

## Health & Safety at Work – WorkSafe New Zealand

Since our Market Bulletin in April last year there has been significant and dynamic movement on various fronts towards the implementation of the new workplace safety regime.

The WorkSafe New Zealand Act 2013 became effective on 16 December 2013. This establishes WorkSafe NZ as the agency responsible for the functions of the Health & Safety in Employment Act (H&SE) in place of the Ministry of Business, Innovation and Employment (MoBIE).

The [Health & Safety Reform Bill](#) is now with the Transport & Industrial Relations Select Committee with final submissions received on 11 April. The Committee is due to report back to the House by 13 September. It all looks to be on track for enactment by the end of this year and effective from 1 April 2015. You will find a useful summary of the status of the Bill (including changes since the Bill was first introduced) by clicking on this [Link](#).

In anticipation of the new Act our industry must become acquainted with a whole new raft of terminology amongst which are:

- **PCBU (Person conducting a business or undertaking):** Seems self-explanatory but appears to include a company.
- **Officer:** If the PCBU is a company, directors, partners (or their equivalent) or any person who makes decisions which affect the whole or a substantial part of a business.
- **Worker:** Any person who carries out work in any capacity for a PCBU
- **Primary Duty of Care:** A PCBU must ensure the health and safety of workers as far as reasonably practicable.
- **Duty holders:** Officers of a PCBU. They have a positive duty of due diligence in ensuring the elimination or minimisation of risks to health and safety of workers
- **Reasonably practicable:** Replaces the current term 'all practicable steps'.
- **Notifiable incident:** Replaces the current term 'serious harm'.

- **Workplace:** The actual place of work or any place where the worker goes or is likely to be while at work.

Apart from the progress on legislative matters it is evident from a number of recent H&SE claims that the attitude of WorkSafe NZ may be coming more stringent in the prosecution of H&SE Act infringements. This is a clear reflection of the Government's "toughening up" on workplace safety which will be enshrined in the impending, Health & Safety in Employment legislation.

Several of Vero Liability's legal advisors report that WorkSafe appears to be adopting a more legalistic approach in relation to the disclosure of the evidence they gather in investigating and prosecuting H&SE incidents. This is in contrast to the more practical and logical process which has prevailed until recently. As well there appears to be a greater focus on Section 18 of the H&SE Act which imposes duties on principals in contract to safeguard anyone working on the contract.

Please click on this [Link](#) for a more detailed commentary on this.

All of this will have a significant impact on the provision and management of Statutory Liability insurance.

Vero Liability is keeping well abreast of developments and you can ensure your clients that Vero Liability's hallmark attribute of striving to provide quality underwriting and a market-leading claims service will continue to cater well for the challenges of this new legislation.

Please contact your specialist [VL Underwriter](#) to discuss any aspect of this Bulletin.