

1991—No. 425

JUSTICES ACT 1902—REGULATION

(Occupational Health and Safety Legislation (Short Description of Offences)
Regulation 1991)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Justices Act 1902, has been pleased to make the Regulation set forth hereunder.

TERRY GRIFFITHS
Minister for Justice.

Citation

1. This Regulation may be cited as the Occupational Health and Safety Legislation (Short Description of Offences) Regulation 1991.

Commencement

2. This Regulation commences on 16th August, 1991.

Short description of offences

3. (1) For the purposes of section 145B (2) of the Justices Act 1902, the prescribed expression in relation to a summary offence specified in Column 1 of Schedule 1 is the expression set out opposite it in Column 2 of the Schedule.

(2) If a choice of words is indicated in Column 2 of the Schedule the words remaining after the omission of the words irrelevant to the offence constitute the prescribed expression.

(3) A reference in Column 1 of Schedule 1 to a provision of the Occupational Health and Safety Act 1983, the Factories, Shops and Industries Act 1962, the Construction Safety Act 1912, the Dangerous

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Goods Act 1975 or any regulation made under those Acts, being a provision that creates an offence, is a reference to the provision as in force at the time the offence is alleged to have occurred.

SCHEDULE 1

(Cl. 2)

Column 1	Column 2
<p>OFFENCE UNDER OCCUPATIONAL HEALTH AND SAFETY ACT 1983</p> <p>Section 15 (1)—being an employer, not ensure the health, safety and welfare of employees at work</p> <p>Section 19:</p> <p>(a) being an employee, not take reasonable care for the health and safety of persons at work</p> <p>(b) being an employee, not co-operate with employer or other person as regards requirements imposed in the interests of health, safety or welfare</p> <p>Section 20—intentionally or recklessly interfere with or misuse thing provided in interests of health, safety or welfare</p>	<p>PRESCRIBED EXPRESSION</p> <p>not ensure health/safety/welfare of employees</p> <p>not take care of health/safety of persons at work</p> <p>not co-operate in health/safety/welfare requirements</p> <p>intentionally/recklessly interfere with/misuse thing provided for health/safety/welfare</p>

Column 1	Column 2
Section 27 (1)—being the occupier or prescribed person, not notify prescribed persons of accident or other matter affecting health or safety occurring at or in relation to place of work	not notify work-related accident/matter affecting health/safety
OFFENCE UNDER THE OCCUPATIONAL HEALTH AND SAFETY (INSPECTORS' NOTICES AND PENALTY NOTICES) REGULATION 1988	
Clause 5 (4)—not comply with a requirement imposed by an improvement notice	not comply with improvement notice
OFFENCE UNDER THE CONSTRUCTION SAFETY ACT 1912	
Section 17 (1)—drive a power crane or power hoist used in building work or excavation work or a power hoist used for raising or lowering persons without holding an appropriate certificate of competency	drive power crane/hoist for building/excavation work/moving people while uncertified
Section 17 (2)—drive a power crane or power hoist contrary to the terms of the certificate of compliance held	drive power crane/hoist beyond certificate
Section 17 (3): (a) employ, instruct or allow a person not holding a certificate of competency to drive a power crane or power hoist	employ/direct/allow uncertified person to drive power crane/hoist

Column 1	Column 2
(b) employ, instruct or allow a person holding a certificate of competency to drive a power crane or power hoist contrary to the terms of that certificate	employ/direct/allow person to drive power crane/hoist beyond certificate
Section 17 (8)—not comply with conditions of exemption granted in relation to provisions of section 17 (1), (2) or (3)	not comply with exemption conditions under section 17 (1)/(2)/(3)
Section 17A (1)—act as rigger, dogman, scaffolder, crane chaser, diver, powderman or explosive-powered tool operator without a certificate of competency	act as rigger/dogman/scaffolder/crane chaser/diver/powderman/explosive tool user while uncertified
Section 17A (1A)—act as rigger, dogman, scaffolder, crane chaser, diver, powderman or explosive-powered tool operator contrary to the terms of the certificate of competency held	act beyond certificate as rigger/dogman/scaffolder/crane chaser/diver/powderman/explosive tool user
Section 17A (1B): (a) employ, instruct or allow a person not holding a certificate of competency to act as a rigger, dogman, scaffolder, crane chaser, diver, powderman or explosive-powered tool operator	employ/direct/allow uncertified person to be rigger/dogman/scaffolder/crane chaser/diver/powderman/explosive tool user

Column 1	Column 2
(b) employ, instruct or allow a person holding a certificate of competency to act as a rigger, dogman, scaffolder, crane chaser, diver, powderman or explosive-powered tool operator contrary to the terms of that certificate	employ/direct/allow rigger/dogman/scaffolder/crane chaser/diver/powderman/explosive tool user to act beyond certificate
Section 17A (5A)—not comply with conditions of exemption granted in relation to provisions of section 17A (1), (1A) or (1B)	not comply with exemption conditions under section 17A (1)/(1A)/(1B)
OFFENCE UNDER THE CONSTRUCTION SAFETY REGULATIONS 1950	
Regulation 73 (2)—not provide and maintain safe means of access to place of work	not provide/maintain safe access to work place
Regulation 73 (3)—not provide means of securing the safety of a person liable to fall more than 1.8 m	not provide height safety barrier
Regulation 73 (6)—not provide adequate overhead protection for persons working below or in danger from falling objects	not provide adequate overhead protection
Regulation 73 (7)—not provide head protective helmet where overhead protection impracticable	not provide head protective helmet

Column 1	Column 2
Regulation 99—contravene Australian Standard in relation to diving	contravene Australian Standard for diving
Regulation 122 (5)—subject, or instruct, allow or permit a person to subject, a crane, lift, conveyor, hoist, scaffolding, plant or gear to greater load, or more adverse incidence or manner or condition of loading, than prescribed	subject/direct/allow/permit person to subject crane/lift/conveyor/hoist/scaffolding/plant/gear to overloading/incorrect loading
Regulation 127 (108):	
(a) being owner or person in charge of crane or hoist, not prevent unauthorised persons riding upon the load, the lifting hook, the platform or other lifting medium	not prevent unauthorised riding on load/lifting hook/platform/lifting medium of crane/hoist
(b) ride upon the load, the lifting hook, the platform or other lifting medium of a crane or hoist without authority	ride on load/lifting hook/platform/lifting medium of crane/hoist without authority
Regulation 159D—being holder, not produce his or her certificate or permit to employer or inspector on demand	not produce certificate/permit on demand by employer/inspector
OFFENCE UNDER THE DANGEROUS GOODS ACT 1975	
Section 9 (1) (a)—keep dangerous goods in or on premises not licensed under section 8	keep dangerous goods in/on unlicensed premises

Column 1	Column 2
<p>OFFENCE UNDER DANGEROUS GOODS REGULATION 1978</p>	
<p>Clause 15B (4)—being in charge of vehicle used to carry dangerous goods, not carry or not produce driver registration card on request by inspector, police officer or authorised person</p>	<p>fail to carry/produce dangerous goods driver registration card</p>
<p>Clause 85—being depot licensee or unlicensed depot occupier, operate or cause, permit or suffer a person to operate an unapproved appliance in prescribed explosive gas zone</p>	<p>use/cause/permit/suffer use of unapproved appliance in explosive gas zone</p>
<p>OFFENCE UNDER THE FACTORIES, SHOPS AND INDUSTRIES ACT 1962</p>	
<p>Section 27—being the occupier of factory, not securely fence all dangerous parts of factory machinery</p>	<p>not securely fence machinery</p>
<p>Section 44A (1)—being the occupier of factory, not ensure that electrical installation, equipment and apparatus is designed, constructed, protected and maintained to eliminate risk of accidental electric shock or electrical fire</p>	<p>electrical installation/ equipment/apparatus not designed/constructed/protected/ maintained to avoid shock/fire risk</p>
<p>Section 45 (3)—being the occupier of factory, not maintain fire escape in good condition and free from obstruction</p>	<p>not maintain fire escape in good condition/free from obstruction</p>

Column 1	Column 2
<p>OFFENCE UNDER THE BOILER AND PRESSURE VESSEL REGULATIONS</p>	
<p>Regulation 28—being the owner of a boiler or pressure vessel, use or cause, permit or allow use of the boiler or pressure vessel without a certificate of inspection being currently in force in relation to it</p>	<p>use/cause/permit/allow the use of uncertified boiler/pressure vessel</p>
<p>Regulation 41—use or cause, permit or allow the use of oxy-acetylene, electric welding or brazing processes to repair part of boiler or pressure vessel without approval</p>	<p>use/cause/permit/allow use of unapproved repair method on boiler/pressure vessel</p>
<p>Regulation 80—being the owner of the boiler or pressure vessel, work with or use or cause, permit or suffer a person to work with or use the boiler or pressure vessel when not maintained in safe working order or not correctly adjusted</p>	<p>work with/use/cause/permit/suffer person to work with/use unsafe/wrongly adjusted boiler/pressure vessel</p>
<p>Regulation 80A—being the owner of the boiler, operate or cause, permit or allow the operation of the boiler without the continual supervision of an authorised boiler attendant or without the attendant's certificate or permit type and number being displayed adjacent to the boiler</p>	<p>use/cause/permit/allow use of boiler without prescribed supervision/supervisor's details displayed</p>

Column 1	Column 2
<p>Regulation 82—cause pressure in boiler or pressure vessel to exceed safe maximum working pressure or tamper with valve or fitting so as to affect its proper working or conceal defects from inspector</p>	<p>cause excessive pressure/tamper with valve/fitting/conceal defects in boiler/pressure vessel</p>
<p>OFFENCE UNDER ENGINE DRIVERS AND BOILER ATTENDANTS CERTIFICATION REGULATIONS</p>	
<p>Regulation 17 (2)—employ as an engine driver or boiler attendant a person who does not hold an appropriate class of certificate</p>	<p>employ uncertified engine driver/boiler attendant</p>

TABLE OF PROVISIONS

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SCHEDULE 1

EXPLANATORY NOTE

The object of this Regulation is to prescribe the short descriptions that, by virtue of section 145B of the Justices Act 1902, are sufficient to state or describe, in any information, complaint, summons, warrant, notice, order or other document, certain offences for which penalty notices may be served under section 51B of the Occupational Health and Safety Act 1983. This Regulation comprises matter of a machinery nature.
