

## HEALTH AND SAFETY IN EMPLOYMENT AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Health and Safety in Employment Act 1992 (“the principal Act”).

*Clause 1* relates to the Bill’s Short Title. By virtue of the fact that the no mention is made of its commencement, the Bill will come into force on the day it receives the Royal assent.

*Clause 2* amends section 16 of the principal Act, which imposes on every—

- owner, lessee, sublessee, occupier, and person in possession of a place of work; and
  - owner, lessee, sublessee, and bailee of plant in a place of work,—
- a duty to take all practicable steps to ensure that other people in the place are not harmed by hazards.

The amendment limits that duty so that it is owed only to people in the place of work who are there for some purpose connected with work activities of the person who owes the duty. Thus there will no longer be any duty under section 16 to trespassers, recreational users, or people (like police officers, public service and local authority inspectors, and workers maintaining power or telephone lines) who may be doing work unconnected with work activities carried on in the place by the person who owes the duty.

This limitation has no effect on other duties imposed by the principal Act, such as the duties of employers to employees.

*Clause 3* amends section 17 of the principal Act, which imposes on every self-employed person a duty to “take all practicable steps to ensure that no action of the self-employed person while at work harms . . . . any other person”. The amendment is to the same effect as that proposed to be made by *clause 2*, in that where a self-employed person is the owner, lessee, sublessee, occupier, or person in possession of a place, the duty is to be owed only to people in the place who are there for some purpose connected with work activities of the self-employed person.

*Clause 4* amends section 20 of the principal Act so as to empower the development of codes of practice relating to the design and manufacture of plant,

protective clothing, and protective equipment, or the manufacture of substances. At present, codes of practice can relate only to work practices or arrangements.

*Clause 5* makes clear that the amendments effected by *clauses 2 and 3* will not prevent prosecutions under statutes other than the principal Act.

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*Hon. Doug Kidd*

**HEALTH AND SAFETY IN EMPLOYMENT  
AMENDMENT**

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ANALYSIS

Title	3. Duties of self-employed people
1. Short Title	4. Codes of practice
2. Duties of persons with control of places of work	5. Saving

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A BILL INTITULED

**An Act to amend the Health and Safety in Employment  
Act 1992**

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5     **1. Short Title**—This Act may be cited as the Health and Safety in Employment Amendment Act 1996, and shall be read together with and deemed part of the Health and Safety in Employment Act 1992\* (hereinafter referred to as the principal Act).
- 10     **2. Duties of persons with control of places of work**—  
(1) Section 16 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection:
- 15             “(2) Nothing in **subsection (1)** of this section imposes on any person a duty to any other person who is in a place of work for a purpose not related to a work activity carried on in that place (regularly or from time to time) by or on behalf of the first-mentioned person.”
- 20             (2) The said section 16 is hereby consequentially amended by omitting the word “To”, and substituting the words “(1) Subject to **subsection (2)** of this section, to”.

\*1992, No. 96  
Amendment: 1993, No. 56

**3. Duties of self-employed people**—(1) Section 17 of the principal Act is hereby amended by adding, as **subsection (2)**, the following subsection:

“(2) Nothing in **subsection (1)** of this section imposes on any self-employed person a duty to take any steps to ensure that no action or inaction of the self-employed person while at work occurring in or in relation to a place of which the self-employed person is owner, lessee, sublessee, occupier, or person in possession, harms any other person who is in that place for a purpose not related to a work activity carried on in that place (regularly or from time to time) by the self-employed person.”

(2) The said section 17 is hereby consequentially amended by omitting the word “Every”, and substituting the words “(1) Subject to **subsection (2)** of this section, every”.

**4. Codes of practice**—(1) Section 20 (1) of the principal Act is hereby amended by inserting, after paragraph (a), the following paragraphs:

“(aa) A statement of preferred aims, arrangements, practices, or principles (or any 2 or more of those matters) for the design of plant, protective clothing, or protective equipment, of any kind or description; or

“(ab) A statement of preferred arrangements, characteristics, components, configurations, elements, or states (or any 2 or more of those matters) for manufactured plant, manufactured protective clothing, or manufactured protective equipment, of any kind or description; or

“(ac) A statement of preferred characteristics for any manufactured or processed substance used or capable of being used—

“(i) In or in connection with any protective clothing or protective equipment; or

“(ii) Otherwise for or in connection with protecting people from hazards; or”.

(2) The principal Act is hereby consequentially amended—

(a) By omitting from the definition in section 2 (1) of the term “approved code of practice” the words “of preferred work practices or arrangements”; and

(b) By omitting from section 20 (2) the words “of approved work practices or arrangements”, and substituting the words “under subsection (1) of this section”.

**5. Saving**—Nothing in section 16 (2) or section 17 (2) of the principal Act shall be construed as absolving any person from criminal liability under an enactment other than the principal Act.