

Prohibition on insuring WHS fines and penalties: A comparison of WHS laws in Australia

	NSW	VIC	WA	ACT	QLD	SA	TAS	NT
Legislation	Work Health and Safety Act 2011 (NSW)	Occupational Health & Safety Act 2004 (VIC)	Work Health and Safety Act 2020 (WA)	Work Health and Safety Act 2011 (ACT)	Work Health and Safety Act 2011 (QLD)	Work Health and Safety Act 2012 (SA)	Work Health and Safety Act 2012 (Tas)	Work Health and Safety (National Uniform Legislation) Act 2011
Under the relevant WHS law, is there a prohibition against entering into a contract of insurance to insure or indemnify a person's liability to pay all or part of a WHS fine or monetary penalty?	Yes	Yes	Yes	Yes	Yes	No, but currently under review	No, but currently under review	No, but currently under review
If a prohibition applies, when did it commence?	10 June 2020	22 September 2022	31 March 2022	31 July 2023	28 September 2024	N/A	N/A	N/A
Is it an offence to contravene the prohibition?	Yes	Yes	Yes	Yes	Yes	N/A	N/A	N/A
What is the penalty for committing an offence?	Individual: \$30,105 Corporation: \$150,525	Individual: \$59,277 Corporation: \$296,385	Individual: \$51,000 Corporation: \$255,000	Individual: \$70,000 Corporation: \$350,000	Individual \$50,000 Corporation \$50,000	N/A	N/A	N/A
Is a term of a contract of insurance void to the extent it covers a person's liability for all or part of a WHS fine or monetary penalty?	Yes	Yes	Yes	Yes	Yes	N/A	N/A	N/A
Despite the prohibition, can a person enter a contract of insurance to insure or indemnify WHS investigation and / or prosecution costs?	Yes	Yes	Yes	Yes	Yes	N/A	N/A	N/A
Statutory Liability Considerations	* Statutory Liability insurance can cover expenses incurred to investigate and respond to alleged contraventions of legal obligations. In our experience, the legal costs incurred in responding to a statutory liability claim can exceed the fine or monetary penalty for a contravention. * These changes do not impact other fines and penalties which may be covered by statutory liability insurance.							

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