

GUIDE TO INCIDENT NOTIFICATION

How to decide whether you need to notify Comcare of an incident or dangerous occurrence under the requirements of the *Occupational Health and Safety Act 1991*.



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ISBN - 1 87670 0092

First published October 2001

Second edition September 2008

This edition August 2011

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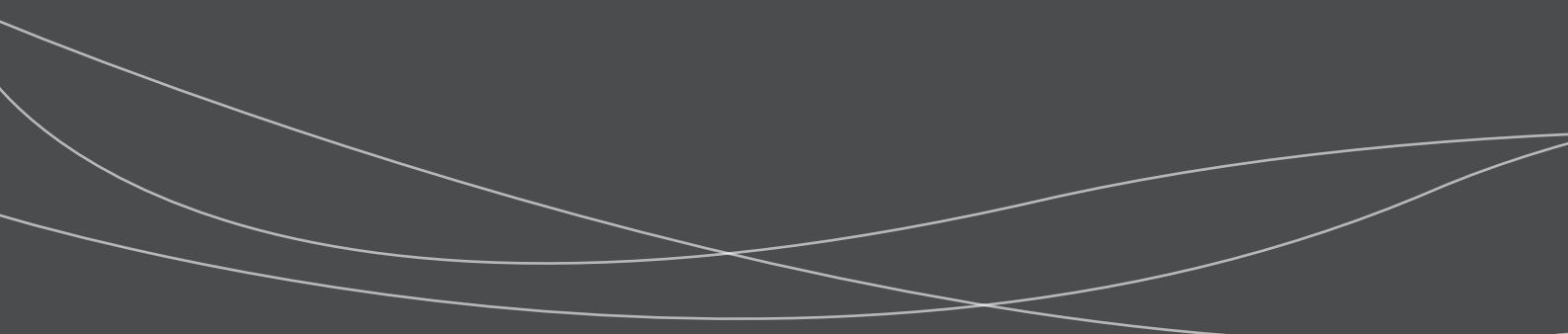


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INTRODUCTION

This guide provides practical assistance in helping employers understand the OHS notification process identifying which incidents¹ and dangerous occurrences are notifiable as well as outlining employer responsibilities regarding notification. The information outlined in this document is the view of Comcare and is based on Comcare's interpretation of the legislation as at August 2011.

On behalf of the Safety, Rehabilitation and Compensation Commission, Comcare administers the *Occupational Health and Safety Act 1991* (the OHS Act) and assists organisations in preventing workplace death, injury and disease.

LEGISLATIVE FRAMEWORK

The OHS Act provides the legal framework for regulating the health and Safety of employees. This includes employees of Commonwealth Departments and agencies, Commonwealth authorities and non-Commonwealth licensees (Commonwealth employers).

The OHS Act also provides protection for third parties and contractors of Commonwealth employers in certain circumstances.

Other parts of the framework include:

- > Occupational Health and Safety (Safety Arrangements) Regulations 1991 (the OHS (Safety Arrangements) Regulations)
- > Occupational Health and Safety (Safety Standards) Regulations 1994
- > Occupational Health and Safety Code of Practice 2008
- > Comcare guidance material.

The relevant legislation can be found at www.comlaw.gov.au

¹ 'Incident/s' in this guide means any accident/occurrence that may have resulted in the death of a person, serious personal injury, incapacity or a dangerous occurrence, whether or not it was notifiable.

WHERE TO FIND DEFINITIONS OF TERMS WITHIN THE LEGISLATION

Definitions	OHS Act	Safety Arrangements Regulations
Contractor	Section 9A	
Control	Section 14	
Dangerous occurrence	Section 5(1)	Regulation 3
Declarations (<i>individuals to be treated as employees for the purposes of the Act</i>) Also see Attachment D.	Section 9(2)	
Employee	Section 9	
Employer	Section 5(1)	
Incapacity		Regulation 36A
Plant	Section 5(1)	
Premises	Section 5(1)	
Serious personal injury		Regulation 2(1)
Workplace	Section 5(1)	

WHERE TO FIND EXPLANATIONS OF CONCEPTS THAT ARE RELEVANT TO INCIDENTS

Relevant Legislation	OHS Act	Safety Arrangements Regulations
Notification of accidents and dangerous occurrences	Section 68	
Records to be kept	Section 69	Regulation 37G
Required notification information		Regulation 37B
Notification timeframes		Regulation 37A
Notice of death must be given by telephone		Regulation 37C
Application of the Act to workplaces controlled by con-tractors	Section 14	
Application of Act to external Territories etc.	Section 13	
Exemptions	Section 7(2)	



INCIDENT NOTIFICATION

WHAT IS INCIDENT NOTIFICATION?

Incident Notification means giving notice to Comcare of physical and psychological injuries, illnesses or diseases that meet the notification criteria prescribed in section 68 the OHS Act and regulations 2, 3 and Part 5 of the OHS (Safety Arrangements) Regulations. Copies of both Comcare's fax and online notification forms can be found on Comcare's website: www.comcare.gov.au/safety__and__prevention/reporting_an_injury_or_illness/incident_notification

INCIDENT NOTIFICATION AND INVESTIGATIONS

Notification is a statutory obligation outlined in the OHS Act and OHS (Safety Arrangements) Regulations. It is a form of intelligence for Comcare about current and potential safety issues which may give rise to the decision to commence an investigation. Employers should note, however, that the decision to commence an investigation under the OHS Act is governed by the OHS Act, and is not necessarily connected to notifications received under the OHS Act. Accordingly in many cases notification of an incident may not result in an investigation and an investigation may be conducted even if a notification has not been provided.

If you would like to know more about investigation procedures, please see Comcare's regulation policy under the Laws and Regulation tab and then follow the link to OHS Enforcement on the Comcare website. http://www.comcare.gov.au/forms__and__publications/corporate_publications/comcares_regulation_policy

DOES INCIDENT NOTIFICATION RELATE TO WORKERS' COMPENSATION?

No. Notification of an incident under the OHS Act is separate to and distinct from making a claim for workers' compensation. In some situations an incident giving rise to a notification may also result in a worker's compensation claim, however the lodgement of a claim is separate to OHS notification. Employers must notify of any incidents that meet the notification criteria whether or not a claim for compensations may be made.

WHY IS INCIDENT NOTIFICATION IMPORTANT?

Incident notification is one way Comcare and employers work together to prevent workplace death, injury and/or disease. Providing timely and accurate notifications is a legal obligation and may benefit both Comcare and employers by:

- > identifying the cause of incidents to enable prompt preventative measures to be put in place
- > gathering and tracking data trends to assist in formulating appropriate preventative strategies
- > informing Comcare of potential areas of concern within agencies so we can work in partnership to prevent workplace harm
- > allowing time for investigation, if required, to establish causes and preventative measures.

WHO IS RESPONSIBLE FOR NOTIFYING COMCARE?

The obligation to notify rests with the employer. (See section 5 of the OHS Act for definition of employer.) The obligation to notify remains with the employer even when an employer out-sources its human resource or corporate service functions to an external service provider, or where an employee is working offsite. The way notification is managed must be decided by each employer.

There are a broad range of activities from which notifiable incidents may arise and the employer has an obligation to monitor such incidents for notification purposes.

In many cases an employee's manager or a line manager may act as an agent for notification purposes. The time frame for notifying Comcare begins when they first become aware of an incident.

RECORDKEEPING RESPONSIBILITIES

Section 69 of the OHS Act, and regulation 37G of the OHS (Safety Arrangements) Regulations, require an employer to retain records of any incident notified to Comcare for 30 years.

Employees should refer to their internal recordkeeping policy for information on maintaining records.

WHAT INFORMATION DO I HAVE TO PROVIDE TO COMCARE WHEN I NOTIFY?

Regulation 37B of the OHS (Safety Arrangements) Regulations sets out all the required information that must be included in a notification to Comcare. Where insufficient details are provided in a notification, Comcare may request that the information detailed in regulation 37B of the OHS (Safety Arrangements) Regulations be provided. Insufficient information may also result in Comcare commencing an investigation under Part 4 of the OHS Act. A clear description of the incident with as much detail as possible will help Comcare to assess whether or not the incident is notifiable and may negate the need for Comcare to contact you for further information.

Comcare's notification of an Incident form has been designed to help you meet your reporting obligations. It can be accessed on Comcare's website via the Safety and Prevention tab and following the links to Incident Notification.



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INCIDENT NOTIFICATION PROCESS

WHEN DO I NOTIFY?

Employers are required to notify Comcare of incidents within strict time frames. These are set out in Regulation 37A of the OHS (Safety Arrangements) Regulations.

The timeframes start **when the employer first becomes aware that a notifiable incident has taken place**. Employers are deemed to become aware of these incidents once they are brought to the attention of staff in supervisory or managerial roles.

The employer must have appropriate systems to ensure that a manager reports an incident or potential incident in a timely manner to the person responsible for notifying Comcare. Where contractors are engaged, the employer must ensure internal communication structures allow contractors to bring potentially notifiable incidents to their attention quickly.

INCIDENT NOTIFICATION TIMEFRAMES

An employer must notify Comcare within the following time frames.

Incident	Notification time frame	Format of notification
Death*	Within 2 hours	Phone Comcare on: 1300 366 979; then submit a written notification with known details by fax or online.
Serious personal injury	Within 24 hours	In writing via fax or online
Incapacity	Within 24 hours	In writing via fax or online
Dangerous occurrence	Within 24 hours	In writing via fax or online

HOW DO I NOTIFY?

*An employer must notify Comcare within two hours of becoming aware of a death first by **telephone** and then followed up in **writing** with whatever details are known at the time. (You can upgrade the notification if/when more information arises.) Refer to regulation 37A(1)(a) and regulation 37B of the OHS (Safety Arrangements) Regulations for more information.

Incidents causing serious personal injury or incapacity, and dangerous occurrences must be notified within 24 hours in **writing**. The preferred methods are by fax or the online notification form. There is a **discretionary** option to advise Comcare of such incidents by telephone during business hours. This does not exempt employers from written notification within 24 hours of becoming aware of the incident.

Where there is insufficient detail in a notification, Comcare may ask for information as detailed in regulation 37B of the OHS (Safety Arrangements) Regulations, or start an investigation.

UPGRADING NOTIFICATIONS

Where Comcare has been notified of an incident and the employer receives information that changes the incident type, the employer must notify Comcare of those changes. For example, if a notified serious personal injury later results in death, Comcare must receive verbal and written advice about the changed situation within two hours of the employer becoming aware of it.

You do not need to submit another incident notification form but you do need to contact Comcare with the new details of your original notification.

WHAT INCIDENTS ARE NOTIFIABLE?

Sometimes, deciding what to notify can be difficult. The following information explains what may be notifiable and how employers can approach the decision-making process. The Notification Decision Flowchart at **Attachment A** is a helpful tool to assist employers with their decision making.

Notifiable incidents are incidents which arise out of the conduct of the employer's undertaking, or out of work performed by an employee in connection with their employer's undertaking, that results in one of the following:

- > the death of **any** person
- > a 'serious personal injury'² to **any** person
- > incapacity of an **employee**;³
- > a 'dangerous occurrence' that could have caused, but did not in the circumstances, cause these outcomes.⁴

Below are examples of notifiable incidents. If you are unsure if an incident meets the criteria, you can go ahead and submit a notification or contact Comcare on 1300 366 979.

Death of a person

An incident resulting in the death of **any** person, whether or not it occurred at a workplace, will be notifiable if it arises out of the conduct of the employer's undertaking. It will also be notifiable if it arises out of work performed by an employee in connection with their employer's undertaking.

For example:

- > A fatal incident during a training exercise organised by the employer. (The training is part of the employer's undertaking.)
- > A fatal vehicle incident en route to a meeting at a client's business premises as part of the employee's work. (The journey is part of the employee's work in connection with the employer's undertaking.)

Serious personal injury

An injury will be a serious personal injury where it is caused in the course of work and the injured person **needs**:

- > emergency treatment by a registered medical practitioner, or
- > treatment in a hospital as a casualty without being admitted, or
- > admission to a hospital.

Refer to 'Interpretation of terms used in the OHS Act' on page 25 for further explanation of the terms 'emergency treatment', 'treatment in a hospital' and 'admission to a hospital'.

² As defined in regulation 2 of the *OHS (Safety Arrangements) Regulations 1991* (Cth).

³ The relevant period of incapacity is 30 or more successive working days or shifts. See regulation 36A of the *OHS (Safety Arrangements) Regulations*.

⁴ 'Dangerous occurrence' is defined in regulation 3 of the *OHS (Safety Arrangements) Regulations 1991* (Cth) and s5(1) of the OHS Act.

An incident resulting in serious personal injury to **any** person (including members of the public), will be notifiable if it arises out of the conduct of the employer's undertaking, or out of work performed by an employee in connection with their employer's undertaking. It is not necessary for the injury to occur at an employer's workplace.

For example:

- > An employer's truck undertaking employer's business struck a member of public, who was admitted to hospital for emergency surgery. (The incident arose out of the employer's undertaking and emergency medical treatment was required.)
- > A contracted guard received lacerations during a robbery and was given emergency treatment by a medical practitioner. (The contractor's work is part of the employer's undertaking at the site. If any other people at the site sustained similar injuries in this incident, they would also have been notifiable.)
- > A contract manager for an organisation (a contractor) had his leg broken in a scaffolding collapse at a workplace controlled by a Commonwealth employer. If a contractor controlled the site for construction or maintenance purposes, notification requirements in section 68 of the OHS Act may not apply because of the operation of section 14 of the OHS Act.⁵ In this example, if the Commonwealth employer retains control, section 68 of the OHS Act applies and the employer would be required to notify.

Incapacity

Incapacity is defined as any incident that causes an **employee**, who performs work in connection with their employer's undertaking, to be unable to work for 30 or more successive working days or shifts.

Note: Incapacity relates only to employees as defined in section 9 of the OHS Act. See 'Interpretation of terms used in the OHS Act' for further information.

An incident resulting in the incapacity of an employee for 30 successive working days or shifts, whether or not the incident occurred at a workplace, will be notifiable if it arises out of the conduct of the employer's undertaking. It will also be notifiable if it arises out of work performed by an employee in connection with the employer's undertaking.

Note: There may be some instances where incapacity may occur or become known to the employer days or months after the incident, such as whiplash from a vehicle incident.

For example:

- > An employee was incapacitated for 30 successive working shifts following wrist and arm sprains incurred while loading heavy stores at a Commonwealth authority's site. (The employee was performing work in connection with the employer's undertaking and the appropriate period of incapacity was uninterrupted.)

5 See 'Exceptions' on page 23 of this guide for more on 'control' as defined in section 14 of the OHS Act.

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- > A back sprain incurred during a work-related outdoor training exercise caused an employee to be incapacitated for 32 successive working days. No emergency treatment was sought on the day of the injury. (The continuous incapacity and the connection with the undertaking are sufficient in this case. It is not necessary for emergency treatment to be provided to meet the definition of incapacity.)

Dangerous occurrences

A dangerous occurrence is any event that occurred at a workplace that could have caused the death of, or serious personal injury to any person; or the incapacity of an employee, but did not, in the circumstances, cause these outcomes⁶.

For example:

- > Accidental discharge of a military weapon during a training exercise without death or injury. (The workplace would be the location at which the exercise took place, and the incident arose out of the employer's undertaking or out of work performed by an employee in connection with their employer's undertaking).
- > A crane attempted to lift an awkward load and one of its slings failed before the load was moved. No injuries occurred. (The incident arose out of the employer's undertaking at a workplace and could have caused death or serious personal injury.)



⁶ Dangerous occurrences arising from the conduct of an employers undertaking may affect any person, including visitors and members of the public.

BULLYING AND INCIDENT NOTIFICATION

NOTIFICATION OF BULLYING INCIDENTS AND BEHAVIOUR

Workplace bullying is an occupational health and safety ('OHS') issue. It is regulated in the same way as any other workplace OHS issue as it may cause a risk to physical and/or psychological health and safety. It should therefore be subject to the same hazard identification, risk assessment and risk control processes as any other hazard. In this guidance, 'bullying' has a broad definition and refers to a spectrum of behaviour from the very minor up to serious criminal conduct such as assault. (For further detail about the type of behaviour that might be considered bullying, see Comcare publication Preventing and Managing Bullying at Work—a Guide for Employers (OHS 65)).

Under section 68 of the OHS Act employers are required to notify Comcare of any accident that causes the death of, or serious personal injury to any person, or the work incapacity (of 30 days or more) of an employee. Likewise, an employer must notify Comcare of a 'dangerous occurrence' that could have caused the same outcomes.

Bullying can cause physical or psychological injury (or both) to the victim. If a bullying incident or behaviour meets the notification criteria in section 68 of the OHS Act, the employer must notify Comcare.

WHEN IS BULLYING NOTIFIABLE?

For a bullying incident to be notifiable, the behaviour must 'arise out of the conduct of the [employer's] undertaking' or 'out of work performed by an employee in connection with [their employer's] undertaking'. This is a broad test, and Comcare takes the view that if the alleged bullying incident occurred in the work context, it is likely to have arisen out of the conduct of the employer's undertaking or out of work performed by an employee in connection with that undertaking.

BULLYING THAT HAS CAUSED DEATH, SERIOUS PERSONAL INJURY OR WORK INCAPACITY

If the consequences of the bullying are that a person has died, or has sustained a serious personal injury (requiring emergency medical treatment or treatment at a hospital) then the employer must notify the incident to Comcare. More commonly, the response of the bullying victim may be to take incapacity leave, and if this is of 30 or more successive working days or shifts, the employer must notify Comcare of the incident.

The incapacity leave taken as a result of a bullying incident or behaviour may often exceed 30 days. Bullying can cause serious psychological risk or injury to the victim and may have a greater impact than is immediately apparent to the employer. Comcare advises employers to submit a notification to Comcare if there is any doubt about whether the incident or behaviour is required to be notified.

BULLYING AS A DANGEROUS OCCURRENCE

A dangerous occurrence is an occurrence at a workplace that could have (but did not) cause the death of or serious personal injury to any person, or could have (but did not) cause 30 or more days of work incapacity of an employee. Any dangerous occurrence must be notified to Comcare.

To determine if an incident of bullying is a dangerous occurrence, an employer must make an assessment of whether the incident could have caused a person to die or to suffer a serious personal injury or caused an employee to have work incapacity of 30 or more successive working days or shifts.

The difficulty with this assessment is that the circumstances surrounding a bullying incident are based on the participants' perceptions as well as the observable facts. It is often difficult for an employer to identify whether a bullying incident or behaviour could have caused the victim's death, serious personal injury or work incapacity until after the fact.

An employer may not be aware of bullying incidents or behaviour where the parties involved have not reported the matter to management. Many incidents are often satisfactorily resolved informally between the parties involved; an informal resolution of this nature would therefore not be visible to the employer. However, it would need to be reported where the employer becomes aware of the incident which could be when one of the parties reports it formally or when the results of the bullying become an administrative matter — for example clear and apparent conflict between the parties, or other escalation where allegations of bullying are visible.

WHEN SHOULD A NOTIFIABLE BULLYING INCIDENT BE NOTIFIED TO COMCARE?

A notifiable bullying incident or behaviour must be notified to Comcare within the same time frames as for other notifiable incidents. That is, within two hours of an employer becoming aware of a death, or within 24 hours of a serious personal injury, work incapacity or dangerous occurrence. Comcare considers that an employer becomes aware of an incident once it is brought to the attention of staff in supervisory or managerial roles. The notification of an incident is not an admission of liability of any kind.



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WHAT INCIDENTS ARE NOT NOTIFIABLE?

Some incidents do not meet legislative criteria for notification or are modified by exemptions.

For example:

NON-NOTIFIABLE DEATHS

The criteria set out below can help you to identify if a death of a person is notifiable. If you would like further clarification, please submit a notification or contact Comcare on 1300 366 979.

A death may be not-notifiable if:

- > The fatality did not arise out of the conduct of the employer's undertaking, or out of related work performed by the employee.
- > The fatality did not result from an incident, such as when attributable to a long-standing medical condition not related to work. 'Accident' is not defined in the OHS Act, but the ordinary dictionary meaning applies.
- > The fatality was the result of a motor vehicle incident when the employee was driving a private vehicle between home and his or her workplace.

NON-NOTIFIABLE INJURIES

- > A building contractor's leg was broken in a scaffolding collapse at a contractor-controlled site of a new departmental building.⁷ He was hospitalised immediately. (An incident causing serious personal injury is reportable whether or not it occurs to an employee or contractor. The exception is where it occurs at a workplace controlled by a contractor. This incident may still be notifiable by the contractor's employer to the relevant State authority.)
- > An employee suffered a minor cut and was treated by the workplace first-aid officer. (This would not be notifiable because the injury was not serious, and the employee did not need emergency treatment by a registered medical practitioner, hospital treatment or admission.)

NON-NOTIFIABLE INCAPACITY

- > A visiting private sector scientist was extensively bruised by malfunctioning lift doors in a research facility, but sought no emergency care. The scientist was incapacitated for 10 days. (This incident is not notifiable because the scientist was not an employee and the incapacity was less than 30 successive working days. Such an incident may be notifiable as a dangerous occurrence or as a serious personal injury if the scientist needed emergency treatment by a registered medical practitioner, treatment in a hospital or admission.)

- > A building contractor (from a company not covered by the Commonwealth OHS scheme) was incapacitated for 35 days after spraining a knee while removing building material at a workplace. (This incident was not notifiable because the building contractor was not an employee as defined in section 9 of the OHS Act. In similar circumstances, the contractor's employer may need to notify the relevant State OHS authority.)
- > A person incapacitated by an overuse injury worked part day shifts on a return-to-work program for 30 days. (This was not notifiable, because the person was not incapacitated for 30 successive full working days.)

NON-NOTIFIABLE DANGEROUS OCCURRENCES

- > An employee received minor injuries on the way to work from home when his commuter bus was involved in a collision. (This incident was not notifiable because it did not arise out of the conduct of the employer's undertaking or out of work performed by the employee in connection with that undertaking. Furthermore, it did not occur at a workplace.)
- > An employee narrowly avoided serious head injuries during a contact sporting event that took place at a public playing field outside the workplace during lunchtime. The employer did not arrange the event or encourage participation. (This incident was not notifiable because it did not arise out of the conduct of the employer's undertaking or out of work performed by an employee in connection with the undertaking.)

7 See 'Exceptions' on page 23 of this guide for more on contractor controlled sites in the context of section 14 of the OHS Act.

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EXEMPTIONS

Exemptions apply to the Australian Defence Force as outlined in the declaration made under sub section 7(2) of the OHS Act. It states that section 68 of the OHS Act does not apply in relation to those members of the Australian Defence Force who are involved in:

- > operational deployments
- > deployments in support of the United Nations
- > organised ADF sporting activities.

EXCEPTIONS

There are exceptional circumstances in which Comcare need not be notified of incidents.

Section 14(1) of the OHS Act provides that an employer is not required to notify incidents that occur at a workplace if it is **controlled by a contractor for the purposes of construction or maintenance**. Comcare takes the position that an employer must unambiguously relinquish all control over the workplace for section 14 to operate and exempt it from notifying under section 68 of the OHS Act⁸. Employers unsure if a contractor controls a workplace under section 14 should seek legal advice.

⁸ See the decision of the Full Bench of the Australian Industrial Relations Commission in *Telstra v Comcare* (2007) AIRC FB 438. (<http://www.fwa.gov.au/decisionssigned/html/2007airc136.htm>)

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CONTACT DETAILS

You can contact Comcare using any of the following methods.

General enquiries and notifications

Monday to Friday: 8:30am to 5:00pm AEST

Phone: 1300 366 979

Fax: 1300 305 916

Email: ohs.help@comcare.gov.au

Online Reporting system: https://www.comcare.gov.au/secure/online_incident_notification_form/

Website:

http://www.comcare.gov.au/safety/workplace_accidents__and__incidents/incident_notification

Note: For after-hours notifications the hotline number will provide options for you to be diverted to an on-call investigator in the appropriate state or territory.

INTERPRETATION OF TERMS USED IN THE LEGISLATION

WHAT DOES ARISING OUT OF MEAN?

In section 68 of the OHS Act the phrase 'arising out of' requires at least a minor or contributory causal connection between the conduct of the employer's undertaking, or work performed by employees in connection with that undertaking, and an incident which results in:

- > the death of any person
- > 'serious personal injury' to any person
- > incapacity of an employee
- > a 'dangerous occurrence' that could have caused, but did not in the particular circumstances cause these outcomes.

The employer's undertaking, or work performed by the employee in connection with that undertaking, does not have to be the direct, primary or sole cause of a death, 'serious personal injury', incapacity, or 'dangerous occurrence' in order for an incident to be notifiable to Comcare under section 68 of the OHS Act.

WHAT DOES CONDUCT OF THE UNDERTAKING MEAN?

The phrase 'conduct of the [employer's] undertaking' refers to business activities or work undertaken in the course of the employer's business. Its application is not limited to activities at a workplace.

As well as the employer's central or core activities (for example, a chemical company running a chemical plant), it can include secondary activities or ancillary services, such as:

- > obtaining supplies
- > cleaning
- > undertaking maintenance
- > making deliveries.

An employer 'conducting an undertaking' refers broadly to activity or work that is done in the course of carrying on the employer's business or enterprise, whether or not it is carried on at a workplace as defined in the OHS Act. The business of the employer could be carried out:

- > at one or more workplaces
- > at permanent or temporary workplaces
- > at workplaces where there may or may not be a defined physical boundary
- > at a place other than on Commonwealth premises, or non-Commonwealth licensee premises
- > where the undertaking is conducted on the employer's behalf by a contractor or sub-contractor.

The location of an incident is not relevant to whether it needs to be notified to Comcare, except for a 'dangerous occurrence' which must be at a workplace⁹. The critical issue is whether the incident 'arises out of the conduct of the [employer's] undertaking or out of work performed by an employee in connection with that undertaking'.

WHO IS A THIRD PARTY?

Incidents involving third parties (or any person) are notifiable if they result in death or serious personal injury or constitute a dangerous occurrence. A third party could be a member of the public, a visitor to a workplace or a passer-by.

CAUSED IN THE COURSE OF...

In ascertaining whether an injury or disease in a person (this is not limited to employees) constitutes a 'serious personal injury', an employer must determine whether that injury or disease was 'caused in the course of work'.

If the work contributed to, or in any way caused, the injury or disease which manifests itself in a person, it may be notifiable depending on whether the person needs to receive the types of medical treatment described in regulation 2(1)(b) OHS (Safety Arrangements) Regulations 1991 (Cth) (definition of 'serious personal injury').

⁹ Refer to section 68 of the OHS Act for further information.

WHAT DOES NEEDS TO BE . . . TREATED MEAN?

An incident will only be notifiable as a 'serious personal injury' if the person 'needs to be' given the treatment described in regulation 2(1)(b) of the OHS (Safety Arrangements) Regulations 1991 (Cth) (definition of 'serious personal injury').

In the context of the legislative definition of 'serious personal injury' in regulation 2(1)(b) of the OHS (Safety Arrangements) Regulations 1991 (Cth), the phrase 'needs to be' in relation to treatment, is objective. It is not necessary for a person to **actually seek or receive** any of the types of treatment listed in regulation 2 of the OHS (Safety Arrangements) Regulations. The issue is whether the medical treatment referred to in regulation 2 was needed, not whether medical treatment was actually provided, sought or refused. If in doubt, a first aid officer, ambulance officer or medical practitioner may be able to comment on the required or recommended medical treatment.

Comcare policy identifies several types of injuries which **require** emergency medical treatment. These include:

- > suspected fractures, and
- > concussions, head injury or loss of consciousness.

Comcare considers that these types of injuries would normally need treatment.

When forming an opinion as to whether or not someone 'needs to be . . . treated', consider the consequences of failing to receive that treatment. For example, would failure to receive treatment result in death, loss of limb or function or incapacity?

COULD HAVE CAUSED...

This is concerned with exposure to a risk (or what could have, but did not in the circumstances, occur) and not with what actually transpired or the level of injury or incapacity (if any) that eventuated. Accordingly, before an incident becomes notifiable as a dangerous occurrence, it must be of a kind that alerts the employer to the potential for death, serious personal injury or incapacity.

WHAT DOES AT WORK MEAN?

While the OHS Act does not define it, an employee is at work when performing work in connection with the employer's undertaking, whether or not it is at a workplace. For example, much of the work of Customs, Australian Federal Police, Centrelink, Asciano, K&S Freighters and ATO is done in the field or at another employer's workplace.

WHAT DOES EMERGENCY TREATMENT MEAN?

This is not defined in the OHS Act and should therefore be given its ordinary dictionary meaning. The phrase generally refers to the treatment of **acute** illnesses and injuries that require immediate medical attention. For example gunshot wounds, loss of limbs or functions.

Injuries such as minor sprains, scrapes, minor cuts and bruises that may be treated by a first-aid officer or treated later do not meet the criteria of 'emergency treatment'.

A person may decline emergency treatment when recommended by a first-aid or ambulance officer, for example, after a motor vehicle incident. If treatment is declined, the person may still be regarded as needing emergency treatment.

WHAT DOES REGISTERED MEDICAL PRACTITIONER MEAN?

This phrase is not defined in the OHS Act, but typically means a doctor who is registered or licensed to practise under a State or Territory law. It includes psychiatrists.

Note: This would exclude allied health professionals such as ambulance officers, nurses, physiotherapists or psychologists.

WHAT DOES TREATED IN A HOSPITAL MEAN?

It covers situations where a person is treated in the emergency department of a hospital without being admitted.

Such treatments can include:

- > administering pain relief
- > plastering a limb
- > providing intravenous support
- > stitching or dressing wounds.

The regulations do not specify who must provide the treatment, therefore, it can be provided by any medical staff.

Note: A person undergoing a diagnosis (such as minor soft tissue injury) or diagnostic tests (blood tests, X-rays and electrocardiograms) is not considered to have received treatment.



FREQUENTLY ASKED QUESTIONS

If the following information does not answer your questions, further information is available from the incident notification section of Comcare's website. Alternatively you can contact Comcare on 1300 366 979.

WHO DO I CONTACT TO NOTIFY OF INCIDENTS?

Employers must inform Comcare of any notifiable incidents. The method will depend on the type of incident. For serious personal injury, incapacity or dangerous occurrence an employer may advise Comcare using phone, fax or the online submission system within 24 hours of becoming aware of the incident. Any phone advice will need to be followed up with written notification within the prescribed timeframe.

To notify the death of a person an employer must contact Comcare by phone and in writing within two hours of becoming aware of the death.

DOES INCIDENT NOTIFICATION RELATE TO WORKERS' COMPENSATION?

No. Notification of an incident under the OHS Act is separate and distinct from making a claim for workers' compensation under the Safety Rehabilitation and Compensation Act 1988. In some situations a notifiable incident may also result in a separate workers' compensation claim. Employers must notify incidents that meet the notification criteria whether or not a compensation claim may be made.

IS SUICIDE NOTIFIABLE?

Suicide may be notifiable if there is evidence to suggest a causal connection between the conduct of the employer's undertaking, or work performed by employees in connection with that undertaking, and the death of the person. Refer to section on interpretation of terms: What does arising out of mean?

DO I NEED TO NOTIFY INCIDENTS THAT RELATE TO CONTRACTORS?

Yes, except in relation to incapacity. An incident involving a contractor (as defined by section 9A of the OHS Act) that results in incapacity and does not meet the definition of serious personal injury would not be notifiable.

An incident resulting in a serious personal injury, death or a dangerous occurrence involving any contractor must be notified if it has arisen out of the conduct of an employer's undertaking or out of work performed by an employee in connection with that undertaking.

I AM BASED OVERSEAS AND AN INCIDENT HAS OCCURRED. IS THIS NOTIFIABLE?

Yes. Incidents that arise out of an employer's undertaking that occur overseas must be notified to Comcare. Section 68 of the OHS Act applies outside Australian territory.

I AM LOCATED OVERSEAS AND HAVE NOTIFIED COMCARE OF AN INCIDENT, WILL THIS BE INVESTIGATED?

Comcare has limited legislative power to conduct investigations extra-territorially, but it may choose to commence a local investigation to determine the steps that were taken to prevent or minimise risk of injury occurring overseas arising from the conduct of an employer's undertaking.

IF AN EMPLOYEE DOES NOT CLAIM FOR COMPENSATION DOES IT STILL NEED TO BE NOTIFIED?

Yes. If any incident arises out of the conduct of an employer's undertaking or out of work performed by an employee in connection with their employer's undertaking, and results in serious personal injury, death of a person, incapacity or a dangerous occurrence, it must be notified regardless of whether compensation is sought by an injured person.

WHO CAN I TALK TO IF I AM UNSURE IF SOMETHING IS NOTIFIABLE?

You should contact Comcare if you have any doubts regarding whether or not you should notify of an incident. If there is any doubt it is best to notify. You may wish to seek legal advice or contact Comcare on 1300 366 979.

WHERE CAN I VIEW THE RELEVANT LEGISLATION?

www.comlaw.gov.au

CAN I DELEGATE OR CONTRACT OUT RESPONSIBILITY TO NOTIFY INCIDENTS?

The obligation to notify rests with the employer and accountability needs to be allocated within the employer's organisation. If employees are seconded or working at a contractor or state employer's workplace, arrangements should be made to ensure the employer is promptly notified of relevant incidents.

See page 10 with respect to employer's engaging another entity/person as their Agent to submit notifications on their behalf to Comcare. In essence:

- > an employer cannot delegate, transfer, or contract out of its legal duty/responsibility to notify Comcare of safety incidents that fall within the scope of s68 OHS Act
- > it can, however, validly implement a procedure whereby another entity or person, acting as its agent, submits a notification on its behalf
- > the acts of the agent will be treated at law as the acts of the principal (in this case the employer). Accordingly, where the agent fails to comply with the requirements of s68 of the OHS Act, liability for this non-compliance will be borne by the employer and finally
- > ultimately, it is a matter for the employer to satisfy itself that its internal processes and procedures are sufficient to discharge its obligation to notify Comcare of certain incidents under s68 OHS Act within the required timeframes.

CAN I WAIT UNTIL I HAVE CONDUCTED A FULL INVESTIGATION INTO THE INCIDENT BEFORE NOTIFYING?

No. Notifications must be made within the timeframes specified.

Comcare acknowledges that all the relevant information may not be immediately available, but you must still notify. Once further information is received you can contact Comcare to add to or alter information pertaining to the incident you have already notified.

Further information could include police reports, medical reports, legal responses and investigation outcomes.



Australian Government
Comcare

Accident means:

1. an undesirable or unfortunate happening; casualty; mishap.
2. anything that happens unexpectedly, without design, or by chance ... (Macquarie dictionary)

Injury means:

1. harm of any kind done or sustained.
2. a particular form or instance of harm ... (Macquarie dictionary)

Disease means:

1. a morbid condition of the body, or of some organ or part; illness; sickness; ailment ...
2. any deranged or depraved condition, as of the mind ... (Macquarie dictionary)

Occurrence means:

1. the action or fact of occurring.
2. something that occurs; an event or incident. (Macquarie dictionary)

Workplace means:

- any Commonwealth premises (premises owned or occupied by the Commonwealth or a Commonwealth Authority); or
 - any non-Commonwealth licensee premises (premises owned or occupied by the non-Commonwealth licensee) in which Commonwealth or non-Commonwealth licensee employees, contractors or Commonwealth Authority employees work.
- It does not include any part of premises that is primarily used as a private dwelling (OHS Act S5)

Premises means:

- any place (whether enclosed or built or not), including a place under ground or under water, and includes:
 - a building, aircraft, vehicle or vessel
 - any structure whether fixed or moveable (such as a tent), and whether on land, on bed of any water or floating on water and
 - a part of premises.
- (OHS Act S5)

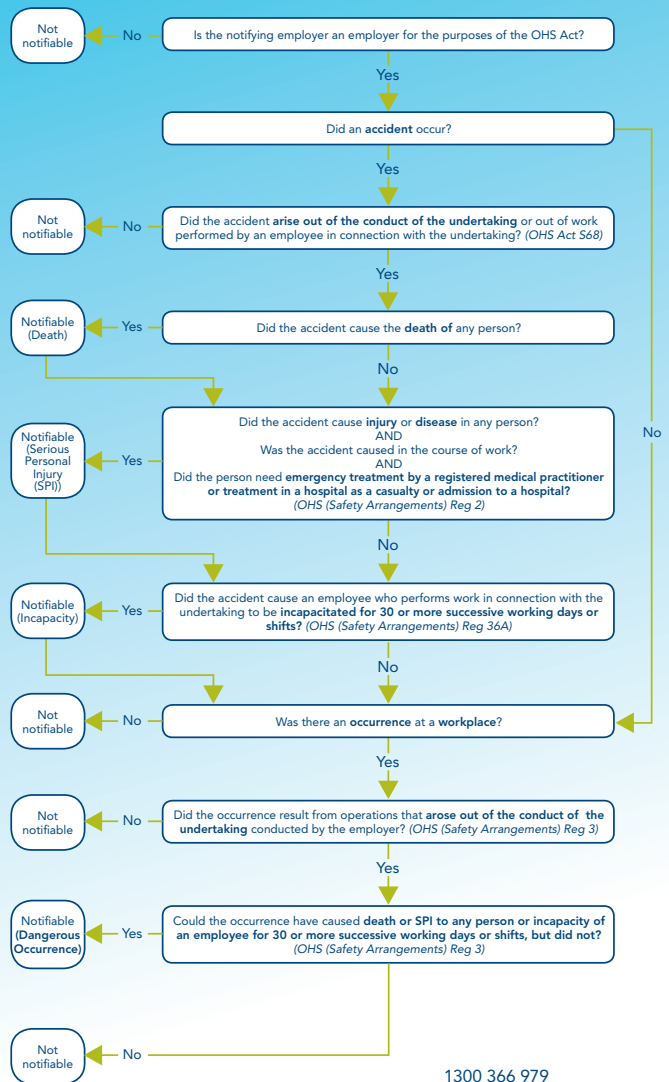
Dangerous Occurrence means:

- an occurrence at a workplace that resulted from operations that arose from the undertaking conducted by an employer; and could have caused (but did not cause):
 - the death or serious personal injury to any person;
 - or incapacity of an employee for 30 or more consecutive working shifts or days.
- (OHS Act S5(1) and OHS (Safety Arrangements) Reg 3)

This flowchart is intended to provide a summary and general overview of relevant matters. It is not intended to be comprehensive and is not a substitute for reading the legislation or legal advice.

Comcare accepts no responsibility for anything done or omitted to be done in reliance, upon this diagram, and for the accuracy, reliability, currency or completeness of any material contained in this diagram.

Notification Decision Flowchart



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www.comcare.gov.au
ohs.help@comcare.gov.au

AUSTRALIA'S SAFEST WORKPLACES

NOTIFICATION DECISION FLOWCHART AND SCENARIOS

The following scenarios will help with understanding the decision points for identifying notifiable incidents. Follow the flowcharts to understand why an incident has been determined to be notifiable or not.

Scenario 1:

A staff member is assaulted in the public car park adjacent to her workplace while walking back to work after a client meeting. The employer's policy requires that the employee wear her uniform and name badge which clearly identified her as an employee at all times while at work.

During the attack, the assailant stated loudly that he was upset about action by the employer that he said had affected him negatively. The employee suffered significant cuts and abrasions, and went to hospital in an ambulance, was treated in casualty and was off work for one week.

Decision points	
Did an accident occur?	Yes
Did the incident arise out of the conduct of the employer's undertaking or out of work performed by an employee in connection with the undertaking?	Yes – the incident arose out of the employer's undertaking because the employee was apparently assaulted because she was an employee of a Commonwealth employer.
Did the incident cause death?	Death – no.
Did the incident cause serious personal injury?	SPI – yes. The injury required treatment at hospital as a casualty, and it was caused in the course of work.
Is it notifiable?	Yes. This incident is notifiable as a serious personal injury.

Scenario 2:

An employee enters the lift in her workplace to attend a meeting on another floor. The building is not owned by her employer. The lift drops quickly several metres before suddenly stopping, causing the employee to fall to her knees. The employee is able to safely exit the lift, but dislocated her knee. She immediately attends her GP, where she is treated and provided with a medical certificate for one week.

Decision points	
Did an accident occur?	Yes
Did the incident arise out of the conduct of the employers undertaking or out of work performed by an employee in connection with the undertaking?	Yes. The incident arose out of the employer's undertaking as the employee was using the infrastructure (the lift) to undertake their work (go to a meeting)
Did the incident cause death?	Death, no.
Did the incident cause death or serious personal injury?	SPI, yes. The injury was caused in the course of work and required emergency treatment by a registered medical practitioner
Is it notifiable?	Yes. This incident is notifiable as a serious personal injury.

Scenario 3:

A staff member sitting at his desk complains of chest pain and pain radiating down his left arm. The first-aid officer attends and the employee is sent to hospital by ambulance. He is diagnosed as having suffered a heart attack and has two months off work. There were no previous occurrences of chest pain and the staff member reported that he was not feeling under pressure in relation to his work.

Decision points	
Did an accident occur?	Yes
Did the incident arise out of the conduct of the employers undertaking or out of work performed by an employee in connection with the undertaking?	No. There is no information available to link the heart attack to the conduct of the undertaking or work performed by an employee in connection with the undertaking.
Did the incident cause death?	Death, no.
Did the incident cause serious personal injury?	SPI, no. Although the heart attack required emergency treatment it was not demonstrated that it was caused in the course of work
Did it result in incapacity?	Yes. The employee was incapacitated for in excess of 30 consecutive working days.
Was it a dangerous occurrence?	No. Although it occurred at a workplace it did result in incapacity.
Is it notifiable?	No. This incident is not notifiable as it did not arise out of the conduct of the undertaking.

Scenario 4:

A staff member is travelling to conduct a home visit, which is part of her normal duties. She is driving a vehicle provided by her employer. While stopped at traffic lights, a truck runs into the back of her vehicle. She is shaken and sustains minor cuts and bruises. She consults her GP the next day and is diagnosed as having a whiplash injury resulting in three days off work.

Question	Decision point
Did an accident occur	Yes
Did the incident arise out of the conduct of the employers undertaking or out of work performed by an employee in connection with the undertaking?	No. Although the employee was travelling as part of her normal duties and is using a vehicle provided by her employer for that purpose this is an example of a purely temporal connection (or 'wrong place at the wrong time'). There is no causal connection between the work performed by the employee in connection with her employer's undertaking (driving the car to the client meeting) and the incident occurring, so the incident cannot be said to arise out of work performed by the employee in connection with their employer's undertaking.
Is it notifiable?	No. This incident is not notifiable. Even though a dangerous occurrence has taken place, it did not arise out of the conduct of the employer's undertaking, or out of work performed by the employee in connection with that undertaking.

Scenario 5 – disease

A group of 12 employees working in a city office building develop influenza like symptoms including cough, headache, fever, shortness of breath and chills with symptoms continuing to worsen over a 5 day period. Following an initial investigation of the work environment, and based on the profile and severity of reported symptoms, it is revealed that Legionella bacteria is present in nearby cooling towers that form part of the office buildings air conditioning system.

After initial consultation with a GP, only 5 out of the 12 employees exposed to the bacteria are deemed to require admission to hospital based on the severity of their symptoms. Following further laboratory testing in hospital, the 5 employees are diagnosed with Legionnaires disease and require 21 days off work in addition to a prolonged course of antibiotics.

The remaining 7 employees receive antibiotic treatment only from a GP and are given 10 days off work to recover from their symptoms.

A subsequent workplace investigation is undertaken which reveals that affected employees had not previously reported similar symptoms or experienced any previous exposure to Legionella bacteria.



Question	Decision point
Did an accident occur?	Yes .
Did the incident arise out of the conduct of the employers undertaking or out of work performed by an employee in connection with the under-taking?	Yes – the incident arose out of the employers undertaking because the employees were exposed while working in their usual place of work.
Did the incident cause death?	Death – No
Did the incident cause serious personal injury (SPI)?	SPI – Yes (only in relation to the 5 employees) The incident caused a ‘disease’ to occur in the course of work, and required admission to, and treatment at hospital by a registered medical practitioner. SPI – No (only in relation to the 7 employees) Although the incident caused a ‘disease’ to occur in the course of work, the employees did not require admission to, or treatment at hospital by a registered medical practitioner.
Did it result in incapacity?	No – the employees were not incapacitated for 30 or more consecutive working days or shifts.
Was it a dangerous occurrence (DO)?	Yes (only in relation to the 7 employees) – The incident would be considered a DO as it arose out of the employers undertaking and could have caused death or SPI to any person, or incapacity of an employee for 30 or more consecutive working days or shifts, but did not. No (only in relation to the 5 employees) – The incident would not be considered a dangerous occurrence as it was established as an SPI based on the decision point outlined above.
Is it notifiable?	Yes (only in relation to the 7 employees) – This incident is notifiable as a DO. Yes (only in relation to the 5 employees) – This incident is notifiable as an SPI.

Other examples of work related disease may include:

- > Certain poisonings
- > Some skin diseases such as occupational dermatitis, skin cancer, chrome ulcer, oil folliculitis/acne
- > Lung diseases including occupational asthma, farmers lung, pneumoconiosis, asbestosis, mesothelioma
- > Infections such as leptospirosis, hepatitis, tuberculosis, anthrax, and tetanus
- > Other conditions such as; occupational cancer, certain musculoskeletal disorders, decompressions illness and hand-arm vibration syndrome

ATTACHMENT B

EXAMPLES OF EMPLOYERS CONDUCTING AN UNDERTAKING

- > Australian Taxation Office audits and front counter customer liaison at shopfronts
- > Australian Defence Force exercises (not operational deployments which are subject to exemption)
- > Air Force air crew training and flying of peacetime missions
- > Navy submarine and ship work , wherever the location
- > Research activity by the Australian Antarctic Division
- > Commonwealth Scientific Industrial Research Organisation research functions
- > Australian National University research, teaching, administrative and service functions
- > Australia Post mail and freight activities
- > Telstra field cabling work
- > Contractors from labour hire companies performing freight delivery and mail centre activities on behalf of employers during peak periods
- > Contractors and their employees performing call centre work on behalf of employers where that call centre work is the employer's undertaking
- > Telstra and Optus technicians working at customer's premises
- > Australian Air Express freight work
- > Pacific National rolling stock movements
- > K&S Freighters truck drivers undertaking wharf pickup and delivery

- > Contractors carrying out a service function on a Commonwealth site
- > Department of Immigration and Citizenship detention centre operations
- > Centrelink field reviews and presentations in remote communities
- > Commonwealth Rehabilitation Service sending Centrelink clients into workplaces of other employers on work experience placement
- > Australian National Audit Office conducting field audits.



**ATTACHMENT C****DECLARATIONS UNDER SUB SECTION 7(2) OF THE OHS ACT****ADF—Text of declaration gazetted 13/2/92**

Pursuant to sub section 7(2) of the Occupational Health and Safety (Commonwealth Employment) Act 1991 ('the Act'), I, General Peter Courtney Gratton, the Chief of the Defence Force, hereby declare that sections 24 to 38 inclusive of the Act apply in relation to all members of the Australian Defence force, being a specified class of members within which all such members are included, subject to the following modification:

References in sections 24 to 38 inclusive, to employees will not include members of the Australian Defence Forces

ADF—Text of declaration gazetted 26/4/95

Pursuant to sub section 7(2) of the Occupational Health and Safety (Commonwealth Employment) Act 1991 ('the Act'), I, Admiral Alan Lee Beaumont, the Chief of the Defence Force, having consulted the Minister for Industrial Relations, hereby declare that section 68 of the Act does not apply in relation to those members of the Australian Defence Force ('ADF') who are involved in:

- a) ADF operational deployments;
- b) ADF deployments in support of the United Nations; or
- c) Organised ADF sporting activities.

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ATTACHMENT D

DECLARATIONS UNDER SUB SECTION 9(5) OF THE OHS ACT

The attached Declarations under section 9(5) of the OHS Act, specify that groups of individuals performing specified activities for the organisations below are treated as employees for the purposes of the OHS Act:

- > Air Training Corps
- > Australian Cadet Corps
- > Naval Reserve Cadets
- > Department of the Environment and Heritage (excluding the Bureau of Meteorology)
- > Great Barrier Reef Marine Park Authority
- > National Capital Authority
- > Approved philanthropic organisations serving the Australian Defence Force as described in Defence Instructions (General)
- > Sydney Harbour Federation Trust.

COMMONWEALTH OF AUSTRALIA**OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991****PERSONS TAKEN TO BE EMPLOYED BY THE COMMONWEALTH**

I, PETER KEASTON REITH, Minister for Employment, Workplace Relations and Small Business, under sub section 9(5) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) declare that:

The class of persons mentioned in column 1 of the schedule is taken to be employed by the Commonwealth for the purposes of the Act, and

The employment of that class of persons for those purposes is taken to be constituted by the performance of the class of acts mentioned in column 2 of the Schedule.

Dated 15 December 1999

Minister for Employment, Workplace Relations and Small Business

SCHEDULE

Column 1 Class of persons	Column 2 Class of Acts
Members of the Air Training Corps established under section 8 of the Air Force Act 1923	Acts performed in connection with the activities of the Corps.
Members of the Australian Cadet Corps established under section 62 of the Defence Act 1903	Act performed in connection with the activities of the Corps.
Members of the Naval Reserve Cadets established under section 38 of the Naval Defence Act 1910	Acts performed in connection with the activities of the Cadets.

COMMONWEALTH OF AUSTRALIA
OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991
NOTICE OF DECLARATION UNDER SECTION 9(5)

Notice No. 1 of 2000

I, PETER KEASTON REITH, Minister for Employment, Workplace Relations and Small Business, hereby declare for the purposes of subsection 9(5) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* that, on and from the date of publication of this Notice in the Commonwealth of Australia Gazette:

- (a) a person who is included in the class of persons referred to in the first column of the following table, being a class of persons who engage in activities or perform acts at the request or direction, for the benefit, or under a requirement made by or under a law, of the Commonwealth, is declared to be employed by the Commonwealth; and
- (b) the employment of the person is declared to be constituted by the performance by the person of an act included in the class of acts referred to in the second column of that table opposite to the reference to that class of persons:

First Column Class of Persons	Second Columns Class of Acts
Persons who, under the control or direction of a Commonwealth officer, or the Director of National Parks, assist in the running of the Department of the Environment and Heritage (excluding the Bureau of Meteorology) or assist the Director of National Parks, without receiving any remuneration (other than payment of expenses incurred).	Acts performed in the rendering of assistance.

Dated 24th August 2000

PETER REITH
Minister for Employment, Workplace Relations and Small Business

COMMONWEALTH OF AUSTRALIA**OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991****NOTICE OF DECLARATION UNDER SECTION 9(5)****Notice No. 2 of 2000**

I, PETER KEASTON REITH, Minister for Employment, Workplace Relations and Small Business, hereby declare for the purposes of subsection 9(5) of the Occupational Health and Safety (Commonwealth Employment) Act 1991 that, on and from the date of publication of this Notice in the Commonwealth of Australia Gazette:

- (a) a person who is included in the class of persons referred to in the first column of the following table, being a class of persons who engage in activities or perform acts at the request or direction, or for the benefit, of the Great Barrier Reef Marine Park Authority, a Commonwealth Authority, is declared to be employed by that Authority; and
- (b) the employment of the person is declared to be constituted by the performance by the person of an act included in the class of acts referred to in the second column of that table opposite to the reference to that class of persons:

First Column Class of Persons	Second Column Class of Acts
Persons who, under the control or direction of a Commonwealth officer, assist, without receiving any remuneration (other than payment of expenses incurred), in the operation of the Great Barrier Reef Marine Park Authority.	Acts performed in the operation of the Great Barrier Reef Marine Park Authority.

Dated 24th August 2000

PETER REITH

Minister for Employment, Workplace Relations and Small Business

COMMONWEALTH OF AUSTRALIA
OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991
NOTICE OF DECLARATION UNDER SECTION 9(5)

Notice No 3 of 2000

I, PETER KEASTON REITH, Minister for Employment, Workplace Relations and Small Business, hereby declare for the purposes of subsection 9(5) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* that, on and from the date of publication of this Notice in the Commonwealth of Australia Gazette:

- (a) a person who is included in the class of persons referred to in the first column of the following table, being a class of persons who engage in activities or perform acts at the request or direction, for the benefit, or under a requirement made by or under a law, of the Commonwealth, is declared to be employed by the Commonwealth; and
- (b) the employment of the person is declared to be constituted by the performance by the person of an act included in the class of acts referred to in the second column of that table opposite to the reference to that class of persons:

First Column Class of Persons	Second Column Class of Acts
Persons who, without receiving any remuneration (other than payment of expenses incurred), assist the National Capital Authority in fostering an awareness of Canberra as the National Capital.	Acts performed in connection with the rendering of the assistance.

Dated 12th September 2000

PETER REITH
Minister for Employment, Workplace Relations and Small Business

COMMONWEALTH OF AUSTRALIA**OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991****SUBSECTION 9(5)****PERSONS TAKEN TO BE EMPLOYED BY THE COMMONWEALTH**

I, ANTHONY JOHN ABBOTT, Minister for Employment, Workplace Relations and Small Business, acting under subsection 9(5) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* (the Act) declare that:

- (a) the class of persons mentioned in column 1 of the Schedule is taken to be employed by the Commonwealth for the purposes of the Act, and
- (b) the employment of that class of persons for those purposes is taken to be constituted by the performance of the class of acts mentioned in column 2 of the Schedule opposite the class of persons in column 1.

Dated 24/9/2001

Signed: TONY ABBOTT

Minister for Employment, Workplace Relations and Small Business

SCHEDULE

First Column Class of Persons	Second Column Class of Acts
Persons who hold honorary rank in the Australian Defence Force	Acts performed in connection with the activities of the Australian Defence Force.
Accredited representatives of approved philanthropic organisations serving the Australian Defence Force as described in Defence Instructions (General) as follows: <ul style="list-style-type: none"> (a) Australian Red Cross Society (ARCS) (Field Force); (b) Campaigners for Christ – Everyman’s Welfare Service; (c) The Salvation Army – Red Shield Defence Services; (d) Young Men’s Christian Association – Defence Forces Division; (e) Young Women’s Christian Association – Defence Forces Division; and (f) The Returned and Services League of Australia – Australian Forces Overseas Fund (RSL-AFOF) 	Acts performed in connection with the activities of the Australian Defence Force.

COMMONWEALTH OF AUSTRALIA
OCCUPATIONAL HEALTH AND SAFETY (COMMONWEALTH EMPLOYMENT) ACT 1991
NOTICE OF DECLARATION UNDER SUBSECTION 9(5)

Notice No 2 of 2002

I, ANTHONY JOHN ABBOTT, Minister for Employment and Workplace Relations, hereby declare for the purposes of subsection 9(5) of the *Occupational Health and Safety (Commonwealth Employment) Act 1991* that on and from the date of publication of this notice in the Commonwealth of Australia Gazette:

- (a) a person who is included in the class of persons referred to in the first column of the following table, being a class of persons who engage in activities or perform acts at the request or direction, for the benefit, or under a requirement made by or under a law, of the Commonwealth, is declared to be employed by the Commonwealth; and
- (b) the employment of the person is declared to be constituted by the performance of an act included in the class of acts referred to in the second column of that table opposite to the reference to that class of persons:

First ColumnClass of Persons	Second ColumnClass of Acts
Persons who, under the control or direction of a Commonwealth employee, assist the Sydney Harbour Federation Trust with bush regeneration and restoration or conservation works and by conducting guided tours of the Trust sites, without receiving any remuneration (other than payment of expenses incurred).	Acts performed in connection with the rendering of the assistance.

TONY ABBOTT
Minister for Employment and Workplace Relations

Dated 16/12/2002.

For further information contact

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Canberra ACT 2601

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Internet—www.comcare.gov.au

OHS43 August 2011