



Australian Government

Australian Maritime Safety Authority

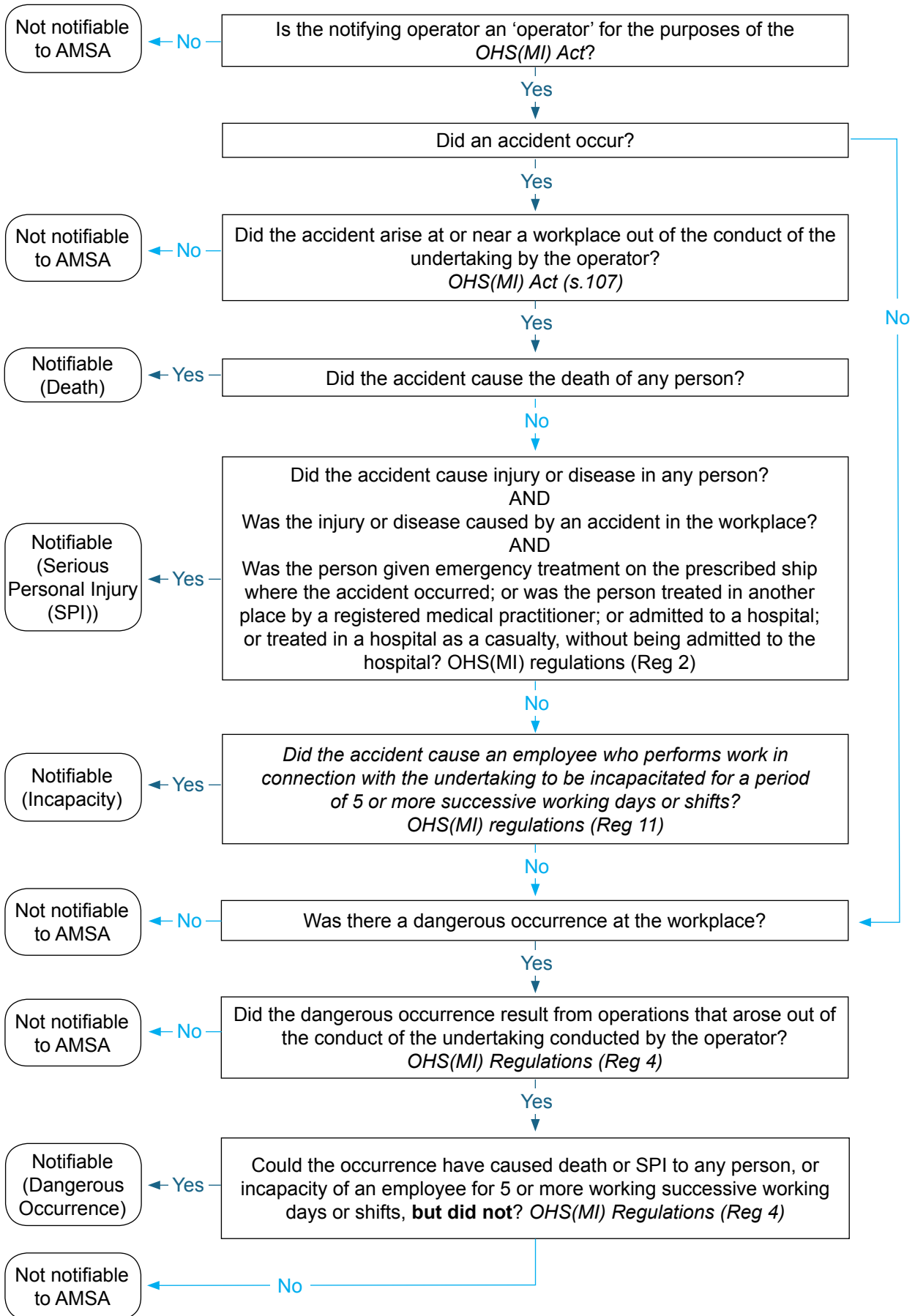
INCIDENT NOTIFICATION GUIDE

**under the *Occupational Health & Safety Act
(Maritime Industry) Act 1993***



November 2011

Incident Notification Flowchart



Definitions for Notification Flowchart

Accident means:

1. an undesirable or unfortunate happening; casualty; mishap.
2. anything that happens unexpectedly, without design, or by chance.

(Macquarie dictionary)

Incident means:

1. an accident of a kind described in paragraph 107(1)(a) or (b) of the OHS(MI) Act; or
2. a dangerous occurrence (defined under regulation 4 of the regulations).

Injury means:

1. harm of any kind done or sustained.
2. a particular form or instance of harm.

(Macquarie dictionary)

Disease means:

1. a morbid condition of the body, or of some organ or part; illness; sickness; ailment.
2. any deranged or depraved condition, as of the mind.

(Macquarie dictionary)

Occurrence means:

1. the action or fact of occurring.
2. something that occurs; an event or incident.

(Macquarie dictionary)

Workplace means:

Anywhere on board a prescribed ship or prescribed unit:

- (a) where an employee or contractor works; or
- (b) under the control of the operator to which an employee or contractor has access.

Prescribed Ship Means:

A ship to which Part II of the *Navigation Act 1912* applies but does not include:

- (a) a ship or off-shore industry mobile unit to which the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* applies; or
- (b) a Government ship.

Operator means:

In relation to a prescribed ship or a prescribed unit, the person who has the management or control of the ship or unit.

Undertaking by the Operator means:

Business activities, work undertaken or work that is done in the course of carrying on the employer's business.

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Introduction

This guide provides practical assistance in helping operators understand the *Occupational Health and Safety (Maritime Industry) Act 1993* (OHS(MI) Act) notification process by identifying which incidents and dangerous occurrences are notifiable as well as outlining operator responsibilities regarding notification under the OHS(MI) Act.

Operators have a legal obligation to report certain accidents and dangerous occurrences to AMSA and should familiarise themselves with these obligations.

In cases where the OHS(MI) Act does not apply, or an incident is not reportable to AMSA, the operator has a responsibility to ensure that it is reported to the appropriate jurisdiction. In addition, operators must ensure that they maintain their own internal reporting mechanisms over and above reporting incidents to regulators such as AMSA and/or State or Territory regulators.

The following information should be used as guidance material only and should not be relied on in place of independent legal advice.

Section 82 of the OHS(MI) Act specifies that the inspectorate, the Australian Maritime Safety Authority (AMSA) has the following functions:

- to ensure, in accordance with this Act and the *Occupational Health and Safety (Maritime Industry) Regulations 1995* (the regulations), that the obligations imposed by or under this Act or the regulations are complied with;
- to advise operators, employees or contractors, whether of its own motion or on being asked, on occupational health and safety matters affecting such operators, employees or contractors;
- to provide the Authority with such information as is asked for by the Authority.

What is incident notification?

Incident notification is an obligation outlined in the OHS(MI) Act. It is a form of intelligence for AMSA about current and potential safety issues in the maritime industry.

Incident notification means giving notice to AMSA of injuries or diseases that meet the notification criteria prescribed in section 107 of the OHS(MI) Act in accordance with regulations 2, 4, 10, 11, 12, 13, 15 and forms 6 and 7 under the schedule in the regulations.

Why is incident notification important?

Incident notification is one way AMSA and operators work together to prevent workplace death, injury and/or disease. Providing timely and accurate notifications is a legal obligation and may benefit both AMSA and operators by:

- identifying the cause of incidents to enable prompt preventative measures to be put in place ;
- gathering and tracking data trends to assist in formulating appropriate preventative strategies;
- informing AMSA of potential areas of concern within industry so we can work in partnership to prevent workplace harm, or
- allowing time for investigation, if required, to establish causes and preventative measures.

Who is responsible for notifying AMSA?

The obligation under the OHS(MI) Act to notify rests with the operator¹ . There are a broad ranges of activities from which notifiable incidents may arise and the operator has an obligation to monitor such incidents for notification purposes.

What incidents are notifiable?

Sometimes, deciding which incidents to notify can be difficult. The following information explains what may be notifiable and how operators can approach the decision-making process. The Notification Flowchart provided with this guidance is a helpful tool to assist operators with their decision making.

Notifiable incidents are incidents which arise at or near a workplace out of the conduct of the operator's undertaking, that result in one of the following:

- the death of any person;
- a 'serious personal injury' to any person;
- 'incapacity' of an employee; or
- a 'dangerous occurrence' that could have caused, but did not in the circumstances, cause these outcomes.

¹'Operator' is defined under section 4 of the OHS(MI) Act.

Death

A notifiable death is a work-related death of any person including a member of the public, a contractor or an employee.

Serious Personal Injury

A serious personal injury² is an injury to, or disease in, any person that is caused by an accident at a workplace and for which the person is:

- given emergency treatment on the prescribed ship on which the accident occurred; or
- given emergency treatment in another place by a registered medical practitioner; or
- admitted to a hospital; or
- treated in a hospital as a casualty, without being admitted to the hospital.

Incapacity of an employee

Incapacity³ is an accident that causes an employee⁴ who performs work in connection with the undertaking to be incapacitated from performing work for 5 or more successive working days.

Dangerous Occurrence

An occurrence is a dangerous occurrence⁵ if it occurs at a workplace, it results from operations that arose from an undertaking conducted by or for the operator of the workplace; and could have caused:

- the death of, or serious personal injury to, any person; or
 - the incapacity of an employee for a duration of 5 or more successive working days;
- but as a result of which death, serious personal injury or incapacity did not occur.

When do I notify?

Operators are required to notify and report AMSA of incidents within strict time frames⁶.

The operator must give AMSA notice of an incident within 4 hours of becoming aware of the incident.

The operator must give AMSA a report about the incident within 72 hours of becoming aware of the incident.

The operator must have appropriate systems to ensure that notices and reports of incident are submitted to AMSA within the legislated timeframes.

²Serious Personal Injury' is defined under regulation 2 of the regulations

³Incapacity' see section 107 (1)(b) of the OHS(MI) Act and regulation 11 of the regulations

⁴Employee' is defined under section 4 of the OHS(MI) Act

⁵Dangerous Occurrence' is defined under regulation 4 of the regulations

⁶See regulations 12 and 13 of the regulations

What information do I have to provide when I alert and report incidents to AMSA?

Operators have an obligation to firstly notify and then to report to AMSA if any of these incidents occur. AMSA Form 18 and AMSA Form 19 set out all the required information that must be included in an incident alert or incident report to AMSA.

Incident alerts and incident reports must be completed following the instructions set out in forms and include sufficient detail to allow AMSA to make proper consideration from the information provided.

The alert and report forms are available on AMSA's website at:
www.amsa.gov.au/Forms/ship_ops.asp

- For incident alerts: <http://www.amsa.gov.au/Forms/AMSA18.pdf>
- For incident reports: <http://www.amsa.gov.au/Forms/AMSA19.pdf>

Once completed they should be sent to one of the following:

Fax: +61 2 6230 6868

Free Fax: 1800 622 153 (within Australia)

Email: Reports@amsa.gov.au

What should I do if I am still unsure if I should notify?

AMSA advises operators to submit a notification if there is any doubt about whether an incident is required to be notified. AMSA will then make a determination or contact the operator to discuss the incident.

What does AMSA do with the information I provide?

AMSA will use your information for a number of purposes. Firstly, it assists AMSA to determine if some form of response is required. This could be an investigative response of some sort or even whether medical or evacuation assistance is required. AMSA may also use the information for statistical purposes. This may be to inform the Seacare Authority, as AMSA is required to do under the OHSMI Act, or it may be to identify industry injury trends. This enables both AMSA and the Seacare Authority to identify any trends to which educational resources may be directed.

Reporting an incident does not necessarily mean that AMSA will attend the vessel.

Interpretation of terms used in the legislation

What does ‘*arising out of*’ the conduct of the undertaking mean?

In section 107 of the OHS(MI) Act the phrase ‘arising out of’ requires at least a minor or contributory causal connection between the conduct of the operator’s undertaking, or work performed by employees in connection with that undertaking, and an incident which results in:

- the ‘death’ of any person;
- ‘serious personal injury’ to any person;
- ‘incapacity’ of an employee, or
- a ‘dangerous occurrence’ that could have caused, but did not in the particular circumstances cause these outcomes.

What does ‘*conduct of the undertaking*’ mean?

The phrase ‘conduct of the [operator’s] undertaking’ refers to business activities or work undertaken in the course of the operators business.

Who is ‘*any person*’?

Section 107 of the OHS(MI) Act refers to ‘any person’. Incidents involving third parties (or “any person”) are notifiable if they result in death or serious personal injury or constitute a dangerous occurrence. A third party could be a member of the public or a visitor to a prescribed ship.

What does ‘*could have caused*’ mean?

This is concerned with exposure to a risk (or what could have, but did not in the circumstances, occur) and not with what actually transpired or the level of injury or incapacity (if any) that eventuated. Accordingly, before an incident becomes notifiable as a ‘Dangerous Occurrence’, it must be of a kind that alerts the operator to the potential for death, serious personal injury or incapacity.

What does emergency treatment mean?

This is not defined in the OHS(MI) Act and should therefore be given its ordinary dictionary meaning. The phrase generally refers to the treatment of acute illnesses and injuries that require immediate medical attention. Therefore, injuries such as minor sprains, scrapes, minor cuts and bruises that may be treated by a first-aid officer or treated later may not meet the criteria of 'emergency treatment'.

A person may decline emergency treatment when recommended by a first-aid or ambulance officer. If treatment is declined, the person may still be regarded as needing emergency treatment.

What does '*registered medical practitioner*' mean?

This phrase is not defined in the OHS(MI) Act, but typically means a doctor who is registered or licensed to practise under a State or Territory law and includes psychiatrists but would exclude allied health professionals such as ambulance officers, nurses, physiotherapists or psychologists.

What does '*treated in a hospital*' mean?

It covers situations where a person is treated in the emergency department of a hospital without being admitted. Such treatments can include:

- administering pain relief
- plastering a limb
- providing intravenous support
- stitching or dressing wounds.

The regulations do not specify who must provide the treatment, therefore, it can be provided by any medical staff.

