

DEPARTMENT OF
THE ATTORNEY-GENERAL AND JUSTICE

Work Health Authority

Annual Report
2021-22

NTWork**Safe**



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Function and purpose of the Work Health Authority

The *Work Health Administration Act 2011* establishes the role of the Work Health Authority (WHA), with powers and functions under the *Work Health and Safety (National Uniform Legislation) Act 2011*, the *Return to Work Act 1986*, the *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010*, and associated Regulations.

The Attorney-General and Minister for Justice is responsible for the *Work Health Administration Act 2011* and the appointment of the WHA.

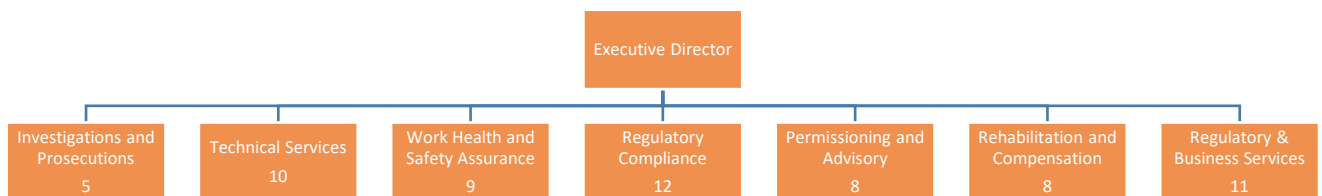
NT WorkSafe corporate information

The WHA discharges its powers and functions through NT WorkSafe, an agency of the Department of the Attorney-General and Justice. NT WorkSafe provides advice, guidance, and information, and monitors and enforces compliance with the aforementioned legislation.

About this report

This report sets out the activities of the WHA as the Regulator under the *Work Health and Safety (National Uniform Legislation) Act 2011*, and *Return to Work Act 1986* during the 2021-22 financial year.

NT WorkSafe organisational structure



The WHA was staffed with 64 people.

NT WorkSafe structural separation

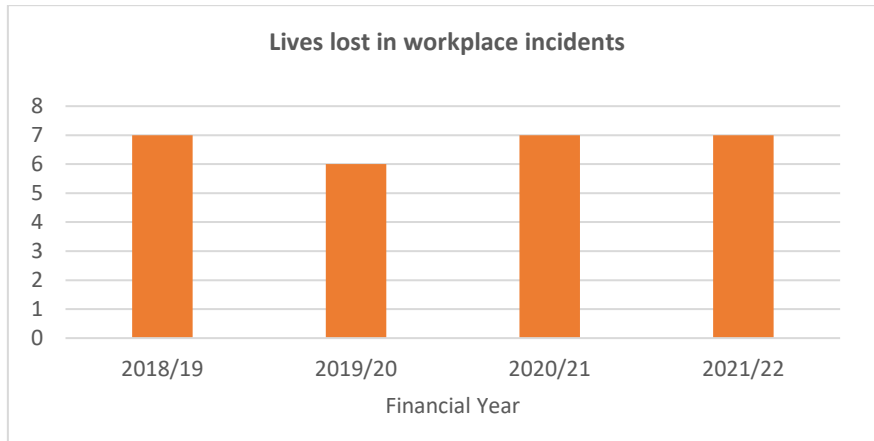
In accordance with recommendation 3 of the 'Best Practice Review of Workplace Health and Safety in the Northern Territory 2019', the WHA structurally separated NT WorkSafe's operations area into four functional areas:

- Regulatory Compliance
- Work Health and Safety Assurance
- Technical Services
- Investigations and Prosecutions

NT WorkSafe Operational Performance and Priorities

The NT WorkSafe Strategic Plan 2021-26, launched in October 2021, will guide NT WorkSafe’s activities over these years in securing the health and safety of workers and workplaces, and influencing return to work outcomes for injured workers. The plan has four strategic goals.

1. Reduce the lives lost in workplace incidents;



These figures only include work-related fatalities investigated by NT WorkSafe. Some fatalities in the Northern Territory may fall in the jurisdiction of other national agencies.

Note: Lives lost in workplace incidents in 2021-22 reporting year were reported as eight in the Department of Attorney-General and Justice Annual Report 2021-22. The figure has been revised to down to seven following an investigation concluding that a notified fatality at the wharf in 2021-22, did not fit the scope for the definition of an industrial fatality.

2. Reduce the number of serious work related injuries



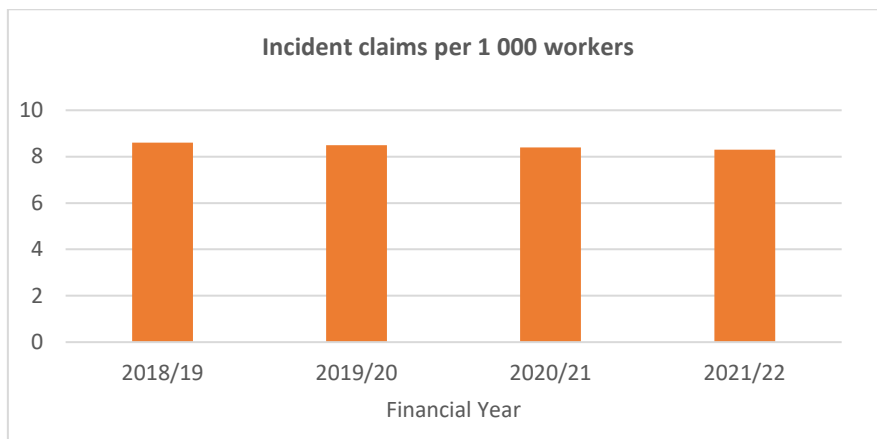
Claims where the worker needed at least one week off work due to their injuries are considered serious injuries.

The dataset for 2018-19 and 2019-20 was based on the date the incident occurred and is limited to only claims that were “accepted”. Based on data compiled 16 March 2021 and includes lag data up to this date.

The dataset for 2020-21 was based on the date the claim was reported to the insurer and includes all claims i.e. accepted, rejected and deferred. Due to the change in parameters for reporting, this figure does not include lag data.

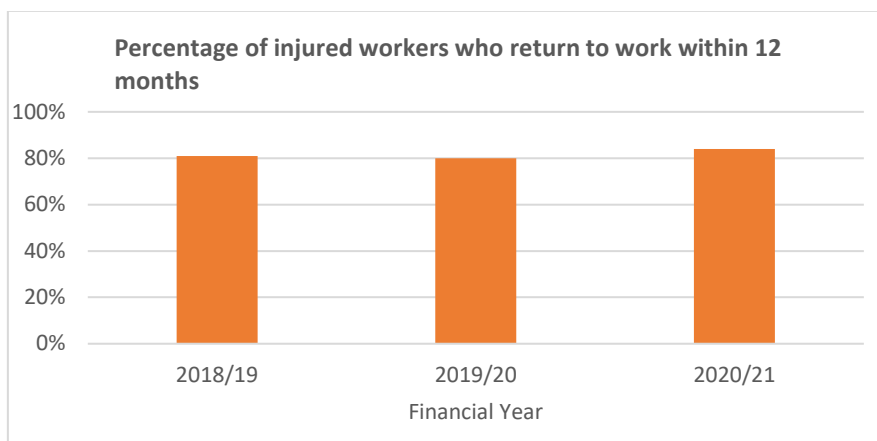
The figure for 2021-22 is based on data compiled 12 August 22 for the NTWS Annual Key WHS Statistics. For further information regarding NTWS Annual Key WHS Statistics, visit <https://worksafe.nt.gov.au/about-us/statistics>

3. Reduce the number of incident claims per 1 000 workers



To reflect advice from a performance management system audit conducted in 2022 by the Auditor-General for the Northern Territory, the ratio is changed as Safe Work Australia's Comparative Performance Monitoring report is published. NT WorkSafe has amended the figures to reflect this advice. The final figure is the average ratio over the 12-month reporting period.

4. Increase the percentage of injured workers who return to work within 12 months



The data provided for 2018-2021 financial years was produced from a report that accessed the most recent progress report for the claim and therefore the return to work rate reported may include those who returned to work after the 12-month period.

NT WorkSafe requested new reporting requirements for all approved insurers/self-insurers and Gallagher Bassett that will provide stronger evidence based data pertaining to return to work outcomes. This will be reflected when reporting 2021-22 figures and onwards. The 2021/22 statistic will be provided in the WHA Annual Report 2022-23.

Regulatory Reform and Business Services

Regulatory and Business Services consists of regulatory reform, business administration, communications and training.

Regulatory Reform

Regulatory Reform consults and develops legislation and policy specific to the powers and functions of the WHA. The team participates in local and national reviews of relevant legislation, representing the Territory on various national committees and groups, coordinating legislative amendments, and undertaking public consultation as required.

Table 1 – Regulatory Reform Key Deliverables

Products & Services	Status
Code of Practice – Managing psychosocial hazards at work	Under development for endorsement and adoption in 2022-23
Code of Practice – Managing the risks of respirable crystalline silica from engineered stone in the workplace	Under development nationally for endorsement and adoption in late 2022 or early 2023
Boland 2018 Review and Decision Regulation Impact Statement 34 recommendations	A major piece of work completed in this area was the development and endorsement of a suite of amendments to the model WHS laws that are now available for adoption by the jurisdictions. It is expected that these will be considered by the Territory Government in the next financial year.
The Senate Inquiry report ‘They never came home—the framework surrounding the prevention, investigation and prosecution of industrial deaths in Australia’ made 34 recommendations, most of which were referred to Safe Work Australia; however Recommendations 30-33 were referred to each jurisdiction for consideration. These recommendations relate to support for injured workers and families of deceased workers.	<p>In the NT, the Work Health Safety Advisory Council and the Workers Rehabilitation and Compensation Advisory Council established the Injured Workers and Family Forum subcommittee to develop a more effective system to ensure the families of victims of fatalities are supported. During 2020–21, the councils made recommendations to the minister on actions and systems to be adopted by NT WorkSafe.</p> <p>At the national level, jurisdictions agreed to nine principles to support families following an industrial death. These principles will be folded into a local approach in 2022-23 to ensure the families of victims of industrial fatalities are supported.</p>

Recommendations relating to amendments to both the <i>Electricity Reform Act 2000</i> and the <i>Electrical Workers and Contractors Act 1978</i>	An amending Bill creating the <i>Electrical Safety 2022 Act</i> was passed in March 2022. The drafting of new regulations has commenced for commencement in 2022-23.
Legislative amendments	The Work Health and Safety (National Uniform Legislation) Regulations 2011 were amended to allow the use of digital white cards. Amendments to various pieces of legislation were introduced and passed in late 2021 in response to recommendations of the Territory Economic Reconstruction Commission.
COVID-19	Development of national and local policy and advice relating to work health and safety duties during the COVID-19 pandemic.
Transport of Dangerous Goods legislation	Amendments have been drafted for the Transport of <i>Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010</i> and Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Regulations 2011. These amendments will realign the Territory with national laws and implement recommendation 7.14 of the final report of 'The Scientific Inquiry into Hydraulic Fracturing in the Northern Territory'.

Business Administration

The business administration team provides high-level business support services within NT WorkSafe including ministerial liaison, committee and council arrangements, delegations, finance assistance, corporate governance, travel arrangements, building maintenance and vehicle management.

Communications

Communications plays a pivotal role in delivering safety messaging, and the team is responsible for developing and publishing various information products, coordinating NT WorkSafe's involvement in local and national safety events, and developing and implementing communication strategies.

In 2021-22, five safety alerts were issued, six incident information releases and 29 media releases or news items were published in the reporting period.

Table 2 – Communications

Media releases

Media Statement - reported Nhulunbuy excavator bucket incident

Workers reminded to not let WorkSafe issued licences expire

Resignation of the Northern Territory Work Health Authority

Centralians urged to get gas heaters checked before winter

Industrial manslaughter charge for Darwin Construction Company

Safety alert issued after lithium-ion battery explodes

2020-21 key NT work health and safety statistics

Safety alert issued after lightning strike fatality of seasonal worker

Media Statement - Lightning Strike Incident

Amusement ride operator is guilty over 2019 Freds Pass Show crash

Safety focus turns to risk of falls in workplaces in Safe Work Month

Early guilty pleas result in combined penalty of \$25,000 over 2019 electric shock incident

October Safe Work Month; the start of a Territory wide push for safer workplaces

NT WorkSafe issues first incident information release after three serious crush injuries

Charges laid as WorkSafe alleges reckless conduct at Bootu Creek Mine

Early guilty plea to reckless conduct charges for 2019 Avgas drum explosion

Hot Air Balloon Company convicted and fined \$130,000 over NSW tourist death

Safety Alerts

Safety warning for Grey Nomads to stop using Swift 500 series caravan gas cookers

Product Safety Recall: Davey Water Products Pty Ltd - Spa Quip 800 & 1200 Spa Controllers

Power tool battery fires

Risk of lightning strikes to outdoor workers

Asbestos in Imported Paddlewheel Aerators for Aquaculture

Incident information releases

Multiple machine operators across the Territory taking down power lines

Wheelchair users seriously injured in two separate vehicle incidents

Two workers injured due to inadequate or no use of fall prevention

Unacceptable risk taking when working at heights in construction

Body stressing main cause of injury

Three workers seriously injured in separate plant (machinery) incidents

News articles

Important fireworks information for Territory Day

2022 Amendments to the Work Health and Safety Regulations

Call for nominations - Councils and Committees

Consultation open for new asbestos guides

Important information - Migration of monitored fire alarms and lift phones

COVID-19 incident notification requirements

Invitation to the Workplace Sexual Harassment National Forum

Heatwave warning

2021 Territory Day fireworks campaign

Fireworks approved periods for Territory Day 2021

New grant opportunity

New date for 2021 Territory Day celebrations

Training

The training area is an important function in coordinating training for NT WorkSafe.

NT WorkSafe has a responsibility to ensure that legislatively required training is available to union officials who wish to exercise a right of entry for the purpose of assisting workers in the NT with matters of work health and safety. Training must be completed to enable an entry permit to be issued. NT WorkSafe conducted the day-long course four times through the year. One course, at the height of COVID risk, was conducted electronically over three days using Microsoft Teams. Thirteen union officials successfully completed a course and were subsequently issued with an entry permit.

Foundational inspector capabilities were developed in nine newly appointed inspectors through a six-month program of part time training in parallel with practical workplace experiences. In relation to the expectations of inspectors appointed under the *Work Health and Safety (National Uniform Legislation) Act 2011*, the 33 separate training sessions addressed the theoretical application of essential knowledge and professional practices through a two-stage program.

Stage 1 'Assess, advise and assist'	Stage 2 'Act on noncompliance'
<ol style="list-style-type: none"> 1. Familiarity with the regulatory framework for work health and safety and essential WHS legislation on duties and duty holders, inspector functions and powers, managing risk, general workplace management. 2. Safely conduct workplace inspections to assess compliance with requirements for general workplace management and risk management, including formation of reasonable belief based on evidence. 3. Provide context specific advice and assistance to duty holders using relevant guidance material. 4. Use organisational systems and processes to create and manage interaction records and reports. 	<ol style="list-style-type: none"> 1. Familiarity with common hazards, risks and controls for hazardous work, plant, construction, high risk construction, including related legislation and codes of practice. 2. Assess workplace compliance with regulatory requirements for hazardous work, plant, construction, high risk construction in addition to managing risk and general workplace management. 3. Considerations in selecting options to address noncompliance. 4. Writing, issuing and following up enforcement notices (non-disturbance, improvement, prohibition).

Eight of the provided sessions were also attended by experienced inspectors seeking to refresh their skills.

NT WorkSafe continues to provide inspectors with opportunities to upskill and maintain contact with national developments. As part of continuing professional development, staff were able to participate in 'lunch and learn' sessions and participate in a variety of short professional development sessions. Most popular among these was the introduction to the new *Electrical Safety Act 2022* with 39 participants joining through Microsoft Teams.

Short professional development sessions	Participants
Industrial manslaughter in the NT	24
New <i>Electrical Safety Act 2022</i>	39
Dial-Before-You-Dig (Risks of underground services & how to locate them)	12
Lunch PD: When risk assessment inadvertently replaces risk management	7
Lunch PD: Respect@Work: Workplace sexual harassment	18
Lunch PD: The essence of situational awareness in dynamic environments	4
Lessons learned for writing of notices from internal reviews	13
Lunch and Learn: Right to Silence	29
Lunch and Learn: Officer Duties and due diligence	35
Lunch and Learn: Industrial manslaughter (national prosecutions)	7
Lunch and Learn: Reasonably practicable	19
Lunch and Learn: Duties of a worker	25

Experienced inspectors, managers and directors also had the opportunity to extend their capabilities by attending a day of advanced work health and safety training facilitated by the Executive Director Bill Esteves and guest presenter Nicholas Papas QC. Fifteen staff attended.

Three training sessions were conducted for officers tasked with assessing compliance in specific areas. These included:

- workplace vaccination and register compliance in accordance with COVID-19 Directions, a new responsibility for NT WorkSafe (34 participants).
- retail fireworks compliance (20 participants)
- amusement device compliance (11 participants)

In accordance with recommendation 13 of the 'Best Practice Review of Work Health and Safety in the NT', NT WorkSafe is arranging to provide existing inspectors with a diploma level qualification. The Diploma of Government (Workplace Inspection) is endorsed by the Heads of Workplace Safety Authorities as the nationally accredited baseline qualification for inspectors. A registered training organisation will be engaged to deliver the qualification to NT inspectors.

WHS advice and information

A key role of the WHA is to provide advice and information on work health and safety to duty holders and to the community, and publish relevant statistics. To deliver this, NT WorkSafe provides and maintains a website to publish relevant information and resources including information bulletins, guides, videos, safety alerts, information about legislation administered by NT WorkSafe, and general and industry specific safety information.

In relation to NT WorkSafe's response to, and notification to industry of serious incidents, the year also saw the development and implementation of NT WorkSafe's first incident information release¹.

¹ As per recommendation 25 of the *Best Practice Review of Work Health and Safety in the NT*

NT WorkSafe's Strategic Plan 2021-2026 drives a number of key activities focused on improving knowledge around work health and safety. NT WorkSafe hosted the ANZ WHS Prosecutor Network Meeting on 18 and 19 November 2021, and hosted a free presentation on the topic of industrial manslaughter that was presented by Queensland's Independent Work Health and Safety Prosecutor, Mr Aaron Guilfoyle.

Public information sessions were also held in Darwin and Alice Springs and delivered online to help businesses understand the industrial manslaughter laws that commenced in the Territory on 1 February 2020.

Other events hosted by NT WorkSafe during the year included online information sessions detailing minor amendments made to the Work Health and Safety (National Uniform Legislation) Regulations 2011 in relation to the NT White Cards and information on proposed changes to the Territory's electrical safety laws.

SafeWork Month 2021

Held each year in October, the national theme for 2021 was "Think Safe. Work Safe. Be Safe". The focus of 2021 events in the Territory was the launch of the NT WorkSafe strategic plan.

NT WorkSafe inspectors visited 616 workplaces across the Territory to talk to businesses and workers, raising awareness and highlighting the key risks they face in their industry.

NT WorkSafe delivered four face-to-face and online presentations on workplace psychosocial hazards with 77 attendees. Workplace psychosocial hazards are related to the psychological and social conditions of the workplace rather than just the physical conditions. The risks resulting from these hazards may result in negative psychological, physical and social outcomes such as work-related stress, burnout or depression which can be harmful to the health of workers and compromise their wellbeing.

NT WorkSafe also hosted a number of free online webinars presented by subject matter experts on: body stressing; mental health; fall from a height; contact with electrical; and safe management systems. Eight additional webinars were organised on:

- Work health and safety including mental health
- Mental health and wellbeing at work
- Combating the rise of musculoskeletal injuries in the hospitality industry
- Does your safety management system meet WHS legislation requirements?
- Safety first when excavating and working near power

Permissioning and Advisory Services

The permissioning and advisory services team play a critical role in the administration of the powers and functions of the WHA, and provide following services:

- approving health and safety representative courses
- providing specialist advice and support to businesses and individuals
- issuing licences, permits and registrations
- approving course delivery by training providers
- issuing high risk work licence assessor accreditations
- administration and triage of mandatory notifications, notifiable incidents and complaints

Rehabilitation and Compensation

The rehabilitation and compensation unit provide quality services and expertise in the administration of the *Return to Work Act 1986* and Regulations, including:

- providing advice and information to employers, workers, insurers and the public about workers' compensation matters
- coordinating mediations between claimants, employers and insurers/self-insurers;
- arranging permanent impairment reassessments
- approving insurers and self-insurers in the Northern Territory
- approving vocational rehabilitation providers
- collecting data from insurers and self-insurers used for jurisdictional and national reporting to Safe Work Australia and to help prioritise work health and safety activities

The Northern Territory Scheme is a privately underwritten scheme in which approved insurers and self-insurers carry the financial risk and are responsible for managing the workers' compensation claims process.

Insurance companies approved under the Return to Work Act 1986

- Allianz Australia Insurance Ltd
- CGU Workers' Compensation
- GIO General Ltd
- QBE Insurance (Australia) Ltd
- Catholic Church Insurance Ltd

Self-insurers approved under the Return to Work Act 1986

- Coles Group Limited
- Wesfarmers Ltd
- Westpac Group
- Woolworths

The Territory Government is self-insured under the *Return to Work Act 1986* and carries the financial risk for its own workers. Gallagher Bassett are responsible for managing the workers' compensation claims on behalf of the Territory Government.

The nominal insurer, committees and councils

The *Return to Work Act 1986* establishes:

- the nominal insurer for instances where an employer fails to insure or in cases where the insurer defaults
- a scheme monitoring committee, whose role is to monitor the viability and performance of the NT workers' compensation scheme
- the Workers Rehabilitation and Compensation Advisory Council to keep the operation of the workers compensation scheme under review

Actuarial review of the scheme

The current actuary, PricewaterhouseCoopers, provided the 'NT WorkSafe Actuarial review of Northern Territory workers compensation scheme as at 30 June 2021' which is published

on the NT WorkSafe website. The review indicates that the scheme is fairly stable on a financial basis.

Vocational rehabilitation providers

NT WorkSafe adopted and implemented the Heads of Workers' Compensation Authorities' Principles of Practice for Workplace Rehabilitation Providers to support vocational rehabilitation providers in the delivery of services to workers with a compensable injury. Thirteen vocational rehabilitation providers were approved in the NT on 1 August 2021 for a three-year period.

NT workers' compensation injury management e-learning program

The rehabilitation and compensation team continue to offer the *NT WorkSafe Northern Territory Workers' Compensation Injury Management e-Learning Program*; a joint e-learning program with the Personal Injury Education Foundation. The program provides the minimum level of knowledge required for all scheme participants in the NT and supports a consistent approach to claims management including the terminology used. The program is mandatory for all insurers and self-insurers who manage claims for Territory workers and is available for enrolment by all workers compensation stakeholders.

Coronavirus (COVID-19) and workers' compensation

Advice and responses to frequently asked questions was developed pertaining to the impact of COVID-19 on workers' rehabilitation and compensation. Information is available on the NT WorkSafe website and is updated as potential impacts to the scheme are identified.

Table 3 – Rehabilitation and Compensation Key Deliverables

Item	No.
Total claims received by insurers	2381
Total claims accepted	1975
Workers' compensation education and advice activities	18 117
Workers' compensation mediations completed	344
Permanent impairment reassessment applications received	60
Approved vocational rehabilitation providers	13
Appointed mediators	10
Approved insurers	5
Approved self-insurers	4

Regulatory Compliance

The role of the regulatory compliance team is to monitor and enforce compliance with the legislation administered by the WHA by responding to notifiable incidents, directing compliance, and assisting in the resolution of work health and safety issues. Compliance inspectors are often the first point of contact following a dangerous incident, serious injury or illness of a person, or death of a person and may assist investigators.

Work Health and Safety Assurance

The work health and safety assurance team use data intelligence to develop and implement targeted campaigns to identified high-risk sectors. The role of the team is to identify and prioritise key industries and activities to provide information and advice with the goal of improving standards of safety and reducing injury rates.

NT WorkSafe Safety Focus Campaigns

The work health and safety assurance team successfully conducted four safety campaigns, providing information and advice to Territory workplaces to ensure businesses are aware of legislative obligations as they related to work health and safety.

Safety focus campaigns conducted during 2021-22 included:

- Emergency Plans Campaign resulting in 155 workplace visits
- Plant Safety Campaign resulting in 66 workplace visits
- Patient Transport Campaign resulting in 43 workplace visits
- Overhead Power Lines Campaign resulting in 132 workplace visits

Electrical Safety Campaign

NT WorkSafe received \$40 000 to fund an electrical safety campaign, ordered by the court from the prosecution of the death of an electrical apprentice in the Barkly region. The campaign was developed by NT WorkSafe, the Electrical Trades Union, Power and Water Corporation, and persons working in the electrical services industry in the Barkly region.

The campaign will raise awareness of the risks associated with working on live electrical installations, and the supervision of vulnerable workers conducting electrical work. It will commence in the Barkly region, then expand to cover the rest of the Territory.

The campaign will commence in the second quarter of 2022-23.

To continue to provide ongoing support to health and safety representatives (HSR), the work health and safety assurance team also attended six HSR courses throughout the year to provide essential information relating to the role of NT WorkSafe, to meet and greet new HSR's and offer support in their role within workplaces.

In September 2021, Hospitality NT responded to the call to action in NT WorkSafe's strategic plan by developing a safe work manual for their members. Due to the COVID-19 lockdown/lockout restrictions and the vaccine mandate impacts on industry in the NT, further collaboration with Hospitality NT on the release of their manual has been delayed with no further progress being achieved in 2021-22.

Technical Services

The technical services team provide expert technical assistance to internal and external stakeholders and represents the WHA on a national level and provides:

- high level technical support to stakeholders in relation to electrical, resources (mining, petroleum and geothermal), major hazardous and dangerous goods transport industry sectors matters
- technical advice during investigations
- research and analysis of technical matters impacting the NT
- recommendations on legislative changes and technical advances

Table 4 - Summary of inspectorate and advisor activity for 2021-22

Description of Activity	No.
Information / education sessions	100
Workplace visits	4942

Table 5 - Workplace visits carried out by industry group 2021-22

Description of Industry	Visits
No industry recorded	1130
Accommodation, cafes and restaurants	93
Agriculture & fishing	39
Communication Services	2
Construction	1198
Cultural and recreational services	123
Education	88
Electricity, gas and water supply	32
Finance and insurance	3
Government administration and defence	117
Health and community services	102
Manufacturing	142
Mining	198
Personal and other services	32
Property and business services	84
Retail trade	328
Transport and storage	98
Wholesale trade	100

Note: Table 5 includes workplace visits carried out under *Work Health and Safety (National Uniform Legislation) Act 2011*, *Return to Work Act 1986*, *Dangerous Goods Act 1998*, *Transport of Dangerous Goods by Road and Rail (National Uniform Legislation) Act 2010*, *Radioactive Ores and Concentrates (Packaging and Transport) Act 1980* and the *Electricity Reform Act 2000*. It does not include proactive workplace visits carried out under the Safety Focus Campaigns and SafeWork Month 2021.

Investigations and Prosecutions

The investigations and prosecutions teams are two streams. Principal investigators and senior investigators are responsible for conducting serious and complex investigations from both internal and external sources to determine admissible evidence for the compilation of briefs of evidence and make recommendations for compliance and/or prosecution.

In 2021-22, the Investigation unit had 23 incidents referred. This compares with 18 referrals in the previous financial year. Of the incidents referred, 15 involve deaths of which seven involve motor vehicles. Following a comprehensive investigation, it will be determined if these incidents are attributed to breaches of the *Work Health and Safety (National Uniform Legislation) Act 2011*.

The prosecutions stream had a coordinator who provided legal support, prepared and filed complaints, information, summons documents, managed the carriage of court files and undertook prosecutorial duties in the Local Court.

Table 6 – Prosecutions finalised

Date	Case	Offence	Outcome
22.07.21	WHA v Outback Ballooning Pty Ltd	s 32 Failure to comply with WHS duty (cat 2)	Convicted and fined \$120 000; ordered to pay NT WorkSafe \$10 000 to assist in the preparation, publication and distribution of written advice regarding precautions to be undertaken by tourists in Central Australia in respect to weather conditions.
25.08.21	WHA v Kerr	s 31 Reckless conduct (cat 1)	The defendant pleaded guilty to two breaches of s 31; given a two year good behaviour bond and ordered to pay the victim \$20 000 in compensation.
1.10.21	WHA v Murray	s 31 Reckless conduct s 32 Failure to comply with WHS duty (cat 2) s 33 Failure to comply with WHS duty (cat 3)	Charges withdrawn. Defendant deceased.
12.10.21	WHA v NT Estate Pty Ltd	s 32 Failure to comply with WHS duty (cat 2)	Defendant entered early guilty plea and fined \$5000
12.10.21	WHA v Springs OpCo Pty Ltd	s 32 Failure to comply with WHS duty (cat 2)	Defendant entered early guilty plea and fined \$15 000
12.10.21	WHA v Knott	s 32 Failure to comply with WHS duty (cat 2)	Defendant entered early guilty plea and fined \$5000
27.10.21	WHA v Taylor	s 32 Failure to comply with WHS duty (cat 2) s 33 Failure to comply with WHS duty (cat 3)	Defendant entered early guilty plea and fined \$10 000; ordered to pay the two injured passengers \$10 000 each; and ordered to forfeit the Octopus Ride to the Northern Territory for destruction.

Enforceable Undertakings

The *Work Health and Safety (National Uniform Legislation) Act 2011* (the Act) enables the Work Health Authority to accept a written undertaking (a WHS undertaking) given by a person relating to a contravention or alleged contravention of the Act (with the exception of a category one and industrial manslaughter offence).

Table 7 - WHS Undertaking - Key Deliverables

Duty Holder	Charges or alleged breaches	Date accepted	Value	Status	Discharge spend
Buslink NT Pty Ltd	s 32 WHS Act	21.10.21	\$663 770	Ongoing	n/a
Department of Infrastructure, Planning and Logistics	s 32 WHS Act	13.2.20	\$1 353 210	Ongoing	n/a
BMD Constructions Pty Ltd	s 32 WHS Act	15.8.19	\$305 000	Completely discharged on 7.5.21	\$413 083
Northern Territory Major Event Company Pty Ltd	ss 32, 38, 39 WHS Act	7.6.19	\$944 225	Completely discharged on 10.12.21	\$971 040
ACSM Builders Pty Ltd	s 32 WHS Act	11.5.18	\$209 500	Ongoing	n/a
Northern Transportables Pty Ltd	s 32 WHS Act Regulations 300, 458(1), 422(1).	24.10.18	\$213 050	Completely discharged on 21.5.21	\$225 721
Austral Fisheries Pty Ltd.	s 32 WHS Act	20.6.18	\$967 700	Completely discharged on 15.10.2	\$1 388 172
Tomazos Group Pty Ltd	ss 32, 38, 39 WHS Act Regulations 39, 300.	5.5.17	\$50 000	Completely discharged on 24.5.21	\$58 509

Written Directions of the Minister

Part 2 (6) of the *Work Health Administration Act 2011* provides:

- (1) In exercising powers or performing functions, the Authority is subject to the written directions of the Minister.
- (2) A copy of a direction given under subsection (1) in a financial year must be included in the Authority's report for the year prepared under section 7.

In 2021-22, the Work Health Authority was not subject to any written directions by the Minister.

Request for Regulator Response

A request for regulator response arising from a statutory intervention request received from a person conducting a business or undertaking (PCBU) means:

- Failure of negotiations to form a work group s54
- Failure to allow access to assistant of HSR s71(6)
- Dispute regarding the obligation to train HSR s72(5)
- Constitution of HSC s76(5)
- Referral of issue resolution for resolution by inspector s82
- Cessation of unsafe work s89
- Review of a PIN s100 – 102
- Disputes about EPH Entry s141

In 2021-22 there were two requests for regulator response. Both requests were for referral of issue to regulator for resolution by inspector.

Table 8- Activities pursuant to WHS (NUL) Act

Section	Description	2021-22	2020-21
38	Incidents notified	496 ¹	451 ¹
65	Disqualification of health and safety representatives	0	0
131	Application for WHS entry permit	18	22 ²
134	Issue of WHS entry permit	22 ³	2
138	Application to revoke WHS entry permit	0	0
155	Exercise of powers of regulator to obtain information	19	26
162	Regulator's directions to inspectors	0	0
191	Improvement notices issued	412	302
195	Prohibition notices issued	152	126
213	Recovery of costs of remedial or other action	0	0
215	Application for injunctions for non-compliance with notices	0	0
216	Enforceable undertakings accepted	0	1
220	Order following contravention of WHS undertaking	0	0
221	Withdrawal or variation of WHS undertaking	0	0
231	Written request to Regulator that prosecution be brought	2	0
260	Proceeding for contravention of civil penalty provision	0	0

¹ This figure includes incidents still under investigation and the figure maybe revised down if the investigation finds an incident does not meet the definition of notifiable as per section 35 of the *Work Health and Safety (National Uniform Legislation) Act 2011*.

² This figure was published incorrectly in WHA Annual Report 2020-21 and has been updated to reflect correct figure.

³ The year an application for WHS entry permit is received may vary from the year the WHS entry permit is issued.

Table 9– Activities pursuant to WHS (NUL) Regulations

Regulation	Description	2021-22	2020-21
21	Approved training for health and safety representatives	2	4
93 and 319	Licence documents issued – High Risk Work and White Card	11 643	12 340
95	Reassessment of competency of licence holder	0	0
133	Regulator may suspend or cancel accreditation of assessor	0	0
142	Notice of demolition work	24	14
243 and 246	Registration of plant designs and items of plant	372	1093
325	Entered into agreement with RTO to issue white cards	5	9
348	Hazardous Chemicals – manifest notifications	19	10
393	Lead process determined	0	0
403(1)	Lead risk work notified	5	5
415 (2)	Removal of worker from lead risk work notified	8	Not reported
442	Asbestos health monitoring report received	0	0
466	Notification of asbestos removal received	326	216
492	Application for asbestos removal or assessor licence	24	18
520	Suspension or cancellation of asbestos licence removal	0	0
535	MHF - Exemption of determined facility	0	0
536	MHF Notifications - Existing Facilities/Modifications (includes re-notifications if Schedule 15 chemicals increases)	1	1
537	MHF Notifications – proposed facilities	2	0
539	Regulator may conduct inquiry regarding MHF	1	0
541	Determination in relation to facility on inquiry	0	0
542	Determination in relation to over-threshold facility	1	0
543	Determination of suitability of facility operator	1	0
544	Conditions on determination	0	0
546	Regulator revocation of a determination	0	0
548	Notification by new operator (of determined facility)	0	0
549	Application for MHF licence	0	0
551	Safety case outline provided	0	0
553	Alter Safety Case outline	0	0
560	Safety Case must be provided	1	0
580	Grant of MHF licence	1	0
583	Refusal of MHF licence	0	0
586	MHF licence document issued	1	5
595	Renewal of MHF licence	0	1
600	Transfer of major hazard facility licence	0	1
601	Cancellation of MHF licence – on operator’s application	1	0
602-605	Suspension or cancellation of MHF licence by Regulator	0	0

Table 9- Activities pursuant to WHS (NUL) Regulations

Regulation	Description	2021-22	2020-21
606	Suspension of major hazard facility licence	0	0
678	Application for internal review	4	5
684	Exemptions granted	7	3
686	High risk work licence exemption	0	1
688	MHF licence exemption	0	0
690	Applications for exemption received	9	3
696	Refusal of exemption	0	0
697	Amendment or cancellation of exemption	0	0

Note: MHF refers to a Major Hazard Facility as defined under regulation 5 of the Work Health and Safety (National Uniform Legislation) Regulations