



Courtenell

Work Health & Safety Training and Consulting

02 **9552 2066**
train@courtenell.com.au



Increased WHS Penalties and Due Diligence for Officers

The NSW WHS Act and WHS Regulation were amended on the 10th June 2020. Those amendments included a change in how penalties are calculated.

The penalties are now shown in penalty units instead of dollars. Each penalty unit is equal to \$100. For example, the maximum penalty for gross negligence or reckless conduct committed by an Officer is now 6,925 units. Each unit equals \$100 dollars so the maximum amount an Officer may have to pay could be \$692,500 for that offence. This is an increase of \$92,500 on the reckless conduct dollar penalty that was in force since 1/1/2012 (the gross negligence offence by an Officer was added to the WHS Act in the 10 June 2020 amendments).

However, in future, each financial year that the Consumer Price Index goes up, the penalty will increase by the same percentage as the Consumer Price Index. So, the WHS penalties will continue to increase as time goes by.

All Workers (managers, supervisors, team leaders, general workers, health & safety representatives and the health and safety committee) could help Officers to successfully apply due diligence in their workplace (see section 27(5) WHS Act 2011 for details of due diligence).

The table below shows the penalty units and dollar value that applies as at the 10th June 2020 for Officers.

Maximum Penalties for Officers

Category of Offence	Penalty Units \$100 per unit at 10/6/20	Dollar Amount / Prison
Category 1 Gross Negligence, or Reckless Conduct	6,925 units	\$692,500 and/or 5 years prison
Category 2 Failure to comply with a health and safety duty – exposes an individual to a risk of death or serious injury or illness	3,465 units	\$346,500 \$115,500
Category 3 Failure to comply with a health and safety duty	1,155 units	

29th June 2020