



Guidance on Completing a Provisional Improvement

As explained in the HSR Handbook, a Provisional Improvement Notice should only be used if agreement cannot be reached through the normal consultation processes.

When writing a Provisional Improvement Notice, make sure you select the form and quote the legislation (Commonwealth, State or Northern Territory) applicable at your facility's location, and that you complete all details clearly and legibly.

This table provides advice on how to complete each part of the form.

Responsible person	<p>Insert the name of the "person" you think is responsible for contravening the OHS laws. This could be anyone with a legal duty in the legislation. For Commonwealth waters, the main duty holders are the operator and others mentioned in the headings of clauses 3 to 9 of the PSLA Schedule 7.</p> <p>The "person" is often a company. For example it may be the company registered as operator of the facility, or a company that employs members of the workforce. However, the person could also be an individual.</p> <p>If you are issuing a PIN to a company, and it has different legal and trading names, make sure you use the legal name. Include the Australian Company Number or equivalent if you know it. The legal name and ACN will probably be on the company letter-head. The name of the registered facility operator will be in the facility safety case.</p> <p>If you are issuing a PIN to an individual, use their full name.</p>
Your name	Write your full name. Avoid nick-names.
Designated work group	If you are the HSR for a particular designated work group, describe it fully, for example "Widget platform, drill crew, shift 2". If you represent the whole of the facility workforce, simply write the name of the facility.
Description of contravention	<p>Find the clause of the Schedule or the regulation that you believe is being contravened, for example a "duty of care" clause in the Schedule, or the regulation that requires persons to comply with the safety case.</p> <p>In this part of the form, you should make a formal allegation that clearly identifies the alleged breach of the law. For example you could write "Failure to comply with the safety case, contrary to regulation 49 of the Commonwealth P(SL) (Management of Safety on Offshore Facilities) Regulations 1996"</p> <p>The clause or regulation you quote should match the "responsible person". For example, if you think a duty of care has been breached and that the responsible person is the registered operator of the facility, quote the operator duty clause in the Schedule. Alternately, if you think your employer or one of your colleagues' employers is the responsible person, quote the employer duty clause.</p> <p>Limit each PIN to one contravention. If there is more than one contravention, issue one PIN for each. This will make it easier to decide who should receive the PIN, the date for compliance, and so on.</p>
Location of contravention	<p>Write the name of the facility. If it is a mobile facility, state its location as accurately as you can (e.g. for a mobile drilling unit, give the well name).</p> <p>If the contravention is taking place at a particular location on the facility, describe that location. Examples might be "on the pipe rack", "in the galley" or "module 1, lower deck, north side".</p>



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Reasons	<p>In this section describe any particular events or circumstances that back-up your claim that there has been a contravention. This might include some incidents or near misses that have occurred, or it may simply require you to describe some of the physical arrangements at the facility, or some of the OHS practices.</p> <p>Give the date and time of the events or circumstances, or the period over which they happened.</p>
Action date	<p>Indicate the date and time by which the contravention should be rectified. This must be at least 7 days after the date and time that you issue the PIN, and should allow a period that is reasonable (in your opinion) to take the necessary actions.</p> <p>You are allowed to extend this period later, provided it has not already expired, and provided you do so in writing.</p>
Action to be taken	<p>In this section you may describe the actions you think are necessary to rectify the contravention and/or to make sure it doesn't happen again. This must be consistent with the issue and contravention that you have described.</p> <p>However, you do not have to complete this section, and should not do so unless you are fairly confident what it is that needs to be done.</p>

You should make copies of the PIN and hand the original to the “responsible person”.

If the “responsible person” you have named on the PIN is the registered operator, then you do not have to deliver the PIN to the company offices. Instead you may simply hand the PIN to the “operator’s representative at the facility”, who is the person having day-to-day control of operations at the facility (for example the OIM or Platform Supervisor). The operator is legally obliged to have a person in this role and to display the person’s name in a prominent location.

Once you have issued the PIN, you should also issue copies to the following persons, unless of course they were the responsible person:

- the operator;
- other employers of persons in the work group;
- the supervisor of the particular work or area; and
- the owner of any plant or substance specifically related to the notice.

A Provisional Improvement Notice is legally binding unless the responsible person, or any of the above persons who was given a copy of the PIN, requests an inspection by NOPSA. The PIN is suspended for the duration of the inspection, and the NOPSA OHS inspector has the option of confirming the PIN, varying it or cancelling it. You may also cancel your own PIN.

DISCLAIMER: This guidance and others on NOPSA’s web-site are intended to provide guidance as to the approach that NOPSA takes in carrying out its regulatory functions under powers conferred by the Commonwealth, State and NT Petroleum (Submerged Lands) Acts and Regulations under those Acts. Any views expressed in this correspondence should not be relied on as advice on the law, nor treated as a substitute for legal advice in any relevant situation.