

PROVISIONAL IMPROVEMENT NOTICE (PIN)—*Work Health and Safety Act 2011 (Cth)*

This PIN is issued under section 90 of the *Work Health and Safety Act 2011 (Cth)* (the **WHS Act**). This PIN requires the duty holder to whom it is issued to remedy a contravention, prevent a likely contravention from occurring or remedy the things or operations causing the contravention or likely contravention of the WHS Act or the *Work Health and Safety Regulations 2011 (Cth)* (the **WHS Regulations**). Depending on the particular contravention, the duty holder may be an individual natural person or an organisation such as a company or public authority (including a 'person conducting a business or undertaking' as defined in section 5). Section 97 requires that the person to whom a PIN is issued must, as soon as possible, display a copy of the PIN in a prominent place at or near the workplace, or part of the workplace at which work is being carried out that is affected by the PIN. There are a number of things that must be done or taken into account before a PIN is issued by a HSR—see reverse side of this form for relevant information.

1. HEALTH AND SAFETY REPRESENTATIVE (HSR)

| | |
|-------------------------------------|------------|
| First name: | Last name: |
| Contact number: | |
| Name and location(s) of work group: | |
| | |

2. PIN ISSUED TO

| |
|----------------------|
| Name of duty holder: |
| Address: |
| Postcode: |

3. PIN GIVEN TO (If the PIN is given to someone on behalf of the duty holder)

| | |
|-------------|------------|
| First name: | Last name: |
| Position: | |

4. DETAILS OF CONTRAVENTION

Site location: _____

I, _____ reasonably believe on _____ at _____
insert Health and Safety Representative's name insert date insert time

that you are contravening a provision or have contravened a provision in circumstances that make it likely that the contravention will continue or be repeated of the:

Work Health and Safety Act 2011, section _____ *Work Health and Safety Regulation 2011*, regulation _____

Brief description of how the provision is being or has been contravened:

(Optional) In accordance with section 93 (1) of the *Work Health and Safety Act 2011*, the measures I believe should be taken to remedy or prevent the contravention or likely contravention or matters or activities causing the contravention or likely contravention:

5. COMPLIANCE

| Date PIN issued | Date compliance with PIN required | Signature of HSR |
|-----------------|--|------------------|
| / /20 | / /20 (Minimum of 8 days after date PIN issued) | |

WORK HEALTH AND SAFETY ACT 2011 (GTH)
Provisional Improvement Notice (PIN)

GENERAL INFORMATION ABOUT PINS:

1. A health and safety representative (HSR) may issue a PIN if they reasonably believe that a provision of the Commonwealth WHS Act or the WHS Regulations:
 - > is being contravened; or
 - > has been contravened in circumstances that make it likely that the contravention will continue or be repeated.
2. A PIN is issued to the relevant duty holder to remedy a contravention of the Commonwealth WHS Act or WHS Regulations. The duty holder may be an individual natural person or an organisation such as a company or public authority (including a PCBU as defined in section 5 of the WHS Act). The duty holder doesn't necessarily have to be in the workplace where the HSR works—for example, they could be a designer of plant, buildings and structures; or a manufacturer or supplier of plant or substances. Generally, a PIN may only be issued by a HSR in respect of matters that affect, or may affect, workers in the work group the HSR belongs to (Note: if a HSR issues a PIN that deals with a matter not affecting the workers in their work group, the PIN may be invalid).
3. A HSR can issue a PIN to the relevant duty holder by one of the methods listed in section 209 of the WHS Act. For example:
 - > delivering it personally to the duty holder, or
 - > leaving it for the duty holder at the workplace to which the PIN relates with a person who is in management or control of that workplace (for example, leaving it with the area manager).

If the above methods of delivery are not possible the HSR can:

 - > send it by post, fax or electronic transmission to the home or business address of the duty holder or leave it for the duty holder at their home or business with a person over 16 years who lives or works there.
4. The HSR must consult with the duty holder about remedying the contravention prior to issuing the PIN (see section s90(3) of the WHS Act).
5. A HSR cannot issue a PIN unless the HSR has completed a Comcare approved initial HSR training course or; completed that training when acting as a HSR for another workgroup or; completed training equivalent to HSR training under other corresponding WHS laws (see section 90(4) of the WHS Act).
6. A HSR cannot issue a PIN in relation to a matter where an inspector has already issued an improvement or prohibition notice, or has decided not to issue a notice (see section 90(5) of the WHS Act).
7. The duty holder to whom the PIN is issued is responsible for fixing the identified contravention by the date written in 'Date compliance with this PIN is required'. It is an offence under section 99 of the WHS Act for the person not to comply with the PIN by the 'Date compliance with the PIN is required'—penalties apply.
8. If the duty-holder on whom the PIN has been issued wishes to dispute the PIN, they can contact Comcare and request an inspector to review the PIN—this must be done within seven calendar days of the 'Date of issue' of the PIN. The inspector will review and inquire into the circumstances that are the subject of the PIN and can do this even after the compliance date for the PIN has expired. An inspector can confirm; confirm with changes or; cancel the PIN. A copy the inspector's decision must be given to the applicant for the PIN review and the HSR who issued the PIN. If the PIN is confirmed (with or without changes), the PIN is taken to be an improvement notice issued by the inspector.
9. For urgent issues that are an immediate threat to the health and safety of any person, a PIN may not be an appropriate means to address the situation. Refer to section 85 of the WHS Act regarding the right of a HSR to direct that unsafe work cease.
10. If there is more than one contravention, a separate PIN for each contravention should only be written where the action needed to remedy each contravention is unrelated, or needs to be actioned at a different time or place.
11. If the PIN contains formal irregularities, defects or fails to use the correct name of the person to whom the PIN is issued, the PIN may still be valid. The PIN will not be valid, however, if the formal irregularity or defect causes, or is likely to cause, substantial injustice to the duty-holder on whom the PIN is issued, or if the PIN fails to sufficiently identify the duty-holder on whom it is issued (see section 98 of the WHS Act.)
12. A reasonable time should be allowed between the 'Date of issue' and the 'Date compliance with PIN required', to enable compliance to be achieved. However, the date for compliance must be at least eight days after the date of issue. HSRs should retain a copy of the completed PIN for their records.
13. The duty-holder on whom a PIN is issued must as soon as practicable, display a copy of the PIN in a prominent place at or near the workplace, or part of the workplace that is affected by the PIN.
14. A person must not intentionally remove, destroy, damage or deface a PIN that is displayed during the period the PIN is in force (see section 97(2) of the WHS Act for penalties regarding non-compliance).
15. A failure to do any of the things referred to in points 13 and 14 is a contravention of the WHS Act and penalties apply (see section 97 of the WHS Act).
16. If the person to whom the PIN is issued disagrees with the PIN or believes they will have difficulty complying with it, they should discuss this with the HSR who issued the PIN. They may also request a Comcare inspector to attend (see point 8 above).

For queries about PINs or other health and safety matters, contact Comcare
on 1300 366 979 or email WHS.help@comcare.gov.au
website: www.comcare.gov.au