

Part 6.1 — Administrative Penalties

Investigations

80.1 The director may conduct investigations to ensure compliance with this Act and the regulations whether or not the director has accepted an application for dispute resolution in relation to the matter.

Production of documents

80.2 (1) The director may require a person being investigated under this Part to provide to the director, within a reasonable time, all documents in the person's possession or control related to the investigation in any way.

(2) A person required under subsection (1) to provide documents must comply with the requirement.

Administrative penalties

80.3 (1) Subject to the regulations, the director may order a person to pay a monetary penalty if the director is satisfied on a balance of probabilities that the person has

(a) contravened a provision of this Act or the regulations, or

(b) failed to comply with a decision or order of the director.

(2) Before the director imposes an administrative penalty on a person, the director must

(a) give the person an opportunity to be heard, and

(b) consider all the following:

(i) previous enforcement actions for contraventions of a similar nature by the person;

(ii) the gravity and magnitude of the contravention;

(iii) the extent of the harm to others resulting from the contravention;

(iv) whether the contravention was repeated or continuous;

(v) whether the contravention was deliberate;

(vi) any economic benefit derived by the person from the contravention;

(vii) the person's efforts to correct the contravention.

(3) A penalty imposed under this section must be paid within the prescribed time.

(4) Instead of enforcing a penalty under subsection (1), the director, subject to the regulations, may enter into an agreement with the person who would otherwise be liable for the penalty.

(5) An agreement under subsection (4) may provide, in accordance with the regulations, for the reduction or cancellation of the penalty subject to the terms and conditions the director considers necessary or desirable.

(6) An agreement under subsection (4) must specify the time for performing the terms and conditions and, if the person fails to perform those terms and conditions by the date specified, the penalty ordered under subsection (1) is due and payable on the date of the failure.

(7) Neither the director's decision whether to enter into an agreement under subsection (4), nor the terms and conditions of such an agreement, may be the subject of an application for dispute resolution.

(8) If a corporation contravenes the Act or the regulations or fails to comply with a decision or order as described under subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention or failure is also liable under this section even though the corporation is liable for or pays a monetary penalty under this section.

Amount of penalty

80.4 (1) A monetary penalty imposed under section 80.3 (1) may not exceed \$5 000.

(2) If a contravention or failure referred to in section 80.3 (1) occurs over more than one day or continues for more than one day, separate monetary penalties, each not exceeding the maximum under subsection (1) of this section, may be imposed for each day the contravention or failure continues.

Notice of administrative penalty

80.5 If the director imposes an administrative penalty on a person, the director must give to the person a notice specifying each of the following:

(a) the contravention or failure to which the penalty relates;

(b) the amount of the penalty;

(c) the date by which the penalty must be paid;

(d) the person's right to have the director reconsider the decision imposing the penalty.