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1981/364



THE ASBESTOS REGULATIONS 1978, AMENDMENT NO. 1

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 21st day of December 1981

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to—

- (a) The Construction Act 1959 in relation to regulations 1, 2, and 5; and
 - (b) The Factories and Commercial Premises Act 1981 in relation to regulations 1, 3, and 5; and
 - (c) The Health Act 1956 in relation to regulations 1, 4, and 5,—
- His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Asbestos Regulations 1978, Amendment No. 1, and shall be read together with and deemed part of the Asbestos Regulations 1978*, (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 1st day of February 1982.

2. Offences in relation to construction work—The principal regulations are hereby amended by inserting, after regulation 31, the following regulation:

“31A. Every person commits an offence against these regulations, and shall be liable on summary conviction to the penalties provided in that

behalf in section 24 of the Construction Act 1959, who acts in contravention of, or fails or refuses duly and faithfully to comply with, any requirement, obligation, rule, or provision (so far as that requirement, obligation, rule, or provision relates to construction work), imposed or enacted, or required to be observed, under these regulations.”

3. Offences in relation to undertakings—The principal regulations are hereby amended by inserting, after regulation 31A (as inserted by regulation 2 of these regulations), the following regulation:

“32B. Every person commits an offence against these regulations, and shall be liable on summary conviction to the penalties provided in that behalf in section 62 (1) (b) of the Factories and Commercial Premises Act 1981, who acts in contravention of, or fails or refuses duly and faithfully to comply with, any requirement, obligation, rule, or provision (so far as that requirement, obligation, rule, or provision relates to work (other than construction work) in or about an undertaking within the meaning of that Act), imposed or enacted, or required to be observed, under these regulations.”

4. Other offences—The principal regulations are hereby amended by inserting, after regulation 31B (as inserted by regulation 3 of these regulations), the following regulation:

“31C. Every person commits an offence against these regulations, and shall be liable on summary conviction to a fine not exceeding \$100 and, in the case of a continuing offence, to a further fine not exceeding \$5 for every day on which that offence has continued, who acts in contravention of, or fails or refuses duly and faithfully to comply with, any requirement, obligation, rule, or provision (so far as that requirement, obligation, rule, or provision relates neither to construction work nor to work in or about an undertaking as aforesaid), imposed or enacted, or required to be observed, under these regulations.”

5. Additional proof necessary in respect of offences by employees—The principal regulations are hereby amended by revoking regulation 32, and substituting the following regulation:

“32. Notwithstanding anything in any of regulations 31A to 31C of these regulations, no employee shall be convicted of an offence by reason of having contravened or failed to comply with any provision of regulation 16 or regulation 28 (2) of these regulations unless it is proved, in addition to all other ingredients of that offence, that at the time of the contravention or failure concerned—

“(a) That employee knew or should have known that the provision concerned applied to him; and

“(b) His employer had complied with the obligations of an employer under these regulations to an extent sufficient to enable that employee to comply with that provision.”

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations amend the Asbestos Regulations 1978 so as to provide that the maximum penalties for offences against regulations made under the Construction Act 1959 or the Factories and Commercial Premises Act 1981 are to be the penalties provided in those Acts for offences against those Acts.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 22 December 1981.

These regulations are administered in the Department of Labour.