

CONSTRUCTION AMENDMENT BILL

EXPLANATORY NOTE

Clause 1 relates to the Short Title.

Clause 2 amends the definition of the term "employer" in section 2 of the principal Act.

The amendment provides that the term "employer", in respect of the operation of mechanical plant, includes a bailee of the plant, notwithstanding that he is not responsible for paying the wages of the plant's operator.

Clause 3 inserts new sections 18A, 18B, and 18C in the principal Act.

The new section 18A authorises the Chief Safety Engineer to issue codes of practice in respect of construction work.

The new section 18B provides that no code of practice shall have any force or effect until it has been approved by the Minister of Labour.

The Minister may not approve a code of practice unless notice of the Chief Safety Engineer's intention to apply for approval has been gazetted, and unless such persons as the Minister considers will be affected have had an opportunity to consider the code and comment on it.

Notification of the Minister's consent is to be gazetted and, in addition, the code of practice is to be promulgated in such manner as the Minister directs.

The new section 18C provides that, in any regulations made under the principal Act, any code of practice may be cited by the title or reference given to it by the Chief Safety Engineer, and by its date of issue.

In addition, it is provided that the production in any proceedings of a code of practice purporting to be issued by the Chief Safety Engineer shall, in the absence of proof to the contrary, be sufficient evidence that it has been issued under the authority of section 18A and approved by the Minister under section 18B.

Clause 4 amends section 30 of the principal Act which authorises the making of regulations.

The amendment provides that regulations may be made requiring compliance with any code of practice or any part or parts of any code of practice.

Right Hon. Mr Marshall

CONSTRUCTION AMENDMENT

ANALYSIS

Title
1. Short Title
2. Interpretation

3. New sections inserted
18A. Codes of practice
18B. Codes of practice to be approved by Minister
18C. Citation and proof of codes of practice
4. Regulations

A BILL INTITULED

An Act to amend the Construction Act 1959

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—This Act may be cited as the Construction Amendment Act 1970, and shall be read together with and deemed part of the Construction Act 1959* (hereinafter referred to as the principal Act).

10 **2. Interpretation**—Section 2 of the principal Act is hereby amended by adding to the definition of the term “employer” the words “;and, in respect of the operation of mechanical plant, includes a bailee of the plant, notwithstanding that the bailee is not liable for the payment of the wages of the plant’s
15 operator:”.

*1959, No. 32

Amendments: 1966, No. 40; 1967, No. 64; 1968, No. 74; 1969, No. 11

3. New sections inserted—The principal Act is hereby further amended by inserting, after section 18, the following sections:

“18A. Codes of practice—(1) In this section and in sections 18B and 18c of this Act, ‘code of practice’ means a recommended practice; and includes a description of any commodity, process, or practice, by reference to its nature, quality, strength, purity, composition, quantity, dimensions, weight, grade, durability, origin, age, or other characteristics; and also includes a glossary of terms, definitions, or symbols. 5 10

“(2) The Chief Safety Engineer may, for the purposes of this Act, from time to time issue codes of practice, and may from time to time amend or revoke any such code of practice.”

“18B. Codes of practice to be approved by Minister—(1) No code of practice, and no amendment or revocation of a code of practice, shall have any force or effect until it has been approved by the Minister. 15

“(2) The Minister shall not approve any code of practice, or amendment or revocation of a code of practice, unless—

“(a) Not less than 1 month’s notice of the Chief Safety Engineer’s intention to apply for approval has been published in the *Gazette*; and 20

“(b) Such persons or representatives of persons as the Minister considers will be affected thereby have had an opportunity to consider it and to comment thereon to the Minister.” 25

“(3) Whenever the Minister has approved any code of practice, or any amendment or revocation of a code of practice, notification thereof shall be published in the *Gazette*. Every such code of practice, amendment, or revocation shall in addition be promulgated in such manner as the Minister directs.” 30

“(4) The fact that the Minister has approved any code of practice or amendment or revocation of a code of practice shall be conclusive evidence that the requirements of this section have been complied with.” 35

“18c. Citation and proof of codes of practice—(1) In any regulations made under this Act any code of practice or amendment of a code of practice may, without prejudice to any other mode of citation, be cited by the title or reference given to it by the Chief Safety Engineer, and by its date of issue; and such citation shall be deemed to include and refer to the latest code of practice or amendment in existence when the regulations were made. 40

“(2) Without affecting any other method of proof, the production in any proceedings of a copy of any code of practice or amendment of a code of practice purporting to be issued by the Chief Safety Engineer, shall, in the absence of proof to
5 the contrary, be sufficient evidence that it has been issued under the authority of section 18A of this Act and that it has been approved by the Minister under section 18B of this Act.”

4. Regulations—Section 30 of the principal Act is hereby amended by adding to subsection (2) the following paragraph:
10 “(d) Requiring compliance with any code of practice or any part or parts of any code of practice (including any amendment thereof) that has been issued under section 18A of this Act.”