



Alternative penalty options under the Work Health and Safety Act 2011 (QLD)

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A fine is the most common penalty imposed when sentencing an offender for an offence under the [Work Health and Safety Act 2011 \(WHS Act\)](#). There are also several orders available at sentencing, in addition to or other than a fine, that may present as more attractive options to an offender, the prosecution and the court.

You can read more about [penalties under the WHS Act here](#).

Sentencing options in Queensland – background

Upon conviction for any criminal offence in Queensland, including the WHS Act, the sentencing court must have regard to the governing principles set out in Part 2 of the [Penalties and Sentences Act 1992 \(PS Act\)](#).

The PS Act provides a framework for how courts can determine and impose penalties, providing guidance on factors to consider when deciding on the appropriate punishment, including the severity of the offence, the offender's circumstances, and potential rehabilitation options.

Under the WHS Act, maximum penalties are prescribed for [health and safety duty offences](#) (comprised of Categories 1, 2, and 3 offences, and for [industrial manslaughter](#)). There are no minimum penalties set out in the Act. The sentencing court, therefore, has a wide discretion as to the penalty to be imposed on an offender.

Alternative penalty options under the WHS Act

There are alternative penalty options available under the WHS Act that can be ordered by a court to assist in achieving deterrence and denunciation, and securing compliance with the WHS Act through effective and appropriate compliance and enforcement measures.

Before pleading guilty to an offence under the WHS Act, a defendant should consider alternative penalty options that may be appropriate. In certain circumstances, alternative penalty options may result in an offender being sentenced without a fine being imposed.

Court ordered work health and safety undertaking (s.239)

The court may release an offender on an undertaking, on the condition that the offender does not commit an offence under the WHS Act for up to 2 years.

The order must include that the offender:

- appear before the court if required during the period of the order;
- the offender does not commit any offences under the WHS Act during the order; and
- observe any special conditions imposed.

Orders can also include a requirement that an offender enters into a recognisance (i.e. a sum of money to be paid to the court if the order is breached).

The court has the discretion as to whether or not a conviction is recorded when imposing such an order.

This order may present as an attractive option for an offender as it may be imposed in lieu of a fine.

Adverse publicity orders (s. 236)

Adverse publicity orders (**APO**) are punitive orders that promote the objects of the WHS Act by improving awareness, general deterrence for others in the industry and community denunciation against an offender.

The court may make an APO requiring the offender to publicise the offence, its consequences and the penalty imposed. It may also direct an offender to notify a specified person or group of people about the offence.

An APO can be specifically targeted at a class of persons who are in a position to commit similar offences.

The offender may also need to give the WHS prosecutor evidence the order was carried out as required.

Restoration order (s. 237)

An offender may be ordered to take steps to remedy anything (e.g. fix damage caused to plant or structure) that occurred as a result of the offence, provided the court decides the offender has the power to undertake such steps.

The period in which the restoration is to be completed can only be extended if the application is made before the order expires.

WHS project order (s.238)

The court may make an order requiring the offender to undertake a project for the general improvement of work health and safety at the workplace within a set period.

The order may specify conditions that must be complied with in undertaking the specified project.

Training order (s.241)

A person may be ordered by the court to undertake, or arrange for one or more workers to undertake, a specified training course.

Training orders provide an important mechanism for rehabilitation of offenders and the protection of the community by the prevention of future risk and/or injury.

Injunction (s.240)

If a court finds a person guilty of an offence against the WHS Act, it may issue an injunction requiring the person to cease contravening the WHS Act.

Get help from a WHS lawyer

We have expertise in defending individuals and companies prosecuted for offences under the WHS Act and achieving favourable results at sentencing.

If you or your business is being prosecuted for an offence under the WHS Act, it is important to seek advice from a WHS lawyer experienced in the sentencing process to ensure that all available options are considered.

We have the strong technical knowledge of the WHS Act and a thorough understanding of criminal procedure, which means we provide clear and practical advice and achieve positive outcomes at sentence.

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