

SUBSIDIARY LEGISLATION 424.33

OCCUPATIONAL HEALTH AND SAFETY (PAYMENT OF PENALTIES) REGULATIONS*

24th January, 2012

LEGAL NOTICE 36 of 2012, as amended by Legal Notice 123 of 2020.

1. (1) The title of these regulations is the Occupational Health and Safety (Payment of Penalties) Regulations. Citation and scope.

(2) The scope of these regulations is to establish a list of offences for which the Authority may intimate for the payment of a penalty, and to establish the penalties to be paid.

2. In these regulations, unless the context otherwise requires: Interpretation.
"the Act" means the Occupational Health and Safety Authority Act; Cap. 424.

"the Authority" means the Occupational Health and Safety Authority established by virtue of article 8 of the Act.

3. (1) Where the Authority intimates any person for the payment of a penalty as provided for in article 38(3) of the Act, the amount of such penalty shall be determined by reference to Schedule I. Penalty to be determined by reference to Schedule I.
Amended by: L.N. 123 of 2020.

(2) The second column of Schedule I provides a general description of the infringement, which description shall not be relied on in interpreting the relevant regulation cited, the third column establishes the penalty to be paid and the fourth column refers to the regulations for which a penalty is applicable.

(3) The penalty shall become due on the day on which such intimation is received.

(4) If the intimated party fails to pay the penalty or penalties due within fifteen days from receipt of the intimation, the said party shall be liable to the legal proceedings referred to in article 38 of the Act, leading, on conviction, to a fine in respect of each and every infringement, which in any case shall not be less than the fine or fines intimated by the Authority.

(5) The Authority may also in its discretion direct that any fine to which any person is liable, may be paid by installments in such amounts and in relation to such recurrent intervals as the Authority may deem fit, but so nevertheless that the period over which the whole amount shall be paid shall in no case exceed three years, and that in default of payment of any one such installment the whole of the amount outstanding shall become and be immediately due and payable.

(6) For the purposes of these regulations, penalties due following the intimation by the Authority for the payment of a

*These regulations have been repealed by Legal Notice 320 of 2024.

penalty, are deemed to be civil debts.

Power of Minister
to amend
Schedules.

4. The Minister may amend the Schedules, which shall be published in the Gazette, and any such changes will become effective on the date of publication.

Disregard of any
provision of any
published Code of
Practice or other
form of guidance
issued by the
Authority.

5. Where by virtue of the Act or of any regulation made thereunder, it is for an accused person to prove that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement, the Authority may intimate that person for the payment of a penalty, for having disregarded any provision of any published Code of Practice or other forms of guidance issued by the Authority, if in the opinion of the Authority, such person was not taking suitable or sufficient measures for the protection of occupational health and safety.

Payment of penalty
shall not prejudice
the duty to
undertake any
measure.

6. (1) The payment of a penalty shall not prejudice the duty of a person to undertake any measure by which occupational health and safety may be safeguarded, whether such duty arises out of the Act or any regulation issued thereunder, or out of an order issued by an Occupational Health and Safety Officer in terms of the Act.

(2) These regulations shall be without prejudice to the power of an Occupational Health and Safety Officer to issue an order in terms of article 17 of the Act.

Continuing
offence.

7. Where, following the payment of a penalty, the violation of any provision of the Act or any regulation made thereunder persists regardless of any instructions the Authority may have given for the redress of the same, the Authority may institute the proceedings referred to in article 38 of the Act for such continuing violation or may issue an intimation for the payment of another penalty in lieu of the said proceedings, provided that an intimation may be issued for every day that such violation continues without redress.

Infringements and
penalties shall
apply *mutatis
mutandis*.

8. (1) The infringements described in the Schedule, and the penalties cited shall also apply *mutatis mutandis* with reference to other regulations issued under the Act, and the fact that such a reference is not made in the Schedules shall not be reason for the non-application of these regulations:

Provided that the penalties shown in the Schedules shall also be used in such cases.

(2) Where no specific regulation exists, the Authority shall cite the closest equivalent description of an infringement, which shall also apply *mutatis mutandis*, taking account of the circumstances of the work activity or activities being carried out, and when sending an intimation for the payment of the penalty, the penalty stipulated in the Schedules for the closest equivalent infringement shall apply.

Transitory
provision.
Added by:
L.N. 123 of 2020.

9. Any pending penalty imposed and, or judicial proceedings instituted under these regulations shall continue to be regulated by the Schedules which were contained in these regulations, prior to their substitution.

Substituted by:
L.N. 123 of 2020.

SCHEDULE I

	Description of Contravention	Penalty (€)	Legal Reference
1.	Workplace equipment or machinery in use not inspected, examined, tested and, or certified according to OHS legislation. The stipulated penalty shall apply for each item of equipment or machinery which has not been examined, tested and, or certified within the prescribed time from when the obligation falls due, and, or in cases where (i) no certificate required to be sent has been sent, or (ii) no entry in a register is made, or (iii) no register is kept.	250	The legal references for this penalty are listed in Schedule II to these regulations.
2.	Not carrying out a suitable, sufficient and systematic assessment of all occupational health and safety hazards and the resultant risks involved.	250	S.L. 424.18
3.	Employer not performing suitable and sufficient assessments of the health and safety risks to which workers are exposed in consequence of VDU use.	250	S.L. 424.14
4.	Employer not carrying out an assessment of the occupational health and safety hazards which may be involved at the place of work, before engaging or offering work to any young person.	250	S.L. 424.10
5.	Employer not carrying out an assessment of the occupational health and safety hazards which may be involved at the place of work, before assigning work to any pregnant or breastfeeding worker or to a mother.	250	S.L. 424.11
6.	Levying or permitting to be levied a charge or deduction of wages of any worker in respect of anything done or provided in the interests of occupational health, safety, hygiene or welfare pursuant to the regulations. The penalty shall be applied to an organisation, irrespective of the number of employees affected.	250	S.L. 424.18
7.	Not ensuring the appointment of workers' health and safety representatives.	250	S.L. 424.18
8.	The commencement of work which requires prior notification, authorisation or submission of plan of work to the OHSA without such an obligation being fulfilled.	250	S.L. 424.36; S.L. 424.23
9.	Non-notification of any accident which results in either the death of or a major injury to any person or, in the case of an employee at work, in that employee being incapacitated for work for more than three consecutive days. The penalty applies for each injury not notified.	250	S.L. 424.09
10.	Not complying with obligations laid down in Schedule IV to the Work Place (Minimum Health and Safety Requirements for Work at Construction Sites) Regulations.	250	S.L. 424.36
11.	Requesting workers to handle a load, which by reason of its characteristics or because of unfavourable ergonomic conditions, involves a risk particularly of back injury to workers, without first having taken appropriate organisational measures, or provided appropriate mechanical means in order to avoid the need for manual handling.	250	S.L. 424.17
12.	A person intentionally or recklessly interferes with or misuses anything provided in the interests of occupational health and safety.	250	S.L. 424.18
13.	Not keeping a written or retrievable electronic copy of a risk assessment when more than 5 workers are employed.	250	S.L. 424.18

	Description of Contravention	Penalty (€)	Legal Reference
14.	Not providing workers and their representatives with comprehensible and relevant information.	250	S.L. 424.18
15.	Worker not taking care of his/other persons' health and safety in accordance with the training and the instructions given by an employer.	250	S.L. 424.18
16.	Temporary workers are not afforded adequate health and safety protection.	250	S.L. 424.18
17.	A project supervisor not ensuring the preparation of a health and safety plan.	250	S.L. 424.36
18.	Workers not cooperating with employer and, or appointed workers' health and safety representatives and, or workers having a specific responsibility for the safety and health of workers.	250	Cap. 424; S.L. 424.18
19.	Employer fails to ensure that where there is a risk of mechanical contact with moving parts of work equipment which could lead to accidents, those parts must be provided with guards or devices to prevent access to danger zones or to halt movements of dangerous parts before the danger zones are reached.	250	S.L. 424.35
20.	Employer not providing personal protective equipment and, or clothing, and, or not ensuring that workers make full and correct use of such.	250	S.L. 424.18
21.	Self-employed person not taking measures to safeguard one's own health and safety and that of other persons who can be affected by reason of the work which is carried out.	250	Cap. 424
22.	A person breaks or tampers with any seal made, or with any monitoring equipment installed, put up or left by an OHS Officer in a work place, or in the case of personal monitoring equipment, on a worker.	250	Cap. 424
23.	Work equipment designed for lifting loads which is mobile or can be dismantled not being used in such a way as to ensure the stability of the work equipment	250	S.L. 424.35
24.	Tower crane not certified after installation and before being put into service on a site.	250	S.L. 424.35
25.	Lifting equipment with suspended loads left without surveillance.	250	S.L. 424.35
26.	Person/s lifted without adequate safety measures or cage which has not been certified.	250	S.L. 424.35
27.	Person/s lifted on forklift truck without certified attachments.	250	S.L. 424.35
28.	No person/s designated by an employer to assist him in undertaking the measures relating to occupational health and safety.	450	S.L. 424.18
29.	Workers who are entitled to undergo health surveillance not provided with such health surveillance.	450	S.L. 424.18
30.	Employer not taking measures to: - prevent risks of falls from heights; - ensure that all open edges are effectively fenced / guarded; - ensure that work equipment is operated correctly.	450	Cap. 424; S.L. 424.18
31.	Employer not providing adequate first aid equipment and facilities as are adequate and appropriate for enabling first aid to be rendered to whosoever becomes injured or ill inside the workplace.	250	S.L. 424.13
32.	Employer not ensuring the presence at all times of such a number of first aiders as is adequate and appropriate in the circumstances for rendering first aid to employees if they are injured or become ill at work.	250	S.L. 424.13

	Description of Contravention	Penalty (€)	Legal Reference
33.	Employer not providing and maintaining a suitably equipped first-aid room where two hundred or more employees are at work in a place of work, or where the type of activity or the frequency of accidents so dictate.	250	S.L. 424.13
34.	A self-employed person not providing or ensuring that there is provided, adequate first aid equipment to enable him to render first aid to himself while he is at work, or for others to give him first aid.	250	S.L. 424.13
35.	Blocked, inaccessible and / or locked emergency exits.	250	S.L. 424.15
36.	Employer not taking the necessary measures for fire-fighting and evacuation of workers in the event of serious and imminent danger.	250	S.L. 424.15
37.	Employer not ensuring the structure and solidity of any building or structure.	250	S.L. 424.15
38.	Employer not making effective and suitable provisions to ensure that every workplace, particularly if enclosed, is ventilated by a sufficient quantity of fresh or purified air, and for rendering harmless by the use of extraction systems, so far as reasonably practicable, all fumes, dust and other impurities that may be injurious to health generated in the course of any process of work carried out in the workplace.	250	S.L. 424.15
39.	Inadequate or no health and / or safety signage.	250	S.L. 424.16".

Substituted by:
L.N. 123 of 2020.

SCHEDULE II (In respect of workplace machinery or equipment)

	Type of machinery or equipment	Applicable regulation	Frequency of Examination/Testing/ Certification	Action required to be taken by Employer
1.	Goods Lifts	S.L. 424.35	Every 6 months	Copy of examination report to be sent to OHSA.
2.	Lifting machines	S.L. 424.35	Every 12 months Every 6 months if used for lifting persons	Copy of examination report to be kept available for inspection.
3.	Chains, ropes and lifting tackle	S.L. 424.35	Every 6 months	Register to be kept and copy of certificate to be kept available for inspection.
4.	Steam boilers	S.L. 424.35	Every 12 months, and after any extensive repairs	Copy of examination report to be kept available for inspection.
5.	Passenger and Passenger goods lifts	S.L. 427.63	Preventive inspection of lifts in workplaces every 6 months	Copy of preventive inspection report to be sent to OHSA.
6.	Passenger and Passenger goods lifts	S.L. 427.63	Thorough examination of lifts in workplaces every 6 years	Copy of thorough inspection report to be sent to OHSA.

7.	Escalators and moving walkways	S.L. 424.35	Examination and certification of escalators and moving walkways every 6 months	Copy of examination report to be sent to OHSA
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