

**AUSTRALASIAN PARLIAMENTARY COUNSEL'S COMMITTEE**


Work Health and Safety (WHS) Ministers' Meeting

**Model Work Health and Safety Legislation Amendment (Incident Notification)  
2025**

**REPORT OF THE AUSTRALASIAN PARLIAMENTARY COUNSEL'S COMMITTEE**

On 30 August 2024, officers of Safe Work Australia provided instructions to the Australasian Parliamentary Counsel's Committee to draft legislation for the Work Health and Safety (WHS) Ministers' Meeting on this matter.

A copy of the draft legislation that has been settled with the officers is attached.



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Secretary, Australasian Parliamentary Counsel's Committee

12 June 2025

Ref: pcc-642, d21

# Model Work Health and Safety Legislation Amendment (Incident Notification) 2025

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**1 Name of Act**

These model provisions are the *Model Work Health and Safety Legislation Amendment (Incident Notification) 2025*.

**2 Amendment of Model Law**

The *Model Work Health and Safety Bill* is amended as set out in Schedule 1.

## Schedule 1 Amendment of Model Work Health and Safety Bill

### [1] Section 4 Definitions

Omit the definition of *medical treatment*.

### [2] Section 4

Insert in alphabetical order—

*notifiable extended absence*—see section 35A.

*notifiable suicide*—see section 35B.

*relevant occurrence*—see section 34A.

*violent incident*, in Part 3—see section 37A.

### [3] Section 27 Duty of officers

Insert “, notifiable extended absences and notifiable suicides” after “incidents” in section 27(5)(e), examples.

### [4] Section 34A

Insert before section 35—

#### 34A Definition

In this Act:

*relevant occurrence* means the following:

- (a) a notifiable incident;
- (b) a notifiable extended absence;
- (c) a notifiable suicide.

### [5] Section 35

Omit the section. Insert instead—

#### 35 What is a *notifiable incident*

In this Act, *notifiable incident* means any of the following arising from the conduct of a business or undertaking:

- (a) the death of a person;
- (b) a serious injury or illness of a person;
- (c) a dangerous incident;
- (d) a violent incident.

### [6] Sections 35A and 35B

Insert after section 35—

#### 35A What is a *notifiable extended absence*

In this Act, *notifiable extended absence* of a worker means an absence that is reasonably attributable to a physical or psychological injury or illness arising from the conduct of a business or undertaking where:

- (a) the worker has been absent from work for 15 or more consecutive days;  
or
- (b) the worker anticipates, on the basis of a medical practitioner's opinion, being absent from work for 15 consecutive days or more, and notifies

the person conducting the business or undertaking of the anticipated absence.

**35B What is a *notifiable suicide***

- (1) In this Act, ***notifiable suicide*** means a death by suicide, or suspected suicide, or an attempted, or suspected attempted, suicide:
  - (a) of a worker:
    - (i) that occurs at a time when the worker is not on leave and would ordinarily be working; or
    - (ii) that occurs at, or in the immediate vicinity of, the worker's workplace or another workplace managed or controlled by the same person conducting the business or undertaking for which the worker works; or
    - (iii) that occurs in relevant accommodation; or
    - (iv) that makes use of 1 or more things available to the worker because of the worker's work or at the worker's workplace; or
    - (v) that occurs when the worker is wearing the worker's usual work uniform at a time or in a place the worker would not ordinarily be expected to wear the uniform; or
    - (vi) who had or has a psychological injury or illness arising from the conduct of the business or undertaking; or
    - (vii) who is, or has been, exposed to frequent, prolonged or severe psychosocial hazards because of the worker's work or at the worker's workplace; or
    - (viii) that occurs in circumstances where the person conducting the business or undertaking for which the worker works has notice of a link with the worker's work or workplace, or is otherwise aware of a link with the worker's work or workplace; or
  - (b) of a person other than a worker that takes place at a workplace where suicide is a reasonably foreseeable risk due to the nature of the workplace and the presence of 1 or more physical hazards that could be used in a suicide.
- (2) In this section:  
***relevant accommodation*** means the following:
  - (a) accommodation owned by, or under the management or control of, the person conducting the business or undertaking for which the worker works;
  - (b) accommodation otherwise supplied or paid for, whether directly or indirectly, by the person conducting the business or undertaking for which the worker works.

**[7] Section 36**

Omit the section. Insert instead—

**36 What is a *serious injury or illness***

- (1) In this Part, ***serious injury or illness***, in relation to a person, means:
  - (a) an injury or illness that would ordinarily require the person to have immediate treatment as an in-patient of a hospital, whether or not treatment is available or sought; or

- (b) any of the following injuries or illnesses that would ordinarily require the person to have immediate treatment, whether or not treatment is available or sought:
    - (i) the amputation of a body part;
    - (ii) a serious eye injury;
    - (iii) a serious burn;
    - (iv) the separation of skin from an underlying tissue, such as degloving or scalping;
    - (v) a spinal injury, including a fracture of 1 or more vertebrae;
    - (vi) a fracture of the pelvis, the skull or other facial bones;
    - (vii) another serious bone fracture;
    - (viii) a serious crush injury;
    - (ix) the loss of a bodily function;
    - (x) serious lacerations; or
  - (c) a serious brain injury or illness resulting from:
    - (i) a significant blow, knock or other shock to the person's head, whether or not immediate treatment is sought; or
    - (ii) repeated blows, knocks or other shocks to the person's head; or
  - (d) an injury or illness for which the person seeks treatment from a relevant registered health professional within 48 hours after exposure to a substance; or
  - (e) an injury or illness prescribed by the regulations.
- (2) The regulations may prescribe an injury or illness, or class of injury or illness, as an injury or illness that is not a serious injury or illness for the purposes of this Part.
- (3) In this section:
- relevant registered health professional** means a person registered under the *Health Practitioner Regulation National Law* in any of the following health professions—
- (a) medical;
  - (b) nursing;
  - (c) paramedicine.

**Note**

See the jurisdictional note in the Appendix.

**[8] Section 37**

Omit the section. Insert instead—

**37 What is a *dangerous incident***

- (1) In this Part, ***dangerous incident*** means any of the following incidents, in relation to a workplace, that immediately or imminently exposes a person to a serious risk to the person's health or safety:
- (a) an uncontrolled escape, spillage or leakage of a substance;
  - (b) an uncontrolled fire, implosion, or explosion, including an electrical explosion or an arc flash explosion;
  - (c) an uncontrolled escape of gas or steam;
  - (d) an uncontrolled escape of a pressurised substance;

- (e) an electric shock;
  - (f) the fall or release from a height of a thing;
  - (g) the collapse, overturning, failure or malfunction of, or damage to, plant that is required to be authorised for use in accordance with the regulations;
  - (h) a mobile plant incident;
  - (i) the collapse or partial collapse of a structure;
  - (j) the collapse or failure of an excavation or of any shoring supporting an excavation;
  - (k) the inrush of water, mud or gas in workings, in an underground excavation or tunnel;
  - (l) the interruption of the main system of ventilation in an underground excavation or tunnel;
  - (m) a serious fall;
  - (n) another incident prescribed by the regulations.
- (2) The regulations may prescribe an incident, or class of incident, as an incident that is not a dangerous incident for the purposes of this Part.
- (3) In this section:
- mobile plant** means plant designed to move or be moved, either autonomously or under the direct or remote control of an operator.
- mobile plant incident** means an incident in which:
- (a) mobile plant overturns or partially overturns; or
  - (b) mobile plant collides with a person or thing; or
  - (c) a person is pinned to the ground or another thing by mobile plant; or
  - (d) a person is ejected from mobile plant; or
  - (e) mobile plant malfunctions; or
  - (f) mobile plant, ordinarily controlled directly or remotely by an operator, moves while not under control.
- serious fall** means a person falling:
- (a) from 1 level to a lower level; or
  - (b) into a hole, trench, pit or void; or
  - (c) into a body of water; or
  - (d) onto a dangerous surface or object.

[9] **Section 37A**

Insert after section 37—

**37A What is a *violent incident***

In this Part, ***violent incident*** means 1 or more of the following that exposes a person to a serious risk of psychological harm:

- (a) a sexual assault or suspected sexual assault;
- (b) a physical assault, including with bodily fluids;
- (c) deliberate deprivation of a person's liberty without lawful authority;

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- (d) a threat of sexual or physical assault, or a threat to deprive a person of the person's liberty, where there is a reasonable belief that, at the time the threat is made, the person making the threat:
  - (i) intends to carry out the threat; and
  - (ii) has the means to carry out the threat.

**[10] Section 38, heading**

Insert “, **notifiable extended absences and notifiable suicides**” after “**incidents**”.

**[11] Section 38(1)**

Omit the subsection. Insert instead—

- (1) A person conducting a business or undertaking must ensure that notice of a relevant occurrence is given to the regulator:
    - (a) for a notifiable incident or notifiable suicide—immediately after becoming aware of the incident or suicide; or
    - (b) for a notifiable extended absence—within 14 days after becoming aware of the extended absence.
- Maximum penalty: tier D monetary penalty.
- (1A) A notification under subsection (1) is only required once in relation to the same event or set of circumstances.

**[12] Section 38(4)**

Omit “incident” wherever occurring. Insert instead “relevant occurrence”.

**[13] Section 38(7)**

Omit “notifiable incident”. Insert instead “relevant occurrence”.

**[14] Section 38(7)**

Omit “the incident”. Insert instead “the relevant occurrence”.

**[15] Section 39, heading**

Omit “sites”. Insert instead “**site and evidence**”.

**[16] Section 39(1)**

Omit the subsection. Insert instead—

- (1) The person with management or control of a workplace at which there has been a relevant occurrence must, so far as is reasonably practicable, ensure that:
    - (a) the site of the occurrence is preserved until released by an inspector; and
    - (b) evidence of the occurrence, including electronic and digital records and witness details, is preserved.
- Maximum penalty: tier D monetary penalty.
- (1A) To avoid doubt, an inspector may, for subsection (1)(a), release the whole site or a part of the site.

**[17] Section 39(2)**

Omit “subsection (1)”. Insert instead “this section,”.



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**[18] Section 39(2) and (3)(c)**

Omit “notifiable incident” wherever occurring. Insert instead “relevant occurrence”.

**[19] Section 39(3)**

Omit “Subsection (1)”. Insert instead “This section”.

**[20] Section 39A**

Insert after section 39—

**39A Person conducting business or undertaking and person with management or control of workplace to notify each other of certain matters**

- (1) A person with a duty under section 38 must, immediately after becoming aware of the relevant occurrence activating the duty, ensure a person with a corresponding duty under section 39 is notified of the relevant occurrence, so far as is reasonably practicable.

Maximum penalty: tier D monetary penalty.

- (2) A person with a duty under section 39 must, immediately after becoming aware of the relevant occurrence activating the duty, ensure a person with a corresponding duty under section 38 is notified of the relevant occurrence, so far as is reasonably practicable.

Maximum penalty: tier D monetary penalty.

**[21] Section 199 Contents of non-disturbance notice**

Omit “notifiable incident” in section 199(1)(a). Insert instead “relevant occurrence”.

**[22] Section 199(4)(c)**

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

**[23] Appendix**

Omit the matter relating to section 4, definition of *medical treatment* from the table.

**[24] Appendix**

Insert in numerical order in the table—

36(3)

Each jurisdiction will specify the relevant registration Act which will be the Health Practitioner Regulation National Law of that jurisdiction.