



Health and Safety in Employment (Prescribed Matters) Regulations 2003

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 5th day of May 2003

Present:

Her Excellency the Governor-General presiding in Council

Pursuant to section 21 of the Health and Safety in Employment Act 1992, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

1	Title	8	Notification of interest in knowing of enforcement action
2	Commencement	9	Infringement notice
3	Interpretation	10	Reminder notice
4	Register of accidents in prescribed form	11	Revocation
5	Manner of notification of accident or serious harm		
6	Qualifications for appointment as health and safety inspector		
7	Hazard notice		
			<hr/> Schedule Forms

Regulations

1 Title

These regulations are the Health and Safety in Employment (Prescribed Matters) Regulations 2003.

2 Commencement

These regulations come into force on the day after the date of their notification in the *Gazette*.

3 Interpretation

In these regulations, unless the context otherwise requires, **Act** means the Health and Safety in Employment Act 1992.

4 Register of accidents in prescribed form

- (1) This regulation prescribes a register for the purposes of section 25(1), (1A), and (1B) of the Act (which relates to the maintenance of a register of accidents and serious harm).
- (2) The register must record, in respect of every occurrence of an accident or serious harm, the following matters (so far as they are relevant and known to, or ascertainable by, the employer, self-employed person, or principal concerned):
 - (a) the place of work concerned (including a reference to every relevant shop, shed, floor, building, street number, street, locality, suburb, and postal address or, where applicable, a reference to the identification of a vehicle, ship, or aircraft); and
 - (b) the time and day of the occurrence and, if it was during a shift, the shift; and
 - (c) the nature of the occurrence; and
 - (d) the cause of the occurrence; and
 - (e) any investigation carried out; and
 - (f) any significant hazard involved; and
 - (g) in the case only of the occurrence of injury to any person,—
 - (i) the person's name, residential address, date of birth, and sex; and
 - (ii) whether the person was an employee, self-employed person, or some other person; and
 - (iii) if the person was—

- (A) an employee, the person's occupation or job title, and length of employment by the employer, and the time between the person's arrival at work and the occurrence of the harm; or
 - (B) a self-employed person, the person's occupation or job title, and the time between the person's arrival at the place of work concerned and the occurrence of the harm; and
 - (iv) the treatment the person was given (whether at the place of work or elsewhere); and
 - (v) the part or parts of the person's body harmed; and
 - (vi) the nature of the harm; and
 - (h) the name and position of the person recording the details.
- (3) It is sufficient compliance with subclause (2) if a register is in such a form that each page (other than an attached sheet containing all or part of a description of where and how an accident or serious harm occurred) is in form 1 of the Schedule.

5 Manner of notification of accident or serious harm

- (1) A person who is required under section 25(3)(b) of the Act to notify the Secretary in writing of the circumstances of the occurrence of an accident or serious harm must do so in accordance with this regulation.
- (2) The person must notify the circumstances of the occurrence by—
- (a) completing a copy of form 1 of the Schedule or completing a document containing the same information as set out in form 1 of the Schedule; and
 - (b) sending the form or document,—
 - (i) if the occurrence occurred on, or in relation to, a ship at sea, to the Director of the Maritime Safety Authority; or
 - (ii) if an agency has been designated under section 28B of the Act to administer the Act for a particular industry, sector, or type of work, and the occurrence occurred in, or in relation to, that industry, sector, or type of work, to the chief executive of that agency; or

- (iii) in every other case, to the Secretary.
- (3) Subclause (2)(b)(i) applies only until a designation is made under section 28B of the Act in regard to the maritime industry.

6 Qualifications for appointment as health and safety inspector

- (1) For the purposes of section 29(1) of the Act (which relates to the appointment of health and safety inspectors), there are prescribed,—
 - (a) subject to subclauses (2) and (3), examinations, each of which is either approved by the Secretary for the purpose or recognised by the Secretary as equivalent to (or of a higher standard than) examinations so approved, in the following areas of knowledge:
 - (i) principles of health and safety management systems:
 - (ii) elementary principles of occupational health, including (but not limited to) anatomy, chemistry, epidemiology, ergonomics, first aid, hygiene, microbiology, physics, and physiology:
 - (iii) principles of prevention of occupational illness:
 - (iv) safe use and storage of chemicals:
 - (v) use and maintenance of personal protective clothing and equipment, including (but not limited to) equipment intended to protect hearing and equipment intended to enable safe respiration:
 - (vi) audit, inspection, and investigation, for the purpose of ascertaining the extent of compliance with legislation:
 - (vii) enforcement of legislation.
 - (b) experience of any of the following kinds:
 - (i) as an inspector, or the Chief Inspector, appointed under section 41 of the Petroleum Act 1937:
 - (ii) as an inspector appointed under the Bush Workers Act 1945:
 - (iii) as an inspector of machinery appointed under the Machinery Act 1950:
 - (iv) as an engineer surveyor appointed under the Boilers, Lifts, and Cranes Act 1950:

- (v) as a health protection officer within the meaning of section 2(1) of the Health Act 1956:
 - (vi) as a construction safety inspector appointed under the Construction Act 1959:
 - (vii) as an inspector appointed under the Geothermal Energy Regulations 1961:
 - (viii) as an inspector of mines appointed under section 10 of the Mining Act 1971:
 - (ix) as an electrical inspector of mines appointed under section 11(1) of the Mining Act 1971:
 - (x) as an inspector appointed under section 5 of the Agricultural Workers Act 1977:
 - (xi) as an inspector of coal mines appointed under section 8 of the Coal Mines Act 1979:
 - (xii) as an electrical inspector of coal mines appointed under section 9(1) of the Coal Mines Act 1979:
 - (xiii) as a mechanical engineering inspector of coal mines appointed under section 10(1) of the Coal Mines Act 1979:
 - (xiv) as an inspector of factories appointed under section 4(1) of the Factories and Commercial Premises Act 1981:
 - (xv) as an inspector appointed under the Quarries and Tunnels Act 1982.
- (2) Examinations in any 2 or more (or all) of the areas of knowledge specified in subclause (1)(a) may be combined into a single examination.
- (3) So long as a person has passed examinations in all of the areas of knowledge specified in subclause (1)(a), it is immaterial if all have been approved by the Secretary, all have been recognised by the Secretary, or some have been approved and some have been recognised.

7 Hazard notice

The prescribed form for the purposes of section 46A of the Act (which relates to the issuing of hazard notices by trained health and safety representatives) is form 2 of the Schedule.

8 Notification of interest in knowing of enforcement action

- (1) A notice given for the purposes of section 54(1) of the Act must be given in accordance with this regulation.
- (2) The notice must be in writing and contain the following details:
 - (a) the interested person's name, postal address, and, where available, telephone number, fax number, and email address; and
 - (b) a sufficient description of the details of the matter in which the person is interested to enable the Secretary to identify the matter, including (so far as they are known by the person)—
 - (i) the address or location of the place of work where the matter occurred or is occurring; and
 - (ii) when the matter occurred; and
 - (iii) details about the incident, situation, or set of circumstances that constituted or constitute the matter.
- (3) For the purposes of subclause (2)(b)(ii), one of the following descriptions is required:
 - (a) if the matter arose from a single incident, the date and time of the matter; or
 - (b) if the matter is a repeated matter, the dates and times for each occurrence of the matter; or
 - (c) if the matter is a continuing matter, the date and time when the matter commenced and, if the matter has ceased, the date and time when the matter ceased.
- (4) The notice must be sent,—
 - (a) if the matter occurred on, or in relation to, a ship at sea and a designation under section 28B of the Act in regard to the maritime industry has not been made, to the Director of the Maritime Safety Authority; or
 - (b) if an agency has been designated under section 28B of the Act to administer the Act for a particular industry, sector, or type of work, and the matter arose in, or in relation to, that industry, sector, or type of work, to the chief executive of that agency; or
 - (c) in every other case, to the Secretary.

9 Infringement notice

The prescribed form for the purposes of section 56E(4) of the Act (which relates to the details to be contained in an infringement notice) is form 3 of the Schedule.

10 Reminder notice

The prescribed form for the purposes of section 56E(5)(a) of the Act (which relates to the details to be contained in a reminder notice to an infringement notice) is form 4 of the Schedule.

11 Revocation

The Health and Safety in Employment (Prescribed Matters) Regulations 1993 (SR 1993/70) are revoked.

**Schedule
Forms**

rr 4, 5, 7, 9, 10

Form 1

rr 4, 5

**Form of page of register of accidents and serious harm; and
Form for notification of circumstances of accident or serious harm**

*Required by section 25(1), (1A), (1B), and (3)(b) of the Health and Safety in
Employment Act 1992*

For non-injury accident, complete questions 1, 2, 3, 9, 10, 11, 14, and 15 as applicable.

1 Particulars of employer, self-employed person, or principal: (business name, postal address, and telephone number)

2 The person reporting is:

- an employer a principal
 a self-employed person

3 Location of place of work:

--

(Shop, Shed, Unit Nos, Floor, Building, Street Nos, and Names, Locality/Suburb, or details of vehicle, ship, or aircraft)

4 Personal data of injured person:

Name	
Residential address	

Date of Birth		Sex (M/F)	
---------------	--	-----------	--

5 Occupation or job title of injured person:
(employees and self-employed persons only)

--

6 The injured person is:

- an employee a contractor (self-employed person)
 self
 other

7 Period of employment of injured person:
(employees only)

- 1st week 1st month 1-6 months
 6 mths-1 year 1-5 years Over 5 years
 non-employee

8 Treatment of injury:

- None First aid only Doctor but no hospitalisation
 Hospitalisation

9 Time and date of accident / serious harm:

Time am/pm
Date

Shift Day Afternoon Night

Hours worked since arrival at work (employees and self-employed persons only)

10 Mechanism of accident / serious harm:

- fall, trip, or slip hitting objects with part of the body
 sound or pressure
 body stressing being hit by moving objects
 biological factors heat, radiation, or energy
 mental stress chemicals or other substances

11 Agency of accident / serious harm:

- machinery or (mainly) fixed plant
 mobile plant or transport
 powered equipment, tool, or appliance
 non-powered handtool, appliance, or equipment
 chemical or chemical product
 material or substance
 environmental exposure (eg, dust or gas)
 animal, human, or biological agency (other than bacteria or virus)
 bacteria or virus

12 Body part:

- head neck trunk
 upper limb lower limb multiple locations
 systemic internal organs

13 Nature of injury or harm: fatal (specify all)

- fracture of spine
- other fracture
- dislocation
- sprain or strain
- head injury
- internal injury of trunk
- amputation, incl eye
- open wound
- superficial injury
- bruising or crushing
- foreign body
- burns
- nerves or spinal cord
- puncture wound
- poisoning or toxic effects
- multiple injuries
- damage to artificial aid
- disease, nervous system
- disease, musculoskeletal system
- disease, skin
- disease, digestive system
- disease, infectious or parasitic
- disease, respiratory system
- disease, circulatory system
- tumour (malignant or benign)
- mental disorder

14 Where and how did the accident / serious harm happen? (if not enough room, attach separate sheet or sheets)

15 If notification is from an employer:

- (a) has an investigation been carried out? yes/no
- (b) was a significant hazard involved? yes/no

Signature and date

Name and position (capitals)

Form 2
Hazard notice

r 7

Given under section 46A of the Health and Safety in Employment Act 1992
To [name of employer or representative of employer]

I believe that there is a hazard in our place of work at [physical address or describe location of place of work].

This hazard is [describe hazard].

I suggest the steps that should be taken to deal with this hazard are: [state details – it is optional whether to provide this information].

I confirm that: [all these statements must apply before a hazard notice may be issued]

- I believe on reasonable grounds that there is a hazard in our place of work; and
- I have brought the hazard to your attention; and
- I have discussed or attempted to discuss with you steps for dealing with the hazard.

and

[One of the following statements must apply – delete statements that do not apply.]

You refuse to discuss the hazard.

or

You refuse to take steps to deal with the hazard.

or

You and I do not agree on the steps that must be taken to deal with the hazard.

or

You and I do not agree on the time within which the steps must be taken to deal with the hazard.

or

I believe on reasonable grounds that you have failed to meet the requirements of section 6 of the Health and Safety in Employment Act 1992 in relation to the hazard within a time agreed during the discussion with me.

Signed:

Trained health and safety representative

Form 2—continued

Name:

Date:

Notes for health and safety representative

- 1 You may issue a hazard notice only if you are a trained health and safety representative under the Health and Safety in Employment Act 1992. To be a trained health and safety representative, you must have—
 - achieved a level of competence in health and safety practice specified by the Minister by notice in the *Gazette*; or
 - completed an appropriate course of training that has been approved under section 19G of the Health and Safety in Employment Act 1992.
- 2 You may (but do not have to) notify a health and safety inspector that you have issued this notice. If you do, you should ensure you provide your name and contact details to the inspector.

Notes for employer

- 3 This hazard notice sets out a description of a hazard that a trained health and safety representative believes exists in your place of work.
- 4 There is no penalty attached to this notice. However, it serves as a prior warning if an infringement notice is issued by an inspector under section 56B of the Health and Safety in Employment Act 1992.

Form 3 Infringement notice

r 9

Issued under section 56B of the Health and Safety in Employment Act 1992

To: *[name and postal address
of defendant]*

Enforcement authority: *[name
and postal address of authority]*

Date of issue:

Infringement notice number:

Client number:

Date of birth: *[if a natural person]*

This infringement notice is issued by *[name of inspector]*, being a health and safety inspector appointed under section 29(1) of the Health and Safety in Employment Act 1992.

This notice is issued in relation to an alleged infringement offence

For a breach of: *[state provision of the Act or regulations that has allegedly been breached]*

In that you: *[describe nature of alleged breach]*

This alleged infringement offence took place at:

Location: *[details of location]*

Date: *[date of alleged offence]*

Time: *[time of alleged offence]*

Prior warning:

You have received prior warning for the same or a similar matter, being: *[eg, details of hazard or prohibition notice]*.

The infringement fee payable on this notice is: *[state amount as a multiple of \$100]*.

The due date for payment is *[date]*.

Infringement fees may be paid *[insert details of where to pay and method of payment]*.

Note: Payment must be made in full. Part payment will not be accepted.

IMPORTANT: Please read the summary of rights printed on the following pages.

REMITTANCE ADVICE

The remittance advice must accompany all payments.

Name and address: *[name and address of defendant]*

Infringement notice number:

Client number:

Due date:

Infringement fee payable:
[amount]

Form 3—*continued***Summary of rights***Payments*

- 1 If you pay the infringement fee for the alleged infringement offence within 28 days after being served with this notice, no further enforcement action will be taken against you for the offence.

Further action

- 2 You may—
- raise any matter relating to the circumstances of the alleged infringement offence with the enforcement authority; or
 - deny liability for the offence and request a Court hearing; or
 - admit liability for the offence, but have a Court consider written submissions as to penalty or otherwise.

For more details, read paragraphs 3 to 6 below.

- 3 To **raise any matter relating to the circumstances of the alleged infringement offence**, write to the enforcement authority at the address on the front page of this notice. You should raise these matters with the enforcement authority at the earliest opportunity.

- 4 If you **deny liability** and wish to request a hearing in the District Court in respect of the alleged infringement offence, you must, before or within 28 days after service on you of a reminder notice, write to the enforcement authority at the address on the front of this notice requesting a Court hearing in respect of the alleged offence. You must sign your request. If you are a body corporate, a person authorised to act on your behalf must sign the request. The enforcement authority will, unless it decides not 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.

Note: If the Court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 5 If you **admit liability** for the offence, but want the Court to consider your **submissions as to penalty or otherwise**, you

Form 3—*continued*

must, before or within 28 days after service on you of a reminder notice,—

- write to the enforcement authority at the address shown on the front of this notice; and
- request a hearing; and
- admit liability; and
- set out the written submissions you wish to be considered by the Court; and
- sign your request. If you are a body corporate, a person authorised to act on your behalf must sign the request.

The enforcement authority will then file your letter with the Court (unless it decides not to commence court proceedings in respect of the alleged offence). There is no provision for an oral hearing before the Court if you follow this course of action.

Note: Costs will be imposed in addition to any penalty.

6 This infringement notice may be withdrawn by an inspector at any time before—

- the infringement fee is paid; or
- an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.

If the infringement notice is withdrawn, written notice will be given to the person who received the infringement notice.

Further details about correspondence or payment of infringement fee

7 When writing or making payment of an infringement fee, please indicate—

- the infringement notice number; and
- the date of the alleged infringement offence; and
- your address for reply (if you are not paying the infringement fee for the alleged offence).

Form 3—*continued**Non-payment of infringement fee*

- 8 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with this notice, you will be served with a reminder notice.
- 9 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with the reminder notice, you will become liable to pay **costs in addition to the infringement fee** (unless the enforcement authority decides not to commence proceedings against you).

Defence

- 10 You have a defence in proceedings for an alleged infringement offence if the infringement fee for that offence has been paid to the enforcement authority at the address shown on the front page of this notice before or within 28 days after service on you of a reminder notice. Late payment or payment made to any other address will not constitute a defence.

Note: All queries and correspondence regarding the alleged infringement offence must be directed to the enforcement authority named in this notice at the address shown on the front page of this notice.

Form 4

r 10

Reminder notice in respect of infringement notice

*Issued under section 21(2) of the Summary Proceedings Act 1957 and
section 56E(5) of the Health and Safety in Employment Act 1992*

To: *[name and postal address of
defendant]*

Enforcement authority: *[name
and postal address of authority]*

Date of issue:

Infringement notice number:

Client number:

Date of birth: *[if a natural person]*

This notice is to remind you that an infringement notice under section 56B of the Health and Safety in Employment Act 1992 has been issued to you.

The infringement fee payable is: *[state amount from infringement notice]*.

The last date of payment is now 28 days after date of issue of this notice. The due date is: *[date]*.

For your information, full details of the alleged infringement offence and the infringement notice are set out below.

The infringement notice was issued by *[name of inspector]*, being a health and safety inspector appointed under section 29(1) of the Health and Safety in Employment Act 1992.

The infringement notice was issued in relation to an alleged infringement offence

For a breach of: *[state provision of the Act or regulations that has allegedly been breached]*

In that you: *[describe nature of alleged breach]*

The alleged infringement offence took place at:

Location: *[details of location]*

Date: *[date of alleged offence]*

Time: *[time of alleged offence]*

Prior warning:

You have received prior warning for the same or a similar matter, being: *[eg, details of hazard or prohibition notice]*.

Infringement fees may be paid *[insert details of where to pay and method of payment]*.

Note: Payment must be made in full. Part payment will not be accepted.

Form 4—*continued*

IMPORTANT: Please read the summary of rights printed on the following pages.

Details of service

[*To be completed by enforcement authority on copy to be filed in Court only.*]

Infringement notice: Served by personal service*/postal service* on [*date of service*].

Reminder notice: Served by personal service*/postal service* on [*date of service*].

*Delete which does not apply.

REMITTANCE ADVICE

The remittance advice must accompany all payments.

Name and address: [*name and address of defendant*]

Infringement notice number:

Client number:

Due date:

Infringement fee payable:[*amount*]

Form 4—*continued***Summary of rights***Payments*

- 1 If you pay the infringement fee for the alleged infringement offence within 28 days after being served with this notice, no further enforcement action will be taken against you for the offence.

Further action

- 2 You may—
- raise any matter relating to the circumstances of the alleged infringement offence with the enforcement authority; or
 - deny liability for the offence and request a Court hearing; or
 - admit liability for the offence, but have a Court consider written submissions as to penalty or otherwise.

For more details, read paragraphs 3 to 6 below.

- 3 To **raise any matter relating to the circumstances of the alleged infringement offence**, write to the enforcement authority at the address on the front page of this notice. You should raise these matters with the enforcement authority at the earliest opportunity.
- 4 If you **deny liability** and wish to request a hearing in the District Court in respect of the alleged infringement offence, you must, before or within 28 days after service on you of this reminder notice, write to the enforcement authority at the address on the front of this notice requesting a Court hearing in respect of the alleged offence. You must sign your request. If you are a body corporate, a person authorised to act on your behalf must sign the request. The enforcement authority will, unless it decides not 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.

Note: If the Court finds you guilty of the offence, costs will be imposed in addition to any penalty.

- 5 If you **admit liability** for the offence, but want the Court to consider your **submissions as to penalty or otherwise**, you

Form 4—*continued*

must, before or within 28 days after service on you of this reminder notice,—

- write to the enforcement authority at the address shown on the front of this notice; and
- request a hearing; and
- admit liability; and
- set out the written submissions you wish to be considered by the Court; and
- sign your request. If you are a body corporate, a person authorised to act on your behalf must sign the request.

The enforcement authority will then file your letter with the Court (unless it decides not to commence court proceedings in respect of the alleged offence). There is no provision for an oral hearing before the Court if you follow this course of action.

Note: Costs will be imposed in addition to any penalty.

6 The infringement notice may be withdrawn by an inspector at any time before—

- the infringement fee is paid; or
- an order for payment of a fine is made or deemed to be made by a court under section 21 of the Summary Proceedings Act 1957.

If the infringement notice is withdrawn, written notice will be given to the person who received the infringement notice.

Further details about correspondence or payment of infringement fee

7 When writing or making payment of an infringement fee, please indicate—

- the infringement notice number; and
- the date of the alleged infringement offence; and
- your address for reply (if you are not paying the infringement fee for the alleged offence).

Form 4—*continued**Non-payment of infringement fee*

- 8 If you do not pay the infringement fee and do not request a hearing in respect of the alleged offence within 28 days after being served with this notice, you will be liable to pay **costs in addition to the infringement fee** (unless the enforcement authority decides not to commence proceedings against you).

Defence

- 9 You have a defence in proceedings for an alleged infringement offence if the infringement fee for that offence has been paid to the enforcement authority at the address shown on the front page of this notice before or within 28 days after service on you of this reminder notice. Late payment or payment made to any other address will not constitute a defence.

Note: All queries and correspondence regarding the alleged infringement offence must be directed to the enforcement authority named in this notice at the address shown on the front page of this notice.

Diane Wilderspin,
Acting for Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on the day after the date of their notification in the *Gazette*, prescribe for the purposes of the Health and Safety in Employment Act 1992 (the **Act**)—

- the form of the register of accidents and serious harm required to be maintained by employers, self-employed persons, and principals; and
- the form by which employers, self-employed persons, and principals are to notify the Secretary, the Director of the Maritime Safety Authority, or the chief executive of any other agency designated under the Act of accidents and serious

- harm (this form relates only to the duty to notify in writing); and
- the qualifications required for appointment as a health and safety inspector, which remain unchanged from previous regulations; and
 - the form of a hazard notice that may be issued by a trained health and safety representative; and
 - the manner by which a person may notify the Secretary, the Director of the Maritime Safety Authority, or the chief executive of any agency designated under the Act of a person's interest in knowing whether a particular matter has been, is, or is to be subject to the taking of enforcement action by a health and safety inspector; and
 - the form of an infringement notice that may be issued by a health and safety inspector for an alleged infringement offence; and
 - the form of a reminder notice to an infringement notice.

The regulations take account of the amendments made by the Health and Safety in Employment Amendment Act 2002 to the Act, particularly in respect to—

- recording and reporting of occurrences of accidents and serious harm by self-employed persons and principals;
- the employee participation provisions of the Act;
- the enforcement provisions of the Act.

The regulations revoke and replace the Health and Safety in Employment (Prescribed Matters) Regulations 1993.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 6 May 2003.
These regulations are administered in the Department of Labour.
