

NOHSAC

National Occupational Health
and Safety Advisory Committee
Komiti Tōhutuhu Mahi A-Motu Hauora me te Hauumaru

OCCUPATIONAL HEALTH AND SAFETY

IN NEW ZEALAND

NOHSAC TECHNICAL REPORT 7

ALLEN & CLARKE

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Executive Summary

The National Occupational Health and Safety Advisory Council (NOHSAC) commissioned the development of a comprehensive technical report setting out the parameters of New Zealand's occupational health and safety system. This technical report has been prepared by Allen & Clarke Policy and Regulatory Specialists Ltd and feeds into the work undertaken by NOHSAC.

PURPOSE AND AUDIENCE

This technical report:

- describes the history of occupational health and safety in New Zealand, with a particular focus on the reforms of the 1980s and 1990s in order to provide context for discussions of the service delivery today
- outlines some of the key principles underpinning New Zealand's approach to preventing harm in the workplace
- details New Zealand's current occupational health and safety system
- outlines key issues with the current system, as identified by stakeholders, which may restrict the achievement of health and safety outcomes
- provides the basis for developing a national profile documenting New Zealand's occupational health and safety system (as per one of the obligations of International Labour Office Convention 155).

The technical report does not make recommendations or provide solutions to the issues identified by stakeholders.

The primary audience for this report is NOHSAC. The project team is aware that other stakeholders will have an interest in the findings of this report, including the Minister of Labour, key government agencies, social partners, and the occupational health and safety industry.

METHODOLOGY

A two-phase methodology was used to collect the material informing this report:

- Semi-structured interviews with 49 key informants involved in occupational health and safety, including government agencies, researchers, health and safety professionals, training organisations, the government's social partners, industry representatives and health professionals.
- A search of relevant literature on New Zealand's occupational health and safety framework.

GENERAL STATISTICS ABOUT OCCUPATIONAL HEALTH AND SAFETY

This report outlines a range of demographic and economic indicators that give context for discussions about work-related injury and disease. In addition, it provides a range of indicators about exposure rates, and the mortality and morbidity burdens created by work-related disease and injury. The most significant findings are that:

- the mortality burden is higher for work-related disease than injury
- the morbidity burden is considerably higher for work-related injury than disease
- the key causes of the work-related burden of disease are cancer, musculoskeletal diseases and injuries, falls, respiratory disease and circulatory diseases
- the economic cost of work-related disease and injury is approximately \$5 billion per annum, but this figure climbs to \$21 billion when the social costs are included.

FINDINGS

The key findings of this report are presented in two sections: first, short descriptions of the components of the occupational health and safety system, and second, a summary of issues identified by stakeholders during the interviews.

INTERNATIONAL OBLIGATIONS

New Zealand is a party to a small number of International Labour Office Conventions; however, most of these are older conventions, and New Zealand has not ratified many of the more recent International Labour Office documents. There may not be any advantages to ratifying these Conventions, as the text can provide for very prescriptive regimes that do not fit with the performance-based approach adopted in New Zealand's legislative framework. Moreover, in many cases, the approach reflected in New Zealand's legislation results in stricter controls than are provided by the Convention.

New Zealand is currently considering whether to ratify two Conventions – Convention 155: Convention on occupational safety and health, and Convention 138: Concerning the minimum age for admission to employment. Final decisions on these will be made once the Department of Labour has fully considered the implications of ratification on New Zealand's legislative and policy framework.

NEW ZEALAND'S LEGISLATIVE FRAMEWORK

Three main Acts comprise New Zealand's health and safety legislative framework:

- The Health and Safety in Employment Act 1992 is the principal health and safety statute, and it aims to prevent harm occurring in the workplace.
- The Hazardous Substances and New Organisms Act 1996 provides for the management of hazardous substances and new organisms in the workplace.
- The Injury Prevention, Rehabilitation, and Compensation Act 2001 establishes New Zealand's compensation and rehabilitation system.

The Health and Safety in Employment Act 1992 (the HSE Act) and the Hazardous Substances and New Organisms Act 1996 (the HSNO Act) provide an enabling and performance-based system modelled on the Robens approach. Under each Act, duty holders are required to take all practicable steps to remove, control, or otherwise manage hazards in the workplace. To ensure compliance, the Acts also give specific duties to inspectorates.

Further detail on how to achieve required performance is provided through more prescriptive regulations, approved codes of practice, standards, industry codes of practice and guidelines, in keeping with the performance-based approach of the HSE and HSNO Acts.

The Injury Prevention, Rehabilitation, and Compensation Act 2001 (the IPRC Act) establishes New Zealand's no-fault, 24-hour insurance scheme for work-related injury and disease. It also provides a mandate for the Accident Compensation Corporation to undertake activities aimed at preventing and reducing the incidence of injury at work, including the operation of specific incentives schemes for workplaces.

The three main Acts are supported by a number of other Acts and regulations which can have an impact on workplace health and safety (even though this is not a key purpose of these instruments): the Electricity Act 1992, the Gas Act 1992, the Smokefree Environments Act 1990, the Radiation Protection Act 1965, and the Health Act 1956 and regulations made under these Acts or other revoked legislation.

Overall, New Zealand's legislative system provides for a relatively simple, performance-based, and consistent approach to preventing harm in the workplace. A small number of issues regarding the implementation of the performance-based framework and possible improvements to the legislative framework were identified by stakeholders. These are identified in the Summary of Issues (page ix).

NATIONAL BUDGET FOR OCCUPATIONAL HEALTH AND SAFETY

The national budget for occupational health and safety activities is approximately \$47 million. Approximately \$37 million is provided through the Department of Labour for compliance and enforcement services (eg, funded through Vote: Labour). A further \$10 million is provided to the Accident Compensation Corporation for injury prevention activities, including the operation of specific incentives and awareness-raising programmes. The cost of work-related injury and disease claims to the Accident Compensation Corporation is provided through a self-funded system of levies paid by employers and the self-employed and is not therefore included in this total.

The amount of funding provided to prevent workplace harm appears to be significantly less than what may actually be required to address these issues (eg, the cost of injury amounts to approximately 3.4 percent of GDP while the expenditure to prevent such harm amounts to 0.0033 percent). In addition, in real terms, the funding provided for health and safety services in 2005/06 is less than the amount provided for delivery of these services in 1989/90.

Resourcing issues are identified in the Summary of Issues (page ix).

THE COMPLIANCE AND ENFORCEMENT SYSTEM

Duty holders' compliance with the legislative provisions is achieved through a voluntary compliance regime, backed up by statutory enforcement mechanisms. While the compliance and enforcement system is based on the Robens principle of "One Act, One Authority", the operational responsibility is, in reality, split over several organisations with inspectorate and enforcement powers:

- the Department of Labour (the lead agency responsible for ensuring compliance with the HSE and HSNO Acts in respect of all workplaces except operating aircraft and ships)
- Maritime New Zealand (the lead agency for enforcing legislative provisions onboard ships, with technical support provided by the Department of Labour)
- the Civil Aviation Authority (the lead agency for enforcing legislative provisions on operating aircraft and for enforcing the HSNO Act in respect of aerodromes)
- the Commercial Vehicle Investigation Unit (a unit of the New Zealand Police, which is responsible for enforcing the provisions of the HSNO Act in relation to the commercial vehicle fleet)
- the Ministry of Health (which enforces the Smokefree Environments Act 1990 and some older regulations made under the Health Act 1956 and the now-revoked Factories and Commercial Premises Act 1981).

The relationships between the Department of Labour and the other agencies are governed through a number of mechanisms, including formal Prime Ministerial delegation of functions and Memoranda of Understanding.

The Department of Labour is currently restructuring the operation of its regional health and safety inspectorate and the centralised supporting professional and technical services. Proposals include the merging of the health and safety inspectorate workforce with the employment relations inspectorate, and the creation of four regional delivery centres. Additional occupational health technical capacity has recently been appointed as part of this restructuring. Given that proposals have yet to be finalised, it is not possible to comment further on the potential impact that this restructuring exercise may have on the future delivery of the inspectorate function.

Issues associated with the compliance and enforcement system are identified on page ix.

THE REHABILITATION AND COMPENSATION SYSTEM

The lead agency for the rehabilitation and compensation system is the Accident Compensation Corporation. This agency is charged with delivering a 24-hour, no-fault, comprehensive insurance system for personal injuries that occur in New Zealand (including work-related injuries). The Accident Compensation Corporation also operates the claims system, which provides cover for any personal injuries arising from work (provided they meet the definition of personal injury governing cover under the Act). The Accident Compensation Corporation has a key function of preventing injury, which is given effect through the incentives programmes and other specific programmes targeted at reducing the impact of occupational injury and disease.

The coverage provided by the ACC system appears to be a good model for addressing work-related harm, although there are a small number of areas for potential improvement (including clarity over leadership in injury prevention activities and a broader scope to the work-related injuries and diseases covered by the system). These are identified in the Summary of Issues (page ix).

THE EDUCATION FRAMEWORK

The education framework covers a number of different components of the system, including the qualification of health and safety professionals (eg, occupational medicine practitioners, occupational hygienists and ergonomists), and the training available to health and safety representatives elected under the HSE Act. Further training is available through the private market.

Overall, there are a number of qualifications and unit standards available to people who wish to work in the occupational health and safety field. However, there are also limited training opportunities available for certain professional groups (eg, occupational physicians, occupational hygienists and general practitioners).

There are two key facilities that provide dedicated health and safety training: the Occupational (Health and Safety) Development Centre (ODC – a unit of the Department of Labour that provides practical training for the inspectorate) and a purpose-built training centre in Taranaki. Additional private training in a range of health and safety issues is provided by private trainers.

Health and safety representative training is available through 12 approved courses operated by a range of providers, including the unions, Business New Zealand, and industry-specific training providers such as Site Safe. Approximately 20,000 people have been trained in these courses. Funding to subsidise this training is available through the Employment Relations Education Contestable Fund.

EXPERT ADVICE

There is a range of mechanisms and institutions that provide access to expert advice. These include ministerial advisory committees and panels to give advice on specific issues relating to occupational health and safety, specialist panels convened by government agencies to provide specific technical advice on issues, and a range of analytical and monitoring services provided by laboratories and other technical bodies. These services are provided at both the localised and national levels.

COLLABORATION AND LEADERSHIP

The occupational health and safety sector is diverse, and many players are required to take actions in order to support the prevention of work-related harm. New Zealand has a number of mechanisms to support collaboration and co-ordination at all levels. These include:

- political collaboration through the Injury Prevention Ministerial Committee
- informal relationships between key Crown agencies and their social partners
- collaboration between government agencies responsible for enforcing various components of the system (eg, through both formal mechanisms such as Memoranda of Understanding and interagency groups, and more informal, relationship-driven mechanisms)
- government and industry partnerships to promote health and safety
- industry groups formed to promote occupational health and safety.

With so many agencies involved in health and safety, leadership is vital. In New Zealand, leadership of the compliance and enforcement sector is provided through the Department of Labour. Leadership of the rehabilitation and compensation sector is provided by the Accident Compensation Corporation. Joint leadership is provided in regard to education and injury prevention activities related to the workplace.

WORKFORCE

The health and safety workforce is very diverse, both in terms of the functions undertaken by specific classes of practitioner and in terms of the levels of qualification held. However, limited information was available for some professions, which would normally be included in such a discussion. As such, this report focuses only on the health practitioner workforce, selected health and safety professionals, the inspectorate workforce, and the Accident Compensation Corporation's full-time equivalent (FTE) staff.

The inspectorate workforce comprises a range of professional warranted officers who undertake statutory functions under the HSE and HSNO Acts. These officers are employed by the Department of Labour, Maritime New Zealand, the Civil Aviation Authority and the Commercial Vehicles Investigation Unit. This amounts to approximately 270 FTE staff.

A small number of health professionals work in the field of occupational health, including occupational physicians, occupational health nurses and physiotherapists. These professionals operate in a range of settings, including working for key government agencies, in private practice and for industry. A small number of ergonomists and occupational hygienists also practise in New Zealand. These health and safety professionals are represented by a range of professional bodies that focus on training and continued professional development.

There are also a number of health and safety consultants operating. These consultants provide a range of professional services to industry and businesses. At present, health and safety consultants are unregulated, and it is not possible to estimate the size of this workforce with any accuracy. An assessment of the demand for services and their availability was therefore not made.

NATIONAL POLICY FRAMEWORK

New Zealand is serviced by two key national policies to support the prevention of work-related injury and disease: the New Zealand Injury Prevention Strategy and the Workplace Health and Safety Strategy. These provide a clear set of strategic outcomes and detail the actions necessary to achieve them.

NATIONAL PROGRAMMES

There are three national programmes run by the Accident Compensation Corporation to reduce work-related injury. These programmes aim to support organisations in improving workplace health and safety practice through incentives in the form of ACC levy discounts or upwards adjustments in ACC levies. Other programmes supported by the Accident Compensation Corporation allow industry groups to meet and develop initiatives that address issues specific to their particular industry (eg, the Safer Industries programmes).

SURVEILLANCE

New Zealand's surveillance system is characterised by an ad-hoc arrangement of multiple organisations running different data collection systems. Some of the key organisations involved are the Injury Information Manager, the Accident Compensation Corporation, the Department of Internal Affairs (through the Births, Deaths, and Marriages database), the Department of Labour (through the NODS database and WorkBench), the New Zealand Health Information Service (through the National Minimum Dataset, the New Zealand Cancer Registry and the New Zealand Mortality Collection), the Institute of Environmental Science and Research (through the EpiSurv database and the Chemical Injury Surveillance System), and the Civil Aviation Authority and Maritime New Zealand.

A number of issues with the surveillance system have been identified by NOHSAC. These are discussed in the Summary of Issues on page ix.

RESEARCH ACTIVITIES

Research into work-related health and safety issues is funded through two key channels: public funding (such as that provided via the Health Research Council and through other government agencies like the Department of Labour and the Accident Compensation Corporation or independent bodies such as NOHSAC), and private funding.

Research is carried out by both individuals and specific organisations including:

- the Centre for Public Health Research (Massey University) – research into occupational health topics
- the Injury Prevention Research Unit (University of Otago) – research into injury surveillance and initiatives to reduce injury incidence in both work and non-work settings
- the Injury Prevention Research Centre (University of Auckland) – limited injury-related research
- the Centre for Human Factors and Ergonomics – solutions-focused research into ergonomics and design
- the Sleep/Wake Centre (Massey University) – research into fatigue and shiftwork
- Centre for Ergonomics, Occupational Safety, and Health (Massey University) – research and consultancy and provision of specialist courses and information services in ergonomics and occupational safety and health.

Generally, New Zealand-focused research tends to canvas injury surveillance and prevention activities rather than occupational health and health monitoring. This is reflected in the research priorities identified for funding.

AWARENESS-RAISING ACTIVITIES

A significant number of awareness-raising activities are currently undertaken in New Zealand with regard to general injury prevention. These include publications, websites and electronic material, and public broadcasts such as television and radio advertisements. While much of this information is targeted at general injury prevention activities, it can also feed into behavioural and attitudinal change in the workplace.

Summary of Issues

SPECIFIC IMPROVEMENTS COULD BE MADE TO PROVISIONS IN THE LEGISLATIVE REGIME

- Stakeholders suggested various amendments that could be made to improve certain provisions of the Health and Safety in Employment Act 1992 and the Health and Safety in Employment Regulations 1995, and to extend the coverage provided under the Injury Prevention, Compensation, and Rehabilitation Act 2001.

THE PERFORMANCE-BASED APPROACH REPRESENTS A SIGNIFICANT CHANGE OF PHILOSOPHY, AND DUTY HOLDERS NEED SUPPORT TO ASSIST THEIR COMPLIANCE WITH THE PERFORMANCE-FOCUSED PROVISIONS OF THE ACTS

- There are gaps in the guidance material that supports compliance with the performance-based framework and in the resources to support such a framework (eg, the approved codes of practice are not always up-to-date, and some are inconsistent with current best practice).
- Responsible agencies need to prioritise the development of resources to assist duty holders in complying with the performance-based approach of the legislative framework.
- There are some interface issues between the HSE and HSNO Acts (particularly in relation to differing applications of the performance approach, and to duplication of material that assists duty holders to comply under both Acts).
- The compliance costs associated with the performance-based framework do not fall equally on all businesses, with small businesses (less than 10 employees) likely to bear greater costs per person than larger businesses.
- The content of publications needs to be simple, accessible and appropriate to the target audience.

RESOURCING TO PREVENT WORK-RELATED INJURY AND DISEASE APPEARS TO BE INSUFFICIENT WHEN COMPARED TO THE TOTAL COST OF SUCH INJURY AND DISEASE

- The overall resourcing provided to the Department of Labour to administer and enforce the HSE and HSNO Acts appears to be insufficient, given economic growth and inflation.
- The strategic baseline reviews currently underway may provide some clearer directions about the level of resourcing required.

GAPS IN THE EDUCATION FRAMEWORK

- There are limited New Zealand-based training opportunities for occupational hygienists and certain health practitioners wishing to enter occupational medicine, as well as limited support to assist in managing other caseloads while studying.
- Only limited training in occupational medicine is provided to general practitioners during study for the Bachelor of Medicine/Bachelor of Surgery qualification.
- The uptake of health and safety representative training may not be consistent across all sectors, with lower engagement in training occurring in the transport, construction and on-hire sectors.
- Limited training opportunities are available for approved handlers and enforcement officers warranted under the HSNO Act.
- The quality of privately-provided training in occupational health and safety appears to vary considerably, and there are few standards applied to ensure that purchasers are aware of the quality of training offered.
- Accessing small- and medium-sized employers can be difficult, and it is necessary to ensure that resources developed for this group are appropriate.

COLLABORATION AND LEADERSHIP IN OCCUPATIONAL HEALTH AND SAFETY

- Sometimes the lead agency for health and safety is not clear (eg, a lack of clarity around which agency is the lead for education-based injury prevention activities, and/or resource and technical expertise limitations at the Department of Labour).
- More seamless service between the Department of Labour and the Accident Compensation Corporation is required. (Recent restructuring of the Department of Labour may improve this relationship.)

WORKFORCE

- The Department of Labour may not have the technical capacity to provide effective leadership in occupational health and safety and, in particular, appears to have lost a significant level of occupational health capacity.
- There appear to be shortages across a number of technical specialities including epidemiologists, ergonomists, biostatisticians, toxicologists, scientists and researchers working in occupational health and safety and in occupational medicine.
- Leadership in occupational medicine is required, and this may be provided through the appointment of the new Chief Advisor – Occupational Health at the Department of Labour.
- There are no registration or education requirements for health and safety consultants.
- Groups within the workforce do not hold consistent qualifications.
- There appears to be a lack of awareness about the role of certain professional groups in occupational health and safety.
- The development of the occupational health and safety workforce may be facilitated by the formulation of a comprehensive workforce development strategy.

ACC INCENTIVES PROGRAMMES

- Limited evaluations of the incentives programmes mean that it is difficult to ascertain whether they have had a positive impact on reducing work-related injury and disease in those exposed to the programmes in the workplace.
- Limited evaluations of public awareness campaigns mean that it is difficult to assess the impact of these campaigns on behavioural and attitudinal change.

SURVEILLANCE

- The problems associated with New Zealand's surveillance system for occupational health and safety have been clearly articulated by NOHSAC in a previous report, and the findings of that report stand (eg, ad-hoc organisation, limitations regarding the collection of data on occupational disease, information collection limitations, definitional issues, and limited co-ordination and aggregation of collected statistics).

RESEARCH

- Research priorities need to be clearly articulated and co-ordinated.
- There is a limited amount of funding available in New Zealand for occupational health and safety research, and developing a research strategy may help to co-ordinate research so that the most pressing research topics are identified and undertaken.
- There appears to be less focus on researching and monitoring occupational health issues than occupational safety issues.

SECTION ONE

INTRODUCTION



The National Occupational Health and Safety Advisory Committee (NOHSAC) provides independent advice to the Minister of Labour on occupational health and safety in New Zealand.

In 2005, NOHSAC commissioned the development of a comprehensive national profile for occupational health and safety in New Zealand. The development of the national profile is supported by this detailed technical report. Both the national profile and the technical report were developed by Allen & Clarke Policy and Regulatory Specialists Ltd (Allen & Clarke). The terms of reference for this project are included in Appendix A of this report.

Previous NOHSAC projects include reviews of:

- the economic and social costs of occupational disease and injury in New Zealand (2006)
- the surveillance of occupational disease and industry in New Zealand (2005)
- the burden of occupational disease and injury in New Zealand (2004)
- Schedule Two of the Injury Prevention, Rehabilitation, and Compensation Act (ongoing)
- surveillance and control of workplace exposures in Australia and New Zealand (ongoing).

The project team made wide use of the completed reviews in developing this report.

This technical report describes in detail New Zealand's occupational health and safety system. Developing this report enabled the project team to document the extent of the system, before collating this information into a national profile. It was also an opportunity to identify any critical barriers to achieving good health and safety outcomes (although, in keeping with the terms of reference, recommendations and/or solutions are not identified).

The primary audience for this report is NOHSAC, although it contains information useful to government agencies, the government's social partners, policy analysts, health and safety professionals, researchers, industry organisations, and employer and employee representatives.

1.1 WHAT IS OCCUPATIONAL HEALTH AND SAFETY?

The International Labour Organization (ILO) defines occupational health and safety as the outcome of adequate protection for a worker from sickness, injury and disease arising from work.¹

A focus on health and safety in the workplace is essential for ensuring that people are not harmed during work, and that pain, suffering and loss are avoided. Ensuring that people are not injured can extend the productive working lives of citizens and contribute to economic growth and prosperity. The benefits of promoting occupational health and safety include enabling people to lead happier and longer lives, enhancing economic activity, reducing demand on health and social services, and reducing the costs of illness and injury on both individuals and communities.² Improving occupational health and safety is in the best interests of all.

New Zealand's framework does not distinguish between the concepts of health and safety in the workplace. Instead, it focuses on the harm arising from injury and from illnesses or damage to health. All types of harm are encapsulated in the hazard management focus that underpins the occupational health and safety framework.

1.2 WHY DEVELOP A NATIONAL PROFILE?

A national profile summarises the existing situation for occupational health and safety in a country (ie, effectively summarising this technical report). It is a key planning resource that decision-makers will be able to use to drive forward continued improvements in occupational health and safety. The national profile will:

- contribute to the development of an independent body of evidence on the state of occupational health and safety in New Zealand
- contribute to New Zealand's ability to identify where we are and where we are going, and whether additional resources may be needed in order to get us there
- enable New Zealand to meet one of the obligations of the ILO's Convention 155, should New Zealand seek to sign and ratify this Conventionⁱ
- enable comparisons to be drawn across a variety of nations regarding the structure and performance of the occupational health and safety system.

1.3 STRUCTURE

The structure of this technical report is consistent with the ILO's *Promotional framework for occupational safety and health*.³ This report has five sections:

- 1 Introduction and methodology
- 2 Background information
- 3 National occupational health and safety systems
- 4 National occupational health and safety policy
- 5 National occupational health and safety programmes.

Sections 3, 4, and 5 contain both descriptions of current occupational health and safety frameworks and a discussion of issues raised by stakeholders. No recommendations about future actions are made, but a summary of issues is included on page ix.

Additional information on the methodology is included in Appendices B and C. A list of commonly used acronyms is provided in Appendix D.

1.4 METHODOLOGY

The development of the technical report used a two-phase methodology:

- Interviews with key informants involved in occupational health and safety
- A search of relevant literature on New Zealand's occupational health and safety framework.

The two-phase methodology enabled the project team to access information about the occupational health and safety framework from both the public domain (eg, through published literature) and via information that was not recorded in a public manner (eg, through key informants). Both forms of information collection were necessary to ensure that the technical report was fully informed.

i Information regarding the content of Convention 155 is included in section 3.2 of this report.

1.4.1 INTERVIEWS WITH KEY INFORMANTS

The purpose of the key informant interviews was to:

- identify key components of the occupational health and safety system and the range of programmes currently on offer
- identify the roles played by a range of different organisations and the mechanisms established to encourage collaboration across these organisations
- develop a comprehensive understanding of New Zealand's occupational health and safety framework.

In total, the project team conducted semi-structured interviews with 49 stakeholders including government agency and Crown entity stakeholders, the government's social partners (employer and employee representatives), research bodies and laboratories, industry organisations, health and safety professionals and professional bodies, and education providers. One key stakeholder with whom the project team wished to meet, the Commercial Vehicles Investigation Unit (the CVIU), did not participate. Appendix B contains a list of the key informants involved in this project.

Stakeholders were asked to comment on a range of issues including:

- organisational roles and responsibilities
- national and international collaboration and co-ordination mechanisms
- the national legislative and policy framework
- national programmes, or programmes specifically run in a particular sector
- research and surveillance systems
- education and training issues
- awareness of occupational health and safety in New Zealand
- workforce and resourcing issues
- key barriers and success factors to achieve good health and safety outcomes.

Key informants were also asked to identify additional written information about occupational health and safety in New Zealand that may be useful to the project but was not in the public domain.

In addition to these formal meetings with stakeholders, the project team contacted a number of other stakeholders (for example, the Treasury) to collect a small amount of additional specific information.

The co-operation of all participants is gratefully acknowledged by the project team.

1.4.2 LITERATURE REVIEW

The literature search was jointly undertaken by the Department of Labour's library staff and the project team using the same terms of reference. Once the search results were returned, the project team selected materials for inclusion according to the selection criteria outlined in the terms of reference. Methodological rigour was assessed using a critical appraisal checklist. The final list was reviewed by NOHSAC to ensure that all relevant literature had been identified. Appendix C contains the terms of reference for the literature search.

The majority of material selected was official documentation, with a small number of pieces of original research. In total, 18 pieces of literature were selected through this process. This material was supplemented by information collected through the key informant process and through Internet searches on the relevant organisations' websites.

1.4.3 PROJECT TEAM

The members of the project team are Rob Smith (project manager, Allen & Clarke), Anna Gribble (lead analyst, Allen & Clarke) and Lyall Mortimer (technical expert). The project team has considerable experience in New Zealand's occupational health and safety sector and in the development of comprehensive research reports.

1.5 LIMITATIONS

A large number of stakeholders have an interest in the provision of occupational health and safety services in New Zealand. Not all potential stakeholders were consulted, given the project's overall timeframe. While a sample representing the diversity in stakeholders was sought, the authors acknowledge that this report is largely based on the opinions of 49 key informants, supported by key documents when these were available. It is possible that there are issues for other stakeholders that have not been identified in this report; however, the project team notes that there was general consensus in the comments made by different informants who were interviewed. This is likely to have resulted in an acceptable level of validity in the scope of the information received.

To a certain extent, the development of this report relied on the information provided to the project team by stakeholders, especially in terms of financial and evaluative material that was not available in the public arena. While every endeavour has been made to verify information collected through this process, it has not always been possible to identify corroborating information. Such circumstances are noted in the report.

Occupational health and safety remains an evolving area in New Zealand. This report was concluded in February 2006, before the results of several other reports and reviews were available. Where this has prevented the inclusion of any information, this has been noted in the report.

The technical report does not make recommendations about the direction that occupational health and safety should take in the future, as this falls outside the ambit of this project. As NOHSAC is an advisory body to the Minister of Labour, the project team considers that it is more appropriate for NOHSAC to make recommendations. The technical report does, however, identify a range of issues and conclusions from the material collated during this project.

BACKGROUND



Section 2 of this technical report provides:

- statistical information on New Zealand's demographic characteristics
- statistical information on New Zealand's economy and workforce
- statistical information on work-related diseases and injuries, the cost of injury and identified priorities for work-related diseases and injuries in New Zealand
- a short history of occupational health and safety in New Zealand, focusing particularly on changes occurring in New Zealand since the 1980s.

The information in sections 2.1 and 2.2 draws heavily on data from the Census 2001 and official Statistics New Zealand data. It is expected that the demographic and economic information will fluctuate slightly given the dynamic nature of this information. Where relevant, trend information has been included.

2.1 NEW ZEALAND'S DEMOGRAPHIC CHARACTERISTICS

As at April 2006, New Zealand has an estimated residential population of 4,131,520. Approximately 51 percent of the population is female and 49 percent is male.ⁱⁱ Census 2001 data indicates that:

- 847,740 people were aged 15 years or younger
- the majority of New Zealand's population was aged between 16 years and 64 years (2,439,111 people)
- 450,426 people were aged 65 years and older.

Statistics New Zealand estimates that approximately half New Zealand's labour force will be older than 42 years in 2012, compared to 39 years in 2001. It also projects a significantly larger number of older workers in the labour force in the future:

- By 2013, there will be the same number of people in the labour force aged 25–44 years as those aged 45–64 years, compared with a ratio of 2:1 in favour of those aged 25–44 years in 1991.
- By 2021, there will be 102,000 people aged 65 years or older, compared to 38,000 in 2001.

The changing ratio between age groups has implications for occupational health and safety, in terms of potentially fewer people moving into employment, a greater proportion of expertise congregating in older age groups and an older workforce (which may take a longer time to rehabilitate after experiencing work-related injury or illness).

New Zealand's population is ethnically diverse:

- 80 percent identify as European
- 14.7 percent identify as Māori
- 6.5 percent identify as Pacific peoples
- 6.6 percent identify as Asian
- 0.7 percent identify as other (including Latin American, middle-Eastern, and African).^{iii, iv}

New Zealand has a literacy rate of 99 percent. Census 2001 data indicates that the highest qualification held by 32.2 percent of people was a vocational or tertiary level qualification (20.4 percent and 11.8 percent respectively). The highest qualification held by 40 percent of people was an NCEA secondary level-equivalent qualification (15.7 percent held NCEA level 1 or equivalent, 11.3 percent held NCEA level 2, and 13 percent held NCEA level 3 or

ii Statistics New Zealand from the website: (www.stats.govt.nz). Accessed April 2006.

iii Statistics New Zealand from the website: (www.stats.govt.nz). Accessed December 2005.

iv The total does not add to 100, as people can identify with more than one ethnicity.

higher or were schooled outside of New Zealand). Twenty-eight percent of people usually resident in New Zealand held no formal qualifications. Māori and Pacific people were more likely than non-Māori or non-Pacific people not to have any formal qualifications.

2.2 ECONOMY AND WORKFORCE STATISTICS

2.2.1 ECONOMY

New Zealand's economy is a free market mixed economy. Production of services predominates, but there are strong goods-producing industries such as manufacturing, construction and agriculture. New Zealand's Gross Domestic Product (GDP) per capita has experienced strong growth since 1997/98, with an average growth rate of 3.9 percent per annum.^v Other indicators of economic status are outlined in Table 1:

TABLE 1		General indicators of economic activity ^{vi}
INDICATOR	2004/05	
Gross National Income per capita	\$28,740 (current market prices)	
GDP per capita	\$36,225 (current market prices)	
Annual growth in GDP	3.1 percent	
Inflation rate	2.8 percent	
Nominal GDP share: Goods-producing industries	22 percent	
Nominal GDP share: Services-producing industries	70 percent	

Most businesses in New Zealand are small- to medium-sized enterprises comprising less than 20 employees (96.3 percent of all enterprises). Further, approximately 28 percent of these businesses employ less than 10 employees, and 64 percent do not employ anyone.^{vii} Yet, small- to medium-sized enterprises in New Zealand only employ approximately 29 percent of the workforce. Organisations with more than 100 employees comprise less than 0.5 percent of enterprises but employ more than 42 percent of employees in New Zealand.^{viii}

2.2.2 WORKFORCE

Approximately 67 percent of New Zealanders are in the paid labour force, and New Zealand is currently experiencing a period of low unemployment (3.4 percent in the September quarter of 2005). The total number of people employed in the labour force in June 2005 was 2,065,000: 1,110,000 men compared to 955,000 women. Men are slightly more likely to be employed than women, although increasing numbers of women and older people are entering the labour market.⁴

Statistics New Zealand projections indicate that demand for labour will outstrip labour supply by 2011. This has

v Statistics New Zealand from the website: (www.stats.govt.nz). Accessed December 2005.

vi Ibid.

vii Statistics New Zealand from the website: (www.stats.govt.nz). Accessed December 2005.

viii Ibid.

significant implications for the development of the health and safety workforce in terms of a larger overall number of people working and a more competitive labour market from which to attract people to work as health and safety professionals. Workforce issues are discussed in section 3.10 of this report.

Key employment sectors in New Zealand are predominantly services-producing sectors, although a significant proportion of people are employed in goods-producing sectors such as agriculture, manufacturing and construction. Table 2 sets out the number of people employed by sector and by sex.

TABLE 2 Employed persons by occupation and sex (June 2005) ^{ix}			
	MALE	FEMALE	TOTAL
Agriculture, forestry and fishing	93,400	43,700	137,100
Manufacturing	196,500	79,900	276,400
Construction	140,800	16,600	157,400
Wholesale and retail trade	228,700	226,800	455,500
Transport, storage and communication	84,100	35,500	119,600
Business and financial services	161,500	142,500	304,100
Education	49,700	116,000	165,800
Health and community services	29,100	157,200	186,300
Other	107,700	124,900	232,600
Total	1,105,300	947,300	2,052,600

2.3 OCCUPATIONAL DISEASE AND INJURY STATISTICS

In New Zealand, occupational disease and injury account for considerable morbidity and mortality. Overall, occupational disease represents a greater mortality burden than injury; however, work-related injuries comprise a greater percentage of the morbidity burden.

As noted by Driscoll et al,⁵ estimating the attributable fraction for most of the mortality burden is difficult, as New Zealand-based evidence is not readily available for all conditions of interest. As such, the given estimates may not provide an accurate estimate of the burden of occupation-related disease in New Zealand. Data relating to work-related injury tends to be more complete than data available for occupational disease; however, there are still some significant gaps in identifying injuries that occur in the workplace. The limitations of data on occupational disease and injury are discussed in more detail in section 5.2 of this report.

2.3.1 DISEASE

Driscoll et al⁵ estimated that there are approximately 700 to 1,000 deaths from occupational disease per annum (two to four percent of the total number of deaths in people aged 20 years and older). The study also estimated that:

- 30 to 40 percent of work-related deaths were caused by work-related cancer: trachea bronchus/lung cancer and pleura (including mesothelioma) were the cancers with the largest number of occupation-related deaths
- approximately 290 deaths per annum arose from diseases of the circulatory system such as ischaemic heart disease and cerebrovascular disease

ix Ibid.

- respiratory diseases such as pneumonia, asthma and asbestosis account for a significant percentage of the annual work-related mortality burden.

Driscoll et al also estimated that there are 17,000 to 20,000 new cases of work-related disease per annum. It is estimated that 2,500–5,500 of these cases are serious enough to be classified as severe. The majority (75 percent) of cases of work-related disease occur in men. The most common diseases or conditions are musculoskeletal disease, ear or hearing disorders, skin conditions, chronic respiratory illnesses such as occupational asthma and pneumoconiosis, cancer and diseases of the digestive system.

2.3.2 INJURY

According to estimates made by Driscoll et al,⁵ approximately 100 people per annum die from an occupational injury. Work-related fatal accidents account for approximately 7.3 percent of all external causes of death in people aged 20 years or older. Almost all of these deaths occur in men (94 percent), and the majority of deaths occur in a relatively small range of industries: agriculture, forestry, fishing, transport, construction and manufacturing. Most deaths are caused by transport accidents, machinery-related accidents, or by falls or falling objects.

A further 200,000 occupational accidents result in a claim for a work-related injury, giving a current incidence rate of 12 per 100,000 workers per annum. The majority of workplace injuries occur in a small number of sectors: mining, manufacturing, agriculture, forestry, fisheries, retail and construction. These sectors are similar to those in which most work-related fatalities are recorded. The most frequent injuries are sprains and strains. Seventy-four percent of workplace injuries occur in men.

2.3.3 COST OF WORKPLACE INJURY AND DISEASE

Access Economics⁶ studied the social and economic cost of occupational injury and disease in New Zealand. The authors estimated that the financial cost of work-related disease and injury is approximately \$4.9 billion (or 3.4 percent of GDP). This figure includes:

• production disturbance costs:	\$ 573,000,000
• human capital costs:	\$ 3,050,000,000
• health and rehabilitation costs:	\$ 694,000,000
• administration costs:	\$ 55,000,000
• transfer costs:	\$ 238,000,000
• other costs (carers, equipment, etc.):	\$ 293,000,000
	\$4,903,000,000

When the social costs are added in, this figure rises to approximately \$20.9 billion.

Work-related claims account for approximately 35 percent of all claims made to the Accident Compensation Corporation (ACC). The majority of work-related claims are injury related (94 percent). The most costly injuries occur in the mining sector (\$3,941 per incident) but most injuries occur in the manufacturing sector. Compensation costs are higher for people aged 45–64 years and for men. Ninety percent of cases of occupational injury result in fewer than seven days away from the workplace and account for approximately 25 percent of compensation costs paid out by ACC: the remaining 10 percent of incidents are more costly and have longer recovery times.^x

x Information sourced from ACC covers the estimated annual incidence of work-related injury and illness (2004/05). The cost estimates do not include ACC claims from any previous period, although these cases may remain open and are, therefore, a cost to the system.

2.3.4 PRIORITY AREAS FOR OCCUPATIONAL HEALTH AND SAFETY

Priority areas for occupational health and safety have changed in New Zealand, as economic and technological change altered exposure to hazards, and workplace practice adapted to increasing epidemiological knowledge about workplace exposure (eg, changing methods in typesetting resulted in a decrease in lead exposure for this workforce and a decline in lead-related illness and injury). Therefore, priorities in occupational health and safety can be expected to be fluid.

NOHSAC has made a number of recommendations about possible priority areas for the future of occupational health and safety.⁷ These recommendations included that:

- there should be an increased focus on occupational health with priority given to work-related cancer, musculoskeletal disease, respiratory disease and workplace fatigue
- there should be no decrease in emphasis on other occupational health and safety issues, including occupational injury.

The areas identified as key priority areas by NOHSAC differ from those identified in the Workplace Health and Safety Strategy (which focuses on air-borne substances, manual handling, psychosocial work factors, and slips, trips and falls).

2.4 HISTORY OF OCCUPATIONAL HEALTH AND SAFETY IN NEW ZEALAND

A number of the issues discussed later in this technical report originate from the way that occupational health and safety services have been administered and delivered. In order to provide some context for the exploration of these issues, this section briefly outlines a period of significant change in New Zealand, which included the articulation of a philosophical basis for occupational health and safety interventions, the streamlining of the legislative framework, and a re-organisation of the mechanisms used to administer, deliver and resource occupational health and safety services.

Unless otherwise noted, this section is informed by Wren's 1997 thesis on the history of occupational health and safety in New Zealand.⁸

2.4.1 THE SITUATION BEFORE THE 1980'S

2.4.1.1 Legislation

Until the 1980s, New Zealand's legislative framework relied on prescriptive solutions to health and safety issues with solutions being detailed in regulations or technical standards. The legislative framework was underpinned by a paternalistic policy of government intervention, where the government was considered to be responsible for ensuring the achievement of good occupational health and safety outcomes.

New Zealand's statutory framework had evolved in response to concerns about particular occupational hazards, workplaces and/or people, rather than being formed by a systematic approach and a clear philosophical basis. For example, the legislative framework was characterised by a large body of statutes: New Zealand was serviced by 14 Acts relating specifically to occupational health and safety^{xi} and approximately 50 sets of regulations. Despite

xi These included the Petroleum Act 1937, Bush Workers Act 1945, Geothermal Energy Act 1953, Health Act 1956, Construction Act 1959, Shearers Act 1962, Mining Act 1971, Agricultural Workers Act 1977 and the Coal Mines Act 1979. Other pieces of legislation passed in the 1980s were the Factories and Commercial Premises Act 1981, the Quarries and Tunnels Act 1982 and the Transport Service Licensing Act 1989.

the body of statutes available, some workplaces were not covered by statutory responsibilities to provide for health and safety. Liability for work-related injury and disease and the provision of safe workplaces varied considerably both between workplaces and across sectors. As Wren⁹ identified, such a legislative framework could be cumbersome, unfair and ineffective.

2.4.1.2 Service delivery

In the late 1970s, occupational health and safety services in New Zealand were delivered through six key agencies:

- The Department of Labour was responsible for industrial safety and employment matters and provided the enforcement services for safety at work.
- The Department of Health was responsible for occupational health including investigating environmental conditions and their effect on workers, controlling hazards, undertaking laboratory analysis, providing information on occupational health, undertaking surveillance of occupational disease and injury, and providing technical support to the Department of Labour.
- ACC was responsible for the compensation of work-related health issues and for providing health and safety education.
- The Ministry of Transport was responsible for ensuring the safety of some machinery (such as boilers, cranes and lifts) and maritime safety, including the safety of people at sea.^{xii}
- The Ministry of Energy was responsible for safety in mines and in the petroleum industry.
- Local government agencies, such as borough councils, were responsible for enforcing certain provisions as outlined in the statutory framework.

There were some jurisdiction issues between these six agencies. For example, the Department of Health was responsible for occupational health services, but the Department of Labour was responsible for industrial accidents that were likely to contain a health component.¹⁰ Another jurisdiction issue arose around the provision of information about occupational health and safety: the ACC, the Department of Health and, to a lesser extent, the other agencies, all provided some level of information to stakeholders. The Inter-Departmental Committee on Safety and Health (1976–1981) was convened to encourage co-ordination across occupational health and safety legislation, policy and service delivery, and to consider the single authority approach outlined in the 1975 Robens report.^{xiii}

This committee met with limited success, although Wren's thesis does not explore the reasons for this.

2.4.1.3 Resourcing

Occupational health and safety services were funded from general taxation.

2.4.2 REFORM: 1981–1992

2.4.2.1 Legislative reform

Wren⁹ notes that there were two key drivers for reform in the 1980s: recognition of the inadequacies of the legislative and administrative framework, and an increased awareness of new regulatory mechanisms that could provide for better occupational health and safety outcomes. In addition, political philosophy played an important role in the final design of each set of legislative reforms.

xii It is unclear whether the Ministry of Transport's jurisdiction extended to cover the safety of people working in port environments.

xiii The *Robens report on safety and health at work* recommended a wide range of initiatives to ensure improved occupational health and safety outcomes in Great Britain. These included the introduction of a single piece of legislation that applied consistent policies and enforcement procedures across the range of industries, and tripartite governance for health and safety. The Robens approach was subsequently adopted by many nations (including New Zealand) as a model of best practice for delivering occupational health and safety services.

Reform was initiated in the 1980s with the presentation of the Walker report in 1981, which recommended that New Zealand consider the Robens approach. At approximately the same time, the first significant amendment to the legislative framework occurred: the introduction of the Factories and Commercial Premises Act 1981. This Act widened provisions for the safety, welfare and health of people in places of work, although particular emphasis was still given to certain places of work. It also set out specific requirements applying to women and those aged under 16 years. No general provisions relating to all workplaces or all people in workplaces, nor a single piece of legislation and single agency for administration or true tripartitism, were tabled at this time.

As the 1980s progressed, the New Zealand government began to look at ways to further improve the administration and delivery of occupational health and safety services. This included a first-principles review of the legislative and administrative framework to align it with the recommendations made in the Walker report. In 1982, the government convened the Co-ordinating Committee of Departments on Occupational Safety and Health (CCDOSH) to oversee the operation of the occupational health and safety legislation.

CCDOSH was replaced by the Advisory Committee on Occupational Safety and Health (ACOSH) in 1985 in order to provide for more formal representation by government, and employee and employer stakeholders. ACOSH was initially chaired by the Parliamentary Under-Secretary for Labour and then by the Minister of Labour. It included members from key government agencies and external employer and employee representatives. ACOSH was New Zealand's first real attempt at establishing a tripartite framework for the oversight of occupational health and safety services. During the late 1980s, ACOSH discussed a number of ways to progress occupational health and safety administration and legislation. This resulted in legislative and administrative changes to implement a model consistent with the "One Act, One Authority" principle. In 1989, the Officials' Working Party and Consultative Group was established to prepare the transitional change necessary to give effect to the mooted legislative changes.

The development of a single Act to cover occupational health and safety in all workplaces began under the fourth Labour Government (1984–1990) and culminated in the introduction of the Occupational Health and Safety Bill to Parliament in 1990.^{xiv} This Bill was withdrawn from Parliament following the election of a National-led government in 1990 due to philosophical differences in approaches to addressing occupational health and safety.^{xv} The National administration then introduced the Health and Safety in Employment (HSE) Bill, which passed in 1992. The HSE Bill differed from the Occupational Health and Safety Bill in that it introduced shared responsibility and liability for health and safety for employers and employees and introduced an enabling rather than prescriptive hazard management framework. Following its enactment, nine other Acts were totally repealed and a number of sections relating to occupational health and safety were removed from other pieces of legislation (such as the Health Act 1956).

The enactment of the Health and Safety in Employment Act 1992 (the HSE Act) moved New Zealand's legislative framework closer to the Robens model by implementing a more streamlined, effective and simple legislative framework covering all workplaces and workers. The new performance-based approach meant that it was inconsistent to retain many of the prescriptive regulations included in the previous regime, so the HSE Act revoked 14 sets of regulations, although the content of a number of these were incorporated into the HSE Regulations 1995 (eg, the Agricultural Workers' Accommodation Regulations 1963).^{xvi}

The HSE Act is discussed in more detail in section 3.3.1 of this report.

xiv The Occupational Health and Safety Bill sought to:

- extend protection to all workers and the general public
- provide for workers' rights
- share responsibility for occupational health and safety between employers and employees, with employers having strict liability
- introduce health and safety committees in workplaces
- establish a bipartite commission for advice on occupational health and safety.

xv For example, Wren⁸ notes that there was significant debate regarding the level of liability held by employers, the role of private prosecutions, the risk versus hazard dichotomy, the definition of significant harm and the coverage of the Act.

xvi A further number of regulations were not repealed, as these dealt with specific hazardous situations or materials that required special treatment to ensure health and safety. These remain in force today and include the Abrasive Blasting Regulations 1958, Amusement Devices Regulations 1978, Electroplating Regulations 1950, Lead Processing Regulations 1950, Factories and Commercial Premises (First Aid) Regulations 1985, Noxious Substances Regulations 1954 and the Spray Coating Regulations 1962. These regulations are discussed in further detail in section 3.3.4.

2.4.2.2 Administrative reform

In 1988, reform consolidated the delivery of occupational health and safety services into one business unit within the Department of Labour: the Occupational Safety and Health Service (OSH Service). This was formalised through the HSE Act, which outlined the statutory roles and responsibilities in an attempt to clarify the delivery of service.

To give effect to the new arrangements, a number of functions needed to be transferred from other government agencies to the OSH Service. While this resulted in smoother administration, some agencies still retained functions that related to occupational health and safety. For example, ACC retained the compensation portfolio as well as the public safety awareness and education function, and territorial authorities retained some enforcement functions. The administration of the system remained, therefore, a mixed delivery rather than full delivery through one agency.

2.4.2.3 Resourcing

During the transition to the new regime, the resources used to deliver occupational health and safety services in area health boards, the Department of Health, the Ministry of Transport (Maritime Division), the Ministry of Energy (Mining Inspection) and ACC had to be transferred to the new OSH Service in accordance with the administrative shift. A stocktake of occupational health and safety resources undertaken by the Officials' Transition Team¹¹ prior to transfer identified resources as outlined in Table 3:

AGENCY	FUNDING	PURPOSE OF FUNDING
ACC	\$ 2,800,000	Consultant services (eg, safety and accident prevention education, grants, etc.)
	\$ 4,792,722 ^{xvii}	Financial assistance programme to promote injury and prevention and rehabilitation
	\$ 29,500 ^{xvii}	Research
Area health boards	\$ 3,150,000 ^{xviii}	80 FTE staff involved in occupational health (amounting to \$2.8 million in salaries and a further \$350,000 in operating costs)
Department of Health	\$ 1,598,500	\$478,300 Operations \$290,000 ICI Ministerial Committee \$ 60,200 Educational resources \$770,000 Specialist analytical and monitoring services (eg, services provided by the Department of Scientific and Industrial Research (DSIR) and the National Audiology Centre. Further funding (amount unspecified) was also provided to the National Radiation Laboratory and the National Poisons Centre to provide specialist services)
Department of Labour	\$18,400,000	Operational costs including salaries for 267 staff, equipment and overheads
Ministry of Energy	\$ 3,580,000 ^{xix}	The Mining Inspection Group (salaries for 44 staff)

xvii This funding was identified as occupational health and safety funding but was not transferred as the services were considered to be best delivered by ACC.

xviii This included 25 FTE Health Protection Officers and 55 FTE in public health nurses and Medical Officers of Health.

xix The resources identified by the Transition Team excluded \$204,000 in capital.

AGENCY	FUNDING	PURPOSE OF FUNDING
Ministry of Transport	\$ 2,243,000	Staffing and some operational costs associated with the Engineering Safety branch (73 surveyors and 15 support staff) but some overheads were excluded
	\$36,593,722	
Source: Department of Labour ¹¹		

The Transition Team’s report suggests that accounting for the overhead costs associated with FTE resources was difficult and resulted in delays in the transfer of resources, including stalled negotiations between the Departments of Labour and Health and the area health boards. There was also a significant difference in the value of the resources transferred from Vote: Health to Vote: Labour: only \$1,502,000^{xx} was transferred from Vote: Health to Vote: Labour from the area health board funding rather than the original estimated value of \$3,150,000. Bearing in mind that there is some uncertainty between the amount identified by the Transition Team, the amount finally transferred and the dates of this transfer, it is estimated that the OSH Service would have had an initial budget of approximately \$30 million.

General resourcing of occupational health and safety services also changed format during the 1980s. There was a move away from funding services from the consolidated fund with greater emphasis placed on a full cost recovery model. This was given effect through the introduction of a levy paid by employers and collected through the ACC premium collection process (the Health and Safety in Employment Levy).

Health resourcing is specifically discussed in section 3.10 of this report.

2.4.3 REVIEW OF THE HSE ACT: 2002 REFORM

The Health and Safety in Employment Amendment Act 2002 introduced a range of new obligations intended to ensure comprehensive coverage of employees and workplaces, improve the enforceability and administration of the Act, and improve employee participation in health and safety activities in the workplace. Many of the amendments reflected issues that had been debated during the enactment of the HSE Act (eg, the ability to take private prosecutions, extended coverage to transport workers and volunteers, and the widening of employee participation).

2.4.4 THE DEVELOPMENT OF THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

The development of the Hazardous Substances and New Organisms Act 1996 (the HSNO Act) began in 1988 when the Interagency Co-ordinating Committee on Pollution and Hazardous Substances recommended that a new legislative framework for controlling hazardous substances and pollution be developed. Like occupational health and safety, hazardous substances were previously controlled through a range of often inconsistent statutes, with services being delivered by a range of agencies with different foci. In order to implement a more streamlined, less cumbersome and better practice approach to managing hazardous substances and new technologies, a “One Act, One Authority” model similar to the HSE Act model was agreed to.¹²

xx This figure includes \$855,244 in occupational health nurse resource, \$268,244 in Health Protection Officer resource, \$102,285 in Medical Officer of Health resource, 19 cars, \$268,540 in clerical and support resource, and \$8,000 in overhead costs.

The HSNO Act consolidated a number of pieces of legislation including the Toxic Substances Act 1979, the Explosives Act 1957, the Dangerous Goods Act 1974 and parts of other legislation such as the Pesticides Act 1979, the Animal Remedies Act 1967 and the Plants Act 1970. The Ministry for the Environment was charged with administering the legislation with support from the newly formed Environmental Risk Management Authority New Zealand and its operational agency (ERMA New Zealand).

Since its enactment, a number of amendments have been made to the HSNO Act to improve its workability. Further information about the HSNO Act is contained in section 3.3.2 of this report.

SECTION THREE

OCCUPATIONAL

HEALTH AND SAFETY SYSTEM



Occupational health and safety systems undertake three core functions:

- The prevention of work-related harm through tools such as imposing duties, setting requirements and providing a range of enforcement options.
- The provision of treatment, rehabilitation and compensation for cases of work-related injury or disease when these occur.
- Education and information to prevent work-related injury and illness.

Section 3 of this report describes the way in which New Zealand provides for these functions. The delivery mechanisms are diverse and the inter-relationships complex. As such, this section is broken into a number of sub-parts which together describe the system:

- 3.1 Principles underpinning New Zealand's occupational health and safety system
- 3.2 International obligations
- 3.3 Legislative framework
- 3.4 National occupational health and safety budget
- 3.5 The compliance and enforcement system
- 3.6 The rehabilitation and compensation system
- 3.7 The education and information framework
- 3.8 Mechanisms to provide expert advice on occupational health and safety
- 3.9 Collaboration and leadership
- 3.10 The health and safety workforce.

Each sub-part also contains a summary of the issues raised by stakeholders during the key informant interviews.

3.1 PRINCIPLES UNDERPINNING NEW ZEALAND'S OCCUPATIONAL HEALTH AND SAFETY SYSTEM

New Zealand's occupational health and safety system is underpinned by some key principles:

- Tripartite participation (government, employers and employees)
- A legislative framework of one Act; an administrative framework of one authority
- Application of all practicable steps to ensure the safety of all people in all workplaces
- No-fault rehabilitation and compensation for people harmed in the workplace.

3.1.1 TRIPARTITE PRINCIPLE

New Zealand is a Signatory to ILO Convention 144, which requires that New Zealand maintain effective consultation with the most representative employer and employee organisations. New Zealand currently gives effect to this Convention by holding regular discussions on occupational health and safety issues with the core government agencies and Business New Zealand (the employer representative) and the Council of Trade Unions (CTU) (the employee representative). Plans to formalise this relationship are discussed in section 4.2.2.1 of this report.

3.1.2 ONE ACT, ONE AUTHORITY

The HSE Act implemented a legislative framework of one main, comprehensive Act covering occupational health and safety with compliance and enforcement services delivered primarily through the Department of Labour.

This provided a mechanism to ensure that work-related health and safety duties and responsibilities could be applied consistently across all workplaces. However, the historical operation of New Zealand’s occupational health and safety system (as discussed in section 2.4) means that this principle is not strictly adhered to in practice, although this is not necessarily problematic. The operation of the “One Act, One Authority” principle is discussed in further detail in section 3.5.

3.1.3 APPLICATION OF ALL PRACTICABLE STEPS TO ENSURE THE SAFETY OF PEOPLE IN WORKPLACES

A key principle underpinning the HSE Act is that all practicable steps must be taken to ensure workplaces are safe for employees, employers and others who may enter. Rather than establishing prescriptive standards that must be met, the Act introduces a performance-based measure, where steps taken to ensure safety must be based on levels of current knowledge. The application of all practicable steps means that hazards and harm are defined, assessed and addressed in a way which mitigates or minimises the potential for harm.

3.1.4 NO-FAULT REHABILITATION AND COMPENSATION

The Injury Prevention, Rehabilitation, and Compensation Act 2001 (the IPRC Act) sets out New Zealand’s rehabilitation and compensation framework. One of the key principles underpinning this framework is the no-fault cover provided for personal injury for those harmed in the workplace. More information on New Zealand’s injury prevention, compensation and rehabilitation system is included in section 3.6 of this report.

3.1.5 COMMENTS

The principles that underpin New Zealand’s health and safety system are broadly consistent with those identified as underpinning good occupational health and safety practice.^{xxi}

3.2 INTERNATIONAL OBLIGATIONS

Section 3.2 outlines New Zealand’s role in the ILO and the international instruments that New Zealand is a party to. A list of those instruments that New Zealand has not signed or ratified is also included.

3.2.1 ILO CONVENTIONS RATIFIED BY NEW ZEALAND

New Zealand has ratified seven ILO Conventions that specifically focus on occupational health and safety.¹³ Table 4 outlines the general content of the Conventions ratified by New Zealand and the date at which New Zealand ratified.

xxi The principles identified by All^o include: ensuring that rights are protected, that all parties can have input into the health and safety system, that established policies to promote health and safety exist, that services can be delivered in a consistent manner, that the health and safety of people in workplaces is continuously improved, and that people are not harmed in the workplace, or if a person is harmed at a workplace, that fair compensation is available.

TABLE 4 International occupational health and safety Conventions ratified by New Zealand		
CATEGORY	CONVENTION TITLE	DATE RATIFIED BY NEW ZEALAND
Prevention of accidents in the workplace	Prevention of Accidents (Seafarers) 1970	31 May 1977
	Night Work (Women) Convention 1934	29 March 1938
	Protection Against Accidents (Dockers) (revised) 1932	29 March 1938
Compensation for personal injury arising from work	Workmen's Compensation (Occupational Diseases) 1934	29 March 1938
	Workmen's Compensation (Accidents) 1925	29 March 1938
	Workmen's Compensation (Agriculture) 1921	29 March 1938
Establishment of a labour inspectorate to ensure there is compliance with national law	Labour Inspection 1947	30 November 1959
Consultation with employers and employees	Tripartite Consultation (International Labour Standards) 1976	5 June 1987

3.2.2 ILO CONVENTIONS RELEVANT TO OCCUPATIONAL HEALTH AND SAFETY THAT NEW ZEALAND IS CURRENTLY CONSIDERING

The New Zealand government has a policy of not ratifying international legal instruments until it is certain that it can comply with the provisions of the instrument in question. It is currently considering two ILO Conventions: Convention 155 and Convention 138.

3.2.1.1 ILO Convention 155: Convention on occupational safety and health

Convention 155 provides for the adoption of a national health and safety policy and sets out the actions to be taken by government, employers and industries to improve occupational health and safety and the general working environment. Convention 155 came into force in 1983.

The Department of Labour is currently advising the Minister of Labour as to whether New Zealand's law, policies and practice are consistent with the provisions of the Convention and whether ratification is recommended.

3.2.1.2 ILO Convention 138: Concerning minimum age for admission to employment

Convention 138 seeks to end the use of child labour and requires that parties implement national policies to progressively increase the minimum age for admission to employment and work. This Convention specifically restricts employment in work that may jeopardise health and safety to people aged 18 years and over.

Ratification of Convention 138 is currently being considered by the Department of Labour.

3.2.3 INTERNATIONAL CONVENTIONS THAT NEW ZEALAND IS NOT A PARTY OR SIGNATORY TO

New Zealand is not a Party or Signatory to 15 ILO Conventions.^{xxii}

xxii These are Convention 176: Health and Safety in Mines Convention 1995; Convention 174: Prevention of Major Industrial Accidents Convention 1993; Convention 170: Chemicals Convention 1990; Convention 167: Health and Safety in Construction Convention 1988; Convention 162: Asbestos Convention 1986; Convention 161: Occupational Health Services Convention 1985; Convention 152: Occupational Health and Safety (Dock Workers) Convention 1979; Convention 148: Work Environment (Air Pollution, Noise, and Vibration) Convention 1978; Convention 139: Occupational Cancer Convention 1974; Convention 136: Benzene Convention 1971; Convention 127: Maximum Weight Convention 1967; Convention 120: Hygiene (Commerce and Offices) Convention 1964; Convention 119: Guarding of Machinery Convention 1963; Convention 115: Radiation Protection Convention 1960; and Convention 13: White Lead (Painting) Convention 1921.

3.2.4 STAKEHOLDER COMMENTS

Stakeholders made few comments about the scope of the international instruments that relate to occupational health and safety, although the government's social partners supported the ratification of Convention 155.

3.2.5 COMMENTS AND CONCLUSIONS

3.2.5.1 Coverage

The nature of ILO Conventions means that the final text of a Convention must be broad enough to apply to the range of health and safety issues, labour markets and economic conditions that exist in each nation. This means that these Conventions may require the application of obligations that are already provided for through New Zealand's legislative framework. In addition, a number of the ILO Conventions are very prescriptive and do not fit with New Zealand's performance-based framework. For example, New Zealand's Radiation Protection Act 1965 provides for more stringent controls on the use of radiation in the workplace compared to the Radiation Protection Convention. Another example is the White Lead (Painting) Convention: the use of this substance is banned in New Zealand. As such, it is likely that New Zealand complies with the intent of many of the Conventions to which it is not a party even though it has not ratified them.

3.2.5.2 Impact of ratification

The project team found no information on the impact of ratification of the older Conventions. This may be because, in most cases, a significant period of time has passed since ratification.

In the future, information may become available following the ratification of Convention 155 or 138 (if this happens). In addition, the Workplace Health and Safety Strategy evaluation framework would collect information about progress on a range of obligations required under the Convention. The first formal evaluation is scheduled for 2008.

3.3 LEGISLATIVE FRAMEWORK

Section 3.3 describes New Zealand's legislative framework and discusses a range of issues raised by stakeholders in relation to the framework. It does not review New Zealand's current framework in comparison to international best practice in health and safety legislation.

New Zealand's legislative framework contains three key pieces of legislation that provide for different components of the occupational health and safety framework:

- The HSE Act is the principal Act that aims to prevent injuries, illnesses and accidents in the workplace.
- The HSNO Act covers the management of hazardous substances including their management in the workplace.
- The IPRC Act establishes New Zealand's compensation, rehabilitation and injury prevention system.

Regulations, approved codes of practice (ACOP), industry codes of practice, best practice guidelines, industry publications, and manufacturers' information sit under the statutes and provide for a range of operational details. This structure is outlined in Diagram 1 (see page 24).

In addition to the three main statutes, a further five pieces of primary legislation also impact on occupational health and safety. There are also a small number of sets of regulations that remain in force, although older parent Acts have been revoked. These are discussed in section 3.3.4 of this report.



3.3.1 THE HEALTH AND SAFETY IN EMPLOYMENT ACT 1992

The HSE Act is the principal Act aimed at preventing injuries, illnesses and accidents in the workplace. It provides a three-tiered framework: statute, regulations and ACOP. Further detail is provided through industry codes, guidelines and other best practice material.

The Department of Labour administers the HSE Act in all workplaces, except on ships and on operating aircraft. On ships, the HSE Act is administered by Maritime New Zealand. On operating aircraft, the Act is administered by the Civil Aviation Authority (CAA). Further information on the administration and enforcement of the Act is discussed in section 3.5 of this report.

3.3.1.1 The Health and Safety in Employment Act 1992

The HSE Act's objective is to promote the prevention of harm to all persons at work and other persons in, or in the vicinity of, a place of work. The scope of the Act is broad and encompasses elements of public safety by stating that people should not be adversely affected by workplace activities.

The Act establishes a performance-based framework to promote excellence in health and safety management. In particular, it requires that all harms and workplace hazards are identified and managed appropriately and that all practicable steps are taken to ensure health and safety in the workplace. The Act requires employee participation in this process and encourages good faith co-operation in workplaces.

The Act imposes a range of duties on employers, persons who control places of work, persons who sell or supply plant for use in workplaces, self-employed people, principals to contracts, employees, people receiving on-the-job training and volunteers. Frequently a person will have duties under more than one section of the Act (eg, a person may have duties as an employer, as someone who controls the workplace, and/or as a principal to a contract). The same duty may apply to more than one person at a time. This means that more than one person may be held liable for the same breach of the Act.

The HSE Act implements a performance-based regime, but a range of normative standard-setting processes are also provided to assist in compliance with its provisions (eg, provisions for ACOP and standards).

The HSE Act also provides for accident investigations, powers of Department of Labour staff or other enforcement staff, and a range of enforcement measures such as notices, fines and imprisonment. In terms of implementing the HSE Act, provision is made for the Prime Minister to designate specific functions or roles to other agencies if specialist knowledge is required, with these agencies being responsible to the Minister (such as designation of enforcement activities to the CAA and Maritime New Zealand).

3.3.1.2 Regulations made under the HSE Act

Section 21 of the HSE Act enables regulations to be made to outline duties of specific persons in specific circumstances, set minimum standards for the management of hazards where alternative control measures are not always effective, and provide for administrative matters covered in the Act or for additional detail on general duties in the Act.

There are four main groups of regulations made under the HSE Act:

- Regulations covering general workplaces:
 - The HSE (Prescribed Matters) Regulations 2003
 - The HSE Regulations 1995
 - The HSE (Rates of Funding Levy) Regulations 1994
- Regulations for the extractives industry:
 - The HSE (Mining-Underground) Regulations 1999
 - The HSE (Petroleum Exploration and Extraction) Regulations 1999
 - The HSE (Pipelines) Regulations 1999
 - The HSE (Mining Administration) Regulations 1996
- Regulations concerning hazardous machinery:
 - The HSE (Pressure Equipment, Cranes, and Passenger Ropeways) Regulations 1999
- Regulations concerning hazardous processes:
 - The HSE (Asbestos) Regulations 1998.

The HSE Regulations 1995 apply to all workplaces. They:

- require that facilities be provided to ensure the health and safety of people in the workplace, including clean water and suitable, clean facilities
- require that hazards such as noise, machinery, spills and heights be managed
- require that certain kinds of workers such as divers, power-actuated tool holders and scaffolding operators hold certificates of competence
- include specific provisions on the employment of people aged under 15 years
- require employers to ensure that agricultural workers' accommodation meets certain criteria regardless of whether it is supplied by the employer or the employee
- outline the duties of designers of plant, protective equipment and clothing.

3.3.1.3 Approved codes of practice: the HSE Act

Section 20 of the Act enables the Minister of Labour to direct the Department of Labour to prepare, and submit for the Minister's approval, a statement of preferred practices, aims, arrangements, principles, characteristics, components, configurations, elements or states relating to work, plant, protective clothing or protective equipment, substances or practices relating to a particular health and safety issue. Such statements are approved by the Minister and become ACOP.

Compliance with an HSE ACOP is not mandatory but it can be used as evidence of good practice. However, complying with an ACOP may not be sufficient to meet a duty holder's requirement to take all practicable steps (depending on the circumstances).

Process used to develop and maintain an HSE ACOP

Section 20 of the HSE Act outlines the process that the Department of Labour must follow when developing or updating an ACOP. The Act requires that:

- the Department of Labour seek approval to draft an ACOP from the Minister of Labour
- the Minister of Labour consult all affected parties
- the decision to approve the ACOP be published in the New Zealand Gazette.

The Department does not appear to have a standardised process for identifying ACOP topics under the HSE Act, nor for reviewing and updating existing ACOP. Discussions with stakeholders perceive this as being due to internal resourcing issues at the Department.

Current HSE ACOP

There are currently 30 HSE ACOP. Table 5 identifies the range of HSE ACOP by industry and identifies whether a code has been reviewed. In summary, five HSE ACOP have been reviewed recently including two ACOP that have been reviewed multiple times, 11 HSE ACOP are currently undergoing review or have been scheduled for review, and 14 HSE ACOP have never been reviewed. It is unclear whether this indicates that the ACOP is considered to currently contain relevant best practice information and has been judged as not requiring review or whether review has not been contemplated.

TABLE 5		
Current HSE ACOP		
TITLE	DATE OF PUBLICATION	SCHEDULED REVIEW DATE
Forestry		
ACOP for safety and health in tree work – Part 1 (Arboriculture)	1994	Under review
ACOP for safety and health in tree work – Part 2 (Maintenance of trees around power lines)	1996	Under review
ACOP for safety and health in tree work – Part 3 (River and stream operations)	1998	Not stated
ACOP for forest operations – Part 5 (Timber stacking, packeting and transportation)	1994	Under review
ACOP for safety and health in forest operations	1999 Reviewed: 2005	Not stated
ACOP for helicopter logging	2001	Not stated
Industrial processes		
ACOP for safety in photoengraving and lithographic processes	1993	Not stated
ACOP for the prevention, detection and control of fire and explosion in New Zealand dairy industry spray drying plant	1993	Not stated
Machinery		
ACOP for the design, safe operation, maintenance and servicing of boilers	1996 Reviewed: 2000 2004	2005
ACOP for roll over protective structures on tractors in agricultural operations	2001 Reviewed: 2004	Under review
ACOP for the design, manufacture, supply, safe operation, maintenance and inspection of cranes	2001	Under review
ACOP for training operators and instructors of powered industrial forklifts	1995	Under review
ACOP for passenger ropeways in New Zealand	1998 Reviewed: 2003	Not stated
ACOP for pressure equipment (excluding boilers)	2001	Not stated
ACOP for load-lifting rigging	2001	Not stated
ACOP for power-operated elevating work platforms	1995	2005
Construction and building maintenance		
ACOP for demolition	1994	May be 2006
ACOP for excavation and shafts for foundations	1994	Not stated
ACOP for managing hazards to prevent major industrial accidents	1994	Not stated

TITLE	DATE OF PUBLICATION	SCHEDULED REVIEW DATE
ACOP for operator protective structures on self-propelled mobile mechanical plant	1999	Under review
ACOP for power-actuated hand-held fastening tools	1995	Under review (revocation)
ACOP for the safe erection and use of scaffolding	1995	Under review (revocation)
ACOP for the safe handling, transportation and erection of pre-cast concrete	2002	Not stated
Mining		
ACOP for the prevention of sulphur fires and explosions	1993	Not stated
Chemicals		
ACOP for the management of substances hazardous to health in the place of work	1997	Under review
ACOP for the safe use of timber preservatives and anti-sapstain chemicals	1994	Not stated
ACOP for safety and health in the manufacture of paint, printing inks and resins	1993	Not stated
ACOP for the safe use of isocyanates	1994	Not stated
General		
ACOP for the safe use of visual display units in the place of work	1995	Under review
ACOP for the management of noise in the workplace	1996 Reviewed: 2002	Not stated

Source: This information was sourced from an internal Department of Labour paper.

3.3.2 THE HAZARDOUS SUBSTANCES AND NEW ORGANISMS ACT 1996

Many workplaces manufacture, transport, use and dispose of hazardous substances. The HSNO Act is a critical part of New Zealand's framework to ensure that people in workplaces are not harmed by exposure to any such substances. The legislative framework set out by the HSNO Act is similar to that provided for by the HSE Act, in that there is a principal Act (the HSNO Act), a suite of regulations made under the principal Act, and ACOP and approved guidelines.

The Ministry for the Environment administers the HSNO Act, although the Act charges the Environmental Risk Management Authority with many functions. Responsibility for enforcing the HSNO Act falls to the following agencies:

- The Department of Labour (in respect of workplaces)
- The Ministry of Economic Development (in respect of gas installations)
- The New Zealand Police (in respect of motor vehicles and railways)
- The Civil Aviation Authority (in respect of aircraft and aerodromes)
- Maritime New Zealand (in respect of ships)
- The Ministry of Health (in respect of protecting the public health)
- Territorial authorities (in respect of all other locations).

The operationalisation of the HSNO enforcement function is discussed in section 3.5.

3.3.2.1 The HSNO Act

The HSNO Act aims to prevent, mitigate or otherwise manage the adverse effects that hazardous substances and new organisms pose to the health and safety of people, by managing the substance throughout its life cycle. The Act provides a framework to assess and approve hazardous substances and new organisms. It sets out controls on hazardous substances and new organisms and requires applications to be made for their introduction and management. The Authority (through its operational arm, ERMA New Zealand) may either decline or set controls on the import, manufacture and use of hazardous substances and new organisms. The Act also provides for the appointment of warranted enforcement officers.

The HSNO Act reformed the way that hazardous substances are dealt with in New Zealand. As part of the consolidation process, all existing hazardous substances are in the process of being transferred from the multiple-legislation regime to the “One Act, One Authority” regime set out in the HSNO Act. This process is ongoing at the time of the publication of this report.

3.3.2.2 Regulations

Section 140 of the HSNO Act provides for regulations to be made to support the implementation of the Act. The most relevant regulations are general sets of regulations that outline the skills and knowledge required to hold office under the HSNO Act, and regulations that classify hazardous substances and set out control mechanisms that must be applied when dealing with these. Other sets of regulations relate to the information requirements that must be used (ie, labelling, packaging, signage, advertising, documentation and tracking requirements).

3.3.2.3 Approved codes of practice: the HSNO Act

Section 78 of the HSNO Act enables ERMA New Zealand to issue, amend, approve or revoke an ACOP on the control of a hazardous substance. This section also gives ERMA New Zealand the ability to approve codes of practice developed by other people if it considers these to be acceptable (eg, ACOP developed under the HSE Act can be recognised under the HSNO Act). Section 79 sets out the consultation and notification process that must be undertaken as part of the approval process. Like the HSE ACOP, HSNO ACOP provide a mechanism to assist people to achieve compliance with the controls set out in the legislation.

Development and review process

ERMA New Zealand has a well-documented process for developing and approving HSNO ACOP.¹⁴ This process involves the following steps:

1. Identify a need for an ACOP under the HSNO Act.
2. Prioritisation of need (against identified criteria) including a determination of whether an ACOP or industry code of practice is currently available and whether it meets the established criteria for acceptability.
3. Determine whether ERMA New Zealand or industry is best positioned to develop and fund a draft ACOP
4. Drafting of new documents.
5. Ensure the draft ACOP meets all relevant performance standards.
6. Approve the document (including undertaking all of the requirements set out in section 79 of the Act).

It is important to note that ACOP approved under the HSNO Act may be developed by any party and presented to ERMA New Zealand for approval. This is a significant difference from the HSE ACOP regime, which requires the Minister of Labour to direct development. This may affect the length of time taken to develop ACOP under the HSNO Act compared to those developed under the HSE Act.

Current HSNO ACOP

To date, ERMA has approved four ACOP: the Exempt Laboratories Code of Practice (June 2004), Signage for Premises Storing Hazardous Substances (September 2004); Management of Agrichemicals (September 2004); and Code of Practice for Thermoplastic Stationary Tanks (December 2005).

ERMA New Zealand notes that there are an additional 13 planned ACOP currently under development, but it is possible that a larger number are under development by industry of which ERMA New Zealand is unaware.^{xxiii} Four of these codes have been submitted to ERMA New Zealand for its final approval. The remaining codes are completing the drafting and consultation process. ERMA New Zealand has also approved two guidelines on the control of hazardous substances.

xxiii ERMA New Zealand website: (www.ermanz.govt.nz). Accessed 24 January 2006.

3.3.3 THE INJURY PREVENTION, REHABILITATION, AND COMPENSATION ACT 2001

The IPRC Act sets out New Zealand's injury prevention, compensation and rehabilitation framework. The legislative framework consists of a principal Act, with regulations providing the operational detail required for the system to function. The IPRC Act is administered by ACC.

3.3.3.1 The IPRC Act

The IPRC Act aims to provide a fair and sustainable scheme for managing personal injury, including harm that is caused by exposure to various hazards in a workplace. It provides a strong focus on rehabilitation of injured or ill persons and on ensuring fair compensation for claimants who have experienced loss from injury or disease.

The Act provides for:

- a no-fault insurance scheme covering personal injuries occurring in New Zealand after 1 April 2002
- a clear definition of what personal injury includes and excludes
- a mandate for ACC to minimise the overall incidence of injury in the community and the impact of injury on the community
- processes regarding prevention, compensation and rehabilitation including entitlements, the decision-making process, disputes resolution and rights
- specific roles and obligations of employers, the ACC and the claimant in relation to each of the different kinds of entitlements
- the overall funding and ongoing management of the ACC scheme including the operation of a range of incentives schemes
- the ongoing management of injury-related data including the provision of information to the Department of Labour.

The operational details of the work-related prevention, compensation and rehabilitation scheme are discussed in section 3.6 of this report. Injury data information management is discussed in section 5.2.

3.3.3.2 Regulations made under the IPRC Act

The IPRC Act provides for the enactment of a range of regulations on the funding mechanisms for the ACC scheme, entitlement and compensation payment, services, and reviews and appeals. Regulations made include those outlining the funding mechanisms for the ACC scheme, those governing entitlement and compensation payments, those relating to services, and regulations providing for review and appeal mechanisms.

3.3.4 OTHER PIECES OF LEGISLATION

3.3.4.1 Statutes

In addition to the three key pieces of legislation, other pieces of legislation that can impact on occupational health and safety are:

- the Gas Act 1992, which provides for the supply and use of fuel gases including ensuring the safety and quality of fuel gases and requires the notification and investigation of accidents involving gas (which could occur in the workplace)
- the Electricity Act 1992, which provides for the regulation and supply of electricity and requires the notification and investigation of accidents involving electricity (which could occur in the workplace)
- the Smokefree Environments Act 1990, which prohibits smoking in the workplace and requires employers to take all practicable steps to ensure that no person smokes in a workplace at any time (with a few exceptions)

- the Radiation Protection Act 1965, which regulates the use of ionising radiation
- the Health Act 1956, which requires the notification of certain diseases and conditions which could have a work-related cause.

The Health Act and the Electricity Act are currently under review.

The transport sector is governed by both the main pieces of health and safety legislation and detailed, industry-specific rules. For example, the HSE and HSNO Acts place general duties on people in the aviation industry. Rules made under the Civil Aviation Act 1990 (such as the rules on the carriage of dangerous goods) place specific requirements on the aviation industry regarding the carriage of goods.

3.3.4.2 Regulations

Section 24 of the HSE Act provides for the retention of seven sets of regulations made under other Acts that it repealed. These provide for health and safety practices in specific situations. These sets of regulations are:

- the Factories and Commercial Premises (First Aid) Regulations 1985, which set out the minimum requirements for first aid training and facilities
- the Amusement Devices Regulations 1978, which set out a system for the registration and inspection of amusement devices like ferris wheels and roller coasters
- the Spray Coating Regulations 1962, which set out the circumstances in which products can be sprayed in factories
- the Geothermal Energy Regulations 1961, which set out provisions to be followed when boring for and using geothermal energy
- the Abrasive Blasting Regulations 1958, which set out the health and safety requirements to be followed when undertaking abrasive blasting in factories
- the Noxious Substances Regulations 1954, which set out the requirements to be followed when handling noxious substances (as defined by Schedule 3)
- the Electroplating Regulations 1950, which set out the health and safety requirements to be followed when electroplating
- the Lead Processing Regulations 1950, which set out processes to control lead processing in a factory or a workshop.

The majority of these regulations are administered by the Ministry of Health.

3.3.5 STANDARDS, GUIDELINES AND BEST PRACTICE DOCUMENTS

The performance-focused approach provided for in the HSE and the HSNO Acts means that those with duties under these Acts do not have to meet specific standards but are required to take all practicable steps to fulfil their duties (in the case of the HSE Act). In order to assist duty holders to know how to best undertake these steps, a range of standards, guidelines, industry codes of practice and best practice documents are available. These help to determine what an acceptable means of compliance is. The development of these documents tends to be collaborative, with input from a range of stakeholders. Often, if a collaborative process has been followed, a high level of buy-in can be achieved. Funding for developing standards, industry codes of practice and best practice documents comes from a range of sources, including the State, joint government and industry-funded documents, or pure industry-funded documents. There are, however, too many documents in each of these categories to list individual titles.

3.3.6 STAKEHOLDER COMMENTS ABOUT THE LEGISLATIVE FRAMEWORK

Stakeholders provided many comments about the legislative framework, including broad comments about the implementation of the legislative framework and very specific comments on certain amendments that could be made to particular legislation. This section discusses these comments.

3.3.6.1 Stakeholder comments about the HSE Act

All sectors supported the direction set by the HSE Act; however, issues were raised in respect of certain specific provisions of the Act. A brief description of the issues raised is provided in this section.

More significant concerns focused on the implementation of the legislative framework (eg, the issues caused by moving from a prescriptive framework to an enabling framework and compliance costs). This is discussed in section 3.5.9.

Specific issues identified in respect of the provisions of the HSE Act

Stakeholders raised the following issues about specific provisions of the HSE Act:

- The need to revise the definition of “serious harm”^{xxiv}
- The ability of employers to indemnify against reparation payments^{xxv}
- The lack of provision for multi-employer workplaces^{xxvi}
- Insufficient provision for duties of design teams^{xxvii}
- The enabling, performance-based approach provided in the HSE Act.

(a) Definition of serious harm^{xxviii}

Stakeholders were concerned that the current definition lacks clarity on the thresholds for serious harm, is inconsistent with the definition of “harm”, and introduces an inconsistency between the HSE Act’s definition of harm and the breadth of the harm provided for under the IPRC Act’s definition of work-related personal injury [section 28 of the IPRC Act refers] and under the Electricity Act 1992 [section 16 refers].

Review of the definition of serious harm is identified as an action in the Workplace Health and Safety Strategy [section 1a(4) refers] and is included as upcoming on the Department of Labour’s work programme.⁴

(b) Indemnity against reparation payments

Stakeholders raised concerns about the ability for employers to indemnify against reparation payments handed down for breaching the Act. Currently, it is unlawful to indemnify against fines handed down under the HSE Act but indemnity can be provided for reparations.

The Department of Labour is aware of the reparation indemnity issue.

xxiv This issue was raised by three government stakeholders, one industry group and one safety professionals’ group.

xxv This issue was raised by two government stakeholders, two health and safety professionals and one industry body.

xxvi This issue was raised by one government stakeholder, one employee organisation, one industry body and one training provider.

xxvii This issue was raised by one training provider and two health professionals’ groups.

xxviii Schedule One of the HSE Act defines serious harm as any of the following conditions that amounts to or results in permanent loss of bodily function, or temporary severe loss of bodily function: respiratory disease, noise-induced hearing loss, neurological disease, cancer, dermatological disease, communicable disease, musculoskeletal disease, illness caused by exposure to infected material, decompression sickness, poisoning, vision impairment, chemical or hot-metal burn of eye, penetrating wound of eye, bone fracture, laceration, crushing OR amputation of body part OR burns requiring referral to a specialist medical practitioner or specialist outpatient clinic OR loss of consciousness from lack of oxygen OR loss of consciousness, or acute illness requiring treatment by a medical practitioner, from absorption, inhalation, or ingestion, of any substance OR any harm that causes the person harmed to be hospitalised for a period of 48 hours or more within seven days of the harm’s occurrence.

(c) Multi-employer workplaces

Multi-employer sites are workplaces in which two or more employers operate (eg, a construction site). Different employers may have varying health and safety protocols but the HSE Act includes no requirement for these protocols to be co-ordinated. It is possible that conflicting protocols could be applied at a workplace or that people in that workplace are uncertain of which protocol to follow, leading to confusion and possibly decreased health and safety.

(d) Insufficient provision for duties of design teams

Stakeholders considered that there is limited inclusion of specific duties for members of design teams (eg, architects, engineers, designers, etc.) in ensuring health and safety.

The project team notes that Part Seven of the HSE Regulations 1995 imposes specific duties on designers, manufacturers and suppliers, although these duties appear to be restricted to designers, manufacturers and suppliers of plant and protective clothing and equipment.

(e) The enabling, performance-based approach provided in the Act

The enabling rather than prescriptive focus of the HSE Act was favoured by the industry and employer stakeholders that commented on this issue. However, stakeholders noted that a considerable level of prescription is required for this model to work in practice, especially in terms of ensuring that employers have a sufficient level of information about health and safety requirements.

Other stakeholders identified that confusion extends to the concept of “all practicable steps” where there is scope for different definitions and minimum standards to apply.

Issues regarding the HSE Regulations 1995

Three stakeholders commented that there is a need to review the HSE Regulations to ensure that the regulations assist in the administration of the Act and clarify certain duties.

Three specific issues were raised:

- Clause 11 (Noise) is not up-to-date and makes no reference to the approved code of practice for the management of noise in the workplace.^{xxix}
- Part Six of the HSE Regulations requires employers of agricultural workers to ensure that they take all practicable steps to ensure that their accommodation is sufficient regardless of whether this accommodation is provided by the employer or the employee. Concern centred on whether it is practical to require an employer to review a worker’s accommodation if it is not provided by the employer (for example, an employee could choose to rent accommodation from a third party, a transaction that would have little to do with the employer).^{xxx}
- The certificate of competence regime is considered to be unworkable because of the heavy administrative burden the regime places on the Department of Labour, the lack of consistency across equally hazardous activities, and the political difficulties of suspending certificates of competence when this would remove the livelihood of the holder.^{xxxi}

The project team notes that reviewing the HSE Regulations is identified as an action in the Workplace Health and Safety Strategy Action Plan [1a(4) refers].

xxix This issue was raised by one health and safety professional.

xxx This issue was raised by one government stakeholder and one industry body.

xxxi This issue was raised by one employee organisation.

Issues regarding the HSE approved codes of practice

All sectors raised concerns that some of the HSE ACOP are out-of-date, are inconsistent with the wider legislative framework, or are not consistent with current best practice and, if used, could result in negative health and safety outcomes.^{xxxii} One health professional body noted that ACOP can include complicated language and that they can be inaccessible.

Stakeholders also raised concerns about the process employed by the Department of Labour to develop and review ACOP. They expressed the view that the process is bureaucratic, time-consuming and potentially costly. Five stakeholders further commented that the Department of Labour did not appear to prioritise or provide sufficient budget for the review and amendment of ACOP.

Two industry stakeholders considered that it was useful to have a recommended best practice approach endorsed by the government. Twelve stakeholders supported industry-developed codes of practice.^{xxxiii}

Stakeholders did not identify any topics that may require an ACOP to be developed.

3.3.6.2 Stakeholder comments about the HSNO Act

Most of the comments received on the HSNO framework were received from stakeholders with an interest in the control and management of hazardous substances. The most common comment made was that the HSNO framework is very complex, although this did not appear to signify whether stakeholders supported the current HSNO framework or not.^{xxxiv} One government stakeholder noted that the workability of the framework should be smoother following the passing of the HSNO (Approvals and Enforcement) Amendment Act 2005.

3.3.6.3 Stakeholder comments about the IPRC Act

Three stakeholders^{xxxv} considered that the no-fault focus provided by the ACC system could contribute to lax attitudes toward occupational health and safety because the government meets the cost of addressing personal injury.

Stakeholders made no comments about the scope or content of the IPRC Act. However, significant comment was made about the operation of the incentive programmes provided for in the Act and about inter-agency collaboration. These issues are discussed in sections 3.9 and 5.1.

3.3.6.4 Stakeholder comments about other pieces of legislation

Four stakeholders^{xxxvi} noted that many of the older regulations need to be reviewed to ensure that they remain relevant and reflect technological advances, and to ensure that there is no overlap between the provisions of these regulations and those provided for under the HSE or HSNO Acts. The project team is aware that work is underway to review the older regulations.

Three government agency stakeholders noted that the differences between the application of the transport-specific rules and the main occupational health and safety legislation could be confusing for the industry; however, the stakeholders appeared to be satisfied with the flexibility offered by the ability to take prosecutions under either piece of legislation.

xxxii This issue was raised by nine stakeholders.

xxxiii This issue was raised by three government stakeholders, three health and safety professionals' groups, one employer organisation and five industry bodies.

xxxiv This issue was raised by four government stakeholders, one health and safety professional, four industry bodies and one training organisation.

xxxv This issue was raised by one government stakeholder, one health professionals' group and one industry body.

xxxvi This issue was raised by two government stakeholders and two health and safety professionals.

3.3.7 CONCLUSIONS

Overall, New Zealand's legislative framework provides a sound basis for managing occupational health and safety, particularly because of the consolidated approach taken during the recent reforms of legislation in this area.

3.3.7.1 Content of the Acts and the supporting legislation

A number of specific issues arise in regard to the content of each of the three main Acts (the HSE Act, the HSNO Act and the IPRC Act). Some of these appear to be relatively minor (such as the provisions for agricultural accommodation). Other issues, such as the definition of serious harm, are more significant.

Action 1a(4) of the Workplace Health and Safety Strategy outlines a process for continuous improvement of the legislative and administrative framework. This issue is also identified by the Department of Labour as part of its work programme.⁴ Included in this work programme is the development, review and alignment of the legislative instruments discussed in the present report.

The development of ACOP and other material under the HSE and HSNO Acts is vital to provide the level of detail required if the performance-based framework is to operate in the correct way, and to ensure that duty holders under these Acts have access to the right information to enable compliance. The issues raised by stakeholders about the development of this material indicate that additional focus may be required here. For example, three HSE ACOP require review which has not been scheduled: the ACOP for demolition; the ACOP for managing hazards to prevent major industrial accidents (which does not reflect current technology); and the ACOP for the prevention, detection, and control of fire and explosion in New Zealand dairy industry spray drying plant (which makes reference to outdated standards and has been superseded by an industry-developed code of practice).

3.3.7.2 Interface between the three main Acts

The HSE and HSNO Acts are generally consistent in terms of principle, and no major inconsistencies in their content were identified. However, there are some differences in the level of prescription provided for across these two Acts. For example, the HSE Act requires that duty holders take all practicable steps to ensure harm does not occur. Relatively little information on how to achieve this across all workplaces is provided (although considerable prescription still applies to some specific activities under the older regulations). The HSNO Act, however, includes lots of prescription in its framework (eg, in relation to labelling, packaging documentation etc.).

There are also interface issues regarding the ACOP made under the HSE Act and those provided for in the HSNO Act: there is no mechanism available under the HSE Act to enable an ACOP approved under the HSNO Act, although such a mechanism is provided through the HSNO Act. This means that there are some areas of duplication across the ACOP (eg, between the HSE ACOP for the management of substances hazardous to health in the place of work and the HSNO ACOP: Management of agrichemicals). Having two documents effectively covering very similar topics creates additional compliance issues for workplaces and an additional administrative burden for government agencies. In such instances, there may be opportunities for stakeholders to seek to co-ordinate development (including the possible pooling of resources) to ensure that ACOP can meet the needs of both Acts rather than having two separate documents.

3.3.7.3 The enabling, performance-based approach

The enabling approach provided for under the HSE and HSNO Acts implemented a different way of thinking about health and safety in New Zealand. Previously, compliance had been driven by meeting a particular standard or technical requirement. The new approach provides for a more flexible regime that enables the prevention of work-related harm; however, it is necessary to ensure that a suitable range of material detailing approved means of complying with the provisions of the Acts is available to duty holders.

The implementation issues associated with a performance-based regime are discussed in section 3.5.10.

3.4 NATIONAL OCCUPATIONAL HEALTH AND SAFETY BUDGET

Section 3.4 outlines the national-level budget provided for occupational health and safety activities. Discussion is restricted largely to the funding of the two main government agencies involved in delivering occupational health and safety-related services: the Department of Labour and ACC. Most of the information in this section is sourced from Budget 2005 (Treasury 2005) and from the Department of Labour. All figures quoted in this section are GST-exclusive unless otherwise noted.

The funding discussed in this section represents the majority of public funding provided to occupational health and safety; however, some estimates are used in lieu of actual figures for other agencies when it was not possible to unbundle the proportion of funding from a wider pool. Information on private expenditure on occupational health and safety is not included because neither actual figures nor estimates of the amount spent in the market were available. As New Zealand has an active private consultancy market for such services, expenditure in this category is likely.

3.4.1 FUNDING RECEIVED BY THE DEPARTMENT OF LABOUR

The compliance and enforcement system is funded by Crown revenue (through Vote: Labour), and specific fee-for-service or fines revenue. The HSE Levy is collected by the Treasury and used to indirectly fund health and safety activities through Vote: Labour. Some of the funding discussed in this section is spent on education and information services (as discussed in section 3.7).

The total amount of funding allocated to the Department of Labour from these sources in 2005/06 was approximately \$37 million per annum. About \$400,000 of this funding was provided to Maritime New Zealand for activities undertaken as part of its delegation under the HSE and HSNO Acts. A further \$440,000 was provided to the CAA for the fulfilment of its responsibilities under the HSE Act.

3.4.1.1 The HSE Levy

Section 59(2) of the HSE Act enables the Crown to recover the expected cost of administering the Act. These costs are recovered through a levy paid by:

- all employers (based on the amount of earnings paid to any employees)
- every self-employed person (based on the amount of earnings earned by the person in their self-employed capacity)
- every shareholder-employee [s.OB 2(2) of the Income Tax Act 2004 refers].

The Funding Levy is set through the HSE (Rates of Funding Levy) Regulations 1994 at a rate of five cents for every \$100 earned. The Act requires that the Funding Levy be collected by ACC through the Residual Claim Levy [section 59(3) refers]. The HSE Levy is then passed from ACC to the Treasury and not used to directly fund the Department of Labour's services.

Budget 2005 indicates approximately \$29,067,000 is expected to be collected in levies that year. ACC's fee for providing the collection service amounts to \$978,000 (which is funded through the Vote: Labour output class).

3.4.1.2 Crown revenue (Vote: Labour)

In 2005/06, the Department of Labour received approximately \$37 million for occupational health and safety through the Vote: Labour output class. A breakdown of this funding is provided in Table 6:

TABLE 6		Vote: Labour appropriation for occupational health and safety services	
FUNDING CATEGORY		AMOUNT (GST EXCL)	
Policy advice:			
• Workplace Health and Safety Strategy			\$2,289,000
• Health and safety policy work in general			\$ 833,000
• Funding for NOHSAC (including DOL/HRC Occupational Health Research Fund)			\$ 896,000
Subtotal			\$4,018,000
Services to promote and support safe and healthy workplaces:			
• Inspection and advice service delivery (including the hazardous substances inspection function)			\$16,723,000
• Overheads associated with running the Inspectorate (eg, office costs, management, legal services, travel, contact centre, etc.)			\$12,627,000
• Training			\$ 477,000
• Special projects			\$ 1,768,000
Subtotal			\$29,750,000
Services to promote the safe management of hazardous substances in the workplace and amusement devices:			
• Co-ordination of hazardous substances activity and the management of non-Department specialists (eg, training, sub-contracting local authorities for enforcement and education, legal costs, etc.)			\$ 2,200,000
Subtotal			\$ 2,200,000
Additional funding for occupational health			\$ 730,000
Total			\$36,698,000

3.4.1.3 Other funding

Under the HSE Act, the Department of Labour can collect specific fees for services and impose infringement fees for instances of non-compliance.

Budget 2005 estimates that the Department of Labour will collect \$33,000 in fees. This funding is significantly less than the fees-generated funding of previous years when fees and licences for the use of explosives and dangerous goods were processed through the Department of Labour: for example, \$157,000 was collected in 2002/03 before these functions were transferred to ERMA New Zealand.¹⁵ Budget 2005 estimates that the Department will collect \$39,000 in infringement fines in 2005/06.

3.4.2 FUNDING RECEIVED BY ACC

ACC receives Vote: ACC funding to provide services in respect of rehabilitation, compensation and injury prevention. The actual cost of claims for injury and disease assessment, treatment, rehabilitation and compensation made to ACC is paid for through employer and self-employed levies. This makes the assessment, treatment, rehabilitation and compensation system self-funding as discussed in section 3.6.

The total amount of funding for work-related injury prevention activities is approximately \$10 million for the 2005/06 financial year.

3.4.2.1 Crown revenue (Vote: ACC)

Crown revenue received through Vote: ACC covers the costs of operating the rehabilitation and compensation system (such as providing policy advice, managing the accounts, processing claims, injury prevention programmes, and education and information services). A breakdown of this funding includes:

- Work-related injury prevention budget: \$ 7,103,000
 - ACC incentives programmes cost: \$ 2,150,000
 - Health and safety representatives training: \$ 1,621,000
- Total: \$10,874,000**

The work-related injury prevention budget covers a range of activities, including the Safer Industries programmes, programmes run to address specific issues such as acute lower back pain, occupational-overuse syndrome and noise-induced hearing loss, and funding for health and safety representatives training.

The incentives programmes' cost relates to the cost of running the Workplace Safety Evaluation Programme and Workplace Safety Management Practices. (The Accredited Employers' Partnership Programme is self-funded.) The discounts provided through ACC incentives programmes are discussed in section 5.1.

3.4.2.2 ACC levies collected from employers and the self-employed

The IPRC Act requires that employers and the self-employed pay levies to cover the cost of claims arising from work-related injuries including injury and disease. The collection and expenditure of these levies is managed through a range of accounts (as required by the IPRC Act). Three accounts have been established to provide funding for ACC cover provided for work-related disease and injury. These accounts and the income and expenditure in 2004/05 are outlined in Table 7.

TABLE 7 Income and expenditure for ACC Accounts ^{xxxvii}		
ACCOUNT	INCOME FOR 2004/05	EXPENDITURE IN 2004/05
Employers' Account	\$475,128,000	\$316,410,000
Self-Employed Work Account	\$93,834,000	\$86,911,000
Residual Claims Account	\$200,905,000	\$293,146,000
Total	\$769,867,000	\$686,467,000

Source: ACC Annual Report (2005a)

3.4.3 OTHER FUNDING

The Ministry of Health is responsible for enforcing a small number of workplace health and safety regulations made under legislation now revoked (see section 3.3.4). The Ministry advised that it was not able to unbundle this funding from the total amount provided for environmental health services. As such, an estimation of funding cannot be provided.

3.4.4 STAKEHOLDER COMMENTS ABOUT NATIONAL RESOURCING

Resourcing was one of the stakeholders' key concerns, although most of these concerns were directed at the resourcing allocated to or spent on compliance and enforcement programmes or activities (such as resourcing of the Department's Professional and Specialist Services Group, perceptions of how this funding is spent and concerns that occupational health appears to receive less funding than work-related injury prevention). Specific concerns about the resourcing of the compliance and enforcement system are discussed in sections 3.5 and 3.10 of this report.

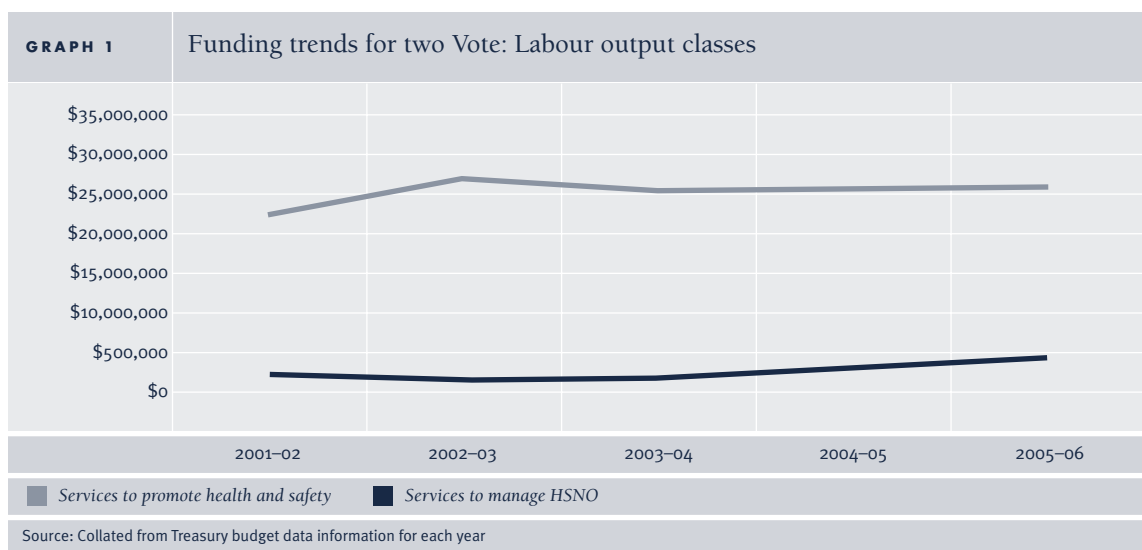
^{xxxvii} The expenditure figures included in Table 7 have not been adjusted for claims liability. It is intended that these figures be indicative of the level of claims made only. Any surplus or deficit is used to calculate levies for the following year.

3.4.5 COMMENTS AND CONCLUSIONS

Access Economics⁶ found that work-related injury and disease cost New Zealand approximately \$5 billion in 2004/05. This represents approximately 3.4 percent of GDP. This compares to approximately \$48 million (or less than 0.0033 percent of GDP) budgeted for preventing workplace harm through compliance, enforcement and injury prevention means.^{xxxviii} This indicates a sizeable difference between the financial magnitude of work-related injury and disease, and the funding available for activities to prevent or mitigate this.

3.4.5.1 Funding trends over time

Graph 1 indicates that the funding of the appropriation for HSNO enforcement has increased since the 2001/02 financial year, possibly due to increased funding for the transition from the previous regime. The Vote: Labour appropriation for HSE implementation has remained relatively steady, with only a small increase in funding at the time of the implementation of the HSE Amendment Act 2002 but otherwise constant.



An inflation-adjusted comparison of the resources transferred to the Department of Labour during the reforms of the 1980s and 1990s with the resources available to the Department today provides an interesting contextual point for the resourcing issue. The amount identified as being for occupational health and safety resources in 1989 equates to approximately \$42 million when adjusted for inflation.^{xxix} This compares with approximately \$35 million^{xl} allocated for the provision of a similar range of services in Budget 2005. This means that over time, funding for health and safety activities has declined in spite of a considerable increase in economic performance and an average annual increase in inflation of 2.2 percent per annum for this period. It is assumed that an expanding economy requires a commensurate increase in the number of health and safety professionals to ensure compliance is achieved by the greater number of businesses in operation. The resulting economic growth that New Zealand has experienced in the recent past and the static nature of funding for health and safety services may mean that the system is functioning with fewer resources but is required to meet a greater demand for service delivery.

xxxviii While the budgeted figure and the cost of work-related injury and disease cover different years, it is likely that the ratio would be similar if a cost estimate for work-related injury and disease was used for 2005/06 (see Graph 1).

xxix This calculation adjusts an estimate of \$30 million 1989 dollars (identified as resources to be transferred from various government agencies to the Department of Labour's OSH Service) to 2005 dollars using the Consumer Price Index for the June quarter. There are limitations associated with using the Consumer Price Index as the adjustor for government services; however, there are limited index alternatives available.

xl The funding for the enforcement of the HSNO Act has been excluded from this total on the grounds that funding for these services was not available until the enactment of the HSNO Act.

Two stakeholders suggested that funding for occupational health and safety services should be tagged to economic growth in order to ensure that a sufficient level of funding is available for occupational health and safety services when the economy expands. This assumes that the economy will continue to expand. If all funding for occupational health and safety activities were tagged in such a way, less funding would be available in times of economic decline.

3.5 THE COMPLIANCE AND ENFORCEMENT SYSTEM

Section 3.5 describes the compliance and enforcement mechanisms used to operate the health and safety system. This covers four steps:

1. Imposition of duties to ensure that people are not harmed as a result of work.
2. Setting of requirements that relate to the taking of all practicable steps to ensure health and safety, and that are flexible to cover different circumstances.
3. Provision of information to stakeholders on how to comply with the duties outlined in the HSE and HSNO Acts.
4. Corrective and enforcement actions to ensure that workplaces comply with the relevant legislative provisions.

This section focuses on the actions taken by stakeholders with duties relating to the provision of steps two to four. Organisations discussed in this section are:

- the Department of Labour (the lead agency for health and safety compliance and enforcement)
- Maritime New Zealand
- the Civil Aviation Authority
- the Commercial Vehicles Investigation Unit
- the Ministry of Health
- territorial authorities.

Stakeholders raised a number of concerns about the compliance and enforcement system, and these are identified in section 3.5.10.

3.5.1 THE RELATIONSHIP BETWEEN VOLUNTARY COMPLIANCE AND THE ROLE OF THE COMPLIANCE AND ENFORCEMENT AGENCIES

The compliance and enforcement system operating under both the HSE and HSNO Acts runs on a voluntary compliance basis. This means that employers and other duty holders have responsibility to identify what needs to be done in a specific workplace in order to comply with the Acts (eg, to take all practicable steps to ensure the safety of people in the workplace in the case of the HSE Act). Following identification, these stakeholders have a responsibility to ensure that activities are undertaken and that the results of these meet the requirements of the Act.

The compliance and enforcement agencies become involved in this system by providing information that assists duty holders under the Acts to comply, and by applying corrective measures and enforcement functions in situations when the Acts are breached.

While the “One Act, One Authority” principle underpins both the HSE and the HSNO Acts, the operation of the compliance and enforcement system is complicated in reality by the number of organisations involved and the role that each of them plays.

3.5.2 THE FUNCTIONS OF THE INSPECTORATE

Inspectorate activities and related functions given under the HSE Act include:

- informing and educating employers, employees and others to improve health and safety at places of work
- inspecting places of work and auditing health and safety management systems to ensure the Acts are complied with
- requiring improvements to be made in cases of non-compliance
- prohibiting the use of activities likely to cause serious harm
- investigating accidents, incidents and complaints at places of work
- prosecuting offenders in cases of serious non-compliance.

Inspectorate functions under the HSNO Act cover a similar range of functions, including providing advice and information on the provisions of this Act, and promoting and monitoring compliance with its provisions.

3.5.3 THE DEPARTMENT OF LABOUR

The Department of Labour is the lead agency for delivering New Zealand's compliance and enforcement system for workplace health and safety. Fulfilment of this compliance role has two key components: education and information provision, and enforcement. (The inspectorate services operated by the CAA and Maritime New Zealand are similarly constituted).

3.5.3.1 The role of the Department of Labour

The Department of Labour's Professional and Specialist Services Group is responsible for delivering information at the front-line and for ensuring compliance with the HSE Act across all sectors, industries and types of work that are not otherwise covered by designated agencies. It is also required to enforce the HSNO Act in any place of work. The Department of Labour gives effect to its compliance and enforcement duties under the HSE and HSNO Acts through the operation of a dedicated regional inspectorate workforce and through the maintenance of centralised technical and specialist staff, including Departmental medical practitioners. Members of the inspectorate also play a role in disseminating information about good practice to employers during routine audit and investigation. Appointed inspectors and Departmental medical practitioners have specific functions and powers under the Act.^{xli} The capacity of this workforce is discussed in section 3.10.

The newly established Information and Promotion Group of the Department's Workplace Group will provide information on workplaces, including information on health and safety practices. (Previously this was provided by the OSH Service.)

Policy capacity is provided through the Workplace Policy Team.

3.5.3.2 Service delivery: Workplace Group Professional and Specialist Services

Current model of service delivery

The current service delivery model has a devolved structure: regional offices provide inspectorate services, with specialist technical support supplied from a central office.

The regional inspectorate offices cover 13 areas across New Zealand and employ a number of inspectors warranted under the HSE and HSNO Acts to undertake functions under those Acts. Different combinations of warranted inspectors are employed in each region (eg, the Nelson-Marlborough region employs general warranted health

xli Statutory powers include powers of entry and inspection, and powers to require the medical examination of an employee to determine exposure to a hazard and any health effects arising from this exposure, and to require the suspension of exposed employees from work.

and safety inspectors as well as providing limited FTE coverage in forestry and HSNO; a much wider range of inspectorate services is provided for in the Canterbury-West Coast office).

The regional inspectorate can contact the Professional and Specialist Services Group at the head office for technical advice on compliance and enforcement with the HSE and HSNO Acts, and for technical advice across a limited range of subject areas (eg, agriculture, health, construction, mining and machinery).

Restructuring

The Department of Labour initiated a restructuring exercise in 2003/04. The outcome of this restructure has resulted in the merger of the five business units into a combined Department of Labour service. As part of this process, the former OSH Service has been disestablished as an “independent” business unit and merged into the newly-formed Workplace Group, which provides policy and service delivery functions for workplace health and safety, employment relations and ACC.

Work is continuing in this area. For example, the Department is currently consulting on the restructure of the Professional and Specialist Services Group (ie, the old OSH Service inspectorate and head office services and the services provided by the Employment Relations Act inspectorate). The purpose of this restructuring is to provide an outcome-based and customer-focused service.¹⁶ Areas for performance improvement include ensuring that a more cohesive and collaborative service framework is provided to a range of workplaces that might interact with the Department of Labour when meeting the obligations of the HSE Act and other pieces of legislation administered by the Department (such as the Employment Relations Act).

The Department of Labour outlines the following proposals for the future direction of occupational health service delivery:

- Establishment of four regions: Northern, Waikato/Eastern, Central, and Southern (eg, merging current regional offices into larger area offices).
- Creation of new roles (including a strong management structure, workplace co-ordinators to manage the HSE and ERA case-work coming into the office, generic workplace practice leaders to provide coaching to staff, and two chief advisors in occupational health and workplace relationships).
- Development of regional teams to deliver services (eg, health and safety inspectorate services, employment standards, and mediation and workplace delivered from one unit).
- Integration of business processes across the Group.

In addition, the establishment of a team within the Department of Labour that is dedicated to working with ACC has been mooted as part of the wider restructuring.¹⁷ This is discussed further in section 3.9.

Final decisions about the new structure were due in March 2006 but were not available to the project team at the time of completing this report.

Relationships with other agencies

The Department of Labour has a number of Memoranda of Understanding with other organisations. These Memoranda clarify the relationships between the Department and other agencies in respect of the operation of the compliance and enforcement system, and this system and the compensation and rehabilitation system.

Memoranda have been concluded with:

- CAA, Maritime New Zealand and CVIU (which sets out relationships in respect of the administration of the HSE and HSNO Acts)
- ACC (to govern the relationship between the Department of Labour and ACC)
- Land Transport New Zealand (to ensure clarity around the administration of the HSE Act in respect of railways)

- the Ministry of Defence (which outlines specific requirements for the Department’s inspectorate in terms of inspection of Defence workplaces)
- the Ministry of Health (which clarifies the interface between legislation administered by the Department of Labour and legislation administered by the Ministry).

3.5.3.3 Funding received by the Department of Labour

The Department of Labour receives approximately \$37 million with which to deliver compliance and enforcement services across New Zealand. A breakdown of the funding is provided in section 3.4.1.

3.5.4 MARITIME NEW ZEALAND

Maritime New Zealand is the Crown entity responsible for ensuring maritime safety and security, marine protection and other functions to achieve a safe, responsive and sustainable transport system.

3.5.4.1 Functions and service delivery

Maritime New Zealand’s general functions are set out in the Maritime Transport Act 1994. A number of these functions require the services of a dedicated inspectorate to ensure safety at sea (such as investigating accidents, incidents and mishaps); however, specific provisions for workplace health and safety are not provided for in this Act. Rather, specific coverage is provided through the HSE Act’s definition of workplace.

The function of enforcing the HSE Act onboard ships has been delegated to Maritime New Zealand [Gazette notice 5 May 2003 (issue 44) refers]. The operational detail of this administrative delegation is provided for in a Memorandum of Understanding and operational agreement between Maritime New Zealand and the Department of Labour. These documents set out information sharing arrangements, require certain information provision between the agencies and provide for a clarification in enforcement functions.

Maritime New Zealand performs the HSE functions through its district office inspectorates, which are sited at key ports around New Zealand. Members of the inspectorate undertake health and safety activities as part of their other duties. Joint HSE Act training for the Maritime New Zealand inspectorate is provided at the Department of Labour’s training unit.

Maritime New Zealand also has responsibility for enforcing the HSNO Act in respect of ships [section 97(f) refers].

3.5.4.2 Resourcing

Maritime New Zealand receives funding of approximately \$400,000 per annum to provide enforcement services in respect of the HSE Act. A baseline review of Maritime New Zealand’s funding was due for completion in December 2005 but the results of this review were not available to the project team.

3.5.5 CIVIL AVIATION AUTHORITY

The CAA is a Crown entity responsible for ensuring safety and security in the civil aviation sector.

3.5.5.1 Functions and service delivery

The CAA’s general functions are set out in the Civil Aviation Act 1990. A number of these functions require the services of a dedicated inspectorate to ensure safety (such as investigating accidents and incidents); however, specific provisions for workplace health and safety are not provided for in this Act. Rather, specific coverage is provided through the HSE Act’s definition of workplace.

The function of enforcing the HSE Act on operating aircraft has been delegated to the CAA [Gazette notice 5 May 2003 (issue 44) refers]. The Department of Labour administers the HSE Act at all other points in the aviation sector. The operational detail of this delegation is set out in a Memorandum of Understanding and operational agreement between the CAA and the Department of Labour. This provides for the sharing of information and expertise, conducting inspections and audits, responding to events and undertaking enforcement.

The CAA has a dedicated health and safety unit based at its national office. Two FTE engaged by the CAA administer the HSE Act for the whole civil aviation sector.

The CAA also has responsibility for enforcing the HSNO Act in respect of any aircraft or aerodrome [section 97(e) refers]. The CAA advised that it is currently negotiating the provision of inspection services in this respect with a range of agencies.

3.5.5.2 Resourcing

The CAA receives Crown funding of \$440,000 per annum to provide enforcement services in respect of the HSE Act.

3.5.6 THE COMMERCIAL VEHICLE INVESTIGATION UNIT

The CVIU is a unit of the New Zealand Police. It is responsible for enforcing, investigating and preventing accidents in relation to New Zealand's commercial vehicle industry. It is required to enforce the provisions of the HSNO Act in respect of the commercial vehicle fleet. The CVIU also investigates accidents involving commercial vehicles.

A Memorandum of Understanding exists between the Department of Labour and the CVIU. This provides for the appointment of Police employees as health and safety inspectors under the HSE Act, the sharing of information and expertise, the development of guidance material, conducting inspections and audits, response to events and undertaking enforcement.

3.5.7 THE MINISTRY OF HEALTH

The Ministry of Health is responsible for administering a range of regulations made under the now-revoked legislation (section 3.2.5 of this document refers) and for some HSNO Act obligations in respect of protecting the public health. The Ministry of Health also has responsibility for enforcing the Smokefree Environments Act in all venues. The responsibility for enforcing these provisions falls largely to designated health protection officers employed at public health units.

Some areas covered in regulations administered by the Ministry of Health can impact on health and safety in workplaces. A Memorandum of Understanding exists between the Ministry of Health and the Department of Labour to ensure that there is collaboration and co-ordination at the interface between these areas.

3.5.8 COLLABORATION BETWEEN THE COMPLIANCE AND ENFORCEMENT SYSTEM AND THE REHABILITATION AND COMPENSATION SYSTEM

The Memorandum of Understanding and the operational agreement that provides for the relationship between the Department of Labour and ACC effectively sets the parameters for formal collaboration between the compliance and enforcement system and the rehabilitation and compensation system. This is discussed in section 3.9.

3.5.9 STAKEHOLDER COMMENT

Comments did not canvas the performance of individual employees in any of the agencies discussed in this section. Any performance related comments included in this section relate only to organisational performance.

Comments focused on:

- compliance costs^{xlii}
- resourcing of the Department of Labour^{xliii}
- restructuring of the Department of Labour^{xliv}
- designation boundaries
- implementation of performance-based legislation: the need for detail
- compatibility of the education and enforcement role
- performance.

3.5.9.1 Compliance costs

Several stakeholders noted that it is more difficult for small employers to comply with some of the performance-based requirements provided for in the legislative framework because they do not have in-house expertise or access to affordable external health and safety expertise. They therefore have to pay a higher cost per unit to comply with the legislation than do larger organisations.

No comments were made by stakeholders regarding compliance costs and the HSNO framework.

3.5.9.2 Resourcing of the Department of Labour

Stakeholders commented on the capacity and resourcing of the Department of Labour's health and safety inspectorate: a key concern was the perception that the Professional and Specialist Services Group is not adequately resourced to provide for the enforcement of the HSE and HSNO Acts. Comments covered capacity, technical expertise and level of financial resource. The project team were provided with a number of examples of instances where occupational health and safety capacity was being provided by agencies other than the Department because the Department did not have sufficient technical and financial resource to address the situation. Stakeholders generally did not differentiate between the services provided by the inspectorate at a regional level and the services provided by the Department's head office team.

Several government stakeholders raised resourcing concerns in relation to the enforcement of the HSNO Act (eg, that resourcing is too low for the level of enforcement required and for what is expected).

3.5.9.3 Restructuring of the Department of Labour

The loss of the "OSH Service" brand through the recent restructuring of the Department of Labour was raised as a concern by stakeholders as it was perceived to be a further erosion of the occupational health and safety profile. Several of these stakeholders noted that the actual effect on the prevention of workplace injury and disease or the future capacity of the Professional and Specialist Services Group cannot be quantified at this stage but noted that it would be interesting to see what happened in the future.

3.5.9.4 Designation boundaries

A small number of comments were made by government agencies regarding the need to clarify jurisdiction issues around the designation of duties under the HSE Act and the HSNO Act (eg, the relative responsibilities of Maritime

xlii This issue was raised by two government stakeholders, one employer organisation, three health professionals and two industry bodies.

xliii This issue was raised by five government stakeholders, one research organisation, four health professionals and two training organisations.

xliv This issue was raised by two government stakeholders, two safety professionals' groups, one research organisation, one employee organisation and three health professionals.

New Zealand and the Department of Labour in respect of stevedores, or the breadth of enforcement work required under the HSNO Act in respect of aerodromes). Most noted that workable arrangements were in place for addressing these issues or that the issues were currently under discussion.

Comments made about the leadership of the compliance and enforcement system are discussed in section 3.9 of this report.

3.5.9.5 Implementation of a performance-based approach

Another key issue raised was that the implementation of the HSE and HSNO Acts requires people to have sufficient levels of information to enable them to comply with the controls provided for in the Acts.^{xlv} Stakeholders were concerned that the current levels of information available through ACOP, industry codes of practice, standards and other guidance material are inadequate to ensure a high level of compliance with best practice. Other stakeholders noted that amending key documents such as ACOP could be a very bureaucratic and time-consuming process.

3.5.9.6 Compatibility of the education and enforcement role

All categories of stakeholder identified a lack of clarity between the Department of Labour's educative and information-providing role on one hand, and the Department's enforcement functions on the other. Much of this comment focused on the interface between the education role played by the ACC and the education function undertaken by the Department of Labour when undertaking compliance activities (eg, the provision of information to assist compliance). This issue is explored further in section 3.9 of this report.

3.5.9.7 Performance

One stakeholder noted that there is a tendency for flurries of activity to occur following an incident of serious harm but that overall enforcement is weak. Given the lack of specific examples, however, it is difficult for the project team to comment further on this issue.

3.5.10 COMMENTS AND CONCLUSIONS

The compliance and enforcement system operationalises the legislative framework provided for through the HSE and HSNO Acts. Although a "One Act One Authority" framework underpins this system, its operation requires collaboration and co-operation between a range of organisations. These relationships are governed by a series of Memoranda of Understanding and operational agreements between the Department of Labour and other agencies that provide oversight of certain workplaces.

Most of the comments made by stakeholders focused on the Department of Labour as the lead agency for the compliance and enforcement system. As such, discussion in this section also takes a similar focus.

3.5.10.1 Implementing a performance-based legislative framework

One of the biggest issues associated with the compliance and enforcement framework is the implementation of a performance-based approach. This is a very different framework to that previously provided, and considerable attention must be paid to ensuring that all duty holders understand what such a system requires of them. In order to support duty holders to develop an appropriate understanding of the requirements of the performance-based system, a range of more prescriptive "acceptable means of compliance" material is required. It is a concern that stakeholders considered only limited material to be available or in preparation. For example, anecdotal evidence suggests that approximately one FTE is necessary to review one ACOP to a satisfactory level within an appropriate timeframe. However, there appears to be limited technical resource in the Department of Labour to support the development of ACOP in specific areas (section 3.10 refers).

xlv This issue was raised by four government stakeholders, three industry bodies and one training organisation.

Anecdotal evidence also suggests that the Department of Labour has made a decision to not develop ACOP in the future and to rely instead on Departmental guidance material and industry-based codes of practice. This action is consistent with a recommendation made by the Ministerial Panel on Business Compliance Costs.¹⁸ Yet it is also important that the Department of Labour be involved in this process through its role as the lead agency for health and safety. As such documents are intended to assist workplaces to demonstrate compliance with the HSE Act, it appears that the Department of Labour may need to prioritise the review of existing ACOP more highly and also review its involvement in the development of other guidance material. This is recognised by the Department.¹⁷

3.5.10.2 Resourcing issues: the Department of Labour

It is questionable whether the overall total funding provided to the Department of Labour is sufficient to enable the range of enforcement actions necessary under the HSE and HSNO Acts. However, the project team understands that a strategic baseline review of funding is currently underway. The results of this review, expected in 2006, should further clarify this issue and may provide a way forward. General information about the funding of the Department of Labour for the provision of HSE and HSNO Act enforcement is discussed in section 3.4.1 of this report.

The technical resourcing of the Professional and Specialist Services Group, including information about the resourcing of health services, is covered in section 3.10 of this report.

3.5.10.3 Restructuring and roles

The Department's Professional and Specialist Services Group is currently being restructured. At this stage, it is speculative to comment on the possible outcomes of this restructure, or the impacts that it might have on the future delivery of occupational health and safety services and/or on addressing some of the issues raised by stakeholders (ie, leadership, technical capacity and the provision of technical information to support compliance).

In saying this, the visibility of the health and safety services is significantly diminished within the new structure. While it is not possible to quantify the effect of the removal of the OSH Service brand at this stage, loss of OSH's visibility may negatively impact on the profile of health and safety in New Zealand.

3.5.10.4 Compliance costs

Each piece of legislation confers costs on a range of stakeholders. There are the costs of compliance (eg, the red-tape costs) as well as the costs associated with meeting the requirements of the Act. For small businesses (such as the 63 percent of organisations that employ less than five people), the cost of meeting the requirement to take all practicable steps is likely to be more onerous than for larger businesses. This may cause significant problems for smaller organisations. However, the project team were provided with few indications of what the red-tape compliance costs involved. The annual Business New Zealand-KPMG compliance cost survey,²⁰ a survey to measure the level of compliance with legislation, found that compliance costs associated with the HSE Act rated third in a prioritised list of areas requiring action (below general taxation and employment relations). Interestingly, large employers (more than 50 FTE) recorded more concern with compliance costs than small employers (FTE<10).

The level of compliance cost associated with the HSE Act has also been the subject of a Ministerial Panel on Business Compliance Costs report. The panel made eleven recommendations in 2000.^{xlvi} Seven of these have been implemented but no information is available on the impact of these amendments in terms of compliance costs.

xlvi These recommendations covered a range of areas including recommending that the Department provide clearer guidelines on complying with the HSE Act and introduce clearer guidelines to the Department of Labour inspectorate, improve the skills of the inspectorate, harmonise standard processes and improve interfaces across government agencies, introduce electronic databases and forms, and provide educational material.

3.5.10.5 Organisational performance

The Business New Zealand-KPMG compliance cost survey commented on the helpfulness of certain agencies within the health and safety compliance and enforcement sector. The results of this survey indicated that stakeholders found the Department of Labour to provide useful information and to have an excellent website. Limited comment about the performance of the inspectorate was provided.

The HSE Act bestows no statutory function on any agencies to undertake monitoring and analysis at a national level. The project team notes that the Department of Labour no longer undertakes specific research or monitoring of occupational health in workplaces as was done by its predecessor, the Department of Health. Retainer contracts for poisons expertise, audiology, radiation testing and other scientific services (such as those previously provided by the DSIR) are no longer in place. While contracting for these services when required is consistent with the intention of the public administration and finance changes made in the 1990s, it appears that monitoring has been largely dropped from the services that the Department provides, in favour of education and enforcement activities. It is unclear from the evidence how much occupational health and environmental monitoring is picked up by other agencies, but the project team considers that this is likely to be limited.

3.6 THE REHABILITATION AND COMPENSATION SYSTEM

Section 3.6 briefly outlines New Zealand's rehabilitation and compensation system. It includes an overview of the parameters of the compensation system, how the system operates, and the roles and responsibilities of ACC as the lead agency for work-related rehabilitation and compensation in New Zealand. Stakeholder comments on the operation of the ACC scheme are also included. Specific components of ACC's Safer Workplaces workstream are discussed in section 5.1.

3.6.1 PARAMETERS OF THE REHABILITATION AND COMPENSATION SCHEME

ACC is a Crown entity established under the IPRC Act. It is the lead agency for delivering work-related rehabilitation and compensation in New Zealand. The lead policy agency for the rehabilitation and compensation scheme is the Department of Labour. The Minister for ACC provides political leadership.

The parameters of the ACC rehabilitation and compensation scheme are set out in the IPRC Act (as discussed in section 3.3.3).

3.6.2 COVERAGE PROVIDED BY THE ACC SCHEME

The IPRC Act provides for 24-hour, no-fault, comprehensive personal injury cover. It determines what personal injury can be covered under the ACC scheme. Cover is provided for personal injury caused by:

- an accident
- a work-related gradual process, disease or infection
- medical misadventure
- mental illness caused by certain criminal acts
- some other related matters.

Cover does not include many conditions that occur gradually; episodes that are wholly internal (eg, heart attacks and strokes); ordinary dental wear-and-tear; diseases or illnesses caused by viruses, bacteria, or fungi; or

emotional effects of injuries. All people in New Zealand at the time of injury and some non-resident New Zealanders are covered by the ACC scheme.

3.6.3 OPERATION OF THE REHABILITATION AND COMPENSATION SYSTEM

ACC has a range of statutory functions in regard to the operation of the rehabilitation and compensation system for workplace injuries and disease. It is required to:

- reduce the incidence and severity of accidents
- facilitate the care, treatment and rehabilitation of injured people, including the provision of case management to restore injured persons to health
- determine cover for personal injuries and administer and pay entitlements for rehabilitation and compensation
- collect levies
- advise the government on rehabilitation and compensation services.

3.6.3.1 Injury prevention activities

ACC runs a number of incentive-based programmes in which employers take steps to improve workplace health and safety practices and reduce injuries across individual workplaces in return for discounts on ACC levies. These programmes are discussed in section 5.1. Alternatively, a programme is available to the employers with the worst health and safety records in an industry in which support is provided to improve practices.

A small number of ACC programmes focus on working with employers to support employees who return to work after injury or illness (eg, the Return to Work Project and the Spinal Injury Vocational Rehabilitation project). These projects include people who have been injured both in the workplace and in other settings.

ACC also undertakes a range of public awareness campaigns to promote injury prevention activities in both the community and the workplace (eg, television and radio advertisements, website information, and a range of booklets, brochures and pamphlets for a range of stakeholders).

Resourcing the injury prevention activities undertaken as part of the compensation system is discussed in section 3.3 and section 5.1 of this report.

3.6.3.2 The claims system

Operationally, the ACC rehabilitation and compensation system relies on injured or ill individuals visiting a health professional to seek diagnosis and treatment. A claim to the ACC scheme is made by the health professional if s/he considers that the injury or illness meets the coverage definition. ACC receives, processes and pays out claims made to it. If a claim is not submitted, entitlements and support are not provided. One of the key elements of the ACC scheme is that it does not allow people to sue others for personal injury.

The ACC claims scheme is funded through levies paid by employers and the self-employed. These funds are managed through accounts as set out under the IPRC Act. (See Table 7 in section 3.4.2 for the estimation of income and expenditure within these accounts.)

3.6.4 STAKEHOLDER COMMENTS ON THE REHABILITATION AND COMPENSATION SYSTEM

Stakeholders made relatively few comments about the operation of the ACC rehabilitation and compensation scheme, or about the coverage provided for work-related injury and disease. Those comments that were made

included that:

- the current system does not provide full cover for all work-related injuries and diseases although this is required by ILO Convention 138 (eg, infectious illnesses are not covered)^{xlvi}
- the no-fault focus provided by the ACC system could contribute to lax attitudes towards occupational health and safety because the government meets the cost of addressing personal injury^{xlvi}
- the removal of the experience rating means that employers implementing good health and safety practices pay the same rates as employers who may not implement such practices.^{xlix}

3.6.5 COMMENTS AND CONCLUSIONS

New Zealand's rehabilitation and compensation system appears to be a good model for addressing work-related injury and disease: the no-fault comprehensive coverage provided is a fair mechanism to ensure that all workers benefit from assessment, treatment, rehabilitation and compensation if they experience work-related harm that is covered by the ACC scheme. A recent evaluation found that the ACC scheme compared favourably to workplace rehabilitation and compensation schemes offered in other nations.²¹

No-fault cover is provided as part of the ACC scheme. Research indicates that employees bear about 47 percent of the costs of workplace injury and disease, with the government bearing a similar proportion.⁶ The government's contribution is provided by levies paid by employers and the self-employed. While employers may not pay directly for the costs of work-related injury and disease, they contribute significantly to rehabilitation and compensation costs.

As with any scheme, there is potential for improvement: widening coverage for work-related injuries and diseases; improving the visibility of occupational health within the ACC scheme; and smoothing the interface between the rehabilitation and compensation scheme and the compliance and enforcement system.

3.6.5.1 Coverage

While coverage under the ACC scheme is broad, there are a number of instances when a work-related disease may not be covered. For example, cover does not extend to viruses, bacteria or fungi. It is possible that a person could be infected with tuberculosis in a workplace setting but not be covered by the ACC scheme, even though exposure occurred in the workplace. The Ministerial Advisory Panel on Gradual Process, Disease or Infection is currently undertaking work to review the ACC scheme's boundaries regarding workplace exposure.

3.6.5.2 Visibility of occupational health

Claims data is one of the key tools that ACC uses to operationalise programmes to prevent injury and illness and to identify those workplaces and industries in need of assistance to improve practices. Claims data also guides the amount of levies paid into the system each year and feeds into activity prioritisation through the ACC Safer Industries programmes and national priorities such as those identified in the New Zealand Injury Prevention Strategy.

Overall, claims are more commonly made for work-related injuries (most probably due to the higher incidence of injuries when compared to occupational diseases.) (See discussion in section 2.2 of this report.) Occupational health is, therefore, likely to receive less focus because it has a smaller overall impact on the injury liabilities carried by ACC. This may be a systemic factor that contributes to decreased visibility of occupational disease.

xlvi This issue was raised by one employee organisation.

xlvi This issue was raised by one government stakeholder, one health professionals' body and one industry body.

xlix This issue was raised by one government stakeholder, one employer organisation and one industry body.

3.6.5.3 The interface between the rehabilitation and compensation scheme and the compliance and enforcement system

Liaison and collaboration between the enforcement and compliance system and the compensation and rehabilitation system is required to ensure that the overall health and safety system operates effectively. For example, it is important that the Department of Labour know about incidents of serious harm occurring in businesses that are part of an ACC incentive programme so that it can ensure that the workplace is safe. Conversely, ACC needs to know if the Department is investigating a workplace or organisation that is a member of one of its incentives programmes. One stakeholder commented that there is a tension between the Department of Labour's enforcement focus and ACC's education focus, which can lead to difficulties in sharing information for the betterment of health and safety. A discussion of the prosecution rates for organisations involved in an ACC incentive programme is included in section 5.1.

Other mechanisms for leadership and collaboration between ACC and the Department of Labour are discussed in section 3.9 of this report.

3.7 THE EDUCATION AND INFORMATION FRAMEWORK

Section 3.7 focuses on four areas of New Zealand's health and safety education framework:

- Degree and diploma-level qualifications
- National certificates and supporting unit standards designed to provide employers and employees with relevant knowledge about health and safety in the context of their workplaces
- Specific practical training in health and safety issues
- Health and safety representatives training.

3.7.1 A BRIEF OUTLINE OF NEW ZEALAND'S QUALIFICATION FRAMEWORK

Qualifications in New Zealand are based on the achievement of certain standards. Masters' degrees, degrees and diplomas are based on assessments undertaken to standards agreed upon by universities and the New Zealand Qualifications Authority (NZQA). National certificates are based on the achievement of unit standards. Recognised qualifications are entered onto the NZQA's New Zealand Register of Quality Assured Qualifications. Finally, some health and safety representative training is available and is NZQA unit standard-approved.

Additional tertiary-level training that does not sit within the NZQA Framework is available from private providers but given the wide scope for this training, discussion of this is not included in the present report.

3.7.2 QUALIFICATIONS IN HEALTH AND SAFETY: DEGREES AND DIPLOMAS

The degrees and diplomas available are:

- Master of Health Sciences (endorsed with occupational health)
- Master in Science (endorsed with ergonomics)
- Master of Nursing (endorsed with occupational health)
- Masters of Public Health (endorsed with occupational health)
- Bachelor of Medicine Science and Bachelor of Surgery (a number of papers in this qualification have an occupational health component)

- Post-graduate Diploma in Health Sciences (endorsed with occupational health)
- Post-graduate Diploma in Public Health
- Post-graduate Diploma in Science (endorsed with ergonomics)
- Diploma of Occupational Safety and Health
- Diploma of Industrial Health
- Post-graduate Certificate in Health Sciences.

A number of individual papers are available, including papers that focus on rehabilitation, occupational therapy, chemical safety and musculoskeletal injury. These papers may be included in a number of the qualifications listed above or may be undertaken as part of another course (such as post-graduate or under-graduate medical or science degrees). These are not listed in this section due to the more peripheral relationship that these can have with workplace health and safety.

Three of New Zealand's eight universities offer a combination of the qualifications listed above: the University of Auckland, Massey University and the University of Otago.

3.7.3 QUALIFICATIONS IN HEALTH AND SAFETY: NATIONAL CERTIFICATES AND UNIT STANDARDS

There are currently four national certificate qualifications regarding workplace health and safety:

- National Certificate in Construction Health and Safety
- National Certificate in Occupational Health and Safety (Co-ordination level 4)
- National Certificate in Occupational Health and Safety (Workplace Safety level 1)
- National Certificate in Occupational Health and Safety (Workplace Safety level 4).

National certificates are supported by approximately 130 unit standards developed by industry training organisations (ITOs) and/or the NZQA. These cover levels one to seven and provide training in industry-specific health and safety practices across a broad range of industries.

3.7.3.1 Service delivery

ITOs represent different industry sectors and are charged with developing and maintaining national unit standards and qualifications relating to the work undertaken in the sector represented by the ITO. The ITOs also facilitate both on- and off-the-job training in the ITO-developed material and in other courses as appropriate.

A number of other providers deliver national certificate qualifications and offer unit standards in health and safety. This includes polytechnics, institutes of technology and private training establishments.

There are few purpose-built education facilities offering health and safety education in New Zealand; however, one such centre is available in Taranaki.

3.7.4 PRACTICAL TRAINING OPPORTUNITIES: THE ODC

The ODC is the Department of Labour's in-house training centre for the health and safety inspectorate. It offers short courses in case law, investigations, prosecutions, relationship management, and refresher courses related to both the HSE and HSNO Acts. It is also the preferred provider for training in the enforcement of the HSE Act for staff working for other agencies (eg, Maritime New Zealand, the CAA, the CVIU and some territorial authorities). The ODC has plans to develop current offered courses into unit standards and a formal qualification in public sector compliance management.

The ODC is funded by the Department of Labour although other external agencies pay for their employees to attend courses run by the centre.

3.7.5 HEALTH AND SAFETY REPRESENTATIVES TRAINING

Section 19E of the HSE Act provides for the training of health and safety representatives elected under the Act. The Act requires that employers allow health and safety representatives two days' paid leave per annum to attend approved health and safety training courses. Section 19G enables the Minister of Labour to approve such courses.

3.7.5.1 Approved courses and the number of trained health and safety representatives

Currently, there are 12 approved health and safety training courses offered by a number of providers.ⁱ These courses cover a similar range of topics, including the HSE Act, hazard management, incident investigation and communications. Information received from training providers indicates that approximately 20,000 people have received health and safety representative training (for employees). Employees/self-employed people also participate in Business New Zealand's training course on the HSE Act. Site Safe operates a specific training course tailored to the construction industry, which has trained 330 people since 2003.

The majority of health and safety representatives are trained in a small number of courses (eg, the courses offered by the CTU, Business New Zealand and Site Safe). Most of the approved private providers only train a small number of representatives. The reasons for this are varied and include workforce issues (such as needing to appoint training staff) and the commercial realities for small private providers who do not receive funding from the Employment Relations Education Contestable Fund (the ERE Fund).

3.7.5.2 Funding: the ERE Fund

The ERE Fund allocates approximately \$2 million per annum to assist in the delivery of health and safety representative training programmes and training in the Employment Relations Act. Unions, employers, employer organisations and Education Act-recognised providers can apply for this funding, which is allocated by the Employment Relations Advisory Committee using standardised criteria and approved by the Minister of Labour. In 2004/05, the majority of the ERE Fund was allocated to unions and union organisers (65 percent). A further 26 percent was allocated to Business New Zealand. The remainder was allocated to private providers.ⁱⁱ It is not clear how much of this funding was allocated to fund health and safety representative training and how much was allocated for Employment Relations Act training.

Further funding of \$1.6 million (2006/07) is provided by ACC for health and safety representative training for at least 9,000 employees and 2,000 employers and self-employed people.

3.7.5.3 Evaluations of approved courses

Evaluations were not available for any of the approved health and safety representative training programmes.

3.7.6 COMMENTS MADE BY STAKEHOLDERS ABOUT THE EDUCATION FRAMEWORK

3.7.6.1 Diplomas, degrees and national certificates

Stakeholders raised a number of concerns about the availability and quality of education and training:

ⁱ Employment Relations Service website (www.ers.dol.govt.nz). Accessed January 2006.

ⁱⁱ Ibid.

- There are few available courses that bridge between longer qualification-based courses and short courses designed to upgrade a participant's knowledge of health and safety issues.^{lii}
- There is limited standardisation between courses available in the private sector, and quality among available courses can vary (with the implication that the quality of available training is not always clear to purchasers).^{liii}
- There are significant gaps in the training and funding available for occupational medicine specialties.^{liv}
- There are limited training opportunities for occupational hygienists,^{lv} technical members of the Department of Labour's Professional and Specialist Services Group,^{lvi} and designers and architects.^{lvii}
- Information included in some qualifications is outdated (for example, the Diploma of Occupational Safety and Health requires participants to calculate the pressure inside a boiler).^{lviii}

3.7.6.2 Health and safety representative training

Course providers noted that participants from a range of industries participate in the available health and safety representative training, although the CTU suggested that the uptake of health and safety representative training is not consistent across industries and that uptake is particularly slow in the transport, construction and on-hire sectors. Two private providers expressed considerable dissatisfaction in the allocation of the ERE Fund.

3.7.6.3 Training of approved handlers

The training of approved handlers and HSNO enforcement officers was raised as an implementation issue associated with the HSNO Act.^{lix}

3.7.7 COMMENTS AND CONCLUSIONS

New Zealand's education framework contains a range of opportunities for education and training in various areas of occupational health and safety: provision is made for specialised post-graduate training and short courses outlining the basics of occupational health and safety in the New Zealand context.

3.7.7.1 Gaps in education and training

Some stakeholders were concerned that there is an absence of courses that bridge between full qualifications and short courses. No specific examples of possible courses that would bridge this gap were provided. It is unclear what is intended by these comments as there are a range of NZQA unit standards that can bridge between the longer courses and short courses and that can then make up a qualification.

Occupational health and some other health and safety professions require additional consideration. Gorman²² notes that there are gaps in training for occupational physicians in terms of providing supervision of work during the training phase. This issue was also touched on by stakeholders who raised concern about the content of current medical training and the opportunities for support while studying. New Zealand is a small country and can only support training and education in topics for which demand is sufficient to make it cost-effective to develop

lii This issue was raised by five government stakeholders, two health and safety organisations and one training provider.

liii This issue was raised by five government stakeholders, two health and safety professionals' bodies, two industry bodies and three training organisations.

liv This issue was raised by two government stakeholders, one safety professionals' organisation and two health professionals' bodies.

lv This issue was raised by one health professionals' body.

lvi This issue was raised by one government stakeholder.

lvii This issue was raised by one industry body.

lviii This issue was raised by two government stakeholders, one health and safety professionals' organisation and one health professional.

lix This issue was raised by two government stakeholders, two industry bodies and one training organisation.

and run courses. A pragmatic approach to the concerns regarding gaps in education is required. In some cases, while being undesirable for personal reasons, it is likely to be more cost-effective for people to complete training off-shore and then return to New Zealand, or for New Zealand to import this expertise.

In saying this, there are some gaps in training for some professionals: there are no New Zealand-based training opportunities for occupational hygiene, and general practitioners receive minimal training in occupational health. Improving the amount of information about occupational health and safety in Bachelor of Medicine courses is likely to have the greatest impact, as this group comprises one of the most common groups of health professionals in New Zealand and is likely to be the group that comes into contact with the greatest number of occupational disease and injury cases. For occupational hygiene, it may be more efficient for people to seek training outside of New Zealand.

3.7.7.2 Health and safety representative training

Anecdotal evidence from one of the largest providers of health and safety representative training suggests that there is an uneven uptake of health and safety training across the different sectors. At this stage, this is only anecdotal; however, robust research into this area is likely to provide useful information to the Department of Labour about which sectors are participating less in their health and safety representative obligations and the reasons for this lack of participation. Such research could then provide a foundation for developing tools to improve engagement.

3.7.7.3 Quality of health and safety qualifications and training: private providers

Education in New Zealand is quality assured through a range of mechanisms including the use of NZQA-approved unit standards, approval of course content through an independent third party (such as the approved health and safety representative training), or through provider registration under the Education Act. However, there are no facilities to otherwise standardise training in health and safety, particularly the training offered by private training institutions. It is likely that there are variations in the quality of training offered by private providers, although this could not be verified given the limited availability of evaluations for health and safety courses and the resourcing constraints associated with reviewing all courses on offer. This issue is discussed further in section 3.10.

The promotion of NZQA unit standards as benchmarks for quality health and safety education is a key tool that could help to ensure that quality training opportunities are available across all components of the education spectrum.

3.8 MECHANISMS TO PROVIDE EXPERT ADVICE ON OCCUPATIONAL HEALTH AND SAFETY

A number of cross-sectoral committees and expert panels are convened to provide expert advice to Ministers of the Crown, government agencies and the occupational health and safety community in general. The main groups are:

- ministerial advisory committees and panels
- specialist advisory panels to the Department of Labour
- specialist analytical services and laboratories.

3.8.1 MINISTERIAL ADVISORY COMMITTEE AND PANELS

3.8.1.1 NOHSAC

NOHSAC is responsible for providing independent advice directly to the Minister of Labour on major occupational health and safety issues in New Zealand. It plays a key role in providing an independent assessment of the measures that will deliver the greatest benefit for the prevention of occupational injury and disease, and in developing an evidence-based approach to occupational health and safety issues.

3.8.1.2 The Ministerial Advisory Panel on Work-Related Gradual Process, Disease or Infection

The Ministerial Advisory Panel on Work-Related Gradual Process, Disease or Infection was appointed under section 31 of the IPRC Act. This panel provides independent advice to the Minister for ACC on issues relating specifically to work-related gradual process, disease or infection. It also has a statutory function to advise the Minister on the content of Schedule 2 of the IPRC Act (Occupational diseases) or the definition of work-related gradual process, disease and infection, and to review and advise the Minister on the way that ACC deals with claims for personal injury caused by work-related gradual process, disease or infection.

3.8.1.3 The Injury Surveillance Ministerial Advisory Panel

The Injury Surveillance Ministerial Advisory Panel (ISMAP) advises the Ministers of Statistics and ACC on the direction and strategy for the model of injury information management. It assesses, monitors and provides advice on the injury information and statistics gathered by Statistics New Zealand, which was appointed as the Injury Information Manager in 2002.

3.8.2 SPECIALIST ADVISORY PANELS TO THE DEPARTMENT OF LABOUR

There are a small number of specialist advisory panels that provide technical advice on health and safety issues to the Department of Labour. These specialist advisory panels are:

- the OSH Cancer Panel, which reviews all cases of bladder cancer, lung cancer, non-Hodgkin's lymphoma and leukaemia reported to the New Zealand Cancer Registry to identify possible occupational causes
- the OSH Respiratory Diseases Panel, which reviews and monitors work-related respiratory disease notifications including cases of asbestos-related diseases, occupational asthma and other work-related respiratory diseases
- the OSH Solvent Panel, which reviews and monitors notifications of chronic organic solvent neurotoxicity
- the OSH Asbestos Disease Panel, which reviews cases of asbestos-related disease and oversees the Asbestos Exposure Register.

3.8.3 SPECIAL ANALYTICAL SERVICES AND LABORATORIES

New Zealand has a range of specialist laboratories that provide analytical services to the health and safety community. Organisations with a component of public funding include the Institute of Environmental Science and Research, AgriQuality, the National Audiology Centre and the National Radiation Laboratory. The National Poisons Centre also operates a call centre that people can call for advice about exposure to hazardous substances. There are no longer any direct retainer contracts between the Department of Labour and these specialist organisations (although there were previously with the Department of Health).

There are approximately 20 private providers of specialist analytical or monitoring services for issues such as noise, asbestos, air quality, environmental monitoring, drug and alcohol use in the workplace, electromagnetic fields and general health monitoring.

3.8.4 STAKEHOLDER COMMENT

One research stakeholder commented on the historical provision of state-funded analytical capacity and monitoring services and noted that this resource appears to have been lost. Information about the historical resourcing of occupational health services is discussed in sections 2.4, 3.5.1 and 3.10 of this report.

3.8.5 COMMENTS AND CONCLUSIONS

A small number of organisations and mechanisms exist to enable access to technical advice and expertise on a range of occupational health and safety issues. This capacity is provided across a number of levels including localised and national level services. In order to further develop this expertise, New Zealand requires a critical mass of scientists and medical experts practising in occupational health and safety. The capacity of the technical base is discussed in section 3.10 of this report.

It appears that resources historically used to fund occupational health and safety monitoring and analysis are no longer used in this way: the Department of Labour no longer regularly contracts analytical and monitoring services from the Institute of Environmental Science and Research, the National Audiology Centre, the National Radiation Laboratory and the National Poisons Centre. It is not clear how the transferred funding is now used.

3.9 COLLABORATION AND LEADERSHIP

Each aspect of the system outlined in sections 3.5, 3.6, 3.7 and 3.8 contributes to the achievement of the same outcome: prevention of and reduction in the harm and suffering caused by work-related injury or disease. Every organisation involved in the system, from employees to Ministers of the Crown, has an important role to play in contributing to this outcome.

Section 3.9 sets out the mechanisms that provide for collaboration in occupational health and safety across the compliance, rehabilitation and education frameworks. It describes mechanisms to provide horizontal collaboration: ministerial committees, inter-agency groups and cross-industry groups. It also describes mechanisms for vertical integration such as the role played by organisations like the CTU, Business New Zealand and industry fora. This section also identifies stakeholder comments about the overall performance of certain collaborative components.

3.9.1 INTERNATIONAL COLLABORATION

New Zealand is involved in a number of collaboration and co-ordination mechanisms at an international level. Delegates from the Department of Labour, the CTU and Business New Zealand represent New Zealand at International Labour Office conferences.

3.9.2 POLITICAL LEADERSHIP AND COLLABORATION

A number of Ministers of the Crown have responsibilities for providing political leadership across the occupational health and safety system, including the Minister for Labour and ACC. This Minister provides leadership in the development of strategic directions for injury prevention and oversees the implementation of activities to achieve

strategic outcomes. A range of other Ministers who oversee portfolios that impact on injury prevention and community safety also perform a political leadership role (eg, the Minister of Health and the Minister of Economic Development).

The project team notes that the establishment of a tripartite committee to oversee the implementation of the Workplace Health and Safety Strategy [action 12(1) of the Strategy refers] would also provide a mechanism for providing formal collaboration and political leadership. The establishment of this group is discussed in section 4.2.

3.9.1.1 The Injury Prevention Ministerial Committee

The Injury Prevention Ministerial Committee comprises the Minister for ACC and 11 Ministers with responsibility for agencies and portfolios that impact on injury prevention and community safety. It oversees the progress and implementation of the New Zealand Injury Prevention Strategy (NZIPS) and the specific injury prevention strategies made under the NZIPS, including the Workplace Health and Safety Strategy. The committee also provides direction to ensure that the government policies impacting on injury prevention are consistent, and that collaboration and co-ordination is maximised across government agencies, and between agencies and communities.

3.9.2 COLLABORATION ACROSS GOVERNMENT AGENCIES

Collaboration across government agencies occurs through formal mechanisms like:

- a Memorandum of Understanding (eg, between ACC and the Department of Labour in regard to collaboration between the compliance and enforcement system and the rehabilitation and compensation scheme)
- Memoranda of Understanding and operation agreements (eg, in relation to collaboration between the compliance and enforcement agencies as discussed in section 3.5)
- inter-agency committees like the Workplace Health and Safety Strategy Government Agency Group (discussed in section 4.2).

Informal mechanisms, such as regular communications between government officials and between officials and the government's social partners, occur on a regular basis.

3.9.2.1 Collaboration between ACC and the Department of Labour

Since the HSE and IPRC Acts give education and information provision functions to both ACC and the Department of Labour, collaboration across workstreams is very important. Collaboration between ACC (as lead agency for rehabilitation and compensation) and the Department of Labour (as the lead agency for the compliance and enforcement system) is governed by a Memorandum of Understanding and a more detailed operational agreement. These documents set out the relationship between the parties, and cover the following issues:

- Implementing the Workplace Health and Safety Strategy
- Co-ordinating the application of health and safety legislation to avoid overlaps and gaps in coverage and to promote efficiency
- Providing a seamless, responsive and consistent service
- Sharing information about organisations and claims.

3.9.3 INDUSTRY-BASED COLLABORATION

Industry plays a critical role in identifying the health and safety issues most applicable to that sector. Industry and sector stakeholders are also key partners in identifying and developing initiatives to reduce and prevent work-related harm. This section briefly describes some of the key mechanisms that provide for industry engagement in

improving work-related health and safety practices. It covers both industry engagement with government agencies and sector-focused mechanisms.

3.9.3.1 Industry and government collaboration

ACC operates a Safer Industries programme, which involves close collaboration with identified industries to address industry-specific workplace health and safety issues. Committees involved in this process can include representatives from employers, employees, self-employed persons, unions, training organisations, technical experts, government agencies and employer groups. This programme is discussed in further detail in section 5.1.5.

Other industry health and safety groups include the Agriculture Safety Council, the Industry Safety and Health Advisory Group and MINEX Health and Safety Council (an industry-funded body to improve health and safety practices in the extractives industry). These groups tend to be established by the industry that they represent for the purposes of identifying and addressing health and safety issues. Representatives from these kinds of groups may be represented in a Safer Industries Group.

3.9.3.2 Leadership and collaboration within and across industries

There are a number of industry groups that provide leadership to industry groups on a range of issues, including but not limited to health and safety issues. These groups and the industry that they provide collaboration for are:

- the New Zealand Timber Federation (forestry)
- the Forest Owners' Association (forestry)
- Federated Farmers (agriculture)
- Business New Zealand (general employer and business representative)
- the Road Transport Forum (transport)
- the Chemical Industry Council (chemicals)
- the Construction Industry Council (construction)
- the District Health Boards Health and Safety Group (health)
- Fish-Safe (Fishing)
- the Council of Trade Unions (general employee representative).

A number of these groups also have both formal and informal links with each other, especially if there are synergies between the operations of the industries.

3.9.4 STAKEHOLDERS COMMENTS ON COLLABORATION AND LEADERSHIP

Stakeholder comments on collaboration focused on the clarity of leadership in the health and safety system: there was concern that the lead agency for delivering health and safety service is not clear.^{lx}

Two government stakeholders noted that the Department and ACC have been taking steps towards developing a single voice when talking to industry and the wider sector; although two health and safety professionals and one training organisation noted that the two agencies do not always speak the same language. Two stakeholders considered that more seamless service could be provided, with one of these stakeholders noting that the services could be integrated as a means of providing more consistent programmes.^{lxi} Five stakeholders also noted the need for the Department of Labour and ACC to share data about cases of work-related injury and disease and about the

lx This issue was raised by two government stakeholders, one health and safety professionals' body, one research organisation, one employer organisation, one employee organisation, two health professionals, one industry body and one training organisation.

lxi This issue was raised by one government stakeholder and one health professional.

behaviour of employers involved in incentive programmes in order to ensure that resources are used in the most effective manner.^{lxii} Five stakeholders considered that there is a need to ensure that the interfaces between the key government agencies are sufficiently resourced to give effect to a truly whole-of-government approach.^{lxiii}

3.9.5 COMMENTS AND CONCLUSIONS

Addressing occupational health and safety issues requires a multi-disciplinary process. This means that strong partnerships and clear collaboration mechanisms across all levels are necessary to achieve good faith communications, commitment to agreed priorities and practices and, subsequently, good workplace health and safety practices and outcomes.

New Zealand has a range of mechanisms that provide for both formal and informal collaboration at a number of different levels of the system. These range from political leadership and co-ordination, to employee collaboration through involvement as health and safety representatives. Clear collaboration mechanisms exist at a political level, and the formalisation of the tripartite arrangement is likely to provide additional strength in this area. Collaboration between various industries and government agencies is provided through a range of mechanisms, and there have been some examples of success stories from cross-sector collaboration (such as the development of the ATV guidelines or the boat building guidelines).

Areas where additional collaboration could be fostered are found in the interactions between government agencies. For example, stakeholders raised a number of concerns about the effectiveness of the collaboration between ACC and the Department of Labour, including whether it is providing for consistent and cohesive services across the functions of the occupational health and safety system. An example of this can be seen in the data sharing processes between ACC and the Department (such as sharing of WSE data): knowledge of the workplaces in this scheme is a critical component in ensuring that workplaces proven unsafe can be followed-up by the compliance agency and corrective measures put in place. However, the Memorandum of Understanding appears to limit the Department of Labour's ability to use data in this way. This is a critical issue that may need to be resolved to ensure that steps can be taken to deliver a seamless service between the compliance and enforcement system and the rehabilitation and compensation scheme. The Department of Labour recognises the importance of good collaboration between itself and ACC and has established a dedicated team to manage this relationship.

The health and safety system in New Zealand operates on a sliding scale between compliance and enforcement activities and rehabilitation and compensation activities. Education and information span these functions. The compliance and enforcement end of the spectrum provides information about how to comply with the legislative framework (which in New Zealand means undertaking all practicable steps and applying good workplace health and safety practices). The rehabilitation and compensation end of the spectrum provides information about preventing injuries. Strong leadership across the spectrum requires expertise, resources and a mandate. The mandate for leadership in compliance and enforcement activities is provided to the Department of Labour through the HSE Act although, as discussed in section 3.10, the current technical resourcing may limit the Department's ability to deliver this effectively. A similar mandate for injury prevention is provided to ACC through the IPRC Act. An overlap in the area of leadership appears to occur between these two agencies in respect of education and information, since both agencies have a mandate. Clarifying the leadership functions is vital to ensure that opportunities for duplication and inconsistency are minimised and to ensure that an integrated and cohesive system provides for safe workplaces.

lxii This issue was raised by two government stakeholders, one health and safety professionals' group, one employee organisation and one health professional.

lxiii This issue was raised by two government stakeholders, one health professional, one industry body and one training organisation.

3.10 THE HEALTH AND SAFETY WORKFORCE

The capacity of the occupational health and safety workforce is closely related to the overall performance of the enforcement, compensation and education system. This workforce encompasses a diverse range of professionals.

Section 3.10 outlines the workforce resources available across the occupational compliance/enforcement, rehabilitation and compensation, and education sectors. It is not always possible to separate out certain professional groups from discharge of individual functions, given the range of settings in which workforce members operate. As such, this section is broken down into sub-parts that provide short descriptions of the roles played by the workforce and the numbers of professionals involved in each.

Professionals discussed are:

- inspectorate services, including the Department of Labour's Professional and Specialist Services Group, and inspectorate services provided by Maritime New Zealand, the CVIU and the CAA
- health and safety professionals
- health and safety consultants
- ACC FTE to operate the work-related injury prevention activities (including the operation of the ACC incentives programmes).

For some groups (eg, private health and safety consultants), very limited information is available on the total number of practitioners as there is no source of robust information. The exclusion of other professionals working in the occupational health and safety field is not intended to undermine the role that those professionals play in creating good health and safety outcomes.

Information on the number of trained health and safety representatives is included in section 3.7 of this report.

3.10.1 INSPECTORATE SERVICES

This section includes the following inspectorate services: the Department of Labour's Professional and Specialist Services Group; Maritime New Zealand's inspectorate; the CAA's inspectorate; and the inspectorate services provided by the CVIU.

The inspectorate services enforce the HSE Act and the HSNO Act in workplaces. The functions are outlined in section 3.5 of this report. In addition, Departmental medical practitioners have specific statutory functions in regard to occupational health, such as examining or requiring the medical examination of employees exposed to significant occupational health hazards, and suspending employees to protect health.

3.10.1.1 Workforce capacity

Tables 8a and 8b estimate the number of professionals engaged in the Department of Labour's Professional and Specialist Services Group at both regional and head offices, and the FTE allocation associated with this.

INSPECTORATE	NUMBER INVOLVED	
	TOTAL POSITIONS AVAILABLE	POSITIONS FILLED
Department of Labour Professional and Specialist Services Group (Regional offices)^{lxiv}		
General warrant (GW) health and safety inspectors	39	39
Accident or injury prevention consultants	3	3
Construction inspectors	7	7
Construction/GW inspectors	8	8
Construction/HSNO inspectors	8	8
Construction/GW/HSNO inspectors	9	8
Departmental medical practitioners	13	13
Engineering officers	0	2
Forestry inspectors	7	4
Forestry/GW inspectors	2	1
Forestry/HSNO inspectors	4	2
Forestry/GW/HSNO inspectors	4	2
GW/health inspectors	7	7
GW/health/HSNO inspectors	2	2
High hazard inspectors	2	2
HSNO inspectors	35	35
HSNO, explosives and flammables inspectors	1	-
HSNO, occupational hygiene	1	1
Information support officers	28	28
Occupational health nurse/inspector	7	7
Occupational health nurse/HSNO	8	8
Occupational health scientist	2	1
Petroleum/geothermal/HSNO inspectors	1	2
Service managers	22	22
Surface mines, coal mines, quarries, tunnels	2	2
Trainee health and safety inspectors	13	12
Total	235	226
Department of Labour (head office)		
Health and safety professional and specialist support staff (Department of Labour)	16	16

lxiv These figures are based on information sourced in August 2005. Section 3.4 discusses the current restructure of the Department of Labour's health and safety inspectorate and head office. The changes undertaken as part of this review may affect the workforce resourcing of the inspectorate and head office.

TABLE 8B		Occupational health and safety services FTE resource: Department of Labour	
CATEGORY		BUDGETED FTE 2006/07	
Regional staff			
-	Management		31
-	Health and safety inspectors		157
-	Technical specialists		15
-	Support staff		29
Head office staff			
-	Chief advisors		2
-	Business advisors		10
-	Engineering safety		5
-	Support staff		3
-	Management		2
-	Policy		11
		Total	265

The difference between the FTE allocation outlined in Table 8b and the actual resource currently available can be explained by the fact that these figures cover two different financial years, spread across a time of restructuring in the delivery of occupational health and safety services.

In addition to the inspectorate workforce provided at the Department of Labour, the CAA employs two health and safety inspectors to undertake functions related to its designation under the HSE Act and to operate its health and safety unit at the CAA's head office. Approximately 20 Maritime New Zealand inspectors undertake the inspectorate role onboard ships as part of their other inspectorate duties.

3.10.1.2 Cross-workforce collaboration

There appears to be no body to provide cross-workforce support and collaboration for the inspectorate workforce.

3.10.2 OCCUPATIONAL HEALTH PRACTITIONERS

This section outlines the roles of a range of specialist occupational health practitioners including occupational physicians, occupational health nurses, occupational hygienists, physiotherapists and ergonomists.

3.10.2.1 Workforce capacity

Table 9 identifies the overall resource for occupational health practitioners and the roles undertaken, qualifications, and registration or certification requirements. Practitioners work in a range of settings including private practice, for government agencies and for private businesses. Double-counting between Table 8a/b and Table 9 is possible as there are occupational physicians and occupational health nurses employed in the inspectorate and registered through a professional body.

TABLE 9 Specialist occupational health practitioners		
PROFESSIONAL GROUP	NUMBER	ROLE, QUALIFICATION AND CERTIFICATION/REGISTRATION
Health practitioners		
Occupational physicians ^{lxv}	38	Provide diagnosis, assessment, treatment and medico-legal services Bachelor of Medicine or equivalent degree; occupational medicine qualification optional Registration by the Medical Council mandatory; fellowship of the Australasian Faculty of Occupational Medicine optional
Occupational health nurses ^{lxvi}	348	Advise in injury prevention, undertake health monitoring and first aid, undertake strategic hazard management planning, investigate incidents, and provide rehabilitation and return to work services Nursing qualification; qualification in occupational health optional Registration by the Nursing Council mandatory but no specific competency for practising as an occupational health nurse is required
Physiotherapists ^{lxvii}	101	Provide treatment and rehabilitation services to injured people Registration by the New Zealand Physiotherapists Board mandatory
Other health and safety professionals		
Occupational hygienists ^{lxviii}	40	Design and implement hazard control systems, undertake hazard surveys and research, develop technical material on hazard management Science or engineering qualification Registration through the New Zealand Occupational Hygienists Society voluntary
Ergonomists ^{lxix}	10	Focus on interactions between people and workplace systems to improve workplace health and safety No restrictions on trade Certification by the Board for Certification of New Zealand Ergonomists voluntary

3.10.2.2 Professional representation

Occupational health practitioners are represented by a range of professional bodies. The main organisations and the roles they play are:

- Australasian Faculty of Occupational Medicine – a professional body for occupational physicians that seeks to establish and maintain the standard of practice of occupational medicine in Australasia through the operation and maintenance of training and continued professional development programmes
- Australia and New Zealand Society of Occupational Medicine – a professional body that seeks to advance knowledge for registered health professionals such as general practitioners and occupational health nurses who are involved in occupational medicine
- New Zealand Ergonomists Society – a society to represent the interests of New Zealanders with an interest in ergonomics that contains a professional certification system for ergonomists in association with the Board of New Zealand Certified Ergonomists
- New Zealand Occupational Hygienists Society – a professional body to create a forum for discussion between occupational hygienists practising in New Zealand and others with an interest in occupational hygiene

lxv The Medical Council of New Zealand's online register: (www.mcnz.org.nz). Accessed November 2005. This data is drawn from the specialty fields registered by individuals with the Medical Council.

lxvi Membership figures from the New Zealand Occupational Health Nurses Association.

lxvii NZHIS²³ notes that this figure is indicative only: it includes physiotherapists who work in occupational health as their main employment setting (approximately 3.4 percent of the total physiotherapy workforce in New Zealand) but data is missing for about 30 percent of the workforce.

lxviii The New Zealand Occupational Hygienists Society website: (www.nzohs.org.nz). Accessed November 2005.

lxix The Ergonomics Society website: (<http://www.ergonomics.org.nz>). Accessed November 2005.

- New Zealand Occupational Health Nurses' Association – a professional body for occupational health nurses that promotes professional development within the competency framework required by the Nursing Council.

3.10.2.3 Cross-workforce collaboration

There are few groups established to provide cross-sector collaboration between different groups of occupational health practitioners. During the research period, the project team only identified one such organisation: the newly-formed Occupational Health and Safety Industry Group (OHSIG). The OHSIG comprises members from the New Zealand Occupational Health Nurses' Association, the New Zealand Institute of Safety Management and the New Zealand Occupational Hygiene Society. The OHSIG attempts to enhance the ability of occupational health practitioners to have input into the strategic development of occupational health and safety in New Zealand. Given its fledgling status, it remains to be seen how the OSHIG performs as a co-ordinating point for collaboration.

3.10.3 HEALTH AND SAFETY CONSULTANTS

New Zealand's health and safety workforce includes a number of consultants who provide specialist advice on a range of health and safety issues, including achieving compliance with the HSE and HSNO Acts, specialised systems or products, assessment services, accidents and incident investigations, and technical advice to employers and employees on the whole range of health and safety issues. It is unclear how many organisations or individuals are operating in this capacity as the industry is unregulated and no national data is collated.

There are some registration systems available for these professionals, although fewer than 20 health and safety professionals are registered with the following bodies:

- New Zealand Institute of Safety Management – an institute that runs a registration service for occupational health and safety professionals as well as providing a range of services to promote safe work systems
- New Zealand Safety Council – a safety organisation that runs a registration programme for health and safety professionals.

3.10.4 ACC FTE

ACC employs a number of FTE to provide services to support the operation of the ACC incentives programmes (discussed in section 5.1 of this report). Table 10 outlines the FTE and the associated work area identified by ACC:

TABLE 10		ACC FTE
PROGRAMME/WORK AREA	FTE ALLOCATION	
Injury prevention consultants	16.0	
Workplace Incentives Programme	11.0	
Corporate account managers	4.0	
Workplace injury prevention managers	0.5	
Data analysts	0.5	
	Total	32.0

3.10.5 STAKEHOLDERS' COMMENTS

Occupational health and safety workforce issues attracted significant comment from stakeholders. Particular areas identified included:

- sector-wide capacity in occupational health and safety
- the capacity of the Department of Labour's Professional and Specialist Services Group.

3.10.5.1 Stakeholder comments on sector-wide capacity issues with the current occupational health and safety workforce

Generally, stakeholders were concerned that New Zealand has a limited pool of technically competent people possessing the capacity to undertake the tasks required to ensure good health and safety outcomes.^{lxx} Specific examples of the transfer of competent staff between the Department of Labour and other organisations (including government agencies) were repeatedly used to illustrate this point.

Stakeholders identified a number of specific gaps in the workforce:

- General practitioners trained in occupational medicine and with the capacity to diagnose work-related illnesses and injuries^{lxxi}
- Specialist occupational physicians
- Toxicologists and scientists working in occupational health and safety
- Ergonomists
- Certain research-related positions such as epidemiologists and biostatisticians.

Factors contributing to these shortages included gaps in the training structure (in terms of the limited availability of specific technical courses, limited content of available courses and limited opportunities for support during study). Market factors such as the difficulty of leaving general practice to study and the limited amount of specialist work available following qualification were also identified as problems specific to occupational physicians and general practitioners. This can be compounded by limited public funding for positions or training for such positions.

A number of stakeholders commented on the variability in the overall competence of health and safety consultants in terms of delivering cost-effective health and safety solutions to clients.^{lxxii} Several stakeholders^{lxxiii} noted that there are no formal qualifications or certification processes for such practitioners, and it is difficult for employers to know whether they are receiving sound advice. Standard qualifications or certification were also raised as issues in relation to occupational health nurses (although comments about variability in performance were not).

Two stakeholders raised concerns about New Zealand's ageing workforce and its potential to impact negatively on the health and safety workforce in New Zealand. Many health and safety professions contain a disproportionately large number of people aged 50 years and older. The need to develop clear career pathways was indicated by six stakeholders from different sectors.

Awareness of the jurisdiction boundaries between activities undertaken by certain groups of health and safety professions was raised as a key issue. For example, the New Zealand Occupational Health Nurses' Association, the

lxx This issue was raised by six government stakeholders, one health and safety professionals' body, one research stakeholder and one health professional.

lxxi The limited nature of training on occupational health issues provided for in the general medicine curriculum was raised as an issue by two government stakeholders, one safety group and two health professional groups.

lxxii This issue was raised by three government stakeholders, one safety professionals' group, two health professional groups, one industry body and one training organisation.

lxxiii This issue was raised by two government stakeholders, one health and safety professionals' group and one health professional.

New Zealand Ergonomists Society and the New Occupational Hygienists Society noted that no-one seemed to know what they did and therefore their services tended to be under-utilised.

3.10.5.2 Stakeholder comments on the capacity and capability of the Department of Labour's Professional and Specialist Services Group

A number of stakeholders acknowledged that the Department of Labour has difficulty competing with the private sector remuneration packages when recruiting and retaining qualified and competent health and safety inspectors (eg, a health and safety inspector may be paid approximately \$45,000 per annum at the Department but would receive considerably more than this in the private sector).^{lxxiv} Two stakeholders noted a positive angle to this issue: job migration helps to share health and safety expertise between organisations. Nonetheless, the project team notes that this can also be problematic, particularly if the Department becomes a technical training institute for the private sector.

Five stakeholders noted that the current Departmental medical practitioner positions within the Department of Labour are under-utilised, and that the devolved structure and limited hours worked by each practitioner can inhibit the utility of the role.^{lxxv} Having an occupational health specialist in a position of leadership within the Department was also identified as a potential means of improving the visibility of occupational health within the Department's work programme.^{lxxvi}

There was also concern that individual inspectors are required to take on too many specialist areas, particularly given that some of the specialised areas require a significant base-knowledge and ongoing professional development if functional knowledge of the issues is to be maintained (eg, HSNO inspectors).^{lxxvii} These comments were not intended as criticisms of individual inspectors. Rather, they reflected the level of knowledge required to perform in this area.

3.10.6 COMMENTS AND CONCLUSIONS

New Zealand's occupational health and safety workforce is made up of a range of health and safety practitioners who:

- hold a variety of qualifications and expertise in occupational health, from highly-qualified technical or specialist registered experts through to consultants with human resource backgrounds practising in unregulated markets
- operate in a range of situations and settings, though with a focus more on the safety aspects of work-related injury than on occupational health.

The combined efforts of the occupational health and safety workforce are one of the key mechanisms through which to achieve good health and safety outcomes. However, the capacity of the workforce appears to be of concern to stakeholders. While these concerns may be valid, it is difficult to assess the level of resourcing required to meet New Zealand's needs without undertaking a comprehensive analysis of workload. This limits comment to the workforce components on which the project team had sufficient information: capacity in occupational medicine, the technical capacity of the inspectorate, qualifications, awareness of the roles of certain practitioners and the ageing nature of certain sections of the workforce.

lxxiv This issue was raised by four government stakeholders, one health professionals' group, two industry bodies and one training organisation.

lxxv This issue was raised by two government stakeholders and three health professionals.

lxxvi This issue was raised by three government stakeholders, one health and safety professional body, one research organisation, one employee organisation and two health professionals. This concern has recently been met with the appointment of a Chief Advisor – Occupational Health.

lxxvii This issue was raised by two government stakeholders, one research organisation and one industry body.

3.10.6.1 Capacity in occupational medicine

There are 13 Departmental medical practitioners employed across each of the Department of Labour's regional offices. However, the FTE allocation means that the contact time available is limited (ie, 0.1 and 0.2 FTE per position). This resource may be spread too thinly to enable the functions of the Departmental medical practitioners to be fulfilled adequately on an ongoing basis.

3.10.6.2 Strengthening the technical capacity of the inspectorate workforce

Currently, the Department employs a limited range of technical expertise:

- 8 FTE in HSNO enforcement are available.
- Only two scientist positions are available.
- There are no epidemiologists.
- Approximately 0.2 FTE in toxicology expertise is available.
- A small number of sector advisors are engaged to deliver leadership in the following: health, agriculture, construction, extractives, machinery and forestry.

In particular, the Department's occupational health capacity appears to have been diminished since 1991, as outlined in Table 11:

TABLE 11		Historical occupational health resources 1991–2005		
		1992/93	2004	2005
Head office				
Departmental medical practitioners		5 staff (part FTE)	2.4 FTE (15 staff)	2.5 FTE (13 staff)
Ergonomists		1	0	0
NODS registrar		0	1	0
Noise scientists		1	0	0
Nursing advisors		1	0	0
Occupational hygienists		5	3	0
Occupational physician		1	0	0
Occupational scientists		3	2	2 ^{lxxviii}
Policy advisors and support staff		2	2	2
Regional offices				
Health and safety inspectors ^{lxxix}		Not available	130	142
Occupational health nurses		37	13	15

Source: Collated from information supplied by the Department of Labour and the Ministry of Health.

The project team acknowledges that there are some issues in comparing the FTE allocations for delivering the inspectorate services across the years due to the ways in which service delivery has changed. However, the figures provided in Table 11 indicate that the occupational health resource is more limited in 2005/06 than it was when the resourcing was initially transferred from the Department of Health.

If the Department of Labour is to take a leadership role in occupational health and safety, it must engage a sufficient level of technical expertise. Such steps are underway, as evident in the recent allocation of an additional \$730,000 for occupational health services and the appointment of a Chief Advisor – Occupational Health. It remains to be seen what impact this position will have in raising the profile of occupational health in particular within the Department.

lxxviii There is currently one vacancy at the Department of Labour for this position.

lxxix Some health and safety inspectors have qualifications in occupational health but the data does not enable a clear distinction of these inspectors from other safety-oriented inspectors.

Additional research to ascertain with greater certainty where gaps in technical expertise and service currently exist (eg, those services where contract expertise is limited) would also provide a basis for developing a strategic workforce development plan for the inspectorate and the Department of Labour, to ensure that leadership functions are delivered. Strengthening the technical capacity of critical organisations, such as the Department of Labour's Professional and Specialist Services Group, is identified as an action in the Workplace Health and Safety Strategy Action Plan.^{lxxx}

The Department of Labour is currently undertaking a strategic baseline review to identify the range and nature of products and services that it needs to deliver and the capabilities required to deliver these services. A report assessing the delivery of existing services and identifying options for the future is due for completion in June 2006. This report may identify changes required to the FTE allocation of the occupational health and safety services and may provide for changes to the resourcing of the occupational health and safety services.

3.10.6.3 Qualifications

A number of groups of occupational health and safety professionals have no standardised qualifications or competence standards that must be achieved before practice in a subject area can be undertaken. This can create issues for consumers of health and safety services, who may not be aware of the level of competence or qualification held by a person practising under a certain title. Requiring more formalised registration or certification mechanisms may result in excessive red-tape costs for practitioners, especially in workforces with a small number of providers. Nonetheless, it may be appropriate to explore options for providing more certainty about the quality of practitioners in a range of workforce sub-groups (eg, health and safety consultants). Both the New Zealand Institute of Safety Management and the New Zealand Safety Council are currently developing such systems. Maintaining a watching brief on the reach, acceptability and scope of these systems is likely to provide information on whether such systems could be used to address concerns about the health and safety consultancy market.

Information on the training and qualifications available in New Zealand is discussed in section 3.7 of this report.

3.10.6.4 Awareness of the roles and responsibilities of members of the workforce

There is a general lack of awareness about the roles fulfilled by certain groups of health and safety professionals, including occupational health nurses, ergonomists and occupational hygienists. A lack of understanding of the work undertaken by professionals in these groups could result in an under-utilisation of the available resource. This is an issue that should be addressed by the professional bodies for each group. Some bodies are undertaking considerable work in this field, and that awareness should increase if these efforts are sustained.

3.10.6.5 Ageing workforce issues

One of the key issues facing certain parts of the health and safety workforce is the increase in the average age of practitioners in certain fields. For example, anecdotal evidence suggests that the majority of the Department of Labour's Professional and Specialist Services Group are aged over 50 years. An analysis of medical practitioners registered with a vocation in occupational medicine indicated that 55 percent completed their Bachelor degree training in or before the 1970s and are aged 50 years and older. Accurate data for the other professions is not readily available. However, it appears reasonable to consider that these professions will follow a nation-wide trend and experience workforce shortages in the near future due to retirement of the current workforce. Investigating options for encouraging people to join a health and safety profession may be an option to consider in a workforce development strategy.

^{lxxx} Action 3a(8) of the Workplace Health and Safety Strategy Action Plan.

SECTION FOUR

NATIONAL

POLICY FRAMEWORK



New Zealand's national policy framework for occupational health and safety consists of two key strategies:

- The New Zealand Injury Prevention Strategy (the NZIPS)
- The Workplace Health and Safety Strategy to 2015 and Action Plan.

Section 4 outlines the key components of these documents and provides an analysis of the issues associated with achieving their key strategic outcomes.

4.1 THE NEW ZEALAND INJURY PREVENTION STRATEGY

The NZIPS articulates the New Zealand Government's strategy for preventing injury. Its vision is of "a safe New Zealand, becoming injury-free" (24 p.ii). This strategy provides a framework for injury prevention activities undertaken across a wide range of agencies including central and local government, community organisations, individuals and non-government organisations.

There are ten objectives in the NZIPS:

- Knowledge: Raise awareness and commitment to injury prevention
Advance injury prevention knowledge and information
- Resourcing: Strengthen injury prevention capacity and capability
Ensure appropriate resource levels for injury prevention
- Programmes: Design and develop safe environments, systems and products
Develop and implement effective injury prevention interventions
Develop, implement and monitor national injury prevention strategies for priority areas
- Legislation: Maintain and enhance the legislative and policy framework supporting injury prevention
- Collaboration: Integrate injury prevention activity through collaboration and co-ordination
Foster leadership in injury prevention.

The NZIPS is designed to assist New Zealand to focus injury prevention efforts and resources through the development, implementation and monitoring of national strategies for six priority areas. These priority areas are based on current ACC claims data. One of these priority areas is workplace injuries including occupational diseases.

The NZIPS is led by ACC, but it recognises the Department of Labour as the government agency responsible for co-ordinating a national strategy on workplace injury prevention. The NZIPS Implementation Plan requires the Department of Labour secretariat to report to the NZIPS secretariat on progress in supporting the NZIPS objectives such as the development of the Workplace Health and Safety Strategy. The Injury Information Manager is charged with monitoring the implementation of the NZIPS and any strategies made within its framework.

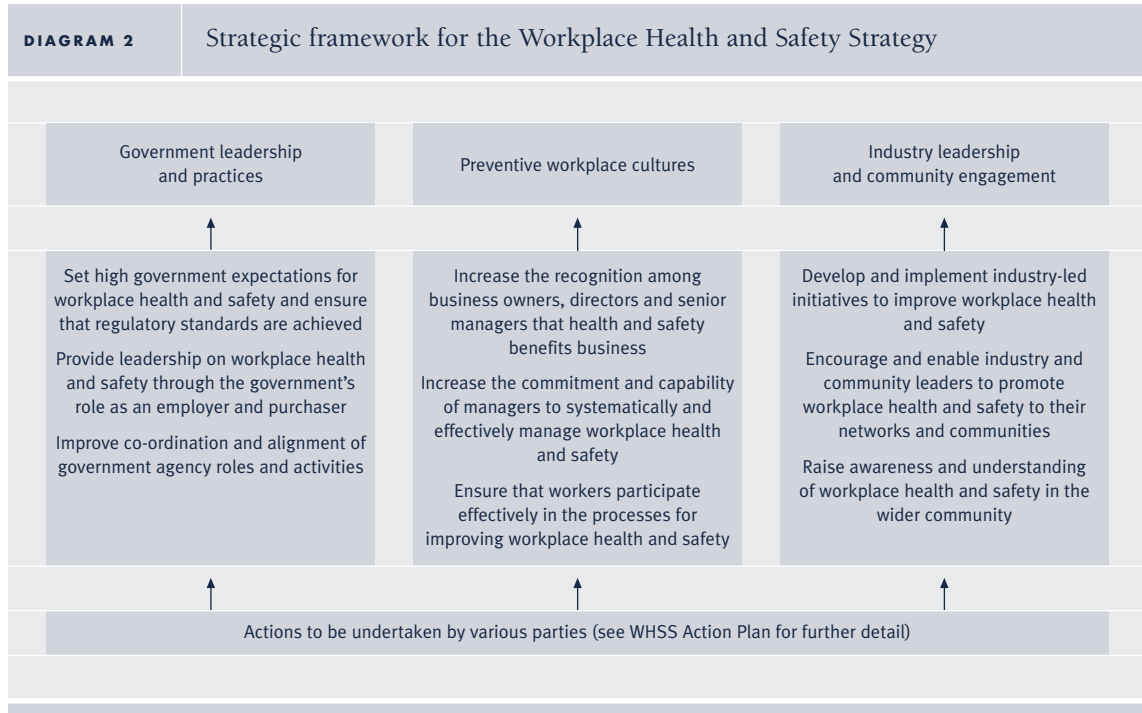
4.2 THE WORKPLACE HEALTH AND SAFETY STRATEGY TO 2015

The Workplace Health and Safety Strategy sits under the NZIPS and provides more specific direction on addressing health and safety in the workplace. Overall, the Workplace Health and Safety Strategy provides a framework to promote workplace health and safety activities across all levels including central and local government agencies, unions, employer and industry groups, non-government organisations and workplaces. It is consistent with the NZIPS and with the provisions of the HSE Act.

The Minister of Labour released the Workplace Health and Safety Strategy together with a detailed Action Plan in June 2005.

4.2.1 CONTENT OF THE WORKPLACE HEALTH AND SAFETY STRATEGY

The Strategy's vision is of "healthy people in safe and productive workplaces" (25 p.ii). The content of the Strategy is illustrated in Diagram 2:



The Workplace Health and Safety Strategy outlines eight priority areas:

- Airborne substances
- Workplace vehicles
- Manual handling
- Psychosocial work factors
- Vulnerable workers
- Small business
- High-risk industries
- Slips, trips and falls.²⁵

The strategy also identifies a number of emerging issues or areas of concern, including contract workers and those in precarious employment, changes to work practices, changes in the sectors in which people work (particularly the shift from a production-based economy to a service-based one), emerging illnesses or diseases associated with certain occupational practices, increasing numbers of small and medium businesses, and increased workforce diversity.

The Workplace Health and Safety Strategy places a strong focus on delivery and implementation and is supported by a detailed one-year Action Plan that allocates specific tasks to agencies or organisations for action in 2005/06.

4.2.2 GOVERNANCE ARRANGEMENTS FOR THE WORKPLACE HEALTH AND SAFETY STRATEGY

The implementation of the Workplace Health and Safety Strategy is led by Workplace Policy at the Department of Labour (although other agencies are also charged with leading certain activities). In particular, the Department is

charged with co-ordinating the promotion and evaluation of the strategy, monitoring its implementation and undertaking governance functions such as reporting.

Other governance arrangements for the Workplace Health and Safety Strategy cross both political and official levels.

4.2.2.1 Political leadership

The Minister of Labour is responsible for providing political leadership to the Workplace Health and Safety Strategy. As the strategy sits within the NZIPS framework, the wider Injury Prevention Ministerial Committee also retains some oversight of its implementation.

One of the key actions set out in the Action Plan is the establishment of an effective tripartite governance arrangement to lead and oversee the Workplace Health and Safety Strategy [1(a)1 refers]. The project team requested an update on decisions made about the tripartite governance arrangements. While a decision to establish a tripartite Workplace Health and Safety Council has been made, information on the structure of the Council was not provided as final decisions are yet to come.

4.2.2.2 Leadership and co-ordination across government agencies

As the strategy is an intersectoral strategy, an officials' working group, the WHSS Government Agency Group, provides a forum for co-ordinating activities across different government agencies. This group includes the Department of Labour, ACC, Ministry of Health, CAA, Maritime New Zealand, the Ministry of Transport, Land Transport New Zealand, ERMA New Zealand, New Zealand Police, Te Puni Kōkiri, Ministry of Pacific Island Affairs and Ministry of Women's Affairs.

The group last met in December 2005.

4.2.3 EVALUATION FRAMEWORK FOR THE WORKPLACE HEALTH AND SAFETY STRATEGY

The evaluation of the Workplace Health and Safety Strategy is set out in the Workplace Health and Safety Strategy Evaluation Framework.²⁶ This framework sets out three tiers of evaluation: formative evaluation, process evaluation and impact/outcome evaluation. Each level uses a different methodology to assess how the strategy is being implemented, the progress it is achieving and the elements that contribute to positive achievements, and to identify any barriers to progress. A number of opportunities to collect information are planned for each component of the evaluation framework.

4.2.4 IMPLEMENTATION OF THE WORKPLACE HEALTH AND SAFETY STRATEGY

The WHSS includes an action point to provide six-monthly reports on WHSS implementation. The first of these reports was due in December 2005. This update report was not available at the time of the completion of this report.

4.3 STAKEHOLDER COMMENTS ON THE NATIONAL POLICY FRAMEWORK

Fifteen stakeholders from different sectors expressed support for the direction set by the Workplace Health and Safety Strategy, with one stakeholder noting that the strategy provides confidence that occupational health and safety is a long-term priority for the government. Stakeholders also commented favourably on the content of the

Action Plan, stating that it accurately reflects the work required to achieve its stated objectives and outcomes, and also reflects current work being undertaken by the various agencies.^{lxxxi} Stakeholder support for the vision and content of the Workplace Health and Safety Strategy is consistent with the analysis of submissions for the strategy.²⁷

4.3.1 COMMENTS ON THE CONTENT OF THE WORKPLACE HEALTH AND SAFETY STRATEGY AND ITS ACTION PLAN

Two stakeholders noted that noise-induced hearing loss is not listed as a priority despite it being a significant issue. Another two stakeholders noted that there is a need to ensure that other sectors are reflected in the strategy, as currently there are limited opportunities for other stakeholders to take responsibilities for particular actions (for example, the maritime and transport industries indicated a low awareness of the Workplace Health and Safety Strategy within the industry, which may be linked to the government focus taken by the Action Plan).

4.3.2 COMMENTS ON IMPLEMENTATION

Stakeholders were concerned that the implementation of the Workplace Health and Safety Strategy has stalled since its launch in June 2005.^{lxxii} Particular concerns focused on the need to:

- ensure that the implementation is adequately resourced by stakeholders
- protect and nurture the strategy
- ensure that inter-agency co-ordination is strong to avoid delays in achieving the strategy's objectives and outcomes
- provide a mechanism for different groups to be pulled together to discuss health and safety issues.^{lxxiii}

4.4 COMMENTS AND CONCLUSIONS

The presence of the NZIPS and WHSS indicate that workplace health and safety is a key priority area for the New Zealand government. It also provides for strategic alignment between the two lead agencies for injury prevention in the workplace: the Department of Labour and ACC.

The national policy framework established by the NZIPS and the Workplace Health and Safety Strategy provides a clear and consistent framework for achieving identified outcomes and objectives. A review of the Workplace Health and Safety Strategy and Action Plan indicated that New Zealand's national policy framework is also broadly consistent with the requirements set down in the proposed text of the *Promotional framework for occupational safety and health*.³ The content of the Workplace Health and Safety Strategy reflects the work that needs to be completed to improve occupational health and safety outcomes. In particular, the tasks set out in the Action Plan are consistent with the barriers and issues identified throughout this report as requiring attention. The strategy and Action Plan appear to be well-supported by all groups of stakeholders interviewed as part of this project.

lxxxi This issue was raised by five government stakeholders and one employee organisation.

lxxii This issue was raised by three government stakeholders, one employee organisation and one training organisation.

lxxiii This issue was raised by two government stakeholders, one health professionals' group and two industry bodies.

Three issues were identified by stakeholders regarding the content of the Workplace Health and Safety Strategy. These require further consideration: implementation, possible omissions of priorities and the visibility of industry within the strategic framework.

4.4.2.1 Implementation

The need to maintain momentum was a key issue raised by stakeholders. The Action Plan sets out a challenging work programme for the Department of Labour in particular. Prioritisation, continued momentum and focus will be required to ensure that the actions outlined in the Action Plan are achieved. The government has approved new budget funding of \$6.522 million over four years for the implementation of the Action Plan.^{lxxxiv} An update on how the WHSS is being implemented would have provided a clear update of the activities under the strategy; however, this was not available at the time that this report was completed.

4.4.2.2 Priority areas: noise-related hearing loss

Driscoll et al⁵ state that there were 17,687 new paid entitlement claims to the ACC for industrial deafness between July 1994 and June 2003. While the prioritisation process necessarily omits some issues, noise-induced hearing loss is a significant problem in New Zealand. Its prioritisation could be considered.

The strategy has a term of 10 years. It is likely that other priority areas will be identified during this time as occupational health and safety exposures change. The WHSS Government Agency Group should maintain a watching brief on any emerging issues to enable it to adjust the priority areas as required.

4.4.2.3 The visibility of industry

The three outcomes set out in the Workplace Health and Safety Strategy provide for action across a range of settings, including government, workplaces, industry and community. However, the Action Plan focuses on activities to be completed by government agencies. This may reflect the need for government agencies to take a leadership role in the early stages of implementation of the Workplace Health and Safety Strategy. One mechanism that is currently used to provide more industry focus to the strategy is the use of the framework to develop industry-focused strategies to improve workplace health and safety. For example, the Construction Industry Council developed a Construction Industry Health and Safety Strategy (2004–2010). This strategy follows a framework broadly consistent with the Workplace Health and Safety Strategy and sets out a vision, high-level goals and objectives. In the early phases of implementation, industries may be required to creatively adopt the framework and tailor specific actions to suit their own needs.

lxxxiv Workplace Health and Safety Strategy website: (www.whss.govt.nz). Accessed January 2006.

SECTION FIVE

NATIONAL

PROGRAMMES



Section 5 describes programmes operating in New Zealand to improve workplace health and safety. Specifically, this section covers information on the ACC incentives programmes (to encourage employers to take up best practice approaches to managing for safe and healthy workplaces), New Zealand’s surveillance system, research activities and awareness-raising activities.

Information on compliance and enforcement activities is given in section 3.5 of this report. Information on the wider compensation and rehabilitation section is outlined in section 3.6 of this report.

5.1 ACC’S SAFER WORKPLACES WORKSTREAM

One of ACC’s key workstreams is Safer Workplaces. This workstream is made up of a number of programmes designed to improve the safety of workplaces, including:

- the ACC Accredited Employer (Partnership) Programme
- Workplace Safety Management Practices (WSMP)
- other workplace safety discounts
- Workplace Safety Evaluation
- the Safer Industries programme.

5.1.1 THE ACC ACCREDITED EMPLOYER (PARTNERSHIP) PROGRAMME

The ACC Accredited Employer (Partnership) Programme (the Partnership Programme) is an incentives-based programme designed to reduce the ACC levies paid by large employers in return for the employers managing their own health and safety injury cover and claims. Employers must meet the safety management requirements set out in the Partnership Programme Audit Standards in order to be admitted to the programme.

The Partnership Programme provides for three levels of audit standards: primary, secondary and tertiary. In order to enter the Partnership Programme, an employer must meet all of the primary level audit standards and show a commitment to continuous improvement. Application is followed by an independent audit assessment and approval by ACC. If accepted into the Partnership Programme, this audit assessment becomes an annual event to ensure that the employer continues to meet the audit standards. ACC noted that the audit standards are consistent with the provisions of the HSE Act.

Employers in the Partnership Programme can receive discounts of up to 90 percent on otherwise payable levies (ie, a downward adjustment in levies payable).

5.1.1.1 Participation

The Partnership Programme is aimed at employers who pay more than \$100,000 per annum in ACC levies. ACC advises that at the end of 2005:

- there were 179 organisations in the programme providing cover for approximately 800 related employers and subsidiaries and 312,000 FTE
- the average employer in the programme has 1,742 FTE (range: 98–13,000).

lxxxv This includes funding for the development of the audit standards, the FTE required to operate the programme, administration and the training of auditors.

5.1.1.2 Cost

The administration costs of the Partnership Programme amount to \$2,003,000 per annum, which is funded from an administration levy paid by partner organisations.^{xxxxv} ACC reimburses employers up to 50 percent of the cost of the audit assessment from an annual budget of \$498,000 (for the 2006/07 year).

The Partnership Programme covers annual liable earnings of \$14 billion, and the discounts provided on ACC levies amount to approximately \$147 million per annum.

The entitlement claim (eg, the number of claims for a work-related injury made to ACC by a member of the Partnership Programme) is 0.57 entitlement claims per \$1 million earnings in 2004/05.

5.1.1.3 Performance of partners

Employers in the Partnership Programme are required to report any serious injuries as soon as possible. This enables ACC to ensure that appropriate case management and injury prevention activities are followed. Partner employers are required to provide details of any investigations or prosecutions pending or taken by the Department of Labour, but ACC indicated that it does not collate this information (see discussion in section 5.1.7.1 for figures outlining the number of prosecutions taken against Partnership Programme members by the Department of Labour).

5.1.1.4 Evaluation

A review of the effectiveness of the Partnership Programme was undertaken in 2003.²⁸ The review found that there was considerable support for the partnership model and that most employers, employee representatives, auditors and administrators considered the Partnership Programme to be effective in creating safer workplaces. This view was not shared by the unions. The review did not investigate the Partnership Programme for cost-effectiveness or outcomes because the injury data had not been collated by ACC.

A data analysis review by Legge and Crichton²⁹ noted that evaluation of the Partnership Programme is hindered by the presence of insufficient claims data, as many members manage work-related injury and disease in-house and do not necessarily provide statistics to ACC for collation (although they are required to report incidents of serious injuries). Without this information, it may never be possible to evaluate accurately the performance of the Partnership Programme in terms of all injuries.

5.1.2 WORKPLACE SAFETY MANAGEMENT PRACTICES

Workplace Safety Management Practices (WSMP) is an ACC programme that provides discounts in levy payments to medium-sized employers who implement good health and safety programmes in the workplace. Employers in WSMP can receive a range of discounts depending on the workplace safety management practices they use.

Application to WSMP is followed by an independent audit from an ACC-approved auditor against the WSMP audit standards. These require employers to focus on health and safety in 10 areas of workplace practice, which include hazard management, employee participation, and planning and management elements. ACC noted that the audit standards are consistent with the provisions of the HSE Act.

5.1.2.1 Participation

WSMP targets medium-sized employers (eg, those who pay more than approximately \$10,000 per annum in ACC levies). ACC advises that:

- there were 1,823 organisations in WSMP providing cover for approximately 800 related employers and subsidiaries and 230,000 FTE
- the average employer in the programme has 106 FTE (range: 2–4,000).

5.1.2.2 Cost

WSMP costs approximately \$1.95 million per annum to run. This includes administration costs such as systems and audit development, FTE requirements and training of auditors. ACC covers the cost of the independent audit of employers to the WSMP standards (approximately \$1.6 million per annum). The discounts on ACC levies amount to approximately \$13,033,814 per annum.

5.1.2.3 Performance of partners

Employers in WSMP are required to report any serious injuries to ACC as soon as possible. This enables ACC to ensure that appropriate case management and injury prevention activities are followed. Employers are required to provide details of any investigations or prosecutions pending or taken by the Department of Labour, but ACC indicated that it does not collate this information. (See discussion in section 5.1.7.1 for figures outlining the number of prosecutions taken against WSMP members by the Department of Labour.)

5.1.2.4 Evaluation

There have been no formal evaluations of WSMP, but a data-analysis review by Legge and Crichton²⁹ found little evidence of any difference in the claims rates for participants in WSMP and non-participants. While this was not a robust evaluation of the overall cost-effectiveness of WSMP (eg, limited sample size), it provides the only indication of the possible cost-effectiveness of this programme.

5.1.3 OTHER WORKPLACE SAFETY DISCOUNT PROGRAMMES

ACC advises that it is currently undertaking design and implementation work to develop an incentives package to provide discounts for the implementation of good safety practices in small workplaces. The project team did not identify the target organisations or the proposed scheme.

5.1.4 WORKPLACE SAFETY EVALUATION

Workplace Safety Evaluation is an ACC programme that targets employers who have higher than average claims rates and attempts to improve their workplace health and safety practices. Candidates for this programme are identified through ACC claims data. The threshold for selection varies depending on the industry.

ACC injury prevention consultants work with identified businesses to improve health and safety practices. An audit of the workplace can be undertaken if the collaborative process does not succeed in reducing the rate of injury or if adequate steps are not taken within a given timeframe. If the employer fails this audit, ACC has a statutory responsibility to increase the ACC levy payable.

5.1.4.1 Participation

Approximately 200 employers participate in Workplace Safety Evaluation at any one time. For example, in 2004/05, 226 employers participated, while as at February 2006, the number for the 2005/06 financial year was 230. ACC advises that most participants in the Workplace Safety Evaluation programme are small employers with liable earnings of more than \$375,000 with between 10 and 30 FTE. In the past, the Workplace Safety Evaluation programme has focused on smaller employers because these organisations were often the worst performing organisations in a sector.

ACC notes that it works in collaboration with the Department of Labour to select candidates for the Workplace Safety Evaluation programme and to ensure that the same employers are not involved with both the Department

and ACC concurrently. This avoids potential conflict between the education function of ACC and the enforcement and compliance function of the Department of Labour.

5.4.1.2 Cost

The Workplace Safety Evaluation programme costs ACC \$220,000 per annum to operate. This includes administration costs, one FTE, auditing costs, and the costs of operating an adjudication panel. ACC has invoiced a total of \$9,000 in 2005/06 for upwards adjustments to levies paid by two participants who failed the audit process. No upwards adjustments have been made in previous years.

5.4.1.3 Evaluation

The Workplace Safety Evaluation programme was evaluated in 2005. The key finding of this evaluation (presented to the project team as a PowerPoint rather than cited reference) is that employers have a positive perception about the value of participating in the programme even if areas of its administration need to be refined. The evaluation did not assess the impact of the programme in reducing claims, although ACC cites the low level of upwards adjustments in levies as evidence of the success of the programme.

5.1.5 ACC'S SAFER INDUSTRIES PROGRAMME

ACC administers a Safer Industries programme that targets industries with high work-related claims. It aims to bring down the cost of injury and reduce incidence rates by training and through specific initiatives such as the development of injury prevention plans. Safer Industries programmes have participants representing government agencies, industry, employers, unions, employees and training providers.

5.1.5.1 Participation

Participation in a Safer Industries programme is based on claims data and severity of claims, total population involved in the industry, and liable earnings. Industries that score highly in each of these categories are identified as possible participants in the programme and discussions are then held with the sector to establish a programme. Each programme includes a range of stakeholders such as employer groups, unions, trade organisations, ITOs and other participants as required.

Tier one programmes represent industries with a high risk. Tier two programmes are industries with a comparatively medium risk. Current tier one programmes (high risk) and the funding provided for activities in 2005/06 (as advised by ACC) are:

• Agriculture (FarmSafe)	\$644,000
• Road transport/freight	\$572,000
• Forestry and wood processing	\$499,000
• Health services and residential care	\$408,941
• Construction	\$400,000
• Inshore fisheries	\$236,000
• Meat processing	\$135,000.

Current tier two programmes (medium risk) and the funding provided for activities in 2005/06 (as advised by ACC) are:

• On-hire employment	\$200,000
• Grocery and supermarkets	\$ 97,000.

A further \$631,000 is provided for the development of new Safer Industries programmes (eg, manufacturing and hospitality), and for the administration of the programme. Funding is allocated based on the size of the industry and where the group is up to in terms of developing and implementing interventions.

5.1.5.2 Evaluation

No specific evaluations of the Safer Industries programmes have been completed, although the project team understands that an evaluation of the FarmSafe programme is underway.

5.1.6 STAKEHOLDER COMMENTS

Stakeholders made few comments about ACC's incentives programmes:

- ACC-approved auditors are not required to have a background in occupational health and safety.^{lxxxvi}
- There are gaps between the provisions of the HSE Act and the audit standards (eg, there are no provisions to require partners to have health and safety representatives).^{lxxxvii}
- Evaluation of the incentives programmes can be limited.^{lxxxviii}
- Incentives schemes for small employers are required.^{lxxxix}

5.1.7 COMMENTS AND CONCLUSIONS

Approximately 25 percent of the total workforce in New Zealand is employed by an organisation that is a member of one of the ACC incentives programmes.^{xc} Most of these employees are employed in medium-large firms (generally firms that pay more than \$10,000 per annum in ACC levies). Smaller employers tend to be excluded from participating in an ACC incentive programme because the costs associated with the audit process are greater than the ACC levy that they would receive.

The ACC injury prevention programmes are driven by claims data. This driver impacts on both the nature of the programmes offered and the sectors to which incentives programmes are targeted. In addition, because injuries account for the majority of claims made to ACC, programmes tend not to focus on work-related diseases to the same extent.

5.1.7.1 Effectiveness of the ACC incentives programmes

While there are some formative and process-based evaluations of the ACC incentives programmes that outline various successes in the operation of the evaluated programmes, there are relatively few evaluations that identify the impact or outcome the incentive programme has had on reducing work-related injury rates. This is an area that could be considered further by ACC.

ACC was unable to provide a breakdown of the prosecution figures for any of its incentives programmes. However, this information was available from the Department of Labour. An important caveat about the following data is that

lxxxvi This issue was raised by one government stakeholder and one health and safety professionals' group.

lxxxvii This issue was raised by one employee organisation.

lxxxviii This issue was raised by three government stakeholders, one health and safety professional group and one health professional.

lxxxix This issue was raised by one health and safety professional and two industry bodies.

xc There is considerable uncertainty regarding the validity of this figure as it is not clear whether the total number of people in the workforce as identified by Statistics New Zealand is a full FTE figure or the actual number of people who are in paid employment (some of whom may be part FTE). If the Statistics New Zealand data is for number of people, the percentage of employees covered by an ACC incentive programme is likely to be higher than the indicative 25 percent.

sometimes the organisation identified by the Department bears a different name from the workplace in the ACC incentive programme because ACC may not list the correct legal name of the employer. The Department of Labour considers that this is likely to result in some under-reporting of investigations or prosecutions of employers in the ACC incentives scheme.

Table 12 outlines the key findings of the prosecutions data produced by the Department of Labour for the project team:

TABLE 12		Prosecutions taken by the Department of Labour against employers enrolled in an ACC incentive programme			
YEAR	ALL PROSECUTIONS	PERCENTAGE OF ALL PROSECUTIONS (PARTNERSHIP PROGRAMME AND WSMP ONLY)	PARTNERSHIP PROGRAMME AND WSMP	WSMP ALONE	WORKPLACE SAFETY EVALUATION
2002	136	27%	27	11	3
2003	131	26%	19	16	3
2004	94	12%	10	2	3
2005	129	15%	12	8	4

Source: Department of Labour collation.

The information in Table 12 indicates a clear downwards trend in the prosecution of organisations involved in either the Partnership Programme or the WSMP. Prosecutions involving organisations involved in the Workplace Safety Evaluation programme have remained static (and this is not surprising given that the programme targets the worst employers). The majority of all prosecutions identified in Table 12 have involved identified high-risk industries (eg, manufacturing, construction and transport).

From the presented data, it appears that participants in the ACC incentives programmes have a lower number of prosecutions relative to the number of employees covered. However, this provides no indication of injury and disease incidence rates (eg, outcome data) and does not take into account the Department of Labour’s concern that a number of partners are not captured due to inaccurate legal title listings.

Overall, the project team considers that a more robust evaluation of each of the ACC incentives programmes is required in order to gauge how effective they have been in reducing work-related injury and disease incidence rates, rather than relying on prosecutions data as an indication of effectiveness.

5.1.7.2 Cost of the ACC incentives programmes

The ACC incentives programmes provide significant discounts to enrolled employers amounting to approximately \$160 million per annum. The cost associated with not collecting these ACC levies is the main cost incurred by the operation of the ACC incentives programmes, since the actual running of the programmes is paid for by the organisations that join the programmes.

5.2 SURVEILLANCE OF OCCUPATIONAL DISEASE AND INJURY

This section describes the organisations involved in operating New Zealand’s surveillance system for occupational disease and injury. It draws heavily on NOHSAC’s recently published research on this topic.³⁰ Additional comments from stakeholders to the project team are included.

5.2.1 DATA COLLECTION

A number of government agencies have data collection systems in place to monitor work-related injury and disease.

These are the primary data collection mechanisms:

- The Births, Deaths, and Marriages database: all medical certificates of causes of death and coroners' reports including those of a work-related nature.
- The New Zealand Cancer Registry: records all primary malignant disease diagnosed in New Zealand (except some types of skin cancers).
- The Notifiable Occupational Disease System (NODS) administered by the Department of Labour: a voluntary database where individuals and health professionals report incidents of work-related disease or injury.
- Workbench administered by the Department of Labour: records all notifications of serious harm made to the Department of Labour under the HSE Act.
- Department of Labour Disease Panels including the Cancer Panel, the Respiratory Panel, the Solvent Panel and the Chemical Panel: technical panels convened to review and monitor cases of certain work-related diseases using data from the Department of Labour's NODS database (except the Cancer Panel, which also accesses the New Zealand Cancer Registry data).
- The Mortality Collection operated by the New Zealand Health Information Service: a database in which the underlying cause of all deaths occurring in New Zealand is recorded from source databases such as the births, deaths and marriages register, coronial reports, hospital discharge data and laboratory data.
- The National Minimum Dataset operated by the New Zealand Health Information Service: an integrated database based on hospital discharge data.
- ACC claims database: records data on all cases of work-related disease or injury that meet the criteria for compensation (eg, that are covered under the definition of personal injury in the IPRC Act).
- EpiSurv: records details of diseases and conditions required to be notified to Medical Officers of Health under section 74 of the Health Act 1956.
- ERMA New Zealand is developing surveillance capacity regarding hazardous substances and new organisms.
- The Chemical Injury Surveillance System: incorporates data from the Coronial Services Office, the National Minimum Dataset, localised reports from public health units and the DriftNet surveillance system to identify instances of chemical injury (in respect of reporting requirements set out under section 143 of the HSNO Act).
- The CAA: conducts investigations into aviation accidents and collects information about incidents of serious harm on operating aircraft under the HSE Act.
- Maritime New Zealand: conducts investigations into shipping accidents and collects information on incidents of serious harm on ships under the HSE Act.

5.2.2 COLLATION OF DATA: THE ROLE OF THE INJURY INFORMATION MANAGER

An important role is also played by the Injury Information Manager. This statutory position, held at Statistics New Zealand, is charged with five key tasks:

- Facilitating the development and maintenance of a set of statistics and indicators on injury
- Enabling the analysis of statistical information on injury and disease
- Facilitating the dissemination of this information
- Enabling the effectiveness of government agencies to be monitored in relation to the government's overall injury prevention objectives
- Facilitating the government's injury prevention objectives [section 287 of the IPRC Act refers].

Of most interest to this section of the report is the Injury Information Manager's role in developing and maintaining databases of statistics on injury and disease. While these cover all injury, work-related data is a critical component. The Injury Information Manager advised that currently this data is only drawn from the ACC claims database and the National Minimum Dataset. Further, the Injury Information Manager's work programme presently focuses on injury rather than occupational disease, because of some of the definitional issues associated with occupational disease.

The Injury Information Manager is supported by the Injury Surveillance Ministerial Advisory Panel. This role is discussed in section 3.8.

5.2.3 STAKEHOLDER COMMENTS ABOUT THE SURVEILLANCE SYSTEM

The project team asked few questions about the surveillance system as many of the stakeholders had already discussed this with the project team undertaking work for NOHSAC's 2005 report on the surveillance system.³⁰ However, some stakeholders raised concerns about certain elements of the system nonetheless, including:

- that the current surveillance system provides inadequately robust information with which to identify the size and nature of specific occupational health and safety issues and on which to base activities to improve health and safety in the workplace^{xc1}
- that complete time-series data is needed
- that more consistent definitions need to be applied
- that there are difficulties in accessing up-to-date and accurate information about occupational health and safety, including a comment from one stakeholder that the Injury Information Manager is not producing information in a timely manner
- that there are too many systems operating to ensure minimal duplication and the efficient use of resources.

Negative comments were also made about the voluntary nature of the NODS system by two stakeholders, although two other stakeholders noted that the NODS system was actually functioning well despite its flaws.

5.2.4 COMMENTS AND CONCLUSIONS

Surveillance systems for occupational health and safety serve one of two purposes:

- To prevent disease or injury through the provision of epidemiological information for use in making policy decisions or developing community-level initiatives (surveillance).
- To provide specific case information for direct intervention to prevent and/or control disease or injury at an individual level (direct action).

Most of the surveillance undertaken in New Zealand regarding occupational health and safety falls into the second category, with some limited responses to individual cases provided for through mechanisms such as EpiSurv and the HSE reporting requirements.

The development of an effective surveillance system is necessary to ensure that scarce public funds can be targeted towards initiatives that are likely to result in gains that improve health and safety outcomes for all New Zealanders. Without adequate surveillance information to identify what these issues are, it is difficult for government agencies to enable this to occur.

xc1 This issue was raised by eight government stakeholders, one health and safety professionals' group, one research organisation, one employee organisation, one health professional, two industry bodies and two training organisations.

New Zealand's surveillance framework is characterised by ad-hoc organisation: there are multiple organisations collecting information on a similar range of topics, and legislative provisions govern the collection of certain information but do not extend to other information equally important for ensuring good health and safety outcomes. NOHSAC³⁹ noted that each of the components in the occupational disease and injury surveillance system have inherent limitations. The limitations of the current system can be clearly defined:

- Information collection limitations such as a general lack of complete information about occupation, industry, ethnicity and work history, and classification bias associated with cases of occupational disease (eg, cases of cancer may have a work-related cause but this cannot be ascertained from the available data and so these are not included as cases).
- The use of different definitions across databases, limiting the ability to share information or integrate databases while retaining accuracy of information (eg, definitional difficulties have led to the exclusion of occupational health from the Injury Information Manager's integrated database).
- Low visibility of occupational health in the statistics through not having routine, comprehensive collection of data on occupational disease.
- Little co-ordination or aggregation of work-related injury and disease data.
- Limited reporting on occupational disease and injury statistics.
- Multiple databases are not integrated.

The limitations of the current surveillance system appear to be well understood by key stakeholders. The issues raised as part of this project are generally consistent with the findings of NOHSAC's 2005 report: that the limitations in New Zealand's surveillance system mean that the country falls short of having a best practice approach that provides accurate, timely and relevant information to contribute to the identification of hazards and the prevention of occupational injury and disease. Recommendations on how to upgrade New Zealand's surveillance system are made in NOHSAC's 2005 report and are not repeated here.

5.3 RESEARCH ACTIVITIES ON OCCUPATIONAL HEALTH AND SAFETY

Section 5.3 outlines current research activities in the field of occupational health and safety. It focuses on the funding mechanisms available, the organisations involved in undertaking research in this field and current research priorities.

5.3.1 FUNDING MECHANISMS

There are two main mechanisms for funding research into occupational health and safety in New Zealand: public funding and private funding. This section only covers public funding of research since the scope of private funding is considerably more difficult to ascertain with any degree of accuracy. Based on information collected through stakeholder interviews, the volume of private industry-funded research appears to be limited.

Public funding for research into occupational health and safety is available from partnership funding models (such as the Occupational Health and Safety Joint Research Portfolio) and individual purchasers of research (such as ACC, NOHSAC and other funding organisations).

5.3.1.1 The Occupational Health and Safety Joint Research Portfolio

The Health Research Council (HRC) and key government partner agencies have combined funds to develop a joint research portfolio: the partnership-funded Occupational Health and Safety Joint Research Portfolio (the JRP). The JRP includes the Department of Labour-HRC funded Occupational Research Strategy and specific funds for

occupational health and safety research administered by the HRC on behalf of the Department of Labour. It is managed by two steering committees comprising representatives from the partner agencies, NOHSAC, and the Australian National University.

Occupational Health and Safety Joint Research Portfolio

The Occupational Health and Safety Joint Research Portfolio is a joint initiative between ACC, the HRC and the Department of Labour to purchase research on occupational health and safety (ie, it includes research on work-related injury topics). The portfolio is contestable and has been in operation since 2001. Funding available through the Joint Research Portfolio amounts to \$2.4 million over 6 years (from 30 June 2001).^{xcii}

Funding priorities have been identified as:

- slips, trips and falls
- current and future burden of occupational ill-health
- musculoskeletal disorders.

To date, funding of \$1,332,039 has been allocated to four research projects. These projects cover topics identified as funding priorities.

Occupational Health Research Strategy

The Department of Labour and the HRC established the joint Occupational Health Research Strategy in 2004. The purpose of this funding stream is to provide knowledge on current and emerging work-related health issues. This portfolio developed in response to concerns that occupational health was not getting the same research priority as work-related injury and safety issues. Funding of \$1.85 million over three years (from 1 July 2004) is available.

It is unclear how much of this funding has been allocated to date although it appears that some funding has been allocated to the Occupational Health Research Career Development Awards.

Other funding administered by the HRC

The HRC also administers research funding on behalf of government agencies for the provision of research into occupational health and safety issues. Examples of this funding include monies from the Department of Labour for research on pentachlorophenol (PCP) in the workplace. It is unclear how much funding is available through this mechanism or whether the funding varies from year to year. Currently \$520,000 has been made available for the PCP study.

The HRC also has investigator-initiated funding available for projects on occupational health and safety issues. The allocation of funding to occupational health and safety projects depends on the proposals that the HRC receives in any given period.

5.3.1.2 Funding from the ACC

ACC can use research to create supportive environments that reduce the incidence and severity of personal injury, to strengthen community action to prevent personal injury, and to encourage the development of personal skills that prevent personal injury [section 263 of the IPRC Act refers]. However, the Act requires that ACC be satisfied that any research it commissions will result in either a cost-effective reduction in levy rates or a reduction in the cost of compensation and rehabilitation.

ACC has an annual budget of \$1.6 million per annum for undertaking research, approximately \$150,000 of which was provided to the JRP in 2004/05. From a review of ACC-funded research, it appears that there is a considerable amount of funding sitting with ACC for which it has no projects (eg, in 2004/05, ACC had \$1.6 million in funding, but spent only \$234,250).

xcii Provision of funds is not split equally across the three organisations. ACC provided \$1,200,000, while the respective funding amounts contributed by the Department of Labour and the HRC were not available.

5.3.1.3 The National Occupational Health and Safety Advisory Committee

NOHSAC is responsible for providing independent advice to the Minister of Labour. In order to discharge this duty, NOHSAC is required to develop an annual work programme that includes a research agenda. In line with its terms of reference, this agenda seeks to develop an evidence-based approach to occupational health and safety issues.

Over the past three years, NOHSAC has commissioned research to the value of approximately \$200,000 per annum.

5.3.1.4 Other funders

A small amount of funding is available through some of New Zealand's health-related non-government organisations (eg, the Cancer Society, the Asthma Society, etc.) and through other government agencies (eg, the Foundation for Science, Research and Technology). This funding tends to respond to specific investigator-initiated requests. Given that the annual budget provided for this research is likely to depend on the research bids received by organisations, it is not possible to quantify this budget.

5.3.2 RESEARCH PRIORITIES

There is currently no over-arching strategy for occupational health and safety research in New Zealand, although a number of documents provide guidance in terms of what the research priorities could cover (such as the Workplace Health and Safety Strategy and the JRP).

Work to commission a strategy into the research priorities has been commissioned by ACC.

5.3.3 ORGANISATIONS UNDERTAKING RESEARCH IN OCCUPATIONAL HEALTH AND SAFETY IN NEW ZEALAND

New Zealand has four major research units that look at occupational health and safety issues: the Centre for Public Health Research (Massey University), the Injury Prevention Research Unit (University of Otago), the Injury Prevention Research Centre (University of Auckland), and the Centre for Human Factors and Economics. In addition, research is also conducted in a number of other university departments and laboratories which provide specialist research capacity as required (eg, the Massey University Research Centre for Māori Health and Development is engaged in research projects on occupational health and safety in Māori workers).

5.3.3.1 The Centre for Public Health Research (Massey University)

The Centre for Public Health Research undertakes research on a range of topics, including occupational health. The Centre is the only main research organisation in New Zealand that undertakes research into occupational health issues. Topics under investigation or recently published include case-control studies of bladder cancer, non-Hodgkin's lymphoma, leukaemia and nasopharyngeal cancer.³¹ Other recent projects include an assessment of the current and future burden of occupational disease, and studies of the health of former timber treatment workers exposed to pentachlorophenol, dioxin exposure in phenoxy herbicide production workers, and respiratory health.

The Centre is currently undertaking work funded through the JRP.

5.3.3.2 The Injury Prevention Research Unit (University of Otago)

The Injury Prevention Research Unit (IPRU) undertakes injury surveillance research to provide evidence-based information on the incidence, circumstances, severity and outcome of injuries. The IPRU focuses broadly on all classes of injury but a number of recent projects have had a work focus (eg, injury surveillance in the construction

and farming sectors; international comparisons of work-related motor vehicle crashes; research into slips, trips and falls; and evaluations of some ACC programmes to reduce the incidence of injury in agricultural settings).³² IPRU is currently undertaking work funded through the JRP.

5.3.3.3 The Injury Prevention Research Centre (University of Auckland)^{xciii}

The Injury Prevention Research Centre undertakes research into the causes of injury and into activities that prevent injury. The IPRC undertakes limited research into work-related injuries, and a number of its projects have implications for workplaces. The centre is more involved in conducting evaluations of community initiatives to reduce injury (such as evaluations of the ACC Safer Industries programme).

5.3.3.4 The Centre for Human Factors and Ergonomics^{xciv}

The Centre for Human Factors and Ergonomics (COHFE) undertakes research in ergonomics. It specialises in solutions-focused research designed to address specific ergonomics-related issues in industries such as forestry, meat processing and agriculture. COHFE receives state funding for research initiatives as well as industry funding for specific initiatives.

5.3.3.5 The Sleep/Wake Centre (Massey University)

The Sleep/Wake Centre undertakes a range of research into occupational health issues including sleep, shiftwork and fatigue management in the transport and medical industries. Much of this research is funded through the Health Research Council and private organisations.

5.3.3.6 Centre for Ergonomics, Occupational Safety, and Health (Massey University)

The Centre for Ergonomics, Occupational Safety, and Health undertakes research and consultancy and provides specialist courses and information services in ergonomics and occupational safety and health

5.3.4 STAKEHOLDER COMMENTS

Stakeholders raised concerns that the different funding partners have different drivers for the research that is funded and that they have different interests. For example, ACC is driven by claims-related data but the Department of Labour is driven by notifications through NODS. Research stakeholders noted that this can create difficulties when searching for funding partners if the proposed research does not align with the drivers for a given agency. Two stakeholders noted that funding for occupational health research was very limited, particularly in relation to the funding of exposure studies which were once funded by the State.^{xcv}

Stakeholders raised a number of issues regarding the current priorities for research into work-related disease and injury. First, six stakeholders were concerned that there is no national strategy for identifying research priorities for occupational health and safety and that this could result in an unco-ordinated approach being taken to the commissioning of research.^{xcvi} Several of these stakeholders indicated support for the development of a national research strategy to provide oversight during the commissioning of research. One of the key principles that stakeholders considered should be used to drive this research was to focus on ascertaining future problems rather than focusing on increasing knowledge about what is already known.^{xcvii}

xciii IPRC website: (www.health.auckland.ac.nz/ipc/pdf/ar2003.pdf). Accessed January 2006.

xciv COHFE website: (www.scionresearch.com/cohfe). Accessed January 2006.

xcv This issue was raised by one health professional and one research organisation.

xcvi This issue was raised by two government stakeholders, two research organisations, one industry body and one health professionals' body.

xcvii This issue was raised by six government stakeholders, one health professionals' group and one industry body.

Secondly, stakeholders identified a number of gaps in the current body of research:

- All areas relating to occupational health research, including exposure rates (especially when compared to research into work-related injury)^{xcviii}
- The susceptibility of agricultural pilots to cancer^{xcix}
- Information on the current size and shape of New Zealanders.^c

Thirdly, stakeholders commented on the research workforce itself. Shortages of particular research specialities were noted: there are currently shortages of epidemiologists, biostatisticians and data managers.^{ci}

Stakeholders made no comments about the function or performance of any of the organisations discussed in section 5.3.3.

5.3.5 COMMENTS AND CONCLUSIONS

5.3.5.1 Research priorities

Stakeholders were concerned that the lack of a research strategy for occupational health and safety in New Zealand means that there are opportunities for duplication in the research undertaken. Research priorities that guide funding for occupational health and safety research appear to be relatively consistent across different strategic documents guiding this investment (eg, the priorities identified by the JRP are consistent with those identified in the Workplace Health and Safety Strategy). These priorities seek to focus research initiatives onto areas such as work-related cancer; slips, trips and falls; and occupational health (in a broader sense). However, in general, there appears to be a more limited focus on occupational health than on occupational safety.

Applying a future focus and prioritising research into issues about which little is known (rather than reproducing research that provides New Zealand examples of issues already well-documented internationally) are also useful principles. Developing a national research strategy for occupational health and safety research is underway and could provide additional orientation for the research community.

5.3.5.2 Co-ordination of research

New Zealand has two mechanisms for ensuring the co-ordination of research on occupational health and safety issues: the two JRP steering committees. These committees enable the main funding organisations to provide a co-ordinated approach to the commissioning of research in New Zealand. These steering committees can play a key role in ensuring that the commission of research is co-ordinated, timely and relevant. Given the level of research currently underway in New Zealand, it does not appear that this country requires a specific clearing-house or a co-ordinating centre for research, as the administration and transaction costs could be greater than the benefit accrued.

5.3.5.3 Resourcing and allocation

It is difficult to assess the overall adequacy of the annual budget for occupational health and safety research in New Zealand given the differences in the timeframes covering the funding mechanisms (eg, the JRP contains funding that is allocated over two time periods (five years and three years) while other funding mechanisms like

xcviii This issue was raised by three government stakeholders, two research organisations, three health professionals and one industry body.

xcix This issue was raised by one government stakeholder.

c This issue was raised by one health professionals' group.

ci This issue was raised by two government stakeholders and three research organisations.

NOHSAC allocate funding on an annual basis). However, given the expense of conducting longitudinal studies into occupational health issues, it is likely that there is room for additional funding for such research.

A more pressing concern appears to be the expenditure of the available funding in line with the priority investment guidelines governing individual funders rather than the total amount of funding available. For example, ACC has \$1.6 million available for occupational health and safety research but it has only allocated a small amount of this because it is required to fund research that results in reductions in the levies paid and it cannot fund any research that falls outside this rather narrow band.

5.3.5.4 Capacity of the research workforce

The delays in allocating research funding appear to be compounded by concerns identified by stakeholders about the overall capacity of the occupational health and safety research workforce, and about the capacity of specialist research institutions. Most organisations are involved in research regarding injury surveillance rather than research into occupational health issues (with the exception of the Centre for Public Health Research). This supports previous stakeholder comment about the relative paucity of occupational health research capacity.

It was difficult to assess the number of FTE engaged in this field. Developing the occupational health and safety research workforce is an issue requiring attention and efforts to develop the workforce are being made (for example, the Occupational Health Research Career Development Awards). This scheme is relatively new and the first round of funding is currently being allocated. No evaluation of its success has been undertaken to date so it is not possible for the project team to comment on its success.

5.4 AWARENESS-RAISING ACTIVITIES

Both the Department of Labour and ACC have statutory roles of preventing injury in the workplace. One of the mechanisms to assist in the fulfilment of this role is the use of awareness-raising techniques. This section briefly highlights the range of awareness-raising techniques used to promote good health and safety outcomes and improved workplace health and safety practices.

5.4.1 MECHANISMS FOR RAISING AWARENESS

There are a number of mechanisms used to raise awareness. These are briefly listed here. In many cases, the individual examples are too numerous to include so a broad statement of availability is made instead.

- Publications including short pamphlets, booklets, posters and guides are produced by ACC, the Department of Labour and Maritime New Zealand.
- Website – ACC and the Department of Labour have excellent websites that contain a considerable amount of information and access to information on injury prevention. There are numerous other websites on occupational health and safety such as those run by the New Zealand Institute of Safety Management and those operated by off-shore organisations.
- Public broadcasts – ACC injury prevention advertisements have high visibility; specific workplace-related broadcasts are less common.

Specific guidance material, industry codes of practice and technical documents are discussed in section 3.3.6 of this report.

5.4.2 STAKEHOLDER COMMENTS ABOUT AWARENESS-RAISING

Stakeholder comments regarding awareness-raising were mixed. Generally stakeholders considered that awareness of health and safety issues had increased markedly, although it was difficult to ascertain the drivers for this increase. Some stakeholders considered that the legislation framework had played a key role in this. Others considered that it was a combined effort of a range of agency and sector activities. Three government stakeholders and one health and safety professional considered that a low understanding of health and safety exists, especially in terms of the application of a prevention-based model. Specific concerns about awareness raised by stakeholders included that:

- the content of publications needs to be clear and simple and that some publications are too technical or are written for an academic audience
- some audiences are very difficult to reach, especially small employers and non-unionised workforces.

No stakeholders commented on the overall quality of awareness-raising activities.

5.4.3 COMMENTS AND CONCLUSIONS

Awareness-raising activities play a key part in raising the overall consciousness of a community in terms of health and safety. New Zealand is served by a range of activities undertaken by a number of organisations. However, the overall impact of these activities is unknown as there is a paucity of evaluative material on either specific campaigns or on the body of awareness-raising mechanisms.

APPENDICES



Appendix A: Project Terms of Reference

A1 OUTPUTS

The main objective is to develop a comprehensive national profile on occupational health and safety in New Zealand.

The selection of items and indicators for the profile should be referenced and compatible with the requirements of the proposed ILO Promotional Framework for Occupational Safety and Health. The national profile will be presented in a similar style to that used by the ILO Profile for Singapore. Where appropriate, this profile should also be supported by the use of tables as used in the ILO Profile for Turkey.

The national profile will be supported by a technical report that specifically addresses the following areas: general information, national occupational health and safety systems, national occupational health and safety programmes, barriers to occupational health and safety.

In addition, the technical report will include information on the following elements, where appropriate:

- Co-ordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms.
- Technical standards, codes of practice and guidelines.
- Educational and awareness-raising structures.
- Specialised technical, medical and scientific institutions with linkages to various aspects of occupational health and safety, including research institutes and laboratories concerning occupational health and safety.
- Human resources active in the area of occupational health and safety, such as inspectors, officers, occupational physicians and hygienists.
- Occupational accidents and disease statistics.
- Policies and programmes of organisations of employers and workers.
- Regular or ongoing activities related to occupational health and safety, including international collaboration.
- Related data addressing, for example, demography, literacy, economy and employment, as available, as well as any other relevant information.

The national profile is to be developed from the technical report.

The primary audience for both the national profile and the technical report will be NOHSAC. Other audiences may include the Associate Minister of Labour, policy analysts, researchers, and health and safety professionals.

The primary methods will be consultation with relevant agencies and organisations and a review of relevant literature.

Appendix B: Key Informants

Appendix B lists the key informants with whom the project team met as part of the information collection phase of this report. The project team acknowledges the contribution made by these stakeholders and wishes to thank them for their participation.

B1 GOVERNMENT AGENCIES

Accident Compensation Corporation
Civil Aviation Authority of New Zealand
Department of Labour
Department of Statistics
Environmental Risk Management Authority
Land Transport New Zealand
Maritime New Zealand
Ministry of Health
Ministry of Transport
National Poisons Centre
National Radiation Laboratory
Standards New Zealand

B2 EMPLOYER ORGANISATIONS

Business New Zealand
Employers and Manufacturers Association (Northern)

B3 EMPLOYEE REPRESENTATIVES

NZ Council of Trade Unions

B4 RESEARCH INSTITUTIONS AND LABORATORIES

Belhouse Consultants
Centre for Public Health Research
Dowdell and Associates
Health Research Council
Injury Prevention Research Unit

B5 OCCUPATIONAL HEALTH PRACTITIONERS

Australasian Faculty of Occupational Medicine
New Zealand Ergonomics Society
New Zealand Occupational Health Nurses' Association
New Zealand Occupational Hygienists' Society
Occupational Safety and Health Information Group

Individuals: Dr Evan Dryson
Dr Bill Glass
Dr Chris Walls
Errol Hodgkinson

B6 SAFETY ORGANISATIONS

New Zealand Institute of Safety Management
New Zealand Safety Council

B7 INDUSTRY GROUPS

Construction Industry Council
DHBNZ National Occupational Health and Safety Managers' Group
Federated Farmers
New Zealand Chemical Industries Council
New Zealand Forest Owners' Association
New Zealand Timber Industry Federation
Road Transport Forum

B8 EDUCATION PROVIDERS

Building and Construction Industry Training Organisation
Extractives Industry Training Organisation
New Zealand Industry Training Organisation
Opportunity Industry Training Organisation
Site Safe New Zealand.

Appendix C: Terms of Reference for the Literature Review

The National Occupational Health and Safety Advisory Committee (NOHSAC) has contracted Allen & Clarke Policy and Regulatory Specialists Ltd to develop a comprehensive national profile of occupational health and safety in New Zealand and supporting technical report.

The three main sources of information to inform this work are:

- a literature search conducted by Department of Labour (DoL) library staff based on these terms of reference
- information collected by Allen & Clarke from other sources
- key informant interviews to be undertaken by Allen & Clarke.

C1 PURPOSE

The purposes of the terms of reference are to:

- provide the parameters for literature search by DoL library staff – ie, set the scope of the search
- outline additional information sources which will be included in the literature review exercise (but will be sourced by Allen & Clarke) for the benefit of the DoL library staff and the NOHSAC Secretariat.

The DoL literature search and wider literature review will inform the development of the national profile and technical report. More specifically, the information search and review will:

- inform the selection of key indicators of the current state of occupational health and safety in New Zealand
- identify information on occupational health and safety reform in New Zealand
- identify any evidence-based limitations or gaps in New Zealand's occupational health and safety framework.

C2 BACKGROUND

The national profile and technical report will address the following areas:

- General information on occupational health and safety in New Zealand
- National occupational health and safety systems
- National occupational health and safety programmes
- Barriers to occupational health and safety.

In addition, the technical report will include information on:

- co-ordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms
- technical standards, codes of practice and guidelines
- educational and awareness-raising structures
- specialised technical, medical and scientific institutions with linkages to various aspects of occupational health and safety, including research institutes and laboratories concerning occupational health and safety
- human resources active in the area of occupational health and safety, such as inspectors, officers, occupational physicians and hygienists
- occupational accidents and disease statistics
- policies and programmes of organisations of employers and workers
- regular or ongoing activities related to occupational health and safety, including international collaboration

- related data addressing, for example, demography, literacy, economy and employment, as available, as well as any other relevant information.

DEFINITION OF OCCUPATIONAL HEALTH AND SAFETY

For the purposes of this review, occupational health and safety will have the same meaning as the World Health Organization and the International Labour Organization's 1963 definition:

The promotion and maintenance of the highest degree of physical, mental, and social well-being of workers in all occupations, the prevention among workers of departures from health caused by their working conditions, the protection of workers in their employment from risks resulting from factors adverse to health; the placing and maintenance of the worker in an occupational environment adapted to his physiological and psychological condition.

C3 SCOPE OF THE LITERATURE SEARCH

The information search by DoL library staff will identify documentation related to New Zealand's national occupational health and safety system and to indicators of occupational health and safety.

It is expected that the majority of documentation identified for possible inclusion in this study will be official documentation.^{cii} This information will be primarily used to identify the bones of the existing occupational health and safety framework in New Zealand and to inform the selection of key indicators of occupational health and safety. Statistics drawn from official documentation will provide the qualitative component of the national profile and technical report.

A smaller volume of original research based in New Zealand is also likely to be identified. This will be used primarily to inform the project team of any evidence on the development of a safety culture in New Zealand and any limitations within New Zealand's current occupational health and safety framework. Original research will also be used to assist in the gap analysis of New Zealand's occupational health and safety framework. Original research will be used in a gap analysis that focuses on OSH resources, the wider OSH system and surveillance.

INCLUSIONS

The project team requests that the DoL library staff prioritise their search around following New Zealand-based documentation:

- National strategies or policies related to occupational health and safety
- National programmes on occupational safety and health
- Robust evaluations or reviews of the occupational health and safety system
- Any summary documents on organisations operating in the occupational health and safety system and their respective roles
- General reviews of New Zealand's compensation scheme for occupationally-acquired illness or work-related injury

cii Official documentation includes legislation, government reports, government strategy documents, and recommendations reports from advisory committees, specialist occupational safety and health organisations, and international institutions such as the International Labour Organization.

- Any reviews or descriptions of New Zealand’s surveillance system for occupational health and safety or its inspections system
- Discussion about the impact of international occupational health and safety instruments that New Zealand is a party or signatory to
- International documentation on occupational health and safety indicators.^{ciii}

Key words for the search are provided under section C6.

EXCLUSIONS

The project team requests that DoL library staff exclude the following from their search. While much of the following information is likely to be used to inform this project, it will be sourced by other means (as noted under each exclusion):

- Information identified in NOHSAC’s RFP documentation and our proposal, which has already been identified (see Appendix A).
- Qualitative data on morbidity and incidence rates for occupationally-acquired illness or work-related injury. New Zealand’s current mechanisms for collecting incidence or prevalence data on occupationally-acquired illnesses or work-related injury involve several databases and cross-matching cases can be time-consuming and difficult. NOHSAC’s *Burden of disease* report provides sufficient information on exposure risk and overall mortality from occupationally-acquired diseases and work-related injury to provide a clear picture of the overall burden of illness and injury associated with occupation in New Zealand.
- Qualitative data on selected occupational health and safety indicators. This information will be sourced from NOHSAC’s *Burden of disease* report.
- Qualitative data on the related characteristics.^{civ} Required information will be sourced directly from Statistics New Zealand.
- Occupational health and safety policies or manuals from individual employers or the self-employed. A large number of policies and manuals would need to be reviewed in order to return comprehensive, useful information on the quality and scope of the occupational health and safety policies and procedures held by individual employers. The project team considers that there would be marginal additional benefit from reviewing these policies.
- Occupational health and safety-related legislation (statutes and regulations). This can be collected through Lexis Nexis software held at Allen & Clarke. We will also use the workplace injuries (and occupational diseases) section of the resource we produced for ACC summarising New Zealand’s safety related law.^{cv}
- Codes of practice and technical guidelines on occupational health and safety policies and procedures (national). The project team is aware that a DoL staff member recently undertook a stocktake of all of the codes of practice and technical guidelines on occupational health and safety. This report identified the kinds of codes of practice and technical documents available and indicated whether a review would be required. A list of such materials is also contained on the OSH website and the resource we produced for ACC summarising safety related law and other instruments.

ciii Information to be included in this category is limited to information on the identification of best practice indicators for monitoring occupational health systems.

civ See Appendix 2 for a list of statistics to be included.

cv Available at http://www.nzips.govt.nz/documents/safety_related_law.pdf

- International instruments. A list of multi-lateral and bi-lateral agreements that New Zealand is party or signatory to is held by the Ministry of Foreign Affairs and Trade. This will also indicate which of these agreements that New Zealand is not a party to. This information will be collected from the Ministry of Foreign Affairs and Trade by Allen & Clarke.
- Information on the national occupational health and safety budget. This information will be collected through a review of the Vote: Labour and Vote: Health (through the government budget and departmental statements of intent). Budgetary information will also be collected from specific government agencies such as ACC.
- Individual case studies or single issue reviews of compensation for occupationally-acquired illnesses or work-related injury.
- Evaluations of individual occupational health and safety programmes.
- Any material deemed to be too localised or regionalised unless there is a good reason. The national profile and technical report have a national not regional or local focus. As such, local and regional initiatives should be excluded. A similar logic applies to the exclusions of individual programme evaluations and compensation studies or reviews.
- Any grey literature.

C4 SOURCES OF INFORMATION

DATABASES AND INDEXES

The Department of Labour's library service will undertake a thorough search of the Medline database and the Index New Zealand and Te Puna National Bibliographic Database. This search will be completed in accordance with this terms of reference.

NOHSAC will pay any costs associated with undertaking the search or sourcing materials. NOHSAC will also pay any costs associated with collecting qualitative material from Statistics New Zealand.

ELECTRONIC SOURCES

Allen & Clarke will undertake a search of the Internet using advanced searching techniques (Google Scholar) to identify any additional key publications or pieces of research on occupational health and safety in New Zealand that have not been identified through the database and index search.

We will search the following websites using the search terms discussed in section C6, below:

- National Occupational Health and Safety Advisory Committee (www.nohsac.govt.nz)
- Injury Prevention Research Unit (www.otago.ac.nz/ipru)
- Injury Prevention Research Centre (University of Auckland) (www.health.auckland.ac.nz/ipc)
- Canadian Centre for Occupational Health and Safety (www.ccohs.ca)
- Health and Safety Executive (www.hse.gov.uk)
- European Agency for Health and Safety at Work (www.agency.osha.eu.int/)
- The National Institute for Occupational Safety and Health (www.cdc.gov/niosh/homepage.html)
- Occupational Safety and Health Administration (www.osha.gov)
- National Occupational Safety and Health Commission (www.worksafe.gov.au)
- Institution of Occupational Safety and Health (www.iosh.co.uk).

QUANTITATIVE DATA

The source from which quantitative data will be sought is included in Appendix 1.

STAKEHOLDERS

Stakeholders involved in the key informant interviews will be invited to identify and supply copies of any published information that they are aware of. Where possible, such identified documents will be sought from the key informant who has identified it.

SECONDARY BIBLIOGRAPHIC SEARCH

Allen & Clarke will also undertake a secondary review of the bibliographies of selected official documents or research to ensure that all possible items are identified and considered for inclusion.

REVIEW BY NOHSAC

NOHSAC will be given the opportunity to comment on the final list of materials for proposed inclusion in the review to ensure that the list of sources is comprehensive and that all key sources have been identified before prioritisation begins.

C5 PRIORITISATION AND RETRIEVAL OF INFORMATION IDENTIFIED IN THE SEARCH

From the results of the search, returned documents will be prioritised according to the following criteria:

- Currency (1990–2005)
- Stocktakes, summaries and reviews of the occupational health and safety sector in New Zealand
- Official documents on New Zealand's occupational health and safety system
- Articles published in peer-reviewed journals
- Methodological rigour (original research will be reviewed according to the critical appraisal sheet in Appendix 2)
- Publication by a reputable organisation or in a peer-reviewed journal.

Literature that does not meet these criteria will also be considered for inclusion in the review, but given lower priority.

The returned information will be reviewed. It is anticipated that approximately 30 official documents and pieces of original research will be included in the review phase and will need to be sourced.

C6 SEARCH KEYWORDS

The following key search terms will be used to inform the information search. The terms will be used both individually and combined to ensure that the greatest amount of possible information is captured for initial review.

- Occupational safety and health, occupational hygiene
- Vocation, labour, employment
- Hazard, risk
- System, framework, strategy, programme, policy
- Resources, workforce, compensation
- National, New Zealand
- Organisation, ministry, department, crown entity, committee, advisory group, industry, sector, business, territorial authority, council
- Manufacturing, construction, agriculture, retail, trade, hospitality, transport, finance, community, forestry, mining, marine, fisheries
- Evaluation, indicator, monitoring, measure, barriers, gaps
- Compliance, enforcement, surveillance
- Review, evaluation, status report, stocktake, summary.

Appendix D: List of Acronyms

ACC	Accident Compensation Corporation
ACOP	Approved Code of Practice
ACOSH	Advisory Committee on Occupational Safety and Health
CAA	Civil Aviation Authority
CCDOSHS	Co-ordinating Committee of Departments on Occupational Safety and Health
CPI	Consumer Price Index
CTU	Council of Trade Unions
CVIU	Commercial Vehicles Investigation Unit
ERMA New Zealand	Environmental Risk Management Agency New Zealand
FTE	Full-time Equivalent
GDP	Gross Domestic Product
HRC	Health Research Council
HSE Act	Health and Safety in Employment Act 1992
HSNO Act	Hazardous Substances and New Organisms Act 1996
IPRC Act	Injury Prevention, Rehabilitation, and Compensation Act 2001
ILO	International Labour Organisation
ITO	Industry Training Organisation
JRP	Joint Research Portfolio
NODS	Notifiable Occupational Diseases System
NOHSAC	National Occupational Health and Safety Advisory Committee
NZQA	New Zealand Qualifications Authority
NZIPS	New Zealand Injury Prevention Strategy
OSH Service	Occupational Safety and Health Service
WSMP	Workplace Safety Management Practices
WSE	Workplace Safety Evaluation

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