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# Legislative and regulatory compliance for officers of charitable trusts and societies

April 2023



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## Foreword

All charitable entities have a duty to comply with New Zealand legislation, regulations, codes, best practice guidelines and various other obligations. Trustees and staff have a responsibility to ensure that a charity's activities comply with these obligations.

Many New Zealand charities have obligations in common which they must adhere to, including governance, employment, financial reporting, maintaining charitable status, and information and record-keeping. Depending on the size and activities of a charity, compliance requirements will vary.

The Tindall Foundation is subject to an increasing and complex range of obligations so the Trustees decided to compile a comprehensive framework that clearly outlines the area and details of responsibility, its legislative or other basis, time deadlines and the steps required to fulfil that obligation.

In order to ensure quality information they engaged and briefed leading law firm Chapman Tripp to develop and complete the work. We acknowledge Chapman Tripp for their extensive effort involved in compiling this excellent resource and undertaking to update an electronic version of the document to maintain continuous compliance.

We hope trustees of other New Zealand charities may also find this document a useful source of information and guidance. We appreciate Chapman Tripp making a generic version widely available so it may benefit the whole charitable sector in New Zealand.

Elizabeth Tindall Tetro

(2018)

## Background

Registered charities are under an obligation to comply with New Zealand legislation and other regulatory frameworks. Adherence to these obligations will minimise an organisation's exposure to risk. Trustees and staff have a responsibility to ensure that their activities on behalf of the organisation comply with those obligations.

The following lists the specific pieces of legislation or regulation under which a registered charity may have obligations depending on its various functions and operations. These include governance, employment, financial reporting, maintaining charitable status, information and record-keeping, and obligations as a landlord.

## Date of Update

Chapman Tripp will maintain the Compliance Manual and amend it to respond to any changes in legislation or regulations as soon as practicable after the change. This version is accurate as at 28 April 2023.



Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
<b>1 Governance Obligations</b>				
<b>Charities Act 2005</b>	<p><b>Section 13:</b> An entity qualifies for registration as a charitable entity if:</p> <ul style="list-style-type: none"> <li>its income is derived for charitable purposes;</li> <li>it is established and maintained exclusively for charitable purposes and is not carried on for the private profit of any individual;</li> <li>its name is compliant under section 15; and</li> <li>all officers are qualified to be officers under section 16.</li> </ul> <p><b>Section 51:</b> Trustees have a duty to assist Charities Services with information or documents to enable it to carry out its functions and exercise its powers under the Charities Act 2005.</p> <p>Suggestion: ask officers annually to confirm they are not disqualified (section 16).</p>	See part 4: Financial and Reporting Obligations.	<p><a href="http://www.legislation.govt.nz/act/public/2005/0039/latest/DLM344368.html">www.legislation.govt.nz/act/public/2005/0039/latest/DLM344368.html</a></p> <p>A bill to amend the Charities Act 2005 (known as the Charities Amendment Bill) is currently before Parliament.</p> <p>If passed, the following additional requirements would apply:</p> <ul style="list-style-type: none"> <li>to qualify for registration, at least one officer would need to be 18 years or older;</li> <li>to remain qualified for registration, the charity must continue to meet the requirements of section 13 of the Charities Act 2005 and have and maintain rules; and</li> <li>the charity must conduct an annual review of the governance procedures to consider whether those procedures are current and whether they assist with achieving the charitable purposes and complying with the Charities Act.</li> </ul>	
<b>Charitable Trusts Act 1957</b>	If incorporated under this Act, the trustees have limited personal liability; provided that the decision-makers act honestly, prudently, within the charitable purposes of the trust, and not for personal gain.	<p>An incorporated charitable trust board has an ongoing obligation to update the Registrar of Incorporated Societies with the following:</p> <ul style="list-style-type: none"> <li>any alteration to the rules or a variation to the trust (section 23); and</li> <li>any change to the address of the charitable trust board (section 23).</li> </ul> <p>The trust must seek permission to change its name (section 16).</p>	<p><a href="http://www.legislation.govt.nz/act/public/1957/0018/latest/DLM308796.html">www.legislation.govt.nz/act/public/1957/0018/latest/DLM308796.html</a></p>	

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		<p>Updates regarding changes to other organisational details are optional.</p> <p>This role can be delegated to the person with authority to carry out the trust administration.</p>		
<b>Trusts Act 2019</b>	<p>The Trusts Act 2019 came into force on 30 January 2021. Trustees need to align their documentation and practices with the new Act.</p> <p>The Trusts Act 2019 restates the duties of trustees that have been established by courts over time. The Act separates mandatory duties (must be adhered to) and default duties (can be contracted out of).</p> <p><b>Guiding principle in performing duties (section 21):</b></p> <p>In performing mandatory duties set out in sections 23 to 27 and the default duties set out in sections 29 to 38, a trustee must have regard to the context and objectives of the trust.</p> <p><b>Mandatory duties (sections 22 - 27):</b></p> <ul style="list-style-type: none"> <li>to know the terms of the trust - e.g. details of all of the trust property, the contents of the trust deed, amendments, standing resolutions, and by-laws;</li> <li>to act in accordance with the terms of the trust;</li> <li>to act honestly and in good faith;</li> <li>to hold or deal with trust property, and otherwise act, to further the permitted purposes of the trust, in accordance with its terms; and</li> <li>to exercise powers for a proper purpose.</li> </ul> <p><b>Default duties (sections 28 - 38):</b></p> <p>Except to the extent modified or excluded in the trust deed (whether expressly or impliedly), trustees have these default duties:</p>	<p>Every trustee must keep a copy of the trust deed and variations during their trusteeship (section 45). Electronic copies are sufficient.</p> <p>At least one of the trustees must keep all “core documents” and provide to others if requested. The core documents are the trust deed, variations, all details of trust property, all resolutions and decisions, contracts, accounting and financial records, documents recording changes of trustee, wishes from the settlor, other documents necessary for the administration of the trust, and historical resolutions and documents passed on from past trustees. Again, electronic copies are sufficient (and expected).</p> <p>All trustees must pass on (to the continuing trustees) the documents held by them at the end of their trusteeship.</p>	<p><a href="http://www.legislation.govt.nz/act/public/2019/0038/latest/DLM7382815.html">http://www.legislation.govt.nz/act/public/2019/0038/latest/DLM7382815.html</a></p>	

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	<ul style="list-style-type: none"> <li>When administering a trust, a trustee must exercise the care and skill that is reasonable in the circumstances.</li> <li>When investing trust property, a trustee must exercise the care and skill that a prudent person of business would exercise in managing the affairs of others.</li> <li>A trustee must not exercise a power directly or indirectly for the trustee's own benefit.</li> <li>A trustee must consider actively and regularly whether that trustee should be exercising her or his power as a trustee.</li> <li>A trustee must not commit trustees to a future exercise or non-exercise of a discretion. A trustee must avoid a conflict between their interests and the interests of the beneficiaries.</li> <li>A trustee must act impartially, where there are charitable beneficiaries or purposes with conflicting interests.</li> <li>A trustee must not profit personally from the trust fund.</li> <li>A trustee must act for no reward, but this does not prohibit reimbursement for the trustee's legitimate expenses and disbursements in acting as a trustee.</li> <li>The trustees must act unanimously.</li> </ul>			
<b>2 Employment-related Obligations</b>				
The following Acts apply to any charitable trust and/or society that is an employer or runs a workplace.				
<b>Accident Compensation Act 2001</b>	<p>Employers are required to:</p> <ul style="list-style-type: none"> <li>Pay Accident Compensation Corporation (ACC) Workplace Cover invoices twice yearly, automatically provided by ACC. Check and correct their calculations.</li> </ul>	<p>Notify ACC of any increase or decrease in an injured employee's earnings for the current income year from that employee's earnings for the immediate preceding income year.</p> <p>Provide all requested information to ACC.</p>	<a href="http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM99494.html">http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM99494.html</a>	

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	<ul style="list-style-type: none"> <li>Pay the first week's compensation for an incapacitated employee covered by the Act, being 80% of that employee's earnings.</li> </ul> <p><b>Section 71:</b> take all practicable steps to assist employees to rehabilitate as per the employee's individual rehabilitation plan.</p> <p><b>Section 187 &amp; 189:</b> provide ACC with any information or statement upon request for the purposes of detecting fraud or facilitating decisions about cover and the timely and appropriate provision of entitlements.</p>			
<b>Employment Relations Act 2000</b>	<p><b>Section 4:</b> Parties to an employment relationship must deal with each other in good faith, which includes:</p> <ul style="list-style-type: none"> <li>doing nothing to (or that is likely to) mislead or deceive the other</li> <li>being active and constructive in establishing and maintaining a productive employment relationship, in which the parties are (among other things) responsive and communicative, and</li> <li>in the case of an employer who is proposing to make a decision that may have an adverse effect on the continuation of an employee's employment, provide information relevant to that decision and an opportunity for the employee to comment on the information before the decision is made (disclosure is not required where there is a good reason to maintain confidentiality of the information).</li> </ul> <p><b>Section 8:</b> Employees must be allowed the freedom to choose whether or not to be a union member.</p> <p><b>Section 65:</b> Individual employment agreements must be in writing and contain certain minimum information (names of employer/employee, description of work to be performed, an indication of location and hours</p>	<p><b>Section 4B:</b> Keep records to demonstrate compliance with minimum entitlement provisions.</p> <p><b>Section 64:</b> Retain a signed copy of the employee's individual employment agreement or an intended agreement (even if unsigned or terms and conditions are not yet agreed to).</p> <p><b>Section 130:</b> Keep a time and wages record.</p> <p>Employers must keep records containing: name of employee, employee's age if under 20, employee's address, kind of work employee is usually involved in, type of agreement (individual or collective), title, expiry date, employee's classification under collective agreement (if applicable), hours/days of work, wages and method of calculation, and details of any employment relations education leave taken.</p>	<a href="http://www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html">www.legislation.govt.nz/act/public/2000/0024/latest/DLM58317.html</a>	

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	<p>of work, remuneration, a plain language explanation of dispute resolution services, and employment protection provisions dealing with the rights of employees where all or part of the business is sold or transferred) and must not contain anything otherwise inconsistent with the Employment Relations Act.</p> <p><b>Section 54:</b> Collective agreements must be in writing and contain certain minimum information:</p> <ul style="list-style-type: none"> <li>• which employees the agreement covers</li> <li>• a plain language explanation of dispute resolution services available</li> <li>• a variation clause, and</li> <li>• an expiry date.</li> <li>• Collective agreements must not contain anything inconsistent with the Employment Relations Act.</li> </ul> <p><b>Section 66:</b> Fixed term agreements may only be entered into for genuine reasons. Genuine reasons do not include excluding or limiting the rights of an employee under the Employment Relations Act nor establishing an employee's suitability for the role. The reasons and the length of the term must be advised to the employee at the beginning of the term.</p> <p><b>Section 60:</b> New employees to be given sufficient information relating to the employment agreement (including the existence of any collective agreement(s) that cover that employee's work) and to be given an adequate opportunity to seek advice before entering into an employment agreement.</p> <p><b>Section 69ZD:</b> Employees must be able to take their minimum rest and meal breaks in accordance with Part 6D of the Act. For an 8 hour working day, the minimum entitlements are two 10-minute paid rest breaks and one 30-minute unpaid meal break.</p>			



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	<p><b>Section 69AAB-AAF:</b> If an employee requests a flexible working arrangement, which can include a request to change their hours, days or place of work, the employer must consider the request and notify the employee of its decision (in accordance with the requirements in Part 69AA or Part 69AB as applicable) as soon as possible but no later than one month (in the case of an application under Part 69AA) or 10 working days (in the case of an application under Part 69AB) after receiving the request.</p> <p>An employee may only be dismissed without notice for serious misconduct and after the employer has followed a fair procedure in making the decision to dismiss. In addition, all relevant contractual process entitlements must be complied with.</p> <p><b>Additional obligations on employers with unionised workforces</b></p> <p><b>Section 18A:</b> Union delegates must be given paid time off during normal working hours to undertake union activities.</p> <p><b>Section 20:</b> Employers must allow union representatives access to workplaces for purposes in connection with union business and respond to any requests for workplace access under section 20A(1) within two working days. Any decisions to decline access under section 20A(2) must be given in writing.</p>			
<b>Holidays Act 2003</b>	<p>The following minimum leave entitlements apply and are each paid in accordance with the Holidays Act 2003:</p> <ul style="list-style-type: none"> <li><b>Section 16:</b> after 12 months' continuous service, four weeks paid annual holiday per annum</li> <li><b>Sections 46, 50 &amp; 56:</b> 12 days paid public holidays. Where an employee works on one of these holidays, they are entitled to be paid at time and a half and, if the day</li> </ul>	<p><b>Sections 81 &amp; 82:</b> Ensure that a holiday and leave record is kept with all of the required information and made available on request.</p> <p>Record-keeping obligations are under the Employment Relations Act.</p>		

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	<p>was otherwise a working day for that employee, receive an alternative holiday.</p> <ul style="list-style-type: none"> <li>• <b>Sections 65 &amp; 66:</b> after six months' continuous service, a minimum of ten days' paid sick leave. Up to 10 days of accumulated sick leave can be carried over from year to year, to a maximum of 20 days current entitlement.</li> <li>• <b>Sections 69 &amp; 70:</b> after six months' continuous service, three days' paid bereavement leave on the death of an immediate family member or the end of the employee's or their partner's pregnancy by way of a miscarriage or still-birth (including where they are the person's former partner and they would have been the biological parent of the child, had undertaken to be the primary carer of the child or are the partner of the person who had undertaken to be the primary carer of the child), and one day's paid bereavement leave in other circumstances where the employer accepts the employee has suffered a bereavement, and</li> <li>• <b>Section 72C:</b> after six months' continuous service, up to 10 days' paid domestic violence leave if the employee is a person affected by domestic violence.</li> </ul> <p><b>Section 37:</b> Where an employee suffers a bereavement whilst on annual leave, the employer must allow that employee to take the day as bereavement leave, rather than as annual leave.</p> <p><b>Section 28A:</b> An employee may request that up to one week of their annual leave entitlement be paid out in cash each 12-month period. The employer may decline the request and does not need to provide a reason.</p>			
<b>Human Rights Act 2003</b>	If an applicant is qualified for work of a particular kind (whether as an employee, volunteer or independent contractor), an	No reporting requirements.		

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	<p>employer cannot refuse the applicant work, offer them less favourable terms, or terminate or retire the person from work by reason of any of the prohibited grounds of discrimination.</p> <p>The prohibited grounds are: sex, marital status, religious belief, ethical belief, colour, race, ethnic origin, disability, age, political opinion, family/parenting status, sexual orientation, and whether the person is affected by domestic violence.</p>			
<b>Income Tax Act 2007</b>	<p>Make deductions such as PAYE, Employer Superannuation Contribution Tax (<i>ESCT</i>), student loan deductions, child support and KiwiSaver from employees' gross wages.</p>	<p>Prepare, electronically file with Inland Revenue Department (<i>IRD</i>) and pay by the 20<sup>th</sup> of the month provided that gross annual PAYE is less than \$500,000. If more than \$500,000 or more in the previous year you are required to pay twice monthly on the 20<sup>th</sup> of the same month and the 5<sup>th</sup> of the following month. (This includes PAYE, KiwiSaver, Student Loan deductions and Payroll Giving deductions).</p> <p>Employers with total annual PAYE and ESCT of \$50,000 or more must file the employment information electronically.</p> <p>If your PAYE and ESCT is less than \$50,000 you can choose to file electronically or by paper. Inland Revenue will send an IR348 and IR346 forms every month. If paper filing and you pay monthly the forms are due within 10 working days of each payday. Where you pay twice monthly the forms will be due or within 10 working days of the 15<sup>th</sup> and for payments between the 16<sup>th</sup> and end of the month within 10 working days of month end.</p>		
<b>Juries Act 1981</b>	<p><b>Section 14B &amp; 32A:</b> Employees who are called up for jury service must be permitted to attend, although arrangements can be made if jury service creates difficulty for the employer, such as a deferral of the service.</p> <p>The registered charity does not need to pay employees while they do jury service.</p>	No reporting requirements.	<a href="http://www.legislation.govt.nz/act/public/1981/0023/latest/whole.html">www.legislation.govt.nz/act/public/1981/0023/latest/whole.html</a>	

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<b>KiwiSaver Act 2006</b>	<p><b>Section 42:</b> Provide employees with a KiwiSaver information pack within seven days of employee starting the new employment.</p> <p><b>Section 66:</b> Enrol new employees and have them complete the KS1 enrolment form and KS10 opt-out form, if applicable, and deduct agreed percentage of KiwiSaver from employee at each pay date.</p> <p><b>Section 64:</b> Pay the compulsory employer's percentage contribution for any employees enrolled in KiwiSaver.</p>	<p>For every new employee you'll need to fill out a New employee and KiwiSaver details - IR346K form.</p> <p>If required, provide the KS10 form to IRD for new employees who wish to opt-out of KiwiSaver.</p> <p>Any new employees who are already KiwiSaver members should complete a KiwiSaver deduction form - KS2. This does not need to be provided to IRD, but should be retained by the employer.</p>	<p><a href="http://www.legislation.govt.nz/act/public/2006/0040/latest/DLM378372.html">www.legislation.govt.nz/act/public/2006/0040/latest/DLM378372.html</a></p>	
<b>Minimum Wage Act 1983</b>	<p><b>Section 6:</b> Ensure that every employee is paid at least the minimum rate of pay for every hour worked as prescribed in the current Minimum Wage Order (updated 1 April each year).</p> <p><b>Section 7:</b> An employer may provide other (non-cash) benefits to employees, for example food, accommodation or other allowances or privileges in addition to monetary salary, at a rate which is at least the prescribed minimum wage, as a remuneration for his or her services.</p>	<p>Record-keeping obligations are under the Employment Relations Act.</p>	<p><a href="http://www.legislation.govt.nz/act/public/1983/0115/latest/whole.html">www.legislation.govt.nz/act/public/1983/0115/latest/whole.html</a></p> <p><a href="http://www.employment.govt.nz/hours-and-wages/pay/minimum-wage/">www.employment.govt.nz/hours-and-wages/pay/minimum-wage/</a></p>	
<b>Parental Leave and Employment Protection Act 1987</b>	<p>Ensure that employees who are entitled to take parental leave are granted leave in accordance with the Act.</p> <p><b>Eligibility</b></p> <p><b>Section 2BA &amp; 30B:</b> Minimum entitlements apply after six months' service (and between periods of parental leave), but negotiated leave entitlements apply irrespective of length of service.</p> <p><b>Section 1A:</b> Male and female employees can obtain up to 26 weeks of parental leave payments.</p> <p><b>Section 1B(3)(a)(i):</b> Employees that meet the 6-month employment test are entitled to up to 26 weeks of primary carer leave.</p>	<p><b>Section 71W:</b> Provide to the Ministry of Business, Innovation and Employment (MBIE) any information it may request relating to an employee's entitlement or continued entitlement to payment under the Act, within a reasonable time.</p>	<p><a href="http://www.legislation.govt.nz/act/public/1987/0129/latest/DLM120104.html">www.legislation.govt.nz/act/public/1987/0129/latest/DLM120104.html</a></p> <p><a href="https://www.employment.govt.nz/leave-and-holidays/parental-leave/eligibility/">https://www.employment.govt.nz/leave-and-holidays/parental-leave/eligibility/</a></p>	



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	<p><b>Section 1B(3)(b)(i)-(ii):</b> Employees that meet the 12-month employment test are entitled to up to 26 weeks of primary carer leave, and up to 52 weeks of unpaid extended leave (including up to 26 weeks of primary carer leave taken).</p> <p><b>Section 1B(3)(c)(ii):</b> Employees that do not meet the 6-month employment test but who meet the parental leave payment threshold test are entitled to up to 26 weeks of parental leave payments and up to 13 weeks of preterm baby payments.</p> <p><b>Section 32(2)(a):</b> Extended leave refers to leave of a kind such as all primary carer leave (other than primary carer leave in excess of 26 weeks).</p> <p><b>Primary carer leave</b></p> <p><b>Section 9:</b> Primary carer leave must be taken in 1 continuous period not exceeding 26 weeks.</p> <p><b>Section 9(2):</b> If a female employee begins her primary carer leave on a date specified in a certificate or on a date appointed by her employer, the female employee shall be entitled to take at least 20 weeks of her primary carer leave after the expected date of delivery and, if necessary for that purpose, to extend the duration of her primary carer leave.</p> <p><b>Section 15:</b> Prior to taking primary carer leave, a pregnant female employee is entitled to take up to 10 days' special leave, without pay, for reasons connected to her pregnancy.</p> <p><b>Extended leave</b></p> <p><b>Section 26:</b> Employees who will be assuming primary care of a child under six years old must be provided with the opportunity to take up to a maximum of 52 weeks' unpaid parental leave (which may be shared with the employee's partner), dependent on the length</p>			

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	<p>of service.</p> <p><b>Section 26(3):</b> If an employee takes primary carer leave in respect of a child, the period of extended leave to which the employee and their spouse or partner are entitled in respect of the child is the period specified reduced by the total period of primary carer leave taken, excluding any period of primary carer leave in excess of 26 weeks.</p> <p><b>Section 28:</b> The maximum combined period of extended leave may be shared between and employee and their spouse or partner.</p> <p><b>Partner's leave</b></p> <p><b>Section 19:</b> Employees who are the partner of someone assuming primary care of a child under six years old are entitled to up to two weeks' unpaid partner's leave (dependent on length of service).'</p> <p><b>Rights and obligations after commencement of parental leave</b></p> <p><b>Section 43:</b> Any employee who is taking parental leave in accordance with the Act must have their service treated as continuous for the purposes of service related benefits such as annual leave.</p> <p><b>Section 45(4)(a):</b> An employee cannot extend any period of parental leave with the result that, in the case of a period of primary carer leave, the period of primary carer leave exceeds 26 weeks.</p> <p><b>Section 48:</b> Where a temporary employee is employed to replace someone on parental leave, inform that employee, in writing, that they are being employed on a temporary basis and that the employee on parental leave may return to work earlier than required to.</p>			

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	<p><b>Payment for parental leave</b></p> <p><b>Section 71A:</b> An employee that becomes a primary carer in respect of a child, and who stops working or takes a period of leave can take up to 26 weeks of parental leave payments out of public money.</p> <p><b>Section 71CE(1):</b> An employee is not to be treated as having returned to work because they perform 64 hours or fewer of paid work for their employer during the employee's parental leave period, if that work is performed on keeping-in-touch days.</p> <p><b>Section 71CE(3)(b):</b> An employee is treated as having returned to work if the employee performs more than a total of 64 hours of paid work for their employer during a period of paid parental leave.</p> <p><b>Section 71E:</b> An employee may transfer all or part of their entitlement to parental leave payments to their spouse or partner if the spouse or partner is going to have day-to-day care of the child, meets the parental leave payment threshold test and stops work for the period in relation to which the entitlements are transferred.</p> <p><b>Section 71J(1)(a):</b> A parental leave payment is payable for 1 continuous period not exceeding 26 weeks.</p> <p><b>Section 71J(1)(b):</b> A parental leave payment is payable if part of the entitlement is transferred under section 71E, for 1 continuous period per person, so long as the 2 continuous periods do not together exceed 26 weeks.</p> <p><b>Section 71L:</b> parental leave payment is payable to a person in respect of a child for a period that ends on the earlier of 26 weeks after the date on which parental leave payments began, or the date on which the person returns to work as an employee or the date on which the person ceases to be the primary carer in</p>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	respect of the child.			
<b>Protected Disclosures (Protection of Whistleblowers) Act 2022</b>	<p><b>Section 9 &amp; 11:</b> An employee may make a protected disclosure about serious wrongdoing within the organisation for the purpose of an investigation and that will be a protected disclosure if it is made in accordance with the Act, not in bad faith.</p> <p><b>Section 12:</b> Anyone who discloses information in support of, or relating to, a protected disclosure is also entitled to protection under the Act, if they disclose it to their organisation or an appropriate authority, and they do not disclose it in bad faith.</p> <p><b>Section 17:</b> A receiver of a protected disclosure must keep the discloser's identity confidential unless the discloser consents to the release of identifying information, or release is essential:</p> <ul style="list-style-type: none"> <li>• for the effective investigation of the disclosure; or</li> <li>• to prevent risks to public health or safety; or</li> <li>• to prevent risks to an individual's health or safety; or</li> <li>• to comply with natural justice; or</li> <li>• to an investigation by law enforcement.</li> </ul> <p>After releasing the identifying information the receiver must inform the discloser.</p> <p><b>Section 13:</b> The Act provides guidance on what a receiver of a protected disclosure should do. Though it is not a legal obligation, it is good practice to follow this guidance, which recommends that within 20 working days of receiving the disclosure, the receiver should:</p> <ul style="list-style-type: none"> <li>• Acknowledge receipt to the discloser; and</li> <li>• Consider whether the disclosure should be investigated; and</li> </ul>	No reporting requirements.	<a href="http://www.legislation.govt.nz/act/public/2000/0007/latest/DLM53466.html">www.legislation.govt.nz/act/public/2000/0007/latest/DLM53466.html</a>	



Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<ul style="list-style-type: none"> <li>Check with the discloser whether they have made the disclosure elsewhere; and</li> <li>Deal with the disclosure by investigating it, addressing any serious wrongdoing, referring the disclosure to an appropriate authority, or deciding that no action needs to be taken; and</li> <li>Inform the discloser of the course of action taken, with reasons.</li> </ul> <p><b>Section 20:</b> A discloser cannot be retaliated against or treated less favourably for making a protected disclosure.</p> <p><b>Section 24:</b> The Act applies despite any agreement, contract or internal procedure.</p> <p><b>Section 31:</b> The organisation needs to have internal procedures for receiving and dealing with information about serious wrongdoing but it is only public sector organisations that need to produce these on request by the Ombudsman.</p>			
<b>Wages Protection Act 1983</b>	<p><b>Section 5:</b> An employer may not make deductions from an employee's wages without their written consent (which may be withdrawn).</p> <p>Where a general deduction clause in an employment agreement is used as the employee's written consent to deductions, consult with the employee before making any deduction.</p> <p><b>Section 5A:</b> No unreasonable deductions are to be made from employees' salary or wages.</p> <p><b>Section 6:</b> Any overpayment of salary or wages must be recovered in accordance with the Wages Protection Act.</p>	No reporting requirements.	<a href="http://www.legislation.govt.nz/act/public/1983/0143/latest/DLM74808.html">http://www.legislation.govt.nz/act/public/1983/0143/latest/DLM74808.html</a>	
<b>Smokefree Environments and Regulated Products Act 1990</b>	<p><b>Section 5:</b> Ensure that the employer takes all reasonable steps to ensure no person smokes or vapes in a workplace unless the workplace is a vehicle in which smoking or vaping is permitted</p>	No reporting requirements.	<a href="https://www.legislation.govt.nz/act/public/1990/0108/latest/DLM223191.html">https://www.legislation.govt.nz/act/public/1990/0108/latest/DLM223191.html</a>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>(subject to section 5A).</p> <p><b>Section 5A:</b> Ensure that smoking or vaping is no longer permitted in a vehicle if an employee has given the employer written notice that he or she no longer wishes the employer to permit smoking or vaping in the vehicle or objects to other employees smoking or vaping in the vehicle.</p> <p>Note – this is relevant even if staff are contractors or volunteers and there are no employees.</p>			
<b>Immigration Act 2009</b>	<b>Section 350:</b> Employers must verify that employees are legally entitled to work in New Zealand.	Use Immigration New Zealand's online tool VisaView to check a potential employee's visa status.		
<b>3 Health &amp; Safety Obligations</b>				
<b>Building Act 2004</b>	<p>This Act applies where a charitable trust/society is a property owner or a landlord.</p> <p><b>Section 116B:</b> Ensure that buildings that it uses are safe and sanitary and have an adequate means of escape from fire;</p> <p><b>Section 363:</b> Not use or allow to be used any premises or part of a premises intended to be open to or used by the public, and that is affected by building work, if no building consent has been granted for the work (if required), no code compliance certificate has been issued or no certificate of public use has been issued, or the certificate of public use has been issued but its conditions have not been complied with.</p> <p><b>Section 104:</b> Ensure that it complies with the requirements of any Compliance Schedule issued in relation to a Building in respect of a specified system (e.g. a system contained in/attached to the building that contributes to the function of the building, such as an automated sprinkler system)</p>	No statutory record keeping requirements.		

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<b>Food Act 2014</b>	<p>The Act imposes the primary duty on persons who trade in food to ensure that food is safe and suitable.</p> <p><b>Where Do I Fit?</b></p> <p>The Ministry of Primary Industries (MPI) has developed a tool – <i>Where Do I Fit?</i> – which allows your organisation to work out where its food activity or business fits within the Food Act rules.</p> <p>Businesses must operate food activities under the applicable risk-based measure under the Act:</p> <ul style="list-style-type: none"> <li>Food businesses in food sectors that generally pose a high level of risk to public health must operate under a Food Control Plan (FCP) – these are written plans for managing food on a day-to-day basis.</li> <li>Food businesses operating in lower risk sectors operate under National Programmes – these are a set of food safety rules. The organisation will not need a written plan (or develop written procedures) but must register, meet food safety standards, keep some records and get checked.</li> </ul> <p><b>Registration:</b></p> <p>Anyone starting a new business must register under the Food Act 2014 before they start selling food. Smaller scale businesses (e.g. food stalls or cafes) must register with their local councils. Larger businesses (e.g. wholesalers or grocers) must register with MPI.</p> <p><b>Exemptions:</b></p> <ul style="list-style-type: none"> <li>Fundraising and community groups do not need a FCP or a national programme if they are: <ul style="list-style-type: none"> <li>selling food for fundraising less than 20 times a year. Fundraising activities</li> </ul> </li> </ul>	<p><b>Section 53:</b> If the business has a FCP based on the MPI template, it must ensure that it is kept in line with MPI's official template – any updates will be posted on the MPI website ().</p> <p>If a business has a FCP that is not based on an official template or model, a report of an independent evaluation of the FCP must be provided to MPI within six months before the date of application for registration. This requirement can be waived by the chief executive under section 53(4).</p> <p>When the business is first registered with the registration authority (local council or MPI), a verifier will come to the business to verify the relevant food plan. That person will remain the business' verifier, and will advise the business on any ongoing reporting requirements.</p> <p>Give written notice to the registration authority of any prescribed "significant change in circumstances" relating to the food plan before the significant change occurs (or if impracticable to submit prior to change, within 10 working days of the change) – see section 51 of the Act for details.</p>	<p><a href="https://www.legislation.govt.nz/act/public/2014/0032/latest/DLM299581.1.html">https://www.legislation.govt.nz/act/public/2014/0032/latest/DLM299581.1.html</a></p> <p><a href="http://www.mpi.govt.nz/food-safety/food-act-2014/overview/">www.mpi.govt.nz/food-safety/food-act-2014/overview/</a></p> <p>Exemptions – <a href="http://www.legislation.govt.nz/act/public/2014/0032/latest/DLM2996786.html">www.legislation.govt.nz/act/public/2014/0032/latest/DLM2996786.html</a></p> <p>Any questions – call MPI on 0800 008 333 or email at <a href="mailto:info@mpi.govt.nz">info@mpi.govt.nz</a></p>	

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	<p>include sausage sizzles, raffles and charity events, or</p> <ul style="list-style-type: none"> <li>sharing food with others at sports clubs, social clubs or marae where food is not the purpose of the event.</li> </ul> <ul style="list-style-type: none"> <li>Businesses and education providers do not need a FCP or a national programme if they are: <ul style="list-style-type: none"> <li>home-based childcare providers who prepare food for children in their care</li> <li>small accommodation operators who provide food to less than 10 guests</li> <li>growers selling unprocessed, home-grown fruit and vegetables directly to consumers (e.g. at farmers markets)</li> <li>people who sell only pre-packaged foods that don't need refrigeration or freezing, or</li> <li>commercial fishing operators providing meals to their crew.</li> </ul> </li> </ul> <p>Businesses who would not otherwise be exempt, can apply to MPI for an exemption of food activities from registration.</p>			
<b>Health and Safety at Work Act 2015</b>	<p><b>Duties of PCBUs</b></p> <p><b>Section 36:</b> Ensure the health and safety of workers and other persons affected by the work carried out by the Person/Entity Conducting Business or Undertaking (<i>PCBU</i>) including workers, contractors and visitors – both physical and psychological.</p> <p><b>Section 36(f):</b> Ensure that employees are appropriately experienced and/or supervised, trained and informed about safe work practices and health and safety procedures.</p> <p><b>Sections 27 &amp; 37:</b> Ensure that the means of entering and exiting, and anything arising from</p>	<p><b>Reporting Incidents or Near-Misses:</b></p> <p><b>Section 23:</b> a “notifiable injury or illness” means:</p> <p>Any of the following injuries or illnesses that require the person to have immediate treatment (other than first aid):</p> <ul style="list-style-type: none"> <li>amputation of a body part</li> <li>serious head or eye injury</li> <li>serious burn</li> <li>separation of skin from underlying tissue</li> <li>spinal injury</li> </ul>	<p><a href="http://www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html">www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html</a></p> <p><i>5.2 Who is not an officer</i> in the Introduction to the Health and Safety at Work Act 2015 – special guide describes who is not an officer.</p> <p>Booklet – Guide to Being an Effective H&amp;S Representative, page 91 lists Notifiable Events (H&amp;S Act sections 23-25, 55-S56).</p>	



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	<p>the workplace do not pose a risk to the health and safety of any person.</p> <p><b>Duties of officers, workers and other persons</b></p> <p><b>Section 44:</b> An Officer (person whose position allows them to exercise significant influence over the management of the business, including a Trustee or GM) are those liable for penalty within the PCBU. The Officer must exercise due diligence to ensure that the PCBU complies and has the necessary resources and processes in order for it to do so.</p> <p><b>Section 45:</b> Employees must ensure that their own actions or inactions do not cause harm to themselves or anyone else.</p> <p><b>Duty to engage with workers</b></p> <p><b>Section 58:</b> Engage with workers in a timely manner on matters of health and safety that relates to them, ensuring that they have a reasonable opportunity to express their views and contribute to the decision-making process.</p> <p><b>Section 59:</b> Provide health and safety representatives enough information on health and safety matters to enable them to perform their functions effectively.</p> <p><b>Section 61:</b> Have worker participation practices that comply with industry requirements, including approved codes of practice.</p> <p>PCBU is obligated to support the role of the health and safety representative.</p>	<ul style="list-style-type: none"> <li>loss of bodily function</li> <li>serious laceration</li> </ul> <p>An illness or injury that requires admission to hospital, or medical treatment within 48 hours of exposure to a substance.</p> <p>Any serious infection to which the carrying out of work is a significant contributing factor.</p> <p><b>Section 24:</b> A “notifiable incident” is an unplanned or uncontrolled incident in a workplace that exposes a worker or any other person to a serious risk to that person’s health or safety arising from an immediate or imminent exposure to:</p> <ul style="list-style-type: none"> <li>an escape, a spillage, or a leakage of a substance; or</li> <li>an implosion, explosion, or fire; or</li> <li>an escape of gas or steam; or</li> <li>an escape of a pressurised substance; or</li> <li>an electric shock; or</li> <li>the fall or release from a height of any plant, substance, or thing; or</li> <li>the collapse, overturning, failure, or malfunction of, or damage to, any plant that is required to be authorised for use in accordance with regulations; or</li> <li>the collapse or partial collapse of a structure; or</li> <li>the collapse or failure of an excavation or any shoring supporting an excavation; or</li> <li>the inrush of water, mud, or gas in workings in an underground excavation or tunnel; or</li> <li>the interruption of the main system of ventilation in an underground excavation or tunnel; or</li> </ul>		

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		<ul style="list-style-type: none"> <li>a collision between two vessels, a vessel capsize, or the inrush of water into a vessel; or</li> <li>any other incident declared by regulations to be a notifiable incident.</li> </ul> <p><b>Section 25:</b> A notifiable event means any of the following events that arise from work:</p> <ul style="list-style-type: none"> <li>the death of a person; or</li> <li>a notifiable injury of illness; or</li> <li>a notifiable incident.</li> </ul> <p><b>Sections 55-57:</b> Ensure compliance with the Act's accident recording, reporting and investigation requirements, including preserving sites where a notifiable event occurs.</p> <p>Ensure that vehicles are roadworthy and warranted and that road user charges are paid, with six-monthly inspections. Details of staff who are permitted to drive should be registered with Driver Check to ensure alerts are sent if the driver's status changes.</p> <p><b>COVID-19 and Health and Safety</b></p> <p>There are no specific legislative clauses or regulations that apply regarding the risk posed by COVID-19. However, the risk of contracting the virus is something employers should consider as part of the general obligation to take all reasonably practicable steps to ensure the safety of employees while at work. Employers must eliminate or minimise the health and safety risks arising from COVID-19 as far as reasonably practical in the circumstances.</p> <p>WorkSafe suggests that employers should consider how to:</p> <ul style="list-style-type: none"> <li>manage the risks of restarting part or all of their operations</li> <li>ensure all workers can keep themselves safe from exposure to COVID-19</li> </ul>		

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		<ul style="list-style-type: none"> <li>gather information on their workers' wellness to ensure they are safe and well to work</li> <li>operate their business in a way that keeps workers and others safe from exposure COVID-19</li> <li>manage an exposure or suspected exposure to COVID-19, and</li> <li>check to see if their work processes and risk controls are effective.</li> </ul> <p>Employers should also consider how any changes impact the way they have routinely managed risks.</p> <p>The COVID-19 Public Health Response Order states the public health requirements for managing the risk of transmitting COVID-19. The Order changes based on the Alert Level in place. All businesses and organisations must meet the Order's requirements.</p>		
<b>Health and Safety at Work (General Risk and Workplace Management) Regulations 2016</b>				
Regulations 5 and 6	<p><b>Duty to identify and control hazards</b></p> <p>Identify hazards that could give rise to reasonably foreseeable risks to health and safety.</p> <p>If it is not reasonably practicable to eliminate the risks to health and safety, the PCBU must minimise risks to health and safety, by implementing control measures, including taking 1 or more of the following actions that is the most appropriate and effective taking into account the nature of the risk:</p> <ul style="list-style-type: none"> <li>(i) substituting (wholly or partly) the hazard giving rise to the risk with something that gives rise to a lesser risk:</li> <li>(ii) isolating the hazard giving rise to the risk to prevent any person coming into contact with it:</li> </ul>	No statutory record keeping requirements but recommend copies of risk assessments and major hazards retained and regularly reviewed ideally on a regular basis.		

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	<ul style="list-style-type: none"> <li>(iii) implementing engineering controls.</li> </ul> <p>The PCBU must, if the risk then remains, minimise the remaining risk, so far as is reasonably practicable, by implementing administrative controls.</p> <p>If a risk then remains, the PCBU must minimise the remaining risk by ensuring the provision and use of suitable personal protective equipment.</p>			
Regulation 7	<p><b>Duty to maintain effective control measures</b></p> <p>The PCBU must, when it implements a control measure to eliminate or minimise risks to health and safety, ensure that the control measure is effective, and is maintained so that it remains effective.</p>	No statutory record keeping requirements but recommend retaining a copy of any relevant systems and procedures within health and safety documents.		
Regulation 8	<p><b>Duty to review control measures</b></p> <p>The PCBU must review and revise the control measures implemented to maintain, so far as is reasonably practicable, a work environment that is without risks to health and safety.</p> <p>A health and safety representative of the PCBU may request a review of a control measure if the representative reasonably believes that:</p> <ul style="list-style-type: none"> <li>(a) a circumstance referred to in sub-clause (1) affects, or may affect, the health and safety of a member of the work group represented by the health and safety representative; and</li> <li>(b) the PCBU has not adequately reviewed the control measure in response to the circumstance.</li> </ul>	No statutory record keeping requirements but recommend retaining a copy of any relevant systems and procedures within health and safety documents.		
Regulation 9	<p><b>Duty to provide information, supervision, training and instruction</b></p> <p>Ensure so far as is reasonably practicable that workers either:</p>	No statutory record keeping requirements but recommend retaining a copy of any relevant systems and procedures within health and safety documents.		



Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>Have adequate knowledge and experience of similar places, and work, plant or substances of that kind, to ensure that the worker carrying out the work is not likely to adversely affect the health and safety of or cause harm to the work or any other person; or</p> <p>Is adequately supervised by a person with that knowledge or experience; and</p> <p>Is adequately trained in the safe use of anything the worker is required to handle and all personal protective equipment the worker is required to use.</p>			
Regulations 10 – 12	<p><b>Duty to provide and maintain workplace facilities</b></p> <p>The PCBU must ensure that work is able to be carried out without risking health and safety and allows safe access (entry, exit, and movement within) both in normal working conditions and in an emergency.</p> <p>The PCBU must ensure, so far as is reasonably practicable, that there adequate facilities are provided for workers, including toilets, drinking water, hand-washing facilities and break rooms. These facilities must be maintained and in a sufficient number.</p>	No statutory record keeping requirements but recommend retaining a copy of any relevant systems and procedures within health and safety documents.		
Regulation 13	<p><b>Duty to provide first aid</b></p> <p>Ensure that there is adequate first aid equipment in the workplace, each worker has access to the equipment and facilities for the administration of first aid, and an adequate number of workers are trained in first aid or have access to an adequate number of people who are trained in first aid.</p>	No statutory record keeping requirements but recommend retaining a copy of any relevant systems and procedures within health and safety documents.		
Regulation 14	<p><b>Duty to provide an emergency plan</b></p> <p>Ensure that an emergency plan is prepared for the workplace. This emergency plan must provide emergency procedures, provide for the testing of emergency procedures, including the</p>	No statutory record keeping requirements but recommend emergency plan retained within health and safety records and reviewed on an annual basis.		

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	frequency of testing, and provide for information, training, and instructions to be given to relevant workers in relation to implementing the emergency procedures.			
Regulation 21	<p><b>Duty to manage risks of remote or isolated work</b></p> <p>The PCBU must manage, in accordance with regulations 5 to 8, risks to the health and safety of a worker who performs remote or isolated work.</p> <p>To minimise risks to the health and safety of a worker associated with remote or isolated work, the PCBU must provide a system of work that includes effective communication with the worker.</p>	No statutory record keeping requirements but recommend retaining a copy of any relevant systems and procedures within health and safety documents.		
<b>Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016 (NZ)</b>				
Regulations 6 and 20(1)	<p><b>Duty to recruit and maintain list of health and safety representatives</b></p> <p>A PCBU must have one Health and Safety Representative per 19 workers.</p>	The PCBU must ensure that a list of the names and contact details of health and safety representatives for each work group is accessible to workers, provided to regulators on request and updated whenever there is a change in health and safety representatives for each group.		
Regulations 18, 21, 24 & 29	<p><b>Health and safety representatives and committees</b></p> <p>The PCBU must ensure that health and safety representatives hold office for a term not exceeding 3 years or a lesser period agreed between the PCBU and the members of the relevant work group.</p> <p>The health and safety representative may:</p> <ul style="list-style-type: none"> <li>• be re-elected for any number of terms; and</li> <li>• if the PCBU agrees, remain in office after the expiry of his or her term until a successor to that representative is elected.</li> </ul>	Recommend minutes are taken for all health and safety committee meetings and copies of minutes retained.		

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>The PCBU must:</p> <ul style="list-style-type: none"> <li>ensure that health and safety representatives are elected on PCBU's own initiative or upon notification from an employee and that elections comply with prescribed requirements; and</li> <li>follow the specific requirements under the Act when establishing health and safety committees.</li> </ul> <p>A health and safety committee must meet at least once every three months and at any other time at the request of a simple majority of the committee members.</p> <p>The PCU must ensure that health and safety representatives complete initial training (A health and safety representative has completed initial training when he or she is assessed as having achieved the New Zealand Qualifications Authority unit standard 29315).</p>			
<b>Human Rights Act 1993</b>	<p><b>Section 57:</b> Ensure that no person is:</p> <ul style="list-style-type: none"> <li>refused admission as a pupil or student,</li> <li>denied access to benefits or services provided by the establishment, or</li> <li>excluded to their detriment</li> </ul> <p>due to any of the prohibited grounds of discrimination.</p> <p><b>Section 61:</b> Ensure that the charitable trust/society does not publish, use in any public place or use in any place:</p> <p>Written matter or words that are threatening or abusive or insulting and likely to excite hostility against persons on the ground of their colour, race, or ethnic or national origins of that group or persons.</p> <p><b>Section 62:</b> Ensure that no person involved in the charitable trust/society makes a request of any other person for sexual intercourse, contact</p>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>or activity for the promise implied preferential or detrimental treatment.</p> <p>The relevant areas are:</p> <ul style="list-style-type: none"> <li>the making of an application for employment:</li> <li>employment, which term includes unpaid work:</li> <li>participation in, or the making of an application or participation in, a partnership:</li> <li>membership, or the making of an application for membership, of an industrial union or professional or trade association:</li> <li>access to any approval, authorisation or qualification:</li> <li>vocational training, or the making of an application for vocational training:</li> <li>access to places, vehicles, and facilities:</li> <li>access to goods and services:</li> <li>access to land, housing or accommodation:</li> <li>education:</li> <li>participation in the exchange of ideas and information.</li> </ul> <p><b>Section 63:</b> Ensure that no person uses language, visual material or physical behaviour that:</p> <ul style="list-style-type: none"> <li>expresses hostility against, or ridicules any person on the ground of the colour, race, or ethnic or national origins of that person; and</li> <li>is hurtful or offensive to that other person (whether or not that is conveyed to the first-mentioned person); and</li> <li>is either repeated or of such a significant nature, that it has a detrimental effect on</li> </ul>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>that other person in respect of any of the areas.</p> <p>The relevant areas are:</p> <ul style="list-style-type: none"> <li>the making of an application for employment:</li> <li>employment, which term includes unpaid work:</li> <li>participation in, or the making of an application or participation in, a partnership:</li> <li>membership, or the making of an application for membership, of an industrial union or professional or trade association:</li> <li>access to any approval, authorisation or qualification:</li> <li>vocational training, or the making of an application for vocational training:</li> <li>access to places, vehicles, and facilities:</li> <li>access to goods and services:</li> <li>access to land, housing or accommodation:</li> <li>education:</li> <li>participation in the exchange of ideas and information.</li> </ul> <p><b>Section 65:</b> Ensure that the charitable trust/society does not engage in any conduct, practice, requirement or condition that has the effect of treating a person or group of persons differently on one of the prohibited grounds of discrimination, unless there is good reason for it.</p> <p><b>Section 67:</b> Ensure that the charitable trust/society does not publish or display or cause or allow to be published or displayed, any advertisement or notice which indicates, or could reasonably be understood as indicating, an intention to commit a breach on one of the prohibited grounds of discrimination.</p>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
<b>4 Financial and Reporting Obligations</b>				
<b>Anti-Money Laundering and Countering Financing of Terrorism Act 2009</b> <i>(AML/CFT Act)</i>	<p>This Act applies to a charitable trust/society that is a reporting entity and carries out financial activities.</p> <p>Registered charities will be required to comply with the AML/CFT Act if they are a "reporting entity" and do not have the benefit of an exemption.</p> <p>Obligations under the AML/CFT Act include (amongst other things):</p> <ul style="list-style-type: none"> <li>• <b>Section 58:</b> preparing a written risk assessment;</li> <li>• <b>Section 56 &amp; 57:</b> having an AML/CFT programme and compliance officer;</li> <li>• <b>Section 40:</b> reporting suspicious activities; and</li> <li>• <b>Sections 11, 24 &amp; 31:</b> conducting customer due diligence and on-going account monitoring.</li> </ul> <p>Registered charities which, in the ordinary course of business, carry on certain financial activities, including lending to or for a customer or investing, administering or managing funds on behalf of other persons, should seek legal advice to clarify their obligations.</p> <p>In addition to regulatory exemptions, the AML/CFT Act provides the Minister of Justice with the power to exempt organisations from unintended consequences of the legislation on a case by case basis.</p>	<p><b>Sections 39A-48:</b> suspicious activity reports</p> <p><b>Sections 48A-48C,</b> if required: prescribed transaction reports</p> <p><b>Sections 49-55:</b> obligations to keep records</p> <p><b>Section 59:</b> AML audit</p> <p><b>Section 60:</b> annual AML/CFT reports</p>	<p><a href="https://www.legislation.govt.nz/act/public/2009/0035/latest/DLM214072.0.html">https://www.legislation.govt.nz/act/public/2009/0035/latest/DLM214072.0.html</a></p> <p><a href="https://www.justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/info-for-businesses/ministerial-exemptions/">https://www.justice.govt.nz/justice-sector-policy/key-initiatives/aml-cft/info-for-businesses/ministerial-exemptions/</a></p>	
<b>Charities Act 2005</b>	<p>The reporting standards that apply to financial statements are based on a tiered system, dictated by the annual operating expenditure.</p>	<p><b>Section 40:</b> A notice of change is to be filed within three months of a change to the charity, or when the charity becomes aware of it (unless the change is filed in the annual return first). This includes changes in the name, address, officers, balance date, rules and purposes.</p>	<p><a href="http://www.legislation.govt.nz/act/public/2005/0039/latest/DLM344368.html">www.legislation.govt.nz/act/public/2005/0039/latest/DLM344368.html</a></p> <p><a href="http://www.charities.govt.nz/assets/uploads/resources/tier-4-guide-161103-printed-VI.0-web.pdf">www.charities.govt.nz/assets/uploads/resources/tier-4-guide-161103-printed-VI.0-web.pdf</a></p>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility																
	<p>The tiers are illustrated as follows:</p> <table><tr><th>Tier 1</th><th>Tier 2</th><th>Tier 3</th><th>Tier 4</th></tr><tr><td>Full standards</td><td>Reduced disclosure regime</td><td>Simple format report – Accrual</td><td>Simple format report – Cash</td></tr><tr><td>Over \$30m annual expenses</td><td>Under \$30m annual expenses</td><td>Under \$2m annual expenses</td><td>Under \$140,000 annual operating payments</td></tr><tr><td>or has public accountability</td><td>without public accountability</td><td>without public accountability</td><td>without public accountability</td></tr></table>	Tier 1	Tier 2	Tier 3	Tier 4	Full standards	Reduced disclosure regime	Simple format report – Accrual	Simple format report – Cash	Over \$30m annual expenses	Under \$30m annual expenses	Under \$2m annual expenses	Under \$140,000 annual operating payments	or has public accountability	without public accountability	without public accountability	without public accountability	<p>This role can be delegated to a person with authority to carry out the Trust administration.</p> <p>Each year, a registered charity must file an annual return within six months of balance date with Charities Services which includes a copy of the Trust’s financial statements prepared in accordance with Generally Accepted Accounting Principles. The statements must be a consolidation of the charity and any entity it controls.</p> <p>Tier 4 entities have the simplest form of reporting, on a cash basis with no requirement for an audit or review (unless their rules require one). Tier 3 and Tier 4 entities file a Performance Report which summarises their past year with both financial and non-financial information.</p> <p>From 2022 Tier 1 and Tier 2 charities also need to include non-financial information alongside the financial statements that are filed with Charities Services – for these Tiers this information is called the Financial Report.</p> <p>The preparation of the financial statements is an obligation which can be delegated to an accountant/auditor.</p> <p>The filing of the annual return can be delegated to a person with authority to carry out the Trust administration.</p>		
Tier 1	Tier 2	Tier 3	Tier 4																	
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<b>Financial Markets Conduct Act 2013</b> <i>(FMCA)</i>	<p>The FMCA applies to a charitable trust or society which engages in trading or dealing with financial products.</p> <p><b>Fair Dealing Rules</b></p> <p><b>Part 2:</b> The fair dealing rules in the FMCA apply to conduct, in trade, in relation to any dealing in relation to financial products or the supply or possible supply of financial services (which includes being a creditor under a credit contract, e.g. lending).</p>	<p>No reporting requirements, provided the registered charity is not making a regulated offer of financial products, is not providing regulated financial advice, and is not providing a client money or property service.</p> <p>Licensed financial advice providers are expected to have reporting and record keeping obligations under regulations and their licence conditions.</p>																		



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	<p>The key requirements for the fair dealing rules in relation to financial services are:</p> <ul style="list-style-type: none"> <li>• <b>Sections 19-22:</b> never engage in conduct that is misleading or deceptive or make false or misleading representations; and</li> <li>• <b>Section 23:</b> never make unsubstantiated representations, being representations where you do not, when making the representation, have reasonable grounds for the representation (irrespective of whether the representation is false or misleading).</li> </ul> <p>The obligations under the fair dealing rules cannot be delegated.</p> <p>Unless a registered charity is making a regulated offer of financial products, it will not have any other obligations under the FMCA. If it is doing so, we recommend seeking legal advice to clarify your obligations.</p> <p><b>Financial Advice</b></p> <p><b>Subpart 5A of Part 6:</b> The financial advice provisions in the FMCA apply to a charitable trust and/or society that provides financial advice services, such as giving financial advice, investment planning or discretionary investment management services to clients.</p> <p>Broadly, financial advice is any recommendation or opinion about acquiring or disposing of (or not acquiring or disposing of) a financial advice product.</p> <p>Financial advice is “regulated” financial advice if it is given in the ordinary course of a business which is not excluded under <b>clauses 8-18 of Schedule 5</b> (see below).</p> <p>The FMCA imposes duties on a person giving regulated financial advice. including:</p>			

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	<ul style="list-style-type: none"> <li>• <b>Section 431I:</b> meet the required standards of competence, knowledge and skill;</li> <li>• <b>Section 431K:</b> give priority to client's interests; and</li> <li>• <b>Section 431L:</b> exercise care, diligence and skill.</li> </ul> <p>The most relevant exclusions under <b>Schedule 5</b> would include:</p> <p><b>Clause 7</b> – which provides that the following activities (amongst others) do not constitute regulated financial advice:</p> <ul style="list-style-type: none"> <li>• providing factual information;</li> <li>• carrying out an instruction; and</li> <li>• making a recommendation about a kind of financial advice product rather than a particular financial advice product.</li> </ul> <p><b>Clause 9</b> provides that financial advice is not regulated and is consequently exempt from the financial advice regulatory regime if (amongst other things):</p> <ul style="list-style-type: none"> <li>• it is given in connection with providing credit under a credit contract, and</li> <li>• the credit is provided, and the advice is given as an incidental part of a business given the principal activity of which is not the provision of a financial service.</li> </ul> <p>In this context, something is an incidental part of a business if it is carried on to facilitate the carrying out of the business or is ancillary to the business.</p> <p><b>Clause 13</b> excludes from being regulated financial advice any advice given:</p> <ul style="list-style-type: none"> <li>• in the ordinary course of the business of a non-financial not-for-profit organisation; and</li> </ul>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<ul style="list-style-type: none"> <li>for no charge.</li> </ul> <p>A non-financial not-for-profit organisation means an organisation:</p> <ul style="list-style-type: none"> <li>that operates other than for the purposes of profit or gain to an owner, a member, or a shareholder; and</li> <li>that is not the product provider of a financial advice product.</li> </ul> <p><b>Client Money or Property Service</b></p> <p><b>Section 431W:</b> A client money or property service under the FMCA is the receipt of client money or client property by a person and the holding, payment, or transfer of that client money or client property and includes a custodial service. A custodial service is the holding of client money or client property by a person (A) in trust for, or on behalf of, a client (C), or another person nominated by C, under an agreement between A and C or between A and another person with whom C has an agreement (whether or not there are also other parties to the agreement).</p> <p>Client money means money received in connection with acquiring, holding, or disposing of a financial advice product or otherwise in connection with a financial advice product; and received from, or on account of, a client by a person (A) (and not on A's own account).</p> <p>Client property means property (other than money) which is a financial advice product, is a beneficial interest in a financial advice product, or is received in connection with a financial advice product; and is received from, or on account of, the client by a person (A) (and not on A's own account).</p> <p>A client money or property service is regulated if it is not excluded under any of <b>clauses 19 to 23 of Schedule 5</b>. If a person provides a client money or property service the person that is not excluded under any of the above clauses,</p>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>they are required to comply with disclosure, conduct and trust account obligations.</p> <p><b>Financial product offers</b></p> <p>Substantial additional provisions in the FMCA will apply if a charitable trust and/or society is to offer financial products. If it is doing so, we recommend seeking legal advice to clarify the applicable obligations under the FMCA.</p>			
<p><b>Financial Services Providers (Registration and Dispute Resolution) Act 2008</b></p> <p>(FSPA)</p>	<p>The FSPA applies to a charitable trust and/or society if it provides financial services to clients.</p> <p><b>Section 5:</b> If a registered charity is carrying on a business of providing or offering to provide a "financial service" (including providing credit under a credit contract, i.e. lending), it will have obligations under the FSPA, including to register on the Financial Service Providers Register (FSPR), join a dispute resolution scheme (if it provides financial services to retail clients). This is unless the FSPA is specifically stated not to apply or the registered charity has the benefit of an exemption.</p> <p><b>Section 7:</b> Non-profit organisations in respect of free financial services are specifically stated not to be in the business of providing a financial service for the purposes of the FSPA.</p>	<p>Persons registered on the FSPR have annual confirmation obligations and must keep their registration up to date.</p>		
<p><b>Goods and Services Tax Act 1985</b></p> <p>(GST Act)</p>	<p>This Act applies to a charitable trust and/or society where they have voluntarily registered for GST, or are deemed to be registered for GST because it has/will make more than \$60,000 worth of taxable supplies in a 12-month period.</p> <p><b>Section 8:</b> Charge GST on goods and services, in accordance with the Act, at 15% (but not on exempt supply).</p>	<p>File GST return GST101A, by due date, every two months with IRD (assuming that the charitable trust/society and any other GST registered subsidiaries have elected to file GST returns on a two-monthly basis).</p> <p>The GST return and payment is due by the 28<sup>th</sup> of the month following the end of the relevant taxable period (except if your taxable period ends on 30 November, your return and payment will be due on 15 January of the following year and 31 March, your return and payment will be due on 7 May).</p>	<p>IRD IR375, Goods and Services Tax Guide</p> <p><a href="http://www.legislation.govt.nz/act/public/1985/0141/latest/DLM81035.html">www.legislation.govt.nz/act/public/1985/0141/latest/DLM81035.html</a></p>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
		<p>Once a year, following year-end, a GST on Entertainment Tax adjustment should be filed in that GST return.</p> <p>Must keep all records relating to the GST returns (such as business invoices and business receipts) for seven years after the end of taxable period.</p>		
<b>Income Tax Act 2007 and Tax Administration Act 1994</b>	<p>Annually calculate income tax due. Make payment, if applicable, however this is usually nil.</p> <p>The registered charity would be liable for income tax on business income used for charitable purposes outside New Zealand – recommend completing the apportionment calculation annually.</p>	<p>Calculate and file income tax return with IRD by 7 July annually or within the extension of time allowed to the registered charity's tax agent usually by 31 March of the following income year.</p> <p>Must keep all records relating to income and expenditure for seven years after the end of the taxable period. Records are receipt and payment books, bank statements, invoices, receipts, any other necessary documents to confirm entries in accounts, wage records for all employees, including KiwiSaver, interest and dividend payment records.</p>	<p><a href="http://www.legislation.govt.nz/act/public/2007/0097/latest/DLM1512301.html">www.legislation.govt.nz/act/public/2007/0097/latest/DLM1512301.html</a></p> <p><a href="http://www.legislation.govt.nz/act/public/1994/0166/latest/DLM348343.html">http://www.legislation.govt.nz/act/public/1994/0166/latest/DLM348343.html</a></p>	
<b>5 Company and Commercial Obligations</b>				
<b>Companies Act 1993</b>	<p>This Act does not directly apply to a registered charity which is not a company. However, a registered charity may hold shares in a company, or otherwise have some relationship with a company such that it is appropriate for the registered charity to consider the compliance obligations for that company. Additionally, the Companies Act will apply to any registered charitable companies.</p> <p><b>Section 25:</b> Ensure that the company's name is used clearly in documents and written communication.</p> <p><b>Sections 41-57:</b> Comply with the requirements for the issue of shares and distributions to shareholders, subject to section 107 (which allows the board to issue shares or make distributions otherwise than in accordance with these sections where all entitled persons, e.g.</p>	<p><b>Section 87:</b> Maintain a share register.</p> <p><b>Section 189:</b> Maintain the following records:</p> <ul style="list-style-type: none"> <li>the constitution (if any)</li> <li>an interests register and enter disclosures of interest in it</li> <li>minutes of all board, directors' committees and shareholder meetings within the past seven years</li> <li>board, director committee, and shareholder resolutions within the past seven years</li> <li>certificates given by the board under the Companies Act within the past seven years</li> <li>full names and addresses of the current directors</li> </ul>	<p><a href="http://www.legislation.govt.nz/act/public/1993/0105/latest/DLM319570.html">www.legislation.govt.nz/act/public/1993/0105/latest/DLM319570.html</a></p>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>shareholders, have agreed to this course of action in writing).</p> <p><b>Sections 47, 161-162:</b> Ensure that directors sign a certificate stating certain matters when they vote in favour of a resolution relating to consideration for the issue of shares; authorising a payment of remuneration or a benefit to directors; and authorising insurance for a director or employee, subject to section 107 (which allows the board to issue shares or authorise a payment of remuneration or a benefit to directors otherwise than in accordance with these sections where all entitled persons (i.e. the shareholder) have agreed to this course of action in writing).</p> <p><b>Section 52:</b> Ensure that the board does not authorise a distribution unless the board has resolved that the company will satisfy the solvency test and the directors who voted in favour of the relevant action sign a certificate stating that in their opinion the company will, immediately after that action, satisfy the solvency test and the grounds for that opinion.</p> <p><b>Sections 76, 78-80:</b> Do not give financial assistance for the purchase of the company's own shares unless the board has resolved/certified certain matters under section 76, and followed the procedure in section 78, 80, or 107(1)(e) (which allows the board to give financial assistance otherwise than in accordance with these sections 76 to 80 where all entitled persons, e.g. the shareholder, have agreed to this course of action in writing).</p> <p><b>Section 120:</b> Call and hold an annual meeting once in each calendar year, within 15 months of the last annual meeting and within six months after the balance date, unless:</p> <ul style="list-style-type: none"> <li>everything that is required to be done at the meeting is done by written resolution of the sole shareholder (section 122(4)), or</li> <li>there is nothing required to be done at the meeting, the board resolves that it is in the</li> </ul>	<ul style="list-style-type: none"> <li>copies of all written communications to all shareholders within the last seven years (including annual reports), and</li> <li>copies of all financial statements for the last seven completed accounting periods.</li> </ul> <p><b>Section 194:</b> Keep proper accounting records for the current accounting period and the last seven completed accounting periods.</p> <p><b>Section 208:</b> If the company is "large" (as defined in section 45 of the Financial Reporting Act 2013) prepare an annual report within five months of balance date. "Large" means having assets exceeding \$66 million at the balance date of the two preceding accounting periods, or revenue exceeding \$33 million in each of the two preceding accounting periods.</p> <p><b>Section 209:</b> Subject to certain exceptions, either send a copy of the annual report or a notice containing the information required by section 209 (a section 209 notice) to shareholders not less than 20 working days before the fixed annual meeting date.</p> <p><b>Section 209A:</b> If sending a section 209 notice (rather than the annual report), promptly send a copy of the annual report free of charge to any shareholder who requests a copy of the annual report within the prescribed period and annual until the request is revoked.</p> <p><b>Section 209B:</b> If sending a section 209 notice, ensure the annual report is available and readily accessible electronically in the form described in the section 209 notice, until the next annual report is available.</p> <p><b>Section 214:</b> The board must ensure that an annual return is filed with the Registrar within the prescribed time.</p> <p><b>Section 215 - 216:</b> Company to keep certain records available for inspection by a person who serves a written notice of intention to inspect on the company.</p>		

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>interests of the company not to hold the meeting and the constitution does not require the meeting to be held (section 120(5)).</p> <p><b>Section 129:</b> Do not enter a major transaction unless the transaction is approved by special resolution or is contingent upon approval by special resolution.</p> <p><b>Sections 130, 138 &amp; 376:</b> The board of a company can generally delegate their responsibilities under the Companies Act, although they remain responsible for the exercise of the power unless the board believed on reasonable grounds that the delegate would act in accordance with the duties imposed by the Companies Act and the company's constitution and has monitored the exercise of the power by the delegate. However, Schedule 2 of the Companies Act outlines instances whereby the board cannot delegate said powers.</p> <p>In addition, the directors can rely on professional advice by employees, professional advisors or directors if the director acts in good faith, makes proper inquiry (when the need is indicated by the circumstances) and has no knowledge that such reliance is unwarranted. Directors also may have a defence to certain offences if they took all reasonable and proper steps to ensure the requirements of the Companies Act were complied with (which could include delegating compliance).</p> <p><b>Sections 131, 133-137, 140 &amp; 145:</b> Directors must:</p> <ul style="list-style-type: none"> <li>act in good faith and in the best interests of the company</li> <li>exercise their powers for a proper purpose</li> <li>not act, or agree to the company acting, in a manner that contravenes the Companies Act or the constitution of the company</li> </ul>			



Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<ul style="list-style-type: none"> <li>not agree to the business being carried on, or cause or allow the business of the company to be carried on, in a manner likely to create a substantial risk of serious loss to the company's creditors</li> <li>not agree to the company incurring an obligation unless the director believes at that time on reasonable grounds that the company will be able to perform the obligation when it is required to do so</li> <li>disclose to the company, and cause to be entered in the interests register of that company, any interests the director has in a transaction or proposed transaction with the company if that transaction is not entered into in the ordinary course of business or on usual terms and conditions, and</li> <li>only use company information in accordance with the requirements of the Companies Act.</li> <li>have a duty of care, diligence and skill when exercising director powers of a reasonable director.</li> </ul> <p><b>Section 159:</b> Ensure that notice of a change of directors is given to the Registrar of Companies within 20 working days of that change.</p> <p><b>Section 180:</b> Ensure that the requirements for signing deeds, contracts and agreements are complied with.</p> <p><b>Sections 186-187, 192 &amp; 193:</b> Have a registered office and address for service. Ensure that not less than five working days' notice of any change of its registered office and of any change in address for service is given to the Registrar of Companies.</p> <p><b>Section 201:</b> If the company is "large" (as defined in section 45 of the Financial Reporting Act 2013):</p>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<ul style="list-style-type: none"> <li>ensure that financial statements are completed within five months of balance date</li> <li>ensure that financial statements are dated and signed by two directors, or, if the company has only 1 director, by that director, and</li> <li>ensure that financial statements comply with "generally accepted accounting practice".</li> </ul> <p>If the company is not "large", then it need not prepare financial statements that comply with "generally accepted accounting practice" under the Companies Act 1993.</p> <p>Note that financial statements are not required if a large company has (i) no subsidiaries but is a subsidiary of a body corporate incorporated in New Zealand, and (ii) group financial statements that comply with "generally accepted accounting practice" are completed and (iii) the company has not opted into compliance with section 201 (see section 200(3)).</p> <p><b>Section 207P:</b> If the company is "large" (as defined in section 45 of the Financial Reporting Act 2013) appoint auditors at each annual meeting to audit the financial statements (unless the audit requirement is opted out of by a 95% shareholder resolution pursuant to section 207J).</p> <p><b>Section 207K:</b> Where fewer than 10 shareholders, shareholders who hold 5% of voting shares could opt the company into certain requirements.</p> <p><b>Section 377:</b> Every person must not make or authorise any false or misleading statements (whether by inclusion or omission) in any document required by or for the purposes of the Companies Act, or a statement or report relating to the affairs of the company.</p>			

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	<p><b>Section 378:</b> Every director, employee or shareholder of a company must not fraudulently use, conceal or destroy company property.</p> <p><b>Section 379:</b> Every director, employee or shareholder of a company must not falsify records.</p> <p><b>Section 380:</b> Every person must not knowingly be a party to the company carrying on business with the intent to defraud creditors of the company or any other person. Additional obligation for director to not dishonestly permit the company to incur debt etc.</p>			
<p><b>Contract and Commercial Law Act 2017</b> (CCLA)</p>	<p>The CCLA provides default contractual positions for contracts for the sale of commercial goods.</p> <p>The positions set out by the CCLA will be overridden to the extent the parties agree to alternative terms.</p> <p>The obligations under the CCLA cannot be delegated.</p> <p>Parties to contracts for the sale of commercial goods will be subject to the CCLA including a charitable trust and/or society.</p> <p>To the extent that the registered charity (or its subsidiaries) is selling goods, including items for fundraising such as t-shirts or re-useable bags, the following sections may be relevant:</p> <p><b>Part 3 (Sale of Goods):</b></p> <p><b>Sections 136, 139 &amp; 142:</b> Ensure that the goods correspond with any description and with the quality of any sample provided. The buyer must be given a reasonable opportunity to compare the goods with the sample (where relevant).</p> <p><b>Section 138:</b> If the buyer makes known the particular purpose for which the goods are required, and the goods are of a description that is in the course of the seller's business to</p>	No reporting requirements.	<p><a href="http://www.legislation.govt.nz/act/public/2017/0005/latest/DLM6844033.html">http://www.legislation.govt.nz/act/public/2017/0005/latest/DLM6844033.html</a></p> <p><i>Note that the equivalent guarantees in the Consumer Guarantees Act 1993 would prevail over those in the Contract and Commercial Law Act 2017 if the goods were supplied in trade to a consumer, but there is an express carve out from any right of redress against a charitable organisation where the goods are supplied for the principal purpose of benefiting the person to whom the supply is made.</i></p>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>supply, the goods must be reasonably fit for that purpose.</p> <p><b>Section 139:</b> Implied condition that goods supplied are of a merchantable quality if the goods are bought by description from a seller who deals in goods of that description.</p>			
<b>Fair Trading Act 1986</b>	<p>This Act applies to the extent that conduct is “in trade”, including in relation to the supply of goods and services. Even though the registered charity is a charitable organisation, certain types of its activities may still be conducted “in trade”. For example, fundraising activities or lending money may well be considered in trade, even if the remainder of the registered charity’s activities are not in trade.</p> <p>The key considerations for the Fair Trading Act 1986 are:</p> <ul style="list-style-type: none"> <li>• <b>Section 7:</b> Do not engage in behaviour/conduct that could be considered “unconscionable”.</li> <li>• <b>Sections 9-11:</b> Never mislead or deceive customers.</li> <li>• <b>Sections 9-11 &amp; 13:</b> Ensure all claims in advertisements are accurate.</li> <li>• <b>Sections 9-11 &amp; 13:</b> Ensure that all promotional material, including packaging and labelling, accurately describes the product or service and its features.</li> <li>• <b>Sections 9-11 &amp; 13:</b> Make sure charging and price information is correct and includes all charges</li> <li>• <b>Section 12A:</b> Do not make representations that you cannot substantiate.</li> <li>• <b>Section 26A – 26B:</b> Do not include or apply any unfair contract terms in standard form consumer contracts or a standard form small trade contract.</li> </ul>	No reporting requirements.	<a href="http://www.legislation.govt.nz/act/public/1986/0121/latest/DLM96439.h">www.legislation.govt.nz/act/public/1986/0121/latest/DLM96439.h</a>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<ul style="list-style-type: none"> <li><b>Section 28A:</b> <i>Note the Governor General's powers to issue regulations regarding third party fundraisers. Section 28A permits the Governor General to make regulations requiring third party fundraisers for charities to disclose information about themselves, the charity, their relationship, their financial benefit and how much of the price of goods or services is a donation. To date, no such regulation in this area has occurred.</i></li> <li><b>Section 36:</b> Must comply with services safety standards and regulations made by Governor-General.</li> </ul> <p>The obligations under the Fair Trading Act 1986 cannot be delegated.</p>			
<b>Incorporated Societies Act 1908</b>	<p><b>Section 4:</b> A society must consist of not less than 15 persons associated for any lawful purpose but not for pecuniary gain. A corporate counts for 3 'persons' for this purpose.</p> <p><b>Section 6:</b> The rules of a society must provide for the matters specified in section 6 of the 1908 Act, including the control and use of the society's common seal.</p> <p><b>Section 15:</b> When contracting, the society must comply with the requirements under this section of the 1908 Act (method of contracting changes in different situations).</p> <p><b>Section 20:</b> A society must not engage in operations for pecuniary gain.</p>	<p><b>Section 18:</b> Changes to the registered office must be filed with the Registrar.</p> <p><b>Section 21:</b> Rules of a society can be altered in accordance with those rules, subject to the requirements under the 1908 Act (i.e. alteration must be in writing, signed by at least 3 members, and delivered to the Registrar with a certificate by an officer/solicitor of the society certifying the alteration was made in accordance with the rules).</p> <p><b>Section 22</b> A society is required to keep a register of members with their names, addresses and the date they became a member.</p> <p><b>Section 23:</b> Generally, all societies are required to deliver their annual financial statements to the Registrar along with a certificate that the members have approved the statements at a general meeting.</p> <p>An incorporated society that is a registered charity does not need to file its annual financial statements with the Registrar of Incorporated Societies so that it only has one set of financial reporting obligations.</p>	<a href="http://www.legislation.govt.nz/act/public/1908/0212/latest/whole.html">http://www.legislation.govt.nz/act/public/1908/0212/latest/whole.html</a>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
<b>Incorporated Societies Act 2022</b>	<p>This Act will apply to societies (including charitable societies) once they register under the 2022 Act (whether by reregistering an existing society, or registering a new society).</p> <p><b>Section 22:</b> A society must not be carried on for the financial gain of any of its members.</p> <p><b>Sections 25-26:</b> Society must have a constitution that meets the requirements of the 2022 Act (e.g. only contains provisions relating to capacity and powers if it restricts the capacity/powers per section 18, contains the matters required per section 26, must not purport to confer on any member any right, title, or interest (legal or equitable) in the property of the society per section 27).</p> <p><b>Sections 26(1)(j), and 38 – 44:</b> A society's constitution must contain a procedure for resolving disputes, including providing for how a complaint may be made, which must be consistent with the rules of natural justice. A society may choose to include the procedures in Schedule 2 of the 2022 Act in its constitution, which are treated as being consistent with the rules of natural justice.</p> <p><b>Sections 30, 31 and 33:</b> Subject to the society's constitution, a constitution can be amended in writing, approved by a simple majority of members entitled to vote and voting). Minor technical amendments can otherwise be made by a society's committee through written notice to all members (subject to receiving an objection within 20 working days after the date of the notice).</p> <p>Societies must give the Registrar a copy of the amendment and the amended constitution within 25 working days after the amendment.</p> <p><b>Section 45:</b> Every society must have a committee of at least 3 or more officers who are qualified to be elected or appointed under section 47 of the 2022 Act. A majority of the officers on the committee must either be</p>	<p><b>Section 73:</b> Subject to any modifications in a society's constitution (which must comply with any conditions prescribed by the regulations), the society must keep and maintain a register of disclosures made by officers.</p> <p><b>Section 79</b> Every society is required to keep a register of members containing their names, contact details, date each became a member, and all other information prescribed by the regulations (if any). This register must be updated as soon as practicable after the society becomes aware of changes to the information recorded.</p> <p><b>Sections 80 – 82:</b> Members may make a written request for information held by the society. The society must, within a reasonable time of the request, provide the information, agree to provide the information within a specified period (which may require the member to pay a reasonable charge), or specify a reason for a refusal.</p> <p><b>Section 101:</b> The committee must ensure that accounting records are kept that correctly record the transactions of the society, allow the society to produce financial statements that comply with the 2022 Act, and would enable the financial statements to be readily and properly audited if required under any legislation or the society's constitution. The committee must establish and maintain a satisfactory system of control of the society's accounting records. The accounting records must be kept for the current accounting period and the last 7 completed accounting periods of the society.</p> <p><b>Section 102:</b> Every society must ensure that, within 6 months of the balance date of the society, financial statements are completed, dated and signed by or on behalf of the society by 2 members of the committee. The financial statements must be prepared in accordance with the relevant requirements under section 102 of the 2022 Act. Within 6 months of the</p>	<p>For societies registered under the 1908 Act, the 1908 Act will continue to apply to that society until they reregister under the 2022 Act, or are deregistered for failing to reregister within the transition period (the reregistration period runs from October 2023 to April 2026).</p> <p>Schedule 1 of the 2022 Act outlines the process for societies registered under the 1908 Act to reregister under the 2022 Act.</p> <p><b>Section 89:</b> A constitution may allow a resolution to be passed in lieu of a meeting.</p> <p><b>Section 93:</b> Members may vote in one or more of the following ways if permitted by the society's constitution: vote by proxy, cast a postal vote, cast a vote by electronic means.</p> <p><b>Section 98:</b> Indemnity or insurance for breach of officers' duties, etc., must be expressly authorised by society's constitution.</p>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>members, or representatives of bodies corporate that are members, of the society.</p> <p><b>Sections 54 – 61:</b> Officers have duties to:</p> <ul style="list-style-type: none"> <li>act in good faith and what they believe to be the best interests of the society;</li> <li>exercise powers for proper purposes;</li> <li>not act, or agree to the society acting, in a manner that contravenes the 2022 Act or the society's constitution;</li> <li>exercise reasonable care and diligence;</li> <li>not agree to, cause, or allow activities of the society being carried on in a manner likely to create a substantial risk of serious loss to creditors;</li> <li>not agree to the society incurring obligations unless the officer believes at the time on reasonable grounds that the society will be able to perform the obligation.</li> </ul> <p><b>Sections 62-63:</b> Subject to any modifications in a society's constitution (which must comply with any conditions prescribed by the regulations), officers must disclose their interests as soon as practicable after becoming aware they are interested in a matter.</p> <p><b>Section 74:</b> A society must have at least 10 members (but a corporate counts for 3).</p> <p><b>Section 76:</b> Persons must consent to become a member of a society.</p> <p><b>Section 86:</b> The committee must, at each annual general meeting, present an annual report on the operations and affairs of the society during the most recently completed accounting period, the financial statements for that period, and notices of any disclosures, or types of disclosures, made during that period.</p> <ul style="list-style-type: none"> <li><b>Section 113 – 116:</b> Every society must at all times have at least 1</li> </ul>	<p>balance date of the society, copies of the financial statements must be given to the Registrar for registration.</p> <p><b>Section 108:</b> The duties under sections 102 – 105 of the 2022 Act (financial statements and audit requirements) do not apply in limited situations, included where a society is a charitable entity and an annual return of the society under section 41 of the Charities Act 2005 is required to be accompanied by financial statements for the society and that accounting period.</p> <p><b>Section 84:</b> Every society must call an annual general meeting of members not later than 6 months after the balance date of the society and no later than 15 months after the previous annual general meeting (however, a society does not have to hold its first annual general meeting in the calendar year of its incorporation but must hold that meeting within 18 months after its incorporation).</p> <p><b>Section 109:</b> Every society must ensure that an annual return is given to the Registrar for registration. This does not apply to a charitable entity.</p> <p><b>Section 111:</b> The society must give notice to the Registrar of any change to its registered office. A change to a society's registered office takes effect on a date stated in the notice (being a date that is at least 5 working days after the notice is registered).</p>		



Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	contact person (and may have up to 3 contact persons) who is at least 18 years old and ordinarily resident in New Zealand. The society must ensure notice of a change in contact person, or their name or contact details, is notified to the Registrar within 20 working days of the society first becoming aware of the change.			
<b>Limited Partnerships Act 2008</b>	<p>As a limited partner in a limited partnership:</p> <ul style="list-style-type: none"> <li>• <b>Section 9:</b> The Board must comply with the relevant limited partnership's agreement which may impose duties and obligations on limited partners.</li> <li>• <b>Section 20(1):</b> The Board is an investor only, and must not participate in management of a limited partnership, subject to participation in any "safe harbour" activities which are mandated in the limited partnership's agreement.</li> <li>• <b>Section 44:</b> Where the Board receives a distribution from the limited partnership, and the limited partnership did not satisfy the solvency test at the time of the distribution and the Board knew the solvency test would not be satisfied, the Board is liable to repay that distribution.</li> <li>• <b>Section 46:</b> The Board is not an agent of, and has no authority to bind the limited partnership or any of its partners.</li> </ul> <p>The registered charity may itself or with other partners (depending on the size of its interest):</p> <ul style="list-style-type: none"> <li>• <b>Section 75F:</b> Require the limited partnership to prepare financial statements, have those financial statements audited and/or distributed where the limited partnership is not otherwise required to do so by law:</li> <li>• <b>Sections 89 &amp; 98:</b> Subject to the limited partnership's agreement, participate in a</li> </ul>	Notify the general partner of the current address of the registered charity.		

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	<p>decision to terminate and wind up the limited partnership:</p> <ul style="list-style-type: none"> <li><b>Section 82:</b> Participate in derivate actions.</li> </ul>			
<p><b>Takeovers Act 1993</b></p> <p><b>Takeovers Regulations 2000 (incorporating Takeovers Code)</b></p> <p><b>Takeovers Code (WHS) Exemption Notice 2016</b></p> <p><b>Takeovers Code (Charitable Trusts) Exemption Notice 2019</b></p>	<p>This legislation applies to a charitable trust and/or society where it holds shares in a company subject to the Takeovers Act 1993.</p> <p><b>Rule 4:</b> Broadly, a person will be an associate of another person if:</p> <ul style="list-style-type: none"> <li>the persons are acting jointly or in concert</li> <li>the first person acts, or is accustomed to act, in accordance with the wishes of the other person</li> <li>the persons are related companies</li> <li>the persons have a business relationship, personal relationship, or an ownership relationship such that they should, under the circumstances, be regarded as associates, or</li> <li>the first person is an associate of a third person who is an associate of the other person (in both cases under any of preceding tests) and the nature of the relationships between the first person, the third person, and the other person (or any of them) is such that, under the circumstances, the first person should be regarded as an associate of the other person.</li> </ul> <p>A director of a company or other body corporate is not an associate of that company or body corporate merely because he or she is a director of that company or body corporate.</p> <p><b>Rule 6:</b> The fundamental rule under the Takeovers Code is that (subject to certain exceptions and the exemption below):</p> <ul style="list-style-type: none"> <li>a person who holds or controls no voting rights, or less than 20% of the voting</li> </ul>	<p>No reporting requirements.</p>		

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>rights, in a code company may not become the holder or controller of an increased percentage of the voting rights in the code company unless the person together with its associates will hold or control not more than 20% of the voting rights in the code company,</p> <p>and</p> <ul style="list-style-type: none"> <li>a person who holds or controls 20% or more of the voting rights in a code company may not become the holder or controller of an increased percentage of the voting rights in the code company.</li> </ul> <p><b>Exemption:</b> A Trustee of a trust that is a registered charity is exempt from Rule 6 of the Code in relation to any increase in voting control due to becoming a Trustee or as a result of a reduction in the number of Trustees of the trust. This exemption is subject to the conditions that the appointment of the Trustee or reduction in number is part of a bona fide reorganisation of the Trust or is the result of an event beyond the Trustee's control and the appointment or reduction in voting control is not a collateral purpose and, in the case of appointment, the person did not hold or control voting rights before the appointment.</p> <p>The obligations under the Takeovers Act 1993 and Takeovers Regulations 2000 cannot be delegated.</p>			
<p><b>Unsolicited Electronic Messages Act 2007</b> (UEM Act)</p>	<p>This Act applies to a charitable trust and/or society that sends commercial electronic messages for fundraising/advertising purposes.</p> <p><b>Sections 4, 9-11:</b> Three main requirements for sending a commercial electronic message:</p> <ul style="list-style-type: none"> <li>the sender must have consent from the recipient prior to sending the message</li> <li>the message must clearly and accurately identify the sender of the message, and</li> </ul>	No reporting requirements.	<a href="http://www.legislation.govt.nz/act/public/2007/0007/latest/DLM405134.html">http://www.legislation.govt.nz/act/public/2007/0007/latest/DLM405134.html</a>	

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	<ul style="list-style-type: none"> <li>the message must contain a functional unsubscribe facility.</li> </ul> <p><b>Section 6:</b> The UEM Act applies to all commercial electronic messages with a New Zealand link. A commercial electronic message is any message sent by email, SMS, fax, instant messaging (or similar) that:</p> <ul style="list-style-type: none"> <li>markets or promotes goods and services, land, or a business/investment opportunity</li> <li>contains a link directing the recipient to a message or website promoting any of the above, or</li> <li>assists or enables a person to dishonestly obtain a financial advantage or gain from another person.</li> </ul> <p>As a charity, if the registered charity sends out an electronic message which promotes free goods and services, it will still be considered to be a commercial electronic message.</p> <p><b>Section 13:</b> Also, address-harvesting software must not be used to send commercial electronic messages.</p>			

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
<b>6 Property Owner/Landlord Obligations</b>				
<b>Building Act 2004</b>	<p>This Act applies to a charitable trust and/or society where they are a property owner or a landlord.</p> <p><b>Section 17:</b> Comply with the building code when carrying out building work (whether or not a building consent is required in respect of that building work). The building code sets criteria to ensure buildings, once constructed, are used safely and govern things like structural stability, fire safety and energy efficiency.</p> <p><b>Sections 14B-14E &amp; 40:</b> Obtain necessary consents and carry out building work in accordance with those consents.</p> <p><b>Section 27:</b> Only use building methods or products that are not banned by the Chief Executive of the MBIE.</p> <p><b>Section 44:</b> Make an application for a building consent to a building consent authority before commencing building work.</p> <p><b>Section 53:</b> Pay to the building consent authority the prescribed levy at the time the building consent is granted (unless an exemption is granted).</p> <p><b>Sections 84 &amp; 87:</b> Ensure that all "restricted building work" is carried out or supervised by a licensed building practitioner whose licence authorises him or her to carry out or supervise the work and notify the building consent authority of the name of such licensed building practitioner before restricted building work commences.</p> <p><b>Section 90:</b> Ensure that agents of a building consent authority are permitted access to inspect building work at all times during normal work hours or while building work is being done.</p> <p><b>Section 92:</b> Make an application for a code compliance certificate (to change in the future to "consent completion certificate") to a building</p>	<p><b>Sections 100-101:</b> Ensure the building has a compliance schedule including inspection, maintenance and reporting procedures for certain systems.</p> <p><b>Section 105:</b> Ensure that each building's compliance schedule is kept within the building, some other building within the district of the territorial authority or some other place agreed with the territorial authority. The compliance schedule must be available for inspection by any person with a right to inspect the building under any enactment.</p> <p><b>Section 108:</b></p> <ul style="list-style-type: none"> <li>Supply in respect of a building for which a compliance schedule has been issued a building warrant of fitness to the territorial authority on each anniversary of the issue of the building's compliance schedule.</li> <li>Display in a public place in each building a copy of the current building warrant of fitness for that building.</li> </ul> <p><b>Section 110:</b> Obtain annual written reports relating to the inspection, maintenance and reporting procedures of the compliance schedule signed by each independently qualified person who carried out the work. Ensure annual written reports are kept with the compliance schedule for two years and are available for inspection.</p> <p><b>Sections 114-115:</b> Notify the territorial authority of any proposed change of use or extension of the life of a building or subdivision of land that affects a building.</p>	<p><a href="http://www.legislation.govt.nz/act/public/2004/0072/latest/DLM306036.html">www.legislation.govt.nz/act/public/2004/0072/latest/DLM306036.html</a></p> <p><i>Note the Building Amendment Act 2012 contains sections that are not in force as at 22 December 2022. The particular sections relate to a risk-based consenting regime that will create four types of building consents. The legislature is still waiting until the building industry is ready. MBIE is working to test the relevant aspects of the risk-based consenting regime. MBIE will release further information on the progress of this work in 2023.</i></p>	

Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>consent authority as soon as practicable after all the building work under a building consent is completed.</p> <p><b>Section 105:</b> Ensure that each of the specified systems in the compliance schedule is performing, and will continue to perform, to the performance standards for that system.</p> <p><b>Section 118:</b> Provide adequate access, parking provisions and sanitary facilities for people with disabilities in a building under construction or alteration which members of the public will visit or use.</p> <p><b>Section 120:</b> Display outside the building or so it is visible from outside the building, a notice or sign that provision is made for people with disabilities.</p> <p><b>Sections 133AA-133AY:</b> Comply with obligations in respect of earthquake prone buildings.</p> <p><b>Section 168:</b> Comply with any notice to fix building work issued by a building consent authority, a territorial authority or a regional authority.</p> <p><b>Sections 363 &amp; 363A:</b> Obtain a certificate of public use for building work where a building consent has been granted but a code compliance certificate has not yet been issued if members of the public will be accessing the part of the premises affected by the building works.</p> <p><b>Section 365:</b> Comply with all directions given by a person authorised to give the direction under the Building Act.</p> <p>The registered charity cannot contract out of its obligations under the Building Act, but it can delegate the fulfilment of these obligations to third parties. This means that the registered charity will still be liable if a contractor breaches the Building Act. The contractor may also be liable in this situation.</p>			

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<b>Fire and Emergency New Zealand Act 2017</b>	<p>This Act applies to a charitable trust and/or society that owns property.</p> <p><b>Section 76:</b> provide an evacuation scheme to enable evacuation from the scene of a fire safely and which complies with Part 2 of the Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018.</p>	<p><b>Section 77:</b> Have the fire evacuation scheme approved by Fire and Emergency NZ or notify Fire and Emergency NZ in writing that the building does not require an evacuation scheme because it is used either for (a) employment facilities for 10 or more persons; or (b) accommodation for six or more persons, and it has a compliant automatic sprinkler system installed.</p>	<p><a href="http://www.legislation.govt.nz/act/public/2017/0017/latest/DLM6712701.html?src=qs">www.legislation.govt.nz/act/public/2017/0017/latest/DLM6712701.html?src=qs</a></p>	
<b>Fire and Emergency New Zealand (Fire Safety, Evacuation Procedures, and Evacuation Schemes) Regulations 2018</b>	<p>This Act applies to a charitable trust and/or society that owns property.</p> <p><b>Regulation 5:</b> Comply with the obligation as owner of a building to maintain the means of escape in the event of any fire (e.g. means of escape are kept clear of obstacles and exit doors are unlocked).</p> <p><b>Regulation 7:</b> Comply with the obligation to ensure that the information about any approved evacuation procedures required under sections 75-77 of the Fire and Emergency New Zealand Act 2017 is readily available to building occupants including through the display of clear, distinct and legible signs and notices. Any signs and notices must comply with the format requirements of regulation 7(4) which specifies a blue background and white boarding, with white lettering of no less than 5 mm high.</p> <p><b>Regulation 9:</b> Comply with the obligation as:</p> <ul style="list-style-type: none"> <li>owner of a building which meets the requirements in regulation 9(1) to ensure that its employees are trained to assist any other occupants of the building to evacuate the building in a fire emergency in accordance with the evacuation procedure for the building, and/or</li> <li>tenant of a building to ensure that its employees are trained to assist any other occupants of the building to evacuate the building in a fire emergency in accordance</li> </ul>	<p><b>Regulation 32:</b> Notify Fire and Emergency NZ in writing of the result of any trial or unscheduled evacuation within 10 working days of that evacuation.</p> <p><b>Regulation 34:</b> Notify Fire and Emergency NZ in writing of any evacuation training programme that it is required to have under regulation 33. This notice must be given (a) within at least 30 days after approval of the building's evacuation scheme; and (b) at six monthly intervals thereafter.</p> <p><b>Regulation 35:</b> Where the owner has an approved evacuation scheme, notify Fire and Emergency New Zealand if:</p> <ul style="list-style-type: none"> <li>the building's fire detection and suppression system is non-operational for any period of time;</li> <li>the means of escape from fire for the building are required to be altered under section 107 of the Building Act 2004;</li> <li>building work is carried out on the building under section 112 or 133AT of the Building Act 2004 that affects the building's means of escape from fire;</li> <li>the building's life is extended under section 116 of the Building Act 2004;</li> <li>the occupancy of the building is changed to the extent that the building's means of escape from fire are materially affected;</li> </ul>	<p><a href="http://www.legislation.govt.nz/regulation/public/2018/0096/latest/LMS46332.html#LMS46380">www.legislation.govt.nz/regulation/public/2018/0096/latest/LMS46332.html#LMS46380</a></p>	



Legislation	Obligation description	Legal record keeping and monitoring obligations	Other notes	Responsibility
	<p>with the evacuation procedure for the building.</p> <p><b>Regulation 10:</b> Take reasonable fire prevention precautions in relation to electrical and gas wiring, components, equipment and appliances and any other equipment and appliances fuelled by flammable liquids (for example, kerosene), including portable equipment and appliances.</p> <p><b>Regulation 11:</b> Comply with the restrictions on lighting fires within a building unless such fire is lit in a lawfully compliant and properly maintained fireplace that has a lawfully compliant chimney.</p> <p><b>Regulation 12:</b> Only pack and unpack goods that are packaged in straw, paper, wood-wool, or other flammable material in places:</p> <ul style="list-style-type: none"> <li>• where the public is not permitted;</li> <li>• not directly connected to any opening between floors not protected against the spread of fire; and</li> <li>• where smoking is not permitted.</li> </ul> <p><b>Regulation 14:</b> Comply with the obligation as owner of any hand operated fire-fighting equipment to maintain that equipment in accordance with the requirements stipulated in New Zealand Standard 4503:2005.</p> <p><b>Regulation 15:</b> Comply with any notice issued by Fire and Emergency New Zealand to install hand-operated firefighting equipment. Fire and Emergency New Zealand may require this if the building only has a single means of escape, has no automatic sprinkler system, and is at risk of fire affecting the means of escape.</p> <p><b>Regulation 29:</b> Undertake trial evacuations of occupants at least every 6 months.</p> <p><b>Regulation 33:</b> Prepare and implement an evacuation training programme that clearly demonstrates how the permanent occupants of</p>	<ul style="list-style-type: none"> <li>• there are changes to the place or places of safety specified in the evacuation scheme;</li> <li>• there is a change of purpose or activities within the building; and the building is no longer required to have an evacuation scheme.</li> </ul>		

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	the building are capable of managing, in a fire emergency, an evacuation of all the occupants from the building.			
<b>Human Rights Act 1993</b>	<p><b>Section 21:</b> Do not refuse to dispose of an estate to someone, or dispose on less favourable terms, or treat any person differently or terminate an interest in the land based on any of the prohibited grounds of discrimination.</p> <p><b>Section 53:</b> Do not deny any person (or offer on less favourable terms) the right to occupy residential accommodation on the basis of sex, marital status, religious or ethical belief, race, ethnicity, disability, age, political opinion, employment status, family status or sexual orientation.</p>	No reporting requirements.	<a href="http://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html">www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html</a>	
<b>Residential Tenancies Act 1986</b>	<p>This Act applies to a charitable trust and/or society if they are a residential landlord.</p> <p><b>Section 38(2):</b> Not to cause or permit any interference with the reasonable peace, comfort, or privacy of the tenant in the use of the premises by the tenant.</p> <p><b>Section 45(1):</b> Landlord shall –</p> <ul style="list-style-type: none"> <li>(a) provide the premises in a reasonable state of cleanliness;</li> <li>(b) provide and maintain the premises in a reasonable state of repair having regard to the age and character of the premises and the period during which the premises are likely to remain habitable and available for residential purposes;</li> <li>(ba) comply with all requirements in respect of smoke alarms imposed on the landlord by regulations made under section 138A, and</li> <li>(bb) if the tenancy is an income-related rent tenancy, comply with all requirements in respect of insulation imposed on the landlord by regulations made under</li> </ul>	<b>Section 60A:</b> on expiry of a fixed-term tenancy of more than 90 days, the tenancy continues as a periodic tenancy with the same terms as those in the expired tenancy.		

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	<p>section 138B.</p> <p>(i) for the prohibition of any insulation (or any material or other item related to insulation) of a specified description;</p> <p>(ii) that any work, or other activity, of a specified description that is carried out during the tenancy must be carried out in accordance with a specified New Zealand Standard or a specified provision of a New Zealand Standard, or</p> <p>(iii) that specified requirements in relation to thermal resistance (as defined in the regulations) must be met where any work, or other activity, of a specified description is carried out during the tenancy</p> <p>(c) comply with all requirements in respect of buildings, health, and safety under any enactment so far as they apply to the premises;</p> <p>(ca) if the premises do not have a reticulated water supply, provide adequate means for the collection and storage of water;</p> <p>(d) compensate the tenant for any reasonable expenses incurred by the tenant in repairing the premises where:</p> <p>(i) the state of disrepair has arisen otherwise than as a result of a breach of the tenancy agreement by the tenant and is likely to cause injury to persons or property or is otherwise serious and urgent, and</p> <p>(ii) the tenant has given the landlord notice of the state of disrepair or made a reasonable attempt to do so, and</p> <p>(e) take all reasonable steps to ensure that none of the landlord's other tenants cause or permit any interference with</p>			

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	<p>the reasonable peace, comfort, or privacy of the tenant in the use of the premises.</p> <p><b>Section 12(1):</b> Not discriminate against any person in respect of the grant, continuance, extension, variation, termination, or renewal of a tenancy agreement in contravention of the Human Rights Act 1993.</p> <p><b>Section 13:</b> A tenancy agreement must be in writing and provided to the tenant.</p> <p><b>Section 13A:</b> A tenancy agreement must contain the following information (at a minimum):</p> <ul style="list-style-type: none"> <li>• name and contact details of landlord;</li> <li>• name and contact details of tenant;</li> <li>• address of premises;</li> <li>• date of tenancy agreement;</li> <li>• commencement date of tenancy;</li> <li>• landlord and tenant address for service;</li> <li>• whether the tenant is under the age of 18;</li> <li>• the amount of any bond;</li> <li>• the rent payable, the frequency of payments and the bank account for rent to be paid to;</li> <li>• a list of chattels provided by the landlord; and</li> <li>• if the tenancy is fixed-term, the date on which the term will expire.</li> </ul> <p>The tenancy agreement must also include statements signed by the landlord:</p> <ul style="list-style-type: none"> <li>• that informs the tenant whether or not there is insulation at the premises and details of that insulation; and</li> </ul>			

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	<ul style="list-style-type: none"> <li>that the landlord will comply with the healthy homes standards.</li> </ul> <p><b>Section 15:</b> Notify its tenants when the landlord's interest in the premises passes to other persons (i.e. if the building is sold).</p> <p><b>Section 16:</b> Notify its tenants if the name, contact address and address for service of the landlord changes.</p> <p><b>Section 16A:</b> The landlord must have an agent if they are out of New Zealand for more than 21 consecutive days.</p> <p><b>Sections 18 and 18A:</b> A bond payment required from the tenant must not be more than 4 weeks' rent and the landlord cannot require any form of security other than a bond.</p> <p><b>Sections 19-20:</b> Where a tenant provides a bond, the landlord must provide the tenant with a receipt and must within 23 working days after payment of the bond forward that amount to the chief executive of HUD to be held in the Residential Tenancies Trust Account.</p> <p><b>Section 24(1):</b> Rent increases must not occur within the first 12 months of the tenancy or within 12 months after the date the last increase took effect.</p> <p><b>Section 39:</b> Landlord is responsible for all outgoing in respect of the premises that are incurred whether or not the premises are occupied and are incurred for common facilities.</p> <p><b>Section 45(2):</b> The landlord shall not interfere with the supply of gas, electricity, water, telephone services, or other services to the premises, except where the interference is necessary to avoid danger to any person or to enable maintenance or repairs to be carried out.</p> <p><b>Section 46:</b> The landlord shall provide and maintain locks / other similar devices to ensure the premises are reasonably secure and must</p>			

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	<p>not alter any existing lock without the consent of the tenant.</p> <p><b>Section 47:</b> The landlord must inform the tenant or prospective tenants if the property is on the market for sale.</p> <p><b>Section 51:</b> A landlord can no longer end a periodic tenancy without cause by providing 90 days' notice, and must comply with the notice requirements in this section.</p> <p><b>Section 56B:</b> Tenants who experience family violence may withdraw from a tenancy without penalty by giving two days' notice.</p>			
<b>7 Privacy Obligations</b>				
<b>Privacy Act 2020</b>	<p><b>Section 201:</b> Appoint a Privacy Officer (within or outside the organisation) to encourage compliance with the Act and work with the Privacy Commissioner as required.</p> <p><b>Section 22, Information Privacy Principle 3 (IPP 3):</b> When collecting personal information from individuals (whether employees, members of the public or individuals who hold position at organisations that apply for funding or co-funders), the organisation must make those individuals aware of the matters set out in IPP 3. These matters include the fact their information is being collected, the purposes for which the information will be used, and the intended recipients of the information.</p> <p><b>Section 22, Information Privacy Principle 5 (IPP 5):</b> The organisation must ensure that all personal information it holds is protected by reasonable security safeguards.</p> <p><b>Section 22, Information Privacy Principle 9 (IPP 9):</b> Delete or return personal information once it is no longer necessary for the purposes the organisation collected it for.</p> <p><b>Section 22, Information Privacy Principle 10 (IPP 10):</b> Unless an exception in IPP 10 applies, only use information for the</p>	<p><b>Section 112 to 122:</b> The organisation must notify the Privacy Commissioner and (unless an exception applies) affected individuals, in the event it suffers a privacy breach that has, or is likely to, cause "serious harm" to individuals. Failing to notify the Commissioner is an offence under the Privacy Act 2020.</p>		

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	<p>purpose for which it was collected, or a directly related purpose.</p> <p><b>Section 22, Information Privacy Principle 11 (IPP 11):</b> Unless an exception in IPP 11 applies, only disclose information to third parties if you believe on reasonable grounds that that disclosure is one of the purposes, or is directly related to one of the purposes, for which the information was collected.</p> <p><b>Section 22, Information Privacy Principle 12 (IPP 12):</b> Where the organisation sends personal information to recipients located outside of New Zealand, it must have reasonable grounds to believe that the information will remain protected by laws or safeguards comparable to those set out under the Act, or have the individual's express authorisation to the transfer.</p> <p><b>Section 22, Information Privacy Principle 6 (IPP 6) and Sections 40, 44, 45, 46 and 47:</b> If an individual requests access to their personal information, the organisation must, within 20 working days, notify the individual whether it will grant or refuse access to the information.</p> <p>Individuals have a right to access their personal information unless one of the reasons for withholding information set out in sections 49 to 53 apply. If the organisation refuses access to the information, it must give the individual a reason(s) for the refusal, and to inform the individual of their right to complain to the Privacy Commissioner.</p> <p><b>Section 22, Information Privacy Principle 7 (IPP 7) and Sections 59 and 63:</b> The organisation must take reasonable steps to ensure that the personal information it holds is accurate, complete, up-to-date and not misleading. If an individual asks for their information to be corrected, the organisation must within 20 working days, notify the individual whether it will make the correction or not. If the organisation refuses to make the</p>			

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	<p>correction, it must inform the individual of the reason for the refusal, and the individual's rights to provide a statement of correction and to complain to the Privacy Commissioner.</p> <p><b>Section 22, Information Privacy Principle 7 (IPP 7) and Section 64:</b> If an individual asks for a statement of correction to be attached to their information, the organisation must notify the individual as soon as practicable whether it will, or will not, attach the statement to the relevant information. If the organisation refuses to attach the statement of correction, the organisation must inform the individual of their right to complain to the Privacy Commissioner.</p> <p><b>Sections 42 and 61:</b> The organisation must assist individuals who wish to access or correct personal information about themselves, to apply in the way prescribed by the Act.</p> <p><b>Section 66:</b> The organisation must ensure that any charges imposed on an individual for providing access to, or correction of, their personal information, are reasonable.</p>			
<b>8 Protection of Vulnerable Persons</b>				
<p><b>Children's Act 2014</b></p> <p><b>Children's (Requirements for Safety Checks of Children's Workers) Regulations 2015</b></p>	<p><b>Obligations on organisations who interact with vulnerable persons, and prudent practice</b></p> <p>There are also obligations under the Children's Act on "specified organisations" that are involved in the care of children in welfare, support, justice, health or education services to ensure the safety of those children through mandatory safety checks on staff. Safety checks relate to identity confirmation, information about previous criminal convictions and a risk assessment. "Specified organisations" are State services or organisations funded by State services</p> <p>However, even if the above obligations do not fall on an organisation, we suggest that it is</p>	<p>All relevant documentation should be retained to illustrate compliance/prudent practice.</p>		



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	<p>appropriate for organisations that have persons who have regular contact with vulnerable members of society such as children, elderly, disabled, mentally ill, to check the appropriateness of such staff and volunteers. At a minimum this would involve requiring proof of identity and a Police vet for prior criminal convictions. A child protection policy may also be appropriate, even if not statutorily required.</p> <p>New Zealand Police provide a vetting service which is available to approved agencies for the purpose of contributing to public safety and particularly the protection of vulnerable members of society. In order to use the Police Vetting Service an organisation will need to register with the New Zealand Police to become an approved agency.</p> <p>To be considered for access to the vetting service an organisation must meet certain criteria. In addition to government agencies and agencies with legislative obligations to obtain a Police vet, organisations which involve community safety and security will be considered, for example, organisations involved in the care, protection, education or training of vulnerable members of society such as children, young persons, elderly and the disabled.</p>			