

1996—No. 348

WORKERS COMPENSATION ACT 1987—REGULATION

(Relating to penalty notice offences)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Workers Compensation Act 1987, has been pleased to make the Regulation set forth hereunder.

JEFFREY SHAW, Q.C., M.L.C.
Minister for Industrial Relations.

Commencement

1. This Regulation commences on 1 November 1996.

Amendment of Workers Compensation (General) Regulation 1995

2. The Workers Compensation (General) Regulation 1995 is amended:
 - (a) by inserting after Part 19 the following Part:

PART 19A—PENALTY NOTICE OFFENCES

Penalty notice offences

73A. For the purposes of section 278A of the Act:

- (a) each offence created by a provision of the Act specified in Column 1 of Schedule 5 is declared to be a penalty notice offence; and
- (b) the prescribed penalty for such an offence is the amount specified opposite it in Column 3 of Schedule 5; and
- (c) the following persons are declared to be authorised officers:
 - (i) each officer of the Authority authorised by the Authority for the purposes of section 274 of the Act;

(ii) each inspector appointed under section 31 of the Occupational Health and Safety Act 1983.

Short descriptions

73B. (1) For the purposes of section 145B of the Justices Act 1902, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 5 is:

(a) the expression specified opposite it in Column 2 of that Schedule; or

(b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.

(2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 5, the prescribed expression for the offence is taken to relate to the offence created by the provision as the provision was in force when the offence is alleged to have been committed.

(3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used and any such document continues to have effect as if that expression had not been amended or repealed.

(4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

(b) by inserting after Schedule 4 the following Schedule:

SCHEDULE 5—PENALTY NOTICE OFFENCES

(Cl. 73A, 73B)

Column 1	Column 2	Column 3
Provision	Short description	Penalty \$
Section 43 (2A)	Not comply s 43 (2) (provision of information)	200
Section 90 (5)	Manager mine/quarry contravene s 90 (1) (register of injuries)	200

Section 90 (5)	Occupier factory/workshop/office/shop contravene s 90 (1) (register of injuries)	200
Section 93 (1) (a)	Not forward claim/documents to insurer within 7 days	500
Section 93 (1) (b)	Not provide further information to insurer within 7 days	500
Section 93 (1) (c)	Not pay compensation money as soon as practicable	500
Section 134 (2)	Employe/insurer not supply medical report within 10 days	200
Section 154 (5)	Obstruct/hinder rehabilitation counsellor's inspection	200
Section 161 (3)	Not comply s 161 (1) notice within 21 days/time specified/allowed	200
Section 163 (I)	Not keep register of policies with required particulars	200
Section 163 (3)	Not retain policy/claim records in good order/condition for 7 years	200
Section 174 (1) (a)	Not keep correct wage records	500
Section 174 (1) (b)	Not keep correct livelihood records	500
Section 174 (1) (c)	Not keep correct prescribed records	500
Section 174 (2)	Not retain wage/livelihood/prescribed records in good order/condition for 7 years	500
Section 174 (3)	Not keep wage/livelihood/prescribed records in prescribed manner	500
Section 174 (8)	Not comply s 174 (5) (a) order (information to Authority/insurer)	500
Section 174 (8)	Not comply s 174 (5) (b) order (Authority/insurer inspect records)	500
Section 174 (8)	Not comply s 174 (6A) order (records to Authority/insurer)	500
Section 174 (8)	Obstruct/delay person exercising s 174 (7) power (inspect/copy/extract records)	500
Section 269 (3)	Manager mine/quarry contravene s 269 (post summary of Act)	200

Section 269 (3)	Occupier factory/workshop/office/shop contravene s 269 (post summary of Act)	200
Section 270 (2) (a)	Employer/employer's agent refuse to supply information to worker	200
Section 270 (2) (b)	Employer/employer's agent supply false/misleading information to worker	200

Amendment of Workers Compensation (Workplace Rehabilitation Programs) Regulation 1995

3. The Workers Compensation (Workplace Rehabilitation Programs) Regulation 1995 is amended:

(a) by inserting after Part 3 the following Part:

PART 3A—PENALTY NOTICE OFFENCES

Penalty notice offences

25A. (1) For the purposes of section 278A of the Act:

- (a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence; and
- (b) the prescribed penalty for such an offence is the amount specified opposite it in Column 3 of Schedule 1; and
- (c) the following persons are declared to be authorised officers:
 - (i) each officer of the Authority authorised by the Authority for the purposes of section 274 of the Act;
 - (ii) each inspector appointed under section 31 of the Occupational Health and Safety Act 1983.

(2) In Column 3 of Schedule 1:

“**large employer**” means an employer who employs more than 20 workers;

“**small employer**” means an employer who employs no more than 20 workers.

Short descriptions

25B. (1) For the purposes of section 145B of the Justices Act 1902, the prescribed expression for an offence created by a provision specified in Column 1 of Schedule 1 is:

(a) the expression specified opposite it in Column 2 of that Schedule; or

(b) if a choice of words is indicated in that expression, the words remaining after the omission of the words irrelevant to the offence.

(2) For the purposes of any proceedings for an offence created by a provision specified in Column 1 of Schedule 1, the prescribed expression for the offence is taken to relate to the offence created by the provision as the provision was in force when the offence is alleged to have been committed.

(3) The amendment or repeal of a prescribed expression does not affect the validity of any information, complaint, summons, warrant, notice, order or other document in which the expression is used and any such document continues to have effect as if that expression had not been amended or repealed.

(4) Subclause (3) applies to any information, complaint, summons, warrant, notice, order or other document (whether issued, given or made before or after the amendment or repeal) that relates to an offence alleged to have been committed before the amendment or repeal.

(b) by inserting after clause 26 the following Schedule:

SCHEDULE 1—PENALTY NOTICE OFFENCES

(Cl. 25A, 25B)

Column 1 Provision	Column 2 Short description	Column 3 Penalty \$
Clause 5	Not establish rehabilitation program within required time	50 (small employer) 200 (large employer)
Clause 10	Not display/notify rehabilitation program	20 (small employer) 100 (large employer)

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EXPLANATORY NOTE

The object of this Regulation is:

- (a) to prescribe the offences under the Workers Compensation Act 1987 and the Workers Compensation (Workplace Rehabilitation Programs) Regulation 1995 in respect of which penalty notices ("on-the-spot" fines) may be served; and
- (b) to prescribe the persons who may serve such notices; and
- (C) to prescribe the penalties for each offence if dealt with by way of the penalty notice (rather than by a court).

This Regulation is made under the Workers Compensation Act 1987 and, in particular, under section 278A (Penalty notices) and under section 280 (the general regulation-making power) as extended by section 145B (3) of the Justices Act 1902.
