



ANALYSIS

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1979, No. 145

**An Act to amend the Machinery Act 1950**

[14 December 1979

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Machinery Amendment Act 1979, and shall be read together with and deemed part of the Machinery Act 1950 (hereinafter referred to as the principal Act).

(2) Subject to sections 2 (3), 4 (2), and 7 (2) of this Act, this Act shall come into force on the day on which it receives the Governor-General’s assent.

**2. Machinery to which Act does not apply**—(1) Section 3 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) With the exception of sections 15 to 21 hereof, nothing in this Act shall apply to the use or maintenance of any machinery used exclusively for farming purposes the motive power of which does not exceed 4.5 kw.”

(2) Section 2 of the Machinery Amendment Act 1976 is hereby consequentially repealed.

(3) This section shall come into force on the 1st day of January 1981.

**3. Machinery to be safe when manufactured, sold, or hired—**(1) The principal Act is hereby further amended by repealing section 17A (as substituted by section 2 (1) of the Machinery Amendment Act 1961), and substituting the following section:

“17A. (1) Where any machinery is manufactured for the purposes of sale, assembled for the purposes of sale, sold, let on hire, offered for sale, or offered for hire,—

“(a) If a prime mover is a composite part of that machinery—

“(i) Every flywheel directly connected to the prime mover; and

“(ii) Every moving part of the prime mover; and

“(b) Every part of any transmission machinery attached to or forming part of that machinery; and

“(c) Every part of that machinery (not being part of the prime mover or transmission machinery) that is dangerous when that machinery is in use—

shall be securely fenced unless that flywheel or part is in such a position or of such construction as to be as safe to any person working with or in the vicinity of that machinery as it would be if securely fenced.

“(2) Subject to subsection (3) of this section, every person commits an offence against this Act who—

“(a) Manufactures for the purposes of sale; or

“(b) Assembles for the purposes of sale; or

“(c) Sells, lets on hire, offers for sale, or offers for hire; or

“(d) As agent of the seller or hirer, causes or procures to be sold or let on hire—

any machinery that does not comply with the requirements of subsection (1) of this section.

“(3) Where an Inspector is satisfied—

“(a) That it is not reasonably practicable for any flywheel or other part of any machinery, or of machinery of any kind, to be securely fenced; and

“(b) That adequate safeguards can be provided when that machinery is in use,—

he may, to that extent, exempt that machinery or, as the case may be, machinery of that kind, from the requirements of subsection (1) of this section; but any Inspector may at any time, upon giving 6 months notice of his intention to do so to the owner, manufacturer, assembler, or bailee of that machinery, revoke that exemption.”

(2) Section 2 of the Machinery Amendment Act 1961 is hereby consequentially repealed.

**4. Power controls**—(1) The principal Act is hereby further amended by inserting, before section 18, the following section:

“17c. (1) Where any machinery is manufactured or assembled for the purposes of sale—

“(a) The power control shall be—

“(i) Efficient; and

“(ii) So constructed and placed that it cannot inadvertently be activated; and

“(iii) So constructed and placed that it can conveniently be operated by the person using the machinery; and

“(b) Where the power control of any machinery is so placed that it would not, in all circumstances, be either visible to or within reach of a person cleaning, adjusting, or maintaining the machinery, the machinery shall be either—

“(i) Provided with a control-locking device or devices to prevent inadvertent activation; or

“(ii) Capable of being rendered temporarily inoperative by the isolation of the power source of the machinery.

“(2) Every person commits an offence against this Act who—

“(a) Manufactures or assembles, for the purposes of sale, any machinery that does not comply with the provisions of subsection (1) of this section; or

“(b) Sells, lets on hire, offers for sale, or offers for hire, or, as agent of the seller or hirer, causes or procures to be sold or let on hire—

“(i) Any new machinery; or

“(ii) Any machinery purchased new, whether by the seller or hirer or by any other person, after the 31st day of December 1980—

that does not comply with the provisions of subsection (1) of this section.”

(2) This section shall come into force on the 1st day of January 1981.

**5. Construction and maintenance of machinery—**(1) The principal Act is hereby further amended by inserting, before section 18, the following section:

“17D. All machinery shall be soundly constructed of proper materials, and shall be maintained in a safe working condition to the satisfaction of an Inspector.”

(2) Section 17 (3) of the principal Act is hereby consequentially repealed.

**6. Restriction on use of machinery if person exposed to risk of injury—**(1) Section 19 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) No person—

“(a) With hair that is neither cut short nor securely fixed and confined close to his head; or

“(b) Wearing any apron or loose garment—  
shall work, or be allowed to work, in any position where he is likely to come into direct contact with any moving machinery.

“(3) Every person who fails or refuses to comply with any provision of this section commits an offence against this Act.”

(2) Section 29 of the principal Act (as inserted by section 3 (1) of the Machinery Amendment Act 1978) is hereby consequentially amended by inserting, after paragraph (b), the following paragraph:

“(ba) In the case of an offence against section 19 of this Act,—

“(i) To a fine not exceeding \$2,000 where that person is the owner of the machinery concerned; or

“(ii) To a fine not exceeding \$1,000 in every other case:”.

(3) Section 4 of the Machinery Amendment Act 1969 is hereby consequentially repealed.

**7. Regulations—**(1) Section 39 (1) of the principal Act is hereby amended by inserting, after paragraph (j), the following paragraphs:

“(ja) Requiring persons who—

“(i) Manufacture any machinery for the purposes of sale; or

“(ii) Assemble any machinery for the purposes of sale; or

“(iii) Sell, let on hire, offer for sale, or offer for hire, any machinery; or

“(iv) As agent for the seller or hirer, cause or procure to be sold or let on hire any machinery,— or any of them, to ensure that the machinery, while in operation, does not generate noise at a level exceeding a level prescribed in those regulations:

“(jb) Providing for the exemption of machinery, or any specified class or classes of machinery, from any requirement imposed by regulations made under paragraph (ja) of this subsection:”.

(2) This section shall come into force on the 1st day of January 1981.

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This Act is administered in the Department of Labour.

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