

## BULLETIN

# Work Health and Safety – Incident Notification

The *Work Health and Safety (National Uniform Legislation) Act 2011* - (WHS Act) requires prescribed 'notifiable incidents' to be notified to the Regulator. This should assist you to decide whether the Regulator needs to be notified of a work-related injury, illness or dangerous incident under Act.

Work health and safety Regulators are committed to preventing work-related deaths and injuries.

Notifying the Regulator of fatalities, serious injuries or dangerous incidents that expose persons to serious risks to their health or safety allows causes of incidents to be identified. The information can be used to help prevent similar incidents at that workplace as well as other workplaces.

Part 3 of the WHS Act requires the Regulator to be notified of serious workplace incidents and for the site of these incidents to be preserved until an Inspector arrives or directs otherwise (subject to some exceptions).

## In summary

Part 3 of the WHS Act requires:

- immediate notification of a 'notifiable incident' after becoming aware of it, as explained below, to the Regulator (contact details are included at the end of this bulletin)
- if the Regulator asks – written notification with 48 hours of the request
- preservation of the incident site until an Inspector arrives or directs otherwise

Failing to notify is a criminal offence and penalties apply.

## What is a 'notifiable incident'

Section 36 of the WHS Act provides that a 'notifiable incident' is the:

- the death of a person
- a 'serious injury or illness', or
- a 'dangerous incident'

arising out of work carried out by a business or undertaking or a workplace.

'Notifiable incidents' may relate to any person – whether an employee, contractor or member of the public.

Only the most serious safety incidents are intended to be notifiable, and they trigger requirements to preserve the incident site pending further direction from the Regulator – see following.

## Serious injury or illness

Notification is required of a **serious injury or illness** of a person if it requires any of the following. Even if immediate treatment is not readily available, for example because the incident site is rural or remote or because the relevant specialist treatment is not available, the notification must still be made.

Trigger and Example	But does NOT include
<ul style="list-style-type: none"> <li>• Immediate treatment as an in-patient in a hospital</li> </ul> <p><b>Example:</b></p> <ul style="list-style-type: none"> <li>– admission into a hospital as an in-patient for any duration, even if the stay is not overnight or longer</li> </ul>	<ul style="list-style-type: none"> <li>• out-patient treatment provided by the emergency section of a hospital (i.e. not requiring admission as an in-patient) and immediate discharge</li> <li>• subsequent corrective surgery such as that required to fix a fractured nose</li> </ul>
<ul style="list-style-type: none"> <li>• Immediate treatment for the amputation of any part of the body</li> </ul> <p><b>Example:</b> amputation of a limb such as arm or leg, body part such as hand, foot or the tip of a finger, toe, nose or ear</p>	<ul style="list-style-type: none"> <li>• bruise or minor abrasion or laceration to the skin</li> </ul>
<ul style="list-style-type: none"> <li>• Immediate treatment for a <b>serious</b> head injury</li> </ul> <p><b>Example:</b></p> <ul style="list-style-type: none"> <li>– fractured skull, loss of consciousness, blood clot or bleeding in the brain, damage to the skull to the extent that it is likely to affect organ/face function</li> <li>– head injuries resulting in temporary or permanent amnesia</li> </ul>	
<ul style="list-style-type: none"> <li>• Immediate treatment for a <b>serious</b> eye injury</li> </ul> <p><b>Example:</b></p> <ul style="list-style-type: none"> <li>– injury that results in or is likely to result in the loss of the eye or total or partial loss of vision</li> <li>– injury that involves an object penetrating the eye (e.g. metal fragment, wood chip)</li> <li>– exposure of the eye to a substance which poses a risk of serious eye damage</li> </ul>	<ul style="list-style-type: none"> <li>• eye exposure to a substance that merely causes irritation</li> </ul>
<ul style="list-style-type: none"> <li>• Immediate treatment for a <b>serious</b> burn</li> </ul> <p><b>Example:</b> burn requiring intensive care or critical care which could require compression garment or a skin graft</p>	<ul style="list-style-type: none"> <li>• burn merely requiring washing the wound applying a dressing</li> </ul>
<ul style="list-style-type: none"> <li>• Immediate treatment for the separation of skin from an underlying tissue (such as degloving or scalping)</li> </ul> <p><b>Example:</b> separation of skin from an underlying tissue such that tendon, bone or muscles are exposed (de-gloving or scalping)</p>	
<ul style="list-style-type: none"> <li>• Immediate treatment for a spinal injury</li> </ul> <p><b>Example:</b> injury to the cervical, thoracic, lumbar or sacral vertebrae including the discs and spinal cord</p>	
<ul style="list-style-type: none"> <li>• Immediate treatment for the loss of a bodily function</li> </ul> <p><b>Example:</b> loss of consciousness, loss of movement of a limb or loss of the sense of smell, taste, sight or hearing, or loss of function of an internal organ</p>	<ul style="list-style-type: none"> <li>• mere fainting</li> <li>• a sprain, strain or fracture</li> </ul>
<ul style="list-style-type: none"> <li>• Immediate treatment for <b>serious</b> lacerations</li> </ul> <p><b>Example:</b></p> <ul style="list-style-type: none"> <li>– serious lacerations that cause muscle, tendon, nerve or blood vessel damage or permanent impairment</li> <li>– deep or extensive cuts</li> <li>– tears of wounds to the flesh or tissues – this may include stitching to prevent loss of blood and/or other treatment to prevent loss of bodily function and/or infection</li> </ul>	

Serious injury or illness continued over page

**Serious injury or illness (continued)**

Trigger			
Medical treatment within 48 hours of exposure to a substance			
Any infection to which the carrying out of work is a significant contributing factor, including any infection that is reliably attributable to carrying out work:			
(i) with micro-organisms			
(ii) that involves providing treatment or care to a person			
(iii) that involves contact with human blood or body substances			
(iv) that involves handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products			
The following occupational zoonoses contracted in the course of work involving handling or contact with animals, animal hides, skins, wool or hair, animal carcasses or animal waste products:			
(i) Q fever	(iii) Leptospirosis	(v) Hendra Virus	(vii) Psittacosis
(ii) Anthrax	(iv) Brucellosis	(vi) Avian Influenza	

**Treatment**

‘Treatment’ means the kind of treatment that would be required for a serious injury or illness and includes ‘medical treatment’ (i.e. by a registered medical practitioner), treatment by a paramedic or treatment by a registered nurse practitioner.

**Dangerous Incidents (also commonly referred to as ‘near misses’)**

Notification is also required of any incident in relation to a workplace that exposes a worker or any other person to a serious risk to a person’s health or safety emanating from an immediate or imminent exposure to:

- an uncontrolled escape, spillage or leakage of a substance
- an uncontrolled implosion, explosion or fire
- an uncontrolled escape of gas or steam
- an uncontrolled escape of a pressurised substance
- electric shock:

Examples of electrical shocks that ARE notifiable	Examples of electrical shock that are NOT notifiable
Minor shock resulting from direct contact with exposed live electrical parts (other than ‘extra low voltage’) including shock from capacitive discharge	Shock is due to static electricity
	‘Extra low voltage’ shock (i.e. arising from electrical equipment less than or equal to 50V AC & less than or equal to 120V DC)
	Defibrillators are used deliberately to shock a person for first aid or medical reasons

- the fall or release from a height of any plant, substance or thing
- the collapse, overturning, failure or malfunction of, or damage to, any plant that is required to be design or item registered under the regulations
- the collapse or partial collapse of a structure
- the collapse or failure of an excavation or of any shoring supporting an excavation
- the inrush of water, mud or gas in workings, in an underground excavation or tunnel
- the interruption of the main system of ventilation in an underground excavation or tunnel

**Dangerous incidents involve ‘serious risk’ to health or safety of a person etc.**

Any of these occurrences are reportable as a ‘dangerous incident’ (or ‘near miss’) if a person is exposed to a serious risk from immediate or imminent exposure to a hazard.

For most hazards such as plant or a structure collapsing a person will need to be in the immediate vicinity to be exposed to a serious risk to their health or safety.

However some hazards such as an uncontrolled leak of a hazardous gas or a fire can travel towards a person and expose them to a serious risk to health and safety away from the original source.

A dangerous incident includes both immediate serious risks to health or safety, and also a risk from an immediate exposure to a substance which is likely to create a serious risk to health or safety in the future, for example asbestos or chemicals.

Only occurrences involving a 'serious risk' are notifiable taking into account the likelihood of a serious illness or injury occurring from the incident. This would include any situation which seriously endangers or threatens the health or safety of a person.

### **Only work-related incidents are notifiable**

Sometimes incidents occur at a workplace (or in the vicinity of a workplace) that do not arise out of work, or the way work is carried out or the workplace itself. These kinds of incidents that are unrelated to work or a workplace are not notifiable. Examples include:

- a worker or another person suffers a heart attack while at work which is unrelated to work or the workplace
- an amateur athlete is injured while playing on the local soccer team and requires immediate medical treatment (this is not work) – a person driving to work is injured in a car accident (i.e. where driving is not part of their work)
- a person with a known history of epilepsy has a seizure at work

### **Work-related incidents that occur outside a workplace may be notifiable**

Work-related incidents may occur outside the workplace and these may still be notifiable if they involve a death, serious illness or injury or a dangerous incident. Examples include:

- an object like a hand tool is kicked off a multi-storey building under construction hitting a person below
- scaffold collapse that causes serious injury to persons below
- cladding is dislodged off a multi-storey building that is a workplace, hitting a person passing by at street level

### **Who is responsible for notifying?**

Any person conducting a business or undertaking from which the 'notifiable incident' arises must notify the Regulator immediately after becoming aware that it has occurred.

### **Incidents involving multiple businesses or undertakings**

If the 'notifiable incident' arises out of more than one business or undertaking then each must ensure that the incident has been notified to the Regulator.

In these circumstances the duty holders must, so far as is reasonably practicable, consult, cooperate and coordinate to put appropriate reporting and notification arrangements in place.

For example contractors at a construction workplace may agree that the principal contractor for the workplace will notify of all 'notifiable incidents' that occur at the workplace.

### **Incidents involving a 'State-based contractor working for a Commonwealth entity'**

Workplaces shared by a Commonwealth entity and one or more state-based contractors may be covered by both Commonwealth and state or territory WHS laws.

For example an asbestos removal company which is not covered by the Comcare scheme (the Company) is engaged by the Department of Defence (Defence) to carry out asbestos removal work at Randwick Army Barracks in Sydney and a dangerous incident occurs (as defined above). Defence must notify Comcare of the dangerous incident but the Company may also be required to provide an incident notification to WorkCover NSW. They may co-ordinate their duties so only one notification needs to be made.

## When and how to notify

A 'notifiable incident' must be notified to the Regulator immediately after the person conducting the business or undertaking becomes aware of the incident arising out of the conduct of the business or undertaking.

The notice must be given by the fastest possible means which could be by telephone or in writing, for example by facsimile, email or other electronic means.

If notifications are made by telephone follow-up information may be requested either by telephone or in writing. If you are asked to follow-up in writing you must provide the required information in writing within 48 hours of the request being made.

Regulators have adopted a commonsense approach to assessing whether an incident has been notified immediately. In other words incidents must be notified immediately as the particular circumstances permit.

In general a person conducting a business or undertaking 'becomes aware' of a notifiable incident at the time that any of their workers in supervisory or managerial roles become aware of that incident. For example if a worker suffers a serious injury and notifies their immediate supervisor it is at this point that the PCBU is considered to be aware of the incident. PCBUs should put into place internal notification procedures to ensure compliance with their notification obligations.

It is essential that PCBUs develop appropriate internal communication systems to ensure safety incidents are promptly brought to the relevant persons' attention.

## Information that will be requested

A clear description of the incident with as much detail as possible will help the Regulator assess whether or not the incident is notifiable and the need for a follow-up investigation by the Regulator.

Where insufficient details are provided in a telephone notification, the Regulator may contact the notifier if further information is required. All WHS Regulators have agreed that the following information should be collected as a minimum at the point of incident notification:

What happened: an overview	– nomination of the type of notifiable incident – i.e. death, serious injury or illness, or 'dangerous incident' (as defined above)
When did it happen	– date and time
Where did it happen	– incident address – details that describe the specific location of the notifiable incident – e.g. section of the warehouse or the particular piece of equipment that the incident involved – to assist instructions about site disturbance
What happened: detailed description	– detailed description of the notifiable incident
Who did it happen to	– injured person's name, salutation, date of birth, address and contact number – injured person's occupation – relationship of the injured person to the entity notifying
How and where are they being treated (if applicable)	– description of serious injury or illness – i.e. nature of injury – initial treatment of serious injury or illness – where the patient has been taken for treatment
Who is the person conducting the business or undertaking (there may be more than one)	– legal and trading name – business address (if different from incident address), ABN/ACN and contact details including phone number and email
What has/is being done	– action taken or intended to be taken to prevent recurrence (if any)
Who is notifying	– notifier's name, salutation, contact phone number and position at workplace – name, phone number and position of person to contact for further information (if different from above)

All of this information may not be available at the time of notification. If this is the case you must still immediately notify the Regulator and provide the information you have. The rest of the information will still be collected at a later time.

## Site Preservation

The person with management or control of a workplace at which a notifiable incident has occurred must ensure, so far as is reasonably practicable, that the site where the incident occurred is not disturbed until an Inspector arrives at the site or directs otherwise (whichever is earlier).

Requirements to preserve the incident site apply to any plant, substance, structure or thing associated with the notifiable incident. This means that any evidence that may assist an Inspector to determine the cause of the incident is preserved.

An incident site may be disturbed:

- to assist an injured person
- to remove a deceased person
- to make the site safe or to minimise the risk of a further notifiable incident
- to facilitate a police investigation
- after an Inspector has given a direction to do so either in person or by telephone

The sooner the Regulator is notified, the sooner the site can be released.

If however after arriving at the incident site an Inspector considers that it should remain undisturbed in order to facilitate investigation of the incident they may issue a non-disturbance notice. This notice must specify the period for which the notice is to apply (no more than seven days).

Penalties apply if an individual or body corporate fails to preserve a site.

### Site Preservation requirements only apply to the incident site

Requirements to preserve a site only apply in relation to the immediate area where the incident occurred – not the whole workplace.

## Upgrading Notifications

If a notifiable incident escalates from a serious illness or injury to a death the Regulator must be separately notified of the death immediately after becoming aware that the person has died.

## Record keeping requirements

The notifier must keep a record of the notifiable incident for at least five years from the date of notification. Penalties apply for failing to do so.

As a practical matter these records should include any directions or authorisations given by an Inspector at the time of notification (including authorisations to disturb incident sites) and any confirmation you received from the Regulator that you notified them about the incident.

## Further information

The relevant laws may be downloaded from the relevant Regulator's website.

To notify a 'notifiable incident' contact the Regulator in the relevant jurisdiction:

Jurisdiction	Regulator	Telephone	Website
New South Wales	WorkCover NSW	13 10 50	workcover.nsw.gov.au
Victoria*	WorkSafe Victoria	1800 136 089	worksafe.vic.gov.au
Queensland	Workplace Health and Safety QLD	1300 369 915	justice.qld.gov.au
South Australia*	SafeWork SA	1300 365 255	safework.sa.gov.au
Western Australia*	WorkSafe WA	1300 307 877	worksafe.wa.gov.au
ACT	WorkSafe ACT	02 6207 3000	worksafety.act.gov.au
Tasmania*	Workplace Standards TAS	1300 366 322 (TAS) 03 6233 7657 (External)	wst.tas.gov.au
<b>Northern Territory</b>	<b>NT WorkSafe</b>	<b>1800 019 115</b>	<b>nt.gov.au/justice/worksafe</b>
Commonwealth	Comcare	1300 366 979	comcare.gov.au

\* New laws implemented from 1 January 2012 except in these jurisdictions.

New laws to commence in TAS from 1 January 2013.

For further information please contact NT WorkSafe on 1800 019 115 or go to [www.worksafe.nt.gov.au](http://www.worksafe.nt.gov.au)