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## Welcome...

Welcome to USSA's quarterly newsletter, designed to provide you with a summary of the latest health, safety and environmental news.

New Zealand is currently undergoing one of the most significant reforms to its health and safety legislation and enforcement systems.

To support local businesses in understanding the changes and what they will mean to them, USSA has produced this special newsletter aimed at clearly summarizing the planned reforms.

At USSA, we specialise in developing and implementing simple and sustainable HSE solutions and providing straightforward advice and guidance. We hope producing this newsletter is testimony to this.

## USSA's gone Global

In line with our exciting international expansion plans, USSA have recently opened an office in New Zealand with another planned for Singapore; to reflect this we have now become 'USSA Global'.

## New USSA Website

To reflect our international status, USSA are delighted to announce the launch of our newly designed USSA Global website:

[www.ussaglobal.com](http://www.ussaglobal.com)

The site features latest HSE news articles, details of our specific industry solutions, core services and training courses. We'd like to thank our web developer **PikSoul** for all their hard work.



## New Zealand Harmonisation

In August 2013, the New Zealand Government announced the most significant reform of its workplace health and safety (WHS) system in 20 years. This follows on from the Pike River Royal Commission recommendations, and the release of statistics which show that New Zealand has a static and significantly high serious injury, fatality and occupational disease rates, in comparison to other developed countries.

The reform also follows on from the announcement by the NZ Government of their goal to reduce NZ workplace injury and death toll by 25% by 2020.

The main changes to the New Zealand WHS system include:

- The establishment of an Independent Taskforce on WHS.
- The development of Reform Package
- Introduction of new health and safety legislation in the form of the Health and Safety (Pike River Implementation) Bill, based on Australian Model H&S legislation
- A new stand-alone regulator, WorkSafe New Zealand, is to be established.
- Transitional arrangements
- Further initiatives aimed at improving performance.



## NZ Task Force

Following the Pike River disaster (pictured above), the NZ government established an Independent Taskforce on WHS. The role of the Taskforce was to carry out a comprehensive review of New Zealand's WHS system; they issued a report in April 2013.

## Working Safer Reform Package

In response to recommendations made by the Taskforce, the NZ Government published its WHS report, the '[Working Safer: a blueprint for health & safety at work](#)', a reform package aimed at reducing New Zealand's work injury and death toll by 25% by 2020, and included plans to amend WHS legislation.

## Contents

USSA Global	P.1
New Website launch	P.1
NZ Harmonisation	P.1
NZ Further Reforms	P.1
New NZ Legislation	P.2
New NZ WorkSafe	P.2
How USSA can help	P.2

## NZ Further Reforms

Further WHS reforms are expected, including:

- An increase in WHS funding of \$37 million in Budget 2012
  - Action plans targeting high-risk sectors – Construction, Agriculture, Forestry, Fishing, Manufacturing, and Occupational Health
  - Establishment of the High Hazards Unit
  - More frontline health and safety inspectors
  - An internal change programme, 'Lifting Our Game', which focuses on changing the way MBIE delivers health and safety regulation to improve performance; this is expected to provide a strong foundation for NZ WorkSafe.
  - The Government has announced that MBIE will be releasing additional guidance in October 2013 relating to the new earthquake-prone buildings policy, aimed at building owners and employers on their responsibilities where the requirements of the Building Act and the HSE Act overlap
- For further information and assistance in getting your business ready for the coming changes, please contact USSA to arrange a free consultation**

# How USSA Global can help NZ businesses...

## Changes to Legislation

The reform package included plans to replace the *Health and Safety in Employment Act 1992* (NZ) with a new *Health and Safety at Work Act* (NZ), based on Australia's model WHS laws but adapted, where necessary, for NZ conditions.

It is anticipated that the new legislation will be introduced to NZ Parliament by December 2013, and will come into force by the end of 2014.

Supporting regulations guidance and Approved Codes of Practice (ACOPs) will be developed in consultation with stakeholders, to assist persons conducting a business or undertaking (PCBUs) and workers in understanding how the legislation will apply to them. The Government has indicated that the creation of regulations, ACOPs, standards and guidance will be a phased process, based on level of priority.

The new *Health and Safety at Work Act* seeks to clarify the duties of all players in modern workplaces and working arrangements. It sets out the establishment of WorkSafe New Zealand and will also include requirements for worker participation in WHS. One of the key benefits of aligning NZ legislation with Australia's model WHS Laws, according to the MBIE, will be a consistent approach that will 'reduce transaction costs for firms and individuals operating in both countries'



## Key Changes will include:

- Definition of duty holder will change to the more inclusive definition of a "person conducting a business or undertaking" (PCBUs) to allocate duties to those people in the best position to control risks to health and safety in the workplace
- A clearer test to determine what is a "reasonably practicable" action for PCBUs to take, given risk and other circumstances
- A positive Due Diligence duty so that those with governance roles in firms and organisations must actively manage workplace health and safety, and will face consequences if they fail to perform their duties, which may include imprisonment where the officer's failure or recklessness exposed a person to risk of death or serious injury
- A modified penalties structure<sup>1</sup>, the Bill contains the following tiers of maximum penalties
  - General failure to comply with WHS duties – maximum fine of NZ\$500,000 for a corporation and NZ\$100,000 for an individual;
  - Failure to comply with WHS duties exposing an individual to serious risk – maximum fine of NZ\$1.5 million for a corporation and NZ\$300,000 for an individual; and
  - Reckless conduct – maximum fine of NZ\$3 million for a corporation and NZ\$600,000 and/or five years' imprisonment for an individual

## How can USSA help

USSA Global HSE consultants can assist your organisation in preparing for these changes by ensuring you have robust systems in place, which meet new NZ legislative requirements.

USSA specialise in developing and implementing simplistic, sustainable business management solutions. We understand that complex and bureaucratic management systems cause inefficiency, distraction and harm in workplaces.

- Development and implementation of organisational specific WHS management system
- Training and education in risk management and WHS systems and processes
- Legal compliance auditing to meet new NZ requirements
- Incident investigation and management training
- Development of organisational risk profiles
- Provision of qualified and experienced onsite HSE professionals

## More about WorkSafe New Zealand

**WorkSafe New Zealand** is expected to start operations in December 2013, and will be responsible for implementing the *Working Safer* reforms.

The creation of a stand-alone WHS regulatory and enforcement agency was a key recommendation of both the Royal Commission on the Pike River Coal Mine Tragedy and the Independent Taskforce on WHS. WorkSafe New Zealand will also incorporate the current Energy Safety team.

## A Crown Agent

WorkSafe New Zealand will be a Crown agent; giving it greater independence and will have the ability to influence government policy.

WorkSafe New Zealand will have its own governance board and the Acting Chief Executive-Designate has already been appointed; Mr Geoffrey Podger, who is currently the Chief Executive of the Health and Safety Executive (HSE) in the UK.

## A tougher Enforcement body

WorkSafe New Zealand will have high visibility, provide a single point of accountability and play a leadership role in improving New Zealand's WHS performance. As an enforcement body, WorkSafe New Zealand will have a strong mandate to significantly reduce the death and injury rates, enforce the new regulations and will aim to work collaboratively with employers and employees to embed and promote good WHS practice.

## WorkSafe Functions

WorkSafe New Zealand functions will include providing WHS guidance and information, setting standards and developing codes of practice, monitoring and enforcing compliance with the new legislation, promoting education and training, collecting, analysing and publishing statistics, and making recommendations to the Government on the operational effectiveness of the new legislation and system, and funding requirements, including levies or fees.

## Transitional Arrangements

The current Ministry for Business Innovation and Employment (MBIE's) WHS functions and staff will be transfer to WorkSafe New Zealand once the agency has been established. This means businesses and workers will deal with same people in the same locations as before.

Until then, the MBIE will continue to carry out WHS investigations and operations. The MBIE have set up an Establishment Unit to manage the transition process and provide regular updates. It is not expected that there will be changes to the roles of the other WHS regulators: Civil Aviation Authority (for air), Maritime New Zealand (for ships) and NZ Police (for commercial vehicles).