

Statutory notices explained

There are circumstances where a SafeWork SA Inspector may use notices during a site visit to monitor or enforce compliance with the work health and safety (WHS) legislation. There are several different types of notices.

Improvement Notices

Improvement Notices are issued when an Inspector identifies that the recipient is contravening a provision of the Act, or has done so in a way that could be repeated. The notice will require corrective action by its due date.

An Improvement Notice:

- » is always discussed with the recipient of the notice
- » does not carry an immediate monetary penalty or fine
- » must be prominently displayed at or near the workplace.

Penalties may apply if required action is not achieved by the due date. Penalty information will be on the back of the notice.

Maximum penalties include:

- » failure to comply with an Improvement Notice by the due date – maximum penalty \$250,000 for a body corporate, or \$50,000 for an individual.
- » failure to display a notice – maximum penalty \$25,000 for a body corporate, or \$5,000 for an individual.

Prohibition Notices

Prohibition Notices are issued when an Inspector identifies an immediate or imminent serious risk to health and safety. It directs the PCBU to stop or cease an activity, or to prevent further use of a piece of plant at the workplace to prevent harm.

Prohibition Notices:

- » remain in effect until the risk is addressed
- » must be displayed prominently at or near the workplace
- » do not carry an immediate penalty or fine
- » remain in effect for related plant or equipment, even if it is removed or sold.

Penalties may apply if required action is not achieved by the notice due date. Penalty information will be on the back of the notice.

Maximum penalties include:

- » failure to comply with a Prohibition Notice: maximum penalty \$500,000 for a body corporate, or \$100,000 for an individual.
- » failure to display a notice: maximum penalty of \$25,000 for a body corporate, or \$5,000 for an individual.

Non-Disturbance Notices

A Non-Disturbance Notice requires the business to preserve or prevent the disturbance of a site.

This notice is often given to allow Inspectors to investigate a workplace incident or other situation without interference. It outlines measures to be taken and specifies the length of time it remains in effect (up to 7 days).

Maximum penalties include:

- » failure to comply with a Non-Disturbance Notice – maximum penalty \$250,000 for a body corporate or \$50,000 for an individual.
- » failure to display a Non-Disturbance Notice in accordance with the Act; or intentionally remove, destroy, damage or deface this notice whilst it is in force – maximum penalty \$25,000 for a body corporate or \$5,000 for an individual.

Notices to Produce Documents

The WHS Act allows Inspectors to ask individuals to provide documents or answer questions during investigations into workplace incidents or possible breaches of WHS legislation.

A written notice can also be issued by SafeWork SA under the WHS Act. The notice may require you to:

- » give written information or answer questions
- » produce specific documents
- » appear at a specified time and place to give evidence or produce documents.

This enables inspectors to gather information, documents, or evidence needed to monitor or enforce possible breaches of WHS legislation.

Penalties apply for:

- » failure to comply with a notice to produce documents within the period specified
- » refusal or failure to comply with requirements to comply with the Act.

The maximum penalties for each are \$50,000 for a body corporate or \$10,000 for an individual.



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