

1 Description of national OSH regulatory framework

1.1 Description of OSH regulatory framework

Summary/citation

New Zealand is a unitary state - its provinces were abolished in 1877.

Occupational safety and health in New Zealand is principally regulated by a single statute, the Health and Safety and Employment Act 1992, as amended. The Act covers all health and safety issues across all work activities in all workplaces (that is, all industries), from factories, offices and shops, to railways, aircraft and ships, to mines.

The Hazardous Substances and New Organisms Act 1996 protects the environment and the health and safety of communities by preventing and managing the adverse effects of hazardous substances and new organisms.

The Injury Prevention, Rehabilitation, and Compensation Act 2001 establishes a compensation and rehabilitation scheme that covers work-related injuries and disease.

Other legislation affecting OSH in New Zealand include the Electricity Act 1992, the Gas Act 1992, the Smokefree Environments Act 1990, the Radiation Protection Act 1965 and the Health Act 1956.

The Ministry of Business, Innovation and Employment oversees the Health and Safety and Employment Act 1992, and ensures that the Hazardous Substances and New Organisms Act 1996 is complied with in workplaces.

The Health and Safety and Employment Act 1992 places general duties on employers to employees and people who are not employees, on persons selling or supplying plant for use in a workplace, on persons who control workplaces, on self employed persons, on principals in relation to contractors and subcontractors or their employees, and on employees. It further sets out general duties protecting volunteers and loaned employees. These duties require duty holders to take 'all practicable steps' to remove, control or otherwise manage work hazards. The Act also provides for the making of regulations to supplement the general duties with provisions regulating specific work situations. For example, the Health and Safety in Employment Regulations 1995 apply to all workplaces and regulate facilities for the OSH of all employees, precautions to be taken with particular hazards and other specific matters. A raft of regulations address hazardous machinery; the control of hazardous processes; the petroleum and gas and mining industries; and adventure activities.

The provisions of the Act and of the regulations are further supplemented by approved codes of practice. These must be approved by the Minister of Business, Employment and Innovation, and once approved set out preferred practices or arrangements that will be accepted by the courts as evidence of good practice. The Department of Business, Innovation and Employment also develops guidelines, which are not formally approved, but which provide guidance to all parties on how to comply with the provisions of the Act and regulations. Codes of practice and guidelines might call up and incorporate other standards, such as New Zealand Standards or joint Australian/New Zealand Standards. Whereas a contravention of a general duty or a provision in a regulation may result in a prosecution or the issuing of an infringement notice, contraventions of approved codes of practice or guidelines are not, in themselves, enforceable.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90).

Health and Safety in Employment (Asbestos) Regulations 1998 (SR 1998/443).

Accident Compensation Act 2001 (2001 No. 49).

Noxious Substances Regulations 1954 (SR 1954/128).

Hazardous Substances and New Organisms Act 1996 (1996 No. 30).

Electricity Act 1992 (1992 No 122).

Gas Act 1992 (1992, No. 124).

Smoke-free Environments Act 1990 (1990 No 108).

Radiation Protection Act 1965 (1965 No 23).

Health Act 1956 (1956, No. 65)

2 Scope, coverage and exclusions

2.1 Health and safety covers physical and psychological health

Summary/citation

"'healthy" means unharmed; and "'health" has a corresponding meaning'; "'safe" means not exposed to any hazards'

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 2)

2.2 Definition of worker

Summary/citation

An 'employee' is defined as 'any person of any age employed by an employer to do work (other than residential work) for hire or reward under a contract of service and, in relation to an employer, means an employee of an employer'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 2)

2.2.1 Coverage of particular categories of workers

2.2.1.1 Migrant workers

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 2)

2.2.1.2 Domestic workers

Summary/citation

An employee carrying out 'residential work' is excluded from the definition of 'employee' under the Act.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 2)

2.2.1.3 Home workers

Remarks / comments

A homeworker may be an employee if she or he is employed under a contract of employment.

2.2.1.4 Self-employed persons

2.3 Definition of employer**Summary/citation**

An 'employer' is defined as 'a person who or that employs any other person to do any work for hire or reward; and, in relation to an employer, means an employer of an employee'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 2)

2.4 Exclusion of branches of economic activity

2.4.1 Agriculture

Summary/citation

Included.

2.4.2 Construction

Summary/citation

Included.

2.4.3 Services

Summary/citation

Included.

2.4.4 Public sector

Summary/citation

Included.

2.4.5 Other

2.5 Definition of occupational accident**2.6 Definition of occupational disease**

2.6.1 List of occupational diseases

References

Accident Compensation Act 2001 (2001 No. 49). (Schedule 2)

2.6.2 Mechanism for compensating other diseases as occupational ones

References

Accident Compensation Act 2001 (2001 No. 49).

3 Institutions and programmes relating to OSH administration and/or enforcement**3.1 Competent national authority for safety and health at work****Summary/citation**

The Ministry of Business, Innovation and Employment oversees the Health and Safety in Employment Act 1992, and ensures that the Hazardous Substances and New Organisms Act 1996 is complied with in workplaces.

3.1.1 Objectives, roles and/or functions

3.1.2 Chairperson and composition

3.2 National OSH research programme or institute

3.2.1 Objectives, roles and/or functions

3.2.2 Governance board constitution and chairmanship

3.2.3 Source of funding

3.3 National OSH programme

Summary/citation

The New Zealand Injury Prevention Strategy, and the Workplace Health and Safety Strategy and National Health and Safety Advisory Council do not have a statutory basis.

3.3.1 Consultation on the national OSH programme**Summary/citation**

The New Zealand Injury Prevention Strategy, and the Workplace Health and Safety Strategy and National Health and Safety Advisory Council do not have a statutory basis.

4 Employers' duties and responsibilities to protect the safety and health of workers and others

4.1 Duty to ensure the health and safety of employees

Summary/citation

'Every employer shall take all practicable steps to ensure the safety of employees while at work'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 6)

4.2 Duty to protect the health and safety of people other than their own employees

Summary/citation

'Every employer shall take all practicable steps to ensure that no action or inaction of any employee while at work harms any person.' (§ 15)

Self-employed persons have a duty to take all reasonable steps to ensure their actions or inaction does not harm other persons (§ 17).

Each principal must take all reasonably practicable steps to ensure that no contractor, sub-contractor, or the employees of a contractor or subcontractor is harmed while doing any work that the contractor was engaged to do.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 6)

4.3 Collaboration among two or more employers at the same workplace

4.4 Surveillance of workers' health in relation to work

Summary / Citation

If a hazard cannot be removed, one of the control measures that employers must implement is to monitor the exposure of employees to the hazard. Every employer must ensure that every employee is given all health and safety results of any monitoring of the employee.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 10-11)

4.4.1 Specific hazards for which surveillance is required

4.5 Surveillance of the working environment and working practices

Summary / Citation

Every employer, when requested by the employee, must provide the employee with results of general monitoring of the employee's workplace.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 11)

4.6 Duty to provide personal protective equipment

Summary / Citation

As part of the hierarchy of controls, the employer must 'provide, make accessible to, and ensure the use by the employees of suitable clothing and equipment to protect them from any harm that may be caused by or may arise out of the hazard'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 10(2)(b))

4.7 Duty to ensure the usage of personal protective equipment

Summary / Citation

The employer must ensure that employees provided with protective clothing and equipment use the clothing and equipment. The employee's duty to ensure their own health and safety includes a duty to use all suitable protective clothing and equipment.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 10(2)(b), 19(a))

4.8 Duty to provide first-aid and welfare facilities

4.8.1 Arrangements for first-aid

Summary / Citation

Every employer must take all practicable steps to that there are suitable first aid facilities.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§ 4)

4.8.2 Sanitary installations

Summary / Citation

Every employer must take all practicable steps to that there are toilets, hand washing facilities etc; and that every place of work under the control of the employer is kept in a clean and hygienic state. Every employer who employs any employee to carry out agricultural work must take all practicable steps to provide adequate accommodation, including sleeping facilities.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§§ 4,5,9,62(4))

4.8.3 Drinking water

Summary / Citation

Every employer must take all practicable steps to that drinking water is provided for employees at all places of work.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§ 8)

4.8.4 Rest and eating areas

Summary / Citation

Every employer must take all practicable steps to ensure that there are separate, sheltered and comfortable facilities for people to have meals; and that there is a place for indisposed workers to rest.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 4,6)

5 Employers' duty to organize prevention formally along generally accepted OSH management principles and practices**5.1 Elements of an OSH management system**

5.1.1 Policy or plan specifying responsibilities and arrangements for health and safety

5.1.2 Appointment of a person for health and safety

5.1.3 Written risk assessment

Summary/citation

'Every employer shall ensure that there are in place effective methods for (a) systematically identifying existing hazards to employees at work; and (b) systematically identifying new hazards to employees at work; and (c) regularly assessing each hazard identified, and determining whether or not it is a significant hazard'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 7(1))

5.1.4 Safe operating work systems and procedures

Summary/citation

Every employer must provide and maintain a safe working environment.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 6(a))

5.1.5 Training and information on risks

Summary/citation

Every employer shall take all reasonably practicable steps to ensure that every employee who does any kind of work is properly supervised and 'is adequately trained in the safe use of all plant, objects, substances, and protective clothing and equipment that the employee is or may be required to use or handle.'

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 13)

5.1.6 Review or assessment of the results of preventive measures

5.1.7 Consultation with workers in health and safety

Summary/citation

'Every employer must provide reasonable opportunities for the employer's employees to participate effectively in ongoing processes for improvement of health and safety in the employer's places of work.'

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(B)(1))

5.2 Obligation to implement a specific OSH management system or standard

6 Employers' duty to ensure availability of expertise and competence in health and safety

6.1 OSH competence

6.1.1 Requirement to access expert advice and/or support in health and safety

6.1.1.1 Qualifications of experts or professional services

6.2 Appointment of an OSH practitioner

6.2.1 Workforce size threshold for the appointment of OSH practitioners

7 Workers' rights and duties

7.1 Duty to take reasonable steps to protect their own safety and health

Summary / Citation

Every employee shall take all reasonably practicable steps to ensure the employee's safety while at work.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(a))

7.2 Duty to take reasonable steps to protect the safety and health of others

Summary / Citation

'Every employee shall take all reasonably practicable steps to ensure [...] that no action or inaction of the employee while at work causes harm to any other person.'

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(b))

7.3 Supervisors' duty to take reasonable steps to protect the safety and health of others

Summary / Citation

The supervisor is not under the duty to take reasonable steps to protect safety and health of others. However, the supervisor would owe the employee's duty to take all reasonably practicable steps to ensure that the supervisor's action or inaction does not cause harm to another person.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(b))

7.4 Senior officers' duty to take reasonable steps to protect the safety and health of others

Summary / Citation

Where a body corporate fails to comply with the provision of the Act, 'any of its officers, directors, or agents who directed, authorised, assented to, acquiesced in, or participated in, the failure is a party to and guilty of the failure and is liable on conviction to the punishment provided for the offence, whether or not the body corporate has been prosecuted or convicted.' (§ 56(1)).

There are similar provisions for senior officers of a Crown organisation (§ 56(2)).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 56)

7.5 Self-employed persons' duty to take reasonable steps to protect their own and other people's health and safety

Summary / Citation

'Every self-employed person shall take all reasonably practicable steps to ensure that no action or inaction of the self-employed person while at work harms the self-employed person or any other person.'

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 17)

7.6 Duty to comply with OSH-related requirements

Summary / Citation

All employees have a common law duty to obey the lawful and reasonable instructions of the employer.

7.7 Right to enquire about risks and preventive measures

Summary / Citation

Every employer shall ensure that every employee has been given, and is provided with ready access to, information in a form and manner that the employee is reasonably likely to understand about what to do if an emergency arises; all identified hazards to which the employee may be exposed or may create while working, and where all necessary safety clothing, devices, equipment and materials are kept. An employer must ensure that all health and safety representatives have ready access to sufficient systems about health and safety systems and issues to enable the representative to perform their functions effectively.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 12)

7.8 Right to remove themselves from a dangerous situation

Summary / Citation

'An employee may refuse to do work if the employee [reasonably] believes that the work that the employee is required to perform is likely to cause serious harm to her or him'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 28A(1))

7.9 Right to be reassigned to non-hazard work

Summary / Citation

'An employee who refuses to do work must do any other work within the scope of the employee's employment agreement that the employer reasonably requests.'

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 28(A)(6))

7.9.1 Right to withdraw with compensation when workers are not reassigned to non-hazard work

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 28(A)(1),(6))

8 Consultation, collaboration and co-operation with workers and their representatives

8.1 National OSH committee, commission, council or similar body

Summary / Citation

The National Health and Safety Advisory Council does not have a statutory basis.

8.1.1 Objectives, roles and/or functions

8.1.2 Constitution and chairmanship modalities

8.2 Employers' duty to consult workers on risks

Summary / Citation

'Every employer must provide reasonable opportunities for the employer's employees to participate effectively in ongoing processes for improvement of health and safety in the employer's places of work.' (§ 19(B)(1)).

The employer, employees wishing to be involved in participation, and a union or unions representing any of the employees must co-operate in good faith to develop, agree, implement and maintain a system that sets of the way in which employees will participate (§ 19(C)(2)).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 19(B)(1), 19(C)(2))

8.3 Workers' right to select their representatives for health and safety matters

Summary / Citation

'A system may provide for one or more health and safety representatives [...]who] may represent a particular type of work, or place of work of the employer, or another grouping.' (§ 19(C)(5)).

If one or more employees, or a union representing them requires the development of a system, and a system is not agreed and implemented within 6 months of being requested, the employees, together with any unions representing them, must hold an election for at least one health and safety representative (Schedule 1A, § 3).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 19(C)(5), Schedule 1A § 3)

8.3.1 Workforce size conditions for workers' representation in health and safety

Summary / Citation

A system is required where an employer has 30 or more employees, or where one or more employees, or a union representing employees, requires the development of a system. (s 19C(1)).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19C(1))

8.3.2 Conditions of eligibility to represent workers in health and safety

8.4 OSH representatives' functions, rights and powers

Summary / Citation

The employer, employees and union or unions representing employees must agree on the functions (and rights) of the OSH representative. Part 2 of Schedule 1A sets out examples of functions.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(C))

8.4.1 Right to inspect the workplace

Summary / Citation

There is no statutory right to inspect but the employer, employees and union or unions representing employees can agree that the OSH representative has the right to inspect.

8.4.2 Right to access OSH information

Summary / Citation

'An employer must ensure that all health and safety representatives in a place of work have ready access to sufficient information about health and safety systems and health and safety issues in the place of work to enable the representatives to perform their functions effectively'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 12(2))

8.4.3 Right to be present at interviews

Summary / Citation

There is no statutory right to be present at interviews, but the employer, employees and union or unions representing employees can agree that the OSH representative has the right to be present at interviews.

8.4.4 Right to receive professional assistance from OSH experts

Summary / Citation

There is no statutory right to receive OSH assistances, but the employer, employees and union or unions representing employees can agree that the OSH representative has the right to receive assistance.

8.4.5 Right to accompany inspectors

Summary / Citation

There is no statutory right to accompany inspectors, but the employer, employees and union or unions representing employees can agree that the OSH representative has the right to accompany inspectors.

8.4.6 Right to use facilities

Summary / Citation

There is no explicit statutory right to facilities, but the employer must provide reasonable opportunities for the employer's employees to participate effectively in ongoing processes to improve OSH.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(B)(1))

8.4.7 Right to have time off work with pay to perform duties

Summary / Citation

There is no explicit statutory right to time off with pay, but the employer must provide reasonable opportunities for the employer's employees to participate effectively in ongoing processes to improve OSH.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(B)(1))

8.4.8 Right to issue remedial notices

Summary / Citation

If a trained health and safety representative believes on reasonable grounds that there is a hazard in the employer's place of work, has brought the hazard to the attention of the employer and has attempted unsuccessfully to discuss with the employer steps for dealing with the hazards, the representative may give the employer a hazard notice.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 46(A))

8.4.9 Right to resolve OSH issues in consultation with employers

Summary / Citation

If a health and safety representative makes a recommendation regarding health and safety, the employer must either adopt the proposal or provide a written statement to the representative setting out the reasons for not adopting the proposal (§ 19(4)).

The representative may also issue a hazard notice (§ 46(A)).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 19(4), 46(A))

8.4.10 Right to direct that dangerous work cease**Summary / Citation**

OSH representatives' does not have the right to direct that dangerous work cease but individual employees may refuse to perform work likely to cause serious harm.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 28(A))

8.5 Right of workers' representatives from outside the undertaking to address OSH issues at the workplace**8.5.1 Right to enter the workplace****8.5.2 Right to investigate suspected non-compliance with OSH legislation****8.5.3 Right to consult with workers****8.5.4 Right to advise workers****8.5.5 Right to initiate enforcement action****8.6 Joint OSH Committee****Summary / Citation**

'A system may provide for one or more health and safety committees ... [which] may represent a particular type of work, or place of work of the employer, or another grouping.'

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 19(C)(5))

8.6.1 Participation of workers' representatives in joint OSH committee**8.6.2 Conditions for establishing a joint OSH committee****8.6.3 Objectives, roles and/or functions of joint OSH committees****8.6.4 Keeping record of the work of joint OSH committees****8.6.5 Sharing the minutes of joint OSH committees meetings****8.7 Mandatory training for members of joint OSH committee(s)****Summary / Citation**

An employer must allow a health and safety representative two days paid leave each year to attend health and safety training approved under the Act (§ 19(E)(1)).

The Minister may approve courses of occupational health and safety training to be carried out at a place of work or elsewhere' (§ 19(G)(1)).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 19(E)(1), 19(G)(1))

8.8 Protection against reprisals

8.9 Immunity from civil and criminal liability for exercising OSH related rights and duties

9 Specific hazards or risks

9.1 Biological hazards

9.2 Chemical hazards

9.2.1 Handling, storage, labelling and use

Summary / Citation

Some dangerous chemicals are covered by the Noxious Substances Regulations 1954.

References

Noxious Substances Regulations 1954 (SR 1954/128).

9.2.2 Duty of manufacturers, suppliers and importers of chemicals in relation to the safety and health of users

9.2.3 Pesticides

Summary / Citation

Some dangerous chemicals are covered by the Noxious Substances Regulations 1954.

References

Noxious Substances Regulations 1954 (SR 1954/128).

9.3 Ergonomic hazards

Summary / Citation

There is no specific provision for ergonomics, but 'hazard' is defined to include 'a situation where a person's behaviour may be an actual or potential cause or source of harm to the person or another person' that results 'from physical or mental fatigue ... another temporary condition that affects a person's behaviour.' Consequently the hazard identification, assessment and control provisions in the Act apply to work where ergonomic issues arise.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 2, 7-10)

9.4 Physical hazards

9.4.1 Ionising radiation

9.4.2 Vibration and noise

Summary / Citation

Every employer must take all practicable steps to ensure that no employee is exposed to noise above specified levels.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90).

9.4.3 Working at height

Summary / Citation

Every employer shall take all practicable steps to ensure that where any employee may fall more than three metres means are provided to prevent an employee from falling.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§ 21)

9.4.4 Working in confined spaces

9.4.5 Risks arising from poor maintenance of workplace facilities

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90).

9.4.6 Exposure to extreme temperatures

Summary / Citation

Every employer shall take all reasonably practicable steps to ensure that the employer has means for controlling atmospheric conditions, including radiant heat and temperature.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§§ 3,4)

9.4.7 Fire risks

Summary / Citation

The general duty requires an employer 'to develop procedures for dealing with emergencies that may arise while employees are at work'. Further, the regulations require every employer to take all practicable steps to ensure that facilities (defined to include 'means of leaving the place of work in an emergency') are provided at every place of work under the control of that employer.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 6(e))

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§ 4)

9.4.8 Tobacco

9.4.9 Asbestos

Summary / Citation

Specific regulations cover asbestos.

References

Health and Safety in Employment (Asbestos) Regulations 1998 (SR 1998/443).

9.4.10 Risks related to nanotechnology

9.4.11 Contraction of HIV in the workplace

9.5 Psychosocial hazards

9.5.1 Psychosocial risks

Summary / Citation

General duty provisions in principle address psychosocial risks; but there are no provisions explicitly addressing psychosocial risks.

9.5.2 Occupational violence

Summary / Citation

General duty provisions in principle address occupational violence; but there are no provisions explicitly addressing occupational violence.

9.6 Other hazardous substances

Summary / Citation

Specific regulations cover hazards from lead and 'noxious substances'.

References

Noxious Substances Regulations 1954 (SR 1954/128).

9.7 Machineries

9.7.1 Risks related to machinery and tools

Summary / Citation

Various provisions in a range of regulations address machinery hazards.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (Part 2A)

9.7.2 Duty of designers and/or manufacturers of machineries in relation to the occupational safety and health of operators of machineries

Summary / Citation

Every designer, manufacturer and supplier of plant shall take all practicable steps to ensure that any plant manufactured or supplied is designed and manufactured to be safe and tested. A person who hires, leases, or loans to another person plant that can be used in a place of work must take all reasonably practicable steps to ensure that the plant is designed and made, and has been maintained, so that it is safe for its intended use, and must take all reasonably practicable steps to install or arrange the plant so that it is safe for its intended use.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 18(A))

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§§ 66-67)

9.7.3 Duty of designers, manufacturers, importers or suppliers of machineries to provide machineries information

Summary / Citation

Every designer, manufacturer and supplier of plant shall take all practicable steps to ensure that any plant manufactured or supplied is supplied with detailed instructions.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 18(A))

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§§ 66-67)

9.7.4 Duty to purchase machineries from authorised/certificated suppliers or only if approved/certificated

9.7.5 Maintenance of machinery and equipment

9.7.5.1 List of equipment where applicable

9.8 Provisions to protect workers in specific condition of vulnerability

9.8.1 Protection of pregnancy at work

Summary / Citation

While the employer's general duty provision protects pregnant workers, there are no explicit provisions protecting pregnant workers.

9.8.2 Protection of lactating women at work

9.8.3 Limits to women's access to specific occupations, undertakings or shifts

9.8.4 Limits to workers' access to specific occupations, undertakings or shifts by reason of age

Summary / Citation

Young workers (under 15 years of age) cannot work with machinery or drive or ride on a vehicle etc.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (Part 5)

10 Recording, notification and investigation of accidents/incidents and diseases

10.1 Duty to record and/or investigate the causes of work accidents, near misses incidents and cases of occupational diseases

10.1.1 Work-related accidents

Summary / Citation

'Every employer shall maintain [...] a register of accidents and serious harm'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 25(1)(a))

10.1.2 Near miss incidents

Summary / Citation

'Every employer shall maintain [...] a register of accidents and serious harm'. The register includes hazards to which an employee was exposed.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 25(1)(b))

10.1.3 Occupational diseases

Summary / Citation

'Every employer shall maintain [...] a register of accidents and serious harm'. The register includes hazards to which an employee was exposed .

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 25(1)(b))

10.2 Employers' duty to notify OSH authorities of work related death and/or injuries to health

Summary / Citation

All accidents required to be recorded in the register must be notified to the chief executive of the Ministry of Business, Innovation and Employment. All hazards to which an employee has been exposed and required to be recorded in the register must be notified to the chief executive of the Ministry of Business, Innovation and Employment.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 25)

11 OSH inspection and enforcement of OSH legislation

11.1 Appointment of OSH inspectors

Summary / Citation

The chief executive of the Ministry of Business, Innovation and Employment may appoint any person who has passed the prescribed examinations or acquired the prescribed experience to be a health and safety inspector.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 29)

11.2 OSH inspectors' powers**11.2.1 Power to enter workplaces****Summary / Citation**

For the purpose of performing any function as an inspector (which includes inspection and investigation), any inspector may at any reasonable time enter any place of work.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§§ 29-31)

11.2.2 Power to inspect and carry out any examination, test or enquiry**Summary / Citation**

An inspector may 'conduct examinations, tests, inquiries, and inspections, or direct the employer or any other person who or that controls the place of work, to conduct examinations, tests, inquiries, or inspections'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 31(1)(a))

11.2.3 Power to investigate**11.2.4 Duty to provide advice on OSH****Summary / Citation**

The functions of an inspector are to help employers, employees, and other persons to improve safety at places of work, and the safety of people at work, by providing information and education'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 30(a))

11.3 OSH inspectors' enforcement powers**11.3.1 Power to issue orders or notices****Summary / Citation**

Inspectors may issue an improvement notice if the inspector 'believes on reasonable grounds that any person is failing to comply with any provision of the Act'.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 39)

11.3.2 Power to impose financial penalties**Summary / Citation**

An inspector may issue an infringement notice if the inspector believes on reasonable grounds a person has committed or is committing an infringement offence; and the person has had prior warning of the infringement offence, and an inspector or another person has not taken enforcement action against the same defendant in respect of the same matter.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 56(b)(1))

11.3.3 Power to revoke or suspend licenses or authorisations

Summary / Citation

The person who issues a certificate of competence can cancel or suspend the certificate if she is satisfied upon reasonable grounds that the holder of the certificate is negligent in carrying out tasks or has shown herself to be unfit to be the holder of the certificate.

References

Health and Safety in Employment (Prescribed Matters) Regulations 2003 (SR 2003/90). (§ 41)

11.3.4 Power to require the cessation of dangerous work

Summary / Citation

An inspector may issue a prohibition notice where the inspector believes that a contravention of the Act may result in a serious injury to any person.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 41)

11.3.5 Power to initiate prosecutions

Summary / Citation

An inspector may lay an information in respect of an offence under the Act.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 54(A))

11.3.6 Power to conduct prosecutions

Summary / Citation

An information laid by an inspector may be proceeded with by the informant.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 55)

11.3.7 Other enforcement powers

11.4 Application of sanctions by courts

11.4.1 Financial penalties for legal persons

Summary / Citation

For most offences the maximum fine in NZ\$250,000 (US\$200,000).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 50)

11.4.2 Financial penalties for natural persons

Summary / Citation

For most offences the maximum fine is NZ\$250,000 (US\$200,000).

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 50)

11.4.3 Non-financial sanctions

Summary / Citation

In cases where a person's action or failure to act occurs, and they know it is likely to cause serious harm, the maximum fine is NZ\$500,000 (US\$400,000) and/or a maximum term of imprisonment of 2 years.

References

Health and Safety in Employment Act 1992 (1992 No. 96). (§ 49(3))

11.4.4 Criminal liability

11.4.5 Terms of imprisonment for natural persons