

## Spring Wilco 2015



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The lengthy gestation period of the proposed legislation has aggravated employer uncertainty about the implications of the proposed legislation and its wider definitions of who is responsible for health and safety. The Bill introduces the concept of a Person Conducting a Business or Undertaking or 'PCBU'. PCBUs will have primary duty of care for health and safety at work.

A PCBU will usually be a business entity, such as a company, rather than an individual person, but may also be a sole trader or a self-employed person. A not-for-profit organisation that employs admin staff might also be a PCBU.

Upstream PCBUs, such as suppliers of workplace plant, substances and structures, also have duties under the proposed legislation. Where a project involves multiple PCBUs, they will have a duty to consult and work together to ensure safe workplaces. Workers and some volunteers will also have duties under the Act.

Pushback to the Bill in Parliament has centred on concerns about the impact of the legislation on small businesses, worst case scenario being excessive red tape with no reduction in accidents. This has driven some adjustments. While the law will apply to all businesses in New Zealand, regardless of size, it is anticipated that there will be some distinctions between conditions for low risk small businesses and high risk. For example:

- Low-risk small businesses will need worker participation processes that are effective for their business needs, size and risk but won't have to respond to a worker request to have a H&S representative or committee, whereas
- High-risk small businesses will need to have a H&S safety representative if their workers request them

The Bill is on course to be passed in the second half of 2015. It is anticipated there will be some months between when the Bill is passed and when it comes into force to make sure duty holders are aware of their responsibilities under the new law.

*'All progress takes place outside the comfort zone.'* **Michael John Bobak**



### What businesses can do in the meantime...

Ahead of the legislation, bodies such as ACC are keen to help businesses be proactive about health and safety. ACC has a range of programmes to help different businesses assess their systems, evaluate whether they are suitable to how the business works and the people affected, and make any improvements needed. The aim is to make sure each business has the right health and safety processes for its people and operations. Businesses that successfully complete these programmes enjoy reduced ACC levies and the benefits of the ACC tools and resources made available through the programmes.

We expect that you already have procedures in place to assess risk and manage hazards. If you are not sure whether these are robust enough, there is a good opportunity here to review and strengthen your safety systems. If you would like more information about what's available to help you do this, please contact us.

## Risk and Reward

### Health and safety

The Health and Safety Reform Bill, which started its slow progress last year, took another step forward in late July with its second reading in Parliament.

Meanwhile, tragically preventable accidents, particularly in high risk sectors such as quarrying, forestry, farming, manufacturing, transport and construction, keep the pressure on for better safety outcomes.



## Timely Reminders

Note: these dates apply to those clients for whom we prepare tax returns. Different dates will apply for those clients for whom we don't prepare returns. Please ask us if you'd like more information.

Tax Type	Who / What	When it's due
PAYE	large employers return and payment	7 September (due to 5th falling on a weekend) 5 October 5 November
	large and small employers return and payment	21 September (due to 20th falling on a weekend) 20 October 20 November
GST	return and payment	28 September 28 October 30 November (due to 28th falling on a weekend)
FBT	quarterly return and payment (if completed quarterly)	20 October
	for employers with an October balance date under close company option - annual return and payment	9 November (due to 7th falling on a weekend)

## Provisional and Terminal Tax

I pay provisional tax...	And my balance date is...	So my provisional tax is due next...
2 monthly (6 times a year)	February, April, June, August, October or December	28 September AND 30 November
	January, March, May, July, September or November	28 October
4 monthly (3 times a year)	April, August or December	28 September
	January, May or September	28 October
	February, June or October	30 November (due to 28th falling on a weekend)
6 monthly (twice a year)	February or August	28 September
	March or September	28 October
	April or October	30 November (due to 28th falling on a weekend)
Terminal tax	October	<b>Terminal tax payment due 9 November</b> (due to 7th falling on a weekend)



## Employment standards

The Employment Standards Legislation Bill has been introduced to parliament, proposing changes to strengthen enforcement of employment standards. This will introduce tougher sanctions for breaches and greater accountability for people and entities associated with the employer — such as directors, senior managers, legal advisors — if they are knowingly involved when an employer breaks the law.

The changes target unfair practices such as unreasonable deductions from employees' wages; or where an employer does not commit to hours of work, but expects employees to be available when required; or where an employer cancels shifts without providing reasonable notice or compensation to the employee.

### Penalties

Serious breaches, such as exploitation, will carry maximum penalties of \$50,000 for an individual and the greater of \$100,000 or three times the financial gain for a company. Individuals who commit serious or persistent breaches of employment standards may be banned as employers.

The penalties for minor to moderate breaches will remain \$10,000 for an individual and \$20,000 for a company. Employers who have breached minimum standards may be publically named.

### Employment records

Record-keeping for wages, time, holidays and leave again come under scrutiny. Requirements will be made consistent across all employment legislation.

The core requirement is that, when an employee or labour inspector requests it, an employer must be able to produce an easily accessible record of the number of hours worked each day in a pay period, and the pay for those hours.

Breaches will attract infringement notices, with a maximum penalty of \$1,000 per breach capped to \$20,000 if there are multiple breaches.

### Labour inspectors' powers

Labour inspectors will have greater ability to share information with other regulators such as Immigration New Zealand, the Companies Office and Inland Revenue to better identify and investigate alleged breaches. They will also be able to request records or documents from employers (such as financial records or bank statements) that they consider will help them work out whether a breach has occurred.

There is no set timetable for the proposed legislation yet. We'll keep you up to date with progress.

## Double tax agreement with US

Are you a US citizen living in New Zealand? If so, your income is subject to both USA and New Zealand income tax requirements.

The United States tax system requires its citizens and its resident aliens to report their worldwide income to the US Internal Revenue Service (IRS) regardless of where they live. However, if you are a New Zealand tax resident, your New Zealand tax return is likely to require the same income returned here.

If you do have to pay tax in both the US and New Zealand, under the double tax agreement (DTA) between New Zealand and the US, you may be eligible for tax credits to offset some of the tax payable. However, the rules for meeting your tax obligations and claiming tax credit entitlements are complex. For example, if your income is in the form of a US pension or a lump sum payment related to past employment, you would not be able to claim foreign tax credits in New Zealand for taxes paid in the US on this income. However, you may be able to claim New Zealand tax paid as a tax credit in your US income tax return.

Please let us know if this applies to you. We can help you meet your tax obligations and claim your tax credit entitlements.

### Changed your bank account?

If you have changed your bank account, please let us know before we undertake your tax return, otherwise you might miss out on your tax refund.

We have heard of cases recently where the refund has gone to an account no longer associated with a business and the taxpayer has missed out.

Make sure that you have given us your current bank account details for the account you would like your tax refunds paid to. And let us know immediately if your account details change.



## ACC CoverPlus Extra – are your levies overdue?

This year ACC has cancelled unpaid CoverPlus Extra policies that were overdue. In July they had cancelled about 2,600 policies and expected to cancel the remaining 1,600 policies with unpaid CoverPlus Extra invoices in August.

Please let us know immediately if you received notification that your CoverPlus Extra policy has been cancelled and you are concerned you are not covered. If you do not take action to pay your CoverPlus Extra levies, your cover will default to either CoverPlus or WorkPlace Cover and this may affect the amount you pay in levies. Note that new applications for CoverPlus Extra can take up to 12 weeks to process.



## Parental leave

The rates for paid parental leave increased from 1 July. The maximum weekly rate for eligible employees and self-employed parents increased from \$504.10 to \$516.85 before tax per week. The minimum weekly rate increased from \$142.50 to \$147.50.



Starting a business doesn't need to be the next great new idea. New businesses are doing well, simply by sticking to proven products and services.

Just ask Richard Nieper of Fabric Merchants.

With 17 years' experience in the rag trade, Richard simply saw a gap in the market and decided to fill it. What's impressive though is that he quickly recognised the potential to grow his business by adding another branch to it and seeking to attract a new market.

Fabric Merchants is Richard's core business, importing high-end fabric from all around the world and then wholesaling these fabrics to New Zealand and Australian fashion designers. Over time, Richard discovered he had a small surplus of fabric designs at the end of each season so the light bulb moment came and from here, Drapers Fabrics was born. 'Drapers came about completely organically. We discovered we had these amazing fabrics, so decided to open an outlet to the public.'

The space is cleverly located amidst the fashion throng of Newmarket Auckland and was always the preferred destination. 'The location of the site was perfect but the size of the building wasn't. We would have preferred a larger space but we had to compromise and be smart about how to make the most of it.'

Richards's eye for detail extends further than fabric design and this is evident in the way he has displayed his product. Bolts of cloth are cleverly arranged at eye level, standing down each wall of the long narrow space while others line the centre of the store on trestle tables made from recycled timber.

Although the destination is ideal, making their presence known has proven somewhat difficult. 'Fabric Merchants already had well established networks within the fashion industry, but for Drapers it's a different story. We are a niche business, and trying to reach out to a new customer base is tricky. Our product receives amazing praise and feedback from our customers.... It's just a matter of building up that customer base.'

Richard has great plans for Drapers and is set to open up the retail space to the world wide web, making the store's beautiful fabrics available online.

**'Social and online media are incredibly important to us.'**

'We've thought about taking the business online, but we haven't quite got there just yet. It's definitely the next step for Drapers.' This team is savvy on social media though, and has already established a devout online following.

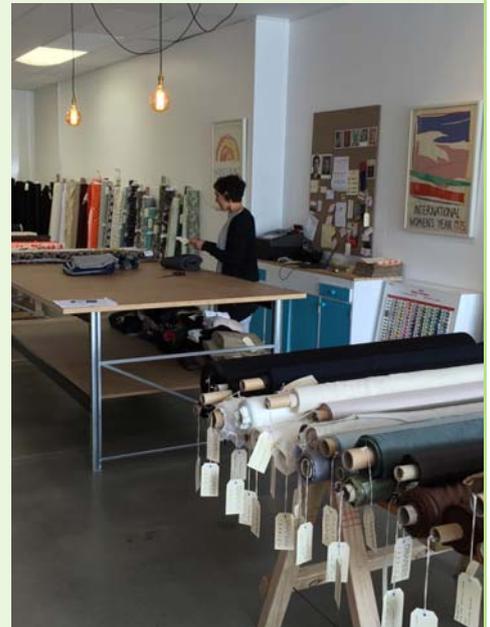
'Social and online media are incredibly important to us. Because our product is very visual, it suits being on Facebook and Instagram. We also have a growing email database that our customers are only too happy to sign up to, so we regularly send out emails with photos of new product.'

Richard hasn't done it completely alone. He has a passionate and trusting team backing him, with a total of six employees across both businesses. Richard also credits part of his success to his accountant.

'We have a great accountant who also works as an advisor. He looks at all areas of our business, from the initial business structure, to lease agreements and general business advice.'

Promoting the store via both print and social media has been a good starting point and word is sure to spread quickly. When it comes to the quality of his fabrics, Richard doesn't falter. 'Our success has been to stick to our business plan in dealing with only the finest designs we can find, and not compromising that.'

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## Disclaimer

*This publication has been carefully prepared, but it has been written in general terms only. The publication should not be relied upon to provide specific information without also obtaining appropriate professional advice after detailed examination of your particular situation.*

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