

**Reprint
as at 4 April 2016**



Machinery Act 1950

Public Act 1950 No 52
Date of assent 23 November 1950
Commencement see section 1(2)

Machinery Act 1950: repealed, on 4 April 2016, by section 231(2) of the Health and Safety at Work Act 2015 (2015 No 70).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

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

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An Act to make provision for the inspection of certain kinds of machinery and for the safety of persons working with machinery to which the Act applies

1 Short Title and commencement

- (1) This Act may be cited as the Machinery Act 1950.
- (2) This Act shall come into force on 1 January 1951.

2 Interpretation

In this Act, unless the context otherwise requires,—

Inspector means an Inspector of Machinery appointed under this Act
machinery—

- (a) means any prime mover or transmission machinery and any machine or appliance to which the motion of a prime mover is transmitted; and
- (b) includes—
 - (i) a lifting machine; and
 - (ii) a lifting vehicle; and
 - (iii) a machine (being a machine situated in a factory) driven wholly or partly by manual power; and
 - (iv) a tractor; but—
- (c) does not include any machinery excluded from the provisions of this Act pursuant to section 3

Minister means the Minister of Labour

owner, in relation to any machinery, includes the mortgagee or lessee thereof, and any engineer, overseer, foreman, agent, or person in charge or having or apparently having the control or management of the machinery

premises includes any yard, place, house, or building, and any farm, paddock, field, road, or place, in which any machinery is kept, worked, or used, or is in operation

prime mover means an engine, motor, or other appliance which provides mechanical energy derived from steam, water, wind, electricity, gas, gaseous products, compressed air, the combustion of fuel, or any other source

tractor means a vehicle propelled by mechanical power, controlled by a driver carried thereon, that is designed exclusively or principally for the purposes of traction and not for the carriage thereon of passengers (other than the driver) or of goods; but does not include a traction engine within the meaning of section 2(1) of the Land Transport Act 1998

transmission machinery means any shaft, wheel, drum, pulley, system of fast and loose pulleys, gearing, coupling, clutch, driving belt, chain, rope, band, or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance

WorkSafe means WorkSafe New Zealand established by section 5 of the WorkSafe New Zealand Act 2013.

Section 2 **boiler**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **crane**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **hoist**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **lift**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **lifting machine**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **lifting tackle**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **lifting vehicle**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **machinery**: replaced, on 6 June 1986, by section 2(2) of the Machinery Amendment Act 1986 (1986 No 15).

Section 2 **noise**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **Secretary**: repealed, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 2 **tractor**: inserted, on 6 June 1986, by section 2(3) of the Machinery Amendment Act 1986 (1986 No 15).

Section 2 **tractor**: amended, on 1 May 2011, by section 35(4) of the Land Transport Amendment Act 2009 (2009 No 17).

Section 2 **winding engine**: repealed, on 1 April 1993, by section 62(2) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 2 **WorkSafe**: inserted, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Exceptions from Act

3 Machinery to which Act does not apply

- (1) Nothing in this Act shall apply to—
 - (a) *[Repealed]*
 - (aa) *[Repealed]*
 - (b) *[Repealed]*
 - (c) *[Repealed]*
 - (d) *[Repealed]*
 - (e) *[Repealed]*
 - (f) *[Repealed]*
 - (g) any machinery that is declared by the Governor-General by Order in Council not to be subject to the provisions of this Act.
- (2) Any Order in Council under paragraph (g) of subsection (1) may from time to time be amended or revoked and may apply generally to any particular class of machinery irrespective of the purpose for which it is used, or to any such machinery only while used exclusively for any specified purpose or purposes.
- (3) With the exception of sections 15 to 21, nothing in this Act shall apply to the use or maintenance of any machinery used exclusively for farming purposes the motive power of which does not exceed 4.5 kw.

Section 3(1): replaced, on 1 December 1970, by section 3(1) of the Machinery Amendment Act 1970 (1970 No 128).

Section 3(1)(a): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 3(1)(aa): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 3(1)(b): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 3(1)(c): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 3(1)(d): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 3(1)(e): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 3(1)(f): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Section 3(2): amended, on 6 June 1986, by section 3(3) of the Machinery Amendment Act 1986 (1986 No 15).

Section 3(2): amended, on 19 October 1956, by section 2(b) of the Machinery Amendment Act 1956 (1956 No 17).

Section 3(3): replaced, on 1 January 1981, by section 2(1) of the Machinery Amendment Act 1979 (1979 No 145).

4 Act not to apply to steamships, tramways, etc

[Repealed]

Section 4: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Inspection

5 Appointment of Inspectors

- (1) WorkSafe may appoint any employee of WorkSafe to be an Inspector for the purposes of this Act.
- (2) Every Inspector of Factories under the Factories and Commercial Premises Act 1981, every Inspector under the Construction Act 1959, and every Inspector under the Bush Workers Act 1945 shall have all the powers of an Inspector under this Act.

Section 5(1): replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Section 5(2): amended, on 1 February 1982, pursuant to section 74 of the Factories and Commercial Premises Act 1981 (1981 No 25).

Section 5(2): amended, on 15 September 1969, by section 3 of the Machinery Amendment Act 1969 (1969 No 33).

6 Powers of Inspectors

- (1) Every Inspector may—
 - (a) enter, inspect, and examine any premises at all reasonable hours by day or night if he has reasonable cause to believe that machinery therein is in use or working, and enter, inspect, and examine by day any premises if he has reasonable cause to believe that machinery is kept therein:
 - (b) take with him in either case a constable or any person he may think competent to assist him in the execution of his duty:
 - (c) require the production of any record or other document which the owner is by this Act required to keep, and inspect, examine, and copy the same:
 - (d) make such inspections, examinations, tests, and inquiries, and take such samples and photographs, as are necessary to ascertain whether the provisions of this Act have been or are being complied with as regards any machinery or the persons working with it or in its vicinity; and where any such sample is taken, the Inspector concerned shall, if so requested, deliver part of it to the owner of, or the person appearing to the Inspector to be in charge of, the machinery concerned:
 - (e) examine with respect to matters under this Act, either alone or in the presence of any other person, as he thinks fit, every person whom he finds in any premises, and require any such person to make and sign a statutory declaration as to the matters with respect to which he is so examined:

- (f) require the owner to explain the working of the machinery:
 - (g) exercise such other powers and authorities as may be necessary for carrying this Act into effect.
- (2) No person shall on an examination or inquiry by an Inspector under this section be required to answer any question tending to incriminate himself.
- (3) An Inspector shall, if requested to do so by a coroner, provide that coroner with a written report relating to the circumstances of any fatal accident.

Section 6(1)(d): replaced, on 20 October 1978, by section 2(1) of the Machinery Amendment Act 1978 (1978 No 105).

Section 6(3): replaced, on 1 April 1987, by section 25(1) of the Official Information Amendment Act 1987 (1987 No 8).

7 Non-disclosure of information

[Repealed]

Section 7: repealed, on 20 October 1978, by section 2(3) of the Machinery Amendment Act 1978 (1978 No 105).

8 Owners to allow entry and inspection

The owner and his agents and servants shall at all times furnish the means required by any Inspector for an entry, inspection, examination, and inquiry or the exercise of any other powers under this Act.

9 Obstruction of Inspector

Every person commits an offence against this Act who—

- (a) without reasonable cause delays an Inspector in the exercise of any of his powers or duties under this Act; or
- (b) fails to produce any document which he is required under this Act to produce; or
- (c) wilfully obstructs an Inspector in the exercise of any duty under this Act; or
- (d) conceals or prevents or attempts to conceal or prevent any person from appearing before and being examined by an Inspector.

10 Inspector's certificate of appointment

Every Inspector shall be furnished with a certificate of his appointment, and on applying for admission to any premises for any of the purposes of this Act he shall, if required, produce the certificate to the owner.

11 False certificate

Every person who forges or counterfeits any such certificate, or makes use of any forged, counterfeited, or false certificate, or impersonates the Inspector named in any certificate, or falsely pretends to be an Inspector, commits an offence against this Act.

Section 11: amended, on 20 October 1978, by section 3(2) of the Machinery Amendment Act 1978 (1978 No 105).

Employment of young persons

[Repealed]

Heading: repealed, on 1 April 1993, pursuant to section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

12 Young persons not to be employed in certain cases

[Repealed]

Section 12: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Duties and liabilities of owners of machinery

[Repealed]

Heading: repealed, on 19 October 1956, pursuant to section 2(c) of the Machinery Amendment Act 1956 (1956 No 17).

13 Persons having machinery subject to Act to notify Inspector

[Repealed]

Section 13: repealed, on 19 October 1956, by section 2(c) of the Machinery Amendment Act 1956 (1956 No 17).

14 Notice of sale, etc, of machinery

[Repealed]

Section 14: repealed, on 19 October 1956, by section 2(c) of the Machinery Amendment Act 1956 (1956 No 17).

Safety provisions

15 Guarding of prime movers

- (1) Subject to the provisions of subsection (3), every flywheel directly connected to any prime mover, and every moving part of any prime mover, shall be securely fenced.
- (2) The head and tail race of every water wheel and of every water turbine shall be securely fenced.
- (3) Every part of every electric generator, electric motor, and electric rotary converter, and every flywheel directly connected thereto, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises where the machinery is situated as it would be if securely fenced.

16 Guarding of transmission machinery

- (1) Every part of any transmission machinery shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced.
- (2) Where belts or pulleys are used in connection with any machinery, the machinery shall be furnished with belt shifters or other safe mechanical contrivances for the purpose of moving the belts to and from fast and loose pulleys, and any such contrivances shall be so constructed, placed, and maintained as to prevent the driving belt from creeping back on to the fast pulley.
- (3) No driving belt shall be allowed when not in use to rest or ride upon a revolving shaft which forms part of the transmission machinery.
- (4) Efficient devices or appliances shall be provided and maintained in every room or place where work is carried on by which the power can promptly be cut off from the transmission machinery in that room or place.

17 Guarding of other machinery

- (1) Every dangerous part of any machinery other than prime movers and transmission machinery shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working on the premises as it would be if securely fenced:

provided that in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements of this subsection shall be deemed to have been complied with if a device is provided which automatically prevents the operator from coming into contact with that part.

- (2) Any part of a stock bar which projects beyond the head stock of a lathe shall be securely fenced unless it is in such a position as to be as safe to every person employed or working on the premises as it would be if securely fenced.
- (3) *[Repealed]*

Section 17(3): repealed, on 14 December 1979, by section 5(2) of the Machinery Amendment Act 1979 (1979 No 145).

17A Machinery to be safe when manufactured, sold, or hired

- (1) Where any machinery is manufactured for the purposes of sale, assembled for the purposes of sale, sold, let on hire, offered for sale, or offered for hire,—
 - (a) if a prime mover is a composite part of that machinery—
 - (i) every flywheel directly connected to the prime mover; and
 - (ii) every moving part of the prime mover; and
 - (b) every part of any transmission machinery attached to or forming part of that machinery; and

- (c) every part of that machinery (not being part of the prime mover or transmission machinery) that is dangerous when that machinery is in use—
shall be securely fenced unless that flywheel or part is in such a position or of such construction as to be as safe to any person working with or in the vicinity of that machinery as it would be if securely fenced.
- (2) Subject to subsection (3), every person commits an offence against this Act who—
- (a) manufactures for the purposes of sale; or
 - (b) assembles for the purposes of sale; or
 - (c) sells, lets on hire, offers for sale, or offers for hire; or
 - (d) as agent of the seller or hirer, causes or procures to be sold or let on hire—
- any machinery that does not comply with the requirements of subsection (1).
- (3) Where an Inspector is satisfied—
- (a) that it is not reasonably practicable for any flywheel or other part of any machinery, or of machinery of any kind, to be securely fenced; and
 - (b) that adequate safeguards can be provided when that machinery is in use,—

he may, to that extent, exempt that machinery or, as the case may be, machinery of that kind, from the requirements of subsection (1); but any Inspector may at any time, upon giving 6 months notice of his intention to do so to the owner, manufacturer, assembler, or bailee of that machinery, revoke that exemption.

Section 17A: replaced, on 14 December 1979, by section 3(1) of the Machinery Amendment Act 1979 (1979 No 145).

17B Provisions may be modified

[Repealed]

Section 17B: repealed, on 15 September 1969, by section 8(2) of the Machinery Amendment Act 1969 (1969 No 33).

17C Power controls

- (1) Where any machinery is manufactured or assembled for the purposes of sale—
- (a) the power control shall be—
 - (i) efficient; and
 - (ii) so constructed and placed that it cannot inadvertently be activated; and
 - (iii) so constructed and placed that it can conveniently be operated by the person using the machinery; and

- (b) where the power control of any machinery is so placed that it would not, in all circumstances, be either visible to or within reach of a person cleaning, adjusting, or maintaining the machinery, the machinery shall be either—
 - (i) provided with a control-locking device or devices to prevent inadvertent activation; or
 - (ii) capable of being rendered temporarily inoperative by the isolation of the power source of the machinery.
- (2) Every person commits an offence against this Act who—
 - (a) manufactures or assembles, for the purposes of sale, any machinery that does not comply with the provisions of subsection (1); or
 - (b) sells, lets on hire, offers for sale, or offers for hire, or, as agent of the seller or hirer, causes or procures to be sold or let on hire—
 - (i) any new machinery; or
 - (ii) any machinery purchased new, whether by the seller or hirer or by any other person, after 31 December 1980—

that does not comply with the provisions of subsection (1).

Section 17C: inserted, on 1 January 1981, by section 4(1) of the Machinery Amendment Act 1979 (1979 No 145).

17D Construction and maintenance of machinery

All machinery shall be soundly constructed of proper materials, and shall be maintained in a safe working condition to the satisfaction of an Inspector.

Section 17D: inserted, on 14 December 1979, by section 5(1) of the Machinery Amendment Act 1979 (1979 No 145).

17E Protection from harmful noise

[Repealed]

Section 17E: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

18 Duties of users of machinery

Every person commits an offence against this Act who without reasonable cause—

- (a) interferes with or misuses any means, appliance, or other thing which is provided in pursuance of this Act for securing safety:
- (b) fails to use any means or appliance for securing safety which is provided in pursuance of this Act:
- (c) except for the purpose of cleaning, examining, adjusting, repairing, lubricating, or replacing any machinery or its fencing, removes any safeguard from the machinery:

- (d) fails to replace any safeguard removed from any machinery for any purpose as soon as the purpose has been effected:
- (e) uses any machinery from which any safeguard has been removed before the safeguard is replaced:
- (f) uses or operates any machinery in a manner likely to endanger himself or others.

Section 18: replaced, on 24 November 1961, by section 3 of the Machinery Amendment Act 1961 (1961 No 69).

Section 18: amended, on 20 October 1978, by section 3(3) of the Machinery Amendment Act 1978 (1978 No 105).

19 Restriction on use of machinery if person exposed to risk of injury

[Repealed]

Section 19: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

19A Persons not to operate machinery unless trained

[Repealed]

Section 19A: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

20 Faulty, defective, and insufficiently guarded machinery

- (1) If an Inspector considers any machinery to be unsafe, he may prohibit its use by affixing to it a notice under his hand containing the words “The use of this [*name of machine*] is prohibited as being unsafe”.
- (2) Any such notice shall not be removed except by the Inspector, who shall first be satisfied that the machine has been rendered safe. Until the notice is removed by the Inspector the owner shall not use, sell, hire, or part with the possession of the machine.
- (3) If any owner considers any notice under this section to be unreasonable he may appeal under section 26.
- (4) For the purposes of this section the term **owner** includes (in addition to the persons included in that term by virtue of the definition in section 2), every person who for the time being is in possession of any machinery.

21 Requisitions by Inspectors

In any case where in the opinion of an Inspector any provision of this Act is not being observed or complied with or is being insufficiently observed or complied with, or in any case where in the opinion of an Inspector there is any defect whatsoever in any machinery, the Inspector may, by requisition to the owner, require that the requirements of this Act be duly and properly observed and complied with, or, as the case may be, that the defect be remedied to the satisfaction of the Inspector.

21A Regulation of amusement devices

- (1) In this section—

amusement device means an appliance to which the motion of a prime mover is transmitted and which is used, or designed or intended to be used, for the amusement, recreation, or entertainment of persons being carried, raised, lowered, or moved by the appliance or any part thereof while it is in motion; and includes the prime mover, transmission machinery, supporting structure, and any equipment used or intended to be used in connection therewith

local authority means a territorial authority within the meaning of the Local Government Act 2002.

- (2) Every person commits an offence against this Act who erects for the purposes of operation or operates any amusement device unless—
- (a) it is registered under this section and a certificate of registration in respect of the device is for the time being in force; and
 - (b) a permit has been issued by the appropriate local authority for the erection and operation of the device and the permit is for the time being in force.
 - (c) *[Repealed]*
- (3) Application for registration of an amusement device shall be made in the prescribed form to the Inspector by or on behalf of the owner of the amusement device and shall be accompanied by documentary evidence that the device can be erected and operated without danger to persons operating or using the device or in the vicinity thereof.
- (4) If the Inspector is of the opinion that an application is in order, he shall issue to the applicant, either unconditionally or subject to such conditions as are specified therein, a certificate of registration in the prescribed form.
- (5) Unless sooner revoked under regulations made under this Act, every certificate of registration shall expire either 2 years or such lesser period as may therein be specified after the date of its issue.
- (6) Before commencing to operate an amusement device the owner shall obtain from the local authority having jurisdiction in the locality where the device is to be operated a permit in the prescribed form.
- (7) On application in that behalf by or on behalf of the owner of the amusement device, accompanied by such evidence as may be prescribed, including evidence,—
- (a) that a certificate of registration under this section is in force in respect of the device; and
 - (b) that, having regard to the situation in which the device is erected, the device can be operated without danger to persons operating or using the device or in the vicinity thereof—

- (c) *[Repealed]*
the local authority shall issue a permit in the prescribed form.
- (8) A permit under this section shall continue in force for such period as may be specified therein.
- (9) Any certificate of registration or permit under this section may be cancelled by the issuing authority if—
- (a) the owner is convicted of an offence against this section; or
 - (b) the amusement device can no longer, in the opinion of the issuing authority, be operated safely.
- (10) Where an amusement device is materially altered or is repaired after suffering damage necessitating repair by welding or by the replacement of a load bearing part other than a bolt, the owner shall notify the Inspector, who may require the owner, before operating the device, to produce evidence that the device can be safely operated.
- (11) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
- (a) prescribing fees payable in respect of the issue or renewal of registration certificates or the issue of permits:
 - (b) prescribing the form and nature of evidence required to accompany applications for certificates of registration and permits under this section:
 - (c) prescribing conditions to which certificates of registration and permits under this section shall be subject:
 - (d) prescribing the powers of local authorities with respect to the inspection of amusement devices:
 - (e) prescribing the duties, in respect of amusement devices, of promoters or other authorities having control of premises used for the operation of amusement devices:
 - (ea) prescribing minimum ages for operators of amusement devices:
 - (eb) requiring changes of ownership of amusement devices to be notified:
 - (ec) prescribing circumstances in which amusement devices are to be inspected or examined:
 - (ed) requiring the owners of amusement devices to inspect or examine them in specified circumstances and keep records of each inspection or examination:
 - (ee) imposing general duties on owners or operators of amusement devices or both of them:
 - (f) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this section.

Section 21A: inserted, on 7 March 1968, by section 4(1) of the Machinery Amendment Act 1963 (1963 No 14).

Section 21A(1) **local authority**: replaced, on 1 July 2003, by section 262 of the Local Government Act 2002 (2002 No 84).

Section 21A(2)(b): amended, on 8 November 1974, by section 2(1)(a) of the Machinery Amendment Act 1974 (1974 No 100).

Section 21A(2)(c): repealed, on 8 November 1974 by section 2(1)(b) of the Machinery Amendment Act 1974 (1974 No 100).

Section 21A(4): replaced, on 23 December 1977, by section 2(1) of the Machinery Amendment Act 1977 (1977 No 185).

Section 21A(5): replaced, on 23 December 1977, by section 2(1) of the Machinery Amendment Act 1977 (1977 No 185).

Section 21A(7)(b): amended, on 8 November 1974 by section 2(2)(a) of the Machinery Amendment Act 1974 (1974 No 100).

Section 21A(7)(c): repealed, on 8 November 1974, by section 2(2)(b) of the Machinery Amendment Act 1974 (1974 No 100).

Section 21A(11)(ea): inserted, on 23 December 1977, by section 2(2) of the Machinery Amendment Act 1977 (1977 No 185).

Section 21A(11)(eb): inserted, on 23 December 1977, by section 2(2) of the Machinery Amendment Act 1977 (1977 No 185).

Section 21A(11)(ec): inserted, on 23 December 1977, by section 2(2) of the Machinery Amendment Act 1977 (1977 No 185).

Section 21A(11)(ed): inserted, on 23 December 1977, by section 2(2) of the Machinery Amendment Act 1977 (1977 No 185).

Section 21A(11)(ee): inserted, on 23 December 1977, by section 2(2) of the Machinery Amendment Act 1977 (1977 No 185).

21B Safety of tractors

[Repealed]

Section 21B: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

21C Children on tractors and implements

[Repealed]

Section 21C: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

22 Inspector to be notified of accident

[Repealed]

Section 22: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

23 Inquiry into cause of accident

- (1) In the event of an accident happening to any machinery, or where, by reason of any such accident, any person is killed or suffers serious bodily injury, the Minister may direct an inquiry to be held before a District Court Judge, together

with a person skilled in the use and construction of the machinery to be appointed by the Minister.

- (2) The District Court Judge, together with the said person, shall have power to hold the inquiry at such times and places as the Minister appoints, and shall report on the cause of the accident to the Minister.
- (3) With respect to the summoning and attendance of witnesses at or upon any such inquiry, and the examination of witnesses upon oath, every such District Court Judge shall have all the powers which he would have or might exercise in any case within his ordinary jurisdiction under the Criminal Procedure Act 2011.
- (4) For the purposes of this section and of section 22 the expression **serious bodily injury** means an injury which is likely to incapacitate the sufferer for work for at least 48 hours.

Section 23(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 23(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 23(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 23(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

24 Record of accidents

- (1) The owner shall keep a register in the prescribed form and shall enter in or attach to the register the prescribed particulars relating to every accident which occurs in connection with his machinery and of which he has knowledge.
- (2) *[Repealed]*

Section 24(2): repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

Procedure as to requisitions by Inspector

25 Form and service of requisitions

- (1) Every requisition by an Inspector under this Act shall be in writing under the hand of the Inspector.
- (2) A requisition may be addressed to and served on the owner under his usual business name or style.
- (3) A requisition may be served either by delivering it to any person who comes within the definition of the term owner in section 2, or by posting it by registered letter addressed to the owner at his usual place of business. A requisition so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

26 Appeals against requisitions

- (1) If any owner considers any requisition by an Inspector to be unreasonable, he may appeal to a District Court Judge by filing in the District Court nearest to his place of business a notice of appeal in the prescribed form, setting forth with reasonable particularity the grounds of the appeal. A copy of the notice of appeal shall be served on the Inspector.
- (2) The appeal shall be void unless the notice of appeal is duly filed as aforesaid within 14 days after the date of service of the requisition.
- (3) Upon the notice of appeal being duly filed the District Court Judge shall fix a time and place for the hearing of the appeal, being the earliest convenient time, and the Registrar of the court shall, by notice in the prescribed form, notify the appellant and the Inspector of the time and place fixed for the hearing of the appeal.
- (4) On the hearing of the appeal the District Court Judge may, by order, confirm, reverse, or modify the requisition, as he thinks fit, and the order shall be final and binding on all parties.

Section 26(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 26(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 26(4): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

26A Codes of practice

- (1) In this section and in sections 26B and 26C—
code of practice means a recommended practice and includes a description of any commodity, phenomenon, process, or practice, by reference to its nature, quality, strength, purity, composition, quantity, dimension, weight, grade, durability, origin, age, intensity, duration, or other characteristic whatsoever, or any 2 or more of them, and may also include a glossary of terms, definitions, and symbols, or any of them.
- (2) WorkSafe may, from time to time, issue for the purposes of this Act, codes of practice relating to safety in the assembly, maintenance, use or operation of machinery, or any amusement device, and may from time to time amend or revoke any such code of practice.

Section 26A: inserted, on 6 June 1986, by section 7 of the Machinery Amendment Act 1986 (1986 No 15).

Section 26A(1) **Chief Construction Safety Engineer**: repealed, on 16 October 1989, by section 2(1) of the Machinery Amendment Act 1989 (1989 No 88).

Section 26A(1) **Chief Inspector of Factories**: repealed, on 16 October 1989, by section 2(1) of the Machinery Amendment Act 1989 (1989 No 88).

Section 26A(2): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

26B Codes of practice to be approved by Minister

- (1) No code of practice and no amendment or revocation of a code of practice shall have any force or effect until it has been approved by the Minister.
- (2) The Minister shall not approve any code of practice or any amendment or revocation of a code of practice unless—
 - (a) not less than 1 month has elapsed since the publication in the *Gazette* of a notice of the intention of WorkSafe to apply for approval; and
 - (b) the Minister has consulted such persons as he considers will be affected thereby, or representatives of those persons, and they have had the opportunity to consider its possible effects and comment on those effects to the Minister; and
 - (c) the Minister has considered any comments made to him concerning those effects.
- (3) When the Minister approves a code of practice, or any amendment or revocation of a code of practice, he shall—
 - (a) publish a notice of his approval in the *Gazette*; and
 - (b) cause that code of practice or amendment or revocation to be promulgated in such manner as he thinks fit.
- (4) Publication in the *Gazette* of a notice under subsection (3)(a) shall be conclusive evidence that the requirements of this section have been complied with in respect of the approval specified in the notice.
- (5) Where any person is charged with an offence in respect of a failure to comply with any provision of this Act, the court may, in determining whether that person has failed to comply with the provision, have regard to any code of practice in force pursuant to subsection (1) at the time of the alleged failure relating to matters of the kind to which the provision relates.

Section 26B: inserted, on 6 June 1986, by section 7 of the Machinery Amendment Act 1986 (1986 No 15).

Section 26B(2)(a): amended, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

26C Proof of codes of practice

- (1) In any proceedings, the production of a copy of a code of practice purporting to be issued by the following persons is sufficient evidence that the code of practice has been issued under section 26A and approved under section 26B:
 - (a) for a code of practice issued before 16 October 1989, the Chief Inspector of Factories or the Chief Construction Safety Engineer;
 - (b) for a code of practice issued on or after 16 October 1989 and before 16 December 2013, the Secretary of Labour;
 - (c) for a code of practice issued on or after 16 December 2013, WorkSafe.

- (2) Subsection (1) does not affect any other method of proof by which it may be established that a code of practice has been issued under section 26A and approved under section 26B.

Section 26C: replaced, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

Offences, penalties, and procedure

27 Offences

- (1) In every case where under this Act any requirement, obligation, rule, or provision is imposed or enacted or required to be observed with respect to or in connection with any machinery, the owner shall cause the requirement, obligation, rule, or provision to be duly and faithfully complied with or observed, and if the requirement, obligation, rule, or provision is not duly and faithfully complied with or observed the owner commits an offence against this Act.
- (2) In any case where under this Act any requisition of an Inspector is served on an owner and the requisition is not duly complied with within such time as may be fixed by the requisition or by the District Court Judge on an appeal, or, if no time for compliance is so fixed, within a reasonable time, the owner commits an offence against this Act.

Section 27(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

28 When owners and mortgagees not liable

- (1) Subject to the provisions of section 20 no person shall be liable to the provisions of this Act as an owner of machinery unless the same is under his immediate power or control, nor shall any mortgagee of machinery be so liable unless he is in actual possession thereof or has the same under his immediate power or control.
- (2) For the purposes of this section machinery shall be deemed to be under the immediate power or control of a person when the machinery is worked or used by that person personally, or by his agents, servants, or others under his orders or directions, and for his benefit or profit.
- (3) Nothing in this section shall exempt any corporate body from liability under this Act by reason only that any machinery is under the control of any director, secretary, manager, or other person elected or employed by the corporate body for the benefit of or on behalf of that body.

29 Penalties

- (1) Every person who commits an offence against this Act shall be liable on conviction—
- (a) in the case of an offence against section 11, to imprisonment for a term not exceeding 6 months:

- (b) in the case of an offence against section 18, to a fine not exceeding \$2,500:
 - (c) in the case of an offence against section 19,—
 - (i) to a fine not exceeding \$5,000 where that person is the owner of the machinery concerned; or
 - (ii) to a fine not exceeding \$2,500 in every other case:
 - (d) in the case of an offence against section 21C, to a fine not exceeding \$1,250:
 - (e) in the case of an offence against section 31(3), to a fine not exceeding \$250 for every day on which the default continues:
 - (f) in the case of an offence against section 32, to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 3 months:
 - (g) in the case of an offence against a provision of this Act not specified in paragraphs (a) to (f), for which no specific penalty is elsewhere provided, 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) Every person who commits an offence against any regulation made under this Act for which no specified penalty is elsewhere provided, shall be liable on conviction 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.
- (3) A fine imposed in respect of an offence against section 31(3) shall be irrespective of any fine to which the defendant is liable in respect of the original offence concerned.

Section 29: replaced, on 6 June 1986, by section 8 of the Machinery Amendment Act 1986 (1986 No 15).

Section 29(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 29(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

30 Application of part of fine to person injured

[Repealed]

Section 30: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

31 Power to order contravention to be remedied

[Repealed]

Section 31: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

32 Forging of certificates, etc

Every person commits an offence against this Act who—

- (a) forges, counterfeits, or fraudulently alters any certificate, consent, notice, requisition, or other document which an Inspector is authorised to give or issue under this Act; or
- (b) uses any such document knowing it to be forged, counterfeited, or fraudulently altered; or
- (c) personates any person named in any such document; or
- (d) wilfully makes any false entry in any register, notice, or book required or authorised under this Act; or
- (e) gives, issues, or uses any certificate, consent, notice, or other document under this Act knowing it to be untrue in any material particular.

Section 32: amended, on 20 October 1978, by section 3(5) of the Machinery Amendment Act 1978 (1978 No 105).

33 Owner may have actual offender charged

- (1) An owner who is charged with an offence under this Act may commence proceedings against any other person whom the owner alleges to be the actual offender, and have that person brought before the District Court Judge on the same charge; and to enable both charges to be heard together the charges against the owner may be adjourned for such time as the District Court Judge thinks reasonable.
- (2) In any such case, if the charges are heard together and the offence is proved but the District Court Judge finds that—
 - (a) the offence was committed in fact by the said other person, without the knowledge, consent, or connivance of the owner; and
 - (b) that the owner had done all that could reasonably be expected of him to prevent the offence—that other person shall be convicted of the offence, and the owner shall not be guilty of the offence.
- (3) If, before the commencement of any proceedings against the owner in respect of any offence under this Act, the Inspector is satisfied that if any other person were charged with the offence under the foregoing provisions of this section that other person would be convicted of the offence, the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the owner. In any such case the provisions of subsection (2) shall, with the necessary modifications, apply, notwithstanding that no proceedings have been commenced against the owner.

Section 33(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 33(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 33(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

34 Proceedings to be before District Court Judge alone

- (1) *[Repealed]*
- (2) Except as provided in section 33, only an Inspector may file a charging document in respect of an offence under this Act.

Section 34 heading: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 34(1): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 34(2): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

35 Provisions as to procedure

- (1) An Inspector who files a charging document in respect of any offence or matter under this Act shall not be called on to prove that he is an Inspector. Any such charge may be proceeded with and conducted by the same or any other Inspector or by any person permitted by the District Court Judge to conduct the same.
- (2) In any proceedings under this Act it shall be sufficient in the charge to state the name of the ostensible owner, or the style or title under which the owner is usually known or carries on business. Any charge may from time to time be amended by the District Court Judge as to the actual name of the defendant.
- (3) In any proceedings under this Act it shall lie upon the defendant to bring himself under any exemption, proviso, excuse, or qualification; and it shall not be necessary for the same to be negatived in the charge.
- (4) A defendant may, except in proceedings under section 32, be called by the Inspector, and shall be compellable to give evidence as a defendant in a civil action is compellable.
- (5) Several charges against the same person, or several charges pursuant to section 33, may be heard together if the District Court Judge thinks fit so to hear them, and charges against several persons may be so heard with the consent of the parties if the District Court Judge so orders; and in all such cases a witness sworn to give evidence respecting one charge shall for all purposes be deemed a witness in respect of each charge.
- (6) *[Repealed]*
- (7) In any proceedings under this Act 10 days' notice of the day fixed for the hearing shall be given; and if the defendant intends to bring forward any person skilled in the construction of the machinery as a witness at the hearing of the case he shall give notice of that intention to the Inspector at least 48 hours before the hearing of the case.

- (8) A conviction or adjudication under this Act, or an adjudication made on appeal therefrom, shall not be quashed for want of form or be removed into the High Court by certiorari or otherwise.

Section 35(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 35(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 35(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 35(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 35(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 35(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 35(5): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 35(6): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 35(8): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 35(8): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Miscellaneous provisions

36 Matters may be completed by different Inspectors

Notwithstanding anything to the contrary in the foregoing provisions of this Act, if an Inspector has issued any requisition or given any direction, exemption, authorisation, or consent, whether upon or subject to any conditions or not, the same or any other Inspector may withdraw the requisition or take further steps thereon, or revoke or from time to time vary the direction, exemption, authorisation, or consent, or any condition upon or subject to which it has been given.

37 Responsibility of owners, etc, maintained

Nothing in this Act shall relieve any owner of machinery from liability to any action or suit, or from liability to any civil or criminal proceeding; but all rights of parties and all liabilities of owners of machinery, or of any other person or persons in respect thereof, shall remain unaffected by this Act.

38 Service of notices, etc

Where a notice, summons, or other process is required to be served upon any owner under the provisions of this Act, service on the manager, foreman, or agent of the owner shall be good and lawful service.

39 Regulations

[Repealed]

Section 39: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

40 Savings

[Repealed]

Section 40: repealed, on 1 April 1993, by section 62(1) of the Health and Safety in Employment Act 1992 (1992 No 96).

41 Act to be administered by Department of Labour

[Repealed]

Section 41: repealed, on 16 December 2013, by section 22 of the WorkSafe New Zealand Act 2013 (2013 No 94).

42 Act to bind the Crown

This Act shall bind the Crown.

Section 42: inserted, on 24 November 1961, by section 4 of the Machinery Amendment Act 1961 (1961 No 69).

Reprints notes

1 *General*

This is a reprint of the Machinery Act 1950 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Health and Safety at Work Act 2015 (2015 No 70): section 231(2)

WorkSafe New Zealand Act 2013 (2013 No 94): section 22

Criminal Procedure Act 2011 (2011 No 81): section 413

Land Transport Amendment Act 2009 (2009 No 17): section 35(4)

Local Government Act 2002 (2002 No 84): section 262

Health and Safety in Employment Act 1992 (1992 No 96): section 62(1), (2)

Machinery Amendment Act 1989 (1989 No 88)

Official Information Amendment Act 1987 (1987 No 8): section 25(1)

Machinery Amendment Act 1986 (1986 No 15)

Factories and Commercial Premises Act 1981 (1981 No 25): section 74

Machinery Amendment Act 1979 (1979 No 145)

District Courts Amendment Act 1979 (1979 No 125): section 18(2)

Judicature Amendment Act 1979 (1979 No 124): section 12

Machinery Amendment Act 1978 (1978 No 105)

Machinery Amendment Act 1977 (1977 No 185)

Machinery Amendment Act 1974 (1974 No 100)

Machinery Amendment Act 1970 (1970 No 128)

Machinery Amendment Act 1969 (1969 No 33)

Machinery Amendment Act 1963 (1963 No 14)

Machinery Amendment Act 1961 (1961 No 69)

Machinery Amendment Act 1956 (1956 No 17)

Labour Department Act 1954 (1954 No 71): section 17(1)

