

1991—No. 400

**OCCUPATIONAL HEALTH AND SAFETY ACT 1983—
REGULATION**

(Relating to penalties and penalty notices)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Occupational Health and Safety Act 1983, has been pleased to make the Regulation set forth hereunder.

JOHN FAHEY
Minister for Industrial Relations and
Minister for Further Education,
Training and Employment.

Commencement

1. This Regulation commences on 16 August 1991.

Amendments

2. The Occupational Health and Safety (Inspectors' Notices) Regulation 1988 is amended:
 - (a) by inserting before clause 1 the following heading:

PART 1—PRELIMINARY
 - (b) by inserting in clause 1 after the word "Notices" the words "and Penalty Notices";

(c) by inserting before clause 5 the following heading:

PART 2—INSPECTORS’ NOTICES

(d) by omitting from clause 5 (4) the words “Penalty: \$4,000.” and by inserting instead the following words:

Maximum penalty:

- (a) 100 penalty units in the case of a corporation; or
- (b) 50 penalty units in the case of an individual who contravenes this subsection otherwise than in his or her capacity as an employee; or
- (c) 25 penalty units in the case of an individual who contravenes this subsection in his or her capacity as an employee.

(e) by omitting from clause 6 (3) the words “Penalty: \$4,000.” and by inserting instead the following words:

Maximum penalty:

- (a) 100 penalty units in the case of a corporation; or
- (b) 50 penalty units in the case of an individual who contravenes this subsection otherwise than in his or her capacity as an employee; or
- (c) 25 penalty units in the case of an individual who contravenes this subsection in his or her capacity as an employee.

(f) by omitting from clauses 8 (2) and 10 the word “Regulation” wherever occurring and by inserting instead the word “Part”;

(g) by inserting after clause 10 the following heading and clause:

PART 3—PENALTY NOTICES

Penalty notices

11. For the purposes of section 51B of the Act:

- (a) any inspector appointed under the associated occupational health and safety legislation is declared to be an authorised officer; and
- (b) any offence arising under a provision of an Act or instrument referred to in Schedule 1 is a prescribed offence; and
- (c) the amount of penalty payable in respect of such an offence is 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).

(h) by inserting at the end of the Regulation the following Schedule:

SCHEDULE 1—PENALTY NOTICES

(C1. 11)

Act or instrument	Provisions
Occupational Health and Safety Act 1983	Sections 15 (1), 19, 20 and 27 (1)
Occupational Health and Safety (Inspectors' Notices and Penalty Notices) Regulation 1988	Clause 5 (4)
Construction Safety Act 1912	Sections 17 (1), (2), (3) and (8) and 17A (1), (1A), (1B) and (5A)
Construction Safety Regulations 1950	Regulations 73 (2), (3), (6) and (7), 99, 122 (5), 127 (108) and 159D
Dangerous Goods Act 1975	Section 9 (1) (a)
Dangerous Goods Regulation 1978	Clauses 15B (4) and 85 (2)
Factories, Shops and Industries Act 1962	Sections 27, 44A (1) and 45 (3)
Boiler and Pressure Vessel Regulations	Regulations 28, 41, 80, 80A and 82
Engine Drivers and Boiler Attendants Certification Regulations	Regulation 17 (2)

EXPLANATORY NOTE

The object of this Regulation is to amend the Occupational Health and Safety (Inspectors' Notices) Regulation 1988 so as:

- (a) to make provision for the issue of penalty notices under section 51B of the Occupational Health and Safety Act 1983; and
- (b) to increase the maximum penalties that may be imposed for offences arising under the Regulation; and
- (c) to rename the Regulation as the Occupational Health and Safety (Inspectors' Notices and Penalty Notices) Regulation 1988.