

Insurance

In the event of a prosecution

Insurance against fines and/or infringement fees

Under the Health & Safety at Work Act 2015 (HSWA) PCBUs have to do what is reasonably practicable to prevent harm and injury occurring in the workplace.

It is unlawful and illegal to insure against a fine or infringement fee imposed under HSWA. It is an offence to offer or enter into an insurance policy to pay a fine or infringement fee (section 29 HSWA).

The maximum penalties are:

- \$50,000 for an individual
- \$250,000 for any other person (eg a company).

FAQs: Below are the answers to some frequently asked questions, which illustrate how insurance applies under HSWA:

Q: What can I insure against under HSWA?

A: Statutory Liability insurance will cover legal defence costs to deal with Worksafe/CAA investigations and prosecutions and upon conviction sentences of reparation to those who have suffered loss or injury.

Q: Why can't I insure against a fine charged under the Act?

A: The purpose of the HSWA provision is to make sure duty holders do what is reasonably practicable to keep workers and others in the workplace safe. Allowing insurance against fines or infringement fees would result in lower standards of health & safety in the workplace if they were able to insure themselves against the consequences.

Q: What is the difference between a fine and a sentence of reparation?

A: The main difference in terms of HSWA is that you can no longer insure against a fine or infringement fee, but you may insure against reparation.

Being sentenced to pay a **fine** means that upon conviction for an offence against HSWA, the Court will refer to the penalty provisions in HSWA and determine a sum of money that is required to pay the Court. The Court takes a number of factors into account when determining the level of any fine, and these factors are set out in HSWA.

Being sentenced to pay **reparation** means that upon conviction for an offence under HSWA, you are required to pay a sum of money to the party or victim who has suffered loss or injury. Reparation can only be imposed in particular circumstances and is most likely to be common where a person has suffered loss or damage to property.

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