

CHAPTER 32

**An Act to Amend the
Occupational Health and Safety Act**

Assented to June 10, 2022

Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1 *Subsection 3(3) of the English version of the Occupational Health and Safety Act, chapter O-0.2 of the Acts of New Brunswick, 1983, is amended*

(a) in the portion preceding paragraph (a) by striking out “he shall consider” and substituting “the Chief Compliance Officer considers”;

(b) in paragraph (b) by striking out “he” and substituting “the Chief Compliance Officer”.

2 *Subsection 4(2) of the English version of the Act is amended by striking out “he” and substituting “the Minister”.*

3 *Section 5.1 of the English version of the Act is amended by striking out “his” and substituting “the Chief Compliance Officer’s”.*

4 *Subsection 8(1) of the English version of the Act is amended by striking out “his or her” and substituting “the”.*

5 *Section 9 of the English version of the Act is amended*

CHAPITRE 32

**Loi modifiant la
Loi sur l’hygiène et la sécurité au travail**

Sanctionnée le 10 juin 2022

Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative du Nouveau-Brunswick, édicte :

1 *Le paragraphe 3(3) de la version anglaise de la Loi sur l’hygiène et la sécurité au travail, chapitre O-0.2 des Lois du Nouveau-Brunswick de 1983, est modifié*

a) au passage qui précède l’alinéa (a), par la suppression de « he shall consider » et son remplacement par « the Chief Compliance Officer considers »;

b) à l’alinéa (b), par la suppression de « he » et son remplacement par « the Chief Compliance Officer ».

2 *Le paragraphe 4(2) de la version anglaise de la Loi est modifié par la suppression de « he » et son remplacement par « the Minister ».*

3 *L’article 5.1 de la version anglaise de la Loi est modifié par la suppression de « his » et son remplacement par « the Chief Compliance Officer’s ».*

4 *Le paragraphe 8(1) de la version anglaise de la Loi est modifié par la suppression de « his or her » et son remplacement par « the ».*

5 *L’article 9 de la version anglaise de la Loi est modifié*

- (a) *in subsection (1)*
- (i) *in paragraph (a) by striking out “his” and substituting “its”;*
- (ii) *in paragraph (c) by striking out “his” and substituting “its”;*
- (b) *in paragraph (2)(a.1) by striking out “his” and substituting “its”.*
- 6** *Paragraph 10(b) of the English version of the Act is amended by striking out “he is responsible” and substituting “the contractor or sub-contractor, as the case may be, is responsible.”*
- 7** *Section 12 of the English version of the Act is amended*
- (a) *by repealing paragraph (b) and substituting the following:*
- (b) *conduct themselves to ensure their own health and safety and that of other persons at, in or near the employee’s place of employment;*
- (b) *in paragraph (c) by striking out “he” and substituting “the employee”.*
- 8** *Section 13 of the English version of the Act is amended*
- (a) *in paragraph (a) in the portion preceding subparagraph (i) by striking out “him” and substituting “the supplier”;*
- (b) *in paragraph (c) by striking out “him” and substituting “the supplier”.*
- 9** *Section 14 of the English version of the Act is amended*
- (a) *in subsection (3) by striking out “his” and substituting “the employer’s”;*
- (b) *in subsection (5) by striking out “co-chairman” and substituting “co-chair”;*
- (c) *in subsection (10) by striking out “co-chairmen” and substituting “co-chairs”.*
- 10** *Subsection 14.1(6) of the English version of the Act is repealed and the following is substituted:*
- a) *au paragraphe (1),*
- (i) *à l’alinéa (a), par la suppression de « his » et son remplacement par « its »;*
- (ii) *à l’alinéa (c), par la suppression de « his » et son remplacement par « its »;*
- b) *à l’alinéa (2)(a.1), par la suppression de « his » et son remplacement par « its ».*
- 6** *L’alinéa 10(b) de la version anglaise de la Loi est modifié par la suppression de « he is responsible » et son remplacement par « the contractor or sub-contractor, as the case may be, is responsible, ».*
- 7** *L’article 12 de la version anglaise de la Loi est modifié*
- a) *par l’abrogation de l’alinéa (b) et son remplacement par ce qui suit :*
- (b) *conduct themselves to ensure their own health and safety and that of other persons at, in or near the employee’s place of employment;*
- b) *à l’alinéa (c), par la suppression de « he » et son remplacement par « the employee ».*
- 8** *L’article 13 de la version anglaise de la Loi est modifié*
- a) *à l’alinéa (a), au passage qui précède le sous-alinéa (i), par la suppression de « him » et son remplacement par « the supplier »;*
- b) *à l’alinéa (c), par la suppression de « him » et son remplacement par « the supplier ».*
- 9** *L’article 14 de la version anglaise de la Loi est modifié*
- a) *au paragraphe (3), par la suppression de « his » et son remplacement par « the employer’s »;*
- b) *au paragraphe (5), par la suppression de « co-chairman » et son remplacement par « co-chair »;*
- c) *au paragraphe (10), par la suppression de « co-chairmen » et son remplacement par « co-chairs ».*
- 10** *Le paragraphe 14.1(6) de la version anglaise de la Loi est abrogé et remplacé par ce qui suit :*

14.1(6) Each member of the committee shall, for the periods during which the member is taking any educational program required under this Act that relates to the member's service on the committee or during which the member is attending any committee meetings, receive pay at the member's rate and other benefits to which the member would otherwise be entitled.

11 Section 14.2 of the English version of the Act is amended

(a) in subsection (2) by striking out "co-chairman" and substituting "co-chair";

(b) in subsection (5)

(i) in paragraph (b) by striking out "co-chairmen" and substituting "co-chairs";

(ii) in paragraph (c) by striking out "co-chairmen" and substituting "co-chairs".

12 Section 14.5 of the English version of the Act is amended

(a) in subsection (2) by striking out "co-chairman" and substituting "co-chair";

(b) by repealing subsection (7) and substituting the following:

14.5(7) Each member of a committee shall, for the periods during which the member is taking any educational program required under this Act that relates to the member's service on the committee or during which the member is attending any committee meetings, receive pay at the member's rate and other benefits to which the member would otherwise be entitled.

13 Section 17.1 of the English version of the Act is amended

(a) in subsection (6) by striking out "he" and substituting "the person";

(b) by repealing subsection (8) and substituting the following:

17.1(8) Each health and safety representative shall, for the periods during which the health and safety representative is taking any educational program required under

14.1(6) Each member of the committee shall, for the periods during which the member is taking any educational program required under this Act that relates to the member's service on the committee or during which the member is attending any committee meetings, receive pay at the member's rate and other benefits to which the member would otherwise be entitled.

11 L'article 14.2 de la version anglaise de la Loi est modifié

a) au paragraphe (2), par la suppression de « co-chairman » et son remplacement par « co-chair »;

b) au paragraphe (5),

(i) à l'alinéa (b), par la suppression de « co-chairmen » et son remplacement par « co-chairs »;

(ii) à l'alinéa (c), par la suppression de « co-chairmen » et son remplacement par « co-chairs ».

12 L'article 14.5 de la version anglaise de la Loi est modifié

a) au paragraphe (2), par la suppression de « co-chairman » et son remplacement par « co-chair »;

b) par l'abrogation du paragraphe (7) et son remplacement par ce qui suit :

14.5(7) Each member of a committee shall, for the periods during which the member is taking any educational program required under this Act that relates to the member's service on the committee or during which the member is attending any committee meetings, receive pay at the member's rate and other benefits to which the member would otherwise be entitled.

13 L'article 17.1 de la version anglaise de la Loi est modifié

a) au paragraphe (6), par la suppression de « he » et son remplacement par « the person »;

b) par l'abrogation du paragraphe (8) et son remplacement par ce qui suit :

17.1(8) Each health and safety representative shall, for the periods during which the health and safety representative is taking any educational program required under

this Act that relates to service as a health and safety representative, receive pay at the rate and other benefits to which the health and safety representative would otherwise be entitled.

14 Subsection 18(2) of the English version of the Act is repealed and the following is substituted:

18(2) A health and safety representative shall consult regularly with the employer in the course of the health and safety representative's activities.

15 Section 19 of the English version of the Act is repealed and the following is substituted:

19 An employee may refuse to do any act where the employee has reasonable grounds for believing that the act is likely to endanger their health or safety or the health or safety of any other employee.

16 Section 20 of the English version of the Act is amended

(a) by repealing subsection (1) and substituting the following:

20(1) Any employee who believes that an act is likely to endanger the employee's or any other employee's health or safety shall immediately report their concern to their supervisor, who shall promptly investigate the situation in the presence of the employee.

(b) by repealing subsection (2) and substituting the following:

20(2) If a supervisor finds that the employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the supervisor shall take appropriate remedial action or recommend appropriate remedial action to the employer.

(c) by repealing subsection (3) and substituting the following:

20(3) If a supervisor finds the employee does not have reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the supervisor shall advise the employee to do that act.

(d) by repealing subsection (4) and substituting the following:

this Act that relates to service as a health and safety representative, receive pay at the rate and other benefits to which the health and safety representative would otherwise be entitled.

14 Le paragraphe 18(2) de la version anglaise de la Loi est abrogé et remplacé par ce qui suit :

18(2) A health and safety representative shall consult regularly with the employer in the course of the health and safety representative's activities.

15 L'article 19 de la version anglaise de la Loi est abrogé et remplacé par ce qui suit :

19 An employee may refuse to do any act where the employee has reasonable grounds for believing that the act is likely to endanger their health or safety or the health or safety of any other employee.

16 L'article 20 de la version anglaise de la Loi est modifié

a) par l'abrogation du paragraphe (1) et son remplacement par ce qui suit :

20(1) Any employee who believes that an act is likely to endanger the employee's or any other employee's health or safety shall immediately report their concern to their supervisor, who shall promptly investigate the situation in the presence of the employee.

b) par l'abrogation du paragraphe (2) et son remplacement par ce qui suit :

20(2) If a supervisor finds that the employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the supervisor shall take appropriate remedial action or recommend appropriate remedial action to the employer.

c) par l'abrogation du paragraphe (3) et son remplacement par ce qui suit :

20(3) If a supervisor finds the employee does not have reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health or safety of any other employee, the supervisor shall advise the employee to do that act.

d) par l'abrogation du paragraphe (4) et son remplacement par ce qui suit :

20(4) If an employee has made a report under subsection (1) and the matter has not been resolved to the employee's satisfaction, the employee shall refer the matter to a committee or, where there is no committee, to an officer.

(e) in subsection (6) by striking out "his" and substituting "the employee's";

(f) in subsection (7) by striking out "his" and substituting "the employee's";

(g) by repealing subsection (9) and substituting the following:

20(9) Upon receipt of a referral under subsection (4) or (8), the officer shall promptly investigate the situation and make the officer's findings known in writing as soon as is practicable to the employer, the employee and the committee, if any, as to whether the employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health and safety of any other employee.

(h) in subsection (10) by striking out "his" and substituting "the employee's";

(i) in subsection (11) by striking out "his" and substituting "the employee's";

(j) by repealing subsection (12) and substituting the following:

20(12) Pending any investigation under this section or, if an appeal is taken by an employee against the advice of an officer given under subsection (11), pending the decision of the Chief Compliance Officer, the employee shall remain available at a safe place near the employee's work station during the employee's normal work hours.

17 Section 21 of the English version of the Act is amended

(a) in paragraph (1)(a) by repealing the portion preceding subparagraph (i) and substituting the following:

(a) if the employee has reported the employee's concern to their supervisor under section 20,

(b) in subsection (2) by striking out "his" and substituting "the employee's".

20(4) If an employee has made a report under subsection (1) and the matter has not been resolved to the employee's satisfaction, the employee shall refer the matter to a committee or, where there is no committee, to an officer.

e) au paragraphe (6), par la suppression de « his » et son remplacement par « the employee's »;

f) au paragraphe (7), par la suppression de « his » et son remplacement par « the employee's »;

g) par l'abrogation du paragraphe (9) et son remplacement par ce qui suit :

20(9) Upon receipt of a referral under subsection (4) or (8), the officer shall promptly investigate the situation and make the officer's findings known in writing as soon as is practicable to the employer, the employee and the committee, if any, as to whether the employee has reasonable grounds for believing that an act is likely to endanger the employee's health or safety or the health and safety of any other employee.

h) au paragraphe (10), par la suppression de « his » et son remplacement par « the employee's »;

i) au paragraphe (11), par la suppression de « his » et son remplacement par « the employee's »;

j) par l'abrogation du paragraphe (12) et son remplacement par ce qui suit :

20(12) Pending any investigation under this section or, if an appeal is taken by an employee against the advice of an officer given under subsection (11), pending the decision of the Chief Compliance Officer, the employee shall remain available at a safe place near the employee's work station during the employee's normal work hours.

17 L'article 21 de la version anglaise de la Loi est modifié

a) à l'alinéa (1)(a), par l'abrogation du passage qui précède le sous-alinéa (i) et son remplacement par ce qui suit :

(a) if the employee has reported the employee's concern to their supervisor under section 20,

b) au paragraphe (2), par la suppression de « his » et son remplacement par « the employee's ».

18 Subsection 22(1) of the English version of the Act is repealed and the following is substituted:

22(1) Subject to subsection (2), where an employee has refused to do an act pursuant to section 19 and the employee's right to refuse is protected under section 21, the employer or supervisor may reassign the employee temporarily to perform other acts or to other work that is reasonably equivalent to the acts or work the employee normally performs and the employer shall pay that employee the same wages and grant the employee the same benefits that they would have received if they had not refused to do the act.

19 Section 23 of the English version of the Act is repealed and the following is substituted:

23 Where an employee has reasonably refused to do an act pursuant to section 19, the employee's right to refuse is protected under section 21 and the employee has not been reassigned to do other acts or work under section 22, the employer shall pay that employee the same wages and grant the employee the same benefits that they would have received if they had not refused to do the act.

20 Section 26 of the English version of the Act is amended

(a) in subsection (2)

(i) by repealing paragraph (b) and substituting the following:

(b) an order to an employer to reinstate the employee to their former employment under the same terms and conditions under which the employee was formerly employed;

(ii) in paragraph (c) by striking out "he" and substituting "the employee";

(b) in subsection (3) by striking out "his";

(c) in subsection (9) by striking out "he or she" and substituting "the judge".

21 Subsection 28(1) of the English version of the Act is amended

(a) by repealing paragraph (a) and substituting the following:

18 Le paragraphe 22(1) de la version anglaise de la Loi est abrogé et remplacé par ce qui suit :

22(1) Subject to subsection (2), where an employee has refused to do an act pursuant to section 19 and the employee's right to refuse is protected under section 21, the employer or supervisor may reassign the employee temporarily to perform other acts or to other work that is reasonably equivalent to the acts or work the employee normally performs and the employer shall pay that employee the same wages and grant the employee the same benefits as they would have received if they had not refused to do the act.

19 L'article 23 de la version anglaise de la Loi est abrogé et remplacé par ce qui suit :

23 Where an employee has reasonably refused to do an act pursuant to section 19, the employee's right to refuse is protected under section 21 and the employee has not been reassigned to do other acts or work under section 22, the employer shall pay that employee the same wages and grant the employee the same benefits that they would have received if they had not refused to do the act.

20 L'article 26 de la version anglaise de la Loi est modifié

a) au paragraphe (2),

(i) par l'abrogation de l'alinéa (b) et son remplacement par ce qui suit :

(b) an order to an employer to reinstate the employee to their former employment under the same terms and conditions under which the employee was formerly employed;

(ii) à l'alinéa (c), par la suppression de « he » et son remplacement par « the employee »;

b) au paragraphe (3), par la suppression de « his »;

c) au paragraphe (9), par la suppression de « he or she » et son remplacement par « the judge ».

21 Le paragraphe 28(1) de la version anglaise de la Loi est modifié

a) par l'abrogation de l'alinéa (a) et son remplacement par ce qui suit :

(a) at any reasonable hour and without notice, enter upon and inspect any place or thing that the officer believes to be a place of employment, and at that place of employment conduct any tests, take photographs, make recordings, take any samples and make any examinations that the officer considers necessary or advisable;

(b) in paragraph (e) by striking out “he” and substituting “the officer”;

(c) in paragraph (f) by striking out “he” and substituting “the officer”.

22 *Section 30 of the English version of the Act is amended by striking out “his” and substituting “the officer’s”.*

23 *Section 31 of the English version of the Act is amended*

(a) by repealing subsection (1) and substituting the following:

31(1) An officer may give an order, orally or in writing, to any person for the carrying out of any matter or thing regulated, controlled or required by this Act or the regulations, and may require that the order be carried out within the time that the officer specifies.

(b) in subsection (2) by striking out “he” and substituting “the officer”.

24 *Section 32 of the English version of the Act is amended*

(a) in subsection (1) by repealing the portion preceding paragraph (a) and substituting the following:

32(1) Where an officer is of the opinion that unsafe or unhealthy working conditions may exist at a place of employment or that there may be a source of danger to the health or safety of persons employed therein or having access thereto, the officer may make an order, in writing, to the owner of the place of employment, the employer, contracting employer, contractor, subcontractor, supervisor, employee or a supplier directing them immediately or within the time specified in the order to do any or all of the following:

(b) in subsection (2) by striking out “he” and substituting “the officer”.

(a) at any reasonable hour and without notice, enter upon and inspect any place or thing that the officer believes to be a place of employment, and at that place of employment conduct any tests, take photographs, make recordings, take any samples and make any examinations that the officer considers necessary or advisable;

b) à l’alinéa (e), par la suppression de « he » et son remplacement par « the officer »;

c) à l’alinéa (f), par la suppression de « he » et son remplacement par « the officer ».

22 *L’article 30 de la version anglaise de la Loi est modifié par la suppression de « his » et son remplacement par « the officer’s ».*

23 *L’article 31 de la version anglaise de la Loi est modifié*

a) par l’abrogation du paragraphe (1) et son remplacement par ce qui suit :

31(1) An officer may give an order, orally or in writing, to any person for the carrying out of any matter or thing regulated, controlled or required by this Act or the regulations, and may require that the order be carried out within the time that the officer specifies.

b) au paragraphe (2), par la suppression de « he » et son remplacement par « the officer ».

24 *L’article 32 de la version anglaise de la Loi est modifié*

a) au paragraphe (1), par l’abrogation du passage qui précède l’alinéa (a) et son remplacement par ce qui suit :

32(1) Where an officer is of the opinion that unsafe or unhealthy working conditions may exist at a place of employment or that there may be a source of danger to the health or safety of persons employed therein or having access thereto, the officer may make an order, in writing, to the owner of the place of employment, the employer, contracting employer, contractor, subcontractor, supervisor, employee or a supplier directing them immediately or within the time specified in the order to do any or all of the following:

b) au paragraphe (2), par la suppression de « he » et son remplacement par « the officer ».

25 Section 33 of the English version of the Act is amended

(a) in paragraph (a) by striking out “his” and substituting “the officer’s”;

(b) in paragraph (b) by striking out “his” and substituting “the officer’s”;

(c) in paragraph (c) by striking out “he” and substituting “the person”.

26 Subsection 33.1(1) of the English version of the Act is amended by striking out “him or her” and substituting “the officer”.**27 Section 36 of the English version of the Act is amended in the portion preceding paragraph (a) by striking out “he”.****28 Subsection 42(4) of the English version of the Act is amended by striking out “he” and substituting “the employer”.****29 Section 46 of the English version of the Act is amended**

(a) in subsection (1) by striking out “his” and substituting “the employee’s”;

(b) by repealing subsection (4) and substituting the following:

46(4) Where an employee is examined during the employee’s normal working hours, the employer shall not make any deductions of wages or other benefits for the time lost by the employee in going to, attending or returning from a medical examination.

(c) in subsection (5)

(i) in paragraph (a) by striking out “his” and substituting “the employee’s”;

(ii) in the portion following paragraph (b) by striking out “he” and substituting “the medical practitioner”.

30 The Act is amended by adding after section 47 the following:**25 L’article 33 de la version anglaise de la Loi est modifié**

a) à l’alinéa (a), par la suppression de « his » et son remplacement par « the officer’s »;

b) à l’alinéa (b), par la suppression de « his » et son remplacement par « the officer’s »;

c) à l’alinéa (c), par la suppression de « he » et son remplacement par « the person ».

26 Le paragraphe 33.1(1) de la version anglaise de la Loi est modifié par la suppression de « him or her » et son remplacement par « the officer ».**27 L’article 36 de la version anglaise de la Loi est modifié au passage qui précède l’alinéa (a) par la suppression de « he ».****28 Le paragraphe 42(4) de la version anglaise de la Loi est modifié par la suppression de « he » et son remplacement par « the employer ».****29 L’article 46 de la version anglaise de la Loi est modifié**

a) au paragraphe (1), par la suppression de « his » et son remplacement par « the employee’s »;

b) par l’abrogation du paragraphe (4) et son remplacement par ce qui suit :

46(4) Where an employee is examined during the employee’s normal working hours, the employer shall not make any deductions of wages or other benefits for the time lost by the employee in going to, attending or returning from a medical examination.

c) au paragraphe (5)

(i) à l’alinéa (a), par la suppression de « his » et son remplacement par « the employee’s »;

(ii) au passage qui suit l’alinéa (b), par la suppression de « he » et son remplacement par « the medical practitioner ».

30 La Loi est modifiée par l’adjonction de ce qui suit après l’article 47 :

Additional or alternative penalties

47.01(1) In this section, “judge” means judge as defined in the *Provincial Offences Procedure Act*.

47.01(2) Subject to section 47.02, in addition to or as an alternative to the penalties set out in section 47, if a person is convicted of an offence under this Act, the judge may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order directing the person to pay a sum of money to a party named by the judge to be the recipient of those funds, for any of the following purposes:

- (a) supporting
 - (i) occupational health and safety training or educational programs,
 - (ii) occupational health and safety research programs,
 - (iii) occupational health and safety initiatives by non-profit organizations, or
 - (iv) scholarships for educational institutions offering studies in occupational health and safety and related disciplines; or
- (b) furthering the goal of achieving healthy and safe places of employment.

47.01(3) An order referred to in subsection (2) may specify the amount and the time, place and manner of payment of the sum of money and may impose any other terms and conditions that the judge considers appropriate.

Maximum penalty

47.02 The penalty for an offence under this Act shall not exceed \$250,000 whether the penalty is imposed as a fine under paragraph 47(1)(a), in an order under subsection 47.01(2), or partly as a fine and partly in an order.

Peines additionnelles ou de remplacement

47.01(1) Dans le présent article, « juge » s’entend selon la définition que donne de ce terme la *Loi sur la procédure applicable aux infractions provinciales*.

47.01(2) Sous réserve de l’article 47.02, lorsqu’il déclare une personne coupable d’une infraction à la présente loi, le juge, compte tenu de la nature de l’infraction et des circonstances dans lesquelles elle a été commise, peut, en sus ou au lieu de toute peine prévue à l’article 47, rendre une ordonnance lui enjoignant de verser une somme d’argent à une partie qu’il nomme à titre de bénéficiaire, à l’une quelconque des fins suivantes :

- a) le soutien :
 - (i) de la formation et de programmes d’éducation portant sur l’hygiène et la sécurité au travail,
 - (ii) de programmes de recherche dans le domaine de l’hygiène et de la sécurité au travail,
 - (iii) d’initiatives d’organismes sans but lucratif portant sur l’hygiène et la sécurité au travail,
 - (iv) de bourses d’études pour les établissements d’enseignement qui offrent une formation dans le domaine de l’hygiène et de la sécurité au travail ou dans des domaines connexes;
- b) la poursuite du but de créer des lieux de travail sains et sécuritaires.

47.01(3) L’ordonnance mentionnée au paragraphe (2) peut préciser les modalités du versement de la somme d’argent qui en fait l’objet ainsi que la date, l’heure et l’endroit auxquels il doit se faire et peut en outre imposer d’autres modalités et conditions que le juge estime appropriées.

Peine maximale

47.02 Le montant maximal de la peine infligée pour une infraction à la présente loi ne peut dépasser 250 000 \$, qu’il s’agisse du montant de l’amende prévue à l’alinéa 47(1)a), ou d’une peine infligée en vertu de l’ordonnance prévue au paragraphe 47.01(2) devant remplacer cette amende ou s’y ajouter à titre de peine additionnelle.