

CONSTRUCTION AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Construction Act 1959.

Clause 1 relates to the Short Title.

Clause 2 amends section 2 of the principal Act to specifically provide that the term “employer” includes a sub-contractor, a labour-only contractor, and any person engaged on construction work for reward other than wages.

Clause 3, subclause (1) amends section 5 of the principal Act relating to the appointment of Construction Safety Inspectors.

The term Inspector on probation is replaced by the term trainee Inspector.

In addition, it is now provided that a person may not be appointed as a trainee Inspector unless he has passed such preliminary examinations or has such other qualifications as may be prescribed from time to time.

Subclause (2) repeals subsection (4) of section 5 of the principal Act, and substitutes new subsections (4) and (4A).

The new subsection (4) requires the Chief Construction Safety Engineer, every Construction Safety Engineer, and every Construction Safety Inspector to be supplied with a certificate of his appointment, as at present. (The requirement to produce the certificate on entering any place or premises is now provided for in the new section 7 (2A) inserted by *clause 4* of the Bill.)

The new subsection (4A) is a new provision which requires the certificate of appointment to contain a reference to section 5 of the principal Act, the full name of the appointee, and a statement of the powers set out in section 7 (1) of the principal Act.

Clause 4 repeals subsection (2) of section 7 of the principal Act, and substitutes new subsections (2) and (2A).

The current subsection (2) provides that no person is to be required to answer any question tending to incriminate himself.

The new subsection (2) provides that every person shall have the same privileges in relation to—

(a) The production to an Inspector of any record, notice, or other document;
and

(b) The furnishing to an Inspector of any information or particulars; and

(c) The answering of questions put by an Inspector—

under the section as witnesses have in Courts of law.

The new subsection (2A) provides that any Inspector exercising a power of entry must have with him his certificate of appointment, and evidence of his identity, and must produce them to the employer or person in charge of the place being entered on first entering, if practicable, and whenever subsequently reasonably required to do so.

Clause 5 repeals section 24 of the principal Act, and substitutes a new section.

The new section increases the general penalty for an offence against the Act or against regulations in force under the Act from \$2,000 to \$5,000, and from \$20 to \$250 a day for a continuing offence.

Clause 6, subclause (1) repeals section 30 of the principal Act, and substitutes a new section.

The new section sets out in detail the matters in respect of which regulations may be made.

Subclause (2) provides for consequential repeals.

Subclause (3) provides that the Construction Regulations 1961 and all amendments, to the extent that they would have been valid if the new section 30 had been in force when they were made, are validated and declared to have been lawfully made.

Subclause (4) validates all current certificates of competency issued under any such regulations.

Hon. J. B. Bolger

CONSTRUCTION AMENDMENT

ANALYSIS

Title	3. Construction Safety Inspectors
1. Short Title	4. General powers and duties of Inspectors
2. Interpretation	5. General penalty for offences
	6. 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
5 follows:

1. Short Title—This Act may be cited as the Construction
Amendment Act 1983, and shall be read together with and
deemed part of the Construction Amendment Act 1959*
(hereinafter referred to as the principal Act).

10 **2. Interpretation**—(1) Section 2 of the principal Act is
hereby amended by repealing the definition of the term
“employer”, and substituting the following definition:
“ ‘Employer’, in relation to any construction work, means
15 any person who is liable for the payment of wages
of men employed on the work or who would be so
liable if men were so employed; and includes—

*Reprinted 1972, Vol. 2, p. 1421
Amendments: 1973, No. 53; 1975, No. 64; 1976, No. 81; 1977, No. 147; 1978, No. 90;
1981, No. 11

“(a) A sub-contractor engaged on the work:

“(b) A labour-only contractor engaged on the work:

“(c) Any person engaged on the work for reward other than wages—

and, in respect of the operation on the work of 5
mechanical plant, also includes a bailee of the plant,
notwithstanding that the bailee is not liable for the
payment of the wages of the plant’s operator.”

(2) Section 2 of the Construction Amendment Act 1970 is
hereby consequentially repealed. 10

3. Construction Safety Inspectors—(1) Section 5 of the
principal Act is hereby amended by repealing subsection (3),
and substituting the following subsections:

“(3) Notwithstanding the provisions of subsection (2) of this
section, a person may be appointed as a trainee Inspector for 15
a period not exceeding 12 months, without having passed the
prescribed examinations or having the prescribed qualifications,
if he has passed such preliminary examinations or has such
other qualifications as may be prescribed from time to time.

“(3A) A trainee Inspector shall not exercise the powers of an 20
Inspector except under the supervision of an Inspector
appointed under subsection (1) of this section.”

(2) The said section 5 is hereby amended by repealing
subsection (4), and substituting the following subsections:

“(4) The Chief Construction Safety Engineer, every 25
Construction Safety Engineer, and every Inspector shall be
supplied with a certificate of his appointment.

“(4A) Every such certificate of appointment shall contain—

“(a) A reference to this section; and

“(b) The full name of the appointee; and 30

“(c) A statement of the powers conferred on the appointee
by section 7 (1) of this Act.”

(3) Section 2 (8) of the Construction Amendment Act 1978
is hereby consequentially repealed.

4. General powers and duties of Inspectors—Section 7 of 35
the principal Act is hereby amended by repealing subsection
(2), and substituting the following subsections:

“(2) Every person shall have the same privileges in relation
to—

“(a) The production to an Inspector of any record, notice, 40
or other document; and

“(b) The furnishing to an Inspector of any information or
particulars; and

“(c) The answering of questions put by an Inspector—
under this section as witnesses have in Courts of law. 45

“(2A) Every Inspector exercising any power of entry under this Act shall have with him his certificate of appointment as an Inspector, and evidence of his identity, and shall produce them to the employer or person in charge of the place being
5 entered—

“(a) If practicable, on first entering the place; and

“(b) Whenever subsequently reasonably required to do so by the employer or person in charge of the place.”

5. General penalty for offences—(1) The principal Act is
10 hereby amended by repealing section 24, and substituting the following section:

“24. Every person who commits an offence against this Act or against any regulations in force under this Act for which no penalty is provided elsewhere than in this section is liable
15 to a fine not exceeding \$5,000 and, if the offence is a continuing one, to a further fine not exceeding \$250 for every day or part of a day during which the offence has continued.”

(2) The following enactments are hereby consequentially repealed:

20 (a) Section 3 of the Construction Amendment Act 1967:

(b) Section 2 (1) of the Construction Amendment Act 1968:

(c) Section 3 of the Construction Amendment Act 1975:

(d) Section 2 (2) of the Construction Amendment Act 1976.

6. Regulations—(1) The principal Act is hereby amended by
25 repealing section 30, and substituting the following section:

“30. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

30 “(a) Providing for the health, safety, and welfare of persons engaged in construction work, and regulating and controlling the operation and maintenance of plant, machinery, tools, and equipment used in construction work:

35 “(b) Providing for the fencing off and filling up of shafts, pits, holes, and excavations in or about the site of construction work:

“(c) Requiring employers to provide such appliances, works, and structures, for safety purposes, as may be specified in the regulations, and requiring employers
40 to keep them in good repair and condition:

“(d) Regulating and controlling the storage and use of explosives in or about construction work:

“(e) Regulating and controlling the use of motor vehicles and mobile plant in construction work:

- “(f) Requiring motor vehicles and mobile plant used in construction work to be fitted with roll-over and falling-object protective structures, requiring such structures to meet specified criteria, and providing for the certification and inspection of such structures: 5
- “(g) Empowering the Chief Construction Safety Engineer to exempt, in accordance with specified criteria, any motor vehicle or mobile plant from the requirement of being fitted with such structures:
- “(h) Regulating and controlling the use of powder-powered 10 tools:
- “(i) Regulating and controlling the construction and use of scaffolding, working platforms, and ladders:
- “(j) Regulating and controlling the carrying out of work on any gas-supply system: 15
- “(k) Regulating and controlling the carrying out of construction work underwater and in compressed air:
- “(l) Regulating and controlling the carrying out of demolition work: 20
- “(m) Providing for the examination and inspection of construction work, and of plant, machinery, tools, and equipment used in construction work:
- “(n) Requiring the provision by employers and the use by workmen of protective clothing, covering, or 25 equipment of a prescribed kind to be used when carrying out construction work generally or specified kinds of construction work:
- “(o) Requiring the provision of toilets and other sanitary appliances at the site of construction work, and 30 regulating the construction, equipment, control, and use of such toilets and appliances:
- “(p) Requiring the provision at the site of construction work of supplies of drinking water and facilities for the consumption of meals, and regulating the 35 construction, equipment, control, and use of such facilities:
- “(q) Prescribing fire-protection precautions to be taken in respect of construction work, requiring compliance with such precautions, and requiring the provision 40 of fire-fighting equipment and materials:
- “(r) Prescribing the certificates of competency required to be held by safety supervisors and other persons engaged in construction work in any capacity specified in the regulations, and the qualifications 45 and experience required of persons before they are granted such certificates:

- 5 “(s) Providing for the registration of persons engaged in construction work in any capacity specified in the regulations, prescribing the age, qualifications, fitness, and experience required of persons before they are registered, and requiring persons to be registered before they carry out construction work in the specified capacity:
- 10 “(t) Prescribing the subject-matter of examinations for such certificates of competency and for such registration, and the conditions governing such examinations:
- “(u) Defining the duties of Inspectors:
- 15 “(v) Prescribing or making provision for the Secretary of Labour to prescribe or provide forms of applications, certificates, returns, and other documents for the purposes of this Act, and prescribing the manner in which any such forms are to be executed:
- “(w) Prescribing the nature of any information and particulars to be furnished to the Secretary of Labour in respect of construction work:
- 20 “(x) Prescribing the fees payable in respect of examinations for certificates of competency under this Act or the regulations, in respect of the granting of such certificates, in respect of registration under the regulations, and in respect of other matters specified in the regulations:
- 25 “(y) 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:
- 30 “(z) Providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.”
- (2) The following enactments are hereby consequentially repealed:
- 35 (a) Section 2 (2) of the Construction Amendment Act 1968:
(b) Section 4 of the Construction Amendment Act 1970:
(c) Section 3 of the Construction Amendment Act 1973.
- (3) The Construction Regulations 1961 and all amendments to those regulations, to the extent that they would have been
40 valid if section 30 of the principal Act (as substituted by **subsection (1)** of this section) had been in force when they were made, are hereby validated and declared to have been lawfully made.

(4) Every certificate of competency granted under any such regulations before the commencement of this section and purporting to be in force immediately before such commencement is hereby declared to be valid and to have been lawfully granted and shall have full force and effect 5 according to its tenor.