



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



Briefing for the Incoming Minister for Workplace Relations and Safety

November 2020



MBIE Karakia

Tāwhia tō mana kia mau, kia māia

Ka huri taku aro ki te pae kahurangi,
kei reira te oranga mōku

Mā mahi tahi, ka ora, ka puāwai

Ā mātau mahi katoa, ka pono, ka tika

TIHEI MAURI ORA

TRANSLATION:

Retain and hold fast to your mana, be bold, be brave

We turn our attention to the future, that's where the opportunities lie

By working together we will flourish and achieve greatness

Taking responsibility to commit to doing things right

TIHEI MAURI ORA

MĀIA
BOLD & BRAVE

**PAE
KAHURANGI**
BUILD OUR FUTURE

MAHI TAHI
BETTER TOGETHER

**PONO
ME TE TIKA**
OWN IT

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

1. Portfolio overview	5
Purpose	5
Introduction to the employment relations and standards system and the health and safety at work system	5
The current state of the labour market	10
2. Portfolio responsibilities	16
Your responsibilities	16
Legislative responsibilities	16
Crown entities	16
Other institutions	16
Vote Labour Market	16
International Labour Organisation	17
3. Major links with other portfolios	20
4. How MBIE assists you	22
Employment Relations and Standards System	22
Health and Safety at Work System	23
Key contacts	24
5. Stewardship of the Workplace Relations and Safety regulatory systems	27
How the employment relations and standards regulatory system works	28
How the health and safety at work regulatory system works	29
6. Immediate priorities and deliverables	32
Legislation on the Order Paper	42
Annex 1: Relevant legislation	44
Employment relations and standards regulatory system	44
Health and safety at work regulatory system	46
Annex 2: Crown entities, institutions and statutory bodies, and international bodies	47
WorkSafe New Zealand	47
Employment Relations Authority	48
Remuneration Authority	49
The Mines Rescue Trust	49
Asia-Pacific Economic Cooperation Human Resource Development Working Group	51
Annex 3: Funds and appropriations	53
Vote Labour Market: Budget Structure	53
Workplace Relations and Safety portfolio appropriations	55
The Industrial Relations Foundation	56

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

The Health and Safety at Work Levy 56

Annex 4: Key stakeholders 58

Annex 5: Trade and Labour Standards 59

1. Portfolio overview

Purpose

1. This briefing provides you with information about the Workplace Relations and Safety portfolio. Further briefings will be provided focussing on specific topics in depth, depending on your priorities. There are a number of Workplace Relations and Safety commitments in the Labour party manifesto which MBIE looks forward to discussing with you.

Introduction to the employment relations and standards system and the health and safety at work system

2. The Minister for Workplace Relations and Safety has responsibility for the employment relations and standards regulatory system, and the health and safety at work regulatory system. These regulatory systems are critical in supporting businesses to employ skilled and productive people, ensuring work is healthy and safe, building productive employment relationships and protecting minimum standards of employment. A well-functioning and high-performing labour market relies on robust regulatory systems that encourage productivity and innovation, protect workers and support businesses, and maintain New Zealand's international brand as a reputable employer in export markets.

The employment relations and standards regulatory system

3. The employment relations and standards regulatory system sets the minimum standards of employment and provides a legislative structure to support productive relationships between employers, workers and their respective representatives. Minimum conditions provide a level playing field for businesses and ensure New Zealand's labour market operates in a way that would satisfy New Zealanders' expectations for the conduct of employment relationships. The system focuses on the way in which employers and employees relate to one another, how breakdowns in this relationship are moderated and how compliance with employment standards is achieved. Recent significant work in the employment relations and standards system has included:
 - increasing the adult minimum wage rate from \$15.75 in 2017 to \$18.90 in 2020
 - increasing the duration of paid parental leave from 18 weeks in 2017 to 26 weeks in 2020.
 - public consultation on the working conditions of dependent contractors in New Zealand
 - establishing a tripartite Holidays Act Taskforce to review the Holidays Act 2003 and provide recommendations for improvement
 - passage of the Employment Relations (Triangular Employment) Amendment Act 2019 to address the legislative gap in triangular employment situations

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

- passage of the Equal Pay Amendment Bill to address pay inequities in female-dominated jobs
 - making changes through the Employment Relations Amendment Act 2018 to strengthen collective bargaining
 - Cabinet agreement to a set of policy and operational changes to reduce migrant exploitation in March 2020; in July the Government announced that it is investing \$50 million over four years to implement the changes
 - consulting the public on design features of a Fair Pay Agreement system
 - in December 2019 New Zealand ratified the International Labour Organisation's Protocol on Forced Labour.
4. During New Zealand's response to COVID-19, advice and communications material was produced about how minimum employment standards interact with isolation and self-quarantine requirements, and with the restrictions put in place by the Alert Level system. Material was also produced about how minimum standards interact with the Government's Wage Subsidies, the Leave Support Scheme and the COVID-19 Income Relief Payment scheme. Work in this area is ongoing.
 5. There are over 2.7 million people employed in New Zealand. The majority (77%) are full or part-time employees and around 19% are self-employed or employ others (the remainder are unspecified or unpaid family workers).
 6. Some workers are more vulnerable than others. Last year's minimum wage review suggested that 85k paid employees (4% of total wage earners) were on the previous minimum wage and that 242k employees (12% of total wage earners) would be affected by the proposed \$18.90ph rate when it came into effect. MBIE is investigating how many workers continue to be affected by the minimum wage as part of the annual review.
 7. Only 20% of employees are members of a union, mostly in public sector industries such as healthcare and education. As noted above, around one-fifth of workers are self-employed (including those with employees), who sit outside the employment relations and standards regulatory system.
 8. To support a well-functioning employment system, in the latest financial year MBIE responded to over 91,000 employment-related telephone enquiries, delivered around 4,500 employment mediations, and completed over 2,000 interventions related to compliance with minimum employment standards (of which, 588 were investigations). The Employment Relations Authority issued 615 determinations. Our website, social media and other proactive engagement reaches a wider regulated base.

Additional support for the employment relations and employment standards regulatory system was provided as part of the Government's COVID-19 response

9. In May 2020, Cabinet agreed to additional funding of \$7.2m for one year to support the Government's COVID-19 focus on Wave 2 Recovery activities. This funding is

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

providing previously unmet and unfunded support for people through the process of workplace adjustment resulting from COVID-19 through four mechanisms:

- a. Contestable fund for stakeholder-led initiatives (\$2.37 million). This has been allocated to 19 projects from business services, unions and community providers. An assessment panel with representation from unions, businesses, communities and Government determined the allocation of funding across applications and will have oversight of the performance and achievement of the contestable funding objectives. We are currently engaged with your and Prime Minister's offices regarding the announcement of the successful applicants. Funding will be paid out in early November.
- b. Pilot early resolution service (\$2.9 million). This new service was stood up in September, and is guiding smaller and less problematic employers through their employment obligations and employees with workplace problems by offering "early intervention/fast track" dispute resolution services. This service aims to undertake quick handling and resolution of employment relationship problems before issues escalate, including through direct engagement with the leadership of larger or more severely impacted workplaces and worker representatives to support them to work through and resolve presenting workplace relationship issues and structural adjustments.
- c. \$1.6 million surge funding to respond to the currently increased and expected elevated ongoing need and demand as New Zealand workplaces move through the COVID-19 response and into recovery. This is specifically to provide additional capacity and resources for the MBIE service centre and employment mediation service to facilitate the increasing demand that MBIE is experiencing through COVID-19 related complaints, enquiries and requests for mediation.
- d. \$0.5 million for additional information and education activities to develop a new employers module and to promote the new early resolution service and awareness of employment rights and obligations.

The Labour Inspectorate also supported implementation of the COVID-19 Wage Subsidy

10. When the COVID-19 Wage Subsidy was rolled out in April 2020, it was apparent that issues that would arise would cross over Employment Standards, Welfare and Tax issues. To best manage this IRD, MSD and MBIE worked co-operatively to disburse the fund and deal with the issues, queries and complaints that arose.
11. As the Labour Inspectorate had an existing system that would enable the tracking and allocation of these as they were received they undertook the role of triaging. Obvious fraud issues were referred to MSD and Inland Revenue for investigation. The remainder were dealt with by the Labour Inspectorate with contact being made with the employees and employers to achieve an early resolution. This resulted in the Labour Inspectorate receiving 5,838 complaints, 5,673 of which have been closed or sent to the relevant organisation.
12. The Labour Inspectorate is still processing these queries as they come in but the numbers have reduced markedly. The fraud investigations and serious breaches of

Employment Standards are subject to ongoing investigations. We will provide regular updates through the weekly report process on ongoing progress on the Wage Subsidy volumes, significant issues arising and any key decisions by either the Employment Relations Authority and/or Employment Court.

The health and safety at work regulatory system

13. The health and safety at work regulatory system provides a balanced legislative framework to secure the health and safety of workers and workplaces, through duties, principles, and rights. The health and safety at work regulatory system aims to increase awareness, knowledge and competence across all system participants to manage work health and safety risks, in a way that is proportionate and balanced with regulatory costs. The framework is underpinned by regulations, Safe Work Instruments, Approved Codes of Practice, and guidance. It is focused on the areas of greatest risk, and supported by regulator activity.
14. The legislative framework has been significantly modernised with the introduction of the *Health and Safety at Work Act 2015* (the Act) and a suite of underpinning regulations. Recent significant work by MBIE and WorkSafe New Zealand has included developing the national *Health and Safety at Work Strategy 2018 – 2028* aimed at driving change in the system, publishing a Health and Safety System Outcomes Dashboard that shows New Zealand’s burden of work-related harm, and progressing further regulatory reform, necessary for the system to be effective and fit-for-purpose. A review of regulations providing protections for people working with plant, structures, excavations and working at heights is now nearly complete. Further work targets other areas that will make the largest difference to New Zealand’s work health and safety, including hazardous substances regulations.
15. New Zealand’s burden of work-related harm is estimated at \$2 billion per annum. New Zealand’s work-related death rates are twice that of Australia and four times that of the United Kingdom.¹ Our significant efforts to reduce work-related deaths and serious injuries had been showing positive results, but the most recent official statistics suggest that this progress has stalled.² The sectors with higher injury rates are construction, forestry, agriculture, manufacturing and transport, postal and warehousing.
16. The burden from work-related acute injuries is far outweighed by the burden on workers and their families from work-related ill health. It is estimated that 750–900 people die from work-related diseases each year, with 5,000-6,000 hospitalisations

¹ New Zealand has 2.1 work-related fatalities per 100,000 workers, while Australia is at 1.1 and the UK at 0.5.

² While New Zealand’s work-related fatalities rate has reduced enough to meet the target set for 2020, the rate of serious work-related injury is still higher than the 2020 target. The 2018 data (released in October 2019 by Statistics New Zealand) shows 2.1 work-related fatal injuries per 100,000 full-time equivalent employees (FTEs), and 17.3 work-related serious non-fatal injuries per 100,000 FTEs.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

each year due to work-related ill-health.³ Musculoskeletal disorders account for the largest burden of harm, followed by mental ill health, cancers and respiratory diseases.

17. Some groups in our society are more vulnerable to poor work health and safety outcomes than our overall system performance would suggest. In particular, Māori are at higher risk of work-related injury than non-Māori, even when working in the same occupations. Similarly, migrant workers, the youngest and oldest in our workforce, people with pre-existing health conditions, and those with poor literacy and numeracy and limited employment options are also particularly vulnerable to poor health and safety outcomes for reasons largely beyond the control of the individual.
18. There is good acceptance and uptake of the newer concepts in the Act, such as the duties on officers/directors, particularly for larger firms. A recent survey showed that only one in five workplaces in New Zealand has a mature safety culture, so there is still work to do in changing our workplace culture.
19. WorkSafe, as the primary work health and safety regulator, engages with a wide range of sector and industry stakeholders, and others, to drive a shared commitment to health and safety. It also takes actions where duty holders fail to meet their obligations. In 2019/20 WorkSafe undertook over 9,500 enforcement actions, ranging from directive letters to investigations and prosecutions.
20. At the highest level, effective governance of the health and safety regulatory system will require a shared understanding of desired system outcomes, a clear shared strategy, and effective monitoring of system performance. Achieving this will require:
 - strong regulatory stewardship, including governance and system-wide priority setting, delivered through implementation of the Health and Safety at Work Strategy 2018-2029
 - continued refinement and strengthening our legislative framework through robust regulatory design, a commitment to reform risk areas (including timely completion of major Plant and Structures regulatory reform), and effective identification of new and emerging opportunities to address areas of greatest harm
 - ensuring we have a fit for purpose primary regulator delivering effective engagement, monitoring and enforcement.

The health and safety at work regulatory system performed well during COVID-19

21. As part of the COVID-19 response, WorkSafe was provided \$3.7m to fund Health and Safety leadership groups to assist sectors with tailored advice. This was in

³ It is difficult to monitor changes in rates of work-related disease as there is often a long latency period between exposure and subsequent health effects.

recognition of the importance of these groups in improving outcomes in workplace health and safety with the awarded funding used to ensure ongoing capability in these sector groups. WorkSafe has worked through an initial co-design process alongside sector groups, awarding a first tranche of funding. The remaining funding will be awarded early in 2021.

22. The Act's performance-based framework stood up well in the uncertainties brought on by the COVID-19 pandemic, particularly in Alert level 4. Supported by a responsive and pragmatic approach from WorkSafe, the Act needed no urgent amendments for businesses to keep meeting their obligations. The Act's underpinning principles of worker engagement and participation and of firms' obligations to collaborate are a powerful influence and provide a significant platform to build on. They were of value to Government agencies and WorkSafe in supporting businesses to put safety plans in place in response to COVID-19.
23. Ensuring good work health and safety practice will be vital to a successful COVID-19 recovery in a recessionary climate. COVID-19 has introduced a new critical risk for many workplaces. There will be further changes in the nature of risks in certain industries as they respond to the challenges resulting from the lockdown, the accompanying recession and changing global environment as a result of the pandemic. Just prior to the COVID-19 pandemic, the Whakaari/White Island eruption and loss of life was a tragic and catastrophic event requiring a significant response.

These regulatory systems need to be stewarded

24. Given the dynamic nature of the business environment, as well as new technologies and shifting work practices, these systems need to be treated as 'living' and managed in a way that ensures they continue to deliver on their goals as the context changes. Chapter 5 discusses the stewardship of the Workplace Relations and Safety regulatory systems in more detail.

The current state of the labour market

25. Work is the main way that most people participate in and benefit from the success of a growing economy, and businesses need labour and skills to thrive. The labour market is the system through which firms find the people they need, and people find work.

COVID-19 has significant implications for New Zealand's labour market

26. In the pre-COVID environment, New Zealand's labour market was in relatively good shape, with high levels of participation and low levels of unemployment. This solid aggregate performance masked poor outcomes for particular groups, such Māori, Pacific Peoples, youth, older workers, people with disabilities, refugees and recent migrants. Overall productivity and wage growth has also been slow. New Zealand has a comparatively well-educated workforce, but there is a significant degree of mismatch between the skills workers have and the skills jobs require.
27. The COVID-19 pandemic has placed new pressures on New Zealand's labour market and its institutions, and the full impacts are still uncertain. Labour market indicators have remained relatively buoyant given the size of the economic shock, although this

is largely due to wage subsidies, and a higher than normal domestic population, as New Zealanders remain at home. We expect to see deteriorating conditions from the summer of 2020/21 onwards. Increases in global COVID-19 cases continue to weigh down the global economic outlook, with expectations of continuing disruptions to international demand and supply chains.

28. As well as disrupting demand for skills and labour, COVID-19 has shifted supply. The border remains closed to non-resident foreigners, though many migrant workers who were onshore when the border closed are still in New Zealand. We are seeing emerging evidence of pressure on areas that were reliant on migrant labour to fill skill or labour gaps, such as dairy, horticulture, forestry, meat processing and road freight. Tourism and hospitality are also reliant on migrants, but are faced with reduction in labour demand as well as supply.
29. Other changes or potential changes to supply streams include overseas New Zealand citizens and residents who are increasingly returning home, with decreased numbers leaving the country, and potentially higher numbers of people in education and training. The underutilised represent a very large pool of experienced workers with a wide range of skills, from all sectors and regions (comprising the unemployed, part-time workers who want more hours, and potential workers currently outside the labour force, either unavailable jobseekers or available potential jobseekers). Workers displaced as a result of COVID-19 measures can fall into any of the underutilisation categories. Some displaced workers may leave the labour force entirely.
30. Taken together, these shocks might be expected to produce higher levels of labour market mismatching in the short-term, to varying degrees across regions and sectors. We have seen evidence of increasing uptake of benefits, tailing off more recently. Over the longer-term, we may see a rise in more precarious forms of employment and the exacerbation of pre-COVID-19 labour market problems, such as low wages (and low wage business models), low productivity, inequality of outcomes, worker exploitation, and poorer health and safety outcomes. Other risks include embedding disadvantage, increased incidence of work-related harm (including impacts on mental health), and capacity and other pressures on labour market institutions.
31. Ministers with an interest in employment outcomes also formed the Education, Employment and Training Ministers Group (EET). Chaired by the Minister of Education, EET previously comprised the Ministers of Employment, Finance, Education, Economic Development, Regional Economic Development, Social Development, Tourism, Workplace Relations & Safety, Agriculture, and Seniors.
32. The EET's role is to oversee the Government's response to the labour market disruption arising from the pandemic, and is focused on ensuring that people remain attached to or re-attach to good jobs with meaningful career pathways. Confirmation will be needed of which Ministers should form the EET Ministers group moving forward.
33. Data reports are prepared for each meeting of the EET Ministers, which set out the latest data on the state of the labour market. We will work with you to determine the

type of information updates you prefer. Over the next months, we are able to provide updates on:

- Job Vacancies – a monthly data series and quarterly report that measure changes in online job advertisements from four internet job boards – Seek, Trade Me Jobs, Education Gazette and Kiwi Health Jobs.
- The latest labour market statistics for the September 2020 quarter will be released by Stats NZ on 4 November. On the date of the release, we provide an A3 to the Minister of Social Development and Employment that provides a graphic overview of the current state of the labour market. We will also provide you with a one-page summary of key points to note about the most recent figures. This will be the first quarter for which we will have post-lockdown statistics, so will be important as an indicator of the initial response of the labour market.
- We are leading a cross-agency project to look at the factors that are likely to influence labour market supply and demand over the next 18 months. This work will inform and support decision making across labour market and economic development policy groups.
- MBIE has contracted Research NZ to undertake a survey of employers about the way New Zealand businesses, staff numbers and employment plans have been affected by the COVID-19 situation. The survey was conducted from mid-September to mid-October, and high-level findings will be available by December. A second wave of the survey, contacting the same group of employees, will be completed in April 2021.

Looking beyond COVID-19, broader trends will shape New Zealand's future

34. Looking beyond the immediate challenges of COVID-19, the government needs to consider the challenges and opportunities arising from a set of “global megatrends” that are already transforming the nature of work and workplaces. These global megatrends are technological change, jobs for the future, artificial intelligence, globalisation, demographics and climate change.
35. Much has been written about these megatrends, but no-one can be sure what impact they will have. New Zealand's labour market has changed substantially over the past 30 years, but there is little evidence of accelerating trends. Business, workforce and consumer adaptations to COVID-19 impacts may accelerate some changes. New Zealand's experience with COVID-19 has reinforced the importance of ensuring that labour market systems are resilient and adaptable, and are designed in a way that they can cope with potential changes. For example, employment regulation should be able to respond to changes in the nature of work (for example, the expected rise of non-standard and virtual work) and the potential for increased transitions between jobs and joblessness. Likewise, the health and safety at work system should be responsive to new risks such as increased automation, which will result in changes in practice and risk profiles.

36. The Future of Work Tripartite Forum's Strategic Assessment of the Future of Work identified four broad megatrends shaping the future of work: technological progress, demographic change, globalisation and climate change. An increase in worker displacement is one possible consequence of these trends.
37. It is also important to focus on the positive opportunities that these trends may offer. MBIE has been working in partnership with sectors, regions and cities to jointly address their labour and skill needs in a way that provides re-education opportunities for local workers and raises productivity. Many of the solutions will be at a system level and require buy-in from a range of stakeholders, not just central government.

Labour market policy and regulatory settings are important

38. Government has a significant impact on the labour market, through labour market regulation, skills development (education and training), the immigration system, economic development and innovation policies, and welfare and wellbeing policies. It also influences the labour market through procurement and as a major employer. Sector-related policies (e.g. primary industries, health and transport) can also have an effect on the labour market.
39. MBIE is responsible for most of the regulation of the labour market (workplace relations and safety, immigration, accident compensation, and also a large number of specific individual occupations), and therefore has a very important regulatory stewardship role. It is also important that regulation remains fit for purpose in the long-term, to facilitate a well-functioning labour market that facilitates effective and efficient matching, promotes innovation and supports good work outcomes. MBIE's role will be important in ensuring that employment standards are upheld during the COVID recovery. Disruptions to the labour market due to COVID-19 demonstrated low levels of awareness and understanding of employment law, as well as more widely creating greater risk of displacement, increased worker vulnerability and higher risk of exploitation.
40. Building labour market resilience requires supporting the economy to transition to higher productivity and higher wage industries over time, in ways that smooth the impacts for workers and businesses. The responses to COVID-19 have highlighted some areas where employment standards and regulations could be more effective in supporting transitions.
41. Good workplace health and safety legislation and effective, fit-for-purpose regulations support labour market participation and productivity by helping ensure that work is healthy and safe. This reduces the economic and social costs of harm arising from work, and means that businesses can access and retain the skills and talent they need to grow.

Issues and opportunities

42. The portfolio (and other labour market portfolios e.g. social development and employment, education, immigration and ACC) faces a mixture of both immediate and long-term issues and opportunities. Key actions and decisions for you in the WRS portfolio are outlined in section six.

43. Key issues and opportunities are:

- Regulatory settings work for some but there are issues of complexity, compliance and knowledge of rights and obligations for others (both employees and employers).
- Increased pressure on businesses and workers post COVID-19.
- Barriers to workers (including contractors) and employers accessing, or being provided with, early, effective and efficient support and dispute resolution services.
- A greater role for social dialogue depends on participants having capacity, capability and seeing ongoing value – but could help build greater consensus on regulatory reform and generate greater regulatory certainty and stability.
- Performance of the system improved following the introduction of the new legislative framework, but is now worsening.
- Strong regulatory system governance is important: this includes setting clear outcomes and having quality system monitoring. Implementing the strategy will help deliver on this (including fleshing out the action plan and specifying how industry leadership aspects will be delivered).
- Completing the legislative framework is important – it's world-class, and we know it will provide a solid foundation to support system-wide change, but needs to be completed.

44. You will also have an interest in broader labour market issues and opportunities that are led through other portfolios, including:

- Reliable, regular and readily accessible information on labour and skills demand, supply and job matching throughout the economy and in particular sectors and regions (using data and existing sector and regional engagement mechanisms, social partner processes and emerging mechanisms like Regional Skills Leadership Groups).
- Making use of the best available insights from other countries – monitoring of policy trackers, looking at modelling techniques used by others, making use where possible of mechanisms like the recent small countries teleconference.
- Identification of significant opportunities for redeployment – MBIE has been identifying opportunities to use the \$100m allocated already for this purpose.
- Provision of case management and job matching services on a large scale (by MSD but also by the private sector, including online services such as TradeMe and Seek).
- Training and re-training for workers who need to move into (very) different jobs/industries – which will create volume pressure on the education and

training system, and may require a change to the pre-COVID mix of training provided, although there remains considerable uncertainty about what skills will be required.

- Other active labour market assistance, such as support to move to where there are better labour market opportunities or to enter self-employment, and where appropriate, wage subsidies to support new employment – MBIE is working closely with the Ministry of Social Development and the Ministry of Education on advice on the use of active labour market programmes.
- Optimising the use of migrant workers who remain in New Zealand (e.g. short term visa extensions and freeing up visa conditions to allow redeployment), and better understanding the labour market impacts as migrants' visas expire and potentially leave New Zealand. Implementation of the changes in the Temporary Migrant Worker Exploitation Review is underway, and there are further policy opportunities in this space.
- Creation of employment opportunities, through broader economic policy and government investment (e.g. shovel-ready infrastructure projects and environmental improvements).

45. Over the longer-term, we will also need to address other elements of the labour market policy toolkit if we are to achieve a state of resilience:

- Rebuilding an immigration system that is tightly aligned with the welfare and tertiary education and training systems, to ensure that employers make full use of the available local workforce, complemented by migrant workers where required.
- Completing the suite of regulations under the *Health and Safety at Work Act* aimed at reducing New Zealand's high rates of workplace-related harm.
- Exploring options for improving support for displaced workers, including social unemployment insurance.
- Completing the Reform of the First Principles Review of Active Labour Market Policies.
- Improving our measurement of the labour market (including use of novel data sources) and understanding of non-standard work arrangements and ways of working (particularly working from home using digital tools).

2. Portfolio responsibilities

Your responsibilities

46. The Minister for Workplace Relations and Safety is responsible for:
- the health and safety at work regulatory system
 - the employment relations and standards regulatory system, including the overarching employment relations framework and prescribed minimum standards, such as the minimum wage and holiday entitlements.

Legislative responsibilities

47. The Minister for Workplace Relations and Safety is responsible for the following key pieces of legislation:
- the Health and Safety at Work Act 2015
 - the Employment Relations Act 2000
 - employment standards legislation, including the Minimum Wage Act 1983, Holidays Act 2003 and the Parental Leave and Employment Protection Act 1987
 - the Equal Pay Amendment Act 2020
 - the Remuneration Authority Act 1977.
48. More details about the legislation you are responsible for can be found in Annex 1.

Crown entities

49. The Minister for Workplace Relations and Safety is responsible for WorkSafe New Zealand. Further information on WorkSafe is set out in Annex 2.

Other institutions

50. The Minister for Workplace Relations and Safety is also responsible for:
- recommending appointments of members of the Employment Relations Authority and the Remuneration Authority to the Governor-General
 - nominating trustees for the Diversity Works (formerly the Equal Employment Opportunities) Trust
 - acting as chair of the Industrial Relations Foundation.
51. Further information on relevant institutions is attached in Annex 2.

Vote Labour Market

52. You are responsible for appropriations that fall within Vote Labour Market, totalling \$165.5m in 2020/2021. The other appropriations within Vote Labour Market are the responsibilities of:

- the Minister of Immigration
- the Minister of Education
- the Minister of Social Development and Employment
- the Minister for ACC.

53. More information about departmental funds and appropriations, contestable funds and trusts, and the Health and Safety at Work Levy is provided in Annex 3.

MBIE's financial viability

54. Pre-COVID, 50% of MBIE's departmental revenue was from third-party sources. The remainder is Crown revenue. Third-party revenue has dropped to 37% this year, principally as a result of a significant fall in revenue from immigration fees. While revenue has decreased, our workload has remained at similar levels due to regulatory requirements and new activity (border exemptions process for example). In the absence of new Crown funding, the current shortfall will need to be funded through changes in service levels or investment across MBIE.

55. COVID has had a structural impact on MBIE's funding. s 9(2)(g)(i)

Departmental funding covers a number of portfolios, making a cross-portfolio approach to prioritisation essential. However, there are limits to our ability to re-prioritise as third party funding can only be used for the purpose that it was collected – for example revenue from the building levy can only be used to fund activities under the Building Act.

56. Uncertainty around our third-party revenue is forecast to remain for the next few years. Looking ahead, a more sustainable funding model, which facilitates greater cross-portfolio prioritisation, will be required to maintain existing services and ensure that MBIE can continue to contribute effectively to the COVID response and recovery.

International Labour Organisation

57. As Minister for Workplace Relations and Safety, you are also responsible for the relationship between New Zealand and the International Labour Organisation (ILO). The ILO is a United Nations agency of 187 member states, established in 1919 to set and promote international labour standards, encourage employment and decent work, promote social protection and encourage social dialogue on work-related issues. New Zealand was a founding member of the ILO, has had a strong association with it historically, and celebrated its centenary last year.

58. The ILO is a tripartite body, governed jointly by Member States and the international representatives of workers and employers. Consequently, ILO membership involves regular interactions between the Government, Business New Zealand and the New Zealand Council of Trade Unions, as well as participation in the ILO's Governing Body and at its annual International Labour Conference.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

59. The ILO also oversees a comprehensive body of International Labour Standards, and the Conference is the key means by which the ILO formulates those standards and holds member States to account over their observance of them.
60. Standards can take the form of treaty-level Conventions or Protocols, or guiding Recommendations. Conventions and Protocols are only binding on member States that have ratified them. Once members ratify a Convention or Protocol this commits them to observe its provisions in national law and practice, report regularly on its application, and be accountable under the ILO supervisory system for any alleged breaches. New Zealand has ratified 61 ILO Conventions and one Protocol of which 33 are currently in force.⁴ The most recent instrument ratified by New Zealand is the Forced Labour Protocol (P029), ratified on 13 December 2019, which will come into force on 13 December 2020.
61. In addition, the ILO denotes eight specific Conventions that deal with core labour rights as “Fundamental Conventions.” There are considered to be so important that even member states that have not ratified them are expected to uphold the principles and rights they promote and report regularly on their observance. These are:
- Convention 29 - Forced Labour
 - Convention 87 - Freedom of Association
 - Convention 98 - Right to Organise and Collective Bargaining
 - Convention 100 - Equal Remuneration
 - Convention 105 - Abolition of Forced Labour
 - Convention 111 - Discrimination (Employment and Occupational)
 - Convention 138 - Minimum Age
 - Convention 182 - Worst Forms of Child Labour.
62. New Zealand has ratified all but two of these Conventions – Convention 87 on Freedom of Association and Convention 138 on the Minimum Age for Admission to Employment. As a matter of general policy, New Zealand does not ratify international instruments until it is able to comply fully with them in terms of domestic law and practice.
63. In terms of Convention 87, although New Zealand has embedded freedom of association in the Employment Relations Act, the ILO interprets the Convention to allow for the protected exercise of secondary strike action and strikes on economic or social grounds. New Zealand employment law only treats strikes taken in the course of collective bargaining or on health and safety grounds as lawful and protected.
64. In terms of the Convention concerning Minimum Age for Admission to Employment, the current range of protections and restrictions on young people’s work (mainly regulated by a combination of education and work health and safety legislation) has

⁴ Over time, New Zealand has denounced outdated or obsolete Conventions, whilst instruments have also been abrogated by the ILO in the course of its campaign to modernise and update the standards base.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

been seen as preferable to legislating for a specific minimum age for admission to employment.

3. Major links with other portfolios

65. Labour Market issues involve a range of Ministerial portfolios. For example, the Minister for Workplace Relations and Safety has been:
- Jointly responsible with the Minister of Immigration for the Migrant Exploitation Review and oversight of coordinated compliance activities.
 - Jointly responsible with the Minister for Women for implementing pay equity legislation and considering pay transparency measures
 - Part of the Future of Work Tripartite Group and Education, Employment and Training Ministers Group
66. MBIE will support you in your role on any relevant Cabinet Committees and Ministerial groups. Links between your portfolio and some of the other key portfolios are set out in the figure below. Dark blue circles indicate MBIE portfolios, dark blue circles with a light blue outline indicate portfolios jointly serviced by MBIE and other departments or ministries.



4. How MBIE assists you

Employment Relations and Standards System

67. Most of the policy and operational functions of the employment relations and standards system are contained within MBIE. Some of the key roles and responsibilities are:

- The Workplace Relations and Safety Policy Branch (part of MBIE’s Labour, Science and Enterprise Group) provides **policy advice** on the regulatory regime and broader workplace relations and safety issues.
- MBIE’s Te Whakatairanga Service Delivery Group, externally branded as ‘Employment New Zealand,’ is the primary regulator of employment relations and standards, and includes:
 - the **Labour Inspectorate**, which enforces minimum employment standards
 - **Dispute Resolution services**, which assist employers and employees to resolve employment disputes
 - the **MBIE Service Centre** and **information and education functions** which support the public, employers and employees to understand the law, by building awareness of rights and obligations and capability to meet them.
- The Evidence and Insights Branch houses the Workforce & Workplace and Migration teams. These teams work closely with Statistics New Zealand and other external research bodies, and are responsible for providing evidence and insights about the labour market, employment conditions, workplace relations, and migration trends and conditions. The teams work across MBIE and with external stakeholders to provide analysis and advice to support regulatory, operational and policy level direction and decision making. The teams support the portfolio by providing:
 - periodic reports on the state of the labour market and analysis of long-term trends, including job vacancies, as well as responding to ad hoc queries
 - modelling and forecasting of employment nationally and regionally, including leading a cross-agency project looking at factors that are likely to influence labour market supply and demand over the next 18 months
 - quarterly reports on international migration
 - easy to access and user-friendly information tools to support policy and strategy development, including the Labour Market Dashboard and Migration Data Explorer
 - a range of survey, research, evaluation and analytical work to inform policy, strategy and regulatory development (eg survey of employer intentions in response to COVID-19 and development of a tool to support pay equity policy development).

68. The determination and judicial operational functions in the ERES system are respectively performed by independent statutory bodies:





- the **Employment Relations Authority** (administered under the WRS portfolio and supported by MBIE) and
- the **Employment Court** (administered under the Justice portfolio and supported by Ministry of Justice).

Health and Safety at Work System

69. MBIE works closely with WorkSafe in the stewardship of the health and safety at work system and energy safety.

- The Workplace Relations and Safety Policy Branch of MBIE provides primary policy advice on the legislation and regulations, and policy and strategic advice on the design and overall performance of the health and safety at work system and energy safety.
- WorkSafe is the primary regulator. MBIE monitors WorkSafe as a crown entity, as the primary health and safety at work and energy safety regulator, and its leadership role in the health and safety at work system.
- The Civil Aviation Authority and Maritime New Zealand are designated agencies under the Health and Safety at Work Act 2015, for the purposes of performing functions and exercising powers in the aviation and maritime sectors.

Key contacts

Contact	Role	Priority Area	Contact details
<p>Carolyn Tremain</p> 	<p>Chief Executive, Ministry of Business, Innovation and Employment</p>	<p>All</p>	<p>E Carolyn.Tremain@mbie.govt.nz s 9(2)(a)</p>
<p>Paul Stocks</p> 	<p>Deputy Chief Executive, Labour, Science and Enterprise (LSE)</p>	<p>The Labour, Science and Enterprise Group works with people, businesses, regions, and the science, innovation and education systems to help the country and New Zealanders to be successful.</p>	<p>E Paul.Stocks@mbie.govt.nz s 9(2)(a)</p>
<p>Suzanne Stew</p> 	<p>Deputy Chief Executive, Te Whakatairanga Service Delivery</p>	<p>Te Whakatairanga Service Delivery Group provides the critical functions and services that support businesses, employees and consumers to operate successfully in the market place.</p>	<p>E Suzanne.Stew@mbie.govt.nz s 9(2)(a)</p>
<p>George Mason</p> 	<p>General Manager, Workplace Relations and Safety Policy Branch, LSE</p>	<p>The Workplace Relations and Safety Policy Branch provides policy and regulatory advice in relation to employment relations and standards, health and safety, international labour, and accident compensation.</p>	<p>E George.Mason@mbie.govt.nz s 9(2)(a)</p>

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

Contact	Role	Priority Area	Contact details
<p>Ruth Isaac</p> 	<p>General Manager, Employment, Skills and Immigration Policy Branch, LSE</p>	<p>The Employment, Skills and Immigration Policy Branch provides policy and regulatory advice in relation to immigration and skills and employment.</p>	<p>E Ruth.Isaac@mbie.govt.nz s 9(2)(a)</p>
<p>Katherine MacNeill</p> 	<p>General Manager, Employment Services branch, Te Whakatairanga Service Delivery</p>	<p>Employment Services branch is the primary ERES regulator, including employment dispute resolution services, compliance and enforcement of employment law and administration of the Employment Relations Authority.</p>	<p>E Katherine.MacNeill@mbie.govt.nz s 9(2)(a)</p>
<p>Michael Bird</p> 	<p>General Manager, Entity Performance and Investment</p>	<p>The Entity Performance and Investment branch supports you in your oversight and ownership responsibilities for WorkSafe, including Board appointments.</p>	<p>E Michael.Bird@mbie.govt.nz s 9(2)(a)</p>
<p>Shane Kinley</p> 	<p>Policy Director, Workplace Relations and Safety</p>		<p>E Shane.Kinley@mbie.govt.nz s 9(2)(a)</p>
<p>Nita Zodgekar</p> 	<p>Manager, International Labour Policy</p>		<p>E Nita.Zodgekar@mbie.govt.nz s 9(2)(a)</p>

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

Contact	Role	Priority Area	Contact details
<p align="center">Lisa Collins</p> 	<p>Manager, Health and Safety Policy</p>		<p>E Lisa.Collins3@mbie.govt.nz s 9(2)(a)</p>
<p align="center">Tracy Mears</p> 	<p>Manager, Employment Relations Policy (Acting Manager, Employment Standards Policy)</p>		<p>E Tracy.Mears@mbie.govt.nz s 9(2)(a)</p>
<p align="center">Beth Goodwin</p> 	<p>Acting Manager, Employment Relations Policy</p>		<p>E Beth.Goodwin@mbie.govt.nz s 9(2)(a)</p>
<p align="center">Rose Ryan</p> 	<p>Manager, Workforce and Workplace, Evidence & Insights branch</p>		<p>E Rose.Ryan@mbie.govt.nz s 9(2)(a)</p>

5. Stewardship of the Workplace Relations and Safety regulatory systems

70. The Government expects government departments to invest in maintaining the quality of the regulatory systems they are responsible for, in a similar way to other key assets which departments are responsible for. Cabinet guidance notes that regulatory stewardship involves taking a long term view to ensure that regulatory systems are fit for purpose in the future. It includes a focus on the practice of regulation as well as policy. The Productivity Commission's 2014 report *Regulatory Institutions and Practices* found that failures of regulation are frequently caused by shortcomings in practice, governance, culture or capability rather than by shortcomings in the rules themselves.
71. MBIE is responsible for a wide range of regulatory systems. The last Performance Improvement Framework Review of MBIE in 2017 identified MBIE's stewardship of its regulatory systems as a key area of focus to lift the organisation's performance. In response to these expectations, MBIE has developed a programme of work to enhance its stewardship of all its regulatory systems. The work includes more investment in system assurance to provide confidence that systems are working as intended, and more focus on the governance and oversight of each system. MBIE is also developing a programme of periodic assessments of each MBIE regulatory system to help ensure that MBIE has a good understanding of its fitness for purpose, even where a major policy review hasn't recently been undertaken.
72. The two regulatory systems in the Workplace Relations and Safety portfolio are:
- **The employment relations and standards regulatory system** – regulatory settings work for some but there are issues of complexity, compliance and knowledge of rights and obligations for others (both workers and employers). Compliance with minimum standards remains a priority, and requires effective collaboration with other MBIE regulatory systems such as immigration, building, and health and safety at work.
 - **The health and safety at work regulatory system** – the health and safety at work regulatory system has been through a major reform programme which is still being completed. The reform programme created a new legislative framework, still under development, and a new primary health and safety at work regulator, WorkSafe, which is still growing its regulatory capability. For the system to work well MBIE, WorkSafe and the other designated health and safety regulators, the Civil Aviation Authority and Maritime New Zealand, need to work together effectively.
73. The response to COVID-19 is also generating useful insights about the performance and resilience of MBIE's regulatory systems which we will incorporate into our work programme.

74. There are known current issues to address in each of these systems. Also, the environment is constantly changing and we need to be alert to the impacts of regulation that isn't well-functioning or is no longer fit-for-purpose.
75. Regulatory settings work for some but there are issues of complexity, compliance and knowledge of rights and obligations for others (both employees and employers).
- Some workers are getting persistently poor outcomes, including:
 - issues for some groups of (dependent) contractors
 - persistent cases of migrant exploitation
 - sector or industry specific persistent poor long-term low wage outcomes
 - workers facing inappropriate risk allocation
 - poorer outcomes for some population subgroups
 - increased pressure on businesses and workers due to the effects of COVID-19
 - barriers to workers (including contractors) and employers accessing, or being provided with, early, effective and efficient support and dispute resolution services.
 - A greater role for social dialogue depends on participants having capacity, capability and seeing ongoing value – but could help build greater consensus on regulatory reform and generate greater regulatory certainty and stability.
76. There is a need for ongoing monitoring and evaluation to ensure the objectives of these regulatory systems are being achieved.
77. WorkSafe is the regulator for the safe supply and use of gas and electricity under these Acts, where its role extends outside work and workplaces, to include the safety of energy production, supply, installation and use. The Minister of Energy and Resources is the Minister responsible for the Gas Act 1992 and Electricity Act 1992 and associated regulations.
78. MBIE is the lead policy advisor for the energy regulatory system, including energy safety (which includes elements of public and worker safety and the prevention of property damage). This overlaps with the work health and safety aspects of your portfolio and Ministers work together on these issues as they arise.

How the employment relations and standards regulatory system works

79. The focus of the employment relations and standards regulatory system is supporting a productive relationship between employers and employees and protecting employees by setting minimum employment standards, which can be bargained above through collective agreements. The relationships between these parties are shaped by the actions of a set of employment relations institutions.
80. MBIE performs the majority of its statutory functions through Whakatairanga Service Delivery Group. We are externally branded as 'Employment New Zealand'. This includes the compliance and enforcement, dispute resolution, and information and education functions in the ERES system.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

81. MBIE (through the chief executive) has statutory functions to promote the objectives of the Employment Relations Act 2000 by, among other things:
- providing information and advice about employment relationships
 - promoting the effective resolution of employment relationship problems by providing problem and dispute resolution services
 - publishing information, reports, and guidelines about employment relationships
 - publishing comments about employment relationship matters in relation to particular persons
 - maintaining a strategy for promoting compliance with, and enforcement of, employment standards legislation
 - performing any other functions and duties under employment standards legislation.
82. In addition, the Employment Relations Act provides for the following statutory institutions:

Institution	Role
Employment Relations Authority	<p>A quasi-judicial investigative body that has the role of resolving employment relationship problems by establishing the facts and making a determination according to the substantial merits of the case, without regard to technicalities.</p> <p>The Authority is established by Part 10 of the Employment Relations Act. MBIE provides administrative support for the Authority. Members are appointed by the Governor-General on your advice. Your role in relation to the appointment of members is described in Annex 2.</p>
Employment Court	<p>Exclusive jurisdiction and corresponding powers to deal with a range of employment related matters, including hearing matters previously determined by the Authority. The Employment Court is established by Part 10 of the ER Act.</p> <p>The Employment Court is established by Part 10 of the Employment Relations Act. The Employment Court is serviced by the Ministry of Justice. Members are appointed by the Governor-General on the advice of the Attorney-General.</p>

How the health and safety at work regulatory system works

83. The health and safety at work regulatory system provides a balanced legislative framework to secure the health and safety of workers and workplaces, through duties, principles, and rights. The health and safety at work system has a number of components, including:
- the regulatory framework, primarily the *Health and Safety at Work Act 2015* and associated regulations, Approved Codes of Practice, Safe Work Instruments, and guidance

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

- leadership, strategy and coordination, driven by the *Health and Safety at Work Strategy 2018-2028*
 - a tripartite approach, with government, workers and businesses working together to improve work health and safety outcomes
 - capacity and capability building, through information, training and education
 - injury prevention, in conjunction with the Accident Compensation Corporation
 - incentives to comply with statutory obligations, including monitoring and enforcement by the regulator, and court powers.
84. The health and safety at work regulatory system aims to increase awareness, knowledge and competence across all system participants, in managing work health and safety risks to reduce work-related harm. The Act's performance-based general duties ensure broad coverage of New Zealand's work and workplaces. Advantages of the broad nature of these general duties are that they do not quickly date, they support innovation and they provide flexibility. The duties are underpinned by industry- and hazard-specific regulations, safe work instruments, Approved Codes of Practice and guidance where further clarity is required, particularly in areas of high risk.
85. The foundation for driving sustained, system wide improvements is the Government's *Health and Safety at Work Strategy 2018-28*. This Strategy sets a clear direction and priorities for reducing the unacceptably high rate of work-related harm in New Zealand.
86. The Strategy's vision is that work is healthy and safe for everyone in New Zealand. This sets a framework for focusing on what will make the biggest impact to reduce work-related harm in terms of:
- work-related health
 - businesses with greater need and sectors with highest harm
 - workers with greater need.
87. The Strategy aims to build capability to reduce harm by:
- encouraging leaders to integrate health and safety
 - supporting workers to be represented, engaged and to participate
 - lifting capability of health and safety practitioners
 - developing and sharing better data and insights.
88. MBIE provides primary policy advice on the legislation and regulations, and policy and strategic advice on the design and overall performance of the work health and safety system.
89. WorkSafe, as the primary work health and safety regulator, provides leadership in implementing the work health and safety system, including developing safe work instruments and Approved Codes of Practice, and providing information and guidance.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

WorkSafe undertakes workplace assessments and investigations to encourage improved work health and safety and to monitor compliance; it supports duty-holders to undertake self-reviews of their work health and safety practice; and it takes enforcement action where appropriate for serious work health and safety failures (eg issuing improvement, prohibition and infringement notices, and taking prosecutions).

90. WorkSafe works jointly with the Civil Aviation Authority and Maritime New Zealand, which are designated as the work health and safety regulators for the aviation and maritime sectors. WorkSafe also works closely with the New Zealand Police, particularly the Commercial Vehicle Investigation Unit, in improving on-road work health and safety. WorkSafe partners with the Accident Compensation Corporation in coordinating injury prevention activity, and with the Environmental Protection Authority in the management of hazardous substances.

6. Immediate priorities and deliverables

91. This section provides an overview of some of the immediate upcoming actions and decisions you will need to make.
92. MBIE will seek direction from you at a later date on the next steps for other matters on the work programme, and the timing of advice for matters relating to manifesto commitments (some of which may be led by other Portfolio Ministers), including:
- Increasing sick leave to ten days
 - Adding Matariki as a 12th public holiday in 2022
 - Strengthening and simplifying the Holidays Act, consistent with the recommendations of the Holidays Act Tripartite Taskforce
 - Implementing Fair Pay Agreements
 - Raising the minimum age for hazardous work
 - Ensuring all workers have the right to elect health and safety representatives
 - Strengthening section 59b of the Employment Relations Act re passing on gains from collective bargaining (removing intent)
 - Recognising security guards as vulnerable workers under part 6A of the Employment Relations Act
 - Protecting vulnerable workers, including continued work to stamp out migrant exploitation and legislative protections for contractors
 - Ensuring better records of pay equity
 - Implementing support to assist businesses in hiring New Zealand workers
 - Increasing minimum wage and replacing the Minimum Wage Exemption with a wage supplement
 - Using Government procurement to support good employers who model worker-friendly practices
 - Extending Living Wage guarantees to contractors to the public sector – such as our cleaners, caterers, and security guards
 - Removing reservations on the United Nations Convention on the Rights of the Child related to minimum age of employment
 - Ensuring the quality of Seafarer Welfare Services in line with the ILO Maritime Labour Convention.

Things that are going to happen in the employment regulation and employment standards regulatory system			
Topic	Description	Driver	Timing
COVID-19 Leave Support Scheme	<p>The COVID-19 Leave Support Scheme (LSS) was established on 28 April 2020 to provide financial assistance to employers and workers during the COVID-19 public health restrictions. The intention was that the Leave Support Scheme supports public health initiatives to stop the spread of COVID-19 by encouraging people to self-isolate when they need to, in line with Ministry of Health guidance. As our experience with the virus has increased so too has our understanding of the types of responses that might best manage the range of risks we now know to exist. The LSS is an important tool that could be even more effective and efficient through design changes to better align settings with outcomes sought.</p> <p>We are preparing advice on what features a redesigned scheme will need to best serve the groups it is targeted at. A report to Ministers with advice on changes will be provided before the end of October.</p>	Government priority and fiscal imperatives	MBIE will provide you with advice in the form of a briefing in November 2020.
Employment Relations Authority Members reappointments and recruitment	<p>The Employment Relations Authority has provision for 18 full-time members, although the tendency has been to operate with 17 (16 members and the Chief of the Authority).</p> <p>The Authority is currently reduced by one member to 16 (including the Chief of the Authority) following the resignation of Jenni-Maree Trotman in the Auckland office on 4 September 2020. There are also five members whose terms are set to expire in December 2020 and February 2021, which would leave the Authority short by six members and would have the knock-on effect of causing significant delays to parties accessing timely employment dispute resolution outcomes.</p> <p>To avoid putting further unnecessary operational pressure on the Authority at a time when they are already experiencing increased demand as a result of COVID-19, officials presented the Minister with a range of options for the reappointment of the five members and sought approval to commence a process for seeking expressions of interest for up to two new members prior to the election (Briefing 2021-0713 refers). Officials highlighted that a contestable recruitment round would likely be undertaken in early 2021.</p> <p>_____ s 9(2)(f)(iv) _____ _____ _____ _____</p>	Appointment (statutory)	<p>MBIE will provide you with advice and the relevant Cabinet paperwork to progress the reappointment of the five members at the first APH committee meeting pre-recess in November 2020.</p> <p>MBIE will provide further advice on the recruitment process to fill the vacancies in November 2020.</p>

Things that are going to happen in the employment regulation and employment standards regulatory system			
Topic	Description	Driver	Timing
Minimum Wage Review	<p>The Minimum Wage Act 1983 requires the responsible Minister (currently the Minister for Workplace Relations and Safety) to review the minimum wage rates by 31 December each year.</p> <p>The Minister makes a decision on the minimum wage rates after considering the review report and MBIE’s advice, and notifies Cabinet of any changes to the rates. An Order in Council gives effect to the changes.</p> <p>In September 2020, the previous Minister agreed the scope of this year’s review, the process and the factors to be considered in MBIE’s analysis. The COVID-19 pandemic complicates the review and creates greater uncertainty around the potential effects of rate changes on the economy and the labour market.</p> <p>MBIE has consulted CTU, BusinessNZ, other key stakeholders and government agencies on the likely material impacts of the new rate options. The review report and advice on options is being drafted.</p>	Statutory requirement and Manifesto Commitment	MBIE will provide you with the review report and advice on options for the minimum wage rates and timing of changes in November 2020 .
The Holidays Act Review	<p>In May 2018, Cabinet established a tripartite Holidays Act Taskforce, comprising the New Zealand Council of Trade Unions, Business New Zealand, and Government (MBIE, Public Service Commission and Inland Revenue) to review the Act. The purpose of the review was to make recommendations to Government for a clear and transparent set of rules for providing entitlements to, and payment for, holidays and leave. The Taskforce provided its final report to the Minister for Workplace Relations and Safety in October 2019. The Taskforce unanimously supported the proposals which will resolve the key concerns with the Holidays Act, although individual members consider other options could have been preferable.</p> <p>- s 9(2)(f)(iv)</p>	Manifesto Commitment	s 9(2)(f)(iv)

Things that are going to happen in the employment regulation and employment standards regulatory system			
Topic	Description	Driver	Timing
'Better Protections for Contractors' consultation	<p>In November 2019, Cabinet agreed to consult the public on options to improve rights and protections for contractors. This includes:</p> <ul style="list-style-type: none"> Workers who are misclassified as independent contractors, so miss out on basic employment rights and protections. Workers in the 'grey zone' between employee and contractor status and can be vulnerable to poor working conditions. <p>Public consultation took place from November 2019 until February 2020. There was strong interest and engagement from a range of stakeholders including unions and business. In total, we received 137 written submissions, nearly 1,500 survey responses from contractors around New Zealand and ran 15 face to face events reaching 156 affected workers, businesses and operational staff.</p> <p>Following public consultation, officials produced a draft summary of submissions and provided advice to the Minister of Workplace Relations and Safety on short-term options to progress and the long-term direction of travel for this area of work. It was decided the summary of submissions would not be publically released close to the pre-election period. The 2020 Labour Party manifesto includes a commitment to develop a "statutory regime to protect dependent contractors", which would include the right to bargain collectively. We would welcome the opportunity to discuss this commitment in the context of the recent consultation and MBIE's past advice in this area.</p>	Manifesto Commitment and public consultation	We will provide you with a briefing in November 2020 on options for progressing this work.
Fair Pay Agreements (FPAs)	<p>In May 2018, Cabinet agreed in principle to establish a system so that employers and workers could collectively bargain for FPAs that set minimum employment terms and conditions across a sector or occupation. A Fair Pay Agreement Working Group (FPAWG) was convened to advise on the scope and design of the system. The FPAWG made recommendations to the Minister of Workplace Relations and Safety in December 2018, and the Government consulted the public on design features of the system in late 2019.</p> <p>Officials have advised on most of the core features of a proposed FPA system. s 9(2)(f)(iv)</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	Government priority	We will provide you with a briefing in November 2020 on options for progressing this work.

Things that are going to happen in the employment regulation and employment standards regulatory system			
Topic	Description	Driver	Timing
Temporary Migrant Worker Exploitation Review Proposals	Ministerial decisions will be sought on confirming work programme, including draft legislation options and timeframes, and further design requirements of the new visa for exploited migrant workers.	Manifesto Commitment	November 2020 , with subsequent briefings to follow
Complaints processes regarding employment institutions	You will receive advice on how to manage complaints processes relating to employment institutions.	Regulatory stewardship	November 2020
Development of a new Plan of Action against Forced Labour, People Trafficking and Slavery	<p>MBIE is currently leading the development of a new all-of-government Plan of Action against Forced Labour, People Trafficking and Slavery. This will update and build upon the existing Plan of Action to Prevent People Trafficking which was established in 2009, and enable compliance with the Forced Labour Protocol which will enter into force for New Zealand on 13 December 2020.</p> <p>This work is led through the Workplace Relations and Safety portfolio, while cutting across a range of further ministerial portfolios including Immigration, Justice and Police. Consultations on the draft Plan of Action with targeted stakeholders were undertaken in September and October 2020. The results of the consultation and a draft of the new Plan of Action will be provided for your and Cabinet’s consideration by the end of November 2020.</p>	International Obligation	MBIE will provide a draft Cabinet paper in November 2020 .
Review of MPs’ pay after the election	<p>The remuneration of Members of Parliament has been the subject of frequent review and change in recent years. The Remuneration Authority Act was amended in 2019 to change the way the Remuneration Authority determined MPs’ pay. It now has discretion to set MPs’ pay, taking into account the criteria in the Act. Pay must be set in advance for the three year term of Parliament soon after the General Election.</p> <p>The impact of COVID-19 will likely make this setting of pay in advance challenging for the Authority. MPs’ pay was also temporarily reduced from 9 July 2020–6 January 2021 by a 2020 Amendment Act and subsequent Authority determination.</p>	Statutory requirement	The Authority must commence a review of salaries and allowances within three months of the return of the writ of the General Election. It is unclear how long this review would take.

Things that are going to happen in the employment regulation and employment standards regulatory system

Topic	Description	Driver	Timing
<p>Application to add security officers to Schedule 1A of the Employment Relations Act 2000</p>	<p>In July 2019, the Minister for Workplace Relations and Safety received an application from the union E tū to add security officers to Schedule 1A of the Employment Relations Act. Employees listed in Schedule 1A of the Act receive additional protections for categories of employees under Part 6A of the Act. Schedule 1A can be amended by the Governor-General through an Order in Council on the recommendation of the Minister.</p> <p>MBIE provided advice that the statutory criteria in the Act had been met and s 9(2)(f)(iv)</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>Manifesto Commitment, and there is an active application that requires a decision.</p>	<p>s 9(2)(f)(iv)</p>

Things that are going to happen in the health and safety at work regulatory system			
Topic	Description	Driver	Timing
Targeted review of the Adventure Activities regulatory regime	<p>Following the Whakaari/White Island eruption on 9 December 2019, the Workplace Relations and Safety Minister directed MBIE to undertake a targeted review of the adventure activities regulatory regime.</p> <p>The scope of the review considers whether unintended weaknesses exist in the regulatory regime when activities take place in naturally-hazardous environments. Specific topics of interest include: regulatory definitions, the function and implementation of the safety audit scheme, the role of experts, and monitoring and reporting.</p> <p>Findings from phase one of the targeted review will be presented to Ministers towards the end of 2020.</p>	Government priority	MBIE will provide you with a briefing supporting a decision on whether further policy work is desirable and feasible in November 2020 .
Ensuring all workers can elect health and safety representatives	<p>Your 2020 Election Manifesto included an item to ensure all workers have the right to elect health and safety representatives. This paper will provide options on timing for initiating this change, and associated changes to fully give effect to Worker Representation</p> <p>s 9(2)(f)(iv)</p>	Manifesto commitment	We will provide you with a briefing in mid-November 2020 .
Review of Youth in Hazardous Work	<p>s 9(2)(f)(iv)</p> <ul style="list-style-type: none"> ■ [Redacted] ■ [Redacted] ■ [Redacted] ■ [Redacted] ■ [Redacted] ■ [Redacted] ■ [Redacted] ■ [Redacted] ■ [Redacted] ■ [Redacted] 	Manifesto commitment and international legal obligations	s 9(2)(f)(iv)
Amendments to the Health and Safety at Work Act and Mines Rescue Act through the Regulatory Systems Amendment Bill (No. 4)	<p>MBIE is proposing three minor and technical amendments to the Health and Safety at Work Act, and one minor and technical amendment to the Mines Rescue Act through the Regulatory Systems Amendment Bill (No. 4).</p>	Legislative timeframes	We will provide you with a briefing in November 2020 , and aim to submit approved amendments to the Parliamentary Counsel Office in 2021.

Things that are going to happen in the health and safety at work regulatory system			
Topic	Description	Driver	Timing
Better Regulation of Plant and Structures	<p>An MBIE review of Health and Safety at Work regulations protecting people working with plant, structures and excavations, and at heights is nearly complete, following a comprehensive consultation process. These areas contribute to 79% of work-related fatalities.</p> <p>s 9(2)(f)(iv)</p>	Government priority	<p>MBIE will provide you with a briefing before the end of 2020, s 9(2)(f)(iv)</p>

Cross-portfolio things that are going to happen			
Topic	Description	Driver	Timing
Budget 2021 bids	<p>As part of Treasury’s budget process, all departments provide bids for funding new or expanded programmes. We will provide you with advice on options for budget bids and an overview of investment across the ERES and HSWA systems, and would like to have an early conversation with you about your priorities and plans for Budget 2021.</p>	Budget	<p>MBIE will provide you with a briefing in November 2020 and decisions will be required before Christmas if you wish to submit bids for Budget 2021.</p>
Letter of Expectations	<p>Send a Letter of Expectations (LoE) to WorkSafe. A LoE provides an opportunity to participate in an entity’s process of setting strategic intentions and to influence its performance for the short to medium term. Letters enable the board to align their work programme to your priorities and expectations.</p>	Entity’s accountability process timings	First 60 days.
The Future of Work Tripartite Forum	<p>The Future of Work Tripartite Forum (the Forum) is a partnership between the Government, Business New Zealand and the Council of Trade Unions that aims to support New Zealand businesses and workers to meet the challenges and take the opportunities presented in a rapidly changing world of work. Several Ministers usually attend, including the Minister for Workplace Relations and Safety.</p> <p>The Forum was scheduled to meet in mid-November. As a result of the delayed election, it is likely that this will be deferred, possibly until 2021. This will need to be confirmed by the Forum Governance Group. For the Government, lead Ministers are Finance, Economic Development and Education.</p> <p>In late 2018, the Forum published a <i>Strategic Assessment of the Future of Work</i>, which identified four broad megatrends shaping the future of work: technological progress, demographic change,</p>	Government Priority	Ongoing – decisions about scope and timing to be sought from incoming government

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

Cross-portfolio things that are going to happen			
Topic	Description	Driver	Timing
	<p>globalisation and climate change. As a result, the Forum agreed to prioritise work in four areas:</p> <ul style="list-style-type: none"> • Industry transformation plans • Support for displaced workers (including consideration of social unemployment insurance) • Better protection for contractors • In-work training <p>The third item falls directly into the WRS portfolio. The other priorities are also likely to be of interest for the WRS portfolio.</p>		

Things to be aware of			
Topic	Description	Driver	Timing
Pay Equity	<p>The Equal Pay Amendment Bill passed its third reading on 22 July 2020.</p> <p>MBIE's focus now is on developing tools and guidance to assist parties to navigate the pay equity claims process set out in the Bill. This includes developing guidance and online tools to provide clarification to parties about the process, and developing an information repository that can store information used to come to existing settlements. Initial resources will be published for Commencement on 6 November 2020, with more to follow over coming months.</p>	Government Bill	The Bill will come into force on 6 November 2020 .
Mining and Quarrying regulations	<p>In December 2019 Cabinet agreed to changes to the Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016, following an implementation review by MBIE in 2018 and 2019.</p> <p>Cabinet also approved the Minister for Workplace Relations and Safety releasing draft regulations to key stakeholders.</p> <p>MBIE is working with WorkSafe and Parliamentary Counsel Office to draft the necessary changes to implement Cabinet's decision.</p> <p>We anticipate an exposure draft will be ready for targeted stakeholder consultation in late 2020, with a Cabinet process to follow in 2021.</p> <ul style="list-style-type: none"> • There are no implications for Pike River recovery as a result of the proposed changes. 	Cabinet policy decision	In early 2021 MBIE will provide you with the draft regulations, and seek your approval to release an exposure draft.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

Things to be aware of			
Topic	Description	Driver	Timing
Health and Safety at Work Strategy 2018-28	<p>The Strategy provides a framework for driving the Government’s direction for improving the health and safety of workers in New Zealand.</p> <p>Work is underway to develop an action plan for implementing the Strategy. The action plan will be overseen by a stakeholder reference group, representing views from across key system stakeholder groups. The current reference group is being refreshed with a new group comprising greater industry representation.</p>	Government priority	MBIE will be updating you on progress in early 2021 .
Refrigerants regulations	<p>In May 2019 Cabinet agreed to the creation of new regulations establishing a licencing regime for technicians performing work on commercial and industrial refrigeration, heat pump or air conditioning systems. Supplementary minor decisions on definitions and licencing fees were agreed by Cabinet in March 2020.</p> <p>New Zealand is currently phasing out the use of hydrofluorocarbons in refrigeration systems in accordance with international environmental agreements. Consequently, alternative refrigerants with toxic or flammable properties are increasingly entering use.</p> <p>This licencing regime aims to ensure all technicians working on refrigeration systems involving flammable or toxic substances are licenced and meet competency requirements.</p> <p>MBIE undertook public consultation on these proposals in September – December 2018 and on further matters of detail December 2019 – January 2020.</p>	Cabinet Legislation Committee paper	Cabinet process anticipated in early 2021 .
Petition of Allan Halse: Significantly reduce the incidence of workplace bullying in New Zealand	<p>Allan Halse, Director of CultureSafe NZ, has made a petition for the House of Representatives to create a low-level disputes resolution process based on the United Kingdom Advisory, Conciliation and Arbitration Service (ACAS) model. The petition is focused on the high rates of, and harms caused by, workplace bullying in New Zealand.</p> <p>The Education and Workforce Committee requested evidence from MBIE to support its consideration of this petition. MBIE provided a response on 30 July 2020. The Committee has not reported back on this petition.</p>	The Education and Workforce Committee-is considering a petition.	N/A

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

Title	Type of Bill	Description	Status	Next steps
<p>Holidays (Bereavement Leave for Miscarriage) Amendment Bill (No 2)</p> <p>Member's Bill sponsored by Ginny Andersen</p>	Member's Bill	The Bill makes amendments to the <i>Holidays Act 2003</i> to ensure employees who are directly affected by a miscarriage or stillbirth are entitled to a minimum of three days' paid bereavement leave. The Bill was introduced to the House on 27 June 2019, and was referred to the Education and Workforce Committee after passing its first reading on 10 December 2019.	<p>The Education and Workforce Committee considered the revised Bill on 22 July. They agreed unanimously that the Bill should proceed as amended.</p> <p>The Bill received its second reading on 29 July 2020.</p>	The Bill needs to be reinstated to progress to Committee of whole House and further stages.

Annex 1: Relevant legislation

The Minister for Workplace Relations and Safety is responsible for the following Acts and the regulations that sit under them.

Employment relations and standards regulatory system

Employment Relations Act 2000

Regulates relationships between employees, employers and unions, including promoting good faith, fair process and collective bargaining. Sets out dispute resolution processes and the provision of mediation services, governs personal grievances and establishes the Employment Relations Authority and Employment Court. Also establishes Labour Inspectors to monitor and enforce compliance with employment standards.

Minimum Wage Act 1983

Prescribes minimum wages for all employees (including starting-out and training minimum wages), and establishes a process for reviewing the minimum wages annually.

Holidays Act 2003

Provides all employees with the right to paid days of leave and annual holidays for the purposes of rest and recreation, observance of significant days, and for when an employee is unable to attend work due to an illness or a bereavement. Sets out how employees are to be paid for their leave, and requires employers to keep records of hours and wages.

Parental Leave and Employment Protection Act 1987

Provides parents who are employees or are self-employed with entitlements to paid or unpaid time off work, and job-protected extended leave.

Shop Trading Hours Act 1990

Restricts the days on which certain shops can trade or be open.

Equal Pay Act 1972

Establishes the right to equal pay for male and female employees. On 6 November the Act will be amended by the Equal Pay Amendment Act 2020 to expressly provide for a pay equity regime, creating a process for raising pay equity claims directly with an employer, and if any issues are identified, addressing them through a process that is aligned with New Zealand's existing bargaining framework.

Remuneration Authority Act 1977

Creates the Remuneration Authority to set the pay for key office holders such as Judges and Members of Parliament.

Wages Protection Act 1983

Sets out how wages are to be paid to an employee and prohibits employers from making unlawful deductions.

Sharemilking Agreements Act 1937

Establishes minimum conditions for sharemilkers.

Trade Unions Act 1908

Sets out some requirements for trade unions to operate, including requiring a registry of unions to be kept.

Volunteers Employment Protection Act 1973

Protects the employment status of employees who take leave from their work for the purposes of voluntary service or training in the Armed Forces

Union Representatives Education Leave Act Repeal Act 1992

This Act repeals the *Union Representatives Education Leave Act 1986*, which guaranteed a certain number of days of leave for union members to attend education or training.

Regulations
Employment Relations Authority Regulations 2000
Employment Relations (Prescribed Matters) Regulations 2000
Employment Court Regulations 2000
Minimum Wage Order 2016
Parental Leave and Employment Protection Regulations 2002
Sharemilking Agreements Order 2011

Annual requirements

You must review minimum wage rates in each year ending on 31 December under the *Minimum Wage Act 1983*. Following the review you may, in that year or subsequently, make recommendations to the Governor-General regarding the adjustments that should be made to that minimum rate.

Under the *Parental Leave and Employment Protection Act 1987*, parental leave payment rates are adjusted from 1 July each year in accordance with a formula in the Act (based on wage growth). You are required to publish the adjusted rates for employees and the rates set for self-employed persons.

Health and safety at work regulatory system

Health and Safety at Work Act 2015

Places duties on businesses, their officers (eg company directors), and workers to protect workers and other persons against harm to their health and safety by managing the risks arising from work. Provides for work health and safety engagement, participation and representation, consultation, and issue resolution. Promotes the provision of advice, information, education and training for work health and safety, and provides for compliance and enforcement measures.

Mines Rescue Act 2013

Provides for a co-ordinated response to mine emergencies, and establishes the Mines Rescue Trust.

WorkSafe New Zealand Act 2013

Establishes WorkSafe New Zealand, to promote and contribute to securing the health and safety of workers and workplaces. Provides for its functions and governance arrangements.

Regulations made under the <i>Health and Safety at Work Act</i>
Health and Safety at Work (General Risk and Workplace Management) Regulations 2016
Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016
Health and Safety at Work (Asbestos) Regulations 2016
Health and Safety at Work (Adventure Activities) Regulations 2016
Health and Safety at Work (Major Hazard Facilities) Regulations 2016
Health and Safety at Work (Mining Operations and Quarrying Operations) Regulations 2016
Health and Safety at Work (Petroleum Exploration and Extraction) Regulations 2016
Health and Safety at Work (Rates of Funding Levy) Regulations 2016
Health and Safety at Work (Infringement Offences and Fees) Regulations 2016
Health and Safety at Work (Hazardous Substances) Regulations 2017
Regulations saved by the <i>Health and Safety at Work Act</i>
Health and Safety in Employment Regulations 1995
Health and Safety in Employment (Pipelines) Regulations 1999
Health and Safety in Employment (Pressure Equipment, Cranes, and Passenger Ropeways) Regulations 1999
Amusement Devices Regulations 1978 (made under the <i>Machinery Act 1950</i>)
Spray Coating Regulations 1962 (made under the <i>Health Act 1956</i>)
Lead Process Regulations 1950 (made under the <i>Health Act 1956</i>)
Geothermal Energy Regulations 1961 (made under the <i>Geothermal Energy Act 1953</i>)
Other regulations
Mines Rescue (Levy) Regulations 2014 (made under the <i>Mines Rescue Act 2014</i>)

Annex 2: Crown entities, institutions and statutory bodies, and international bodies

The institutions and statutory and advisory bodies associated with the portfolio are:

- WorkSafe New Zealand (WorkSafe)
- Employment Relations Authority (ERA)
- Remuneration Authority (the Authority)
- Mines Rescue Trust (the Trust)
- Equal Employment Opportunities Trust (the EEO Trust)

Each entity is discussed below. MBIE provides you with support in your monitoring of these entities.

WorkSafe New Zealand

WorkSafe New Zealand (WorkSafe) was established on 16 December 2013. It is a Crown Agent, led by a governing Board. WorkSafe's foundation for driving change in the health and safety system is the Government's *Health and Safety at Work Strategy 2018-2028* (the Government's Strategy) and its vision: "Work is healthy and safe for everyone in New Zealand."

WorkSafe's own vision is: "We are working towards a productive New Zealand in which everyone who goes to work comes home healthy and safe." It has three core roles that drive it: regulatory effectiveness, harm prevention and system leadership. To achieve measureable change in the health and safety at work system it needs to partner with workers, worker representatives and unions including the New Zealand Council of Trade Unions – Te Kauae Kaimahi. Individual employers, businesses, and industry and sector bodies, along with Business New Zealand are also important partners and stakeholders.

The Minister for Workplace Relations and Safety must appoint between five and nine board members. The appointment process typically takes between three and six months. When appointing a member of the board, the Minister must have regard to the need to ensure that WorkSafe has among its members persons who collectively have knowledge and experience of, and capability in, the following:

- public sector governance
- central government processes
- New Zealand's work health and safety environment, including workplace illness and occupational disease
- perspectives of workers
- perspectives of employers
- administration of work health and safety legislation and risk management frameworks

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

- business generally.

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. More detailed information about WorkSafe will be provided in its briefing to you.

Members of the WorkSafe Board		
	Date of original appointment	Expiry date of present term
Ross Wilson (Chair)	16 December 2013	30 September 2021
Paula Rose (Deputy Chair)	16 December 2013	29 May 2021
Dr Jan White	30 May 2016	30 September 2021
Bill Moran	1 July 2019	30 June 2022
Kristen Thompson	1 July 2019	30 June 2022
Nikki Davies-Colley	16 December 2016	14 June 2023
James Fletcher	15 June 2020	14 June 2023
Robin Hapi	15 June 2020	14 June 2023

Employment Relations Authority

The ERA is a quasi-judicial investigative body with the role of resolving and making determinations about employment relationship problems that cannot be solved through mediation or other means. The ERA is funded for 18 members and has offices in Auckland, Wellington, and Christchurch, and members travel when required. MBIE provides support to the ERA. The Authority is currently comprised of 16 members (including the Chief), all of whom are full time, leaving two vacancies currently being recruited to fill. There is also time limited funding for additional pay equity roles, starting from this financial year, where recruitment is also underway.

Section 167 of the Employment Relations Act 2000 provides for appointment of members to the Authority by the Governor-General on your recommendation as the Minister for Workplace Relations and Safety. Section 169 of the Act provides that members of the Authority are appointed for terms of up to four years, and are eligible for reappointment from time to time. Some of the members have terms which are due to expire very soon, and action is required on a re-appointment process ahead of December 2020.

Members of the Employment Relations Authority			
	Location	Date of original appointment	Expiry date of present term
Helen Doyle	Christchurch	19 December 2001	18 December 2020
Robin Arthur	Auckland	29 July 2013	3 February 2021
Rachel Larmer	Auckland	1 July 2010	3 February 2021
Eleanor Robinson	Auckland	1 July 2010	3 February 2021
Mike Loftus	Wellington	1 June 2010	17 February 2021
Michele Ryan	Wellington	24 August 2011	30 June 2022

Members of the Employment Relations Authority			
	Location	Date of original appointment	Expiry date of present term
Vicki Campbell	Auckland	1 August 2014	21 August 2022
Anna Fitzgibbon	Auckland	23 April 2012	21 August 2022
Trish MacKinnon	Wellington	9 July 2012	21 August 2022
Geoff O’Sullivan	Wellington	30 September 2019	29 September 2022
Nicola Craig	Auckland	12 October 2015	11 October 2022
Peter van Keulen	Christchurch	12 October 2015	11 October 2022
Andrew Dallas (Chief)	Wellington	2 November 2015	1 November 2022
David Beck	Christchurch	3 February 2020	2 February 2023
Philip Cheyne	Christchurch	3 February 2020	2 February 2024
Marija Urlich	Auckland	3 February 2020	2 February 2024

Remuneration Authority

The Remuneration Authority is responsible for considering and determining the salaries and allowances of Members of the House of Representatives and the Judiciary, the remuneration and principal allowances for specified Statutory Officers, and the remuneration, allowances and expenses for Chairpersons and Members of Local Authorities and Community Boards. For most roles the Authority is responsible for, it reviews remuneration annually. However, for Members of Parliament – under recent changes – it will set their pay for the three year term of Parliament just after the election, with annual adjustments built into the initial determination.

The Authority is comprised of a Chair and two members, all of whom are part time.

Members of the Remuneration Authority			
	Location	Date of original appointment	Expiry date of present term
Hon Fran Wilde (Chair)	Wellington	1 December 2015	23 December 2021
Geoff Summers	Wellington	5 January 2016	30 June 2022
Len Cook	Wellington	28 October 2016	27 October 2022

The Mines Rescue Trust

The Mines Rescue Trust provides specialist emergency rescue services for coal mines, underground metalliferous mines, and tunnels over 150m under construction. They also respond if requested by Police or Fire and Emergency New Zealand to other emergencies that require specialist long duration breathing capability.

The Trust is not a Crown Entity. It is a charitable trust that is also recognised by the Minister for Workplace Relations and Safety under the *Mines Rescue Act 2013* (the Act). The Act sets out statutory functions to assist mining operations with emergency planning, to train and equip special mines rescue brigades, and to deploy those brigades in the event of an

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

emergency. The Act and accompanying Mines Rescue (Levy) Regulations 2014 provide an industry levy to fund the functions. The Trust is governed by a board that represents levy payers as specified in the Act. Each group of levy payers nominates their representative (they are not appointed by the Minister). The required members are:

- one person appointed by WorkSafe (non-voting member)
- two who represent mine operators of underground coal mines
- one who represents mine operators of opencast coal mines
- one who represents mine operators of underground metalliferous mines
- one who represents tunnelling operators, and
- one from the Engineering, Printing and Manufacturing Union.

In addition, the Trust can appoint additional members as required (there is one currently).

Members of the Mines Rescue Trust Board		
	Organisation	Representing
Joe Edwards	McConnell Dowell (Chair)	Tunnelling operators
Andrew Holley	Roa Mine	Underground coal mines
Richard Tacon	Bathurst Resources	Opencast coal mines
Kevin Pattinson	Te Kāhui Whakamana Rua Tekau mā Iwa/Pike River Recovery Agency	Underground coal mines
Alison Paul	OceanaGold	Underground metalliferous mines
James Isles	OceanaGold	Underground metalliferous mines
Garth Elliott	E tū Union	Engineering, Printing and Manufacturing Union
David Bellett	WorkSafe (Deputy Chief Inspector Extractives)	WorkSafe

MBIE administers the legislative framework governing the Trust and its levy. WorkSafe's High Hazards Unit has a close operational relationship with the Trust.

Diversity Works Trust

Diversity Works (formerly the Equal Employment Opportunities) Trust is a not-for-profit organisation, jointly established as a charitable trust by government and the private sector in 1992. The purpose of the Trust is to provide New Zealand employers with information and tools to raise awareness of the business benefits of effectively managing diversity in the workplace. Diversity Works also provides consultancy services to organisations on diversity matters.

The Diversity Works Trust is governed by Trustees representing the private and public sectors. The five private sector trustees are elected by Diversity Works Trust members and

the four public sector trustees are nominated by the Minister for Workplace Relations and Safety and the Minister for Women.

Until recently, all four public sector positions on the Board were vacant. s 9(2)(g)(i) these appointments were confirmed by Cabinet on 8 June 2020 and appointment letters were sent to the successful candidates on 24 June 2020. MBIE will meet with the public sector members of the Diversity Works Board every six months.

MBIE completed a review of the funding of the Trust in 2015, which did not recommend any changes to current funding levels but did recommend an increased focus on reaching a broader audience.

Name	Organisation
Private Sector Trustees	
Susan Doughty (Chair)	Fonterra Co-operative Group
Adrienne Miller	Cupola
Chris Litchfield	Coca Cola Amatil New Zealand
John Christie	Enterprise Dunedin
Ranjna Patel	Nirvana Health Group
Public Sector Trustees	
Laulu Mac Leauanae	Ministry for Pacific Peoples
Alex Chadwick	Public Service Commission
Nicola Ngawati	Ministry for Women
Debbie Power ⁵	Ministry of Social Development

Asia-Pacific Economic Cooperation Human Resource Development Working Group

The 21-member Asia-Pacific Economic Cooperation (APEC) was established in 1989 to strengthen the Asia-Pacific community and further enhance economic growth and prosperity for the region. APEC provides a key vehicle for regular high level dialogue and enhanced trade and economic integration with New Zealand’s key regional partners, including the US, Canada, China, Korea, Japan, ASEAN and Latin America.

Working Groups carry out APEC's work in specific sectors as directed by APEC Economic Leaders, APEC Ministers, APEC Sectoral Ministers and Senior Officials. There are currently 11 Working Groups, including the Human Resources Development Working Group (HRDWG).

⁵ Debbie has been appointed for a term of one year, in order to stagger the appointment dates so that the Board is not left with four vacant public sector positions again in the future.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

HRDWG conducts work programmes to develop human resources on issues ranging from education to labour to capacity building and this work covers multiple ministerial portfolios for New Zealand, including workplace relations, education, social development and employment. MBIE leads the engagement in this working group, and New Zealand's engagement in two of the three networks that sit below it, the Labour and Social Protection Network and the Capacity Building Network (the Ministry of Education leads New Zealand's engagement in the Education Network).

New Zealand is hosting APEC in 2021 and Ministers announced on 30 June that New Zealand is proceeding with this hosting using virtual platforms. The global disruption caused by COVID-19, including resultant border restrictions, has been the major factor in the decision which been taken now so that planning for APEC meetings can go ahead with certainty, with a focus on achieving meaningful outcomes from the core APEC agenda. New Zealand agencies have begun work on options for using a virtual meeting approach and what this will mean, including New Zealand's priorities for HRDWG in 2021.

Annex 3: Funds and appropriations

Vote Labour Market: Budget Structure

Four Ministers are responsible for appropriations in Vote Labour Market. For 2020/21:

1. The **Minister for ACC** is responsible for appropriations totalling \$1,757.5m, primarily to cover the estimated cost of injury prevention, claims processing, medical services and social rehabilitation for claims on the Non-Earners' Account.
2. The **Minister of Immigration** is responsible for appropriations totalling \$446.7m, primarily for the provision of immigration services, including assessment and processing services, settlement and integration of refugees and integrity and security of the New Zealand immigration system.
3. The **Minister of Social Development and Employment** is responsible for an appropriation of \$20.1m for the provision of He Poutama Rangatahi (youth employment services) and employment information and facilitation services.
4. The **Minister for Workplace Relations and Safety** is responsible for appropriations totalling \$165.5m, primarily for the provision of employment relations services and work health and safety services.

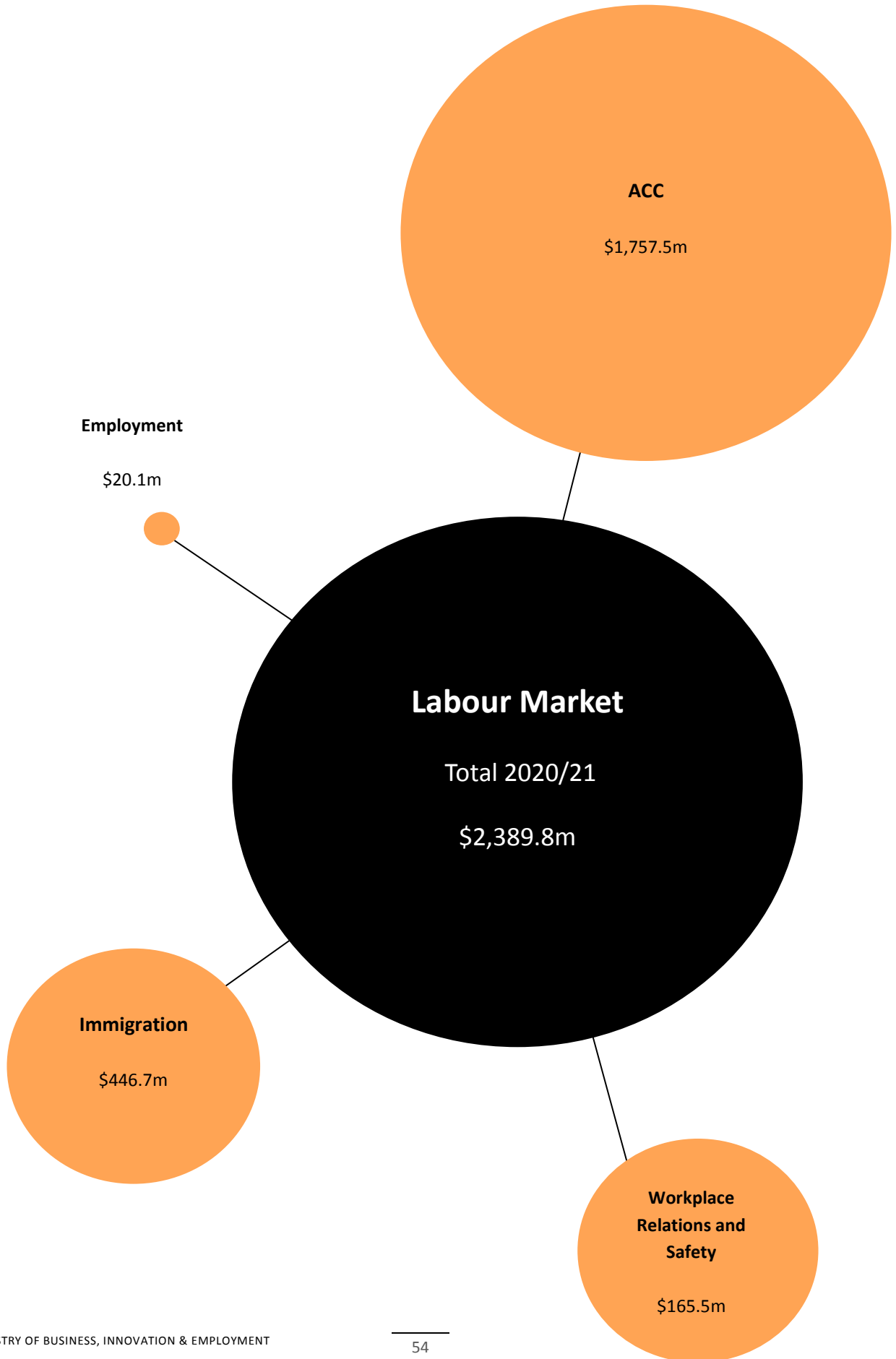
A decision is needed on who the lead Minister for vote labour market will be. The lead minister for Vote Labour Market has overall responsibility for a multi-class appropriation of \$22.95m to provide policy advice and related services to the Minister for ACC, the Minister of Social Development and Employment, the Minister of Immigration, and the Minister for Workplace Relations and Safety. The diagram overleaf attributes a portion of the policy advice appropriation to each of the constituent portfolios. The total figures in the diagram are therefore higher than the figures above.

The Ministry of Business, Innovation and Employment is the department responsible for administering Vote Labour Market.

For administrative simplicity, one Minister typically takes overall responsibility for the Vote Labour Market budget processes. The Lead Minister for Vote Labour Market receives the final estimates documentation for approval, covering ACC, Employment, Immigration, and Workplace Relations and Safety. During the course of the financial year, the Lead Minister also receives:

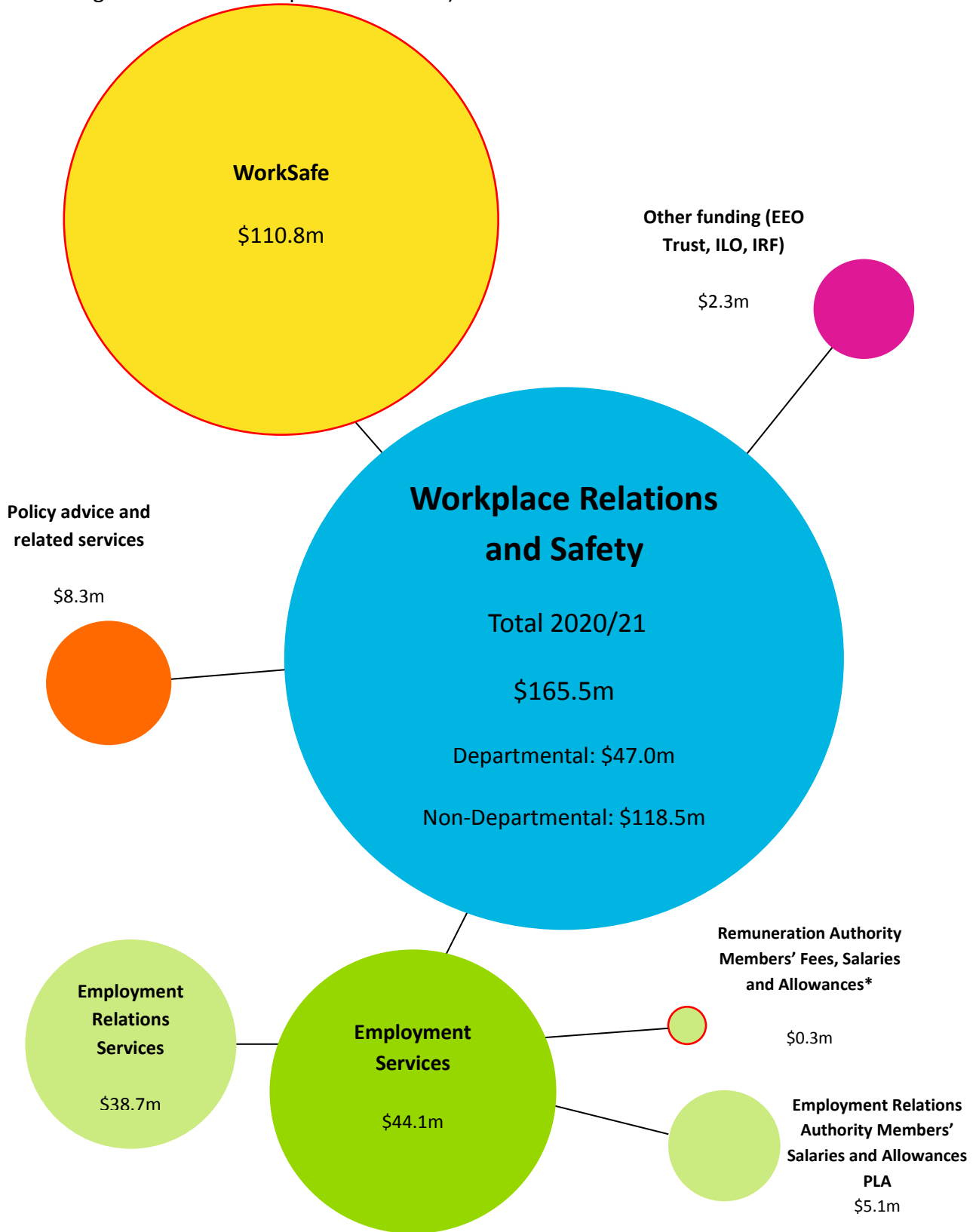
- October and March Baseline Updates
- In-Principle Expense Transfers in June
- Estimates and Supplementary Estimates
- Select Committee Estimates Examination material as the main point of contact for Vote Labour Market.

The diagram below sets out the total 2020/21 appropriation for Vote Labour Market.



Workplace Relations and Safety portfolio appropriations

The diagram below sets out the total 2020/21 appropriation for the Workplace Relations and Safety portfolio. This captures both departmental funding (funding received by MBIE to provide services directly) and non-departmental funding (funding provided via MBIE to other agencies for them to provide services).



Red outline indicates **partial** levy-funding
 *While there is a levy, it doesn't fund the operation of the Authority

The Industrial Relations Foundation

Supporting the Employment Relations framework is the Industrial Relations Foundation (IRF) grant funding, which MBIE manages on behalf of the Minister for Workplace Relations and Safety.

The Industrial Relations Foundation (IRF) is an educational trust established in 1977 under the *Charitable Trusts Act 1957*. The purpose of the IRF is to promote, through education, better industrial relations within New Zealand. The trustees of the IRF, whose functions include awarding the grants, are:

- the Minister for Workplace Relations and Safety (Chairperson)
- the President of Business New Zealand (Business NZ)
- the Chief Executive of Business NZ
- the President of the New Zealand Council of Trade Unions (NZCTU)
- the Secretary of NZCTU.

A Steering Group advises the trustees on applications for grants, how best to achieve its aims, fund management, and administrative matters. The Steering Group consists of:

- the Chief Executive of MBIE or their nominee
- the Chief Executive of Business NZ or their nominee
- the Secretary of NZCTU.

The Trust has often sought applications for funding annually, but at times less frequently. Applications are considered and decided on by the Trustees, and MBIE provides briefings to the Minister to seek input to funding decisions. The IRF usually allocates \$40-50,000 for funding grants but this can vary based on the applications received. The total asset amount for the Industrial Relations Foundation as at 19 October 2020 is s 9(2)(b)(ii). In the 2019/2020 financial year, three grants were awarded. The first grant of s 9(2)(b)(ii) was awarded to Lisa Meehan of the New Zealand Work Research Institute. This research will focus on future-of-work trends in New Zealand workplaces. The second grant of s 9(2)(b)(ii) was allocated to FIRST Union for research into non-standard work in the gig economy. The third grant totalling s 9(2)(b)(ii) was awarded to E tū union for research into the experience of New Zealand workers in transition, and in particular the interventions they and their employer would see as useful to support them to successfully move into new (or modified) work.

The Health and Safety at Work Levy

WorkSafe New Zealand is funded through an appropriation set by Government, with these costs then recovered primarily by the Health and Safety at Work levy under the *Health and Safety at Work Act 2015*. WorkSafe's total appropriation for 2020/21 is \$110.8m, \$0.869m of which is paid to ACC for the collection of the Health and Safety at Work levy and \$0.500m for Capital Expenditure. This total is reflected in the Workplace Relations and Safety portfolio appropriations figure on page 50.

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

The Health and Safety at Work levy is paid by all employers and self-employed at 8 cents per \$100 of liable earnings, collected by ACC alongside its Work Account levy. The costs of the work health and safety functions of WorkSafe, the Civil Aviation Authority and Maritime New Zealand (as designated regulators under the Act), are recovered from the levy, which is a dedicated funding source that cannot be used elsewhere.

In addition to the Health and Safety at Work levy, WorkSafe’s costs are recovered from three other funding sources: energy levies paid by electricity and gas industry operators (and collected by MBIE), which fund WorkSafe’s electricity and gas safety services; the Major Hazard Facilities levy paid by facility operators; and a small amount of Crown funding for a hazardous substances register and test certification. WorkSafe also charges fees for some regulatory services, e.g. safety case assessments, registrations and licences. WorkSafe also receives funding from ACC for harm prevention initiatives under the joint WorkSafe/ACC Harm Prevention Action Plan, through a multi-year partnership agreement of up to \$15.00m per annum.

WorkSafe also received Crown funding through Budget 2020 of \$5.2m for activity in response to the COVID-19 pandemic.

Funding sources as detailed in WorkSafe Statement of Performance Expectations 2020/21				
Appropriation			Other revenue	
Working Safer Levy	Major Hazard Facility Levy	Energy Safety Levy	Targeted fees	ACC revenue
\$102.3m 78% ⁶	\$2.87m 2%	\$4.41m 4%	\$1.27m 1% ⁷	\$20.0m 15%
A levy on all businesses to cover the cost of core activity undertaken by WorkSafe and designated health and safety regulators	Levy to offset the cost of activity in the major hazard facility (MHF) regulatory regime	Levy to recover the cost of promoting and contributing to the safe supply and use of electricity and gas	User charges to offset the cost of activity in specific regulatory regimes (e.g. safety cases)	Contracted funding provided by ACC to deliver harm prevention interventions and activity

⁶ Includes a contribution to Major Hazard Facilities activities.

⁷ Includes interest revenue.

Annex 4: Key stakeholders

Crown Entities and Other Related Bodies	
WorkSafe New Zealand	Chair: Ross Wilson Deputy Chair: Paula Rose QSO Chief Executive: Phil Parkes
ACC	Chair: Dame Paula Rebstock Chief Executive: Scott Pickering
Employment Relations Authority	Chief: Andrew Dallas
Employment Court	Chief Judge: Christina Inglis
Equal Employment Opportunities Trust	See list of trustees in Annex 2
Remuneration Authority	See list of members in Annex 2
Worker/Union	
Council of Trade Unions	President: Richard Wagstaff Secretary: Melissa Ansell-Bridges
Public Service Association	National Secretaries: Erin Polaczuk and Glen Barclay
E tū	National Secretary: Bill Newson
First Union	General Secretary: Dennis Maga
Business Stakeholders	
Business Leaders' Health and Safety Forum	Chair: George Adams Executive Director: Francois Barton
Business New Zealand	Chief Executive: Kirk Hope Manager, Employment Relations: Paul Mackay
Employers and Manufacturers Association (Northern)	Chief Executive: Brett O'Riley
Health and Safety Association of New Zealand	Chair: Mike O'Brien

Annex 5: Trade and Labour Standards

In 2001, New Zealand adopted the Cabinet *Framework for Integrating Labour Issues into Free Trade Agreements* to guide and ensure coherence in New Zealand's positions in multilateral and bilateral trade negotiations.

The framework is a high level, principles-based approach that sees the need for trade to enhance social and economic conditions, in particular the working conditions under which tradable goods and services are produced. It also reflects increased global interest and concerns over fair competition in cases where trade advantage may be secured through unfair labour practices. A key principle of the framework is that:

developing countries should not be denied legitimate comparative advantage of lower labour costs but this advantage should not be secured by deliberately neglecting fundamental labour principles

The framework was developed to guide New Zealand's trade negotiators at a time when bilateral and multilateral free trade agreement (FTA) negotiations were largely in their infancy, but has endured over time and successfully normalised the idea that seeking outcomes on labour is part of any trade negotiation in which New Zealand is involved.

The Ministry of Foreign Affairs and Trade (MFAT) leads New Zealand's trade negotiations overall, drawing on a wide range of agency expertise. MBIE leads in the area of trade and labour, working alongside MFAT in negotiating specific FTA texts. MBIE also manages the relationship with partner countries under the labour cooperation provisions of any concluded agreements.

Since 2001, New Zealand has negotiated trade and labour instruments under nine trade agreements covering 17 countries, most recently (2017) the 11-member Comprehensive and Progressive Trans-Pacific Partnership Agreement (CPTPP).

The framework has been flexible enough to allow an evolution of New Zealand policy and to allow New Zealand to work successfully with a range of different partners with different objectives. Outcomes have evolved both in form and content, particularly where negotiating partners have had their own trade-labour frameworks or policies (such as Canada, the United States, European Union).

However, the conclusion of the CPTPP in 2017 reinforced the need to recalibrate trade policy generally given emerging public concerns over trade agreements and a perceived loss of social licence. In April 2018, the Minister for Trade and Export Growth launched Government's Progressive and Inclusive Trade for All Agenda, focused on reinforcing the social license of trade agreements and using trade as a tool to enhance social wellbeing through an emphasis on sustainable development, including labour, environment, climate and gender issues.

Cabinet subsequently established a Trade for All Advisory Board in November 2018 to make recommendations on effecting a sustainable and inclusive trade policy. The Board reported in November 2019. A key recommendation was that:

BRIEFING FOR INCOMING MINISTER FOR WORKPLACE RELATIONS AND SAFETY

MFAT and MBIE should be directed to work with social partners to redevelop the 2001 Cabinet Framework for Trade and Labour.... This work should also include an assessment of whether both the Framework and New Zealand legislation to address modern slavery are sufficient, given international trends.

Cabinet agreed to this, and other recommendations, in March 2020, although the impact of COVID-19 subsequently delayed work on refreshing the Framework.

New Zealand is currently engaged in negotiations with both the European Union and the United Kingdom – both negotiations include labour and sustainable development components. We will continue to work with MFAT on these negotiations, as well as the refreshment of the trade-labour framework through the Trade for All process, and report to you as matters progress.