

Reprint
as at 1 December 2017



Health and Safety at Work (Infringement Offences and Fees) Regulations 2016

(LI 2016/30)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 22nd day of February 2016

Present:

The Right Hon John Key presiding in Council

These regulations are made under sections 211 and 218 of the Health and Safety at Work Act 2015—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Workplace Relations and Safety after consulting persons and organisations in accordance with section 217(1) of that Act.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Business, Innovation, and Employment.

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Regulations

1 Title

These regulations are the Health and Safety at Work (Infringement Offences and Fees) Regulations 2016.

2 Commencement

These regulations come into force on 4 April 2016.

3 Interpretation

(1) In these regulations,—

Act means the Health and Safety at Work Act 2015

entity means a person that is not an individual.

(2) The descriptions given in the second column of Schedule 1 are intended only as an indication of the provisions they describe and are not intended to be used in the interpretation of the provisions.

4 Infringement offences and fees

(1) A breach of a provision specified in the first column of Schedule 1 is an infringement offence.

(2) The infringement fee for an offence referred to in subclause (1) is the infringement fee specified,—

(a) in the case of an individual, in the third column of Schedule 1:

(b) in the case of an entity, in the fourth column of Schedule 1.

5 Infringement notices

Every infringement notice in respect of an infringement offence against a provision specified in the first column of Schedule 1 must be in the form set out in Schedule 2.

**Schedule 1
Infringement offences and fees**

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Health and Safety at Work Act 2015

Section	Description of offence	Fee (\$)	
		Individual	Entity
27(1)	Imposing a levy or charge on a worker in relation to health and safety	1,000	6,000
57(1)	Failing to keep record of notifiable event	300	1,500
76(1)	Failing to display provisional improvement notice	1,000	6,000
117(1)	Failing to display improvement, prohibition, or non-disturbance notice	1,000	6,000
Schedule 2, clause 10(2)	Failing to adopt, or to explain why not adopting, health and safety representative's recommendation	1,000	6,000
Schedule 2, clause 21(2)	Failing to adopt, or to explain why not adopting, health and safety committee's recommendation	1,000	6,000

Health and Safety at Work (Asbestos) Regulations 2016

Regulation	Description of offence	Fee (\$)	
		Individual	Entity
11(2)	Failing to have sample analysed by accredited laboratory	1,000	6,000
13(5)	Failing to make copy of asbestos management plan readily accessible	1,000	6,000
14(1)	Failing to review and revise asbestos management plan	1,000	6,000
17(3)	Failing to keep record of training of worker in identification and safe handling of asbestos	300	1,500
17(4)	Failing to keep record of asbestos training available for inspection	300	1,500
18(1)	Using high-pressure water spray or compressed air on asbestos or ACM	2,000	9,000
18(3)	Uncontrolled use of equipment on asbestos or ACM	2,000	9,000
20(5)	Failing to inform if asbestos or ACM is fixed to or installed in structure or plant that is to be refurbished or demolished	1,000	6,000
23(3)	Failing to notify WorkSafe before commencing emergency demolition of structure or plant with asbestos	1,000	6,000
24(3)	Failing to notify WorkSafe before commencing emergency demolition of structure or plant at home with asbestos	1,000	6,000
30(1)	Licensed asbestos removalist failing to keep training record of workers	300	1,500
30(2)	Licensed asbestos removalist failing to make training record readily accessible	300	1,500
32(3)	Licensed asbestos removalist failing to give copy of asbestos removal control plan to person commissioning licensed asbestos removal work	1,000	6,000

Regulation	Description of offence	Fee (\$)	
		Individual	Entity
33(1)	Licensed asbestos removalist failing to keep copy of asbestos removal control plan for 2 years after work is completed	300	1,500
33(2)	Licensed asbestos removalist failing to keep asbestos removal control plan for 5 years if notifiable incident occurs	300	1,500
33(3)	Licensed asbestos removalist failing to keep asbestos removal control plan readily accessible and available for inspection	300	1,500
34(1)	Failing to give written notice at least 5 days before commencing licensed asbestos removal work	1,000	6,000
34(3)	Failing to give notice by telephone and in writing if asbestos must be removed immediately	1,000	6,000
51(3)	Failing to make information about exposure to asbestos fibres readily accessible	1,000	6,000
72(1)	Failing to keep licence document available for inspection	300	1,500
73(1)	Failing to give written notice to WorkSafe of change in information relating to asbestos removal licence or asbestos assessor licence	300	1,500
74(1)	Failing to notify WorkSafe of change in nominated supervisor	300	1,500
79(2)	Failing to return asbestos removal licence or asbestos assessor licence	300	1,500
80(1)	Failing to notify WorkSafe of loss, theft, or destruction of asbestos removal licence or asbestos assessor licence	300	1,500
91(1)	Failing to return licence when requested	300	1,500

Health and Safety at Work (General Risk and Workplace Management) Regulations 2016

Regulation	Description of offence	Fee (\$)	
		Individual	Entity
18(2)	Worker failing to wear or use personal protective equipment	500	–
20(1)	Person (other than worker) failing to wear or use personal protective equipment	500	–
32(2)	Failing to record and keep results of exposure monitoring	300	1,500
36(1)	Failing to pay all expenses relating to health monitoring of a worker	1,000	6,000
37(1)	Failing to provide information to occupational health practitioner	1,000	6,000
41(1)	Failing to provide health monitoring report to regulator	1,000	6,000
42(1)	Failing to keep health monitoring records	300	1,500

Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations 2016

Regulation	Description of offence	Fee (\$)	
		Individual	Entity
20(1)	Failing to have an up-to-date list of health and safety representatives readily accessible to workers	300	1,500

Health and Safety at Work (Hazardous Substances) Regulations 2017

Regulation	Description of offence	Fee (\$)	
		Individual	Entity
2.4(1)	Failing to label stationary tank or process container	1,000	6,000
2.4(2)	Failing to make information available near tank wagon or transportable container	1,000	6,000
2.5(2)	Failing to display hazardous substance signage	300	1,500
2.11(3)	Failing to ensure safety data sheet is readily accessible to workers and emergency service workers	300	1,500
3.1(1)	Failing to keep and maintain inventory of hazardous substances at workplace	300	1,500
4.5(5)	Failing to keep record of training and instruction	300	1,500
5.12(4)	Failing to make record of emergency response plan test	300	1,500
5.12(5)	Failing to keep record of emergency response plan test for 2 years	300	1,500
9.3(1)	Failing to ensure class 1 substance is under control of certified handler	1,000	6,000
9.5(1)	Possessing specified class 1 substance without controlled substance licence	500	–
9.6(1)	Possessing smokeless powder or certain other propellants without firearms licence, firearms dealer's licence, or controlled substance licence	500	–
9.35(6)(a)	Failing to notify WorkSafe of incident at outdoor pyrotechnic display	1,000	6,000
9.35(6)(b)	Failing to maintain record of incident at outdoor pyrotechnic display	300	1,500
11.43(2)	Failing to verify hazardous substance location has current compliance certificate or valid compliance plaque before delivering LPG, propane, butane, or isobutane to location	1,000	6,000
13.3(1)	Failing to keep record of application of specified class 6 or 8 substance in specified place	300	1,500
13.3(2)	Failing to keep record of application of specified insecticide in specified place	300	1,500
13.5(1)	Failing to provide WorkSafe with specified information if sodium fluoroacetate is present in workplace	1,000	6,000
13.9(1)	Failing to ensure that specified class 6 substance is under control of certified handler or secured from access	1,000	6,000
13.12(2)	Possessing specified class 6 substance without controlled substance licence	500	–
13.13(3)	Failing to ensure that no person purchases or acquires specified class 6 substance from PCBU without controlled substance licence	1,000	6,000
13.19(2)	Failing to erect signage when vertebrate toxic agent used outdoors	1,000	6,000
13.19(6)	Failing to ensure signage remains in place for specified period	1,000	6,000
13.25(2)	Failing to erect signage when specified pesticides used indoors	1,000	6,000
13.25(4)	Failing to remove signage within specified period	1,000	6,000
14.6(1)	Possessing fumigant without controlled substance licence	500	–
14.7(1)	Failing to give notice of intended fumigation	1,000	6,000

Regulation	Description of offence	Fee (\$)	
		Individual	Entity
14.7(2)	Failing to give notice of intended fumigation	1,000	6,000
14.10	Failing to erect signs for fumigation	1,000	6,000
14.18	Failing to keep record of application of fumigant	300	1,500
15.44(1)	Tampering with markings on cylinder, cylinder fitting, or fire extinguisher	1,000	6,000
15.56(1)	Failing to ensure cylinder not charged unless it has passed specified inspections and tests	1,000	6,000
15.57(1)(a)	Failing to keep cylinder testing records	300	1,500
15.65	Carrying out duty of approved filler without holding approved filler certificate	500	–
16.5	Failing to ensure markings attached to tank or tank sub-frame	1,000	6,000
16.39(2)	Worker filling tank or tank compartment beyond maximum filling level	500	–
16.40(1)	Worker failing to observe requirements for transfer of liquid or gas to or from tank wagon	500	–
16.41(1)	Worker failing to observe requirements for leaving tank wagon unattended	500	–
17.76(1)	Failing to ensure markings attached to stationary tank	1,000	6,000
17.78(2)	Failing to ensure markings on pipework connected to above ground stationary tank	1,000	6,000
18.6(1)	Failing to keep record of specified hazardous substances	300	1,500
18.6(2)	Failing to keep record of specified hazardous substances for 12 months	300	1,500
18.7(1)	Failing to provide WorkSafe with prescribed information where sodium fluoroacetate present in laboratory	1,000	6,000
18.9(3)	Failing to ensure sodium fluoroacetate is secured	1,000	6,000
19.4(1)	Failing to record location and movement of tracked substance	300	1,500
19.4(2)	Failing to ensure record includes specified information	300	1,500

Schedule 1: amended, on 1 December 2017, by regulation 4 of the Health and Safety at Work (Infringement Offences and Fees) Amendment Regulations 2017 (LI 2017/132).

Schedule 2 Form of infringement notice

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Infringement notice

Section 138, Health and Safety at Work Act 2015

Infringement Notice No:

Issuing officer: [*name or number*]

Address for correspondence and queries:

To

Full legal name:

Full address:

Date of birth:

Sex:

Occupation:

Telephone No:

Alleged infringement offence(s) details

Date:

Time:

Day of week:

Details of premises or specific location where alleged infringement offence(s) committed:

Street/road:

Town/city:

Act or omission that you are alleged to have committed:

This is an offence against [*specify provision*].

For each offence, specify the following:

Offence number	Offence	Infringement fee payable (\$)
1		
2		
3		

Payment of infringement fee(s)

The infringement fee is/fees are* payable within 28 days after [*specify earliest day notice delivered personally or posted*].

*Select one.

Procedures for payment of infringement fee

[*Payment verification stamp*]

[*Method(s) of payment and address for payment*]

Information

If there is anything in these notes you do not understand, you should consult a lawyer.

Payment

- 1 If you pay the infringement fee(s) within 28 days after the service of this notice, no further enforcement action will be taken against you.

Defence

- 2 You will have a complete defence against proceedings relating to an alleged offence if the infringement fee is paid to the enforcement authority and received at the address specified for payment within 28 days after the service of a reminder notice in respect of the alleged offence.
- 3 Late payment, or payment made to any other address, will not constitute a defence to proceedings in respect of the alleged offence.

Further action

- 4 You must write to the enforcement authority at the address specified for correspondence and queries if you wish to do any of the following things:
 - (a) raise a matter concerning the circumstances of an alleged offence for consideration by the enforcement authority;
 - (b) deny liability for the alleged offence and exercise your right to request a court hearing;
 - (c) admit liability for the offence, but have the court consider submissions as to penalty or otherwise. In your letter, you must request a hearing, admit liability in respect of the offence, and set out the submissions that you would like the court to consider.

You must ensure that your request is received on or before the last day for payment.

- 5 If you deny liability and request a court hearing, the enforcement authority will, if it decides to commence court proceedings in respect of the alleged offence, serve you with a notice of hearing setting out the place and time at which the matter will be heard by the court.

- 6 If you admit liability but wish to have the court consider submissions, the enforcement authority will then, if it decides to commence court proceedings in respect of the offence, file your letter with the court. You are not entitled to make oral submissions to the court.
- 7 If the court finds you guilty or if you admit liability and make submissions, costs will be imposed in addition to any penalty.
- 8 Each offence identified by a number is a separate infringement offence. You may decide what to do in respect of each alleged offence individually, and may act in the same way in respect of all alleged offences or in different ways in respect of different alleged offences.
- 9 If it is not clear which alleged offence any payment relates to, your payment may be treated as relating to the alleged offences in the order in which they are set out in this notice.

Next steps

- 10 If you do not request a hearing and you do not pay the infringement fee within 28 days after the service of this notice, a reminder notice will be sent to you. Please note that in some circumstances if you do not receive a reminder notice you may still become liable to pay a fine and court costs.

Note: All payments, queries, and correspondence regarding this infringement notice must be directed to the enforcement authority at the relevant address shown in this notice. When writing, please include the date of the alleged infringement offence, the number of this form (shown above), the full legal name of the notice recipient, and your address for replies.

Michael Webster,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Health and Safety at Work (Infringement Offences and Fees) Regulations 2016 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Health and Safety at Work (Infringement Offences and Fees) Amendment Regulations 2017 (LI 2017/132)