PROVISIONAL IMPROVEMENT NOTICE

A.C.T. OCCUPATIONAL HEALTH AND SAFETY ACT 1989

Section 67

To: Name of responsible person:
(name of a person or a body corporate) .....

Address of the workplace: .....

..... Postcode .....

1. I, ..., being a health and safety representative for

Designated Work Group ....., believe on reasonable grounds that the responsible person named above:

☐ is contravening * **OR** ☐ is likely to contravene * Section ……...……. of the

Occupational Health and Safety Act 1989 or Regulation ……...…..…… being a contravention that affects or is likely to affect one or more members of the Designated Work Group.

2. The reasons for that belief are .....

.....

.....

.....

.....

3. You are required to remedy the above by no later than - 4 PM on ..... 20.....
(This maybe within 24 hours from time of issue for the Building and Construction Industry and must be more than 7 days after the date of issue for all other industries).

4. The following action must be taken during the period specified (this section is optional for H&S Representative to complete)

.....

.....

.....

.....

5. I believe that I have taken all reasonably practicable steps to consult with the responsible person concerning rectification of the matters occasioning the contravention or likely contravention, and believe that any further such steps are unlikely to result in the rectification of those matters or activities.

Health and Safety
Representative Signature ..... Date ..... Time ..... am/pm

Issued to: ..... Position ..... Phone .....

Health and Safety Representatives are advised to retain copies of Provisional Improvement Notices issued by them and shall take all reasonably practicable steps to give a copy of the notice to the relevant parties as specified in Section 67(8) of the Act including:

Senior Director of Compliance
Office of Regulatory Services - WorkCover Facsimile: 6205 0168
GPO Box 158
Canberra ACT 2601

The issue of this notice **DOES NOT** indicate this workplace complies with all safety requirements **NOR** does it affect the continuing obligation to ensure workplace safety.

* tick applicable box

REFER TO REVERSE SIDE FOR IMPORTANT NOTES ⇒

Division 5.2—Provisional improvement notices

67 Issue

(1) If a health and safety representative for a designated work group believes on reasonable grounds that a person (the *responsible person*)—

(a) is contravening a provision of this Act; or

(b) is likely to contravene a provision of this Act;

being a contravention that affects, or that the health and safety representative believes on reasonable grounds is likely to affect, 1 or more employees included in the group, the representative may, by written notice given to the responsible person, require that person to rectify the matters or activities occasioning the contravention or likely contravention.

(2) A health and safety representative shall not give a provisional improvement notice to a person unless the representative believes on reasonable grounds that—

(a) the representative has taken all reasonably practicable steps to consult with the responsible person about rectification by that person of the matters or activities occasioning the contravention or likely contravention; and

(b) any further such steps are unlikely to result in the rectification of those matters or activities.

(3) A health and safety representative shall not issue a provisional improvement notice in relation to any matter that is the subject of an improvement notice or a prohibition notice.

(4) A provisional improvement notice shall—

(a) specify the contravention that the health and safety representative believes is occurring or is likely to occur, and set out the reasons for that belief; and

(b) specify a period of not less than 7 days beginning on the day after the day when the notice is issued (being a period that is, in the representative's opinion, reasonable) within which the responsible person is to rectify the matters or activities to which the notice relates.

(5) Notwithstanding subsection (4) (b), a provisional improvement notice that relates to a matter in the building and construction industry may be so expressed as to require the responsible person to rectify the matters or activities to which the notice relates within the 24 hours beginning when the notice is given personally to the responsible person.

(6) In subsection (5):

building and construction industry—see the *Long Service Leave (Building and Construction Industry) Act 1981*.

(7) A provisional improvement notice may specify action that the responsible person is to take during the period specified in the notice.

(8) If the health and safety representative gives a provisional improvement notice to the responsible person, the representative must—

(a) give a copy of the notice to the chief executive; and

(b) if the responsible person is an employee and the notice is given to the person in relation to work performed by the person for an employer—take all reasonably practicable steps to give a copy of the notice to the employer.

Maximum penalty: 1 penalty unit.

(9) The responsible person or, if the responsible person is an employee mentioned in subsection (8) (b), the employer must give a copy of the provisional improvement notice to each of the following people:

(a) if the notice relates to something that affects workplaces where people not employed by the employer work—each other employer of employees at each affected workplace;

(b) if the notice relates to premises—

(i) each owner of the premises; and

(ii) if the premises are leased—the lessor and lessee of the premises; and

(iii) anyone else with a right of immediate possession to the premises;

(c) if the notice relates to plant or a substance or other thing and the plant or thing is hired under a hire-purchase agreement or contract of hire—the hirer of the plant or thing;

(d) if the notice relates to plant or a substance or other thing, whether or not the thing is hired—anyone else with a right of immediate possession to the plant or thing;

Maximum penalty: 10 penalty units.

(10) An offence against subsection (8) or (9) is a strict liability offence.

(11) Before the end of the period specified in a provisional improvement notice, the health and safety representative who issued the notice may, by written notice given to the responsible person, extend the period within which the person is to take action in accordance with the notice.

68 Display

(1) If a provisional improvement notice has been given to an employer, the employer shall—

(a) notify each employee whose work is affected by the contravention to which the notice relates of the fact of the issue of the notice; and

(b) while the notice remains in force—cause a copy to be displayed in a prominent place at or near each workplace where the work to which the notice relates is usually performed.

(2) A person who, without reasonable excuse, contravenes subsection (1) commits an offence.

Maximum penalty: 10 penalty units.

69 Compliance

The responsible person to whom a provisional improvement notice is given shall, subject to section 70—

(a) ensure that, to the extent to which the notice relates to any matter over which the person has control, the notice is complied with; and

(b) shall take the steps that are reasonably practicable to inform the health and safety representative who issued the notice of the action taken to comply with the notice.

Maximum penalty: 100 penalty units.

70 Revocation

(1) If a health and safety representative believes on reasonable grounds that the responsible person to whom the representative has given a provisional improvement notice has complied with section 69 in relation to that notice, the representative shall, by written notice given to the person, revoke the provisional improvement notice.

(2) If a health and safety representative revokes a provisional improvement notice, the representative shall give a copy of the notice of revocation to the chief executive as soon as practicable.

71 Review

(1) The responsible person in relation to whom a provisional improvement notice is in force or any other person (other than the chief executive) to whom a copy of the notice has been given under section 67 (8) may—

(a) not later than 7 days after the date of the notice; and

(b) by written notice given to the chief executive;

request the chief executive to arrange for an inspection to investigate the circumstances relating to the giving of the notice.

(2) On the request being made, the operation of the notice to which it relates is suspended until an inspector completes an investigation into the circumstances relating to the giving of the notice.

(3) As soon as practicable after a request has been made, the chief executive shall arrange for an inspector to investigate the circumstances in which the notice was given.

(4) If, as a result of an investigation arranged under subsection (3), an inspector believes on reasonable grounds that—

(a) the provisional improvement notice should not have been given to a person; or

(b) the person to whom the notice was given has complied with section 69 in relation to the notice; or

(c) for any other reason, the notice should no longer remain in force;

the inspector shall revoke the notice by written notice given to that person.

(5) An inspector who revokes a provisional improvement notice shall take all reasonably practicable steps to give to each person mentioned in section 67 (8) (b) or (9) (a) to (d), to whom a copy of the notice was given, written notice of the revocation.

If you are unable to meet the requirement of this notice within the time specified, contact the health and safety representative who issued the notice**, BEFORE THE EXPIRY TIME SPECIFIED,** explaining your reasons. Where appropriate, the time required for completion may be reviewed (Section 67(11)).

For enquiries on the process to effect a review under Section 71, contact – Senior Director of Compliance, Office of Regulatory Services - WorkCover, GPO Box 158, Canberra, ACT 2601.

- Phone 6207 3000 or 6205 0200 -