of their views.

## **Part 1: WorkSafe New Zealand**

### **WorkSafe's board**

Clause 7 sets out the provisions for WorkSafe's governance board. To make clear the intention that membership of the board must reflect different viewpoints on workplace health and safety, including those of workers, we recommend amending the phrase "perspectives of workplace participants" in clause 7(2)(d) to "perspectives of workers", and inserting clause 7(2)(da), "perspectives of employers".

### **WorkSafe's main objective**

We recommend amending clause 9(1) so that WorkSafe New Zealand's proposed objective would be to "promote and contribute to securing the health and safety of workers and workplaces". We consider it vital that WorkSafe play a strong leadership role, and believe the amended wording would send a suitable signal that WorkSafe aims to help secure the safety of workers, rather than simply to "promote the prevention of harm", as it is phrased in the bill as introduced.

The wording we propose would align the objective with Australia's Model Act which, at the recommendation of the independent task-force, the Government intends to use as the basis for new workplace health and safety legislation. We consider it appropriate to make the change now, rather than to wait for the proposed Health and Safety at Work Bill to be introduced and enacted.

### **Transitional arrangements**

Clauses 11 to 18 provide for the transition of employees and functions from the Ministry of Business, Innovation and Employment to WorkSafe. We are recommending some amendments to this part of the bill (inserting clauses 16A and 18A, and amending clause 18) for technical reasons to assist with the transition.

## Part 2: Health and Safety in Employment Act 1992

### Interpretation

We are recommending several amendments in clauses 21 and 27, and the insertion of clause 25A, for purposes of clarity. In particular, we recommend changing the terms “mine health and safety representative” and “mine health and safety committee” to “site health and safety representative” and “site health and safety committee”, to distinguish them clearly from industry representatives and to make it clear that they would operate at the site level. For consistency, we also recommend that “mining industry health and safety representative” be changed to “industry health and safety representative”.

### What mining operations would be covered by regulations

Clause 27 includes a definition of mining operation in section 19M which would determine the types of mining operation to be covered by the proposed new mining regulations. As introduced, the bill proposes to apply the regime to a number of kinds of operation considered to be particularly hazardous, with the potential for multiple fatalities. As well as underground coal mining, surface coal and metalliferous mines would be covered, as would some quarries and tunnels.

When considering the proposals in the bill, we have kept in mind the importance of matching the degree of regulatory control to the degree of risk. The Pike River tragedy made it all too clear that there was a mismatch. Stronger health and safety controls, which this bill and the associated regulations aim to achieve, are clearly needed. The controls should, however, be in proportion to the risks.

After considering submissions on the bill and on the public consultation document *Safe Mines: Safe Workers*, we have come to the view that quarries and alluvial mining operations do not entail the same degree of hazard or potential for multiple fatalities as other mining operations, and so do not warrant the imposition of the more stringent requirements of the proposed regulatory regime. We consider it more appropriate that the Government and industry jointly develop health and safety rules appropriate to the risks entailed in such activities, rather than having them caught in the same net as mining. We also note that, because the definition of “coal” would include “peat”, peat farming operations would potentially be included in the new regula-

tory regime. We do not consider that such operations incur hazards that would justify the compliance costs entailed in the proposed regulations.

Accordingly, we recommend amending clause 27, sections 19L and 19M, to exclude quarries, alluvial mining, and peat farming from the definition of “mining operation”. We note the intention that the regulations would distinguish between types of operations where appropriate, so that, for example, metalliferous mines would not have to comply with standards to control methane, which is not a hazard in such mines.

We also recommend amending clause 27, section 19M, so that coverage of the exploration phase would apply only to coal. Consultation on the proposed regulations has made it clear that exploration for minerals is not sufficiently hazardous to justify imposing the more stringent requirements of the new regime.

We recommend consequential amendments in clause 27, sections 19N and 19P, to reflect the recommendation to remove quarries from the definition of “mining operation”. Section 19P would allow the Governor-General, by Order in Council, to specify classes of quarrying or tunnelling operations that would be excluded from the new mining health and safety regime. If our recommendation regarding section 19M is accepted and quarrying is excluded from the definition of “mining operation”, this provision need not to apply to quarries.

As the Labour and Green members note in their minority view, they do not agree with these amendments.

### **Worker participation**

Part 2A of the existing Act provides for the participation of employees in processes relating to workplace health and safety. The bill (clause 27, inserting Part 2B, sections 19Q to 19ZY) would add new provisions covering participation by all mine workers, not just those who are employees. Part 2B aims to mirror the existing Part 2A, with amendments to address the recommendations of the Royal Commission.

We recommend the following amendments in clause 27 to clarify the provisions and to correct an apparent oversight:

- inserting section 19Q(5)(da) to carry over an element of Part 2A in the existing Act that appears to have been inadvertently omitted from the proposed Part 2B
- amending section 19R(4) to make it clear that there would have to be a health and safety representative if one or more mine workers requested it.

#### *Mine health and safety representatives*

Under clause 27, section 19U(2), a person could not be elected as a mine health and safety representative unless they met the competency requirements prescribed in regulations. As this formulation would limit potential candidates for the role to those who had already received the necessary training, we recommend amending this provision so that a person could be elected without the prescribed competencies but would not be allowed to exercise the functions and powers for which training is required (relating to inspection, and stopping operations) until they had completed their training and achieved the required level of competency. In the meantime, they could exercise all the other functions and powers of a representative. To this end, we recommend deleting section 19U(2) and inserting section 19WA. We also recommend inserting subsection (4) in clause 27, section 19U, to ensure that mine health and safety representatives would have enough leave to undertake the training that would be required of them by the regulations.

#### *Functions of health and safety representatives*

We considered a number of possible adjustments to the functions of mine health and safety representatives set out clause 27, section 19V. We believe there would be benefits in standardising the functions of representatives between mine sites. Accordingly, we recommend deleting section 19V(f) which would provide a catch-all ability for additional functions to be negotiated. However, we recommend adding two further broad functions: section 19V(aa), to represent workers in matters relating to workplace health and safety (a core function, but previously only spelled out in a definition); and an amended section 19V(f), to promote the interests of workers who

have been harmed at work, by means including arrangements for their rehabilitation. The second of these functions echoes an existing default provision in the Health and Safety in Employment Act.

*Powers of health and safety representatives*

We examined closely the powers proposed for mine health and safety representatives set out in clause 27, sections 19X to 19ZL, and consider some changes and additions to be warranted.

The proposed power to examine and copy documents in section 19Z raises concern about confidential information. To address this, we recommend inserting section 19ZKA, a confidentiality provision based on section 271 of the Australian Model Act. A mine or industry health and safety representative would be required to keep confidential any information they accessed under the Act, with certain exceptions. For example, information could be disclosed with consent, or if disclosure was necessary to exercise a power or function.

We recommend amending clause 27, section 19ZD, to make it clear that mine health and safety representatives must have received appropriate training and achieved the required competency before they could exercise the power to issue a hazard notice.

We recommend amending clause 27, section 19ZE, so that the power to give a notice requiring the suspension of a mining operation would include a requirement for the health and safety representative to discuss or attempt to discuss the matter with the site senior executive (SSE), and for the SSE to notify WorkSafe that a notice had been given.

Similarly, we recommend amending clause 27, section 19ZF, so that the SSE would be required to notify WorkSafe if the health and safety representative exercised their power to stop a mining operation.

We consider that health and safety representatives should have immunity from liability for any actions or omissions in good faith when exercising their functions and powers. We therefore recommend inserting section 19ZLA, which is based on section 66 of the Australian Model Act.

We also recommend inserting section 19ZLB to impose a positive duty on mine operators of allowing health and safety representatives

such time and access to facilities as is reasonably necessary for them to perform their functions and to exercise their powers.

*Removal of health and safety representatives*

Clause 27, sections 19ZM and 19ZV, would allow WorkSafe to remove a mine or industry health and safety representative if they were not performing their functions or exercising their powers satisfactorily. For clarity, we recommend amending section 19ZM to include examples of grounds for removal. The examples we propose are exercising functions or powers for an improper purpose, and using or disclosing information acquired in the role otherwise than as permitted under the Act.

Section 19ZO provides for a mine health and safety representative to appeal against their removal, while section 19ZN would prevent the election of a replacement until a decision was made on the appeal. We see value in allowing the election of a temporary representative while an appeal is under way, and recommend amending clause 27, section 19ZN, to provide for this if one or more mine workers should request it.

*Mining industry health and safety representatives*

Clause 27, section 19ZP, provides for the appointment of mining industry health and safety representatives (IHSRs, sometimes called “check inspectors”). We recommend an amendment so that such representatives would be appointed only for underground coal mining. We are aware of differing views about the value of such representatives. The Royal Commission recommended check inspectors for underground coal mines, noting the value of “an extra set of eyes and ears” in these extra-hazardous settings. We agree. We also acknowledge the view that workers can find it reassuring to have an independent person, not associated with the workplace or a union, with whom they can raise health and safety issues. However, we are conscious that checks and controls should match the level of risk if unnecessary compliance costs are to be avoided. We consider that the extra check an ISHR provides is not necessary for metalliferous mines and tunnels, where the risk of explosion from methane is absent.



*Functions of the New Zealand Mining Board of Examiners*

Clause 28, sections 20D to 20H, provides for WorkSafe to establish a Board of Examiners for the mining industry to advise WorkSafe on competency requirements for mine workers, to examine workers and issue certificates of competence, and to perform other functions conferred by regulations. The provision as introduced seems rather open-ended, so we recommend amending section 20E(d) to make it clear that the functions to be conferred by regulations would relate only to training and competency requirements in the extractives industry.

*Board levy*

Clause 28, section 20H, would provide for a levy to be imposed on mine operators, by regulation, to fund the costs of the Board of Examiners. We recommend some amendments to specify in more detail what the regulations should prescribe, including how the levy rate or rates would be calculated, and which mine operators would be responsible for paying the levy. We also recommend including a requirement for levy payers to be consulted, and specifying that the levy would cover both the direct and indirect costs of the board. We also recommend amending section 20H(1) to ensure that the levy on mine operators would fund only those costs incurred by the Board that relate directly to mining operations.

**Part 3: Mines rescue**

The bill would extend the coverage of the Mines Rescue Service beyond coal mines to include underground metalliferous mines and tunnels of 150 metres or more. We consider the proposed coverage appropriate. Rescue capability in these environments would be enhanced by the service's specialist expertise in dealing with emergencies in irrespirable atmospheres, while the Fire Service and other emergency services would have the capacity to deal with quarries, shorter tunnels, and surface metalliferous mines.

We recommend amending the provision in clause 45(a) for a non-voting member on the Mines Rescue Trust Board to be appointed by the chief executive of the Ministry of Business, Innovation and Employment. We consider it would be more appropriate for the Crown's interests to be represented by a person appointed by WorkSafe (again,

in a non-voting capacity), and recommend amending clause 45(a) accordingly.

### **Regulations**

We recommend an amendment in clause 52(3), which relates to an Order in Council revoking the appointment of a commissioner to carry out the functions of the Mines Rescue Trust. Our proposed change would reflect more closely the approach taken in the equivalent provision in section 6(4) of the Mines Rescue Trust Act.

We recommend amending clause 54 to clarify the intent of the proposed regulation-making power, in that it should allow for regulations to prescribe the number of workers to be made available for mines rescue brigades, the extent to which they must be made available, and any other matters necessary to achieve this.

### **The Pike River families**

We feel it appropriate that the final words in our commentary should relate to the families of the 29 men who died on 19 November 2010 in the Pike River mine.

We received written submissions from Nicholas Davidson, QC, on behalf of all the families, and from two individuals who each lost a son in the disaster. We also visited Greymouth to meet family representatives and community members, and to hear their views and concerns in person.

Key concerns expressed to us by the families included the inexperience and lack of training of workers operating and monitoring sophisticated machinery, the use of unproven technology, a lack of communication and coordination, high staff turnover, and the adverse incentives and pressures engendered by remuneration arrangements in which bonuses figure prominently.

We believe that by creating an entity with a key role in leading the promotion of health and safety, by providing for workers to participate much more closely with managers in managing hazards, and by expanding the coverage of the Mines Rescue Service in preparing for and responding to emergencies, the enactment of this bill would go a considerable way to addressing the failings that led to the tragedy at Pike River. However, we agree with the families that even under this more prescriptive legislation, drawing on best-practice models,

much will also depend on actual performance under the new structure.

Some of the issues raised by the families are being addressed in the new mining regulations being developed in tandem with this bill. The regulations are intended to require, among other things, specified competencies for safety-critical roles, minimum training, and continuous professional development, and will require mines to have a site senior executive with overall responsibility for a site's health and safety management systems. The regulations would also set out in detail the processes to be followed in managing principal hazards, and would require operators to maintain up-to-date lists of emergency contact details for all workers. We understand from the families that gaps in next-of-kin contact information added considerable additional stress to the grief of the disaster.

Some of the concerns raised by the families would also be addressed in broader legislation for health and safety at work, which is proposed to follow this bill. In particular, the responsibilities of directors would include a duty to manage health and safety proactively, and penalties, including the potential maximum term of imprisonment, for breaches of health and safety duties would be increased. We understand that the possibility of extending the crime of manslaughter to the corporate level is being considered by the Ministry of Justice.

Ultimately, we acknowledge that a legislative framework, however sound, can only go so far to prevent tragedy. We believe the experience of Pike River has brought about the necessary recognition and secured commitment on all sides to address issues that remain. We appreciate the efforts being made by various chief executives and senior leaders through the Business Leaders' Health and Safety Forum to increase awareness of the need for improvements, and to encourage a step-change in New Zealand's health and safety performance. We hope to see such engagement and commitment to health and safety continue at all levels and become an integral part of corporate cultures, to ensure that New Zealand never again has to suffer a tragedy like that of Pike River.

## **New Zealand Labour Party and Green Party of Aotearoa/New Zealand minority view**

There are three areas in the bill as reported to the House where the Labour Party and Green Party have a substantial disagreement with the majority.

### **WorkSafe New Zealand's board**

At Clause 7 the bill provides for the board members of WorkSafe New Zealand to be appointed by the Minister. The bill does not place any constraint on these ministerial appointments but instead requires the Minister to “have regard” to various factors. This will result in a board that will be, to some extent, reflective of the perspectives of the various workplace participants, but it will not represent them. The recent comprehensive review of New Zealand's occupational health and safety framework supported the Royal Commission's call for an independent regulator with a tripartite board, but recommended that this board should be comprised of members who actually represented the three parties.

It is the view of the Labour Party and Green Party that the bill should follow the Taskforce's recommendation, and that this is essential both for rebuilding trust and confidence in the state's role as regulator and to ensure that the nature of the independent regulator does not shift according to which political party happens to be in power.

There were no arguments made in submissions as to why a reflective model should be preferred to a representative one.

### **WorkSafe New Zealand's powers and functions**

Clause 10 sets out a list of thirteen “functions”. While these have something in common with those recommended both by the Royal Commission and by the Task Force, they are not the same, and in our view there has been no compelling argument as to why the Task Force recommendation as to functions should not be adopted in its entirety.

This is particularly concerning because the functions set out in this clause seem to describe pretty well the intended way of operating for the Department of Labour's Mines Inspectors at the time of the Pike River Disaster, and fall well short of those the Royal Commission intended for the independent regulator. In the view of the Labour Party

and Green Party, “working alongside” a mine operator to improve health and safety is to be encouraged but, as was shown in the Pike River disaster, sometimes employers will have strong incentives not to comply with good practice, and it is essential that the regulator possess an adequate range of enforcement powers. We do not believe that clause 10 does this.

### **Scope of the legislation**

As introduced, the bill sets out new health and safety requirements in Part 2 for all mining operations, including quarrying and some types of tunnelling. In the view of the Labour Party and Green Party, this scope is appropriate. The Royal Commission’s report very clearly identifies the Pike River disaster as a “process safety” failure. Crucially, process safety failures result from the combined failures of multiple “defences”, rather than a single risk factor. The majority of the committee have preferred to significantly narrow the coverage of Part 2 on the basis that only certain mines carry the particular risk of explosions. In our view this is inappropriate and fundamentally misses the point of what went wrong at Pike River. In our view the range of industries to which Part 2 provisions should be applied ought to be expanded, not narrowed.

## **Appendix**

### **Committee process**

The Health and Safety (Pike River Implementation) Bill was referred to the committee on 27 June 2013. The closing date for submissions was 25 July 2013. We received and considered 41 submissions from interested groups and individuals. We heard oral evidence from 11 submitters; we also heard from members of the community at a hearing in Greymouth attended by representatives of the families of the 29 men who died in the Pike River disaster.

We received advice from the Ministry of Business, Innovation and Employment. The Regulations Review Committee reported to the committee on the powers contained in clauses 27, 28, 29, 46, 52, and 54.

### **Committee membership**

David Bennett (Chairperson)

Chris Auchinvole

Carol Beaumont (from 25 September 2013)

Dr Cam Calder

Darien Fenton

Iain Lees-Galloway (until 25 September 2013)

Andrew Little (from 25 September 2013)

Sue Moroney (until 25 September 2013)

Simon O'Connor

Denise Roche

Mike Sabin

Kevin Hague replaced Denise Roche for this item of business.

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**Health and Safety (Pike River  
Implementation) Bill**

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**Key to symbols used in reprinted bill**

**As reported from a select committee**

text inserted by a majority

text inserted unanimously

~~text deleted by a majority~~

~~text deleted unanimously~~

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*Hon Simon Bridges*

## **Health and Safety (Pike River Implementation) Bill**

Government Bill

### **Contents**

|                                                                              |                                                      | Page |
|------------------------------------------------------------------------------|------------------------------------------------------|------|
| 1                                                                            | Title                                                | 7    |
| 2                                                                            | Commencement                                         | 7    |
| <b>Part 1</b>                                                                |                                                      |      |
| <b>WorkSafe New Zealand</b>                                                  |                                                      |      |
| Subpart 1—Preliminary provisions                                             |                                                      |      |
| 3                                                                            | Interpretation                                       | 7    |
| 4                                                                            | Part binds the Crown                                 | 8    |
| Subpart 2—WorkSafe New Zealand                                               |                                                      |      |
| 5                                                                            | WorkSafe New Zealand established                     | 8    |
| 6                                                                            | WorkSafe New Zealand is Crown entity                 | 8    |
| 7                                                                            | WorkSafe New Zealand's board                         | 8    |
| 8                                                                            | Advisory groups                                      | 9    |
| <i>WorkSafe New Zealand's main objective and functions</i>                   |                                                      |      |
| 9                                                                            | WorkSafe New Zealand's main objective                | 9    |
| 10                                                                           | WorkSafe New Zealand's functions                     | 9    |
| Subpart 3—Transition to WorkSafe New Zealand and<br>consequential amendments |                                                      |      |
| <i>Transfer of employees</i>                                                 |                                                      |      |
| 11                                                                           | Restriction on compensation for technical redundancy | 11   |
| 12                                                                           | Terms and conditions of transferred employees        | 11   |
| 13                                                                           | Transferred employees bound by collective agreement  | 12   |
| 14                                                                           | Government Superannuation fund                       | 12   |

**Health and Safety (Pike River  
Implementation) Bill**

---

|                                                                                  |                                                                                                               |    |
|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|----|
| <i>Transfer of contracts</i>                                                     |                                                                                                               |    |
| 15                                                                               | Transfer of contracts to Worksafe New Zealand                                                                 | 12 |
| <i>Consequences of transfers of functions, etc</i>                               |                                                                                                               |    |
| 16                                                                               | Consequences of transfer of functions under relevant health and safety legislation to WorkSafe New Zealand    | 13 |
| 16A                                                                              | Transitional provision relating to legal services in respect of functions transferred to WorkSafe New Zealand | 14 |
| 17                                                                               | Consequences of transfer of collective agreement or contract to WorkSafe New Zealand                          | 15 |
| <i>Continuation of appointments under relevant health and safety legislation</i> |                                                                                                               |    |
| 18                                                                               | Continuation of inspectors and enforcement officers                                                           | 15 |
| 18A                                                                              | Continuation and renaming of departmental medical practitioners                                               | 16 |
| <i>Amendments to other enactments</i>                                            |                                                                                                               |    |
| 19                                                                               | Amendments to other enactments                                                                                | 16 |
| <b>Part 2</b>                                                                    |                                                                                                               |    |
| <b>Amendments to Health and Safety in Employment Act 1992</b>                    |                                                                                                               |    |
| 20                                                                               | Principal Act                                                                                                 | 17 |
| 21                                                                               | Section 2 amended (Interpretation)                                                                            | 17 |
| 22                                                                               | New section 3G inserted (Provisions affecting application of amendments to this Act)                          | 18 |
|                                                                                  | 3G Provisions affecting application of amendments to this Act                                                 | 18 |
| 23                                                                               | Section 11 amended (Employees to be given results of monitoring)                                              | 18 |
| 24                                                                               | New sections 12A and 12B and cross-heading inserted                                                           | 19 |
| <i>Duties of mine operators in relation to information</i>                       |                                                                                                               |    |
|                                                                                  | 12A Mine workers to be given results of monitoring                                                            | 19 |
|                                                                                  | 12B Information for site health and safety representatives                                                    | 20 |
| 25                                                                               | New section 13AA and cross-heading inserted                                                                   | 20 |
| <i>Duties of mine operators in relation to training and supervision</i>          |                                                                                                               |    |
|                                                                                  | 13AA Training and supervision of mine workers                                                                 | 20 |
| 25A                                                                              | Section 19G amended (Minister may approve occupational health and safety training)                            | 20 |

**Health and Safety (Pike River  
Implementation) Bill**

---

|    |                                                                   |    |
|----|-------------------------------------------------------------------|----|
| 26 | New section 19J inserted (Relationship of this Part with Part 2B) | 20 |
|    | 19J Relationship of this Part with Part 2B                        | 21 |
| 27 | New Part 2B inserted                                              | 21 |

**Part 2B**

**Worker participation in health and safety in  
mining sector**

|     |                                                                                |    |
|-----|--------------------------------------------------------------------------------|----|
| 19K | Purpose of Part                                                                | 21 |
| 19L | Interpretation                                                                 | 21 |
| 19M | Meaning of mining operation                                                    | 25 |
| 19N | Meaning of quarrying operation                                                 | 26 |
| 19O | Meaning of tunnelling operation                                                | 26 |
| 19P | Governor-General may, by Order in Council, exclude operations from section 19O | 27 |
| 19Q | General duty to involve mine workers in health and safety matters              | 27 |

*Worker participation system*

|      |                                                        |    |
|------|--------------------------------------------------------|----|
| 19R  | Development of worker participation system             | 28 |
| 19RA | Training of site health and safety representatives     | 29 |
| 19S  | Review and replacement of worker participation systems | 29 |
| 19T  | Prescribed provisions apply if no scheme in place      | 30 |

*Site health and safety representatives*

|     |                                                     |    |
|-----|-----------------------------------------------------|----|
| 19U | Election of site health and safety representatives  | 30 |
| 19V | Functions of site health and safety representatives | 31 |
| 19W | No duty on site health and safety representatives   | 31 |

*Powers of site health and safety representatives*

|      |                                                                                      |    |
|------|--------------------------------------------------------------------------------------|----|
| 19WA | Competency requirements for exercise of certain powers                               | 31 |
| 19X  | Power of site health and safety representative to attend interview                   | 32 |
| 19Y  | Power of site health and safety representative to enter and inspect mining operation | 32 |
| 19Z  | Power of site health and safety representative to examine and copy documents         | 32 |
| 19ZA | Power to require assistance                                                          | 33 |
| 19ZB | Power of site health and safety representative to accompany inspector                | 33 |
| 19ZC | Site health and safety representative may consult inspector                          | 33 |

**Health and Safety (Pike River  
Implementation) Bill**

---

|       |                                                                                                                     |    |
|-------|---------------------------------------------------------------------------------------------------------------------|----|
| 19ZD  | Trained site health and safety representatives may issue hazard notices                                             | 33 |
| 19ZE  | Power of site health and safety representative to give notice requiring suspension of mining operation              | 35 |
| 19ZF  | Power of site health and safety representative to require mining operation to stop in case of imminent serious harm | 35 |
| 19ZG  | Inspector may cancel order to suspend mining operation                                                              | 36 |
| 19ZH  | Workers must do other work                                                                                          | 36 |
| 19ZI  | Work not to restart until no likelihood of serious harm                                                             | 36 |
| 19ZJ  | Protection of site health and safety representatives performing functions or exercising powers                      | 37 |
| 19ZK  | Functions and powers for health and safety purposes only                                                            | 37 |
| 19ZKA | Information to be used for health and safety purposes only                                                          | 37 |
| 19ZL  | Health and safety representative not to unnecessarily impede production                                             | 38 |
| 19ZLA | Protection from civil and criminal liability                                                                        | 38 |
| 19ZLB | Obligations of mine operators                                                                                       | 38 |
|       | <i>Removal of site health and safety representative</i>                                                             |    |
| 19ZM  | WorkSafe may remove site health and safety representative                                                           | 38 |
| 19ZN  | Election of another site health and safety representative                                                           | 39 |
| 19ZO  | Site health and safety representative may appeal against removal                                                    | 39 |
|       | <i>Industry health and safety representatives</i>                                                                   |    |
| 19ZP  | Appointment of industry health and safety representatives                                                           | 40 |
| 19ZQ  | Notice to WorkSafe of appointment or cessation of appointment of representative                                     | 40 |
| 19ZR  | Functions and powers of industry health and safety representatives                                                  | 40 |
| 19ZS  | Further provision concerning scope of functions and powers of industry health and safety representatives            | 41 |
| 19ZT  | Identity cards                                                                                                      | 41 |

**Health and Safety (Pike River  
Implementation) Bill**

---

|     |                                 |                                                                                     |    |
|-----|---------------------------------|-------------------------------------------------------------------------------------|----|
|     | 19ZU                            | Production or display of identity card                                              | 42 |
|     | 19ZV                            | Removal of industry health and safety representative                                | 42 |
|     | 19ZW                            | Register of industry health and safety representatives                              | 42 |
|     | 19ZX                            | Alterations to register                                                             | 43 |
|     | 19ZY                            | Search of register                                                                  | 43 |
| 28  | Section 20                      | replaced (Codes of practice)                                                        | 43 |
|     | 20                              | Codes of practice                                                                   | 43 |
|     | 20A                             | Code to be approved by Minister                                                     | 44 |
|     | 20B                             | Court may have regard to code                                                       | 45 |
|     | 20C                             | Codes to be made available                                                          | 46 |
|     |                                 | <i>Competencies in mining industry</i>                                              |    |
|     | 20D                             | New Zealand Mining Board of Examiners                                               | 46 |
|     | 20E                             | Functions of Board                                                                  | 46 |
|     | 20F                             | Membership of Board                                                                 | 47 |
|     | 20G                             | Proceedings of Board                                                                | 47 |
|     | 20H                             | Board levy                                                                          | 47 |
| 29  | Section 21                      | amended (Regulations)                                                               | 49 |
| 30  | Section 22                      | amended (Application of regulations)                                                | 49 |
| 31  | Section 23                      | amended (Other provisions relating to regulations)                                  | 50 |
| 31A | Section 31                      | amended (Powers of entry and inspection)                                            | 50 |
| 31B | Section 33                      | amended (Powers to take samples and other objects and things)                       | 50 |
| 32  | New section 39A                 | inserted (Inspectors may issue improvement notices in relation to mining operation) | 51 |
|     | 39A                             | Inspectors may issue improvement notices in relation to mining operation            | 51 |
| 33  | New section 41A                 | inserted (Inspectors may issue prohibition notices in relation to mining operation) | 51 |
|     | 41A                             | Inspectors may issue prohibition notices in relation to mining operation            | 51 |
| 34  | Section 42                      | amended (Service of prohibition notices)                                            | 52 |
| 35  | Section 43                      | amended (Compliance with prohibition notices)                                       | 53 |
| 36  | Section 50                      | amended (Other offences)                                                            | 53 |
| 36A | Section 56D                     | amended (Inspector may require information)                                         | 53 |
| 37  | Section 59                      | amended (Funding)                                                                   | 53 |
| 38  | New section 63 and Schedule 1AA | inserted                                                                            | 54 |
|     | 63                              | Application, savings, and transitional provisions                                   | 54 |

**Health and Safety (Pike River  
Implementation) Bill**

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|    |                                                             |    |
|----|-------------------------------------------------------------|----|
| 39 | Further amendments                                          | 54 |
|    | <b>Part 3</b>                                               |    |
|    | <b>Mines Rescue</b>                                         |    |
| 40 | Interpretation                                              | 54 |
| 41 | Part binds the Crown                                        | 57 |
| 42 | Provisions affecting application of amendments to this Part | 57 |
|    | <i>Mines Rescue Trust Board</i>                             |    |
| 43 | Mines Rescue Trust Board                                    | 57 |
| 44 | Functions of board                                          | 58 |
| 45 | Membership of board                                         | 58 |
|    | <i>Cost recovery</i>                                        |    |
| 46 | Regulations imposing levies                                 | 59 |
| 47 | Board to account for levy                                   | 60 |
| 48 | Failure to pay levy                                         | 61 |
| 49 | Power of inspection in relation to levy                     | 61 |
| 50 | Offences                                                    | 62 |
| 51 | Recovery of costs incurred in emergency                     | 62 |
|    | <i>Miscellaneous provisions</i>                             |    |
| 52 | Appointment of commissioner                                 | 63 |
| 53 | Protection from civil and criminal liability                | 63 |
| 54 | Regulations                                                 | 64 |
| 55 | Application, savings, and transitional provisions           | 64 |
| 56 | Repeal of Mines Rescue Trust Act 1992                       | 64 |
|    | <b>Schedule 1</b>                                           | 65 |
|    | <b>Amendments relating to WorkSafe New Zealand</b>          |    |
|    | <b>Schedule 2</b>                                           | 84 |
|    | <b>New Schedule 1AA inserted in principal Act</b>           |    |
|    | <b>Schedule 3</b>                                           | 85 |
|    | <b>Consequential amendments</b>                             |    |
|    | <b>Schedule 4</b>                                           | 86 |
|    | <b>Application, savings, and transitional provisions</b>    |    |

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Health and Safety (Pike River Implementation) Act **2013**.
- 2 Commencement** 5  
This Act comes into force on **1 December 2013**.

**Part 1**  
**WorkSafe New Zealand**

Subpart 1—Preliminary provisions

- 3 Interpretation** 10  
In this **Part**, unless the context otherwise requires,—  
**board** means the board of WorkSafe New Zealand  
**chief executive** means the chief executive of MBIE  
**collective agreement** has the same meaning as in section 2 of the State Sector Act 1988 15  
**employment agreement** has the same meaning as in section 5 of the Employment Relations Act 2000  
**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 Part** 20  
**relevant health and safety legislation** means—  
(a) the Health and Safety in Employment Act 1992 and any regulations made under that Act: 25  
(b) the Machinery Act 1950 and any regulations made under that Act:  
(c) any provisions of the following Acts (or any regulations made under those Acts) under which WorkSafe New Zealand has functions: 30  
(i) Electricity Act 1992:  
(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 5
- 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**.
- 4 Part 4 binds the Crown** 10  
This Part 4 binds the Crown.
- Subpart 2—WorkSafe New Zealand
- 5 WorkSafe New Zealand established**  
This section establishes WorkSafe New Zealand.
- 6 WorkSafe New Zealand is Crown entity** 15
- (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 4 and **Schedule 1** expressly provide otherwise. 20
- 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.
- (2) When appointing a member of the board, the Minister must have regard to the need to ensure that WorkSafe New Zealand 25 has among its members persons who have, collectively, knowledge and experience of, and capability in, the following:
- (a) public sector governance:
- (b) central government processes:
- (c) New Zealand’s workplace health and safety environment, including workplace illness and occupational disease: 30
- (d) perspectives of ~~workplace participants~~ workers:



- (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. 5

**8 Advisory groups**

- (1) WorkSafe New Zealand may establish an advisory group— 10
- (a) to provide a forum for dialogue and co-operation between the Government, employers, and workers on workplace health and safety matters; and
  - (b) to provide advice to WorkSafe New Zealand that represents the views of the Government, employers, and workers on workplace health and safety matters. 15
- (2) WorkSafe New Zealand may establish 1 or more other advisory groups to provide advice to it on matters relating to its functions.
- (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. 20

*WorkSafe New Zealand's main objective and functions*

**9 WorkSafe New Zealand's main objective** 25

- (1) WorkSafe New Zealand's main objective is to promote and contribute to ~~the prevention of harm to all people at work and in, or in the vicinity of, the workplace~~ securing the health and safety of workers and workplaces.
- (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. 30

**10 WorkSafe New Zealand's functions**

- WorkSafe New Zealand's functions are to— 35

- (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: 5
- (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: 10
- (e) develop codes of practice:
- (f) provide guidance, advice, and information on workplace health and safety to—
  - (i) persons who have duties under the relevant health and safety legislation; and 15
  - (ii) the public:
- (g) promote and support research, education, and training on or in workplace health and safety:
- (h) collect, analyse, and publish statistics and other information relating to workplace health and safety: 20
- (i) engage with in, promote, and co-ordinate the sharing of information with other agencies and interested persons that contribute to workplace health and safety:
- (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: 25
- (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: 30
- (l) perform or exercise any other functions or powers conferred on WorkSafe New Zealand by or under any other enactment: 35
- (m) perform any additional function that the Minister directs under section 112 of the Crown Entities Act 2004.

Subpart 3—Transition to WorkSafe New  
Zealand and consequential amendments

*Transfer of employees*

- 11 Restriction on compensation for technical redundancy**
- (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
  - (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.
- (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
  - (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
  - (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.
- (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
  - (b) treat the employee as a new employee for the purposes of the Employment Relations Act 2000.

**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. 5
- (2) On and after the commencement of this Part 4,—
- (a) the employee continues to be bound by the collective agreement and may enforce the collective agreement against Worksafe New Zealand; and
- (b) WorkSafe New Zealand must be treated as if it were a party to the collective agreement instead of the chief executive; and 10
- (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. 15

**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. 20
- (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. 25
- (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. 30

*Transfer of contracts***15 Transfer of contracts to Worksafe New Zealand**

- (1) This section applies to a contract (other than an employment agreement) that— 35

- (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 Part 4 that becomes a function or power of WorkSafe New Zealand on that commencement. 5
- (2) On and after the commencement of this Part 4,—
- (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 10
  - (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.

*Consequences of transfers of functions, etc* 15

**16 Consequences of transfer of functions under relevant health and safety legislation to WorkSafe New Zealand**

- (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 Part 4. 20
- (2) On and after the commencement of this Part 4,—
- (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 25
  - (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
  - (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 30
  - (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 Part 4 become directions to WorkSafe New Zealand; and 35

- (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 5
- (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 10
- (g) a matter or thing relating to the function that would, but for this section, have been completed by the chief executive or MBIE may be completed by WorkSafe New Zealand.
- (3) On and after the commencement of this Part 4, 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. 15
- (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. 20
- 16A Transitional provision relating to legal services in respect of functions transferred to WorkSafe New Zealand** 25
- (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— 30
- (a) arose, in whole or in part, before the commencement of this Part; and
- (b) would, but for **section 16(2)**, have been undertaken or completed by the chief executive or MBIE. 35
- (2) **Subsection (1)** applies despite anything to the contrary in the Lawyers and Conveyancers Act 2006.

- (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** 5

- (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**. 10
- (2) On and after the commencement of this Part 4,—
- (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 15
  - (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 20
  - (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 ~~inspectors and enforcement officers~~ appointments under relevant health and safety legislation* 25

**18 Continuation of inspectors and enforcement officers**

- (1) ~~Despite the amendments made by Part 4 to section 29 of the Health and Safety in Employment Act 1992 (HSE) and to section 97B(2)(b) of the Hazardous Substances and New Organisms Act 1996 (HSNO), a person's appointment as an inspector for the purposes of the HSE or as an enforcement officer for the purposes of HSNO continues~~ A person who, immediately before the commencement of this Part, held office as an inspector, a geothermal inspector, or an enforcement officer (as the case may be) under a provision specified in sub- 30 35

**section (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 ~~as an inspector or an enforcement officer (as the case may be)~~ to the person who made the appointment. 5

**(2)** The provisions are— 10

- (a) section 29 of the Health and Safety in Employment Act 1992:
- (b) section 5 of the Machinery Act 1950:
- (c) regulation 3 of the Geothermal Energy Regulations 1961: 15
- (d) section 97B of the Hazardous Substances and New Organisms Act 1996.

**18A** **Continuation and renaming of departmental medical practitioners**

A person's appointment as a departmental medical practitioner before the commencement of this Part for the purposes of section 34 of the Health and Safety in Employment Act 1992 continues on and after that commencement as if— 20

- (a) WorkSafe New Zealand appointed the person; and
- (b) the person were appointed as a health and safety medical practitioner under that Act. 25

*Amendments to other enactments*

**19** **Amendments to other enactments**

Amend the enactments specified in **Schedule 1** as set out in that schedule. 30



**Part 2**  
**Amendments to Health and Safety in  
Employment Act 1992**

- 20 Principal Act**  
This **Part** amends the Health and Safety in Employment Act 1992 (the **principal Act**). 5
- 21 Section 2 amended (Interpretation)**
- (1) In section 2(1), insert in their appropriate alphabetical order:
- “**Board** means the New Zealand Mining Board of Examiners established under **section 20D** 10
- “**coal** has the meaning given to it in **section 19L**
- “~~**mine health and safety committee** has the meaning given to it in **section 19L**~~
- “~~**mine health and safety representative** has the meaning given to it in **section 19L**~~ 15
- “**industry health and safety representative** has the meaning given to it in **section 19L**
- “**mine operator** has the meaning given to it in **section 19L**
- “**mine worker** has the meaning given to it in **section 19L**
- “**mineral** has the meaning given to it in **section 19L** 20
- “~~**mining industry health and safety representative** has the meaning given to it in **section 19L**~~
- “**mining operation** has the meaning given to it in **section 19L**
- “**permit operator** has the meaning given to it in **section 19L**
- “**quarrying operation** has the meaning given to it in **section 19N** 25
- “**site health and safety committee** has the meaning given to it in **section 19L**
- “**site health and safety representative** has the meaning given to it in **section 19L** 30
- “**site senior executive** has the meaning given to it in **section 19L**
- “**tourist mining operation** has the meaning given to it in **section 19L**

- “**tunnelling operation** has the meaning given to it in **section 190**
- “**WorkSafe** means WorkSafe New Zealand established by **section 5** of the **Health and Safety (Pike River Implementation) Act 2013**”.
- (2) In section 2(1), replace the definition of **approved code of practice** with:
- “**approved code of practice** means a ~~statement~~ code of practice, for the time being approved under **section 20A**; but where any amendment of the ~~statement~~ code of practice has been approved under that section, means the ~~statement~~ code of practice as amended”.
- (2A) In section 2(1), replace the definition of **hazard notice** with:
- “**hazard notice** has the meaning given to it in **section 19ZD(1)** or 46A(1), as applicable”.
- (3) In section 2(1), replace the definition of **improvement notice** with:
- “**improvement notice** means a notice under section 39(1) or (2) or **39A**”.
- (4) In section 2(1), replace the definition of **prohibition notice** with:
- “**prohibition notice** means a notice under section 41(1) or **41A**”.
- 22 New section 3G inserted (Provisions affecting application of amendments to this Act)**
- After section 3F, insert:
- “**3G Provisions affecting application of amendments to this Act** **Schedule 1AA** contains application, transitional, and savings provisions that affect other provisions of this Act as from time to time amended, repealed, or repealed and replaced (*see section 63*).”
- 23 Section 11 amended (Employees to be given results of monitoring)**
- After section 11(3), insert:

“(4) An employer is not required under this section to give an employee the results of monitoring to the extent that those results have already been provided to the employee under **section 12A.**”

**24 New sections 12A and 12B and cross-heading inserted 5**

After section 12, insert:

*“Duties of mine operators in relation to  
information*

**“12A Mine workers to be given results of monitoring**

“(1) This section applies to the results of any monitoring of any mine worker or any mining operation undertaken in compliance with this Act or regulations made under this Act if the monitoring was— 10

“(a) undertaken by or on behalf of a mine operator; or

“(b) undertaken by or on behalf of a department (within the meaning of the State Sector Act 1988) or WorkSafe and the results have been given to a mine operator. 15

“(2) Subject to **subsection (3)**, every mine operator must ensure that—

“(a) every mine worker is given all results to which this section applies of monitoring of the mine worker (whether as an individual or as one of a number of mine workers) in relation to health or safety; and 20

“(b) all mine workers are given all results to which this section applies of general monitoring of— 25

“(i) conditions in the mining operation; or

“(ii) the health or safety of mine workers there.

“(3) Every mine operator must ensure that—

“(a) there are omitted from all results to which this section applies given to any individual mine worker all information that identifies, or discloses anything about, any other individual mine worker; and 30

“(b) there are omitted from all results to which this section applies given to any group of mine workers all information that identifies, or discloses anything about, any individual mine worker. 35

**“12B Information for mine site health and safety representatives**

A mine operator must ensure that all mine site health and safety representatives in the mining operation have ready access to sufficient information about health and safety systems and health and safety issues in the mining operation to enable the representatives to perform their functions and exercise their powers effectively.”

5

**25 New section 13AA and cross-heading inserted**

After section 13, insert:

*“Duties of mine operators in relation to training and supervision*

10

**“13AA Training and supervision of mine workers**

Every mine operator must take all practicable steps to ensure that every mine worker who does work of any kind, or uses plant of any kind, or deals with a substance of any kind, in a mine—

15

“(a) has, or is so supervised by a person who has, such knowledge and experience of similar places, and work, plant, or substances of that kind, as to ensure that the mine worker’s doing the work, using the plant, or dealing with the substance is not likely to cause harm to the mine worker or other people; and

20

“(b) is adequately trained in the safe use of all plant, objects, substances, and protective clothing and equipment that the mine worker is or may be required to use or handle.”

25

**25A Section 19G amended (Minister may approve occupational health and safety training)**

After section 19G(4), insert:

**“(5) For the purposes of Part 2B, the reference to a health and safety representative in section 19G(2)(b) means a site health and safety representative.”**

30

**26 New section 19J inserted (Relationship of this Part with Part 2B)**

After section 19I, insert:

**“19J Relationship of this Part with Part 2B**

Except as provided in this Part or Part 2B, nothing in this Part applies to a mining operation.”

**27 New Part 2B inserted**

After Part 2A, insert:

5

**“Part 2B**

**“Worker participation in health and  
safety in mining sector**

**“19K Purpose of Part**

The purpose of this Part is to require the participation of mine workers in processes relating to health and safety in a mining operation so that—

10

“(a) all persons with relevant knowledge and expertise can help make the mining operation healthy and safe; and

“(b) when making decisions that affect mine workers and their work, a mine operator has information from mine workers who face the health and safety issues in practice.

15

**“19L Interpretation**

In this Act,—

20

“alluvial mining operation means a mining operation carried out above ground and associated with—

“(a) the extraction of gold from river deposits of sand or gravel;

“(b) the extraction of ironsand from sand or gravel

25

~~“coal means anthracite, bituminous coal, sub-bituminous coal, lignite, and peat, and includes every other substance worked or normally worked with coal~~

“coal means anthracite, bituminous coal, sub-bituminous coal, and lignite, and—

30

“(a) includes every other substance worked or normally worked with coal; but

“(b) does not include coal in the form of peat

~~“mine health and safety committee means a committee established to support the ongoing improvement of health and safety in a mining operation~~

35

**“mine health and safety representative** means a mine worker elected, as an individual or as a member of a mine health and safety committee, or both, to represent the views of mine workers in a mining operation in relation to health and safety at work

5

**“industry health and safety representative** means a person appointed in accordance with **section 19ZP**

**“licence or other permission** means a lease, licence, or other instrument under which a person with an interest in land (including, for example, the owner of the land) permits another person to carry out a mining operation on the land

10

**“mine operator** means,—

**“(a)** in respect of a mining operation carried out subject to a permit granted under the Crown Minerals Act 1991,—

**“(i)** the person appointed by the permit operator to manage and control the mining operation; or

**“(ii)** the permit operator, if no such person has been appointed:

15

**“(b)** where mining operations are carried out subject to a licence or other permission,—

20

**“(i)** the person appointed to manage and control the mining operation by the person who holds the licence or other permission to carry out mining operations; or

**“(ii)** the person who holds a licence or other permission to carry out mining operations, if no such person has been appointed:

25

**“(c)** in any other case—

**“(i)** the person appointed to manage and control the mining operation by the owner of the land where the mining operation is being carried out; or

**“(ii)** the owner of the land where the mining operation is being carried out, if no such person has been appointed

30

**“mine operator** means,—

35

**“(a)** in respect of a mining operation carried out under a permit granted under the Crown Minerals Act 1991,—

**“(i)** the person appointed by the permit operator to manage and control the mining operation; or

- “(ii) the permit operator, if no such person has been appointed:
- “(b) in respect of a mining operation (not being a mining operation described in **paragraph (a)**) carried out under a licence or other permission,— 5
- “(i) the person appointed to manage and control the mining operation by the person who holds the licence or other permission to carry out mining operations; or
- “(ii) the person who holds the licence or other permission to carry out mining operations, if no such person has been appointed: 10
- “(c) in any other case,—
- “(i) the person appointed to manage and control the mining operation by the owner of the land where the mining operation is being carried out; or 15
- “(ii) the owner of the land where the mining operation is being carried out, if no such person has been appointed
- “**mine worker** means a person who works in a mining operation, either as an employee or as a self-employed person 20
- “**mineral** means a naturally occurring inorganic substance beneath or at the surface of the earth, and—
- “(a) includes metallic minerals, non-metallic minerals, and precious stones; but 25
- “(b) does not include clay, coal, gravel, limestone, sand, or stone
- “**mining industry health and safety representative** means a person appointed in accordance with **section 49ZP**
- “**mining operation** has the meaning given to it in **section 19M** 30
- “**peat** means combustible, soft, porous, or compressed sedimentary deposit of plant origin with a high water content
- “**permit operator** has the same meaning as in section 2 of the Crown Minerals Act 1991 35
- “**quarrying operation** has the meaning given to it in **section 19N**

**“site health and safety committee** means a committee established to support the ongoing improvement of health and safety in a mining operation

**“site health and safety representative** means a mine worker elected as a site health and safety representative, as an individual or as a member of a site health and safety committee, or both 5

**“site senior executive** means the person appointed as the site senior executive by the mine operator

**“tourist mining operation** means an operation that has the purpose of— 10

**“(a)** mine education; or

**“(b)** mine research; or

**“(c)** mine tourism

**“tunnelling operation** has the meaning given to it in **section 190.** 15

**~~“19M~~ Meaning of mining operation**

**~~“(1)~~** In this Act, **mining operation** means any of the following activities and the place at which they are carried out:

**~~“(a)~~** all activities associated with the extraction of coal or minerals, including— 20

**~~“(i)~~** exploring for coal or minerals:

**~~“(ii)~~** mining for coal or minerals:

**~~“(iii)~~** processing coal or minerals associated with a mine: 25

**~~“(iv)~~** producing or maintaining tailings, spoil heaps, and waste dumps:

**~~“(v)~~** the excavation, removal, handling, transport, and storage of coal, minerals, substances, contaminants, and wastes at the place where the activities described in **subparagraphs (i) to (iv)** are carried out: 30

**~~“(vi)~~** the construction, operation, maintenance, and removal of plant and buildings at the place where the activities described in **subparagraphs (i) to (iv)** are carried out: 35



- ~~“(vii) preparatory, maintenance, and repair activities associated with the activities described in **sub-paragraphs (i) to (iv)**;~~
- ~~“(b) a tourist mining operation;~~
- ~~“(c) a quarrying operation if it is of a type defined in **section 19N**;~~
- ~~“(d) a tunnelling operation if it is of a type defined in **section 19O**;~~
- ~~“(2) Despite **subsection (1)**, mining operation does not include a mining operation on or under the seabed anywhere that is the seaward side of the mean high-water mark.~~

**“19M Meaning of mining operation**

In this Act, mining operation—

- “(a) means the extraction of coal and minerals and the place at which the extraction is carried out; and
- “(b) includes any of the following activities and the place at which they are carried out:
- “(i) exploring for coal;
- “(ii) mining for coal or minerals;
- “(iii) processing coal or minerals associated with a mine;
- “(iv) producing or maintaining tailings, spoil heaps, and waste dumps;
- “(v) the excavation, removal, handling, transport, and storage of coal, minerals, substances, contaminants, and wastes at the place where the activities described in **subparagraphs (i) to (iv)** are carried out;
- “(vi) the construction, operation, maintenance, and removal of plant and buildings at the place where the activities described in **subparagraphs (i) to (iv)** are carried out;
- “(vii) preparatory, maintenance, and repair activities associated with the activities described in **sub-paragraphs (i) to (iv)**; and
- “(c) includes—
- “(i) a tourist mining operation;
- “(ii) a tunnelling operation; but

- “(d) does not include—
- “(i) exploring for minerals:
  - “(ii) an alluvial mining operation:
  - “(iii) a mining operation wholly on or under the seabed on the seaward side of the mean high-water mark: 5
  - “(iv) a quarrying operation.

**“19N Meaning of quarrying operation**

**“(1) In this Act, quarrying operation—**

- “(a) means an activity carried out above ground for the purpose of— 10**
  - “(i) extracting any material, other than any coal or any mineral, from the earth; or**
  - “(ii) processing any material, other than any coal or any mineral, at the place where the material is extracted; and 15**
- “(b) includes the place where an activity described in **paragraph (a)** is carried out; and**
- “(c) includes any place in which any material extracted or processed in a quarry is crushed or screened; ~~but~~**
- ~~“(d) excludes any quarrying operation of a kind declared under **section 19P** not to be a quarrying operation. 20~~**

**“(2) **Subsection (1)** applies whether or not the material is to be extracted or processed for commercial gain and whether or not the material is extracted or processed by the use of explosives.**

**“19O Meaning of tunnelling operation 25**

**In this Act, tunnelling operation—**

- “(a) means an operation involving extraction of fill with the purpose of creating a tunnel or shaft or enlarging or extending any tunnel or shaft; and**
- “(b) includes the place where an operation described in **paragraph (a)** is carried out; but 30**
- “(c) excludes any tunnelling operation of a kind declared under **section 19P** not to be a tunnelling operation.**

**“19P Governor-General may, by Order in Council, exclude operations from sections ~~19N~~ and 19O**

The Governor-General may, by Order in Council made on the recommendation of the Minister, declare that certain operations or classes of operation are not tunnelling operations for the purposes of **section 19O**. 5

~~“(a) certain operations or classes of operations are not quarrying operations for the purposes of **section 19N**;~~

~~“(b) certain operations or classes of operation are not tunnelling operations for the purposes of **section 19O**.”~~ 10

**“19Q General duty to involve mine workers in health and safety matters**

**“(1) Every mine operator must ensure that there is, for a mining operation, a documented worker participation system that provides reasonable opportunities for the mine workers to participate effectively in ongoing processes for the improvement of health and safety in the mining operation.** 15

**“(2) Without limiting **subsection (1)**, ongoing processes for the improvement of health and safety include the matters referred to in sections 6 to **13AA**.** 20

**“(3) In complying with this Part, a mine operator must take into account any relevant approved code of practice.**

**“(4) If a mine site health and safety committee or a mine site health and safety representative makes a recommendation regarding health and safety in a mining operation, the mine operator must either adopt the proposal or provide a written statement to the mine site health and safety committee or mine site health and safety representative setting out the reasons for not adopting the proposal.** 25

**“(5) In **subsection (1)**, reasonable opportunities means opportunities that are reasonable in the circumstances, having regard to relevant matters such as—** 30

**“(a) the number of mine workers in the mining operation; and**

**“(b) the likely potential sources or causes of harm in the mining operation; and** 35

- “(c) the nature of the work that is performed and the way that it is arranged or managed by the ~~mining~~ mine operator; and
- “(d) the nature of the employment arrangements or contracting arrangements, including the extent and regularity of employment or engagement of temporary mine workers; and 5
- “(da) the willingness of mine workers and unions to develop worker participation systems; and
- “(e) in relation to employers and employees, the overriding duty to act in good faith. 10

*“Worker participation system*

**“19R Development of worker participation system**

- “(1) The following persons must co-operate in good faith to seek to develop, agree, implement, and maintain a worker participation system that sets out the ways in which the mine operator must seek to comply with **section 19Q(1)**: 15
- “(a) the mine operator:
- “(b) the mine workers who wish to be involved:
- “(c) a union or unions representing any of the mine workers. 20
- “(2) A worker participation system may include any matters that the mine operator, mine workers, and any union representing them, agree comply with this Part.
- “(3) If the system includes provision for mine site health and safety representatives, those representatives must be elected by the mine workers in the mining operation. 25
- “(4) If ~~the~~ 1 or more mine workers request that the system include provision for mine site health and safety representatives, there must be provision for the election of at least 1 mine site health and safety representative ~~if there is an available person qualified as described in~~ **section 19U(2)**. 30
- “(5) A system may allow for more than 1 mine site health and safety representative or 1 mine site health and safety committee and, in that case, each representative or committee may represent a particular type of work of the mine operator, or another grouping agreed in, or determined in accordance with, the system. 35

~~“(6) A system may include a provision increasing or decreasing the maximum—~~

~~“(a) number of days’ paid leave that the employers of mine workers are required to allow mine health and safety representatives who are employees to take for health and safety training under section 19E(1) (as applied by **section 19U(3)**):~~ 5

~~“(b) total number of days’ paid leave that employers of mine workers are required to allow mine health and safety representatives and health and safety representatives to take for health and safety training under sections 19E(2) and 19F (as applied by **section 19U(3)**):~~ 10

**“19RA Training of site health and safety representatives**

“(1) Sections 19E to 19G apply to any site health and safety representative under this Part who is an employee. 15

“(2) A worker participation system may include a provision increasing or decreasing the maximum—

“(a) number of days’ paid leave that the employers of mine workers are required to allow site health and safety representatives who are employees to take for health and safety training under section 19E(1) (as applied by **subsection (1)**): 20

“(b) total number of days’ paid leave that employers of mine workers are required to allow site health and safety representatives and health and safety representatives to take for health and safety training under sections 19E(2) and 19F (as applied by **subsection (1)**): 25

“(3) Despite **subsection (2)** and section 19E(1) and (2) (as applied by **subsection (1)**), a worker participation system must ensure that every site health and safety representative who is an employee has sufficient paid leave to attend training reasonably required to attain the competency requirements for site health and safety representatives prescribed by or under regulations made under this Act. 30

**“19S Review and replacement of worker participation systems** 35

“(1) A worker participation system must specify a process by which it must be reviewed.

- “(2) At any time after the expiry of 12 months from the date the system is agreed, 1 or more mine workers or a union on their behalf may initiate the development of a new system in accordance with this Act.
- “(3) If a system is no longer in place, or functioning, a new system must be developed, agreed, implemented, and maintained in accordance with **section 19R**. 5
- “**19T Prescribed provisions apply if no scheme in place**
- “(1) The provisions prescribed in regulations made under this Act apply if a worker participation system is not developed ~~within 3 months of the date on which a mining operation begins.~~ 10
- “(a) within 3 months of the date on which a mining operation begins; or
- “(b) if **section 19S(3)** applies, within 3 months of the date on which any person initiates the development of a new system. 15
- “(2) If the prescribed provisions apply, and have applied continuously for a period of 6 months or more, 1 or more mine workers or a union on their behalf may initiate the development of a new system in accordance with **section 19R**. 20

*“Mine Site health and safety representatives”*

- “**19U Election and qualifications of mine site health and safety representatives**
- “(1) If a worker participation system provides for the election of 1 or more mine site health and safety representatives, but does not provide for the conduct of those elections, the requirements for the conduct of elections prescribed in regulations made under this Act apply. 25
- “(2) ~~No person may be elected as a mine health and safety representative unless that person meets the competency requirements for mine health and safety representatives prescribed in regulations made under this Act.~~ 30
- “(3) ~~Sections 19E to 19G apply to any mine health and safety representative under this Part who is an employee.~~

**“19V Functions of mine site health and safety representatives**

The functions of a mine site health and safety representative are, in relation to the mining operation in respect of which the representative is appointed,—

**“(aa) to represent mine workers in matters relating to health and safety:** 5

“(a) to investigate complaints from mine workers regarding health and safety:

“(b) if requested by a mine worker, to represent the worker in relation to a matter relating to health and safety (including a complaint): 10

“(c) to identify hazards in the mining operation and bring them to the attention of the mine operator or site senior executive:

“(d) to monitor measures taken by the mine operator that are relevant to health and safety: 15

“(e) to provide feedback to the mine operator or site senior executive about whether the requirements of this Act or regulations made under this Act are being complied with: 20

~~“(f) any other functions agreed by the mine operator, the representative, and any union representing the representative.~~

**“(f) to promote the interests of mine workers who have been harmed at work, including in relation to arrangements for harmed workers’ rehabilitation and return to work.** 25

**“19W No duty on mine site health and safety representatives**

Nothing in this Act imposes a duty on a mine site health and safety representative in that capacity.

*“Powers of mine site health and safety representatives 30*

**“19WA Competency requirements for exercise of certain powers**

A site health and safety representative must not exercise any power under **section 19Y, 19ZE, or 19ZF** unless he or she meets the competency requirements for site health and safety 35

representatives prescribed by or under regulations made under this Act.

**“19X Power of mine site health and safety representative to attend interview**

With the consent of the mine worker, a mine site health and safety representative may attend any interview relating to health and safety that the worker has with the mine operator, the site senior executive or any other representative of the mine operator, or an inspector. 5

**“19Y Power of mine site health and safety representative to enter and inspect mining operation** 10

“(1) A mine site health and safety representative may enter and inspect any area of a mining operation at any reasonable time to perform the functions of the mine site health and safety representative. 15

“(2) Before exercising the power under this section, the mine site health and safety representative must give reasonable notice to the site senior executive.

“(3) In exercising the power under this section, the mine site health and safety representative must comply with any reasonable procedures and requirements applying in the mining operation that relate to health and safety. 20

**“19Z Power of mine site health and safety representative to examine and copy documents**

A mine site health and safety representative ~~who enters a mining operation~~ may examine and copy any documents relevant to health and safety that are held by the mine operator, if the mine site health and safety representative has reason to believe that the documents contain information required to assess whether procedures at the mining operation are sufficient to achieve compliance with this Act and any regulations made under this Act. 25 30



**“19ZA Power to require assistance**

A mine site health and safety representative ~~who enters a min-~~  
~~ing operation~~ may require the site senior executive or person  
in charge of the relevant part or aspect of a mining operation  
to give the mine site health and safety representative reason- 5  
able assistance in the exercise of a power under **section 19Y**  
**or 19Z.**

**“19ZB Power of mine site health and safety representative to  
accompany inspector**

“(1) A mine site health and safety representative may accompany 10  
an inspector who has, under section 31, entered a mining op-  
eration.

“(2) An inspector may refuse to allow a mine site health and safety  
representative accompanying the inspector under this section  
to be present— 15

“(a) during any discussion in which personal information  
may be disclosed (unless the person who is the subject  
of the information has expressly consented to the mine  
site health and safety representative being present):

“(b) if the inspector believes that the presence of the mine 20  
site health and safety representative would prejudice the  
maintenance of the law, including the investigation and  
prosecution of offences.

“(3) In this section, **personal information** has the meaning given  
to it in section 2(1) of the Privacy Act 1993. 25

**“19ZC Mine Site health and safety representative may consult  
inspector**

A mine site health and safety representative may consult with  
an inspector on any health and safety issue.

**“19ZD Mine Trained site health and safety representatives may 30  
issue hazard notices**

“(1) ~~In this section, **hazard notice** means a notice that—~~

~~“(a) describes a hazard identified in a mining operation; and~~

~~“(b) is in the prescribed form; and~~

~~“(c) may set out suggested steps to deal with the hazard.” 35~~

- “(1) In this section,—  
“hazard notice means a notice that—  
“(a) describes a hazard identified in a mining operation; and  
“(b) is in the prescribed form; and  
“(c) may set out suggested steps to deal with the hazard 5  
“trained site health and safety representative means a site  
health and safety representative who has achieved a level of  
competency in health and safety practice specified by the Min-  
ister by notice in the *Gazette* or who has completed an appro-  
appropriate course approved under section 19G. 10
- “(2) **Subsection (3)** applies if a ~~mine~~ trained site health and safety representative—  
“(a) believes on reasonable grounds that there is a hazard in the mining operation; and  
“(b) has brought the hazard to the attention of the site senior executive; and 15  
“(c) has discussed or attempted to discuss with the site senior executive steps for dealing with the hazard.
- “(3) The ~~mine~~ trained site health and safety representative may give the site senior executive on behalf of the ~~mining~~ mine operator a hazard notice if— 20  
“(a) the site senior executive refuses to discuss, or take steps to deal with, the hazard; or  
“(b) the site senior executive and representative do not agree on the steps that must be taken, or the time within which 25  
the steps must be taken, to deal with the hazard; or  
“(c) the representative believes on reasonable grounds that the mine operator or site senior executive has failed to meet the requirements of this Act or regulations made under this Act in relation to the hazard within a time 30  
agreed during the discussion.
- “(4) If a hazard notice has been given by a ~~mine~~ trained site health and safety representative, the site senior executive must notify WorkSafe of that fact.

**“19ZE Power of mine site health and safety representative to give notice requiring suspension of mining operation**

“(1) This section applies if a mine site health and safety representative ~~believes on reasonable grounds that the whole or a part or aspect of a mining operation is likely to cause serious harm to any person.~~ 5

“(a) believes on reasonable grounds that the whole, or a part or an aspect, of a mining operation is likely to cause serious harm to any person; and

“(b) has discussed or attempted to discuss the matter likely to cause serious harm with the site senior executive. 10

“(2) The mine site health and safety representative may give a written notice to the site senior executive ordering the suspension of the whole, or a part or an aspect, of the mining operation.

“(3) The notice must set out the reasons for the mine site health and safety representative’s belief. 15

“(4) If the site senior executive receives a notice under **subsection (2)**, the site senior executive must stop the mining operation, or the part or aspect of the mining operation, mentioned in the notice. 20

“(5) If a notice ordering the suspension of the whole, or a part or an aspect, of the mining operation has been given by a site health and safety representative, the site senior executive must notify WorkSafe of that fact.

**“19ZF Power of mine site health and safety representative to require mining operation to stop in case of imminent serious harm** 25

“(1) This section applies if a mine site health and safety representative believes on reasonable grounds that serious harm to any person is likely to be caused imminently by the whole or a part or aspect of a mining operation. 30

“(2) The mine site health and safety representative may—

“(a) stop the whole or a part or aspect of the mining operation and immediately advise the person in charge of the operation or part or aspect of the operation; or 35

“(b) require the person in charge of the operation or part or aspect of the operation to stop the operation.

- “(3) If a mine site health and safety representative requires a person to stop the whole or a part or aspect of a mining operation, that person must do so.
- “(4) The mine site health and safety representative must, as soon as practicable after exercising the power under **subsection (2)**, advise the site senior executive of the action taken under that subsection and the reasons for the action taken. 5
- “(5) If a site health and safety representative has advised the site senior executive of action taken under **subsection (2)**, the site senior executive must notify WorkSafe of that fact. 10

“**19ZG Inspector may cancel order to suspend mining operation**

An inspector may cancel the whole or part of a notice given under **section 19ZE** (whether or not mining operations have stopped pursuant to the notice) or an action taken by a mine site health and safety representative under **section 19ZF(2)** if the inspector does not consider that the operation or the part or aspect of the mining operation concerned is likely to cause serious harm to any person. 15

“**19ZH Workers must do other work**

If the whole or a part or aspect of a mining operation is stopped under **section 19ZE or 19ZF**, a mine worker who is an employee and who was working in the operation or part or aspect of the operation must do any other work within the scope of the worker’s employment agreement that the employee’s employer reasonably requests. 20  
25

“**19ZI Work not to restart until no likelihood of serious harm**

The site senior executive must ensure that the operation or part or aspect of the mining operation stopped because a notice is given under **section 19ZE**, or stopped or required to be stopped under **section 19ZF**, is not restarted until the site senior executive is satisfied that it is not likely to cause serious harm to any person. 30

**“19ZJ Protection of mine site health and safety representatives performing functions or exercising powers**

A mine operator or site senior executive must not—

- “(a) prevent or attempt to prevent a mine site health and safety representative from performing his or her functions or exercising his or her powers; or 5
- “(b) penalise a mine site health and safety representative for performing his or her functions or exercising his or her powers.

**“19ZK Functions and powers for health and safety purposes only 10**

A mine site health and safety representative must not perform a function or exercise a power under this Part for a purpose other than a health and safety purpose.

**“19ZKA Information to be used for health and safety purposes only 15**

“(1) This section applies to any information obtained by a site health and safety representative in the performance of the site health and safety representative’s functions or the exercise of the site health and safety representative’s powers under this Act. 20

“(2) A site health and safety representative may—

- “(a) disclose or use the information,—
  - “(i) if the information is about a person, only with the person’s consent: 25
  - “(ii) only to the extent necessary for the performance of the site health and safety representative’s functions or the exercise of the site health and safety representative’s powers under this Act: 30

- “(b) disclose the information— 30
  - “(i) to WorkSafe or a person authorised by WorkSafe only if WorkSafe reasonably believes the disclosure is necessary for administering, monitoring, or enforcing compliance with this Act or any relevant health and safety legislation (as defined in **section 3 of the Health and Safety (Pike River Implementation) Act 2013**: 35

- “(ii) only if the disclosure is authorised or required by law.”
- “(3) In **subsection (2)**, **disclose** includes to give any person access to information.
- “19ZL Health and safety representative not to unnecessarily impede production** 5  
A mine site health and safety representative must not unnecessarily impede production at a mining operation when performing functions or exercising powers under this Part.
- “19ZLA Protection from civil and criminal liability** 10  
A site health and safety representative is protected from civil and criminal liability for any act that he or she does or omits to do—
- “(a) in the performance or intended performance of his or her functions or the exercise or intended exercise of his or her powers under this Act; and 15
- “(b) in good faith.
- “19ZLB Obligations of mine operators**  
A mine operator must—
- “(a) allow a site health and safety representative to spend such time as is reasonably necessary to perform his or her functions and exercise his or her powers; and 20
- “(b) provide a site health and safety representative with such access to facilities that is reasonably necessary or prescribed in regulations made under this Act to enable the representative to perform his or her functions and exercise his or her powers. 25
- “Removal of mine site health and safety representative*
- “19ZM WorkSafe may remove mine site health and safety representative** 30
- “(1) WorkSafe may, by notice in writing, remove a mine site health and safety representative from office if WorkSafe considers that the mine health and safety representative is not performing

~~his or her functions or exercising his or her powers satisfactorily~~  
site health and safety representative has failed to perform  
~~his or her functions or exercise his or her powers satisfactorily~~  
(for example, if the representative has exercised his or her  
power for an improper purpose in breach of **section 19ZK** or  
disclosed information in breach of **section 19ZKA**).

5

“(2) The notice under **subsection (1)** must set out the reasons for WorkSafe’s opinion.

“**19ZN Election of another mine site health and safety representative**

10

“(1) If a mine site health and safety representative is removed from office by WorkSafe, another mine site health and safety representative may be elected.

“(2) ~~No~~ Except as provided for in **subsection (3)**, no election for a mine site health and safety representative to replace the representative who has been removed may be held until the expiry of the period for appeal under **section 19ZO** or, if an appeal is lodged, until a decision is made on the appeal.

15

“(3) One or more mine workers may initiate the election of a temporary site health and safety representative to replace the representative who has been removed.

20

“(4) The term of office of any temporary site health and safety representative ends on the expiry of the period for appeal under **section 19ZO** or, if an appeal is lodged, when a decision is made on the appeal.

25

“(5) A temporary health and safety representative has the functions and powers set out in **sections 19V and 19X to 19ZF**, and those sections and **sections 19W, 19WA, and 19ZG to 19ZLB** apply with any necessary modifications.

“**19ZO Mine Site health and safety representative may appeal against removal**

30

“(1) A mine site health and safety representative may appeal to a District Court against a decision of WorkSafe to remove him or her.

“(2) The appeal must be brought within 28 days of the date of the notice under **section 19ZM**.

35

~~“Mining industry”~~ *Industry health and safety  
representatives*

**“19ZP Appointment of ~~mining~~ industry health and safety  
representatives**

**“(1AA) This section and sections 19ZQ to 19ZY apply only to—** 5

**“(a) a mining operation associated with the extraction  
of coal and where any person works below ground  
(underground coal mining operation):**

**“(b) mine workers who work in an underground coal mining  
operation:** 10

**“(c) any union that represents mine workers who work in an  
underground coal mining operation.**

**“(1) A union or group of mine workers may, in any manner deter-  
mined by the union or group, appoint a person to be ~~a mining~~  
an industry health and safety representative.** 15

**“(2) The person appointed must meet the competency require-  
ments for ~~mining~~ industry health and safety representatives  
prescribed in regulations made under this Act.**

**“(3) The union or group of mine workers that appoints ~~a mining~~ an  
industry health and safety representative must meet the costs 20  
of the representative.**

**“19ZQ Notice to WorkSafe of appointment or cessation of  
appointment of representative**

A union or group of mine workers that appoints ~~a mining~~ an  
industry health and safety representative must— 25

**“(a) give notice to WorkSafe of that appointment; and**

**“(b) provide the prescribed information in relation to that ap-  
pointment, and a photograph of the representative au-  
thenticated in accordance with any prescribed require-  
ments; and** 30

**“(c) give notice to WorkSafe within 14 days after the date on  
which the person ceases to be a representative.**

**“19ZR Functions and powers of ~~mining~~ industry health and  
safety representatives**

**“(1) ~~A mining~~ An industry health and safety representative has, 35  
in respect of any mining operation and any mine worker, the**



functions and powers set out in **sections 19V and 19X to 19ZF**, and those sections and **sections 19W and 19ZG to ~~19ZL~~ 19ZLA** apply with any necessary modifications.

“(2) In addition to the functions and powers referred to in **subsection (1)**, ~~a mining~~ an industry health and safety representative 5  
has the following functions:

“(a) to participate in investigations into accidents in mining operations that resulted, or could have resulted, in serious harm:

“(b) to assist with industry-wide initiatives to improve health 10  
and safety in mining operations.

“**19ZS Further provision concerning scope of functions and powers of ~~mining~~ industry health and safety representatives**

~~A mining~~ An industry health and safety representative may 15  
perform his or her functions and exercise his or her powers in relation to any mining operation or mine worker whether or not,—

“(a) in the case of a representative appointed by a union, any worker in the mine, or the relevant mine worker, as the 20  
case may be, is a member of that union; or

“(b) in the case of a representative appointed by a group of mine workers, any worker in the mine, or relevant mine worker, as the case may be, is a member of that group.

“**19ZT Identity cards** 25

“(1) WorkSafe must give each ~~mining~~ industry health and safety representative an identity card.

“(2) The identity card must be in the prescribed form.

“(3) A person who ceases to be ~~a mining~~ an industry health and safety representative must return his or her identity card to 30  
WorkSafe as soon as possible, but within 14 days, after the date on which the person ceases to be a representative.

**“19ZU Production or display of identity card**

“(1) Before ~~a mining~~ an industry health and safety representative exercises a power under this Part in relation to any person, the representative must—

“(a) produce his or her identity card to the person; or 5

“(b) display the identity card so it is clearly visible to that person.

“(2) ~~A mining~~ An industry health and safety representative who exercises a power under **section 19Y** must—

“(a) produce his or her identity card to the person apparently in charge of the part of the mining operation being entered; or 10

“(b) display the identity card so it is clearly visible to that person.

“(3) If the representative is unable, despite reasonable efforts, to comply with **subsection (2)**, the representative must, before leaving the mining operation, leave a written notice stating— 15

“(a) the representative’s identity; and

“(b) the address of a place where the representative may be contacted; and 20

“(c) the date and time of entry onto the mining operation; and

“(d) the representative’s reasons for entering onto the mining operation.

**“19ZV Removal of ~~mining~~ industry health and safety representative 25**

**Sections 19ZM to ~~and~~ 19ZO** apply to ~~a mining~~ an industry health and safety representative with any necessary modifications.

**“19ZW Register of ~~mining~~ industry health and safety representatives 30**

“(1) WorkSafe must keep and maintain a register of ~~mining~~ industry health and safety representatives.

“(2) The purpose of the register is to enable members of the public to know the names and contact details of ~~mining~~ industry health and safety representatives. 35

“(3) The register may be kept in any manner that WorkSafe thinks fit.

“(4) The register must contain the prescribed information.

“**19ZX Alterations to register**

WorkSafe may at any time make any amendments to the register that are necessary to reflect any changes in the information referred to in **section 19ZW(4)**. 5

“**19ZY Search of register**

“(1) A person may search the register for a purpose set out in **section 19ZW(2)**. 10

“(2) WorkSafe must—

“(a) make the register available for public inspection, without fee, at reasonable hours at the head office of WorkSafe; and

“(b) supply to any person, on request and on payment of a reasonable charge, a copy of the register or any extract from it.” 15

**28 Section 20 replaced (Codes of practice)**

Replace section 20 with:

“**20 Codes of practice** 20

“(1) WorkSafe may from time to time issue any instrument (a **code of practice**) that is—

“(a) a statement of preferred work practices or arrangements; or

“(b) a statement of preferred aims, arrangements, practices, or principles (or any 2 or more of those matters) for the design of plant, protective clothing, or protective equipment, of any kind or description; or 25

“(c) a statement of preferred arrangements, characteristics, components, configurations, elements, or states (or any 2 or more of those matters) for manufactured plant, manufactured protective clothing, or manufactured protective equipment, of any kind or description; or 30

- “(d) a statement of preferred characteristics for any manufactured or processed substance used or capable of being used—
- “(i) in or in connection with any protective clothing or protective equipment; or 5
  - “(ii) otherwise for or in connection with protecting people from hazards; or
- “(e) a statement of preferred practices or arrangements relating to employee participation in health and safety in the place of work; or 10
- “(f) a statement of preferred practices or arrangements relating to worker participation in a mining operation.
- “(2) WorkSafe may issue any amendment or revocation of a code of practice.
- “(3) Subject to **subsection (4)**, a code of practice may incorporate, adopt, or apply, with or without modification, all or any part of any other document prepared or issued by any body or authority, including the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011. 15 20
- “(4) WorkSafe must not issue or amend a code of practice in a way that adopts with modification any document previously approved by another Minister of the Crown or any compliance document (within the meaning of the Building Act 2004) without the consent of the other Minister or the chief executive of the department of State responsible for the administration of the Building Act 2004 (as relevant). 25
- “20A Code to be approved by Minister**
- “(1) A code of practice, an amendment to a code of practice, or a revocation of a code of practice has no force or effect until it has been approved by the Minister. 30
- “(2) The Minister must not approve any code, amendment, or revocation, unless—
- “(a) at least 28 days have passed since the publication in the *Gazette* of a notice of the intention of WorkSafe to apply for approval; and 35
  - “(b) the Minister has consulted any persons that will be affected by the code, amendment, or revocation (or rep-

- representatives of those persons), and they have had the opportunity to consider its possible effects and to comment on the effects to the Minister; and
- “(c) the Minister has considered any comments made to the Minister concerning the effects. 5
- “(3) However, the Minister may approve a code, amendment, or revocation without complying with the requirements of **subsection (2)(a) or (b)** if the Minister is satisfied that sufficient consultation has already taken place in respect of the matters in the code, amendment, or revocation. 10
- “(4) When the Minister approves a code, amendment, or revocation, the Minister must—
- “(a) publish a notice of the approval in the *Gazette*; and
- “(b) show the date of the approval on the code, amendment, or revocation and publish it in any manner the Minister thinks fit. 15
- “(5) The fact that the Minister has published a notice of approval in the *Gazette* under **subsection (4)(a)** is conclusive proof that the requirements of this section have been complied with in respect of the approval. 20
- “**20B Court may have regard to code**
- “(1) A court may, in determining whether or not a person charged with failing to comply with any provision of this Act has complied with the provision, have regard to any approved code of practice that— 25
- “(a) was in force at the time of the alleged failure; and
- “(b) in the form in which it was then in force, related to matters of a kind to which the provision relates.
- “(2) In any proceedings, a document purporting to be an approved code of practice, or an amendment of an approved code of practice, issued by WorkSafe is, in the absence of proof to the contrary, deemed to be an approved code of practice or an amendment of an approved code of practice. 30
- “(3) **Subsection (2)** does not affect any other method of proof of an approved code of practice or an amendment of an approved code of practice. 35

**“20C Codes to be made available**

~~“(1) WorkSafe must ensure that copies of approved codes of practice are, at all reasonable times, available at every office of WorkSafe for inspection and copying by the public.~~

“(1) WorkSafe must ensure that every approved code of practice is, at all reasonable times, made available to the public for inspection free of charge—

“(a) in hard copy at every office of WorkSafe; and

“(b) on an Internet site maintained by, or on behalf of, WorkSafe.

“(2) WorkSafe may charge any person a reasonable fee for—

“(a) providing the person with a hard copy of an approved code of practice; or

“(b) allowing the person to use equipment under WorkSafe’s control to copy all or any part of an approved code of practice.

“(3) Nothing in this section requires WorkSafe to allow any person to use equipment under WorkSafe’s control to copy all or any part of an approved code of practice.

*“Competencies in mining industry***“20D New Zealand Mining Board of Examiners**

WorkSafe must establish a board to be known as the New Zealand Mining Board of Examiners.

**“20E Functions of Board**

The Board has the following functions:

“(a) to advise WorkSafe on competency requirements for mine workers:

“(b) to examine applicants, or have applicants examined, for certificates of competence:

“(c) to issue, renew, cancel, and suspend certificates of competence:

“(d) any other function relating to training and competency requirements for participants in the extractives industry conferred on the Board by regulations made under this Act.

**“20F Membership of Board**

- “(1) WorkSafe may at any time appoint a member of the Board.
- “(2) The appointment of a member of the board must be for a specified period.
- “(3) WorkSafe must appoint one of the members of the Board as the chairperson of the board. 5
- “(4) When appointing a member of the Board, WorkSafe must have regard to the need to ensure that the board has among its members knowledge and experience of—
- “(a) mining operations: 10
  - “(b) health and safety inspection in the mining industry:
  - “(c) mining education:
  - “(d) mining industry training.
- “(5) Without limiting **subsection (4)**, the Board may include 1 or more employees of WorkSafe. 15
- “(6) A member of the board may resign by notice in writing to WorkSafe.
- “(7) Clause 15 of Schedule 5 of the Crown Entities Act 2004 (**Schedule 5**) applies to the members of the Board as if they were members of a committee appointed under clause 14 of Schedule 5 by the board of a Crown entity. 20

**“20G Proceedings of Board**

The Board may determine its own procedure.

**“20H Board levy**

- “(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, make regulations imposing a levy on mining mine operators to fund the costs of the Board. direct and indirect costs incurred by the Board in performing the Board’s functions to the extent they relate to mining operations. 25 30
- “(2) ~~Without limiting **subsection (1)**, regulations made under this section may—~~
- ~~“(a) prescribe the amount, a method or methods for calculating the amount, or both, of the levy payable by mining operators, and~~ 35

- ~~“(b) prescribe different amounts or different methods of calculating the amounts payable by different classes of mining operators:~~
- ~~“(3) The Minister must receive advice from WorkSafe before recommending that regulations be made under this section.~~ 5
- “(2) The regulations must—
- “(a) specify how the levy rate or rates are calculated:
- “(b) specify the mine operators or classes of mine operators responsible for paying the levy:
- “(c) specify, if the levy is to be paid at different rates, the mine operators, mining operations, thing being extracted, or other things or the classes of mine operators, mining operations, thing being extracted, or other things to which the different rates apply: 10
- “(d) specify when and how the levy is to be paid: 15
- “(e) specify the persons or classes of persons, if any, exempt from paying the levy.
- “(3) Without limiting **subsections (1) and (2)**, the regulations may—
- “(a) specify the returns to be made to WorkSafe or some other person or body for the purpose of enabling or assisting the determination of amounts of levy payable: 20
- “(b) specify the circumstances in which, and conditions subject to which, persons may be allowed extensions of time for paying the levy: 25
- “(c) for the purpose of ascertaining whether the regulations are being complied with,—
- “(i) require the keeping of accounts, statements, and records of a specified class or description by either or both of WorkSafe and the persons responsible for paying the levy; and 30
- “(ii) require the retention of the accounts, statements, and records for a specified period:
- “(d) provide for the establishment of a dispute resolution process for disputes relating to levies, including— 35
- “(i) the appointment of persons to resolve the disputes; and
- “(ii) the procedures to be followed by the persons; and
- “(iii) the remuneration of the persons.



- “(4) Before making a recommendation under this section, the Minister must—  
“(a) receive advice from WorkSafe on the proposed levy;  
and  
“(b) consult the people responsible for paying the proposed 5  
levy.”

**29 Section 21 amended (Regulations)**

Replace section 21(1)(b) with:

- “(b) without limiting paragraph (a), imposing duties relating  
to the health or safety of mine workers on— 10  
“(i) mine operators:  
“(ii) mine workers:  
“(iii) site senior executives:  
“(c) the default worker participation system for the purpose  
of **section 19T**: 15  
“(d) the requirements for conducting elections of mine site  
health and safety representatives for the purpose of **sec-**  
**tion 19U(1)**:  
“(e) the form of the identity card to be held by ~~a~~ mining an  
industry health and safety representative: 20  
“(f) prescribing the information to be provided to WorkSafe  
for the purpose of **section 19ZQ(b)** and any require-  
ments concerning the authentication of any photograph  
provided under that section:  
“(g) prescribing the information to be contained in the regis- 25  
ter kept under **section 19ZW**:  
“(h) prescribing functions of the New Zealand Mining Board  
of Examiners for the purpose of **section 20E(d)**:  
“(i) providing for any other matters contemplated by this  
Act and necessary for its administration or necessary 30  
for giving it full effect.”

**30 Section 22 amended (Application of regulations)**

In section 22, insert as subsection (2):

- “(2) Regulations under **section 21(1)(b)** may impose duties— 35  
“(a) on all mine operators:  
“(b) on mine operators of a particular kind or description:  
“(ba) on all site senior executives:

“(bb) on site senior executives of a particular kind or description:

“(c) on all mine workers:

“(d) on mine workers of a particular kind or description:

“(e) in relation to all mining operations: 5

“(f) in relation to mining operations of a particular class or description.”

**31 Section 23 amended (Other provisions relating to regulations)**

(1) In section 23, replace “section 21(1)(a)” with “section 21(1)(a) or **(b)**” in each place. 10

(2) After section 23(1)(e), insert:

“(ea) the competency requirements to be met by ~~mine site~~ health and safety representatives and ~~mining~~ industry health and safety representatives.” 15

(3) After section 23(1)(f), insert:

“(fa) the prescribing by WorkSafe, by notice in the *Gazette*, of ~~requirements to be met for the granting of certificates of competence for mine workers:—~~

“(i) requirements to be met for the granting of certificates of competence: 20

“(ii) other competency requirements for mine workers, site senior executives, site health and safety representatives, and industry health and safety representatives:” 25

**31A Section 31 amended (Powers of entry and inspection)**

After section 31(6), insert:

“(7) In this section, a reference to an employee includes any mine worker and a reference to an employer includes any mine operator.” 30

**31B Section 33 amended (Powers to take samples and other objects and things)**

After section 33(3), insert:

“(4) In this section, a reference to an employer includes any mine operator.” 35

**32 New section 39A inserted (Inspectors may issue improvement notices in relation to mining operation)**

After section 39, insert:

**“39A Inspectors may issue improvement notices in relation to mining operation 5**

“(1) An inspector may, in relation to a mining operation, give a person written notice to comply with a provision of this Act or of regulations made under this Act, if the inspector believes on reasonable grounds that the person is failing to comply with that provision or is likely to fail to comply with that provision. 10

“(2) An improvement notice must state that the inspector concerned believes that the person to whom or which it relates is failing, or is likely to fail, to comply with the provision, and must specify—

“(a) the provision; and 15

“(b) the inspector’s reasons for believing that the person is failing, or is likely to fail, to comply with the provision; and

“(c) the nature of the failure or likely failure; and

“(d) a day before which compliance is to be completed. 20

“(3) An improvement notice may specify steps that could be taken to ensure compliance with the provision concerned.

“(4) Every person to whom or to which an improvement notice is given or posted must comply with it.

“(5) Nothing in this section limits the power of an inspector under section 39.” 25

**33 New section 41A inserted (Inspectors may issue prohibition notices in relation to mining operation)**

After section 41, insert:

**“41A Inspectors may issue prohibition notices in relation to mining operation 30**

“(1) This section applies if, in relation to a mining operation,—

“(a) an inspector believes that there is a likelihood of serious harm to any person because of a failure to comply with any provision of this Act or of regulations made under this Act; or 35

- “(b) an inspector believes on reasonable grounds that it is likely that a person will fail to comply with any provision of this Act or of regulations made under this Act and that failure would be likely to cause serious harm to any person. 5
- “(2) The inspector may give written notice to stop, or not start, the carrying on, continuing, operating, storing, transporting, or use of the activity, building, place of work, plant, process, situation, structure, or substance, that the inspector believes to constitute the hazard that is likely to cause serious harm until an inspector is satisfied that measures sufficient to eliminate the hazard, or minimise the likelihood that the hazard will be a source of harm, have been taken. 10
- “(3) A prohibition notice must specify— 15
- “(a) the hazard to which it relates; and
- “(b) the inspector’s reasons for believing that the hazard is likely to cause serious harm.
- “(4) A prohibition notice may require the withdrawal of all mine workers of a specified kind or description except such mine workers as may be necessary to deal with the hazard. 20
- “(5) A prohibition notice may specify steps that could be taken to eliminate the hazard or minimise the likelihood that the hazard will be a source of harm.
- “(6) Nothing in this section limits the power of an inspector under section 41.” 25
- 34 Section 42 amended (Service of prohibition notices)**
- (1) In section 42(1), after “prohibition notice”, insert “under section 41”.
- (2) In section 42(2), after “notice”, insert “under section 41”.
- (3) After section 42(2) insert: 30
- “(3) An inspector who gives a prohibition notice under **section 41A** may—
- “(a) fix the notice to or near the part of the place of work or plant to which it relates and give a copy of it to the site senior executive, or another representative of the ~~mining~~ mine operator, on behalf of the ~~mining~~ mine operator; or 35

- “(b) give the notice to the site senior executive, or another representative of the ~~mining~~ mine operator, on behalf of the ~~mining~~ mine operator.
- “(4) No person may remove a notice under **section 41A** served in accordance with **subsection (3)(a)** unless authorised by an inspector.” 5
- 35 Section 43 amended (Compliance with prohibition notices)**
- (1) In section 43, after “notice”, insert “under **section 41**”.
- (2) In section 43, insert as subsection (2): 10
- “(2) A ~~mining~~ mine operator to whom a prohibition notice under **section 41A** is given must ensure that no action is taken in contravention of it.”
- 36 Section 50 amended (Other offences)**
- In section 50(1)(b), after “19B,”, insert “**section 19Q(1), section 19ZKA(2), section 19ZE(4), section 19ZF(3), section 19ZJ,**”.
- 36A Section 56D amended (Inspector may require information)**
- (1) After section 56D(1)(b)(iii), insert: 20
- “(iia) a mine operator:  
    “(iib) a mine worker:  
    “(iic) a site senior executive:”.
- (2) After section 56D(2)(b)(i), insert: 25
- “(ia) a mine operator:”.
- 37 Section 59 amended (Funding)**
- (1) In section 59(1), insert in its appropriate alphabetical order:
- “**certain Crown costs** means the expected cost to the Crown of—
- “(a) WorkSafe carrying out its functions under any enactment: 30
- “(b) any agency designated under section 28B of this Act carrying out functions under this Act and enforcing the

- Hazardous Substances and New Organisms Act 1996  
Act in places of work:
- “(c) the Crown administering the relevant health and safety legislation (within the meaning of **section 3** of the **Health and Safety (Pike River Implementation) Act 2013**)” 5
- “(d) collecting the funding levy”.
- (2) In section 59(2), replace “the expected cost to the Crown of the administration of this Act” with “certain Crown costs”.
- (3) In section 59(5), replace “the Secretary” with “WorkSafe”. 10
- 38 New section 63 and Schedule 1AA inserted**
- (1) After section 62, insert:
- “**63 Application, savings, and transitional provisions**  
The application, savings, and transitional provisions set out in **Schedule 1AA** have effect for the purposes of this Act.” 15
- (2) Before Schedule 1, insert the **Schedule 1AA** set out in **Schedule 2** of this Act.
- 39 Further amendments**  
The enactments specified in **Schedule 3** ~~is~~ are amended in the manner set out in that Schedule. 20

### Part 3 Mines Rescue

- 40 Interpretation**  
In this **Part**, unless the context otherwise requires,—
- authorised person** means a person who is authorised by the chief executive to exercise the powers conferred by **section 49** 25
- board** means the board recognised under **section 43**
- chief executive** means the chief executive of the department
- coal** has the same meaning as in **section 19L** of the Health and Safety in Employment Act 1992 30
- department** means the department of State that, under the authority of any warrant or with the authority of the Prime Min-

ister, is for the time being responsible for the administration of this **Part**

**financial year** means a period of 12 months ending with 31 March

**GST** means goods and services tax under the Goods and Services Tax Act 1985 5

**licence or other permission** means a lease, licence, or other instrument under which a person with an interest in land (including, for example, the owner of the land) permits another person to carry out a mining operation on the land 10

**mine operator** means,—

- (a) in respect of a mining operation carried out subject to a permit granted under the Crown Minerals Act 1991,—
  - (i) the person appointed by the permit operator to manage and control the mining operation; or 15
  - (ii) the permit operator, if no such person has been appointed:
- (b) where mining operations are carried out subject to a licence or other permission,—
  - (i) the person appointed to manage and control the mining operation by the person who holds the licence or other permission to carry out mining operations; or 20
  - (ii) the person who holds a licence or other permission to carry out mining operations, if no such person has been appointed: 25
- (c) in any other case,—
  - (i) the person appointed to manage and control the mining operation by the owner of the land where the mining operation is being carried out; or 30
  - (ii) the owner of the land where the mining operation is being carried out, if no such person has been appointed

**mine operator** means,—

- (a) in respect of a mining operation carried out under a permit granted under the Crown Minerals Act 1991,—
  - (i) the person appointed by the permit operator to manage and control the mining operation; or 35

- (ii) the permit operator, if no such person has been appointed:
- (b) in respect of a mining operation (not being a mining operation described in **paragraph (a)**) carried out under a licence or other permission,— 5
- (i) the person appointed to manage and control the mining operation by the person who holds the licence or other permission to carry out mining operations; or
- (ii) the person who holds the licence or other permission to carry out mining operations, if no such person has been appointed: 10
- (c) in any other case,—
- (i) the person appointed to manage and control the mining operation by the owner of the land where the mining operation is being carried out; or 15
- (ii) the owner of the land where the mining operation is being carried out, if no such person has been appointed
- mine worker** means a person who works in a mining operation, either as an employee or as a self-employed person 20
- mineral** has the same meaning as in **section 19L** of the Health and Safety in Employment Act 1992
- mines rescue brigade** means a group of persons organised by the board to provide rescue services during emergencies at mining operations 25
- mining operation—**
- (a) means a mining operation (within the meaning of **section 19M** of the Health and Safety in Employment Act 1992) but only to the extent that the mining operation is— 30
- (i) associated with the extraction of coal; or
- (ii) associated with the extraction of minerals ~~other than coal and~~ and where any person works below ground; and 35
- (b) includes a tunnelling operation; but
- (c) does not include a tourist mining operation



**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 **Part**

**rescue station**—

- (a) means a site that serves as an operational base for the functions specified in **section 44(a) to (c)**; and 5
- (b) includes a site for the management and administration of the board

**tourist mining operation** has the same meaning as in **section 19L** of the Health and Safety in Employment Act 1992 10

**tunnelling operation** means a tunnelling operation (within the meaning of **section 190** of the Health and Safety in Employment Act 1992) but only to the extent that the tunnelling operation relates to a tunnel that is, or is intended to be, at least 150 metres long 15

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

**41 Part binds the Crown**  
This **Part** binds the Crown. 20

**42 Provisions affecting application of amendments to this Part**  
**Schedule 4** contains application, savings, and transitional provisions that affect other provisions of this **Part** as from time to time amended, repealed, or repealed and replaced (*see section 55*). 25

*Mines Rescue Trust Board*

**43 Mines Rescue Trust Board**  
(1) Subject to **sections 44 and 45**, the Minister may, by notice in the *Gazette*, recognise a board incorporated under Part 2 of the Charitable Trusts Act 1957 for the purposes of this **Part**. 30  
(2) The notice must specify a day on which the recognition is to take effect (the **appointed day**).

**44 Functions of board**

The Minister must be satisfied that the board has ~~as~~ the following functions:

- (a) providing training, equipment, and resources for mines rescue brigades to ensure that the brigades have the capacity and readiness to respond to emergencies in mining operations; and 5
- (b) assisting mine operators in emergency preparedness, including by developing, reviewing, and testing mine operators' emergency management plans in mining operations; and 10
- (c) deploying mines rescue brigades and other resources, and providing advice to mine operators, during emergencies; and
- (d) for the purposes of performing the functions in **paragraphs (a) to (c)**,— 15
  - (i) establishing and maintaining rescue stations; and
  - (ii) purchasing real property, goods, and services for rescue stations; and
  - (iii) employing or engaging staff for rescue stations. 20

**45 Membership of board**

The Minister must be satisfied that the board comprises—

- (a) 1 person appointed by ~~the chief executive~~ WorkSafe (who has no voting rights and is not counted for the purposes of determining whether or not a quorum is present at a meeting of the board); and 25
- (b) 2 people who represent mine operators of underground coal mines; and
- (c) 1 person who represents mine operators of opencast coal mines; and 30
- (d) 1 person who represents mine operators of underground metalliferous mines; and
- (e) 1 person who represents tunnelling operators; and
- (f) 1 person appointed by a union (within the meaning of the Employment Relations Act 2000) whose members work in mining operations; and 35
- (g) any other person appointed by the board.

*Cost recovery*

**46 Regulations imposing levies**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations providing for the payment of a levy by mine operators to the board to enable the recovery of the direct and indirect costs of the board incurred in performing the functions specified in **section 44(a), (b), and (d)**. 5
- (2) The regulations must—
- (a) specify how the levy rate or rates are calculated: 10
  - (b) specify the mine operators or classes of mine operators responsible for paying the levy:
  - (c) specify, if the levy is to be paid at different rates, the mine operators, mining operations, thing being extracted, or other things or the classes of mine operators, mining operations, thing being extracted, or other things to which the different rates apply: 15
  - (d) specify when and how the levy is to be paid:
  - (e) specify the persons or classes of persons, if any, exempt from paying the levy. 20
- (3) The regulations may—
- (a) specify the returns to be made to the board or some other person or body for the purpose of enabling or assisting the determination of amounts of levy payable:
  - (b) specify the circumstances in which, and conditions subject to which, persons may be allowed extensions of time for paying the levy: 25
  - (c) specify a method by which the levy may increase or decrease over time to reflect a relevant index published by Statistics New Zealand: 30
  - (d) for the purpose of ascertaining whether the regulations are being complied with,—
    - (i) require the keeping of accounts, statements, and records of a specified class or description by either or both of the board and the persons responsible for paying the levy; and 35
    - (ii) require the retention of the accounts, statements, and records for a specified period:

- (e) provide for the establishment of a dispute resolution process for disputes relating to levies, including—
- (i) the appointment of persons to resolve the disputes; and
  - (ii) the procedures to be followed by the persons; and 5
  - (iii) the remuneration of the persons.
- (4) Before making a recommendation under **subsection (1)**, the Minister must consult the board and the persons responsible for paying the levy. 10
- Compare: 2012 No 2 s 62

#### 47 Board to account for levy

- (1) As soon as practicable after the end of a financial year in which a levy has been paid to the board, the board must prepare the following for the year:
- (a) a statement of the money paid to the board as levy in the year: 15
  - (b) a statement of the assets the board has at the end of the year as a result of money paid as levy in the year:
  - (c) a statement of the board's receipt and expenditure of money paid as levy in the year: 20
  - (d) all other statements necessary to show fully—
    - (i) the board's financial position as a result of money paid as levy in the year; and
    - (ii) the financial results of all of the board's activities involving the use of the money paid as levy in the year or the use of assets the board has at the end of the year as a result of money paid as levy in the year. 25
- (2) On or before 1 July after the end of a financial year, the board must— 30
- (a) ensure that the statements are independently audited; and
  - (b) provide the audited statements to the chief executive and to levy payers.
- (3) The board may provide the audited statements to levy payers 35 by making them available on an Internet site free of charge.
- Compare: 2012 No 2 s 63

**48 Failure to pay levy**

- (1) This section applies if a levy imposed by regulations made under **section 46** (or GST payable on that amount) is wholly or partly unpaid by the close of the date for payment.
- (2) The person responsible for paying the levy is liable to pay an additional amount equal to 10% of the amount unpaid. 5
- (3) The board may waive all or part of the amount of the additional amount if it is satisfied that the failure or refusal of a person to pay the original debt is a result of a genuine dispute as to the person's liability to pay the debt. 10
- (4) The board may recover a levy, and any additional amount payable under **subsection (2)**, as a debt due in a court of competent jurisdiction.
- Compare: 2012 No 2 s 65

**49 Power of inspection in relation to levy**

- (1) An authorised person may exercise the powers specified in this section, at any reasonable time within business hours, for the purpose of ascertaining whether the requirements of any regulations relating to the levy are being met. 15
- (2) For the purposes of **subsection (1)**, an authorised person has the power to— 20
- (a) enter any place that is not a dwelling house or marae—
- (i) on reasonable notice to the occupier; or
- (ii) without notice if giving notice would defeat the purpose of entry: 25
- (b) inspect and examine any books, accounts, records, or documents:
- (c) require any person to provide any information:
- (d) require a person to produce any books, accounts, records, or documents in the person's possession or control and allow copies of or extracts from them to be made or taken: 30
- (e) require a person to reproduce, or assist the authorised person to reproduce, in usable form any information recorded or stored electronically. 35

- (3) An authorised person exercising powers under this section in respect of a place must identify himself or herself as an authorised person—
- (a) before or on entry to the place; and
  - (b) whenever reasonably required to do so by the apparent occupier after entry. 5

Compare: 1992 No 97 s 8

## 50 Offences

- (1) **Subsection (2)** applies to—
- (a) any requirement to make returns or to keep accounts, statements, or records imposed by regulations made under **section 46**: 10
  - (b) a requirement under **section 49(2)**.
- (2) A person must not, in relation to the requirement,—
- (a) without reasonable excuse, refuse or fail to comply with the requirement: 15
  - (b) provide any information that the person knows, or ought to know, is materially false or misleading.
- (3) A person who contravenes **subsection (2)** commits an offence and is liable on conviction to a fine not exceeding \$2,000. 20
- (4) If a person contravenes **subsection (2)** while acting as an agent (including a contractor) or employee of another person (the **principal**), and it is proved that the contravention took place with the principal's authority, permission, or consent, the principal commits an offence and is liable on conviction to a fine not exceeding \$2,000. 25

Compare: 1992 No 97 s 9

## 51 Recovery of costs incurred in emergency

- (1) This section applies to direct and indirect costs incurred by the board in performing the function specified in **section 44(c)**. 30
- (2) The costs are payable to the board by the mine operator of the mining operation where the emergency occurs and, if the mine operator fails to pay the costs, the board may recover the costs as a debt due in a court of competent jurisdiction. 35
- (3) **Sections 46 to 50** do not apply to the costs.

*Miscellaneous provisions*

**52 Appointment of commissioner**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister,—
- (a) appoint a commissioner to perform the functions specified in **section 44**: 5
- (b) revoke the commissioner’s appointment.
- (2) The Minister must not recommend the making of an order appointing a commissioner unless the Minister is satisfied, on reasonable grounds, that the board is not performing the functions specified in **section 44**. 10
- (3) The Minister ~~must not~~ may recommend the making of an order revoking the appointment of a commissioner ~~unless~~ only if satisfied, on reasonable grounds, that— 15
- (a) the board is able to perform its functions without substantial difficulties; or
- (b) it is necessary to appoint a new commissioner.
- (4) While an order is in force under **subsection (1)(a)**,—
- (a) the commissioner has the functions specified in **section 44**, and, in relation to the performance of those functions, has and may exercise the board’s powers; and 20
- (b) the board must not perform the functions.

Compare: 1992 No 97 s 6

**53 Protection from civil and criminal liability**

- (1) This section applies to the following persons: 25
- (a) a member of a mines rescue brigade:
- (b) a member of the board:
- (c) an employee of the board:
- (d) an agent of the board.
- (2) The person is protected from civil and criminal liability for any act done in good faith that the person does or omits to do in the course of— 30
- (a) providing rescue services during an emergency at a mining operation:
- (b) providing advice to a mine operator during an emergency at a mining operation: 35
- (c) testing a mine’s emergency management plan.

**54 Regulations**

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations ~~imposing obligations on~~ requiring mine operators to make mine workers available to be members of mines rescue brigades; ~~including the number of mine workers a mine operator must make available and the extent to which the mine workers must be made available.~~ 5

(1A) Regulations made under this section may specify—

- (a) the number of mine workers a mine operator must make available and the extent to which a mine operator must make mine workers available; and 10
- (b) any other matter that is necessary to give effect to **paragraph (a)**.

(2) The number of mine workers a mine operator must make available and the extent to which the mine workers must be made available may be specified by a formula that takes into account the total number of mine workers working in the mining operation. 15

**55 Application, savings, and transitional provisions** 20

The application, savings, and transitional provisions set out in **Schedule 4** have effect for the purposes of this Act.

**56 Repeal of Mines Rescue Trust Act 1992**

Repeal the Mines Rescue Trust Act 1992 (1992 No 97).

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**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 Imple-  
mentation) Act 2013**”.

10

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 ~~and WorkSafe in their~~ 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)(l), 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), ~~replace paragraph (d) of the 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 each place~~.

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 ~~or not~~ 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 ~~which~~ 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 ~~was~~ 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)** 15  
“**specified provision** means a provision that is specified in a *Gazette* notice under **subsection (2)(a)** **subsection (2)(b)**.
- “**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”. 25
- In section 6(4), replace “he or she” with “WorkSafe”.
- 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”. 30
- In the headings to sections 8, ~~9~~, 13, 19, and 20, replace “**Secretary**” with “**WorkSafe**”.
- 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 ~~or not~~ 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 ~~which~~ 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 ~~was~~ 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. 35



Part 1—*continued*

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

“(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)(a) subsection (2)(b)**. 5

“**6B 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.

“(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, ~~10~~, 14, 20, and 21, replace “**Secretary**” with “**WorkSafe**”. 20

In the heading to section 10, replace “**Secretary’s**” with “**Work-Safe’s**”.

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

Replace section 17A with: 25

“**17A Transfer of accident information**

“(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

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

“(3) If an accident relates to a specified matter, a person required to provide notification of any accident under section 17 may notify the Secretary in accordance with that section instead of WorkSafe.”

Replace section 41(6) and (7) with: 5

“(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 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.” 15

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

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

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

**Hazardous Substances and New Organisms Act 1996 (1996 No 30)** 20

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**”. 25

Replace section 97(1)(a) with:

“(a) WorkSafe ~~New Zealand~~ must ensure that the provisions of this Act are enforced in any place of work.”

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

Part 1—*continued*

**Hazardous Substances and New Organisms Act 1996 (1996  
No 30)**—*continued*

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

“(a) means WorkSafe New Zealand.”

**Health and Safety in Employment Act 1992 (1992 No 96)**

In section 2(1), repeal the definition of **departmental medical practitioner**. 5

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 sections 19H, 25, 25A, 28B, 29, 31, 34, 54, 54A, and 54C, replace “the Secretary” with “WorkSafe” in each place.~~ 10

~~In section 25A, 29, 34, 54, and 56G, replace “The Secretary” with “WorkSafe” in each place.~~

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

In section 25(2)(b) and (3)(a) and (b), replace “the Secretary” with “WorkSafe”. 15

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. 20

“(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.” 25

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 (except for the reference to WorkSafe in 59(4)).”

In section 29(1), replace “The Secretary” with “WorkSafe”. 30

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

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

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

In the cross-heading above section 34, replace “departmental medical practitioners” with “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”.

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”.

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”.

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”.

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”.

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

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

Part 1—*continued*

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

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

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

**Machinery Act 1950 (1950 No 52)**

In section 2, repeal the definition of **Secretary**. 5

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**.”

Replace section 5(1) with: 10

“(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”.

Replace section 26C with: 15

**“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: 20

“(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, the Secretary of Labour: 25

“(c) for a code of practice issued on or after 1 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.” 30

Repeal section 41.

Part 1—*continued***Ombudsmen Act 1975 (1975 No 9)**

In Schedule 1, Part 2, insert in its appropriate alphabetical order:

“WorkSafe New Zealand”.

**Privacy Act 1993 (1993 No 28)**

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

“(ia) WorkSafe New Zealand.”.

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:

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 ~~relevant~~ 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: 15

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

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

Repeal section 8(3). 20

## Part 2

## Amendments to regulations

**Amusement Devices Regulations 1978 (SR 1978/294)**

In Schedule 1, forms 1 and 6, replace “the Department of Labour” with “WorkSafe” ~~in each place~~. 25

Part 2—*continued*

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

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, ~~108, and 109~~, replace “Secretary” with “WorkSafe”. 5

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. 10

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

In the headings to regulations 108 and 109, replace “Secretary’s” with “WorkSafe’s”. 15

In Schedule 3, forms 1 and 2, replace “Secretary/Registrar\*” with “WorkSafe/Secretary/Registrar\*” in each place.

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. 20

In the headings to regulations 10, 61, and 62, ~~and 85~~, 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. 25

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

**Geothermal Energy Regulations 1961 (SR 1961/124)**

In regulation 2(1), ~~delete~~ revoke the definition of Secretary. 30

In regulation 2(1), definition of **well-head master valve**, delete “.”.

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

In regulation 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 regulations 2, 3, 4, 11, ~~14B~~, ~~16~~, and 35, replace “the Secretary” 5  
with “WorkSafe” in each place.

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. 10

“(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.

“(2A) WorkSafe must supply the Chief Geothermal Inspector and every Geothermal Inspector with a certificate of appointment.” 15

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

**Hazardous Substances (Classes 6, 8, and 9 Controls) Regulations 2001 (SR 2001/117)** 20

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”.

**Health and Safety in Employment (Adventure Activities) Regulations 2011 (SR 2011/367)** 25

In regulation 3, ~~repeat~~ revoke the definition of **Secretary**.

~~In regulation 3, definition of **serious harm**, delete “.”.~~

~~In regulation 3, 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

In regulations 3, 7, ~~8~~, ~~9~~, 11, 12, 17, 18, and 21, replace “the Secretary” with “WorkSafe” in each place.



Part 2—*continued*

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

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— 5
- “(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
- “(b) WorkSafe, if the first such activity is provided in the period starting on 1 December 2013 and ending on 31 December 2013.” 10

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”. 15

Replace regulation 9(3) with:

- “(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 20
- “(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 25
- “(c) WorkSafe considers that the auditor that provided the safety audit had the appropriate experience and qualifications to do so.”

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

In regulations 9, 11, 12, 13, 17, 18, 19, 20, and 21, replace “The Secretary” with “WorkSafe” in each place. 30

Part 2—*continued***Health and Safety in Employment (Asbestos) Regulations 1998  
(SR 1998/443)**

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

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

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. 10

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

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

**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. 15

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

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

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

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, 79, 80, and 85 and Schedules 4 and 5, replace “the Secretary” with “WorkSafe” in each place. 25

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

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. 30

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

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

Part 2—*continued*

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

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. 5

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

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

In Schedule 2, ~~the~~ headings to Part 1 and Part 2, replace “Secretary” with “WorkSafe”. 10

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

In regulations 5, 6, 17, 22, 23, 25, 29, and 35, replace “The Secretary” with “WorkSafe” in each place. 15

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.

**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 each place. 20

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

In regulations 19, 28, 29, 36, 37, 38, 39, 40, 42, 43, and 65, replace “the Secretary” with “WorkSafe” in each place. 25

|          |                                                                                                                                                                                      |             |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
|          | <b>Schedule 2</b>                                                                                                                                                                    | <b>s 38</b> |
|          | <b>New Schedule 1AA inserted in principal Act</b>                                                                                                                                    |             |
|          | <b>Schedule 1AA</b>                                                                                                                                                                  | <b>s 63</b> |
|          | Part 1                                                                                                                                                                               | 5           |
|          | Transitional provision relating to Part 2 of the Health and Safety (Pike River Implementation) Act 2013                                                                              |             |
| <b>1</b> | <b>Existing mining operations</b>                                                                                                                                                    |             |
| (1)      | This clause applies to any mining operation that began before the date on which <b>Part 2</b> of the <b>Health and Safety (Pike River Implementation) Act 2013</b> came into force.  | 10          |
| (2)      | In relation to any mining operation to which this clause applies,—                                                                                                                   |             |
| (a)      | until 31 December 2014, the principal Act applies as if it had not been amended by <b>Part 2</b> of the <b>Health and Safety (Pike River Implementation) Act 2013</b> ;              | 15          |
| (b)      | on and after 1 January 2015, in <b>section 19T(1)(a)</b> , “ <u>within</u> 3 months of the date on which a mining operation begins” is to be read as “ <u>by 31 December 2014</u> ”. | 20          |

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**Schedule 3**

**s 39**

**Consequential amendments**

**Employment Relations Act 2000 (2000 No 24)**

Replace section 107(2) with:

“(2) An employee who is representing employees under the Health and Safety in Employment Act 1992, whether as a health and safety representative or a ~~mine site~~ health and safety representative (as those terms are defined in that Act) or otherwise, is to be treated as if he or she were a delegate of other employees for the purposes of subsection (1)(g).”

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10

**Privacy Act 1993 (1993 No 28)**

In Schedule 2, Part 1, insert in its appropriate alphabetical order:

Health and Safety in Employment  
Act 1992

**section 19ZW**

## Schedule 4

s 55

Application, savings, and transitional  
provisions

## 1 Interpretation

In this schedule, unless the context otherwise requires,— 5

**appointed day** means the date specified in the notice published in the *Gazette* under **section 41**

**Trust Board** means the Board approved under section 3 of the Mines Rescue Trust Act 1992.

Transitional provisions 10

## 2 Trust Board continues until appointed day

(1) Until the appointed day, the Trust Board and any other person has, and may perform or exercise, the functions, responsibilities, duties, and powers conferred by the Mines Rescue Trust Act 1992 and the provisions of that Act are deemed to continue in force to the extent necessary for the performance or exercise of those functions, responsibilities, duties, and powers. 15

(2) On and from the appointed day, neither the Trust Board nor any other person has any functions, responsibilities, duties, or powers under the Mines Rescue Trust Act 1992. 20

## 3 Money payable under Mines Rescue Trust Act 1992

(1) Any amount of money that immediately before the appointed day was payable to the Trust Board under section 7 of the Mines Rescue Trust Act 1992 is, on and after the appointed day, payable to the board as if it were a levy payable under regulations made under **section 44**. 25

(2) Despite the repeal of the Mines Rescue Trust Act 1992, the Trust Board must, within three months of the appointed day, give the chief executive independently audited accounts of the Trust Board's income and expenditure under section 7 of the Mines Rescue Trust Act 1992 for the period ending at the close of the day before the appointed day. 30

**Health and Safety (Pike River  
Implementation) Bill**

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**Legislative history**

24 June 2013  
27 June 2013

Introduction (Bill 130–1)  
First reading and referral to Transport and Industrial  
Relations Committee

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