



WorkSafe New Zealand Amendment Act 2015

Public Act 2015 No 74
Date of assent 4 September 2015
Commencement see section 2

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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 dif-

ferent provisions into force on different dates and appointing different dates for different purposes.

- (2) Any provision that has not earlier been brought into force comes into force on 1 January 2018.

3 Principal Act

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

4 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 16 of the Health and Safety at Work Act 2015

- (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 20 of the Health and Safety at Work Act 2015

- (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 17 of the Health and Safety at Work Act 2015

worker has the same meaning as in section 19 of the Health and Safety at Work Act 2015

5 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”.

6 Section 8 amended (Advisory groups)

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

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

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

8 Section 10 amended (WorkSafe New Zealand's functions)

- (1) In section 10, replace “workplace” with “work” in each place.
- (2) 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
 - (ii) its performance standards for completing investigations in relation to enforcing compliance with relevant health and safety legislation:

- (3) After section 10(e), insert:

- (ea) develop safe work instruments:

- (4) In section 10(g), delete “on or”.

- (5) 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:

9 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

Schedule 2 contains provisions relating to the transfer of EPA employees and contracts to WorkSafe New Zealand.

10 New Schedule 2 inserted

After the Schedule, insert as Schedule 2 the schedule set out in the Schedule of this Act.

Schedule
New Schedule 2 inserted in WorkSafe New Zealand Act 2013

s 10

Schedule 2
**Transfer of EPA employees, contracts, and information to WorkSafe
New Zealand**

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—
- (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,—
 - (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—
- (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
 - (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.
- (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.

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.

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 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.

*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 the 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.

*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 the Health and Safety at Work Act 2015 that correspond to functions or duties that were formerly performed by the EPA.
- (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.

Legislative history

25 August 2015	Divided from Health and Safety Reform Bill (Bill 192–2) as Bill 192–3E
27 August 2015	Third reading
4 September 2015	Royal assent

This Act is administered by the Ministry of Business, Innovation, and Employment.