

Levels of Fines & Penalties

One of the changes to the Legislation that has had quite a bit of time in the press is the increase in fines and penalties for non-compliance. Because these fines have increased significantly, and because there is now personal liability on Officers, these scary newsworthy headlines are making people sit up and take notice.

Here is what you need to know...

WorkSafe NZ Inspectors can call on your place of business at any time. They aren't there to 'catch you out', in most cases they are hoping to give you the big tick and move on.

But, if they do find an inspection pulls up a few areas of concern, Inspectors have the power to issue:

- Improvement Notices – this is for minor issues, you can carry on working and WorkSafe gives you a period of time to fix the problem and report back.
- Prohibition Notices – if it's serious, you need to down-tools, stop work and you won't be able to start again until you have fixed the problem and been given the go-ahead.
- Non-Disturbance Notices – often in the case of an accident, WorkSafe can 'freeze' a worksite for a specified time while an investigation is carried out.
- Infringement Notices – these are instant fines for breaching obligations
- Enforceable Undertakings –where you commit to addressing an issue and then fail to do so – which will then result in an instant fine.

The Act now also provides for three levels of offences in relation to breaching the duties of the Act.

It is important to note that no insurance policy will cover the fine.

| | | | Max. Prison Term | Max. Fine |
|--|---|--|------------------|-------------|
| Offence of reckless conduct in respect of a health and safety duty (clause 42) | A person who has a health and safety duty, without reasonable excuse, engages in conduct that exposes a person to a risk of death or serious injury or illness, and the person is reckless as to the risk | Individual (e.g. a worker or a self-employed PCBU) | 5 years and/or | \$300,000 |
| | | Officer of a PCBU | 5 years and/or | \$600,000 |
| | | Body Corporate (e.g. a company) | - | \$3 million |
| Offence of failing to comply with a health and safety duty that | A person who has a health and safety duty fails to comply with the duty and | Individual (e.g. a worker or a self-employed PCBU) | - | \$150,000 |



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| exposes individual to risk of death or serious injury or illness (clause 43) | that failure exposes a person to risk of death or serious injury or illness | Officer of a PCBU | - | \$300,000 |
| | | Body Corporate (e.g. a company) | - | \$1.5 million |
| Offence of failing to comply with a health and safety duty (clause 44) | A person that has a health and safety duty fails to comply with that duty | Individual (e.g. a worker or a self-employed PCBU) | - | \$50,000 |
| | | Officer of a PCBU | - | \$100,000 |
| | | Body Corporate (e.g. a company) | - | \$500,000 |

