

RESTRUCTURE RULES FOR PRUDENT COMPANIES

1. Collect all relevant information regarding the reasons for the proposed restructure. Often restructures are due to a business needing to save money, fast. However, there can be other entirely legitimate reasons, such as efficiency, or an owner wanting a more active role. Whatever the case may be, all relevant information will need to be provided to potentially affected employees. Often your accountant and/or bank manager can assist in collecting this information.
2. Consider the provisions of the potentially affected employee's employment agreements. Including notice periods, and any process provided for restructuring and redundancies. Present the proposed restructure and relevant information in a way the employees can understand.
3. Be mindful of any literacy and/or language barriers, and ensure financial information is presented in a clear and easy to understand manner. Organisational charts are often helpful to present the proposed new structure compared to the current structure. Genuine consultation is key.
4. Provide adequate time for employees to consider the proposal and provide feedback. This includes a realistic timeframe for the employees to take advice. Answer any questions an employee may have about the proposed restructure, and try to be flexible about how the employee can meaningfully engage in consultation – i.e. having the opportunity to provide feedback in writing, verbally, or in person.
5. Genuinely consider all feedback, comments, and discussions had during the consultation phase. Document this well, for example in Board or meeting minutes. If there is a decision to proceed with the restructure proposal, consider what that means for each individual employee.
6. Where an employee's position is made redundant, and there is a similar position in the new structure that the employee can perform, or could be trained to perform, it is likely they will have to be offered the position rather than having to apply for it.
7. Ensure notice periods and any redundancy compensation in each employee's individual employment agreement are strictly complied with.
8. Selection criteria.
Where two or more employees whose positions have been made redundant could do one role in the new structure, formulate and consult on the selection criteria that will be used to decide which employee is offered the role.
9. Take advice!
Restructures and resulting redundancies are not straightforward. This is a complex area of law, and employers who get it wrong can face significant penalties and awards against them. If you would like any advice on restructuring please contact one of employment law experts.

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Telephone/Fax _____

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News & views from Summit Systems June 2017



PIKE RIVER VISITED AGAIN (ONE TEAM SURVIVED?)

It appears that this tragedy is to again become a political football for players that do not know what they are talking about. Here is link to Royal Commission. <http://pikeriver.royalcommission.govt.nz/Volume-One---What-Happened-at-Pike-River---Part-Two#Cause> Shortly after the disaster, we did an indepth report (peer reviewed) for our own purposes and we found that there were 23 contributing factors and any one of the factors could have resulted in death. The commission that was set up to investigate found 8 factors.

For example, a few years prior to the event, the Politicians of the day decided that mines inspectors were unnecessary. They also decided due to environmental activists that the mine must be underground to reduce damage to native bush. They also decided that they would allow mining to take place right up to the rock faces thereby creating millions of sparks. They did not understand that a rescue scheme must be 30 minutes and not 2.5 hours (Nelson).

The design of the operation was wanting. Again, just one entry portal was to satisfy the environmentalists. A single ventilation shaft was an even worse aspect. The lack of an emergency room underground a further most reprehensible mistake. If there were any survivors, they had nowhere to go. Officials (Economic Development) did not bother to insist on health and safety checks prior to issue of permits leaving safety things to the operators.

For the record, we wrote one of the MPs that has been telling people in a loud voice that he would bravely go into the mine himself. We pointed out that entry must not be attempted unless a robot run was effected in the first place. We provided the specifications for such an attempt. We also provided a specification for what we considered to be safe entry in the event that a small team of experts would be allowed to mount a retrieval operation.

It may be worth pointing out that the West Coast bush will grow back to almost present state (prior to felling condition) within 80 years. An open cast mine would have avoided most of the extremely dangerous aspects that were incorporated in the project. The mine was the size of a bucket from the highway and detectable if you knew where to look.



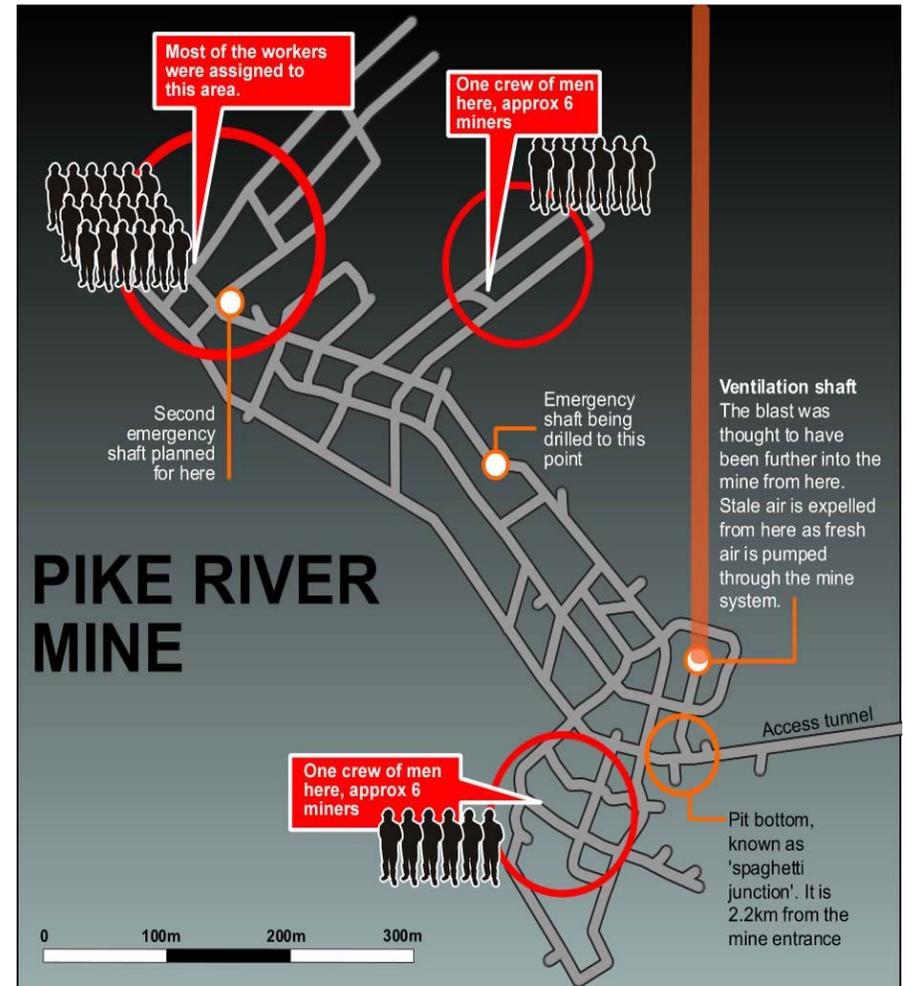
2.

SETTING UP BUSINESS IN NEW ZEALAND

Questions and Answers – Thomson Reuters / Cavell Leitch article worth study.

This Q&A gives an overview of the key issues in establishing a business in New Zealand, including an introduction to the legal system; the available business vehicles and their applicable formalities; corporate governance structures and requirements; foreign investment incentives and restrictions; currency regulations; and tax and employment issues. Please download the PDF or [view the "Establishing a business in New Zealand" guide](#).

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3.

LIABILITY OF DIRECTORS (as well as Sentencing / HSAWA laws)

Under the Securities Act Directors can face fines of up to \$500,000 in civil proceedings, and up to five years imprisonment or fines of up to \$300,000 in criminal proceedings. Therefore all directors need to be aware of their obligations to their company.

The key duties **under the Companies Act 1993**, found in Part 8, sections 131-137, include the following:

- The duty to act in good faith and in the best interests of the company.
- The duty to use their powers for the purpose for which they were conferred and not for any ulterior motive.
- The duty to act in accordance with their obligations under the Companies Act 1993 and the company's constitution.
- That a director must not agree to cause, or allow the company's business to be conducted in a manner that is likely to create a substantial risk of serious loss. To determine this the Court will look at what an "ordinary prudent director" would have done in the same circumstances.
- The duty not to take on any obligations unless it is believed on reasonable grounds that the company will be able to perform those obligations when required to do so, and
- The duty to use the reasonable care, diligence and skill that a reasonable director would exercise in the circumstances.

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We are delighted to announce that we now can offer a very high quality course that will help thousands of sites around NZ so that they can design and develop their own quality management systems themselves with much reduced help from consultants. The course is designed to be economical. The savings from ACC plus the QA cost benefit or improved margins will pay off the costs perhaps 50 times over five years. There will be 2-3 sessions of 2.5 hours approximately each time. The courses will be held at client sites where this is possible and desired. The qualification can be listed on IRQAQO as an important step towards a well paid International Auditor career.

Slide show Exceptional quality of slides – approximate 100 that will help managers understand what is required and how to achieve a good result.

Workbook About 50 pages of work book that will be of significant value to the manager that is charged with the development of a quality management system for the organisation.

Data set The data set for the main plan is less than 100 pages and incorporates most of the workbook that has already been completed during the course.

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Certificate to state Internal Compliance Internal Auditor AS/NZS ISO 9001: 2016