

INCIDENT NOTIFICATION FACT SHEET

Overview

This fact sheet provides general guidance for persons on the notification of 'notifiable incidents' as outlined in the Work Health and Safety Act.



The Work Health and Safety Act (WHS Act) requires the regulator to be notified of certain 'notifiable incidents'. This fact sheet will help you decide whether the regulator needs to be notified of a work-related injury, illness or dangerous incident under the Act.

Work health and safety regulators are committed to preventing work-related deaths and injuries. Notifying the regulator of 'notifiable incidents' can help identify causes of incidents and prevent similar incidents at your workplace and other workplaces.

The WHS Act

In summary Part 3 of the WHS Act requires:

- immediate notification of a 'notifiable incident' to the regulator after becoming aware of it
- if the regulator asks—written notification with 48 hours of the request, and
- preservation of the incident site until an inspector arrives or directs otherwise (subject to some exceptions).

Failing to notify is a criminal offence and penalties apply.

What is a 'notifiable incident'

A 'notifiable incident' as outlined in the WHS Act is:

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

arising out of the conduct of a business or undertaking at 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 page 7.

Serious injury or illness

Notification is required of a serious injury or illness of a person if they require any of the following:

Trigger	Example
Immediate treatment as an in-patient in a hospital	Admission into a hospital as an in-patient for any duration, even if the stay is not overnight or longer. <u>It does not include:</u> <ul style="list-style-type: none">• Out-patient treatment provided by the emergency section of a hospital (i.e. not requiring admission as an in-patient) and immediate discharge.• Subsequent corrective surgery such as that required to fix a fractured nose.
Immediate treatment for the amputation of any part of the body	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. <u>It does not include:</u> Bruising or minor abrasion or laceration to the skin.
Immediate treatment for a serious head injury	<ul style="list-style-type: none">• Fractured skull, blood clot or bleeding in the brain, damage to the skull to the extent that it is likely to affect organ/face function.• Head injuries resulting in temporary or permanent amnesia.

Trigger	Example
Immediate treatment for a serious eye injury	<ul style="list-style-type: none"> • Injury that results in or is likely to result in the loss of the eye or total or partial loss of vision. • Injury that involves an object penetrating the eye (for example metal fragment, wood chip). • Exposure of the eye to a substance which poses a risk of serious eye damage. <p><u>It does not include:</u></p> <p>Eye exposure to a substance that merely causes irritation.</p>
Immediate treatment for a serious burn	<p>A burn requiring intensive care or critical care which could require compression garment or a skin graft.</p> <p><u>It does not include:</u></p> <p>A burn that merely requires washing the wound and applying a dressing.</p>
Immediate treatment for the separation of skin from an underlying tissue (such as degloving or scalping)	Separation of skin from an underlying tissue such that tendon, bone or muscles are exposed (de-gloving or scalping).
Immediate treatment for a spinal injury	Injury to the cervical, thoracic, lumbar or sacral vertebrae including the discs and spinal cord.
Immediate treatment for the loss of a bodily function	<p>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> <p><u>It does not include:</u></p> <ul style="list-style-type: none"> • mere fainting, or • a sprain, strain or fracture.
Immediate treatment for serious lacerations	<ul style="list-style-type: none"> • Serious lacerations that cause muscle, tendon, nerve or blood vessel damage or permanent impairment. • Deep or extensive cuts. • 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.
Medical treatment within 48 hours of exposure to a substance.	

Notification is also required for the following prescribed serious illness:

- 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
- (ii) Anthrax
- (iii) Leptospirosis
- (iv) Brucellosis
- (v) Hendra Virus
- (vi) Avian Influenza
- (vii) Psittacosis.

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.

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.

Dangerous Incidents (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 resulting 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 shock that are not notifiable
 - shock due to static electricity
 - 'extra low voltage' shock (i.e. arising from electrical equipment less than or equal to 50V AC and less than or equal to 120V DC)
 - defibrillators are used deliberately to shock a person for first aid or medical reasons

- examples of electrical shocks that are notifiable
 - minor shock resulting from direct contact with exposed live electrical parts (other than 'extra low voltage') including shock from capacitive discharge
- 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 Work Health and Safety 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, or
- the interruption of the main system of ventilation in an underground excavation or tunnel.

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

Incidents are only notifiable if:

- there is a death
- a 'serious injury or illness' is suffered or there is a dangerous incident ('near miss' as described above), **and**
- the incident arises out of the conduct of the business or undertaking.

An incident is not notifiable just because it happens at or near a workplace.

Incidents may occur for reasons which do not have anything to do with the conduct of the business or undertaking, for example:

- a worker or another person suffers a heart attack while at work which is unrelated to work or the conduct of the business or undertaking
- 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 (where driving is not part of their work)
- a person with epilepsy has a seizure at work.

These kinds of incidents are **not notifiable**.

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.

For example:

- an object like a hand tool falls off a multi-storey building under construction hitting a person below
- scaffold collapse that causes a risk of serious injury to persons adjacent to the construction site
- an awning over a shop-front collapses, hitting a person passing by underneath.

Appendix A provides more information about incidents that occur at public places or sporting events.

Still unsure?

If you are still unsure about whether a particular incident should be notified then contact your regulator for guidance.

Who is responsible for notifying?

Any person conducting a business or undertaking (PCBU) from which the 'notifiable incident' arises must ensure the regulator is notified immediately after becoming aware it has occurred.

Procedures should be put into place to ensure work health and safety incidents are promptly brought to the relevant individual's attention, for example a manager and then notified to the regulator, if required.

For more information on the definition of a PCBU see the [Interpretive Guidelines: the meaning of 'person conducting a business or undertaking'](#).

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.

There is no need for all duty holders to notify—only one needs to.

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 work health and safety (WHS) laws.

For example an asbestos removal 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). Because the incident has occurred at a place

where work is carried out for Defence (on behalf of the Commonwealth) the company must ensure that both Comcare and WorkCover NSW are notified of the incident. Defence and the company may co-operate so that only one notification is made to Comcare on behalf of both.

When and how to notify

A regulator must be notified of a 'notifiable incident' immediately after the PCBU becomes aware of the incident arising from the business or undertaking.

See page 8 for contact details.

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

What information 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 (see table below) information should be collected as a minimum at the point of incident notification.

What happened: an overview	<ul style="list-style-type: none">• Provide an overview of what happened.• Nominate the type of notifiable incident—was it 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—for example 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	<ul style="list-style-type: none">• 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)	<ul style="list-style-type: none">• 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)	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • 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).

Although all of this information may not be available at the time of notification, PCBUs must still notify the regulator immediately of the incident and provide the information they have. The rest of the information will be collected by the regulator at a later time.

Can work continue where the incident occurred?

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, or
- 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.

If you are unsure about what you need to do to preserve a site, ask the regulator when you notify them of the incident.

You can also ask the regulator to be relieved of your legal obligations to preserve the incident site at this point—even if you don't meet the strict criteria above.

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.

Contact details for regulators

To notify a 'notifiable incident' contact the regulator in the relevant jurisdiction (see table below).

Further information

For further information on notifiable incidents including the relevant laws please contact your work health and safety regulator.

Jurisdiction	Regulator	Telephone	Website
New South Wales	WorkCover NSW	13 10 50	Not applicable for notifications
Victoria	WorkSafe Victoria	1800 136 089	worksafe.vic.gov.au
Queensland	Workplace Health and Safety Qld	1300 369 915	worksafe.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
Australian Capital Territory	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
Northern Territory	NT WorkSafe	1800 019 115	worksafe.nt.gov.au
Commonwealth	Comcare	1300 366 979	comcare.gov.au

Appendix A

Public places and sporting events

Workplaces may also be public or partly public places, for example:

- public parks, streets
- public transport
- shopping centres
- sports facilities
- schools and colleges
- aged care facilities, hospitals and medical centres
- cafes, restaurants, hotels and other kinds of public accommodation.

Incidents involving bystanders, visitors, students, patrons or other members of the public are only notifiable if:

- there is a death
- a 'serious injury or illness' is suffered or there is a dangerous incident ('near miss' as described above), **and**
- the incident arises out of the conduct of a business or undertaking.

An incident may arise out of the conduct of a business or undertaking for example because of:

- the way a work activity is organised (for example inadequate safety precautions)
- the way equipment or substances are used (for example lifts, machinery)
- the condition of a workplace (for example poorly maintained or slippery floors)
- actions of someone who is not a worker at the workplace.

If a visitor at a shopping centre is taken to hospital after sustaining a serious fracture then the incident would be notifiable. If a visitor is taken to hospital because of their pre-existing medical condition (for example heart attack, epileptic seizure at a shop) this would not be notifiable as it did not result from the conduct of the business or undertaking.

Incidents during sports activities

Work health and safety duties apply in relation to professional sports people for whom sport is work and sport organised by businesses or undertakings. They do not apply to purely social or recreational activities or activities organised by wholly volunteer associations that do not employ anyone.

For more information about the way the work health and safety laws affect volunteers and organisations with volunteers refer to the [online resource kit](#) published by Safe Work Australia.

Some sports injuries may arise from 'work' (for example a professional AFL footballer) while others may not (a local amateur club footballer).

Sports injuries are **not notifiable** if arising out of the normal conduct of a sports activity for example rough and tumble of a game.

Sports injuries **are notifiable** only if arising out of the conduct of a business or undertaking for example:

- the way a work activity involving sport is arranged
- the way the sporting activity is managed or controlled
- the condition, design or maintenance of premises or equipment, or
- the way work is carried out for example inadequate supervision.

Examples of notifiable incidents include:

- the condition of the premises or sports equipment was a factor in the incident—for example where a participant suffers an injury requiring admission as an inpatient at a hospital due to tripping over on a potholed tarmac surface, or
- there was inadequate supervision to prevent an incident—like ensuring the safe use of equipment used by students on a school excursion or failings in the organisation and management of an event.