

SAFETY ALERT



TITLE: WorkSafe Preserving Incident Sites

Number: 85

Background

Section 39 Duty to preserve incident sites of the Work Health Safety (WHS) Act 2020 stipulates that an incident site must not be disturbed until an inspector arrives at the site or WorkSafe authorise otherwise (whichever is earlier) so far as reasonably practicable. The person with management or control of the workplace is responsible for preserving the incident site. The penalty for non-compliance is \$55000. Notifications are reviewed as soon as possible and a WorkSafe inspector will contact the person in control or business or undertaking (PCBU) in relation to whether the site may be released.

Any evidence that may assist an inspector to determine the cause of the incident must be preserved, including any plant, substance, structure or thing associated with the incident. However, preserving an incident site does not prevent any action needed:

- to assist an injured person
- to remove a deceased person
- to make the site safe or to minimise the risk of a further notifiable incident, or
- to facilitate a police investigation.

If you are not sure if a site needs to be preserved ring the WorkSafe notification hotline to seek guidance, phone 1800 678 198.

Section 39 Duty to preserve incident sites states:

- (1) The person with management or control of a workplace at which a notifiable incident has occurred must ensure, so far as is reasonably practicable, that the site where the incident occurred is not disturbed until either an inspector arrives on site or any earlier time that an inspector directs. Penalties for non-compliance are:
Individual \$12,500
Body Corporate \$55,00
- (2) In subsection (1), a reference to a site includes any plant, substance, structure or thing associated with the notifiable incident.
- (3) Subsection (1) does not prevent any action:
 - (a) To assist the injured person: or
 - (b) To remove a deceased person: or
 - (c) That is essential to make the site safe or to minimise the risk of a further notifiable incident: or
 - (d) For which an inspector or the regulator has given permission.