



ANALYSIS

Title
1. Short Title

2. Duties of persons who control places of work
3. Codes of practice
4. Other offences

1998, No. 3

An Act to amend the Health and Safety in Employment Act 1992
[18 March 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Health and Safety in Employment Amendment Act 1998, and is part of the Health and Safety in Employment Act 1992 (“the principal Act”).

2. Duties of persons who control places of work—The principal Act is amended by repealing section 16, and substituting the following section:

“16. (1) A person who controls a place of work (other than a home occupied by the person) must take all practicable steps to ensure that no hazard that is or arises in the place harms—

“(a) People in the vicinity of the place (including people in the vicinity of the place solely for the purpose of recreation or leisure);

“(b) People who are lawfully at work in the place—

“(i) As employees of the person; or

“(ii) As contractors engaged by the person; or

“(iii) As subcontractors to a contractor engaged by the person; or

“(iv) As employees of a contractor or subcontractor to whom subparagraph (ii) or subparagraph (iii) applies.

“(2) A person who controls a place of work (other than a home occupied by the person) must take all practicable steps to ensure that no hazard that is or arises in the place harms people—

“(a) Who are in the place with the express or implied consent of the person; and

“(b) Who—

“(i) Have paid the person (directly or indirectly) to be there or to undertake an activity there; or

“(ii) Are there to undertake activities that include buying or inspecting goods from whose sale the person derives or would derive (directly or indirectly) any gain or reward.

“(3) A person who—

“(a) Controls a place of work (other than a home occupied by the person); and

“(b) Knows of any significant hazard that—

“(i) Is in, or is likely to arise in, the place of work; and

“(ii) Arises from work that is being carried on, or has been carried on, for gain or reward in the place of work; and

“(iii) Would not, in the ordinary course of events, be reasonably expected to be in, or to be likely to arise in, a place of work of that type; and

“(c) Either—

“(i) Expressly authorises any other person to be in the place of work; or

“(ii) Has personally received oral advice that any other person will, under the authority of any enactment, be working in the place of work; and

“(d) Is not obliged, in relation to that other person, to comply with subsection (1) or subsection (2)—

must take all practicable steps to warn that other person of the significant hazard.

“(4) Except in the case of the practicable steps required by this section to be taken in relation to any person described in subsection (2) or subsection (3) (c) (i), this section does not impose on any person who controls a place of work any duty in respect of any person who is in the place of work solely for the purpose of recreation or leisure.

“(5) The warning required to be given to a person to whom subsection (3) (c) (i) applies—

“(a) Must be given to that person at the time at which the express authority to be in the place of work is given to that person; but

“(b) If the express authority is given in respect of a group of persons or a body of persons, whether corporate or unincorporate, it is sufficient if the warning is given at that time to a representative or member of that group or body of persons.

“(6) The oral advice required by subsection (3) (c) (ii) must be given by the person who will be working in the place of work or by that person’s employer.”

3. Codes of practice—(1) Section 20 (1) of the principal Act is amended by inserting, after paragraph (a), the following paragraphs:

“(aa) A statement of preferred aims, arrangements, practices, or principles (or any 2 or more of those matters) for the design of plant, protective clothing, or protective equipment, of any kind or description; or

“(ab) A statement of preferred arrangements, characteristics, components, configurations, elements, or states (or any 2 or more of those matters) for manufactured plant, manufactured protective clothing, or manufactured protective equipment, of any kind or description; or

“(ac) A statement of preferred characteristics for any manufactured or processed substance used or capable of being used—

“(i) In or in connection with any protective clothing or protective equipment; or

“(ii) Otherwise for or in connection with protecting people from hazards; or”.

(2) The principal Act is amended—

(a) By omitting from the definition in section 2 (1) of the term “approved code of practice” the words “of preferred work practices or arrangements”; and

(b) By omitting from section 20 (2) the words “of preferred work practices or arrangements”, and substituting the words “under subsection (1)”.

4. Other offences—(1) Section 50 (a) of the principal Act is amended by inserting, after the expression “section 14”, the words “or section 16 (3)”.

(2) Section 50 of the principal Act is amended by adding, as subsection (2), the following subsection:

“(2) Every person who fails to comply with section 16 (3) commits an offence, and is liable on summary conviction to a fine not exceeding \$10,000.”

This Act is administered in the Department of Labour.
