



**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HIKINA WHAKATUTUKI



Pike River Implementation Update

In response to the recommendations of the Royal Commission on the Pike River Coal Mine Tragedy

The Government has completed the one year programme of actions to implement its response to the recommendations of the Royal Commission on the Pike River Coal Mine Tragedy. This final update shows the actions that have been taken to address each recommendation. It also shows a number of ongoing actions that will form part of the business as usual for WorkSafe New Zealand and the Ministry of Business, Innovation and Employment.

December 2013



| Lead(s) Contributor(s) | Completed actions | Ongoing work |
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| Recommendation 1: To improve NZ's poor record in health and safety, a new Crown agent focusing solely on health and safety should be established | | |
| <p>MBIE <i>State Services Commission</i> <i>Independent Taskforce on Workplace Health and Safety</i></p> | <p>February: the Government announces its decision to establish a new Crown agent as health and safety regulator.</p> <p>March: MBIE creates an establishment unit and develops an implementation plan to manage the creation of the new entity and the transfer of relevant functions from MBIE to the Crown agent. A governance group is also established to oversee the health and safety transformational work being undertaken across MBIE.</p> <p>June: the Health and Safety (Pike River Implementation) Bill, which establishes WorkSafe New Zealand (WorkSafe) as the stand alone Crown agent responsible for workplace health and safety, is introduced to Parliament and referred to the Transport and Industrial Relations Committee.</p> <p>July: the WorkSafe establishment board is appointed by the Minister of Labour and has its first meeting.</p> <p>August: the Acting Chief Executive Designate for WorkSafe is appointed.</p> <p>September: the Acting Chief Executive Designate for WorkSafe takes up the role.</p> <p>October: the Transport and Industrial Relations Committee reports the Health and Safety (Pike River Implementation) Bill back to Parliament. Recruitment for the permanent Chief Executive and new senior executive positions is underway. The WorkSafe visual identity and Maori name, Mahi Haumarua Aotearoa, were also confirmed in October.</p> <p>November 2013 Relevant MBIE staff are invited to transfer to WorkSafe Permanent Board appointments are made</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> |

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| | <p>December 2013</p> <p>The legislation establishing WorkSafe commences</p> <p>WorkSafe is up and running</p> | |
| <p>Recommendation 2: An effective regulatory framework for underground coal mining should be established urgently</p> | | |
| <p>MBIE</p> <p>WorkSafe</p> <p><i>Expert Reference Group</i></p> <p><i>Industry Group</i></p> | <p>January: MBIE establishes a dedicated team (the Pike River Implementation Team) to oversee the implementation of the Royal Commission's recommendations, including the development of the new regulatory framework for mining health and safety.</p> <p>February: an expert reference group is established to assist with the development of the new mining health and safety framework. MBIE also establishes a monthly industry/union consultation process (the industry group) to discuss MBIE proposals for the development of the new framework. A cross-agency senior officials group is set up to provide whole of government oversight and governance for the Pike River implementation work.</p> <p>May: MBIE releases the <i>Safe mines: safe workers</i> discussion document which sets out proposals for a new set of regulations for mining health and safety, and amendments to the Health and Safety in Employment Act 1992. The proposals concern the mining industry generally, including quarries, not just underground coal.</p> <p>June: the Health and Safety (Pike River Implementation) Bill (which contains the regulation making powers for the new mining health and safety regulations, new worker participation obligations, and new mines rescue legislation) is introduced to Parliament. The Bill is referred to the Transport and Industrial Relations Committee.</p> <p>August: Cabinet makes policy decisions on the form and scope of the new mining health and safety regulations. It is decided that quarries will, for the most part, not be included in the new regulations. Health and safety in quarries will be regulated through guidelines in the short term, and quarry specific regulations in the longer term.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Ongoing work includes:</p> <p>2014</p> <p>The codes of practice on fire and explosion and ventilation will be approved.</p> <p>Codes of practice on strata management, spontaneous combustion, inundation, air quality and diesel particulate matter, and occupational health will be developed.</p> <p>Health and safety guidelines for quarries will be developed, with a view to developing quarry specific regulations under the new health and safety legislation.</p> <p>2015</p> <p>Codes of practice on emergency response, roadways, gas outbursts, mechanical engineering, and explosives will be developed.</p> |

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| | <p>September/October: a document summarising feedback on the proposals in the <i>Safe mines: safe workers</i> discussion document, and the Government's response to the feedback, is released on the MBIE website. An exposure draft of the mining health and safety regulations is also released. Targeted consultation with industry on the exposure draft regulations takes place.</p> <p>October: the Transport and Industrial Relations Committee reports the Health and Safety (Pike River Implementation) Bill back to Parliament. The second reading takes place.</p> <p>November 2013</p> <p>The Health and Safety in Employment Amendment Act 2013 is passed.</p> <p>December 2013</p> <p>The Health and Safety in Employment (Mining Operations and Quarrying Operations) Regulations and changes to the Health and Safety in Employment Act come into force. Transitional arrangements apply.</p> | |
| <p>Recommendation 3: Regulators need to collaborate to ensure that health and safety is considered as early as possible and before permits are issued</p> <p>Recommendation 4: The Crown Minerals regime should be changed to ensure that health and safety is an integral part of permit allocation and monitoring</p> | | |
| <p>MBIE</p> | <p>May: changes to the Crown Minerals Amendment Act 2013 came into force. These changes include:</p> <ul style="list-style-type: none"> • New health and safety requirements for exploration and separate permits for mining. • An initial assessment of a permit applicant's health and safety and environmental management capability. This would not replace or duplicate the requirements under other relevant legislation. It will ensure that permits are awarded only to applicants equipped to fully carry out their work programmes. | <p>The Government's actions to give effect to these recommendation have been completed</p> <p>Ongoing work includes:</p> <ul style="list-style-type: none"> • The alignment of mining regulations and Crown Minerals Act approval and review processes. • The development of internal MBIE and cross-government processes to support different regulators to engage early on health and safety matters. |

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| | <ul style="list-style-type: none"> The requirement for tier 1 permit holders (e.g. petroleum and underground mining) to attend annual work programme review meetings with other regulators. The sharing of information across agencies to help them in their role of regulating activities in the sector. These changes will support the better coordination of regulatory activities. | <ul style="list-style-type: none"> The review of health and safety compliance by permit holders. The development of a standard information pack on health and safety laws and regulations for mining permit applicants. The confirmation of information management requirements to give effect to permit application assessments. |
| Recommendation 5: The statutory responsibilities of directors for health and safety in the workplace should be reviewed to better reflect their governance responsibilities | | |
| MBIE <i>Independent Taskforce on Workplace Health and Safety</i> Ministry of Justice Institute of Directors | <p>June 2012: the Government requested the Independent Taskforce on Workplace Safety and Health to:</p> <ul style="list-style-type: none"> Report on the most appropriate action to implement governance responsibilities and competencies of directors for health and safety in all workplaces, and Consider and provide advice on the merits or otherwise of introducing the offence of corporate manslaughter. <p>April 2013: the Independent Taskforce reported to the Government on these and other issues.</p> <p>August 2013: the Government issues its response to the Independent Taskforce. This includes agreement to new legislation which includes a health and safety governance duty for directors.</p> | <p>Ongoing work includes:</p> <p>The Government will introduce new health and safety legislation into Parliament in early 2014, including actions to implement the Independent Taskforce's recommendations.</p> <p>The Ministry of Justice will consider the issue of corporate manslaughter as part of the corporate liability framework more generally.</p> |
| Recommendation 6: The health and safety regulator should issue an approved code of practice to guide directors on how good governance practices can be used to manage health and safety risks | | |
| MBIE Institute of Directors WorkSafe | <p>May: MBIE, in conjunction with the Institute of Directors, issued the publication <i>Good Governance Practices Guideline for Managing Health and Safety Risks</i>. A number of workshops to promote the guidance were held.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Ongoing work includes:</p> <p>WorkSafe is responsible for developing appropriate guidance material necessary to give effect to any new duties under the new health and safety legislation that is being developed.</p> |

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| Recommendation 7: Directors should rigorously review and monitor their organisation's compliance with health and safety law and best practice | | |
| MBIE <i>Independent Taskforce on Workplace Health and Safety</i> | <p>June 2012: the Government requested the Independent Taskforce on Workplace Safety and Health to report on the most appropriate action to implement governance responsibilities and competencies of directors for health and safety in all workplaces, and</p> <p>April 2013: the Independent Taskforce reported to the Government on these and other issues.</p> <p>August 2013: the Government issued its response to the Independent Taskforce, including agreement to new legislation which will have a health and safety governance duty for directors.</p> | <p>Ongoing work includes:</p> <p>The Government will introduce new health and safety legislation in early 2014, including actions to implement the Taskforce recommendations.</p> |
| Recommendation 8: Managers in underground coal mines should be appropriately trained in health and safety | | |
| MBIE <i>Expert Reference Group Industry Group MITO</i> | <p>This recommendation has been implemented through the regulations developed under recommendation 2. The regulations set out the competency requirements for holders of safety critical roles in the mining industry.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Please refer to recommendation 2</p> |
| Recommendation 9: The health and safety regulator should issue an approved code of practice to guide managers on health and safety risks, drawing on both their legal responsibilities and best practice. In the meantime, managers should consult the best practice guidance available | | |
| MBIE WorkSafe | <p>June: MBIE published <i>Guidance for a Hazard Management System for Mines</i>.</p> <p>July: MBIE published a <i>Guide to Developing Safety Management Systems for the Extractives Industry</i>.</p> <p>October: MBIE released <i>People Come First</i>, a guidance document for managers of mines, quarries and tunnelling operations on how to establish, maintain and promote a strong health and safety culture. The guidance was developed with the assistance of an industry working group.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Ongoing work includes:</p> <p>WorkSafe is responsible for developing appropriate guidance material necessary to give effect to any new duties under the new health and safety legislation that is being developed.</p> |

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| Recommendation 10: Current regulations imposing general health and safety duties on the statutory mine manager should be extended to include detailed responsibilities for overseeing critical features of the company's health and safety management systems | | |
| MBIE <i>Expert Reference Group</i> <i>Industry Group</i> | This recommendation has been implemented through the regulations developed under recommendation 2. The regulations include a requirement to appoint a site senior executive to oversee a company's health and safety management system. | The Government's actions to give effect to this recommendation have been completed Please refer to recommendation 2 |
| Recommendation 11: Worker participation in health and safety in underground coal mines should be improved through legislative and administrative changes | | |
| MBIE <i>Expert Reference Group</i> <i>Industry Group</i> | <p>May: MBIE releases the <i>Safe mines: safe workers</i> discussion document which includes proposals for enhanced requirements for worker participation in health and safety in the mining industry.</p> <p>June: the Health and Safety (Pike River Implementation) Bill is introduced to Parliament. The Bill contains amendments to the worker participation provisions of the Health and Safety and Employment Act 1992. The Bill is referred to the Transport and Industrial Relations Committee.</p> <p>October: the Transport and Industrial Relations Committee reports the Health and Safety (Pike River Implementation) Bill back to Parliament. The second reading takes place.</p> <p>November</p> <p>The Health and Safety in Employment Amendment Act 2013 is passed.</p> <p>December</p> <p>The amendments to the worker participation requirements in the Health and Safety in Employment Act, for the mining industry, come into force. Transitional arrangements apply.</p> | The Government's actions to give effect to this recommendation have been completed Ongoing work includes: 2014 More general changes to worker participation requirements will be made through the new health and safety legislation that will replace the Health and Safety in Employment Act 1992. A bill will be introduced in early 2014. A code of practice on worker participation will also be developed. |

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| Recommendation 12: The regulator should supervise the granting of mining qualifications to mining managers and workers | | |
| <p>MBIE <i>MITO</i> <i>NZQA</i> <i>Expert Reference Group</i> <i>WorkSafe</i></p> | <p>May: MBIE releases the <i>Safe mines: safe workers</i> discussion document which sets out proposals for a new set of regulations for mining health and safety, and amendments to the Health and Safety in Employment Act 1992. This includes proposals for WorkSafe to establish a New Zealand Mining Board of Examiners to provide advice on competency requirements, assess applicants for certificates of competence, grant (and renew and revoke) certificates of competence, and set requirements for continued professional development.</p> <p>June: the Health and Safety (Pike River Implementation) Bill is introduced to Parliament, and referred to the Transport and Industrial Relations Committee. The Bill contains provisions concerning the establishment of the Board of Examiners, its functions and membership.</p> <p>September: an exposure draft of the Health and Safety in Employment (Mining Operations) Regulations is released, and targeted consultation with industry takes place. The regulations provide that WorkSafe may prescribe requirements for certificates of competence, and sets out some requirements of the Board of Examiners.</p> <p>October: the Transport and Industrial Relations Committee reports the Health and Safety (Pike River Implementation) Bill back to Parliament. The second reading takes place.</p> <p>November</p> <p>The Health and Safety in Employment Amendment Act 2013 is passed.</p> <p>December</p> <p>The Health and Safety in Employment (Mining Operations and Quarrying Operations) Regulations and changes to the Health and Safety in Employment Act come into force. Transitional arrangements apply.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Ongoing actions:</p> <p>WorkSafe will have one year to establish the Board of Examiners. MITO will continue to issue certificates of competence in the interim.</p> |

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| Recommendation 13: Emergency management in underground coal mines needs urgent attention | | |
| MBIE <i>Expert Reference Group</i> <i>Industry Group</i> <i>Police</i> <i>Other Emergency Agencies</i> <i>Mines Rescue Service/Trust</i> <i>Civil Defence/ Emergency Management</i> | <p>This recommendation has been implemented through the regulations developed under recommendation 2. The regulations set out emergency management procedures and strengthened minimum standards for emergency preparedness, including new requirements for emergency equipment and facilities. All operations will be required to have an emergency management plan.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Please refer to recommendation 2</p> |
| Recommendation 14: The implementation of the co-ordinated incident management system (CIMS) in underground coal mine emergencies should be reviewed urgently | | |
| MBIE/WorkSafe <i>Police</i> <i>Ministry of Civil Defence and Emergency Management</i> <i>Mines Rescue Service</i> <i>NZFS</i> <i>National Rural Fire Authority</i> <i>Civil Defence/Emergency Management</i> <i>Industry Group</i> <i>Expert Reference Group</i> | <p>Mid 2013: the Ministry of Civil Defence and Emergency management leads an all of government review of CIMS.</p> <p>August: the development of a draft interagency protocol for the management of underground mining emergencies is completed.</p> <p>September: the draft protocol is tested at the Huntly East Mine.</p> <p>October: refinements to the draft protocol are made as a result of the testing.</p> <p>November/December</p> <p>Procedures to support the protocol are developed.</p> <p>December</p> <p>The finalised interagency protocol for the management of underground mining emergencies is handed over to WorkSafe as document owner, and is made available on the MBIE website.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Ongoing actions:</p> <p>The protocol is tested regularly and refined as necessary.</p> <p>2015/16</p> <p>The protocol is reviewed after two years.</p> |

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| Recommendation 15: The activities of the New Zealand Mines Rescue Service need to be supported by legislation | | |
| MBIE <i>Mines Rescue Trust</i> <i>Mines Rescue Service</i> <i>Expert Reference Group</i> <i>Industry Group</i> | <p>May: MBIE releases the <i>Safe mines: safe workers</i> discussion document which includes proposals to broaden the coverage and better fund the Mines Rescue Service (MRS).</p> <p>June: the Health and Safety (Pike River Implementation) Bill is introduced to Parliament and referred to the Transport and Industrial Relations Committee. Part 3 of the Bill creates a new Mines Rescue Act which better reflects the role and functions of the MRS, extends the coverage of the MRS, provides for the mines rescue levy to be set by regulation, and limits the liability of the MRS for damage caused by actions done in good faith during rescue operations.</p> <p>August: MBIE releases a discussion paper setting out options for calculating the levy paid by mine operators to fund the MRS. A series of meetings are held with industry to discuss the issue.</p> <p>October: the Transport and Industrial Relations Committee reports the Health and Safety (Pike River Implementation) Bill back to Parliament. The second reading takes place.</p> <p>November</p> <p>The Mines Rescue Act 2013 is passed.</p> <p>The Government makes policy decisions about how the new mines rescue levy should be calculated.</p> <p>December</p> <p>The Mines Rescue Act 2013 comes into force.</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> <p>Ongoing actions:</p> <p>January/February 2014</p> <p>Cabinet approves the mines rescue levy regulations.</p> <p>April 2014</p> <p>The expanded Mines Rescue Service is operational.</p> |
| Recommendation 16: To support effective emergency management, operators of underground coal mines should be required to have modern equipment and facilities | | |
| MBIE <i>Expert Reference Group</i> | <p>This recommendation has been implemented through the regulations developed under recommendation 2. The regulations set out emergency management procedures and strengthened minimum</p> | <p>The Government's actions to give effect to this recommendation have been completed</p> |

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| <i>Industry Group</i> | standards for emergency preparedness, including new requirements for emergency equipment and facilities. All operations will be required to have an emergency management plan. | Please refer to recommendation 2 |