

When should Worksafe be notified if an incident or injury occurs at the workplace?

There is a requirement for businesses to notify Worksafe if a “notifiable event” happens at the workplace. A notifiable event is defined in the Health and Safety at Work Act 2015 (**Act**) as meaning either a notifiable injury or illness or a notifiable incident which in turn are both defined in the Act.

The Worksafe website (www.worksafe.govt.nz/notify-worksafe) contains some helpful information regarding the types of injuries and incidents that need to be reported.

What is a notifiable injury or illness?

Generally, these are work-related injuries and illnesses which are serious and need to be notified. The website contains a useful table identifying the specific injuries or illnesses that require reporting and examples of each of them to assist with deciding whether the injury is serious. For example, a serious eye injury includes:

- injury that results in, or is likely to result in, the loss of an eye or vision (total or partial)
- injury caused by an object entering the eye (for example, metal fragment, wood chip)
- contact with any substance that could cause serious eye damage.

However, a serious eye injury does not include exposure to a substance or object that only causes discomfort to the eye.

The website examples provide useful guidance for determining whether an injury or illness is notifiable. Please note that it is mandatory to report an injury or illness if it results in a person needing to be admitted to hospital for immediate treatment.

What is a notifiable incident?

A notifiable incident is an unplanned or uncontrolled incident that exposes a person to a serious risk arising from immediate or imminent exposure to a specific list of events as specified in the Act. These events which are listed on the website include fire, fall from height of plant, or electric shock. The list is prescriptive and it is important to understand that a person needs to be sufficiently proximate to the event in order to be exposed to the risk (which is why these events are often referred to as “serious near misses”). For example, if an object falls from height but all staff are at a safe distance away from the area then this would not be classified as a notifiable incident.

If a notifiable incident causes a minor injury but had the potential to cause serious injury, illness or death, then it would need to be notified.

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Notifying Worksafe

If you have concluded that Worksafe must be notified then you can either call Worksafe or submit an electronic notification on the website. There is a requirement to notify Worksafe as soon as possible after becoming aware of a notifiable event. If a number of businesses are involved then only one notification needs to be made. A notification is often required to be made soon after an event has happened when the full details of the event may not be fully understood. You should provide factual details only when notifying an event and avoid speculating the cause until a full investigation is carried out.

It is important to remember when an event occurs the scene of the incident must be preserved (i.e. remain untouched) in case Worksafe wishes to inspect it. Once notified, you will need to wait for a Worksafe investigator to contact you and decide whether they wish to attend the scene or not. A Worksafe inspector may ask you to take photos of the scene in order for them to review the area and decide whether to attend. There are some limited exceptions to the requirement to preserve the scene, including to help the injured person or to make the area safe for other persons.

If a business fails to notify Worksafe of a notifiable event, or fails to preserve the scene following an event, these are serious matters and could result in a fine of up to \$50,000 depending on the circumstances. If you are in any doubt regarding whether an event is notifiable then you should seek legal advice.

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