

**Part 2: Application**  
**Section 2.8, Contravention**

**Purpose:**

- Clarify who is responsible for compliance with the *Occupational Health and Safety Regulation* (“*OHSR*”) when no specific person is identified.
- Eliminate inconsistencies with Part 3 of the *Workers Compensation Act* (“*Act*”).

**Rationale for Change:**

- Many sections of the *OHSR* do not indicate who is responsible for compliance with the particular obligation. This can lead to confusion for WorkSafeBC officers and workplace parties, and impede compliance and enforcement.
- This section was enacted prior to the enactment of Part 3 of the *Act* and certain provisions in section 2.8 regarding liability for penalties are inconsistent with Part 3.

**Key Issues:**

- Clarify responsibility for compliance with the *OHSR*.
- Eliminate inconsistencies with the *Act* regarding liability for penalties.

**Evaluative Mechanism:**

- Clarifying responsibilities will lead to a clearer understanding by officers and workplace parties about who is responsible for the obligations in the *OHSR*. This will assist with compliance and enforcement.
- Eliminating inconsistencies with the *Act* will lead to a clearer understanding of the sanction provisions by officers and workplace parties.

**Source:**

Worker and Employer Services Division

Please note that proposed deletions in the regulatory amendments are identified with a ~~strikethrough~~ and additions are identified in **bold**.

## PART 2: APPLICATION

### Contravention Responsibility for compliance

- 2.8 (1) ~~A contravention of this Regulation will be deemed to be a contravention by the employer and will make that employer liable for any penalty prescribed by the *Workers Compensation Act*.~~

**If an obligation or requirement in this Regulation is not imposed on a specific person, every employer, worker or other person covered by Part 3 of the *Workers Compensation Act* or section 2.1 of this Regulation who is carrying out or authorized to carry out any activities to which the obligation or requirement applies must comply with the obligation or requirement.**

- (2) ~~A contravention of this Regulation by a supervisor or a worker will be deemed to be a contravention by the supervisor and will make that supervisor liable for any penalty prescribed by the *Workers Compensation Act*.~~

**If a worker contravenes an obligation or requirement of this Regulation, the employer of the worker is also in contravention of the obligation or requirement.**

- (3) ~~A contravention of this Regulation by a worker will make that worker liable for any penalty prescribed by the *Workers Compensation Act*.~~

**If a worker who is working under the direct supervision of a supervisor contravenes an obligation or requirement of this Regulation, the supervisor is also in contravention of the obligation or requirement.**

- (4) ~~A contravention of this Regulation by a person working in or contributing to the production of an industry within the scope of the *Workers Compensation Act* will make that person liable for any penalty prescribed by the Act.~~

---

### Explanatory Note

The proposed changes to section 2.8 have two goals:

- to clarify who is responsibility for compliance where no specific person is identified, and
- to update the provisions to make them consistent with the *Workers Compensation Act* (“Act”).

First, the proposed new subsection 2.8 (1) addresses provisions in the *Occupational Health and Safety Regulation* (“OHSR”) that do not identify a specific person as having the responsibility to comply with the particular requirement or obligation. For example, section 26.8 in Part 26, Forestry Operations, states “A hammer or axe must not be used to cut wire rope, unless designed for that purpose.” That section does not say who is responsible to comply with that requirement. There are many other sections of the OHSR that are written in a similar style.

The proposed new subsection 2.8 (1) is intended to clarify that, in these situations, the responsibility may fall on the owner, the employer, the supervisor, the supplier, the worker and any other persons working in or contributing to the production of an industry (the language found in section 230(2)(a) of the *Act*).

Under this proposed requirement, responsibility could fall on more than one person, but section 124 of the *Act* provides that, where the same obligation is imposed on more than one person,

**PROPOSED AMENDMENTS FOR PART 2: APPLICATION  
IN THE OCCUPATIONAL HEALTH AND SAFETY REGULATION**

simultaneous compliance by all persons may not be necessary. In each situation, it would be necessary to determine which of the workplace parties has the responsibility for compliance, having regard to all the relevant factors.

Second, section 2.8 was enacted prior to the enactment of Part 3 of the *Act*, and certain provisions in section 2.8 are redundant or inconsistent with Part 3 of the *Act*.

The proposed new subsection 2.8 (2) rewords the employer's responsibility contained in the current subsection 2.8 (1), and removes the reference to liability for any penalty as that is now clearly provided for in section 196 of Part 3 of the *Act*.

The proposed new subsection 2.8 (3) rewords the supervisor's responsibility contained in the current subsection 2.8 (2), and removes the reference to liability for any penalty as that is inconsistent with Part 3 of the *Act*. Penalties can be imposed only on employers.

The proposed deletion of the current subsections 2.8 (3) and (4) also will eliminate inconsistencies with the *Act*. There is no provision for applying penalties to persons other than employers.

DRAFT