



New South Wales

Occupational Health and Safety Legislation (Short Descriptions of Offences) Regulation 1996

under the
Justices Act 1902

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Justices Act 1902*.

J W Shaw QC MLC
Attorney General

Explanatory note

The object of this Regulation is to repeal and remake, with minor alterations and some additions, the *Occupational Health and Safety (Short Description of Offences) Regulation 1991*. That Regulation prescribes 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 which may be dealt with by penalty notices under section 51B of the *Occupational Health and Safety Act 1983*.

The Regulation is made under sections 145B (Short description of certain offences) and 154 (the general regulation making power) of the *Justices Act 1902*.

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 Legislation (Short Descriptions of Offences) Regulation 1996

1 Name of Regulation

This Regulation is the *Occupational Health and Safety Legislation (Short Descriptions of Offences) Regulation 1996*.

2 Commencement

This Regulation commences on 20 September 1996.

3 Notes

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

4 Short descriptions

- (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 the expression specified opposite it in Column 2 of that Schedule.
- (2) A reference in Column 1 to the Australian Code is a reference to the Australian Code within the meaning of the *Dangerous Goods Regulation 1978*.
- (3) 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.
- (4) 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.
- (5) 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.

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Clause 4 Occupational Health and Safety Legislation (Short Descriptions of Offences) Regulation 1996

- (6) Subclause (5) 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.

5 Repeal

- (1) The *Occupational Health and Safety (Short Description of Offences) Regulation 1991* 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 Short descriptions of offences

(Clause 4)

Column 1	Column 2
Offence	Prescribed expression
Offence under Occupational Health and Safety Act 1983	
Section 15 (1)	not ensure health/safety/welfare of employees
Section 16 (1)	employer allow risk to health/safety of non-employees
Section 16 (2)	self-employer allow risk to health/safety of non-employees
Section 19 (a)	employee not take care of health/safety of persons at work
Section 19 (b)	employee not co-operate in health/safety/welfare requirements
Section 20	intentionally/recklessly interfere with/misuse thing provided for health/safety/welfare
Section 27 (1)	not notify work-related accident/matter affecting health/safety
Section 31R (5)	fail to comply with improvement notice
Offence under Construction Safety Act 1912	
Section 17 (1)	drive power crane/hoist for building/excavation work/moving people while uncertified
Section 17 (2)	drive power crane/hoist beyond certificate
Section 17 (3) (a)	employ/direct/allow uncertified person to drive power crane/hoist
Section 17 (3) (b)	employ/direct/allow person to drive power crane/hoist beyond certificate

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Schedule 1 Short descriptions of offences

Column 1	Column 2
Offence	Prescribed expression
Section 17 (8)	not comply with exemption conditions under section 17 (1)/(2)/(3)
Section 17A (1)	act as rigger/dogman/scaffolder/crane chaser/diver/powderman/explosive tool user while uncertified
Section 17A (IA)	act beyond certificate as rigger/dogman scaffolder/crane chaser/diver/powderman/explosive tool user
Section 17A (1B) (a)	employ/direct/allow uncertified person to be rigger/dogman/scaffolder/crane chaser/diver/powderman/explosive tool user
Section 17A (1B) (b)	employ/direct/allow rigger/dogman/scaffolder/crane chaser/diver/powdeman/explosive tool user to act beyond certificate
Section 17A (5A)	not comply with exemption conditions under section 17A (1)/(1A)/(1B)
Offence under Construction Safety Regulations 1950	
Regulation 73 (2)	not provide/maintain safe access to work place
Regulation 73 (3)	not provide height safety barrier
Regulation 73 (6)	not provide adequate overhead protection
Regulation 73 (7)	not provide head protective helmet
Regulation 99	contravene Australian Standard for diving
Regulation 122 (5)	subject/direct/allow/permti person to subject crane/lift/conveyor/hoist/scaffolding/plant/gear to overloading/incorrect loading

Column 1	Column 2
Offence	Prescribed expression
Regulation 127 (108)	ride on load/platform/box/lifting medium of crain/hoist without authority
Regulation 127 (108A)	permit unauthorised riding on load/platform/box/lifting medium of crane/hoist without authority
Regulation 159D	not produce certificate/permit on demand by employer/inspection
Offence under Dangerous Goods Act 1975	
Section 9 (1) (a)	Keep dangerous goods in/on unlicensed premises
Offence under Dangerous Goods Regulation 1978	
Clauses 4 (5) and 176 and section 8.2.7.2 of the Australian Code	person offering/consigning/supervising loading/causing/permitting loading not provide correct documents
Clauses 4 (5) and 176 and section 8.2.7.4 of the Australian Code	not carry shipping documents in holder/ not produce shipping documents to Competent Authority/police officer
Clauses 4 (5) and 176 and section 8.3.7.1 (a) of the Australian Code	driver not ensure vehicle marked
Clauses 4 (5) and 176 and section 8.3.7.1 (b) of the Australian Code	driver not ensure marks firmly affixed/ fully visible
Clauses 4 (5) and 176 and section 8.3.7.2 (a) of the Australian Code	person causing/permitting loading not ensure vehicle marked
Clauses 4 (5) and 176 and section 8.3.7.2 (b) of the Australian Code	person causing/permitting loading not ensure marks firmly affixed/fully visible
Clauses 4 (5) and 176 and section 8.3.7.3 (a) of the Australian Code	owner/driver/contractor allow inappropriate/misleading marks on vehicle

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Schedule 1 Short descriptions of offences

Column 1	Column 2
Offence	Prescribed expression
Clauses 4 (5) and 176 and section 8.3.7.3 (b) (i) of the Australian Code	owner/driver/contractor not ensure marks not visible (no dangerous goods)
Clauses 4 (5) and 176 and section 8.3.7.3 (b) (ii) of the Australian Code	owner/driver/contractor not ensure marks not visible (clean containers)
Clauses 4 (5) and 176 and section 8.3.7.5 (a) of the Australian Code	owner/contractor not ensure marks provided on vehicle
Clauses 4 (5) and 176 and section 8.3.7.5 (b) of the Australian Code	owner/contractor not ensure marks legible in good condition
Clauses 4 (5) and 176 and section 8.3.8.2 (a) of the Australian Code	person offering/consigning/supervising loading/causing/permitting loading not provide EPG (container)
Clauses 4 (5) and 176 and section 8.3.8.2 (b) of the Australian Code	person offering/consigning/supervising loading/causing/permitting loading not provide EPG (vehicle)
Clauses 4 (5) and 176 and section 8.3.8.2 (c) of the Australian Code	person offering/consigning/supervising loading/causing/permitting loading not provide EPG (later transport)
Clauses 4 (5) and 176 and section 8.3.8.4 of the Australian Code	not carry EPG in hold/not produce EPG to Competent Authority/police officer
Clause 15B (4)	not carry/produce dangerous goods driver registration card
Clause 85 (2)	use/cause/permit/suffer use of unapproved appliance in explosive gas zone
Offence under Factories, Shops and Industries Act 1962	
Section 27	not securely fence machinery
Section 44A (1)	electrical installation/equipment/apparatus not designed/constructed protected/maintained to avoid shock/fire risk
Section 45 (3)	not maintain fire escape in good condition/free from obstruction

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Short descriptions of offences

Schedule 1

Column 1	Column 2
Offence	Prescribed expression
Offence under Boiler and Pressure Vessel Regulations	
Regulation 28	use/cause/permit/allow the use of uncertified boiler/pressure vessel
Regulation 41	use/cause/permit/allow use of oxyacetylene/electric welding/brazing to repair boiler/pressure vessel
Regulation 80 (a)	work with/use/cause/permit/suffer person to work with/use unsafe boiler/pressure vessel
Regulation 80 (b)	work with/use/cause/permit/suffer person to work with/use unsafe/wrongly adjusted boiler/pressure vessel
Regulation 80A (a)	use/cause/permit/allow use of boiler without supervision
Regulation 80A (b)	use/cause/permit/allow use of boiler without supervisor's details displayed
Regulation 82	cause excessive pressure/tamper with valve/fitting/conceal defects in boiler/pressure vessel
Offence under Engine Drivers and Boiler Attendants Certification Regulations	
Regulation 17 (2)	employ uncertified engine driven boiler attendant