

HOME DETENTION FOR H&S DECEPTION and TEMPORARY VISA CHANGES

Health and safety deception leads to employee's home detention

A worker who dealt with the storage and distribution of hazardous substances was convicted at the Manukau District Court on 29 August 2019 on forgery charges and sentenced to 10 months home detention.

Deepak Yogesh Lal was working for New Zealand Chemical Care and Storage Limited (NZCCSL) at the time of the offending. The company had arranged training in the use of hazardous substances. After failing aspects of the training in 2017, Lal forged certificates to deceive his employer into believing him qualified and competent.

Lal pleaded guilty to two charges and was convicted under the Crimes Act 1961 for using forged documents. During a WorkSafe investigation Lal admitted to altering two certificates from other employees at NZCCSL and presenting them to his employer as his own qualifications.

Regulations state work requiring handling of hazardous substances must be carried out by a person holding a compliance certificate as a certified handler.

General Manager for High Hazards and Energy Safety Tony Hetherington said Lal faced serious consequences for his extremely serious offending.

"Instead of completing the qualification, Lal went to great lengths to forge certificates and convince his employer he had completed his training. This was deliberate and sustained behaviour, not a one-off oversight.

"The certification process is important because handling the chemicals covered by the requirements presents significant risks to the handler, people working nearby and potentially others who may have to respond in an emergency.

"The certification process is part of ensuring these risks are properly managed, so people such as Lal who try to sidestep the requirements are putting themselves and others at risk. They also undermine the efforts their employers are making to ensure the risks are properly controlled and the business as a whole is properly managing risks," Mr Hetherington said.

Notes:

Lal was charged under the under s 257(1)(a) of the Crimes Act 1961, for the fraudulent certificate presented to his employer in November 2017. A second charge was also laid under s 257(1)(a) of the Crimes Act 1961 for the fraudulent certificate presented to his employer in December 2017.

s 257(1)(a) of the Crimes Act 1961 carries a maximum penalty of 10 years imprisonment.

Temporary work visas changing

The Minister of Immigration has announced changes to temporary work visa rules for migrant workers. "Between now and 2021, we are making changes to the way employers recruit some migrants for temporary work in New Zealand. The changes will be introduced in stages and fully rolled out in 2021" Mr Lees-Galloway said.

Under the banner of "[Helping regions fill skills shortages while ensuring Kiwis come first](#)", the Government intends to:

- develop a new employer-led visa application process
- introduce a new temporary work visa that replaces 6 existing work visas

- be using the level of pay to categorise a job in place of the existing skill bands — existing skill bands rely on a combination of level of pay and categorising the job under the ANZSCO
- strengthen the labour market test for low-paid jobs with open access for high-paid jobs in rural regions and lists in cities
- introduce sector agreements to facilitate access to migrants for targeted sectors
- reinstate the right for low-paid workers to bring their families to New Zealand on visitor visas.

The new process will be designed over the next 18 months, so there is a lot of detail that is not yet available. This includes information about fees, processing times and evidence that employers and migrants will have to provide in support of their applications.

The first set of changes will happen on 7 October 2019 and will only affect Talent Accredited Employers. These changes are that employers will lead a new process for employing migrant workers. From 2021, employers wishing to employ migrant workers on the new temporary work visa will use a 3-step process.

1. An employer check — it will be mandatory for all employers, including those with an existing accreditation, to be accredited under the new application process before they can hire migrants on the new work visa.
2. A job check — this will include checking that the job is paid in line with the New Zealand market rate and, in some cases, will include a labour market test to ensure New Zealand workers are not available.
3. A worker check — when the worker applies for a visa, they must show they meet our standard character, identity and health requirements, as well showing they have the skills to do the job they have been offered.

The changes aim to improve how New Zealand's temporary workforce operates by ensuring that:

- migrant workers are only recruited for genuine labour shortages
- regional and sector differences in the labour market are recognised when migrant workers are employed
- employers are encouraged to employ and train more New Zealanders.

Source <https://www.immigration.govt.nz/about-us/media-centre/news-notifications/temporary-work-visas-changing-for-employers-and-workers>

This article is brought to you by the Window and Glass Association's free employment helpline 0800 692 384. If you have any questions or would like to discuss the article above, please call Philip or Anthony on the helpline.