

1990 - No. 507*

**OCCUPATIONAL HEALTH AND SAFETY ACT 1983 -
REGULATION**

(Occupational Health and Safety (Notification of Accidents)
Regulation 1990)

NEW SOUTH WALES



[Published in Gazette No. 90 of 20 July 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Occupational Health and Safety Act 1983, has been pleased to make the Regulation set forth hereunder.

JOHN FAHEY,
Minister for Industrial Relations and Employment.

Citation

1. This Regulation may be cited as the Occupational Health and Safety (Notification of Accidents) Regulation 1990.

Commencement

2. This Regulation commences on 1 October 1990.

Application

3. This Regulation:

- (a) prescribes, for the purposes of section 27 of the Act, the requirements with respect to the giving of notice of accidents or other matters occurring at places of work; and

* Replaces Regulation published in Gazette of 29 June 1990.

- (b) applies to all places of work other than mines within the meaning of the Coal Mines Regulation Act 1982 or the Mines Inspection Act 1901.

Definitions

4. In this Regulation:

“person in control”, in relation to a place of work, means any person acting or apparently acting in the general management or control of the place of work;

“place of work” means premises where persons work;

“premises” includes:

- (a) any land, building or part of any building; and
- (b) any vehicle, vessel or aircraft; and
- (c) any installation on land, on the bed of any waters or floating on any waters; and
- (d) any tent or movable structure;

“the Act” means the Occupational Health and Safety Act 1983.

Notification of accidents causing death or serious personal injury - employees

5. (1) An accident which occurs at a place of work is required to be notified under section 27 of the Act if it causes the death of, or a serious personal injury to, an employee employed at that place of work.

(2) Notice of any such accident is required to be given by the employer of the employee concerned as soon as practicable (but not later than 7, days) after it occurs.

(3) However, if the employer is not aware that the accident has caused or is likely to cause any such death or serious personal injury notice of the **accident** is required to be given as soon as practicable (but not later than 7 days) after the employer becomes aware of that fact.

(4) In this clause:

“serious personal injury” means an injury to an employee which results in the employee being unable, for a continuous period of at least 7 days, to attend the employee's usual place of work or to perform his or her usual duties at that place of work.

Notification of accidents causing death or serious personal injury - non-employees

6. (1) An accident which occurs at a place of work is required to be notified under section 27 of the Act if it causes the death of, or a serious personal injury to, a person (not being an employee employed at that place of work).

(2) Notice of any such accident is required to be given by the person in control of the place of work concerned as soon as practicable (but not later than 7 days) after it occurs.

(3) However, if the person in control of the place of work is not aware that the accident has caused or is likely to cause any such death or serious personal injury, notice of the accident is required to be given as soon as practicable (but not later than 7 days) after that person becomes aware of that fact.

(4) In this clause:

“**serious personal injury**” means an injury to a person which results in the person being unable, for a continuous period of at least 7 days, to attend the person's usual place of work or other place or to perform his or her usual duties at that place of work or to carry out his or her usual activities at that other place.

Notification of work-related illnesses

7. (1) A work-related illness suffered by an employee is required to be notified under section 27 of the Act if:

- (a) as a result of the illness, the employee is, for a continuous period of at least 7 days, unable to attend the employee's usual place of work or to perform his or her usual duties at that place of work; and
- (b) the employee provides the employer with a medical certificate which states that, in the opinion of a medical practitioner, the illness was work-related.

(2) Notice of any such work-related illness is required to be given by the employer of the employee concerned as soon as practicable (but not later than 7 days) after the employer receives the medical certificate.

(3) In this clause:

“**work-related illness**” means:

- (a) a disease which is contracted by an employee in the course of employment at a place of work and to which the employment was a contributing factor; or
- (b) the recurrence, aggravation, acceleration, exacerbation or deterioration of any existing disease contracted by an employee, where any such employment was a contributing factor to the recurrence, aggravation, acceleration, exacerbation or deterioration.

Notification of dangerous occurrences

8. (1) A dangerous occurrence which occurs at a place of work is required to be notified under section 27 of the Act.

(2) Notice of any such dangerous occurrence is required to be given by the person in control of the place of work concerned as soon as practicable (but not later than 7 days) after it occurs.

(3) In this clause:

“**dangerous occurrence**” means:

- (a) damage to any boiler, pressure vessel or refrigerating plant which endangers the health or safety of persons at a place of work; or
- (b) damage to any plant, equipment or other thing which endangers or is likely to endanger the health or safety of persons at a place of work; or
- (c) damage to any load-bearing member of, or the failure of any brake, steering limiting device or other control device of, a crane, hoist, conveyor, lift, escalator, moving walk, plant, scaffolding, gear, amusement device or public stand; or
- (d) an uncontrolled explosion, fire or escape of gas, dangerous goods or steam or any other occurrence involving imminent risk of explosion, fire or escape of gas, dangerous goods or steam or of death or serious personal injury to any person or substantial damage to property.

Form and manner of giving notice

9. A notice of an accident or other matter under this Regulation:
- (a) is to be in or to the effect of a form approved by the Workcover Authority; and
 - (b) is to be given to the Workcover Authority by leaving it at, or by sending it by post to, an office of the Workcover Authority.

Retention of copies of notices

10. (1) A person who gives notice of an accident or other matter under this Regulation is to retain completed copies of the form approved by the Workcover Authority in a bound book or in loose-leaf form for a period of at least 5 years after the date the notice was given.

(2) Any such person is to make those copies available for inspection by an inspector appointed under the Factories, Shops and Industries Act 1962 in accordance with a request by the inspector, and in any event, no later than 7 days after the date of the request.

Maximum penalty: \$1,000.

Associated legislation relating to notification of accidents at places of work to have no effect

11. In pursuance of section 28 of the Act, the provisions of section 18 of the Construction Safety Act 1912 (but only to the extent to which those provisions apply to places of work) and section 48 of the Factories, Shops and Industries Act 1962 have no effect.

NOTE

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EXPLANATORY NOTE

The objects of this Regulation are:

- (a) to prescribe the circumstances in which notification of accidents, work-related illnesses or dangerous occurrences is required; and
- (b) to prescribe the nature of that notification.

The Regulation replaces the existing requirement under associated occupational health and safety legislation to notify the WorkCover Authority of an accident, work-related illness or dangerous occurrence, and extends that requirement to apply to all places of work.
