

## Legislative compliance – A checklist for boards

This document provides guidance to boards on the key legislation they need to be aware of and comply with. It contains a brief summary of the legislation and advice on where further information and resources can be found. It is not a comprehensive list or summary of your legislative obligations, and does not contain advice on contractual and other legal obligations.

Boards and management need ensure on a regular basis that the organisation has practical, thorough and well-understood systems in place for reporting, compliance and risk management. These should be tailored to the organisation and should be aimed at the substance of what's important, rather than being a box-ticking exercise.

### CORPORATE / CONSTITUTIONAL

Legislation	Summary	Information and resources
Incorporated Societies Act 1908	This Act enables the incorporation of groups of people associated for 'non-pecuniary' purposes (societies), and governs their formation, operation and winding up. It includes details on the content of societies' rules, how societies contract and their record keeping responsibilities. The Act is under revision currently, and any new Act is likely (among other things) to include specific duties for board/committee members, much like those for company directors under the Companies Act.	For more information, see the Incorporated Societies website: <a href="http://www.societies.govt.nz">www.societies.govt.nz</a>  Sport NZ commentary  <a href="#">Here</a>
Companies Act 1993	This Act governs companies, including their incorporation, constitutions, shares, shareholder rights, record keeping, liquidation and the powers and duties of directors. Companies must file annual returns with the Companies Office, and notify the Office of changes, including changes to directors and the constitution.  Company directors have express duties, including duties	Information and resources (including how to search for the details of a company) are available on the Companies Office website: <a href="http://www.companiesoffice.govt.nz">www.companiesoffice.govt.nz</a>  Directors' duties  See pp14-15 <a href="#">Nine Steps to Effective Governance</a>

	<p>to act in good faith and in the best interests of the company, to exercise powers for a proper purpose and not to trade recklessly. While these duties do not apply to board/committee members in other (non-company) organisations, they represent best practice and provide helpful guidance on compliance with board/committee members' duties practically.</p>	
<p>Charities Act 2005</p>	<p>This Act governs the operation of charities. A fundamental principle is that all decisions must fit with the charitable purpose of the charity.</p> <p>To avoid conflicts of interest arising, and to manage those when they do, charities should maintain protocols around 'interested trustees'.</p> <p>Charities must complete annual returns, which are similar to those required of companies, but are filed with Charities Services (within the Department of Internal Affairs).</p> <p>Charities must notify Charities Services of certain changes, including changes to Trustees and to the terms of the Trust. If incorporated as a Charitable Trust Board (a specific type of charity), charities must also notify the Registrar of Societies of any changes to trust provisions or Trustees.</p>	<p>Information and resources (including how to file an annual return for a charity) are available on the Charities Services website:  <a href="http://www.charities.govt.nz">www.charities.govt.nz</a></p>

Trustee Act 1956	<p>This Act sets out the duties, powers and functions of trustees. These include knowing and complying with the terms of the trust, ensuring that all trustees act impartially and in the beneficiaries' best interests, and taking care if delegating duties to other individuals. It is also important to avoid and manage conflicts of interest. The directors' duties in the Companies Act provide helpful guidance for trustees on compliance with their board duties practically. These should not be treated by trustees as a definitive list, as trust law is distinct from company law.</p> <p>A new Trusts Bill is being considered. Financial statements will become mandatory and trustees will be more accountable generally under the proposed regime.</p>	<p>For information about the Trustee Amendment Bill, see the relevant page on the New Zealand Parliament website: <a href="http://www.parliament.nz">www.parliament.nz</a></p>
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## EMPLOYMENT

Legislation	Summary	Resources
Employment Relations Act 2000	<p>The main Act governing employment relationships. It requires employers, employees and unions to deal with each other in good faith.</p> <p>The Act also sets rules around employment agreements, hours of work, record-keeping and the fair treatment by employers of employees. It establishes procedures and institutions for the resolution of employment issues, mediation being a key step. This is a free MBIE service.</p>	<p>Resources and information are available on the Ministry of Business, Innovation &amp; Employment website: <a href="http://www.mbie.govt.nz">www.mbie.govt.nz</a></p>
KiwiSaver Act 2006	<p>This Act establishes a voluntary, work-based savings scheme. It does not replace existing workplace</p>	<p>For an overview of the KiwiSaver Scheme,</p>

	<p>retirement schemes. Employees can choose to contribute 3%, 4% or 8% of their gross pay, which their employers must deduct at source. Employers must also pay an employer contribution of 3% of the employee's gross pay to the scheme.</p> <p>There are requirements on employers to provide information about KiwiSaver to new employees.</p>	<p>see: <a href="http://www.kiwisaver.govt.nz">www.kiwisaver.govt.nz</a></p> <p>For information about employer contributions, see the Inland Revenue Department website: <a href="#">here</a></p>
<p>Holidays Act 2003</p> <p>Parental Leave and Employment Protection Act 1987</p>	<p>These Acts set minimum entitlements for annual and public holidays, and sick, bereavement and parental leave.</p>	<p>For information about holidays and leave, see: <a href="#">here</a></p>
<p>Minimum Wage Act 1983</p> <p>Wages Protection Act 1983</p> <p>Equal Pay Act 1972</p>	<p>These Acts set minimum entitlements for wage payments, limit wage deductions, and require men and women performing the same job to be paid equally.</p>	<p>For information about wages, see: <a href="#">Hours and wages</a></p> <p>For information about the Employment (Pay Equity and Equal Pay) Bill, see: <a href="http://www.mbie.govt.nz">www.mbie.govt.nz</a></p>

## HEALTH & SAFETY

Legislation	Summary	Resources
<p>Health and Safety at Work Act 2015</p>	<p>The key Act governing health and safety, regulated by WorkSafe New Zealand. It covers sports and events, as well as more typical workplaces.</p> <p>The Act places duties on organisations, officers (mainly board members and chief executives), workers and other people in the workplace to take steps to ensure</p>	<p>Resources and information are available on the WorkSafe website: <a href="http://www.worksafe.govt.nz">www.worksafe.govt.nz</a></p> <p>Sport NZ has a range of resources</p> <p>Governance policy see p6 in the <a href="#">Board Charter</a></p>

	<p>health and safety. There are both general and specific obligations.</p> <p>Organisations must notify accidents that caused harm or that may have caused harm if they meet certain thresholds.</p> <p>Officers must exercise 'due diligence' to ensure their organisation complies. That is, they must be aware of their duties and the risks associated with the business, ensure there are good systems in place to manage those risks, and ensure those systems are monitored and reviewed regularly.</p> <p>Organisations and individuals can be prosecuted if they breach the Act. Substantial fines and imprisonment can be imposed. There are limits on the ability to insure against liability.</p>	<p>On line training on the Sporttutor platform  <a href="http://www.sporttutor.nz">www.sporttutor.nz</a></p>
<p>Accident Compensation Act 2001</p>	<p>This Act establishes a no-fault scheme for accident prevention, compensation and rehabilitation, administered by ACC (the Accident Compensation Corporation). It is funded by levies, which employers and businesses pay, and government contributions. If individuals are covered by ACC, they cannot sue for personal injury.</p> <p>Physical injuries (such as fractures, sprains and strains) are usually covered by ACC. So too are injuries resulting from treatment by a registered health practitioner. It is possible, but less common, for</p>	<p>Resources and information (including forms to fill out when applying for cover) are available on the ACC website: <a href="http://www.acc.govt.nz">www.acc.govt.nz</a></p>

	<p>illnesses and mental injuries to be covered.</p> <p>ACC can pay for a variety of costs resulting from personal injury, including loss of income (80%), aids and equipment, medical appointments, transport and travel, home care, childcare support, counselling and therapy.</p>	
Smokefree Environments Act 1990	<p>Smoking in New Zealand is prohibited in a number of public places, such as workplaces and educational institutions. The Act also prohibits smoking in licensed premises, restaurants, casinos and class 4 gaming venues (except in designated 'open areas'). It is an offence to permit individuals to smoke in prohibited areas. Doing so may result in a fine or a criminal prosecution.</p>	<p>Resources and information are available on the Health Promotion Agency Smokefree website: <a href="http://www.smokefree.org.nz">www.smokefree.org.nz</a></p>

## TAXATION

Legislation	Summary	Resources
Income Tax Act 2007	<p>This Act is New Zealand's main taxation act. It sets out how much income tax organisations and individuals must pay on income they derive from their activities, and when such tax must be paid. In addition, payments made to others (for example wages to an employee) may be subject to withholding tax obligations under the Act.</p> <p>Most organisations will need to apply for an IRD number (which identifies the organisation to IRD for tax</p>	<p>Resources and information about both income tax and GST are available on the IRD website: <a href="http://www.ird.govt.nz">www.ird.govt.nz</a></p>

	<p>purposes) and may also need to periodically file income tax returns and other documents with IRD (governed by the Tax Administration Act 1994).</p>	
<p>Goods and Services Tax Act 1985</p>	<p>Under this Act, most organisations and individuals supplying goods and services totalling more than \$60,000 in a 12-month period must register for goods and services tax (GST) purposes. GST-registered persons are required to account for GST on most supplies of goods and services.</p> <p>GST-registered persons have certain filing and compliance obligations.</p>	

## INDIVIDUAL RIGHTS

Legislation	Summary	Resources
<p>Privacy Act 1993</p>	<p>This Act governs the collection, storage, use and disclosure of personal information about individuals. It also allows individuals to access and correct personal information held about them, and establishes a complaints and dispute resolution process, starting with the Office of the Privacy Commissioner.</p> <p>'Purpose' is key to the Privacy Act. Organisations may collect personal information only where that is for lawful purposes connected with the organisation's functions, and must be upfront with individuals about those.</p> <p>Subject to certain limited exceptions, agencies cannot</p>	<p>Resources and information are available on the Privacy Commissioner website:  <a href="http://www.privacy.org.nz">www.privacy.org.nz</a></p>

	use or disclose the information for any other purpose.	
Human Rights Act 1993	<p>This Act prohibits discrimination based on any of the following grounds: sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status, and sexual orientation.</p> <p>Individuals can complain to the Human Rights Commission if they believe they have been discriminated against.</p>	Resources and information are available on the Human Rights Commission website: <a href="http://www.hrc.co.nz">www.hrc.co.nz</a>

## CHILDREN AND YOUNG PEOPLE

Legislation	Summary	Resources
Vulnerable Children Act 2014	<p>The purpose of this Act is to protect children from harm. It establishes a comprehensive screening and vetting process for all paid individuals, or unpaid trainees, who work for organisations who receive funding from a government organisation to provide services to children. This safety checking process must occur every three years.</p> <p>It also prohibits individuals with certain serious criminal offences from working with children (unless they are granted an exemption by a panel of government departments) and requires certain state sector organisations to have Child Protection Policies in place.</p>	<p>Resources and information are available on the Working With Children page on the Ministry for Vulnerable Children, Oranga Tamariki website: <a href="http://www.mvcot.govt.nz">www.mvcot.govt.nz</a></p> <p><a href="#">SportNZ policy guidance</a></p> <p><a href="http://www.sportnz.org.nz/managing-sport/search-for-a-resource/guides/safe-sport-for-children">http://www.sportnz.org.nz/managing-sport/search-for-a-resource/guides/safe-sport-for-children</a></p>
Minors' Contracts Act 1969	This Act regulates employment agreements and other	For more information, see the relevant page



	with individuals under the age of 18. Contracts with minors will not necessarily be enforceable and, among other things, need to be fair and reasonable.	on the Consumer Protection website: <a href="http://www.consumerprotection.govt.nz">www.consumerprotection.govt.nz</a>
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## COMMERCIAL DEALINGS

Legislation	Summary	Resources
Commerce Act 1986	<p>This Act prohibits anti-competitive agreements between people or businesses, and makes it illegal for people or companies to abuse a dominant market position. Examples include agreements that fix, maintain, or control prices, two or more competitors (including through a trade association) seeking to exclude another, or a person or business taking advantage of a dominant position in a market for an anti-competitive purpose.</p> <p>The Commerce Commission can investigate complaints or issues that come to its attention.</p>	<p>The Commerce Commission has published a number of fact sheets about anticompetitive behaviour, which are available at: <a href="#">Business competition</a>.</p>
Fair Trading Act 1986	<p>This Act sets out New Zealand's fair trading laws. It prohibits conduct that is misleading or deceptive, unsubstantiated, false or misleading representations, and unfair practices. These include for example, prohibitions on misleading advertising (eg, advertising an entry fee as being \$100 and failing to disclose an extra \$50 of other compulsory costs), unfair contract terms, and misleading promotion and competition conditions.</p>	<p>The Commerce Commission has published a number of fact sheets about the Fair Trading Act, which are available at: <a href="#">Fair trading fact sheets</a>.</p>

	<p>The Act also provides for the disclosure of consumer information relating to the supply of goods and services, and promotes product safety.</p>	
<p>Secret Commissions Act 1910</p>	<p>This Act criminalises bribery and corrupt behaviour in the private sector (such as influencing behaviour, failure to disclose a financial interest, and secret rewards for advice/information).</p> <p>The Crimes Act 1961 criminalises similar behaviour in the public sector.</p> <p>Penalties range from fines to imprisonment.</p>	<p>For more information, see the relevant page on the Serious Fraud Office website: <a href="http://www.sfo.govt.nz">www.sfo.govt.nz</a></p>
<p>Financial Markets Conduct Act 2013</p> <p>Financial Advisers Act 2008</p> <p>Anti-Money Laundering and Countering Financing of Terrorism Act 2009</p>	<p>These Acts regulate 'financial products' and financial advice. Financial products are debt securities, equity securities, managed investment products and derivatives. Disclosure and governance requirements apply to the issuers of these products, and fair dealing provisions apply to all dealings in financial products.</p> <p>An entity that carries on financial activities in the course of its business may have anti-money laundering obligations.</p> <p>If an organisation takes any form of financial investment or gives financial advice, it may be subject to financial regulation and should take advice.</p>	<p>For more information, see the Compliance page of the Financial Markets Authority website: <a href="http://www.fma.govt.nz">www.fma.govt.nz</a></p> <p>For a general overview of the Financial Markets Conduct Act, refer to the relevant page of the Ministry of Business, Innovation &amp; Employment website: <a href="http://www.mbie.govt.nz">www.mbie.govt.nz</a></p>

## MATCH-FIXING AND ANTI-DOPING

Legislation	Summary	Resources
Crimes Act 1961	Match-fixing is defined as manipulating a sports match or racing event to influence a betting outcome. This Act makes match-fixing a criminal offence. Engaging in match-fixing could result in imprisonment of up to 7 years.	For more information, see the Integrity in Sport page and also the New Zealand Policy on Sports Match-fixing and Related Corruption, both on the Sport New Zealand website: <a href="http://www.sportnz.org.nz">www.sportnz.org.nz</a>  <a href="http://www.sportnz.org.nz/managing-sport/search-for-a-resource/strategy-and-policy/match-fixing">http://www.sportnz.org.nz/managing-sport/search-for-a-resource/strategy-and-policy/match-fixing</a>
Sports Anti-Doping Act 2006	This Act sets out the role and powers of two regulatory bodies: Drug Free Sport New Zealand and the Sports Tribunal of New Zealand. Drug Free Sport deals with doping at first instance and implements the World Anti-Doping Code. The Sports Tribunal hears doping disputes.  Doping is not a criminal offence in New Zealand, but is a serious issue.	Resources and information are available on the Drug Free Sport New Zealand and Sports Tribunal of New Zealand websites: <a href="http://www.drugfreesport.org.nz">www.drugfreesport.org.nz</a> and <a href="http://www.sportstribunal.org.nz">www.sportstribunal.org.nz</a>

## LAND USE AND EVENTS

Legislation	Summary	Resources
Resource Management Act 1991 ("RMA")	District plans, regional plans and National Environmental Standards determine when activities including the use of land, use of the coastal marine area, certain uses of beds of lakes and rivers, water and discharge of	The <a href="#">Quality Planning</a> website is a good resource for understanding processes under the RMA.

	<p>contaminants will require resource consent.</p> <p>There is a general duty under this Act to avoid, remedy or mitigate any adverse effects of activities on the environment.</p> <p>District plans commonly contain sport and recreation 'open space' rules applying to areas such as sports fields. Sport and recreation are commonly permitted (ie will not require resource consent) in such areas but this will depend on the individual plan and may require compliance with specific standards. Additionally, the associated effects of an activity on the environment such as noise, lighting and traffic could mean an activity requires consent.</p> <p>Some plans contain other types of 'open space' rules relating to conservation space, civic space or community space in which sport and recreation may require resource consent.</p> <p>Plans often contain rules for 'temporary activities' which commonly include sporting events. These could require resource consent depending on the plan and type of sporting event proposed.</p> <p>Additional rules apply to structures and facilities associated with recreation such as grandstands, floodlights, public amenities, recreation or retail facilities and may require resource consent.</p>	
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Local Government Acts 1974 and 2002	<p>The 2002 Act sets out the purpose, role and powers of local authorities as well as the structure, organisation and management of local authorities. Local authorities usually make decisions on resource consent applications at first instance.</p> <p>Local authorities make bylaws under this Act, bylaws may restrict things such as alcohol consumption, water, waste and use of public spaces. As such, bylaws may have relevance to sporting activities and events.</p> <p>The 1974 Act sets out a territorial authority's power to close any road or part of a road to traffic. This is in consultation with other agencies and subject to certain requirements. This may be relevant to sporting events.</p>	
Conservation Act 1987	<p>The Department of Conservation administers and manages conservation areas, reserves and national parks.</p> <p>Conservation areas and reserves are managed in accordance with conservation management strategies and plans. Organised sport and recreation activities or events may require authorisation under this legislation.</p> <p>A concession is generally required for any commercial activity on conservation land, reserves or in a national park. Individuals or organised groups undertaking recreational activity (provided there is no gain or reward) may be exempt from the concession requirement.</p> <p>Additional requirements may apply to specially protected</p>	<p>The <a href="#">Department of Conservation</a> website is a good place to start for information about conservation areas, reserves and national parks.</p>
Reserves Act 1977		
National Parks Act 1980		

	<p>areas of conservation land.</p> <p>National parks are listed in the National Parks Act 1980. National parks are managed in accordance management plans, which may cover or affect recreational or sporting activities. Permits are required for access to specially protected areas of national parks. Specific bylaws may also apply to National Parks. The provision of accommodation requires Ministerial authorisation.</p>	
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## BUILDINGS

Legislation	Summary	Resources
Building Act 2004	The main Act governing the construction, alteration and maintenance of new and existing buildings. The Act, and the Building Code created under it, include standards and guidance regarding access and facilities for those with disabilities, means of escape in a fire, and requirements in relation to earthquake prone buildings.	<a href="#">Building code compliance</a>
The Fire and Emergency New Zealand Act 2017 Fire Safety and Evacuation of Buildings Regulations 2006	This Act requires the owner of certain 'relevant buildings' (eg gatherings of more than 100 people, or workplaces of over 10 people) to have an evacuation scheme approved by FENZ. The Regulations provide for fire safety in buildings and the provision of evacuation schemes and procedures in the event of a fire.	<a href="#">Evacuation schemes</a>
Sale and Supply of Alcohol Act 2012	This Act aims to ensure the safe and responsible sale,	Resources and information are available on

	<p>supply and consumption of alcohol. It regulates this through alcohol licences, which are site specific, including special licences for one-off events. The Act also enables local authorities to develop a Local Alcohol Policy that governs their area.</p> <p>It is a criminal offence to sell alcohol to individuals who are intoxicated or aged under 18 years. It is also a criminal offence to supply alcohol to individuals aged under 18, unless the alcohol is supplied in a responsible manner by their legal parent/guardian, or with the express consent of their legal parent/guardian.</p> <p>Breach of the Act may result in prosecution, fines and licence cancellation.</p>	<p>the Health Promotion Agency alcohol website, and also on the Sale &amp; Supply of Alcohol page of the Ministry of Justice website: <a href="http://www.alcohol.org.nz">www.alcohol.org.nz</a> and <a href="http://www.justice.govt.nz">www.justice.govt.nz</a></p>
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