

Guide

Lead notifications

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Introduction

The Work Health and Safety (National Uniform Legislation) Regulations – the WHS (NUL) Regulations provides for the notification to the Regulator of:

- lead risk work, and
- the removal of a worker from lead risk work.

A person conducting a business or undertaking (PCBU) at a workplace is required to ensure, so far as reasonably practicable, the health and safety of workers and others. Notifications of lead risk work and the removal of workers from lead risk work provides risk based information to the Regulator so it can apply resources and target compliance and enforcement actions to areas of greatest risk to health and safety.

Scope

Definitions

Lead risk work means work carried out in a lead process that is likely to cause the blood level of a worker carrying out the work to be more than:

- for a female of reproductive capacity – 10 µg/dL (0.48 µmol/L), or
- In any other case – 30 µg/dL (1.45 µmol/L).

Regulation 394

The meaning of a lead process is set out in Regulation 392. “Lead” is defined in Regulation 5 of the WHS (NUL) Regulations as meaning “lead metal, lead alloys, inorganic lead compounds, and lead salts of organic kinds”.

Assessment

A PCBU at a workplace must assess each lead process carried out by the business or undertaking to determine if lead risk work is carried out in the process – Regulation 402(1).

If the PCBU at a workplace is unable to determine whether lead risk work is carried out in a lead process, the process is taken to include lead risk work until the person determines that lead risk work is not carried out in the process – Regulation 402(4).

The Regulator can decide that a process to be carried out at a workplace is a lead process. A decision that a process is a lead process is a reviewable decision – Regulation 393

Lead risk work

Notification is required when lead risk work is undertaken by the PCBU at a workplace after determining that the work is lead risk work – Regulation 403(1), and

Where work carried out to rescue a person or provide first aid to a person is determined by the emergency services organisation to be lead risk work – Regulation 403(4).

Removal of worker from lead risk work

Part 7.1 of the WHS (NUL) Regulations impose obligations on the person conducting a business or undertaking to ensure health monitoring is provided to workers both before and after commencing lead risk work.

Notification is required if a worker is removed from carrying out lead risk work following health monitoring where:

- Biological monitoring shows the workers blood lead level is, or is more than:
 - 50 µg/dL (2.42 µmol/L) for females not of reproductive capacity and males, or
 - 20 µg/dL (0.97 µmol/L) for females of reproductive capacity, or
 - 15 µg/dL (0.72 µmol/L) for females who are pregnant or breastfeeding, or
- The registered medical practitioner recommends that the worker be removed from carrying out lead risk work, or
- There is an indication that a risk control measure has failed and as a result, the worker’s blood lead level is likely to reach the relevant level for the worker to be removed from carrying out lead risk work.

Regulation 415

Who must notify

- A PCBU at a workplace that has determined or is unable to determine that the work at the workplace is lead risk work – Regulations 403(1) and 402(4).
- A PCBU who has removed a worker from carrying out lead risk work following health monitoring results – Regulation 415. “Person conducting a business or undertaking” is defined in Section 5 of the *Work Health and Safety (National Uniform Legislation) Act* – the WHS (NUL) Act.

A PCBU may be an individual, a body corporate, a government agency, a partnership or an unincorporated association.

An emergency service organisation where in the course of rescuing a person or providing first aid to a person, determines that the work is lead risk work – Regulation 403(4).

When to notify

Lead risk work

Notification to the Regulator is required within 7 days of the determination that the work is lead risk work – Regulation 403(1), or if a determination is unable to be made – Regulation 402(4).

Notification to the Regulator by an emergency service organisation is required as soon as practicable after determining that the work is lead risk work – Regulation 403(4).

Removal of worker from lead risk work

Notification to the Regulator is required as soon as reasonably possible if a worker is removed from carrying out lead risk work – Regulation 415 (2).

How to Notify

Notifications are required to be made to the Regulator in the State or Territory or the Commonwealth in which the workplace that carries out the lead risk work is located. Notification forms are available on NT WorkSafe's website www.worksafe.nt.gov.au

Fees

There is no fee for a notification of lead risk work or the notification of the removal of a worker from lead risk work.

What information does the regulator require?

Lead risk work

The Regulator requires written notification of lead risk work to include the following information:

- Whether the notification is for a new notification or for an amendment (for change of details).
- Name and contact details of the PCBU including trading name, if applicable and ABN or the name and contact details of the emergency service organisation.
- Details of the lead process being carried out.
- Address of the workplace at which the lead risk work is being carried out.
- Risk control measures to minimise worker exposure.
- Date of commencement of the lead risk work and proposed completion date if the work is short term such as abrasive blasting of lead paint from a structure.
- Date when the workers carrying out the lead risk work were last tested for blood lead levels and the results of those tests.
- Name of the registered medical practitioner who conducted medical examinations and biological monitoring of the workers carrying out lead risk work.
- Address and contact details of the medical practitioner's practice.

Worker removed from lead risk work

The Regulator requires written notification of the removal of a worker from lead risk work to include the following information:

- Name and contact details of the PCBU including trading name, if applicable and ABN.
- The date on which the lead risk works notification was made. If a notification of the lead risk work was not made the information required for lead risk work notifications (refer above).
- Reason for removal of the worker: If removal was the result of increased blood lead levels the provision of the worker's blood lead results, age and sex; if removal was at the recommendation of a registered medical practitioner, a brief description of the reason; if removal was due to the failure of a risk control measure, a description of the failure and the new risk control measure/s.

Obligations

Changes to details

The PCBU at a workplace where the work is lead risk work must advise the Regulator in writing of any changes to the information provided in a notification of lead risk work before the change or as soon as reasonably practicable after becoming aware of the change – Regulation 404(1).

Copy of notice

The PCBU at a workplace where lead risk work is carried out must:

- Keep a copy of the notice or changes to the notice given to the Regulator for the period that the lead risk work is carried out at the workplace, and
- Ensure a copy of the notice or changes to the notice are readily accessible to a worker who is likely to be exposed to lead, and the worker's health and safety representative.

Regulation 404(2)

Health monitoring

A PCBU at a workplace that carries out lead risk work must arrange for biological monitoring of each worker who carries out lead risk work at the times prescribed in Regulation 407(1).

The PCBU at a workplace that carries out lead risk work must increase the frequency of biological monitoring of a worker if the activity is likely to significantly change the nature or increase the duration or the frequency of the workers' lead exposure – Regulation 407(2).

Application for review of decision

The table in Regulation 676 sets out decisions that are reviewable (reviewable decisions) and who is eligible (eligible person) to apply for the review of a reviewable decision.

The PCBU that carries out the lead process and/or a worker who is affected by the decision are eligible persons to request a review of a decision made by the Regulator that a process is a lead process – Regulation 393(1)]

The PCBU that carries out the lead process and/or a worker whose interests are affected by the decision are eligible persons to request a review of the determination made by the Regulator of a different frequency for biological monitoring of workers at a workplace or a class of workers, carrying out lead risk work – Regulation 407(3).

Internal review

An application for internal review allows the Regulator's decision to be reviewed and possibly changed by a person who was not involved in the original decision. A written application for the internal review of a reviewable decision is made using the application form provided by the Regulator. The application must be lodged within 28 days after the day on which the decision first came to the eligible person's notice or such longer period as the Regulator allows – Regulation 678(1).

The internal reviewer may:

- confirm or vary the reviewable decision, or
- set aside the reviewable decision and substitute another decision that the internal reviewer considers appropriate.

Regulation 680(2)

If the reviewable decision is not varied or set aside within the 14 day period the internal decision is taken to have been confirmed – Regulation 680(6).

The Regulator will give the applicant written notice of the decision on the internal review and reasons for the decision within 14 days of making the decision – Regulation 681.

An application for an internal review does not affect the operation of the original decision or prevent the taking of any lawful action to implement or enforce the decision, though once the decision on internal review is made if a new decision is substituted then that new decision takes effect – Regulation 682.

External review

If the applicant or authorisation holder is not satisfied with the decision on internal review, they can apply to the Work Health Court.

Further information

Legislation

The *Work Health and Safety (National Uniform Legislation) Act* and Work Health and Safety (National Uniform Legislation) Regulations are available on NT WorkSafe’s website www.worksafe.nt.gov.au.

List of jurisdiction contacts

Jurisdiction	Name of Regulator	Telephone	Web site
Commonwealth	Comcare	1300 366 979	www.comcare.gov.au
New South Wales	WorkCover NSW	13 10 50	www.workcover.nsw.gov.au
Victoria	WorkSafe Victoria	1800 136 089 or (03) 9641 1444	www.worksafe.vic.gov.au
Queensland	Workplace Health and Safety Qld	1300 362 128	www.worksafe.qld.gov.au
South Australia	SafeWork SA	1300 365 255	www.safework.sa.gov.au
Western Australia	WorkSafe WA	1300 307 877	www.worksafe.wa.gov.au
Australian Capital Territory	WorkSafe ACT	(02) 6207 3000	www.worksafe.act.gov.au
Tasmania	WorkSafe Tasmania	1300 366 322 (Inside Tasmania) (03) 6166 4600 (Outside Tasmania)	www.worksafe.tas.gov.au

Contact us

For further information please contact us on 1800 019 115, via email at ntworksafe@nt.gov.au or go to the NT WorkSafe website at www.worksafe.nt.gov.au.

DISCLAIMER

This publication contains information regarding work health and safety. It includes some of your obligations under the *Work Health and Safety (National Uniform Legislation) Act* – the WHS (NUL) Act – that NT WorkSafe administers. The information provided is a guide only and must be read in conjunction with the appropriate legislation to ensure you understand and comply with your legal obligations. NT WorkSafe does not warrant the information in this publication is complete or up-to-date and does not accept any liability for the information in this report or as to its use.