

WS301*

Occupational Safety and Health Act 1984

Occupational Safety and Health Amendment Regulations (No. 6) 2004

Made by the Governor in Executive Council.

1. Citation

These are the *Occupational Safety and Health Amendment Regulations (No. 6) 2004*.

2. Commencement

These regulations come into operation on 1 January 2005.

3. The regulations amended

The amendments in these regulations are to the *Occupational Safety and Health Regulations 1996** as amended, including by the *Occupational Safety and Health Amendment Regulations (No. 3) 2004*.

[* *Reprint 3 as at 9 July 2004*.

For amendments to 24 November 2004 see Gazette 22 October 2004.]

4. Regulation 1.3 amended

Regulation 1.3 is amended by inserting in the appropriate alphabetical positions —

“

“**the regulation 1.15 penalty**” means the penalty specified in regulation 1.15;

“**the regulation 1.16 penalty**” means the penalty specified in regulation 1.16;

”.

5. Regulations 1.15 and 1.16 inserted

After regulation 1.14 the following regulations are inserted —

“

1.15. Penalty for breaches by employees

- (1) Subregulation (2) applies where “the regulation 1.15 penalty” is specified in a penalty provision at the foot of a regulation or subregulation.
- (2) The applicable penalty is —
 - (a) for a first offence, \$5 000; and
 - (b) for a subsequent offence, \$6 250.

1.16. Penalty for breaches by employers and others

- (1) Subregulation (2) applies where “the regulation 1.16 penalty” is specified in a penalty provision at the foot of a regulation or subregulation.
- (2) The applicable penalty is —
 - (a) in the case of an individual —
 - (i) for a first offence, \$25 000; and
 - (ii) for a subsequent offence, \$31 250;
 - or
 - (b) in the case of a body corporate —
 - (i) for a first offence, \$50 000; and
 - (ii) for a subsequent offence, \$62 500.

”.

6. Regulation 2.4 amended

- (1) Regulation 2.4(1) is amended by deleting “19(3)” and inserting instead —

“ 23I(2)(a) ”.

- (2) Regulation 2.4(2) is amended by deleting “Notification of an injury to which section 19(3)” and inserting instead —

“

For the purposes of section 23I(3) of the Act,
notification of an injury to which section 23I(2)(a)

”.

- (3) Regulation 2.4(3) is amended by deleting “19(3)” and inserting instead —

“ 23I(2)(a) ”.

7. Regulation 2.5 amended

- (1) Regulation 2.5(1) is amended by deleting “19(3)” and inserting instead —

“ 23I(2)(a) ”.

- (2) Regulation 2.5(2) is amended by deleting “Notification of a disease to which section 19(3)” and inserting instead —

“

For the purposes of section 23I(3) of the Act,
notification of a disease to which section 23I(2)(a)

”.

- (3) Regulation 2.5(3) is amended by deleting “19(3)” and inserting instead —

“ 23I(2)(a) ”.

8. Regulation 2.8A inserted

After regulation 2.8 the following regulation is inserted —

“

2.8A. Persons who are trainees for the purposes of the Act

- (1) This regulation relates to the definition of “trainee” in section 3(1) of the Act.

- (2) The class of persons who are trainees for the purposes of the Act are persons who are taking part in a traineeship scheme within the meaning of that term in the *Industrial Training Act 1975*.

”.

9. Regulation 2.11 amended

Regulation 2.11 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty applicable to subregulations (4), (5), (6) and (8):

- (a) in the case of an individual —
 - (i) for a first offence, \$10 000; and
 - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$20 000; and
 - (ii) for a subsequent offence, \$25 000.

”.

10. Regulation 3.2 amended

Regulation 3.2 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty:

- (a) in the case of an individual —
 - (i) for a first offence, \$2 000; and
 - (ii) for a subsequent offence, \$2 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$4 000; and
 - (ii) for a subsequent offence, \$5 000.

”.

11. Regulation 3.16 amended

Regulation 3.16 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty applicable to subregulations (1) and (2):

- (a) in the case of an individual —
 - (i) for a first offence, \$10 000; and
 - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$20 000; and
 - (ii) for a subsequent offence, \$25 000.

”.

12. Regulation 3.19 amended

Regulation 3.19 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty applicable to subregulations (1) and (2):

- (a) in the case of an individual —
 - (i) for a first offence, \$10 000; and
 - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$20 000; and
 - (ii) for a subsequent offence, \$25 000.

”.

13. Regulation 3.21 amended

Regulation 3.21 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty applicable to subregulations (1), (2) and (3):

- (a) in the case of an individual —
 - (i) for a first offence, \$10 000; and
 - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$20 000; and
 - (ii) for a subsequent offence, \$25 000.

”.

14. Regulation 3.44H amended

- (1) At the foot of regulation 3.44H(1) the following penalty provision is inserted —

“

Penalty: the regulation 1.16 penalty.

”.

- (2) Regulation 3.44H is amended by deleting the penalty provision at the foot of the regulation and inserting the following at the foot of subregulation (2) —

“

Penalty:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

”.

15. Regulation 3.62 amended

Regulation 3.62 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty:

- (a) for a first offence, \$2 000; and
- (b) for a subsequent offence, \$2 500.

”.

16. Regulation 3.63 amended

Regulation 3.63 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty:

- (a) in the case of an individual —
 - (i) for a first offence, \$2 000; and
 - (ii) for a subsequent offence, \$2 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$4 000; and
 - (ii) for a subsequent offence, \$5 000.

”.

17. Regulation 3.69 amended

Regulation 3.69(2) is amended by deleting the penalty provision at the foot of the subregulation and inserting instead —

“

Penalty:

- (a) for a first offence, \$2 000; and
- (b) for a subsequent offence, \$2 500.

”.

18. Regulation 3.88A amended

Regulation 3.88A(4) is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty:

- (a) in the case of an individual —
 - (i) for a first offence, \$2 000; and
 - (ii) for a subsequent offence, \$2 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$4 000; and
 - (ii) for a subsequent offence, \$5 000.

”.

19. Regulation 4.21A amended

Regulation 4.21A is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty:

- (a) in the case of an individual —
 - (i) for a first offence, \$5 000; and
 - (ii) for a subsequent offence, \$6 250;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$10 000; and
 - (ii) for a subsequent offence, \$12 500.

”.

20. Regulation 5.24 amended

Regulation 5.24 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty applicable to subregulations (1), (2), (4), (5) and (6):

- (a) for a first offence, \$10 000; and
- (b) for a subsequent offence, \$12 500.

”.

21. Regulation 6.4 amended

Regulation 6.4 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty applicable to subregulations (2) and (3) for a person who commits the offence as an employee:

- (a) for a first offence, \$5 000; and
- (b) for a subsequent offence, \$6 250.

Penalty applicable to subregulations (2) and (3) in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

”.

22. Regulation 6.5 amended

Regulation 6.5 is amended by deleting the penalty provision at the foot of the regulation and inserting instead —

“

Penalty for a person who commits the offence as an employee:

- (a) for a first offence, \$5 000; and

- (b) for a subsequent offence, \$6 250.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

”.

23. Regulation 7.4 amended

Regulation 7.4(2) is amended by deleting the penalty provision at the foot of the subregulation and inserting instead —

“

Penalty:

- (a) in the case of an individual —
 - (i) for a first offence, \$2 000; and
 - (ii) for a subsequent offence, \$2 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$4 000; and
 - (ii) for a subsequent offence, \$5 000.

”.

24. Further amendment of penalties

- (1) Each provision specified in the Table to this subregulation is amended by deleting the penalty provision that appears at the foot of the provision and inserting instead —

“

Penalty:

- (a) in the case of an individual —
 - (i) for a first offence, \$10 000; and
 - (ii) for a subsequent offence, \$12 500;
- or
- (b) in the case of a body corporate —
 - (i) for a first offence, \$20 000; and
 - (ii) for a subsequent offence, \$25 000.

”.

Table

r. 2.2(9)	r. 3.22
r. 3.15	r. 3.65
r. 3.20	

- (2) Each provision specified in the Table to this subregulation is amended in the penalty provision that appears at the foot of the provision by deleting “\$5 000” and inserting instead —

“ the regulation 1.15 penalty ”.

Table

r. 3.35	r. 3.55(4)
r. 3.44B	r. 3.60(5)
r. 3.44I	r. 5.62
r. 3.55(3)	

- (3) Each provision specified in the Table to this subregulation is amended by deleting the penalty provisions that appear at the foot of the provision and inserting instead —

“

Penalty for a person who commits the offence as an employee: the regulation 1.15 penalty.

Penalty in any other case:

- (a) for a first offence, \$25 000; and
- (b) for a subsequent offence, \$31 250.

”.

Table

r. 3.24	r. 3.131(2)
r. 3.29(3)	r. 5.45(2)
r. 3.69(1)	r. 5.61
r. 3.74	r. 6.3
r. 3.81	

- (4) Each provision specified in the Table to this subregulation is amended in the penalty provisions that appear at the foot of the provision —

- (a) by deleting “\$5 000” and inserting instead —
“ the regulation 1.15 penalty ”; and
- (b) by deleting “\$25 000” and inserting instead —
“ the regulation 1.16 penalty ”.

Table

r. 2.9	r. 3.84	r. 4.20(2)	r. 4.35	r. 5.9
r. 2.12(3)	r. 3.88F	r. 4.23(1)	r. 4.41	r. 5.10
r. 2.13(3)	r. 3.88H	r. 4.24	r. 4.42	r. 5.11(1)
r. 3.9(3)	r. 3.88I(1)	r. 4.25	r. 4.44(2)	r. 5.35
r. 3.26	r. 3.88J(1)	r. 4.26	r. 4.50	r. 5.38
r. 3.57(4)	r. 3.117	r. 4.27	r. 4.51	r. 5.46(1)
r. 3.67	r. 3.122	r. 4.30	r. 5.3	r. 5.47
r. 3.68	r. 3.124	r. 4.30A	r. 5.4	r. 5.51
r. 3.72(1)	r. 3.125	r. 4.31	r. 5.5	
r. 3.73	r. 3.126	r. 4.31A	r. 5.6	
r. 3.78	r. 3.127	r. 4.32	r. 5.7	
r. 3.83	r. 3.128(2)	r. 4.33	r. 5.8	

- (5) Each provision specified in the Table to this subregulation is amended in the penalty provision that appears at the foot of the provision by deleting “\$25 000” and inserting instead —
 “ the regulation 1.16 penalty ”.

Table

r. 3.1	r. 3.46	r. 3.88E	r. 4.28	r. 5.30
r. 3.3	r. 3.47	r. 3.88G(1)	r. 4.34	r. 5.31(1)
r. 3.4	r. 3.49	r. 3.89	r. 4.36	r. 5.32
r. 3.5	r. 3.50	r. 3.90	r. 4.37(1)	r. 5.32A(1)
r. 3.6	r. 3.51	r. 3.91	r. 4.37A	r. 5.34
r. 3.7	r. 3.52	r. 3.92	r. 4.38	r. 5.36
r. 3.8	r. 3.53	r. 3.93	r. 4.39	r. 5.37
r. 3.9(1)	r. 3.54	r. 3.95	r. 4.40	r. 5.40
r. 3.9(2)	r. 3.55(1)	r. 3.96	r. 4.43	r. 5.41
r. 3.10	r. 3.55(2)	r. 3.97	r. 4.44	r. 5.43
r. 3.11	r. 3.56	r. 3.98	r. 4.45(1)	r. 5.45(1)
r. 3.12	r. 3.57(1)	r. 3.100(1)	r. 4.46	r. 5.48(2)
r. 3.13	r. 3.57(2)	r. 3.101	r. 4.48	r. 5.49
r. 3.14	r. 3.57(3)	r. 3.103	r. 4.49	r. 5.50
r. 3.17	r. 3.59	r. 3.104	r. 4.52	r. 5.52
r. 3.18	r. 3.60(3)	r. 3.105	r. 4.53	r. 5.54
r. 3.23	r. 3.60(4)	r. 3.106	r. 4.54	r. 5.55
r. 3.25	r. 3.61	r. 3.107	r. 4.55	r. 5.56
r. 3.27	r. 3.64(2)	r. 3.108	r. 4.56	r. 5.57
r. 3.28	r. 3.70	r. 3.109	r. 4.57	r. 5.58
r. 3.29(2)	r. 3.71	r. 3.110	r. 5.12	r. 5.59
r. 3.30	r. 3.75	r. 3.111(1)	r. 5.13(1)	r. 5.60
r. 3.31	r. 3.76	r. 3.112(1)	r. 5.14	r. 5.63
r. 3.33(1)	r. 3.77	r. 3.113	r. 5.15	r. 5.64
r. 3.34(1)	r. 3.79	r. 3.118	r. 5.16	r. 5.65
r. 3.36	r. 3.80	r. 3.123(1)	r. 5.17	r. 5.69
r. 3.38	r. 3.85	r. 3.131(1)	r. 5.18	r. 5.70
r. 3.40	r. 3.86	r. 3.133	r. 5.19	r. 5.71
r. 3.41	r. 3.87(1)	r. 3.134(1)	r. 5.20	r. 5.73
r. 3.42	r. 3.88	r. 4.2(1)	r. 5.21	r. 5.74
r. 3.43	r. 3.88A(3)	r. 4.10(2)	r. 5.22	r. 5.75
r. 3.44	r. 3.88B	r. 4.11	r. 5.23	r. 5.76
r. 3.44F	r. 3.88C(1)	r. 4.14	r. 5.25	r. 5.77
r. 3.44G	r. 3.88D(1)	r. 4.20(1)	r. 5.26	r. 5.78

By Command of the Governor,

M. TRAVERS, Clerk of the Executive Council.