



REQUIREMENT TO PROVIDE INFORMATION AND/OR DOCUMENTS

This notice is issued under sections 155(2)(a) and 155(2)(b) the *Commonwealth Work Health and Safety Act 2011* (**WHS Act**). You are required to give information and/or provide documents. **Refusal or failure to comply with a requirement of this notice, without reasonable excuse, is an offence. Further information is detailed at the end of this notice.**

NOTICE ISSUED TO:	Notice Number: MC00033267 - NT01		
Legal name of person:	Commonwealth of Australia acting through its responsible agency the Department of Defence		
ABN:	68706814312	ACN:	
Trading name:	Department of Defence		
Address line 1:	s 47E(d)		
Address line 2:	CANBERRA BC ACT 2610		

s 47E(c)

s 47E(c)

NOTICE ISSUED BY:

s 47F	Inspector: s 22 Inspector ID: s 22 Phone: s 22
Signature	
DATE OF ISSUE 26 FEBRUARY 2024	Respond via: ☒ Email: s 22 @comcare.gov.au and s 47E(d) @comcare.gov.au ☐ Secure file transfer: ☐ Delivery address (if by hand): ☐ Postal address: s 47E(d) , CANBERRA, ACT 2601

PENALTIES

Under the Commonwealth Criminal Code Act 1995, giving false or misleading information or documents in response to this notice is a serious offence (sections 137.1 and 137.2). The maximum penalty for either offence is 12 months' imprisonment. Refusal or failure to comply with a requirement of this notice without reasonable excuse is an offence under the WHS Act (section 155(5)) and may incur a tier D monetary penalty. Please see Schedule 4 of the WHS Act for the current monetary penalties.

RELEVANT LEGISLATION

WHS Act, s 155

Section 155 of the WHS Act empowers Comcare to obtain information and documents from a person. An appointed Comcare Inspector has been delegated the power under section 154 of the WHS Act, to issue this notice.

Section 155(2)(a) requires that the information required by this notice be given in writing and signed by a competent officer of the body corporate. Section 155(2)(b) requires the documents required by this notice to be produced to Comcare.

WHS Act, s 172

A person (individual, body corporate or body politic) is not excused from answering a question or providing information or a document on the ground that the answer to the question or information or document may tend to incriminate the person or expose the person to a penalty.

However, if an individual provides an answer to a question or produces information or a document in response to this notice, the answer to the question or the information or document will not be admissible in evidence in civil or criminal proceedings against that individual. Furthermore, any information, document, or thing obtained as a direct or indirect consequence of an individual answering the question or producing the information or document in response to this notice, will be inadmissible in evidence in civil or criminal proceedings against that individual.

Section 172 of the WHS Act does not apply to answering a question or providing information or a document in response to a requirement made under a corresponding WHS law. See section 4 of the WHS Act for the definition of a corresponding WHS law.

WHS Act, s 269

This notice does not require a person (whether an individual, body corporate or body politic) to produce a document that would disclose information, or otherwise provide information, that is the subject of legal professional privilege. A legal practitioner should be consulted for further information regarding obligations, requirements and what constitutes legal professional privilege.

LEGAL REPRESENTATION

If you are required to give information, provide documents or answer questions, you may attend with a legal practitioner (see section 155(3)(c)(ii)).

DEFINITIONS

Document means any record of information and includes: anything on which there is writing; and anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and a map, plan, drawing or photograph. Any document produced in accordance with this notice must be a complete, accurate and legible copy of the document so far as possible. Where colour has a particular meaning, significance or purpose in a document, you must produce a colour copy of that document.

'Competent officer' is not defined in the WHS Act. A competent officer is an individual nominated by a body corporate to respond to a notice. They should have sufficient authority and expertise to respond to the notice on behalf of the body corporate.

CONFIDENTIALITY OF INFORMATION

Comcare is the Commonwealth regulator authorised by the WHS Act to collect information (including personal information) relevant to the exercise of its functions and powers under the WHS Act and Commonwealth Work Health and Safety Regulations 2011 (WHS Regulations). Comcare will only disclose, give access to or use information or documents obtained under this notice in accordance with its confidentiality of information obligations under section 271 of the WHS Act.

PRIVACY STATEMENT

Comcare will only collect, use or disclose personal information in accordance with the Commonwealth Privacy Act 1988 and if it is reasonably necessary for, or directly related to, one or more of our functions, powers and/or activities. Comcare is the Commonwealth agency authorised by the WHS Act to collect personal information relevant to the exercise of functions and powers under the WHS Act, the WHS Regulations and the administration and evaluation of Comcare's WHS programs. Any personal information collected in these forms will be used for those purposes. In exercising its functions and powers, Comcare may disclose personal information, subject to confidentiality of information provisions under the WHS Act, to the following bodies and agencies, including but not limited to:

- Comcare's internal and external legal advisers
- the Safety, Rehabilitation and Compensation Commission
- a court or tribunal
- state or territory work health and safety regulatory agencies
- personnel engaged by Comcare to conduct research related activities
- enforcement agencies or bodies
- state and territory Coroners
- Commonwealth, state or territory industry regulators
- any other person assisting Comcare in the performance of its functions or exercise of its powers, including contractors and consultants
- any other person where there is an obligation under law to do so (for example but not limited to, responding to the direction of a court to produce documentation).

If Comcare does not collect personal information from you for the purposes of its legislated functions or related functions, we may not be able to perform our functions or activities. For further information on how Comcare handles personal information, please read our Privacy Policy on our website. If you require further information or wish to request a change to your personal information or to make a complaint, please email privacy@comcare.gov.au.

www.comcare.gov.au | 1300 366 979

