



About WorkSafe, inspectors and notices

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WorkSafe is a division of the Department of Commerce and its role is the regulation of workplace safety and health in accordance with the *Occupational Safety and Health Act 1984* (the OSH Act).

The principal objective of the occupational safety and health (OSH) laws is to promote and secure the safety and health of people at the workplace.

As a division of the Department of Commerce, WorkSafe works to support a state-wide business environment that is productive, innovative, fair and safe. The development of a world class regulatory environment and enforcing the law in respect of safety and health in Western Australian workplaces has priority focus within the agency.

WorkSafe's Vision and Mission are –

Vision – safe and healthy Western Australian workplaces.

Mission – to inspire employers and workers to ensure workplaces are safe through partnership, education and enforcement.

WorkSafe's collaborative approach with industry, employers and the workforce is focused on:

- influencing the commercial environment in Western Australia to ensure the achievement of best safety and health outcomes in the workplace;
- empowering business and community partners to lead in the reduction of workplace hazards and associated risks to health;
- developing a modern, world class regulatory environment;
- enforcing the law; and
- strengthening organisational capacity to assist business operators and workers to manage OSH effectively.

Our approach to ensuring compliance by employers and businesses is tailored to workplace circumstances and preventing risk. Our model for compliance extends from education, capacity building and preventative measures through enforcement.

To ensure businesses, employers, workers and organisations are fully aware of their occupational safety and health obligations and how to meet them, WorkSafe provides educational information in a variety of formats.

The scope of the OSH Act does not include every workplace. Workplaces and work activities in general industry will normally be included, excepting for those in mining and petroleum, and those covered under the Federal Comcare jurisdiction.

Securing a safe future

Online information and education –

WorkSafe's website has a wide range of industry information. It also has three online interactive training and education programs for primary, secondary and tertiary level students.

The WorkSafe Plan Assessment System – organisations can measure and assess their occupational safety and health performance using the WorkSafe Plan. When assessment is undertaken by an appropriately qualified assessor and the organisation meets set criteria for performance, they are eligible to receive WorkSafe Plan certificates of achievement.

Report injuries and diseases on 1800 678 198

Work related deaths and certain types of injuries and diseases must be reported to WorkSafe. Failure to report could lead to prosecution. Reporting must be done by the relevant employer whenever these occur in connection with their business.

Relevant employers include the self-employed, principal contractors and labour hire agents. In some cases, WorkSafe will require notification of the same reportable death, injury or disease by different 'relevant employers'. Reporting is also required if a worker suffers death, injury or disease at employer provided residential premises (as described under s23G(2) of the OSH Act).

The types of injuries that must be reported are:

- a fracture of the skull, spine or pelvis;
- a fracture of any bone in the arm (other than in the wrists or hand) or in the leg (other than a bone in the ankle or foot);
- an amputation of an arm, a hand, finger, finger joint, leg, foot, toe or toe joint;
- the loss of sight of an eye; and
- any injury other than the above which, in the opinion of a medical practitioner, is likely to prevent the employee from being able to work within 10 days of the day on which the injury occurred.

Types of diseases that must be reported are:

- **infectious diseases:** tuberculosis, viral hepatitis, Legionnaires' disease and HIV, where these diseases are contracted during work involving exposure to human blood products, body secretions, excretions or other material which may be a source of infection; and
- **occupational zoonoses:** Q fever, anthrax, leptospiroses and brucellosis, where these diseases are contracted during work involving the handling of, or contact with, animals, animal hides, skins, wool, hair, carcasses or animal waste products.

Notification of injuries and diseases must be made using a notification form (called 'Form 1 Notification of Injury' and 'Form 2 Notification of Disease'), available from WorkSafe on 1300 307 877 or from www.worksafe.wa.gov.au search for either notification of injury or notification of disease in the publication tab

Completed forms will be accepted in person or by writing, fax, telephone or email.

WorkSafe inspectors

WorkSafe's inspectors are OSH professionals appointed under the OSH Act to enforce that Act, assist in resolving issues in workplaces, and provide advice to employers, persons who

control businesses and workers on how best to improve OSH performance and achieve compliance with OSH legislation.

Inspectors are organised into industry-based teams and a hazard branch and plant team. The inspectors are skilled in:

- general OSH issues;
- construction work on houses, high rise buildings, hospitals, schools and factories;
- demolition;
- machinery and plant;
- maintenance and inspection requirements for boilers, pressure vessels, cranes and lifts; and
- occupational health hazards.

WorkSafe conduct compliance campaigns in industries or in relation to specific hazards to raise awareness of risks. They also carry out reactive activity including investigations of work-related deaths, injuries and disease and high risk situations, requests to attend and resolution of issues.

Right of entry

An inspector has the legal right to enter, at any time, any workplace including aircraft, ships and vehicles, where employees work or are likely to be in the course of their work. This right of entry means that inspectors have unrestricted access to workplaces, excepting where there is a statutory restriction.

Reasons for entering a workplace

The reasons an inspector may visit a workplace include:

- **industry compliance campaign** where specific industries or hazards are identified, usually through industry based statistics. Some of these investigations are based upon workers' compensation claims information, while others involve a formal program of visits and follow-ups;
- **accident or incident investigations** undertaken to determine what happened and why, and how to prevent a recurrence or a similar incident in workplaces. If there has been a serious accident or death, a report is prepared;
- **investigation of reported breaches of the Act and regulations** based upon complaints to WorkSafe;
- **review of a provisional improvement notice**;

- **resolution of issues** where an employer, safety and health representative or employee (where there is no safety and health representative) has notified an inspector, after unsuccessfully attempting to resolve a safety and health issue according to the OSH Act, and where there is risk of imminent and serious injury or harm to the health of any person (section 25 of the Act);
- **proactive inspections** – investigations initiated or generated by the inspectorate while conducting field activities;
- **notice follow-ups** to confirm compliance with the directions in an improvement or prohibition notice; and
- **regulatory inspections** where the regulations require certain inspections eg for machinery and plant, scaffolding and some hazardous operations.

When an inspector calls

Inspectors have the legal right to enter, at any time, any workplace including aircraft, ships and vehicles where employees work or are likely to be in the course of their work. This right means inspectors have unrestricted access to workplaces, excepting where there is a statutory restriction.

On entering a workplace, an inspector will take all reasonable steps to notify the employer or person in control of the workplace of his or her presence. The employer or person in control of the business or undertaking must then notify any elected safety and health representatives (if there are any) at the workplace.

When an inspector visits a workplace, they carry out an inspection for WorkSafe's six priority areas in most instances and where they are relevant. They will also consider other hazards observed during the inspection.

WorkSafe's 'priority areas' are:

- electricity;
- falls from heights;
- hazardous substances;
- manual handling (particularly lifting);
- machine guarding;
- mobile plant; and
- slips, trips and falls.

Refer to www.worksafe.wa.gov.au for more information on the priority areas – enter priority areas in the search box.

An inspector may take into the workplace any equipment, materials or persons to assist in the

inspection, and may also require from the employer or person at the workplace any assistance considered necessary. This includes being accompanied by the employer, safety and health representatives or an employee (where there is no safety and health representative) during the inspection.

The inspector then conducts the examination and inquiry as necessary for the purposes of the OSH Act. This may include:

- examining any plant, substance or thing;
- taking possession of any plant or thing;
- taking photos, measurements, sketches or recordings and informing the employer and safety and health representative of this, including when and where they may be viewed;
- requiring the production of any document or extracts of documents;
- examining and taking copies of documents;
- providing information; and
- interviewing, either in private or otherwise, any person at the workplace, or any person who has been at the workplace in the last three years, and taking a witness statement from them.

The inspector has the power to require that the workplace, or any part of it, be left undisturbed for as long as is specified by the inspector.

When leaving the site, the inspector will inform the employer, and the safety and health representative(s) if there are any action the inspector has taken or will be taking.

The fact that an inspector has inspected a particular workplace is not a representation by WorkSafe that the particular workplace is in any way approved or free of hazards.

Obstruction

It is an offence to obstruct, threaten or interfere with an inspector who is undertaking duties in accordance with the OSH Act.

Work safety notices

Where inspectors form an opinion of non-compliance with provisions of the OSH Act and/or regulations, they may issue verbal directions, improvement or prohibition notices, or issue a combination of these.

An inspector will also consider any requests for review of provisional improvement notices (PINs) issued by an elected and trained safety and health representative. They will do this by attending the workplace.

Display of notices

Any improvement notice or prohibition notice issued must be displayed in a prominent place at or near any workplace affected by the notice. These notices must not be removed until the requirements have been satisfied.

What is a verbal direction?

A verbal direction is an instruction given to a duty holder by a WorkSafe inspector about the need to correct a safety and health issue. The required changes must be made while the inspector is at the workplace and will be inspected prior to the inspector leaving the workplace.

Any verbal direction issued by an inspector will be conveyed to the employer, safety and health representatives, safety and health committee or any other relevant party while the inspector is at the workplace.

What is an improvement notice?

An improvement notice is a written direction issued by a WorkSafe inspector requiring a person to fix something which is believed to not be in compliance with the OSH Act or regulations.

An improvement notice states the reasons for the inspector issuing the notice and will include a reference to a specific regulation or provision of the OSH Act that applies.

Can improvement notices be reviewed?

Requests for review of improvement notices can be lodged with the WorkSafe Western Australia Commissioner. This must be done on a Form 4 Review of improvement notice, before the expiration of the compliance date. A form for requesting reviews ('Form 4 Review of improvement

notice') is available on the website from www.worksafe.wa.gov.au

You can send the form by fax, email or mail or hand deliver.

The action required by the improvement notice is suspended while being reviewed by the Commissioner.

After considering a request for a review, the Commissioner will affirm, modify or cancel the notice. If you do not agree with the Commissioner's decision, you can seek a further review of the notice by the Occupational Safety and Health Tribunal. An appeal to the tribunal must be lodged with the Western Australian Industrial Relations Commission (WAIRC) within seven days of the Commissioner's decision.

How do I seek an extension of the deadline?

Extensions to the compliance deadline stated on an improvement notice can only be issued by the WorkSafe Western Australia Commissioner as part of the review of a notice. You will need to submit a Form 4 – see above.

What is a prohibition notice?

A prohibition notice will be issued where the inspector is of the opinion that there is a risk of imminent and serious injury or harm to the health of a person. This is a written direction that prohibits the relevant activity from continuing. A prohibition notice states the reason the inspector issued the notice and may include a reference to a specific regulation or provision of the OSH Act.

When a prohibition notice is issued, the inspector will stay at the workplace until the employer is advised of the notice and the prohibited activity has ceased.

Failure to comply with a prohibition notice could lead to prosecution.

Can prohibition notices be reviewed?

Requests for review of a prohibition notice must be lodged with the WorkSafe Western Australia Commissioner within seven days of the issue of the notice. In some cases, the Commissioner may allow further time.

Prohibition notices remain in force while they are being reviewed by the Commissioner.

After considering a request for a review of a prohibition notice, the Commissioner will affirm, modify or cancel the notice. If you do not agree with the Commissioner's decision, you can seek a further review of the notice from the Occupational Safety and Health Tribunal. Any appeal to the tribunal must be lodged with the WAIRC within seven days of the Commissioner's decision.

Do I notify WorkSafe when I have complied with an improvement notice or prohibition notice?

A person who receives an improvement notice must notify the WorkSafe Western Australia Commissioner without delay, once the requirements of the notice have been satisfied. This can be done by signing and returning the detachable portion of the notice to WorkSafe.

Activities that cease as a result of a prohibition notice may recommence as soon as the safety matter referred to on the notice is fixed.

What is a provisional improvement notice?

A provisional improvement notice (PIN) is similar to an improvement notice issued by an inspector, except that it is issued by an appropriately trained elected safety and health representative. PINs are written directions requiring a person to remedy (fix) an alleged breach of the OSH Act or regulations. A minimum of seven days must be given to fix the problem set out in the notice. If the safety issue involves serious and imminent danger to workers, other action should be taken such as following the resolution of issues procedures at the workplace, as issuing of a PIN may not immediately resolve the issue.

Failure to comply with a PIN before the date given for compliance is an offence.

If issuing a PIN fails to resolve the matter, contact WorkSafe on 1300 307 877.

Review request

Before the PIN expires, a request may be lodged with WorkSafe for a review. Until an inspector confirms, modifies or cancels the action required in the PIN, it is suspended.

If an inspector confirms or modifies the PIN, it becomes the same as an improvement notice issued by the inspector. If a PIN is not technically correct, an inspector may cancel it and look at issuing an improvement notice in its place.

How do WorkSafe inspectors decide when to issue a notice?

When dealing with possible breaches of the law, WorkSafe inspectors refer to the Enforcement Policy, which is part of WorkSafe's [Compliance Policy](#). This is available from www.worksafe.wa.gov.au type in enforcement policy into the search box.

WorkSafe's Enforcement Policy

1. All provisions of the OSH Act and Occupational Safety and Health Regulations 1996 are important in regard to the need to comply, and will be appropriately enforced.
2. The enforcement action that is warranted will depend on the circumstances of the case and the seriousness of the breach.
3. Non-compliance will be addressed by: improvement notice, prohibition notice, prosecution action, verbal direction, or any combination of these. See above for an explanation of what these are.
4. Verbal directions only relates to situations where a breach can be immediately fixed and inspected prior to the inspector leaving the site.
5. Action taken by the inspector, including verbal directions, will be conveyed to the employer, safety and health representatives or safety and health committee or any other relevant party while the inspector is at the workplace.
6. WorkSafe's *Prosecution Policy* details the relevant considerations associated with decisions relating to instituting and continuing a prosecution, and also covers considerations relating to appeals. Prosecutions are commenced in circumstances including:
 - (i) where the issue of notices is not considered sufficient for ensuring compliance with the OSH Act or regulations;
 - (ii) where an alleged breach of the Act or regulations either has resulted, or could have resulted, in a fatality or serious injury;
 - (iii) alleged failure to comply with an improvement or a prohibition notice;

- (iv) where an inspector alleges a person has repeated the same offence;
 - (v) in cases of discrimination against an employee for any action in relation to occupational safety and health;
 - (vi) breaches of the consultative provisions of the Act; and
 - (vii) where there is obstruction of an inspector.
7. Circumstances may arise in the process of investigating a serious injury or fatality where WorkSafe and the Western Australia Police both have an interest in investigating a fatal or serious incident. In these circumstances, WorkSafe and the Western Australia Police will both investigate and not interfere with each other's investigation.
8. Prosecution action is taken in accordance with WorkSafe's [Prosecution Policy](#). This is available on the website from www.worksafe.wa.gov.au using the search box type Prosecution policy

Contacting WorkSafe

The WorkSafe Customer Help Centre is available to field enquiries about work safety and health issues including complaints, improvement and prohibition notices and requests for information. The Customer Help Centre is open from 8:00am - 5:00pm, Monday - Friday. Public holidays: closed.

Further information

- *Occupational Safety and Health Act 1984*, available at www.slp.wa.gov.au
- WorkSafe's [Compliance Policy](#)
- WorkSafe's [Prosecution Policy](#)
- WorkSafe bulletin 2/2005 – *Provisional improvement notices*.

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