



# Occupational Health and Safety Amendment (Incident Notification) Regulation 2003

under the

Occupational Health and Safety Act 2000

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Occupational Health and Safety Act 2000*.

JOHN DELLA BOSCA, M.L.C.,

Minister for Commerce

## Explanatory note

The object of this Regulation is to amend the *Occupational Health and Safety Regulation 2001* by:

- (a) altering the list of workplace incidents that must be reported to WorkCover to include specific reference to incidents involving risk of serious injury or illness to a person resulting from use or threatened use of a weapon or robbery, and incidents of electric shock involving risk of serious injury to a person (replacing an existing general reference to an incident of violence resulting in an injury to an employee that causes a period of absence from work), and
- (b) requiring notice of workplace incidents to be given by electronic communication or by telephone, and
- (c) making it clear that notice of workplace injury is not required to be given by the employer of a worker if the employer has already given notice under injury notification provisions of the *Workplace Injury Management and Workers Compensation Act 1998*, and
- (d) removing provisions for the giving of notice by employers that duplicate provisions of the *Occupational Health and Safety Act 2000*, and
- (e) altering provision for the keeping of copies of incident notifications to require the making and keeping of a record of incidents notified to WorkCover, a record of the giving of an incident notice and a record of any acknowledgement of an incident notice received from WorkCover, and

## **2003 No 571**

Occupational Health and Safety Amendment (Incident Notification) Regulation 2003

Explanatory note

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- (f) changing references to “occurrence” and “event or circumstance” to “incident”, for consistency with the terminology of the *Occupational Health and Safety Act 2000* following recent amendments.

This Regulation is made under the *Occupational Health and Safety Act 2000*, including sections 33 (the general regulation-making power), 86 and 87.

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### **1 Name of Regulation**

This Regulation is the *Occupational Health and Safety Amendment (Incident Notification) Regulation 2003*.

### **2 Commencement**

This Regulation commences on 1 September 2003.

### **3 Amendment of Occupational Health and Safety Regulation 2001**

The *Occupational Health and Safety Regulation 2001* is amended as set out in Schedule 1.

**2003 No 571**

Occupational Health and Safety Amendment (Incident Notification)  
Regulation 2003

Schedule 1 Amendments

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**Schedule 1 Amendments**

(Clause 3)

**[1] Clause 30 Additional functions of OHS committees and OHS representatives (section 18 (d) of the Act)**

Omit “accident or other occurrence” from clause 30 (1) (d).

Insert instead “incident”.

**[2] Clause 341 Notification of incidents—additional incidents to be notified**

Omit “occurrences” wherever occurring in the note to clause 341.

Insert instead “incidents”.

**[3] Clause 341**

Omit “event or circumstance” wherever occurring.

Insert instead “incident”.

**[4] Clause 341**

Omit “an occurrence”. Insert instead “an incident”.

**[5] Clause 341 (i)–(i2)**

Omit clause 341 (i). Insert instead:

- (i) the use or threatened use of a weapon that involves a risk of serious injury to, or illness of, a person,
- (i1) a robbery that involves a risk of serious injury to, or illness of, a person,
- (i2) electric shock that involves a risk of serious injury to a person,

**[6] Clause 341 (j)**

Omit “any occurrence”. Insert instead “any other incident”.

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**[7] Clause 341A**

Insert after clause 341:

**341A How notice of incidents is to be given**

Notice required to be given to WorkCover under section 86 of the Act must be given in any of the following ways:

- (a) by electronic communication (using a mode of electronic communication approved by WorkCover) providing the information requested by WorkCover,
- (b) by telephone to WorkCover, giving such information as may be requested of the caller.

**[8] Clause 342 Variation of obligations under section 86 of the Act—employers to notify WorkCover of incidents**

Omit “event or circumstance” from clause 342 (1).

Insert instead “incident”.

**[9] Clause 342 (1)**

Omit the second sentence. Insert instead:

This subclause does not apply if the employer is aware that another person has given the required notice to WorkCover or if the employer has given notice of the incident in accordance with section 44 (2) of the *Workplace Injury Management and Workers Compensation Act 1998*.

**[10] Clause 342 (2)**

Omit the subclause. Insert instead:

- (2) Notice required to be given by the employer must be given as soon as practicable (but not later than 7 days) after the employer becomes aware of the incident.

**[11] Clause 343 Retention of records of notice acknowledgement**

Omit clause 343 (1). Insert instead:

- (1) A person who gives WorkCover a notice under section 86 of the Act (including under clause 342) must make and keep for at least 5 years after the notice is given:
  - (a) a record of the date, time, place and nature of the incident to which the notice relates, and

**2003 No 571**

Occupational Health and Safety Amendment (Incident Notification)  
Regulation 2003

Schedule 1 Amendments

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- (b) a record of the date on which and the way in which the notice was given, and
- (c) a record of any acknowledgement (such as a receipt number) given to the person by WorkCover as evidence of receipt of the notice.

**Note.** An entry in the register of injuries kept under section 63 of the *Workplace Injury Management and Workers Compensation Act 1998* is a sufficient record of an injury to a worker for the purposes of this clause. The record of an acknowledgement of the notice can also be made and kept as part of the register of injuries.

**[12] Clause 343 (2)**

Omit “those copies”. Insert instead “those records”.

**[13] Part 12.2, heading**

Omit “**non-disturbance occurrences**”.

Insert instead “**serious incidents**”.

**[14] Clause 344 Non-disturbance of places and plant involved in serious incidents—additional serious incidents**

Omit the note to the clause. Insert instead:

**Note.** Section 87 of the Act requires the occupier of a place of work involved in a serious incident (an incident that has resulted in a person being killed) not to disturb the place (or plant at the place) for a period of 36 hours. The section provides that additional incidents can be prescribed as serious incidents by regulation. (The section does not prevent such actions as helping or removing trapped or injured persons or actions directed or permitted by an inspector in the 36 hour period—see section 87 (4).)

**[15] Clause 344**

Omit “For the purposes of the definition of *non-disturbance occurrence* in section 87 (1) of the Act, the following occurrences at or in relation to a place of work are prescribed:”.

Insert instead “For the purposes of the definition of *serious incident* in section 87 (1) of the Act, the following incidents at or in relation to a place of work are prescribed:”.

**[16] Clause 344 (c)**

Omit “event or circumstance”. Insert instead “incident”.

**[17] Schedule 2 Penalty notices**

Omit “non-disturbance occurrence” from the matter relating to section 86 (1) (a).

Insert instead “serious incident”.

**[18] Schedule 2 Penalty notices**

Omit “accident/matter” from the matter relating to section 86 (1) (b).

Insert instead “incident”.