

WorkSafe New Zealand Amendment Bill

(Divided from the Health and Safety Reform Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Health and Safety Reform Bill as reported from the Transport and Industrial Relations Committee. The committee of the whole House has further amended the Bill and divided it into the following Bills:

- Health and Safety at Work Bill comprising clauses 1 and 2, Parts 1 to 5, and Schedules 1 to 3
- Accident Compensation Amendment Bill comprising subpart 1 of Part 6 and Schedule 4
- Hazardous Substances and New Organisms Amendment Bill comprising subpart 2 of Part 6 and Schedules 5 to 7
- Employment Relations Amendment Bill (No 2) comprising subpart 3 of Part 6
- this Bill comprising subpart 4 of Part 6 and Schedule 8.

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Michael Woodhouse

WorkSafe New Zealand Amendment Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the WorkSafe New Zealand Amendment Act **2015**.

2 Commencement

- (1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates and appointing different dates for different purposes. 5
- (2) Any provision that has not earlier been brought into force comes into force on **1 January 2018**.

305 Principal Act

This **Act** amends the WorkSafe New Zealand Act 2013 (the **principal Act**). 10

306 Section 3 amended (Interpretation)

- (1) In section 3, replace the definition of **relevant health and safety legislation** with:

relevant health and safety legislation has the same meaning as in **section 12 of the Health and Safety Reform Act 2014** 15

- (2) In section 3, definition of **transferred employee**, after “section 11” insert “or **clause 1 of Schedule 2**”.

- (3) In section 3, replace the definition of **workplace** with:

workplace has the same meaning as in **section 15 of the Health and Safety Reform Act 2014**. 20

- (4) In section 3, insert in their appropriate alphabetical order:

EPA means the Environmental Protection Authority established by section 7 of the Environmental Protection Authority Act 2011

PCBU has the same meaning as in **section 13 of the Health and Safety Reform Act 2014** 25

worker has the same meaning as in **section 14 of the Health and Safety Reform Act 2014**

307 Section 7 amended (WorkSafe New Zealand’s board)

- (1) In section 7(2)(c) and (f), replace “workplace” with “work” in each place.

- (2) In section 7(2)(e), replace “employers” with “PCBUs”. 30

308 Section 8 amended (Advisory groups)

In section 8(1)(a) and (b), replace “employers, and workers on workplace” with “PCBUs, and workers on work”.

309 Section 9 amended (WorkSafe New Zealand’s main objective)

- (1) In section 9(1), after “contribute to”, insert “a balanced framework for”. 35

- (2) After section 9(1), insert:
- (1A) An additional objective of WorkSafe New Zealand is to promote and contribute to the safe supply and use of electricity and gas in New Zealand.

310 Section 10 amended (WorkSafe New Zealand’s functions)

- (1) In section 10, replace “workplace” with “work” in each place. 5
- (3) After section 10(c), insert:
 - (ca) publish information about—
 - (i) its approach to enforcing compliance with relevant health and safety legislation (including where a provision of relevant health and safety legislation overlaps with a provision in another enactment); and 10
 - (ii) its performance standards for completing investigations in relation to enforcing compliance with relevant health and safety legislation:
- (4) After section 10(e), insert: 15
 - (ea) develop safe work instruments:
- (5) In section 10(g), delete “on or”.
- (6) After section 10(j), insert:
 - (ja) foster a co-operative and consultative relationship with the EPA when carrying out its functions, duties, and powers in respect of hazardous substances: 20

311 New section 21A and cross-heading inserted

After section 21, insert:

Transfer of EPA employees and contracts

- 21A Transfer of EPA employees and contracts to WorkSafe New Zealand** 25
Schedule 2 contains provisions relating to the transfer of EPA employees and contracts to WorkSafe New Zealand.

312 New Schedule 2 inserted

After the Schedule, insert as **Schedule 2** the schedule set out in **Schedule 8 of the Health and Safety Reform Act 2014** of this Act. 30

Schedule 8

New Schedule 2 inserted in WorkSafe New Zealand Act 2013

s 312

Schedule 2

Transfer of EPA employees, contracts, and information to WorkSafe New Zealand 5

s 21A

Transfer of employees

1 Restriction on compensation for technical redundancy

(1) An employee of the EPA is not entitled to receive any payment or other benefit on the ground that the position held by the employee in the EPA has ceased to exist if— 10

(a) the position ceases to exist as a result of a transfer of functions from the EPA to WorkSafe New Zealand; and

(b) in connection with that transfer of functions,— 15

(i) the employee is offered equivalent employment in WorkSafe New Zealand (whether or not the employee accepts the offer); or

(ii) the employee is offered, and accepts, other employment in WorkSafe New Zealand.

(2) In **subclause (1), equivalent employment** to the employee's employment in the EPA is employment in WorkSafe New Zealand that is— 20

(a) in substantially the same position; and

(b) in the same general locality; and

(c) on terms and conditions of employment that are no less favourable than those that applied to the employee immediately before the offer of equivalent employment (including any service-related, redundancy, and superannuation conditions); and 25

(d) on terms that treat the period of service with the EPA (and any other period of service recognised by the EPA as continuous service) as if it were continuous service with WorkSafe New Zealand. 30

(3) This section overrides Part 6A of the Employment Relations Act 2000.

2 Employment of transferred employee to be treated as continuous employment

The employment of a transferred employee by WorkSafe New Zealand is to be treated as continuous employment for the purposes of any enactment. 35

3 Transferred employees bound by collective agreement

- (1) This section applies to a transferred employee who was bound by a collective agreement with the EPA immediately before the employee transferred to WorkSafe New Zealand.
- (2) On and after the commencement of this clause,—
- (a) the employee continues to be bound by the collective agreement and may enforce the collective agreement against WorkSafe New Zealand; and
 - (b) WorkSafe New Zealand must be treated as if it were a party to the collective agreement instead of the EPA; and
 - (c) unless the context otherwise requires, every reference in the collective agreement to the EPA must be read as a reference to WorkSafe New Zealand.

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4 Government Superannuation fund

- (1) Any person who, immediately before becoming an employee of WorkSafe New Zealand, was a contributor to the Government Superannuation Fund Act under Part 2 or 2A of the Government Superannuation Fund Act 1956 is deemed, for the purposes of that Act, to be employed in the Government service as long as the person continues to be an employee of WorkSafe New Zealand.
- (2) The Government Superannuation Fund Act 1956 applies in all respects as if the person's service as an employee of WorkSafe were Government service.
- (3) **Subclause (1)** does not entitle a person to become a contributor to the Government Superannuation Fund if the person has ceased to be a contributor.
- (4) For the purpose of applying the Government Superannuation Fund Act 1956, the chief executive of WorkSafe New Zealand is the controlling authority.

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*Transfer of contracts***5 Transfer of contracts to WorkSafe New Zealand**

- (1) This section applies to a contract (other than an employment agreement) that—
- (a) was made between EPA and another person; and
 - (b) is identified by the EPA and WorkSafe New Zealand and relates solely to a function or power of the EPA before the commencement of this clause that becomes a function or power of WorkSafe New Zealand on that commencement.
- (2) On and after the commencement of this clause,—
- (a) the contract must be treated as if WorkSafe New Zealand were the party to the contract instead of the EPA; and
 - (b) unless the context otherwise requires, every reference in the contract to the EPA must be read as a reference to WorkSafe New Zealand.

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*Transfer of information***6 Transfer of information to WorkSafe New Zealand**

- (1) Despite anything in any other Act, the EPA may transfer to WorkSafe New Zealand any information held by the EPA under the Hazardous Substances and New Organisms Act 1996 (including information referred to in section 20, 82A, or 85 of that Act) that is necessary to enable WorkSafe New Zealand to perform functions or duties under **Parts 1 to 5 of the Health and Safety Reform Act 2014** that correspond to functions or duties that were formerly performed by the EPA. 5
- (2) The transfer of information from the EPA to WorkSafe New Zealand under **subclause (1)** does not constitute an action that is an interference with the privacy of an individual under section 66 of the Privacy Act 1993. 10

Legislative history

25 August 2015

Divided from Health and Safety Reform Bill (Bill 192–2) as
Bill 192–3E