

POLICY NUMBER: POL-144

Chapter:
WORKPLACE SAFETY AND PREVENTION

Subject:
OFFENCES AND PENALTIES

Effective Date:
January 26, 2010

Last Update:
March 1, 2016

REFERENCE:

Occupational Health and Safety Act R.S.P.E.I.1988, Cap.O-1.01, Sections 43, 44(1), 44(2).

DEFINITION:

In this policy:

“Officer” means an occupational health and safety officer appointed pursuant to the Occupational Health and Safety Act and includes the Director of Occupational Health and Safety.

“Order” means an oral or written directive which is issued by an Occupational Health and Safety Officer, who has determined that a workplace is in contravention of the *Occupational Health and Safety Act*, and Regulations.

POLICY:

1. A person who violates or contravenes a provision of the *Occupational Health and Safety Act*, the regulations, or an order or requirement of an Officer is guilty of an offence and is liable on summary conviction to a fine of not more than \$250,000 or to imprisonment
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for one month, or to both. In addition, the court may impose a fine not exceeding \$5,000 for each day the offence continues.

Where it is a corporation, any officer, director, manager, or agent of the corporation who directed, authorized, assented to, acquiesced or participated in the contravention or violation is guilty of an offence and is liable on summary conviction to the penalties set out above.

2. Where a person is convicted of an offence under the *Occupational Health and Safety Act* or regulations, in addition to any other penalty that may be imposed by a court under the *Occupational Health and Safety Act* or regulations, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order:
 - a) directing the offender to publish the facts relating to the offence;
 - b) directing the offender to pay to the Workers Compensation Board an amount to be used by the Workers Compensation Board for public education;
 - c) directing the offender to submit to the Director of Occupational Health and Safety such information respecting the activities of the offender as the court considers appropriate;
 - d) directing the offender to perform community service, on the terms and conditions stated in the order;
 - e) directing payment by the offender of such security for the performance of the order as the court considers appropriate; and
 - f) imposing such other conditions on the offender as the court considers appropriate.

The total of money payable by the offender under this section shall not exceed the maximum amount payable as outlined in #1.

3. In cases where the court has directed the offender to pay the Workers Compensation Board an amount to be used by the Workers Compensation Board for public education, the educational program must be based on the following:
 - safe conduct of the activity related to the offence that was committed; and
 - principles of responsibility for safe working conditions provided for in the *Occupational Health and Safety Act*.

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4. The Workers Compensation Board will ensure that, where possible, an opportunity to participate in the educational program development process will be offered to representatives from the industry sector that will be directly impacted by the educational program.
 5. Where the offender fails to comply with a court order made under section 2(a), the Director of Occupational Health and Safety may publish the facts in accordance with the court order.
 6. The following amounts constitute debts owing by the offender to the Workers Compensation Board and may be recovered in the Supreme Court:
 - (a) an amount payable by the offender under section 2(b); and
 - (b) the costs of publication by the Director of Occupational Health and Safety related to publishing the facts in accordance with the court order.
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HISTORY:

March 1, 2016 - Policy reviewed by Acting Director and Acting Chief Executive Officer. No changes required.

Board of Directors Approval Date: January 26, 2010.