

ACT WorkCover

02.07

Provisional Improvement Notices (PINs)

Consultation

If a Health and Safety Representative (HSR) under the ACT *Occupational Health and Safety Act 1989 (the Act)* believes on reasonable grounds that *the Act* or regulations are being breached, the representatives must consult with the responsible person to attempt to resolve the problem (Section 67(2)) before issuing a Provisional Improvement Notice (PIN).

If the problem cannot be resolved by consultation within a reasonable period of time, the matter may be referred to the relevant health and safety committee, if one has been established in the organisation.

The health and safety committee may discuss and recommend a course of action to the employer, based on their collective knowledge of the hazard and working environment.

Issuing a PIN

If the Health and Safety Representative considers that the issue has not been satisfactorily resolved by the consultative process outlined in the Information Bulletin titled Health and Safety Representatives (02.06), the representative may issue a PIN to the person breaching or likely to breach *the Act* and/or the Regulations (Section 67).

A Health and Safety Representative must not issue a PIN on any matter which is already the subject of an Improvement or Prohibition Notice issued by an Inspector (Section 67(3)).

The PIN must state the reasons why the Health and Safety Representative considers that the person is breaching *the Act* and/or Regulations. The PIN may specify a period not less than 7 days by which the problem is to be resolved (Section 67(4)). In the case of the construction industry the PIN may be issued for a compliance period within 24 hours (Section 67(5)).

When a PIN is issued to a responsible person, the Health and Safety Representative shall take all reasonably practicable steps to give a copy of the notice to:

- the Occupational Health and Safety Commissioner; ¹
- the employer (where the notice was given to an employee in relation to his or her work for an employer);
- any person having a prescribed interest in the workplace, plant, substance, or thing to which the notice relates; and
- the employer of employee using the workplace, plant, substance or thing to which the notice relates.

Action by Person Receiving a PIN

When the responsible person receives a PIN, they must rectify the matters or activities occasioning the specified contravention or likely contravention. Failure to comply is an offence and may be subject to a fine of up to 100 penalty units (currently 1 penalty unit equals \$100) if the offender is a natural person and 500 penalty units if the offender is a body corporate (Section 69).

The responsible person must bring to the attention of any affected employee that a notice has been issued. The PIN must be displayed in a prominent place close to the workplace(s) affected. The PIN on display must not be removed by any person while in force.

¹ The Occupational Health and Safety Commissioner is contactable at ACT WorkCover. (See below).

It is the duty of the responsible person to take appropriate action to address the issues specified in the PIN within the time frames noted. Further consultation with the Health and Safety Representative may lead to a modification to the terms and time frame of the PIN.

The PIN remains in force until the matter has been resolved or unless an Inspector is asked to attend the workplace (Section 71).

Attendance by an Inspector at the Workplace

An Inspector may be asked to visit the workplace (Section 71(1)) if the person receiving the PIN, or that person's employer, believes that the notice should not have been issued. This request must be made in writing to the Occupational Health and Safety Commissioner within 7 days of receiving the notice.

An Inspector will attend the workplace as soon as practicable.

When an Inspector visits the workplace the operation of the Provisional Improvement Notice is suspended pending the advice of the Inspector.

Action by Inspector on a PIN

On request from the employer or Health and Safety Representative, the Inspector will attempt to resolve occupational health, safety or welfare matters that remains unresolved and may:

- take no action to revoke the PIN (thereby confirming the operation of the notice);
- revoke the PIN;
- issue a Prohibition or an Improvement Notice;
- take any other appropriate action to resolve the problem.

If the Inspector revokes the PIN and issues Prohibition or an Improvement Notice, the responsible person must comply with the notice within the specified period of time. Failure to comply with an Improvement Notice is an offence and may be subject to a fine of up to 100 penalty units if the offender is a natural person and 500 penalty units if the offender is a body corporate (Section 153).

The procedure to be followed for a breach or likely breach of *the Act* or Regulations is summarised in the figure to the right.

Breach of Act or Regulations - Issuing of Provisional Improvement Notice

