

PUBLIC COMMENT

Consultation on WHS incident notification

Instructions

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- Download and save this submission document to your computer.
- Use the saved version to enter your responses under each question below. You do not have to answer all questions or sections if you do not wish to.
- Once you have completed your submission, save it and upload it using the link on the Engage submission form.
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Submissions will be accepted until **10am (AEST) on Monday 11 September 2023**.

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- views or information identifying parties involved in hearings or inquests which are currently in progress, and
- specific or graphic details of cases involving suicide and attempted suicide, workplace violence, sexual assault, exposure to trauma, and bullying and harassment that may cause distress to other readers.

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General feedback

Please provide any general feedback about the issues raised in the consultation paper here.

General:

Consider incentivising reporting of critical controls including proactive measures (Reason 2016) etc, instead of/to augment lagging indicators.

Reason, J, 2016, Managing the risks of organizational accidents, Taylor & Francis, Abingdon.

Consider a duty that a worker is a “mandatory reporter” of incidents, “similar” to the Public Health Act 2005 (Queensland) etc.

Consider stating that the use of a safety system control is notifiable. E.g. A shutdown by: pressure relief valve, and/or “Safety Instrument System” instead of Basic Control Process System.

Consider using mandatory plain English e.g. restrictive “that”, instead of non-restrictive “which”.

Chapter 6:

Consider if clarification of reporting duties is justified, considering reporting duties according to existing legislation e.g. Coroners Act 2003 (Queensland).

Consider evaluating if the proposed modifications address the issues experienced while identifying suicides in the following non-exhaustive references:

<https://mates.org.au/media/documents/MATES-REPORT-2001-2019-Vol-V-August-2022-40pp-A4-web.pdf>

<https://mates.org.au/media/documents/Suicide-in-the-Australian-Mining-Industry-Report-2023-%C6%92.pdf>

Chapter 7:

Consider confirming coercive control etc was intentionally not included.

Consider stating: the offender bites or spits on the worker or throws at, or in any way applies to, the worker a bodily fluid or faeces; similar to Criminal Code Act 1899 (Queensland).

Consider if clarification of reporting duties is justified, considering reporting duties according to existing legislation e.g. Coroners Act 2003 (Queensland), and Police Powers and Responsibilities Act 2000 (Queensland).

Chapter 8:

Consider stating duties for others to provide records collected according to other legislation to facilitate investigations according to this legislation. The following may be examples of other legislation: Coroners Act 2003 (Queensland), and Police Powers and Responsibilities Act 2000 (Queensland) etc.

The duties may be outside this legislation's scope etc, though I propose the access to records' risk requires a control i.e. perhaps the other legislation must be modified, or other standalone legislation is justified – or perhaps exists, and I am unaware etc.

Chapter 10:

Consider including other disease hazards in addition to substances e.g. noise.

Chapter 11:

If option 2 is preferred, consider stating: that if a “reasonable person” considers that medical treatment must be completed, that medical treatment must be completed by a doctor etc.

This may require some consideration to ensure that first aid/paramedics etc do not “unintentionally” commit an offence

The justification for the proposal is the current statement incentivises not obtaining medical treatment, and hence not activating the duty to notify.

Consider an exclusion for work that inherently includes an increased likelihood related injuries e.g. similar to s 79 (4) of the Model Work Health and Safety Regulations 2022. A “similar” exclusion may be justified for other chapters.

I observe that:1

1. A worker e.g. “paid” sportsperson etc may complete the excluded work, while otherwise working, hence confirm this is according to the regulator’s intent etc, and
2. The risk of head injury for those workers is a current topic in the media in principle. The following is apparently an example in principle, though I am not aware of the specifics i.e. if the person was working while injured.

Rugby league legend Wally Lewis reveals debilitating diagnosis

<https://9now.nine.com.au/60-minutes/wally-lewis-rugby-league-legend-reveals-debilitating-diagnosis-cte/81ae6aad-0734-4585-8057-e0e2f59d0fa7>

Chapter 12:

Refer Chapter 11’s comments regarding medical treatment.

Chapter 15:

Consider if clarification of reporting duties is justified, considering reporting duties according to existing legislation e.g. Public Health Regulation 2018 (Queensland).

Please duplicate the following set of questions when responding to multiple chapters of the consultation paper (note Ch 10 has a specific set of questions – refer below).

Which chapter you are referring to in your response below?

e.g. Chapter 5 – Incapacity period

Do you support the assessment of current gaps and impacts of addressing those gaps? Please provide any supporting information and evidence.

I have no opinion.

Do you support the proposed option(s)? Please explain why or why not and provide relevant evidence to support your views where possible.

I have no opinion.

What practical impact, including costs and benefits, would the option(s) have on you, your organisation or your stakeholders? Please provide any details or evidence supporting your views, including the option's likely impact on WHS outcomes or any compliance costs or concerns.

I have no opinion.

Are there any likely unintended consequences of the proposed option(s)? How could these be best mitigated?

I have no opinion.

Do you have another suggestion or preferred option for addressing the gap in WHS regulator visibility?

I have no opinion.

Additional questions (for specific chapters)

Chapter 7 - Capturing workplace violence

Are there particular types or circumstances of workplace violence that you think should or should not be notifiable to the WHS regulator that are not dealt with by the proposed option and descriptions? What would be the implications of including or excluding these incidents?

I have no opinion.

Chapter 10 - Long latency diseases – exposure to substances

Should exposure to hazardous substances in the workplace that cause latent diseases be recorded and reported? If so, for which substances?

I have no opinion.

How are exposures to hazardous substances currently measured in the workplace (for example, air and health monitoring)? Do you have suggestions for options to improve monitoring to provide a better understanding of exposure to hazardous substances in the workplace?

I have no opinion.

With regards to air monitoring, how are exceedances of the WES captured? Do you think recording and reporting WES exceedances is a good way to identify exposure to hazardous substances in the workplace? What other ways could exposures be recorded and reported?

I have no opinion.

Should PCBU be required to keep records of statement of exposure documents and make them available for inspection by the regulator? Should the statement of exposure requirement be broadened from prohibited or restricted carcinogens to include other substances which are known to cause long latency diseases? If yes, how should these substances be identified?

I have no opinion.

Chapter 15 - Addressing minor gaps and ambiguities in the current incident notification provisions

Medical treatment for exposure to a substance

What health professionals should be covered by the definition of 'medical treatment'? Please provide reasons, including examples of what treatment the health professional is likely to provide for which type of exposure.

I have no opinion.