|  |  |  |
| --- | --- | --- |
|  | Reference ID: NP | <Enter details> |
| **Issued to the Responsible Person**  |
| **Name** | <*Enter responsible person’s name*> |
| **Facility details** |
| **Facility**  | <*Enter Facility name*> |
| **Provision** |
| I, <*click here to* *insert your name>* selected as the Safety and Health Representative under clause 24 of Schedule 5 to the Act for *<click here to insert the name of the designated work group>* ,after consultation in accordance with clause 37(1) of that Schedule, believe on reasonable grounds that *<click here to insert the name of the person you believe is contravening a listed OSH law or has contravened a provision of a listed OSH law>* * (\*Omit if inapplicable) is contravening <click here to list section/regulation no. and name details of the listed OSH Law (defined in section 4 of the Act>
* (\*Omit if inapplicable) has contravened <Click here to list section/regulation no. and name details of the provision of a listed OSH law> and I believe they are likely to contravene that provision again

and the contravention affects or may affect one of more group members.  |
| **Grounds** |
| The Contravention is *(specify the contravention that has occurred or is occurring):**<click here to list details>*The Contravention occurred at (locations):<Insert location>The reasons for my opinion are as follows:* <Click to list details>
 |
| **Corrective actions** |
| *(\*Omit if inapplicable)*: In accordance with clause 37(6)of Schedule 5 to the *Petroleum (Submerged Lands) Act 1982*, I specify the following action(s) that the responsible person is to take:<Click here to list details> |
| **Period of time for compliance**  |
| In accordance with clause 37(5)(b) of Schedule 5 to the *Act,* action(s) necessary to prevent the contravention, or the likely contravention, of the provision or provisions referred to above must be taken before: *<specify the date of a day that is:**Not less than 7 days after the day when the notice is issued; and**Reasonable in the opinion of the safety and health representative.>* |
| **Issuing details** |
| **Details of safety and health representative** |
| **Safety and health representative**  | <click to enter your name> |
| **Name and location of designated work group**  | <click to enter name and location of designated work group> |
| **Contact number**  | <contact number> |
| **Signature** |  | **Issue date** | <enter a date> |
| **Delivery of notice**  |
| **Name**  | <Enter full name of person that the notice was delivered to> |
| **Signature**  |  | **Issue date and time** | <enter a date><enter time> |

# Information

Pursuant to clause 37(1) of the *Petroleum (Submerged Lands) Act 1982* (the ‘Act’), an elected safety and health representative (SHR) may issue a PIN to a responsible rerson if they reasonably believe that a provision of a listed OSH legislation is:

* is being contravened; or
* has been contravened in circumstances that make it likely that the contravention will continue or be repeated.

## Responsible person

The responsible person can be any of the following:

* operator of a facility. If the responsible person is the operator of a facility, the provisional improvement notice may be issued to the operator by giving it to the operator’s representative at the facility.
* a person in control of a part of a facility, or of any work carried out at a facility
* an employer
* a member of the workforce
* the owner or any workplace, plant, substance or thing
* a manufacturer of plant, or a substance, for use at a facility
* a supplier of a facility, or of any plant or substance used at a facility
* a person who erects or installs a facility, or any plant at a facility.

## Consultation

It is important to note that a PIN can only be issued when consultation between the SHR and the person supervising the relevant activity giving rise to the contravention has failed to resolve the issue.

### If agreement is not reached during consultation

Pursuant to clause 37(2) of Schedule 5, if in the SHR’s opinion, agreement is not reached within a reasonable time, the SHR may issue a PIN to any or each person (a responsible person) responsible for the contravention.

## Issuing the notice

If it is not practicable to issue the PIN to the responsible person, the notice may be issued to that responsible person by giving it to the person who for the time being is, or may reasonably be presumed to be, on behalf of the responsible person, in charge of the activity to which the notice relates; and if the notice is so issued, a copy of the notice must be given to the responsible person as soon as practicable afterwards.

## Who must the SHR give a copy of the PIN to?

Pursuant to Clause 37(8), on issuing the notice, the SHR must give a copy of the notice to –

1. If the Operator is not a responsible person – the Operator
2. Each work group employer other than a work group employer who is a responsible person
3. If the supervisor is not a responsible person – the supervisor
4. If the notice relates to any plant, substance or thing that is owned by a person other than a responsible person or a person to whom a copy of the notice is given under paragraph (a), (b), or (c) – that owner.

## Request for inspection by inspector

Pursuant to clause 38(1) of Schedule 5 of the Act, a person to whom a provisional improvement notice is given may, within 7 days, request an inspector for an inspection of the subject matter of the notice.

## Suspension of the PIN

If a request is made for an Inspector to conduct an inspection pursuant to clause 38(1) of the Act, the operation of the notice is suspended pending the determination of the matter by an inspector.

## The inspection

As soon as possible after a request is made for an inspection pursuant to clause 38(1), an inspection must be conducted of the work that is the subject of the disagreement, and the Inspector conducting the inspection must –

1. Confirm, vary or cancel the notice and notify the responsible person and any person to whom a copy of the notice has been given under clause 37(8) accordingly
2. Make decisions, and exercise powers, under Division 4, as the Inspector considers necessary in relation to the work.

## Variation of the PIN

If the Inspector varies a PIN, the notice as so varied has effect –

1. so far as the notice concerns obligations imposed on the responsible person that are unaffected by the variation – as if the notice as so varied resumed effect on the day of the variation; and
2. so far as the notice concerns new obligations imposed by virtue of the variation – as if the notice as so varied were a new notice issued on the day of the variation.

## Display of the notice

Pursuant to clause 38(5) of Schedule 5, requires a responsible person to whom a provisional improvement notice is given:

* to notify each group member who is affected by the notice of the fact the notice has been issued; and
* display a copy of the notice at or near each workplace at which work that is the subject of the notice is being performed.

## Notice ceasing to have effect

Pursuant to clause 38(6) of Schedule 5 to the Act, a PIN ceases to have effect when:

* it is cancelled by the SHR or an Inspector; or
* the Responsible Person takes the action specified in the notice, or if no action is specified, takes the action that is necessary to prevent the contravention, or likely contravention, with which the notice is concerned.

## Duty of the responsible person

Clause 38(7) of Schedule 5 to the Act requires the responsible person –

* to ensure that, to the extent that the notice relates to any matter over which the person has control, the PIN is complied with
* to take reasonable steps to inform the SHR who issued the notice of the action taken to comply with the PIN.

## Review of the varied PIN

Under clause 65 of Schedule 5 to the Act, if an Inspector has confirmed or varied a PIN, the following persons may apply in writing to the reviewing authority for a review of the Inspector’s decision:

* the operator of the facility or an employer affected by the decision
* the person to whom the notice was issued under clause 37(2), (the responsible person)
* the safety and health representative for a designated work group that includes a group member affected by the decision
* a workforce representative in relation to the designated workgroup that includes a group member affected by the decision
* if there is no designated work group – a workforce representative in relation to a member of the workforce affected by the decision
* the owner of any workplace, plant, substance of thing to which that decision relates.

## The reviewing authority

The reviewing authority is the person from time to time holding the office of Director of Petroleum Safety in the Department of the public service principally assisting the Minister in the administration of Schedule 5 to the Act.

## How to request a review of a decision in relation to a varied PIN

An Application for review of a decision must be made not later than 7 days after the day on which the person applying received the notice of the Inspector’s decision or within such further period as the reviewing authority may allow.

After considering a request for review of an PIN, the reviewing authority can affirm, modify or revoke the PIN

## Suspension of varied PIN during review

Pursuant to clause 64(9) of Schedule 5 to the Act, the operation of the PIN is suspended pending determination of the review by the reviewing authority, except the extent that the reviewing authority makes an order to the contrary.

## Referral of decision to OSH Tribunal

If the person applying for the review of the Notice is not satisfied with the reviewing authority’s decision, the person can refer the matter to the Occupational Safety and Health Tribunal under clause 67 of Schedule 5 to the Act. The Tribunal issues its own request forms at [www.wairc.wa.gov.au](http://www.wairc.wa.gov.au).

## Reference material

Further information on Prohibition Notices can be found at:

* *Petroleum (Submerged Lands) Act 1982*
* Petroleum (Submerged Lands) (Occupational Safety and Health) Regulations 2007
* Department’s website [www.dmirs.wa.gov.au](http://www.dmirs.wa.gov.au)