

**OCCUPATIONAL SAFETY AND HEALTH AMENDMENT ACT
2009**



BERMUDA

2009 : 34

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[Date of Assent: 15 July 2009]

[Operative Date: 15 July 2009]

WHEREAS it is expedient to amend the Occupational Safety and Health Act 1982;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Short title

1 This Act, which amends the Occupational Safety and Health Act 1982 (the “principal Act”), may be cited as the Occupational Safety and Health Amendment Act 2009.

Amends section 9

2 Section 9 of the principal Act is amended by inserting the following next after subsection (4)—

“(5) As an alternative to publication in the Gazette under section 5(1) of the Statutory Instruments Act 1977, regulations under this Act may, within one month after filing, be—

- (a) deposited for public inspection at the Bermuda National Library, as defined in the Bermuda National Library Act 1946, and at other locations to be determined by the Minister; and

**OCCUPATIONAL SAFETY AND HEALTH AMENDMENT ACT
2009**

(b) posted on the website of the Government of Bermuda.

(6) Regulations that are deposited and posted under subsection (5) shall have effect on the day that the Minister publishes a notice in the Gazette that the regulations have been deposited and posted under that subsection.

(7) The notice referred to in subsection (6) shall indicate the locations where the regulations have been deposited and the web address where they have been posted.”.

Inserts sections 27 to 36

3 The principal Act is amended by inserting the following after section 26—

“Definitions

27 In sections 28 to 36—

"offence" means a contravention of this Act, or regulations made under this Act, that is listed in regulations made under section 36;

"ticket" means a ticket referred to in section 29.

Authorization of ticketing for offences

28 Without prejudice to the procedure set out in the Summary Jurisdiction Act 1930 for laying an information and for issuing a summons, an information may be laid and a summons issued for an offence by means of a ticket issued in accordance with this Act.

Form of ticket

29 (1) A ticket shall consist of three parts – an information, a summons and a record of convictions – and shall be in a form prescribed by regulations made under section 36.

(2) A ticket shall include a reference to the provision of this Act, or regulations made under this Act, that is alleged to have been contravened and a description of the offence as set out in regulations made under section 36.

Issue of ticket

30 An authorized officer who has reasonable cause to believe that a person has committed an offence may issue a ticket under this Act to that person by delivering to, or serving on, the person the summons part of the ticket in accordance with section 31.

**OCCUPATIONAL SAFETY AND HEALTH AMENDMENT ACT
2009**

Summons

31 (1) An authorized officer who issues a ticket shall, upon completing and signing the summons part of the ticket, either deliver the summons part to the person charged with the offence in respect of which the ticket is issued or serve it on that person by sending it by registered mail to the person's last known address.

(2) Unless the contrary is shown, the date of service of a summons served by registered mail is the fourteenth day after it was sent to the address referred to in subsection (1).

(3) Where the summons part is delivered to the person charged, the authorized officer shall request the person charged with the offence to sign the ticket in the place provided for signature, and the person's signature shall be sufficient proof that the person has received the summons.

(4) A person charged with an offence who refuses without reasonable excuse to accept delivery of the summons part of a ticket under subsection (1) commits an offence:

Punishment on summary conviction: a fine of \$100.

Payment of penalty out of court

32 (1) An authorized officer who issues a ticket in respect of an offence may enter on the summons part of the ticket the amount of any penalty for that offence specified in regulations made under section 36, in which case the officer shall endorse on the back of the summons part of the ticket a notice that the person to whom the summons is directed may, within seven days after delivery or service of the summons as the case may be, pay out of court the specified penalty.

(2) Where a summons is endorsed under subsection (1), it shall provide for a plea of guilty in the following form—

“PLEA OF GUILTY

I am aware that I have a right to a hearing in respect of the offence with which I am charged and that by signing this plea of guilty I am waiving my right to a hearing and my signature may result in a conviction against me without a hearing. I hereby plead guilty to the offence as charged and consent to be convicted of the offence in my absence.

**OCCUPATIONAL SAFETY AND HEALTH AMENDMENT ACT
2009**

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Signature of Defendant”

(3) A signature affixed to the form of Plea of Guilty purporting to be that of the person to whom the summons is directed is prima facie proof that it is the signature of that person.

(4) Upon receipt of a summons duly signed with a plea of guilty and of the amount of the penalty specified in the summons, an officer of the court shall issue an official receipt for the amount of that penalty and shall place the summons before the court.

(5) The court shall formally convict the person charged of the offence specified in the summons and no further penalty may be imposed in respect of the offence.

(6) If a person charged with an offence does not plead guilty to the offence and pay the penalty specified in the summons, the person shall appear at the time and place specified in the summons for the hearing of the charge, and, if they fail to appear, the court may proceed in accordance with section 4 of the Summary Jurisdiction Act 1930.

Information

33 (1) The information part of a ticket shall be—

- (a) signed by the authorized officer who issues the ticket;
- (b) signed by the person who swears the information (the “informant”) and sworn before a justice of the peace; and
- (c) deposited with the court, together with the record of conviction part of the ticket.

(2) The information part of a ticket need not be sworn to before the summons part is delivered or served and the informant need not be the person who delivers or serves the summons.

Amount of penalty

34 Nothing in this Act prevents the court from imposing any penalty authorized by law in respect of an offence if—

- (a) no amount is entered on the summons; or

**OCCUPATIONAL SAFETY AND HEALTH AMENDMENT ACT
2009**

- (b) the person charged does not plead guilty to the offence and pay the penalty specified in the summons.

Record of conviction

35 Where the court makes a conviction on an information in a ticket in respect of an offence, the court shall complete the record of conviction part of the ticket and an officer of the court shall cause a copy of it to be forwarded to the Minister.

Regulations

- 36 (1) The Minister may make regulations—
- (a) prescribing the form of a ticket;
 - (b) listing offences in respect of which a ticket may be issued;
 - (c) setting out a description of offences; and
 - (d) specifying fines for offences, not exceeding \$1,000 for any offence.
- (2) The negative resolution procedure applies to regulations made under this section.”