

Act No. 121 of 1990

**OCCUPATIONAL HEALTH AND SAFETY LEGISLATION  
(AMENDMENT) BILL 1990**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Workers Compensation (Amendment) Bill 1990 is cognate with his Bill.

The objects of this Bill are:

- (a) to increase monetary penalties for offences under the Occupational Health and Safety Act 1983, the Construction Safety Act 1912, the Dangerous Goods Act 1975 and the Factories, Shops and Industries Act 1962 that generally relate to health and safety in the work place; and
- (b) to provide for "on-the-spot" or penalty notices to be issued in respect of certain offences under those Acts; and
- (c) to make other miscellaneous changes.

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The amendments to the Acts mentioned above concerning increased monetary penalties for offences under those Acts are explained in the following table.

The expression "penalty unit" used in the Bill has its basis in section 56 of the Interpretation Act 1987. At present, 1 penalty unit is equivalent to \$100. The proposed increased penalties are expressed in the table to this note in equivalent monetary terms.

Other amendments are explained in detail in the explanatory note relating to the amendment concerned in the Bill.

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**TABLE**

**Penalties under Occupational Health and Safety Act 1983**

The maximum monetary penalty for offences under the Occupational Health and Safety Act 1983 are increased as follows:

<i>offence</i>	<i>existing penalty</i>	<i>new penalty</i>
section 15 (employers to ensure health, safety and welfare of their employees)		
section 16 (employers and self-employed persons to ensure health and safety of persons other than employees at places of work)		
section 17 (persons in control of workplaces etc. used by non-employees to ensure health and safety)	\$100,000 (corporations)	\$250,000 (corporations)
section 18 (manufacturers, suppliers etc. to ensure health and safety regards plant and substances for use at work)	\$10,000 (individuals)	\$25,000 (individuals)
section 21 (employer not to charge employees for things done or provided pursuant to statutory requirement)		
section 21A (person not to hinder aid to injured worker etc.)		
section 19 (employees at work to take care of others and to co-operate with employer)	\$2,000	\$2,500
section 20 (person not to interfere with or misuse things provided for health, safety and welfare)		

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section 23 (failure to establish occupational health and safety committees in workplaces)	}	\$10,000	\$15,000 (corporations) \$10,000 (individuals)
section 26 (unlawful dismissal etc. of employees)			
section 27 (failure to notify accidents and other matters)			
section 52 (wilfully hindering or obstructing any person in exercising a power conferred by or under the Act)			
section 25 (not providing as required by the regulations appropriate training to a member of an occupational health and safety committee)		\$4,000	\$5,000
section 26 (4) (daily penalty for failing to give effect to a court order to reimburse salary or wages to, or to reinstate, an unlawfully dismissed employee)		\$200	\$500
section 45 (offences against the regulations)		\$4,000	\$10,000

**Penalties under the Construction Safety Act 1912**

The maximum monetary penalties for offences under the Construction Safety Act 1912 are increased as follows:

<i>offence</i>	<i>existing penalty</i>	<i>new penalty</i>
section 16 (obstruction of inspectors)	\$4,000	\$5,000
section 17B (failure to deliver certificate of competency for endorsement or cancellation)	\$1,000	\$1,500
section 21 (general penalty provision)	\$10,000	\$25,000 (Corporations) \$10,000 (individuals)

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section 22 (offences against the regulations)      \$4,000      \$10,000

Section 21 of the Construction Safety Act 1912 is also amended to provide for penalties exceeding \$10,000 for offences under that Act to be recoverable in the Supreme Court in its summary jurisdiction.

### **Penalties under Dangerous Goods Act 1975**

The maximum monetary penalties for offences under the Dangerous Goods Act 1975 are increased as follows:

<i>offence</i>	<i>existing penalty</i>	<i>new penalty</i>
section 9 (keeping of dangerous goods)	\$10,000 (corporations) \$2,000 (individuals) \$2,000 (daily penalty)	\$25,000 (corporations) \$5,000 (individuals) \$5,000 (daily penalty)
section 11 (offence of unlicensed conveyance)	} \$10,000 (Corporations) \$2,000 (individuals)	} \$25,000 (corporations) \$5,000 (individuals)
section 12 (conveying of dangerous goods)		
section 13 (offence of sale of dangerous goods in a public place)		
section 14 (negligent or careless use of dangerous goods)	\$2,000	\$5,000
section 20 (unlicensed manufacture of explosives)	\$10,000 (corporations) \$2,000 (individuals) \$2,000 (daily penalty)	\$25,000 (corporations) \$5,000 (individuals) \$5,000 (daily penalty)
section 24 (supply of explosives to minors)	\$400	\$1,000
section 26 (unauthorised possession of explosives)	\$10,000 (corporations) \$2,000 (individuals)	\$25,000 (corporations) \$5,000 (individuals)

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section 32 (obstruction of inspectors etc.)	\$2,000	\$5,000
section 41 (offences against the regulations)	\$4,000 \$200 (daily penalty)	\$10,000 \$500 (daily penalty)

Section 33 of the Dangerous Goods Act 1975 is amended to provide for penalties exceeding \$10,000 for offences under that Act to be recoverable in the Supreme Court in its summary jurisdiction.

**Penalties under Factories, Shops and Industries Act 1962**

The maximum monetary penalties for offences under the Factories, Shops and Industries Act 1962 are increased as follows:

offence	existing penalty	new penalty
section 7 (assaulting inspectors etc.)	\$4,000	\$10,000
section 45 (means of escape from and extinguishing fires)	\$10,000	\$25,000 (corporations) \$10,000 (individuals)
	\$100 (daily penalty)	\$250 (daily penalty)
section 100 (obstruction of inspectors etc.)	\$400	\$5,000
section 144 (breach of regulations)	\$4,000 (in the case of regulations under Part 3) \$1,000 (in other cases)	\$10,000 (in the case of regulations under Part 3) \$2,500 (in other cases)

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section 147 (general penalty)	\$10,000 (if offence against any of the provisions of Part 3)	\$25,000 (corporations - if offence against any of the provisions of Part 3) \$10,000 (individuals - if against any of the provisions of Part 3)
	\$1,000 (in other cases)	\$2,500 (in other cases)

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