



New South Wales

Occupational Health and Safety (Penalty Notices) Regulation 1996

under the

Occupational Health and Safety Act 1983

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the Occupational Health and Safety Act 1983.

J W Shaw QC MLC

Minister for Industrial Relations

Explanatory note

The object of this Regulation is to repeal and remake, with some alterations, the *Occupational Health and Safety (Inspectors' Notices and Penalty Notices) Regulation 1988*. The Regulation:

- (a) prescribes the offences under various Acts and Regulations in respect of which penalty notices ("on the spot" fines) may be served under section 51B of the *Occupational Health and Safety Act 1983*, and
- (b) prescribes the persons who may serve the notices, and
- (c) prescribes the penalties payable for each offence if dealt with by way of the notice (rather than by a court).

This Regulation is made under the *Occupational Health and Safety Act 1983* and, in particular, under sections 45 (the general regulation-making power) and 51B (Penalty notices for certain offences).

This Regulation comprises matters of a machinery nature.

This Regulation is made in connection with the staged repeal of subordinate legislation under the *Subordinate Legislation Act 1989*.

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Occupational Health and Safety (Penalty Notices) Regulation 1996

1 Name of Regulation

This Regulation is the *Occupational Health and Safety (Penalty Notices) Regulation 1996*.

2 Commencement

This Regulation commences on 20 September 1996.

3 Definitions

In this Regulation:

Australian Code means the *Australian Code for the Transport of Dangerous Goods by Road and Rail* published by the Australian Government.

the Act means the *Occupational Health and Safety Act 1983*.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

5 Penalty notice offences

For the purposes of section 51B of the Act:

- (a) the persons specified in clauses 6 and 7 are declared to be authorised officers in relation to the offences specified in the clause concerned, and
- (b) each offence created by a provision specified in Column 2 of Schedule 1 is a prescribed offence, and
- (c) the prescribed penalty for such an offence is the amount specified opposite the provision in Column 3 of Schedule 1.

6 Authorised officers—offences other than dangerous goods offences

An inspector appointed under Division 4 of Part 3 of the Act is specified in relation to all of the offences that are prescribed by this Regulation other than an offence under the *Dangerous Goods Act 1975* or the *Dangerous Goods Regulation 1978*.

7 Authorised officers—dangerous goods offences

- (1) An officer of the WorkCover Authority constituted under the *WorkCover Administration Act 1989* appointed as an inspector of dangerous goods under section 6 of the *Dangerous Goods Act 1975* is specified in relation to all of the offences under the *Dangerous Goods Act 1975* and the *Dangerous Goods Regulation 1978* that are prescribed by this Regulation.
- (2) The following persons are specified in relation to all of the offences under the *Dangerous Goods Regulation 1978* (other than an offence under clause 85 (2)) that are prescribed by this Regulation:
 - (a) an officer of the Environment Protection Authority constituted under the *Protection of the Environment Administration Act 1991* appointed as an inspector of dangerous goods under section 6 of the *Dangerous Goods Act 1975*,
 - (b) a person referred to in Regulation 126K (1) (a) of the *Motor Traffic Regulations 1935* (that is, an officer employed by the Roads and Traffic Authority constituted under the *Transport Administration Act 1988* as an enforcement officer and to whom that Authority has issued a written authorisation),
 - (c) a police officer.

8 Repeal

- (1) The *Occupational Health and Safety (Inspectors' Notices and Penalty Notices) Regulation 1988* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the Regulation referred to in subclause (1), had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Penalty notice offences

(Clause 5)

Column 1	Column 2	Column 3
Act or instrument	Provision	Penalty
<i>Occupational Health and Safety Act 1983</i>	Sections 15 (1), 16 (1) and (2), 19 (a) and (b), 20, 27 (1) and 31R (5)	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)
<i>Construction Safety Act 1912</i>	Sections 17 (1), (2), (3) (a) and (b) and (8) and 17A (1), (1A), (1B) (a) and (b) and (5A)	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)
<i>Construction Safety Regulations 1950</i>	Regulations 73 (2), (3), (6) and (7), 99, 122 (5), 127 (108) and (108A) and 159D	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)
<i>Dangerous Goods Act 1975</i>	Section 9 (1) (a)	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)
<i>Dangerous Goods Regulation 1978</i>	Clauses 4 (5) and 176 —being the offence of breaching the following section of the Australian Code:	
	Section 8.2.7.2	5 penalty units
	Section 8.2.7.4	2 penalty units
	Section 8.3.7.1 (a) or (b)	3 penalty units
	Section 8.3.7.2 (a) or (b)	3 penalty units
	Section 8.3.7.3 (a) or (b) (i) or (ii)	3 penalty units

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Schedule 1 Penalty notice offences

Column 1	Column 2	Column 3
Act or instrument	Provision	Penalty
	Section 8.3.7.5 (a) or (b)	3 penalty units
	Section 8.3.8.2 (a), (b) or (c)	2 penalty units
	Section 8.3.8.4	2 penalty units
	Clauses 15B (4) and 85 (2)	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)
<i>Factories, Shops and Industries Act 1962</i>	Sections 27, 44A (1) and 45 (3)	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)
<i>Boiler and Pressure Vessel Regulations</i>	Regulations 28, 41, 80 (a) and (b), 80A (a) and (b) and 82	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)
<i>Engine Drivers and Boiler Attendants Certification Regulations</i>	Regulation 17 (2)	0.5 penalty units (in the case of a person who commits the offence in his or her capacity as an employee) or 5 penalty units (in any other case)