With the Pike River tragedy having focused national attention on workplace health and safety culture and also having driven legislative reform, it has become crucial not only to understand health and safety, but also to know the law. Written for everyone working in this country, Health and Safety at Work in New Zealand: Know the Law is a comprehensive guide to the new Health and Safety at Work Act 2015. The only resource to collate relevant case law, legislative, policy and international discussion in one practical book, this is an essential guide for anyone wanting to understand the new law.

This text covers all the essential elements of the new Act, the legal framework and policy background, while also discussing relevant New Zealand and Australian cases. It includes chapters on key terms, offences, enforcement, sentencing, regulations, codes of practice, and guidance on specific topics. A handy reference tool for legal practitioners, advisors, managers, directors, health and safety professionals and students, Health and Safety at Work in New Zealand: Know the Law addresses everything from the history of health and safety law in New Zealand to the investigation and prosecution powers of the regulator.
FOREWORD

As someone who was involved in decisions that ultimately led to the passing of the Health and Safety at Work Act 2015, through my role on the Independent Ministerial Taskforce on Workplace Health and Safety, I am delighted to have been asked to write the foreword to this handbook.

The law in its various forms sends out signals to our society as to what standards of behaviour we expect of each other in order to be able to function together in harmony. Recent developments in health and safety law and its regulation clearly demonstrate that our tolerance for death, injury and disease, as the inevitable price of enjoying the benefits we gain from work, has fundamentally changed.

The purpose statement of the Act makes this abundantly clear when it states “regard must be had to the principle that workers and other persons should be given the highest level of protection against harm to their health, safety, and welfare from hazards and risks arising from work or from specified types of plant as is reasonably practicable”.\(^1\) However it also talks about providing a “balanced framework to secure the health and safety of workers”.\(^2\)

Where this handbook comes into its own is in helping all those who have an impact on safety and health in our workplaces, and for our workers to gain a rapid and consistent understanding of what those signals are intended to mean, and hence be able to progressively change our approach in order to achieve the intended goal.

There are a number of significant new concepts in the 2015 Act that will challenge us. What does “due diligence” really require of officers of the PCBU? Does this breach the notional governance/management divide and if so what are the implications? How far does the sphere of influence extend and what are we expected to do if those we consult with decline to co-operate and co-ordinate? Does moving from the ultimate test of “all practicable steps” to “so far as is reasonably practicable” really make much difference? How will the courts use their new range of innovative sanctions?

The original idea to adopt the Australian Model Law was designed to enable New Zealand to rapidly develop a body of jurisprudence or legal interpretation from the greater volume of civil and criminal cases in Australia. This will still be the case to some extent although the intended purity of a single law across the Commonwealth of Australia has failed to materialise with Western Australia and Victoria not having

\(^1\) Health and Safety at Work Act 2015, s 3(2).
\(^2\) Health and Safety at Work Act 2015, s 3(1).
adopted the new law, others having modified it, whilst in New Zealand we have also changed a number of key definitions, such as who is an officer.

Nevertheless, this handbook, and subsequent editions, will bring together case law from a variety of jurisdictions into one place to help us see how legal interpretations shape our understanding of how far this challenging new law reaches.

I commend Stacey and Rachael for their efforts in creating such a useful text and look forward to using it in my professional practice over the coming years.

Mike Cosman, CMIOSH, MInstD
Partner, CosmanParkes Ltd
When the Pike River mine tragically exploded in November 2010, I had only been back living in New Zealand for around six months after spending more than a decade as a Wall Street lawyer. Engaged shortly following the tragedy to provide legal advice including in response to the largest health and safety investigation conducted by the regulator, I soon discovered that there was no comprehensive guide to the relevant legislation. Nor was there any exhaustive resource describing the relevant caselaw. Likewise there was no handy summary of the legal framework.

Five years later, with new legislation about to come into effect, *Health and Safety at Work in New Zealand: Know the Law* has been written to fill that void. It is intended to provide an easy-to-follow, comprehensive reference text for everyone wanting to know about health and safety law in this country. For the more of us who know the law, the better shot we in New Zealand have at improving our poor workplace health and safety record.

Knowledge is power. Being knowledgeable is powerful. As more of us become powerful advocates for healthy and safe workplaces in our country, the healthier and safer our workers become. So please digest this book and grow your knowledge.

Rachael and I have enjoyed working on this book together. I am extremely grateful to Rachael for her hard work. She has driven the writing project while balancing her busy career as a practicing barrister which has resulted in many late nights. We are also both immensely grateful to the team at Thomson Reuters, especially Renay Taylor who has driven the project from the outset with encouragement, good humour and invaluable assistance and contribution.

So, too, would we like to acknowledge the wonderful efforts of Minter Ellison Rudd Watts staff including Annette Knott, Doro Mueller, Carole Reeves and Christine Thomas who helped and encouraged us in the process of writing the book. We would also like to particularly acknowledge Chris Baldock, Amelia Bleeker, Sophie Carruthers, Hannah Coull, Daniel Fielding, Alison Gordon, Amberley James, Cameron Loughlin, Jaini Patel, April Payne, Nigel Smith, Hester Stevens, Geetha Verhaeghe and Peter Wigglesworth, each of whom drafted material for chapters of this book and without whom the book would not have been finished. Thank you very much for your contributions.
With the new Health and Safety at Work Act 2015 about to come into effect, a new day is dawning on health and safety in New Zealand. Rachael and I welcome that new day, and hope all who use this book find it useful.

Stacey Shortall
Wellington, 2016.
Chapter 1

INTRODUCTION

1.1 The Health and Safety at Work Act 2015

1.1.01 Key changes

1.2 Workplace health and safety law before 1992

1.2.01 Workplace health and safety before the 1992 Act

1.2.02 The 1992 Act

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1.3.02 Findings of the Independent Taskforce in relation to the 1992 Act

1.3.03 Findings of the Forestry Review in relation to the 1992 Act

Never before has workplace health and safety in New Zealand been subject to closer scrutiny. We begin in this chapter by exploring why, and then explaining what such scrutiny means for those subject to workplace health and safety legislation.

Almost 2.5 million New Zealanders go to work each day.1 New Zealand workplaces include homes, office buildings, manufacturing floors, construction and mining sites, farms, fishing and other boats, aircraft and vehicles.

Each year, on average, however, thousands of New Zealanders in our workplaces are killed, injured or exposed to a work-related illness (for example, asthma, work-related cancer and musculoskeletal disorders).2 The Report of the Independent Taskforce on Workplace Health and Safety (the Independent Taskforce), which reported to the Minister of Labour on 30 April 2013, concluded that every year in New Zealand, approximately one in every 10 workers is harmed in the workplace, amounting to about 200,000 accident compensation claims annually for costs associated with work-related injuries and illnesses.3 Indeed, on the very day the Health and Safety at Work Act 2015 was passed, a construction worker was reportedly injured after falling five floors down an open lift shaft. The following

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2 Ministry of Business, Innovation & Employment The State of Workplace Health and Safety in New Zealand (September 2012) at 1.
3 The Report of the Independent Taskforce on Workplace Health & Safety (April 2013) at [35].
day it was reported that a sharemilker died in a quad bike accident on a Waikato farm.

While the majority of deaths and serious injuries occur in a narrow sector of industries (namely agriculture, forestry, fishing, transport, construction and manufacturing), the impact of such incidents is widespread, affecting families and communities across New Zealand. The Independent Taskforce estimated that work-related injury and disease result in annual social and economic costs to the country of $3.5 billion.

Against this backdrop, there are four principal pieces of legislation which govern workplace health and safety in New Zealand:

- the Health and Safety at Work Act 2015 (the 2015 Act) (which replaced the Health and Safety in Employment Act 1992 (the 1992 Act));
- the WorkSafe New Zealand Act 2013 which established a stand-alone regulator;
- the Hazardous Substances and New Organisms Act 1996 which, in part, governs the control of hazardous substances in the workplace; and
- the Accident Compensation Act 2001 which, amongst other things, establishes a no-fault, universal and 24 hour compensation and rehabilitation regime for workplace injury.

While occupational health and safety has commanded attention for years, and particularly since the last overhaul of New Zealand’s workplace health and safety regime which had led to the 1992 Act, it is axiomatic that the Pike River Coal Mine tragedy in November 2010 galvanised the movement for change which has culminated in the new legislation discussed in this book. Since 2010, other pressures have contributed further to a perceived need for change, including the construction boom in Auckland and Christchurch (the former fuelled by growing migration and the latter by the Christchurch rebuild after the earthquakes) and public attention on fatalities in the forestry industry.

After a somewhat lengthy gestation, then, and amid some controversy after its report back from select committee, the Health and Safety at Work Act 2015 was passed on 27 August 2015, received royal assent on 4 September 2015 and will come into force on 4 April 2016, with the exception of some regulation-making powers which came into force the day after royal assent. Although the legislation has been criticised for emerging from select committee in a watered-down state,

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there is no doubt that the 2015 Act ushers in significant changes to New Zealand’s health and safety regime.

The 2015 Act is intended to overhaul New Zealand’s workplace health and safety laws. It is the product of recommendations made by the Independent Taskforce and the Royal Commission on the Pike River Coal Mine Tragedy (the Pike River Royal Commission), which made its Final Report to the Governor-General on 30 October 2012.6

The regime introduced by the 2015 Act closely mirrors the Australian Model Work Health and Safety Act (the Australian Model Law),7 with certain adaptations made to reflect the New Zealand environment, including some quite significant changes made as the Bill progressed through the House. The aim of the Australian Model Law was to achieve national harmonisation with each of the nine Australian jurisdictions using the Model Law as a template for new state legislation, making adaptations for particular state context as appropriate. The Model Law came into effect on 1 January 2012 in all states except Victoria, Tasmania and South Australia.8 It is therefore likely that the interpretation and implementation of the 2015 Act will draw extensively on developing Australian jurisprudence, to the extent that it is consistent with the provisions of the 2015 Act as they emerged from select committee.

1.1 The Health and Safety at Work Act 2015

The 2015 Act was originally intended to be an omnibus statute, replacing the 1992 Act and the Machinery Act 1950. It was also intended to make changes to the Hazardous Substances and New Organisms Act 1996, together with the Accident Compensation Act 2001, to better allow WorkSafe New Zealand and the Accident Compensation Corporation to work together. Moreover, the 2015 Act was intended to change the Employment Relations Act 2000 to integrate health and safety rights and obligations into existing employee protection mechanisms.

After the committee of the whole house stage, the 2015 Act was broken up into separate statutes:

- The Health and Safety at Work Act 2015;
- The Accident Compensation Amendment Act 2015;
- The Hazardous Substances and New Organisms Amendment Act 2015; and

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7 See also the Work Health and Safety Act 2011 (Cth), which appears in some compare notes in the 2015 Act.
8 The law came into effect in Tasmania and South Australia on 1 January 2013. There is a Bill currently before the Western Australian Parliament. At the date of writing, the Victorian Government has stated it will not be adopting the Model Law in its current form: WorkSafe Victoria “National harmonisation of work health and safety laws” <www.worksafe.vic.gov.au>.
The 2015 Act is the result of a lengthy and thorough consultative process. In August 2013, the Government published a blueprint in response to the recommendations of the Independent Taskforce. The blueprint indicated that a new Health and Safety Reform Bill would be introduced. An exposure draft of the Reform Bill, which contained the primary provisions that now constitute the backbone of the new legislation, was first released for public comment in October 2013. After a delayed period in select committee, during which time political controversy reigned about the forthcoming proposed changes, it was eventually reported back with some significant amendments on 24 July 2015. The amended legislation did not have the support of the Labour or New Zealand First parties, which considered that the Bill had been greatly weakened by the amendments made at select committee stage. The Green Party also considered that the amended Bill undermined the original intention, although still supported its overall purpose. The Bill was then further amended in the committee of the whole house and was also the subject of several Supplementary Order Papers before its final passage.

The 2015 Act is part of a broader package of reform, which includes the establishment in December 2013 of WorkSafe New Zealand as a Crown Agency under the WorkSafe New Zealand Act 2013, assuming the regulatory functions previously performed by the Health & Safety Group of the Ministry of Business, Innovation and Employment, and the introduction of a new regime of regulations and guidelines in the area of workplace health and safety. Crucial to the overhauled regime is the Government-set minimum target of a 25 per cent reduction in workplace serious harm and fatalities by 2020.

The genesis of the changes are well-known, arising in large part from the devastating explosions at the Pike River Coal Mine in November 2010, but there have been other pressures which have led to the need for reform and which will be discussed in this introductory chapter.

### 1.1.01 Key changes

The changes introduced by the 2015 Act are discussed fully in chapter 2. In summary, the 2015 Act:

- Focuses on a duty to manage risk (as opposed to the focus on hazards under the 1992 Act). This risk focus will be discussed further in chapter 2.
- Introduces the concept of a “person conducting a business or undertaking” (PCBU) as the principal duty holder under the Act. It does not matter whether the PCBU operates alongside others (for example, as a

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partner in a partnership or joint venture) nor whether the business or undertaking is conducted for profit or gain. An individual will be a PCBU if they are self-employed. Certain persons are specifically excluded from the definition of PCBUs under the 2015 Act (for example, volunteer associations, officers employed or engaged by PCBUs and home occupiers who employ or engage people to do residential work). A PCBU is also a “worker” under the 2015 Act if the PCBU is an individual who carries out work in the business or undertaking. The nature and obligations of PCBUs will be discussed further in chapters 3 and 4.

- Introduces a new duty on officers of PCBUs to exercise “due diligence” to ensure that the PCBU complies with its duties. The definition of officer, the role of which is considered further in chapter 3, was narrowed during the select committee stage to:
  - mean, if the PCBU is:
    - a company, any person occupying the position of a director of the company by whatever name called;
    - a partnership, any partner;
    - a limited partnership, any general partner;
    - a body corporate or an unincorporated body, any person occupying a position in the body that is comparable with that of a director of a company;
  - include any other person occupying a position in the PCBU that allows the person to exercise significant influence over the management of the business or undertaking (for example, a chief executive); and
  - exclude any person who merely advises or makes recommendations to one of the above persons.

- Introduces a new category of “worker”, which will encompass a broad range of individuals from employees and contractors through to volunteer workers. Workers under the 2015 Act owe a number of specific duties and are subject to new and enhanced obligations in terms of worker engagement, participation and representation (although, controversially, these provisions will not apply to small low risk businesses). These will be discussed further in chapter 5.

- Repeats the obligation to take “reasonably practicable” steps in relation to health and safety for those to whom the PCBU owes duties. The factors

11 Health and Safety at Work Act 2015, s 17(1)(a).
12 Health and Safety at Work Act 2015, s 17(1)(b).
13 Health and Safety at Work Act 2015, s 19.
14 Health and Safety at Work Act 2015, s 44.
15 Health and Safety at Work Act 2015, s 18.
16 Health and Safety at Work Act 2015, s 19.
17 Health and Safety at Work Act 2015, pt 3.
which constitute the taking of “reasonably practicable” steps differ somewhat from those contained in the 1992 Act, largely in relation to how the cost of implementing steps can be considered. This will be discussed further in chapter 3.

- Introduces a number of key principles relating to health and safety duties under the 2015 Act.\(^\text{19}\) These will be discussed in chapter 3.
- Creates an enforcement regime containing graduated categories of offences and penalties designed to provide better guidance to the courts about appropriate fine levels.\(^\text{20}\) The new enforcement regime provides for a three-tier hierarchy of offences relating to the breach of health and safety duties, with a scale of penalties to address:
  - at the top of the hierarchy, reckless conduct that exposes an individual to risk of death or serious injury;\(^\text{21}\)
  - in the middle of the hierarchy, a failure to comply with a health and safety duty where the failure exposes an individual to risk of death or serious illness or injury;\(^\text{22}\) and
  - at the lowest level of the hierarchy, a failure to comply with a health and safety duty.\(^\text{23}\)

The three categories of offending carry significantly increased sanctions as compared to those provided by the 1992 Act. The new offence framework and enforcement regime is discussed more fully in chapters 8 and 9.

- Enhances the powers of the regulator, including health and safety inspectors,\(^\text{24}\) to take action against persons reasonably believed to be contravening, or likely to contravene, a provision of the 2015 Act or regulations.\(^\text{25}\) These powers are more fully discussed in chapters 6, 7 and 8.
- Provides for the development of regulations and approved codes of practice.\(^\text{26}\) These provisions are discussed further in chapter 10.

### 1.2 Workplace health and safety law before 1992

#### 1.2.01 Workplace health and safety before the 1992 Act

In some form or another, beginning with factories legislation, Western countries have recognised a need to regulate workplace health and safety since the time of the Industrial Revolution.\(^\text{27}\) It is fair to say however that, before the 1992 Act,

\(^{18}\) Health and Safety at Work Act 2015, s 36.
\(^{19}\) Health and Safety at Work Act 2015, pt 2.
\(^{20}\) Health and Safety Reform Bill 2014 (192-1) (explanatory note).
\(^{21}\) Health and Safety at Work Act 2015, s 47.
\(^{22}\) Health and Safety at Work Act 2015, s 48.
\(^{23}\) Health and Safety at Work Act 2015, s 49.
\(^{24}\) Health and Safety at Work Act 2015, pt 4, subpt 9.
\(^{26}\) Health and Safety at Work Act 2015, pt 4.
governmental responses to workplace health and safety issues were piecemeal and reactionary, dealing with issues as they arose in a prescriptive manner. For example, as discussed by Thomas J in *Central Cranes Ltd v Department of Labour*, the Construction Act 1959 contained prescribed standards for excavations, scaffolding, mechanical plant, tools and gear, and the use of explosives.

Different workplace health and safety legislation applied to different industries. For example, the Bush Workers Act 1945 and the Shearers Act 1962 both imposed obligations on employers in those industries and provided for inspection by Department of Labour inspectors. There were also a large number of regulations: a 2006 report into occupational health and safety in New Zealand identified 14 primary statutes, approximately 50 sets of regulations, and six Government agencies dealing with workplace health and safety. Without a comprehensive and universal statute, however, some workplaces were not covered by legislative obligations at all, which gave rise to inconsistencies in the way workplace health and safety was approached.

In the 1980s calls for reform and consolidation grew, partly as a result of a greater realisation that the piecemeal regime was not producing satisfactory health and safety outcomes, and partly in response to the major changes to occupational health and safety occurring in the United Kingdom as a result of the 1972 Report of the Committee on Health and Safety at Work (the Robens report).

The Robens report investigated whether any changes were needed in the United Kingdom for the safety and health of persons in the course of their employment. Amongst other things, the Robens report called for a “single authority approach” to dealing with health safety, instigated by one piece of legislation applying consistently across industries and agencies. It led to the Health and Safety at Work Act 1974 (UK), which established the Health and Safety Commission in the United Kingdom and created a regime of employee and employer duties that is, in many respects, akin to New Zealand’s 1992 Act. The Robens report recommendations were adopted across the world, including by the International Labour Organisation, as representing the “best practice” approach to workplace health

28 *Central Cranes Ltd v Department of Labour* [1997] 3 NZLR 694 (CA) at 700.
29 Allen & Clarke *Occupational Health and Safety in New Zealand: NOHSAC Technical Report 7* (2006) at 12–13. The Government agencies were, as listed at the reference above, the Department of Labour, the (then) Department of Health, the Accident Compensation Corporation, the Ministry of Transport, the Ministry of Energy, and local government agencies such as borough councils.
32 Lord Alfred Robens *Safety and Health at Work, Report of the Committee* (June 1972).
INTRODUCTION

and safety. To this day, the Robens model remains the universally preferred approach to legislating for health and safety, and is reflected in the recently enacted Australian Model Law.

In New Zealand, the move towards improved legislation began in 1980 when the Government initiated a review of New Zealand’s occupational safety and health regime, culminating in the publication of the “Walker report” in 1981. The Walker report recommended that the changes advocated by the Robens report should also be adopted in New Zealand, sparking an almost-decade long period of review and consultation.

Eventually, after a period of consultation and discussion, the fourth Labour Government introduced the Occupational Health and Safety Bill to the House in 1990 (although the Occupational Safety and Health Service (the OSH Service) had already been created as a business unit within the Department of Labour in 1988). That Bill provided for workers’ rights in the area of health and safety and intended to create a regime whereby employers and employees would share responsibilities for workplace health and safety, with employers facing strict liability offences for breach of duty.

A change to a National government in 1990, with a corresponding alteration in underlying philosophy, resulted in the Bill being withdrawn from Parliament and replaced with an alternative Bill which became the 1992 Act. The key difference between the Labour-introduced Bill, and the ultimately enacted legislation under the National Government, was in the balance of responsibility between employer and employee, and the introduction of an “enabling” rather than prescriptive approach to the management of hazards in the workplace. As described by Thomas J in Central Cranes Ltd v Department of Labour:

“In speaking to the Health and Safety in Employment Bill in 1991, the Minister of Labour claimed that the legislation would directly promote excellence in the employer’s management of health and safety, integrate that approach with other management objectives, and allow for a

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33 For example, see Occupational Safety and Health Convention ILO C155 (opened for signature 22 June 1981, entered into force 11 August 1983).
38 Central Cranes Ltd v Department of Labour [1997] 3 NZLR 694 (CA) at 700.
variety of ways of involving employees. It would change, he said, the emphasis from the control of specific hazards to managing risks in relation to work activities and provide a coherent legislative framework to promote a high standard of risk management at the place of work. While acknowledging that the main thrust of the Bill set out the duties of an employer to employees, the Minister emphasised that other duties were also set out in the Bill relating to persons who had control over places of work, self-employed people, employees and principals to contractors and subcontractors. 39

1.2.02 The 1992 Act

(1) Overall objectives of the 1992 Act

The 1992 Act introduced the concept of a single regime which focused on prevention rather than reaction, and covered all industries in one piece of legislation, reflecting the recommendations of the Robens report. As a result of this singular approach to managing workplace health and safety, a number of pieces of legislation were repealed and numerous other Acts amended. 39 Numerous sets of regulations were either revoked altogether, or had their provisions incorporated into new regulations.

The 1992 Act formalised the functions and duties of the OSH Service and transferred many of the functions previously being carried out by other agencies to that OSH Service. 40

Other legislation around the same time which contained some overlap with workplace health and safety included the Gas Act 1992, the Electricity Act 1992, and the Smoke-free Environments Act 1990. There were also changes made to accident compensation legislation during this period.

A decade later, in 2003, the 1992 Act was amended to make the principal Act more comprehensive in its coverage, require good faith co-operation between employers and employees in relation to health and safety, provide for more effective enforcement of the principal Act, prohibit persons from being indemnified, and from indemnifying others, against the costs of fines and infringement fees for failing to comply with the principal Act, and promote compliance with International Labour Organisation Convention 155. 41

39 For example, the Agricultural Workers Act 1977, the Boilers, Lifts, and Cranes Act 1950, the Bush Workers Act 1945, the Coal Mines Act 1979, the Construction Act 1959, the Factories and Commercial Premises Act 1981, the Geothermal Energy Act 1953, parts of the Health Act 1956, the Machinery Act 1950, the Mining Act 1971, the Petroleum Act 1937, the Quarries and Tunnels Act 1982, the Shearers Act 1962.

40 For example, the health and safety functions of the then Department of Health, the Ministry of Transport's Maritime Division and the Accident Compensation Corporation (which retained many functions relating to workplace health and safety): see Allen & Clarke Occupational Health and Safety in New Zealand: NOHSAC Technical Report 7 (2006) at 15.
In addition, the Hazardous Substances and New Organisms Act 1996 (the HSNO Act) was enacted to supplement the 1992 Act in the areas specified. The aim of the HSNO Act is to protect the environment and the health and safety of people and communities by preventing or managing the adverse effects of hazardous substances and new organisms.  

(2) **Key specific provisions of the 1992 Act**

The stated objective of the 1992 Act (as amended) was to promote *the prevention of harm* to all persons at work and other persons in, or in the vicinity of, a place of work by:

- promoting excellence in health and safety management, in particular through promoting the systematic management of health and safety;
- defining hazards and harm in a comprehensive way so that all hazards and harm are covered, including harm caused by work-related stress and hazardous behaviour caused by certain temporary conditions;
- imposing various duties on persons who are responsible for work and those who do the work;
- setting requirements that relate to taking all practicable steps to ensure health and safety, and which are sufficiently flexible to cover different circumstances;
- recognising that volunteers doing work activities for other persons should have their health and safety protected because their well-being and work are as important as the well-being and work of employees;
- recognising that successful management of health and safety issues is best achieved through good faith co-operation in the place of work and, in particular, through the input of the persons doing the work;
- providing a range of enforcement methods, including various notices and prosecution, so as to enable an appropriate response to a failure to comply with the Act depending on its nature and gravity; and
- prohibiting persons from being indemnified or from indemnifying others against the cost of fines and infringements fees for failing to comply with the Act.

(a) **Duties under the 1992 Act**

The 1992 Act achieved its objectives by imposing a range of, sometimes overlapping, duties on a broad spectrum of persons in the workplace:

- Employers had duties: