



Product safety mandatory reporting for suppliers

Understanding your obligations

December 2021

This guide has been developed to help suppliers easily understand their product safety mandatory reporting obligations. You can find more detailed information and examples in the Mandatory Reporting Guideline at www.productsafety.gov.au/mandatoryreporting/download.

Why mandatory reporting is important

Mandatory reporting of deaths or serious injuries or illnesses from consumer goods or product related services helps the ACCC identify emerging hazards and risks in consumer products, and to take action to mitigate those risks and prevent similar injuries, illnesses, or fatalities.

Mandatory reports are confidential and are not an admission of liability.

Your obligations

If you become aware that a consumer good or product related service that you supplied in trade or commerce may have caused a death or serious injury or illness, you must report it to the Commonwealth Minister **within 2 days** of becoming aware. You can do this by using the ACCC online mandatory reporting form at www.productsafety.gov.au/contact-us/for-retailers-suppliers/mandatory-report-0. This requirement is known as mandatory reporting.

You must submit a mandatory report if you or any other person (for example, the affected person) believes that the consumer good or product related

service you supply caused the death or serious injury or illness.

The mandatory reporting requirement applies even if the consumer good was not used in the intended way (misused) if the misuse was foreseeable. For example, a consumer who purchases a chair and stands on the seat to change a light bulb. This would be a foreseeable misuse because this is not the intended use of the chair, but it is foreseeable that a consumer might use the chair in this way

If you fail to submit a mandatory report, you may be found guilty of a criminal offence and be liable to a penalty of \$3,330 for an individual or \$16,650 for a body corporate.

Who needs to submit a mandatory report

The mandatory reporting requirements apply to you or your business if you do any of the following with consumer goods:

- import
- manufacture
- retail (online or in store)
- lease or hire
- exchange
- install
- repair, maintain or enhance
- clean
- assemble
- deliver.

A consumer good is a product intended to be used, or a kind likely to be used, for personal, domestic, or household use or consumption (for example, a household bookshelf). Product related services are services related to consumer goods (for example, installation of the household bookshelf).

All participants in the supply chain of a consumer good or product related service must submit a mandatory report if they become aware of a death or serious injury or illness regardless of whether it happened in Australia or overseas.

Where more than one supplier would be required to report the same incident, you can authorise an agent to report an incident on your behalf.

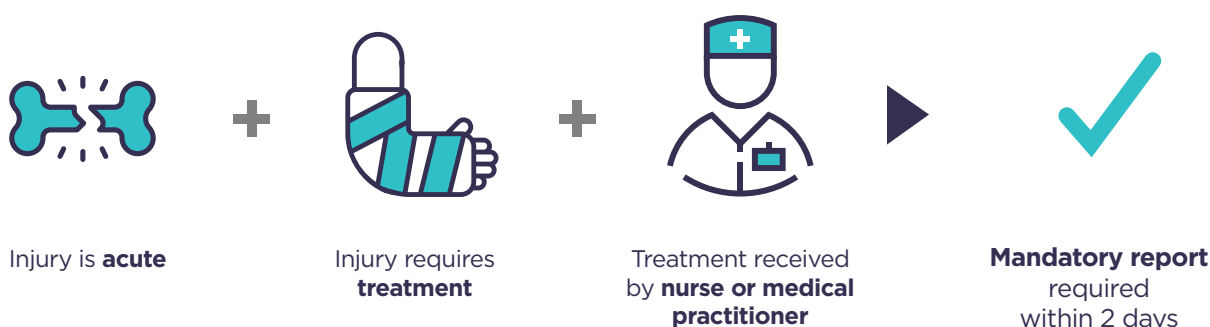
When a mandatory report is required

You must submit a report if you become aware that a consumer good or product related service you supply caused or may have caused a:

- death, or
- serious injury, or
- serious illness.

Serious injury or illness means:

1. the physical injury or illness is **acute**, which means that it arose suddenly (as opposed to gradually developing over time) and is brief and severe. An acute injury or illness is not chronic or an aggravation of a pre-existing condition
2. the physical injury or illness requires **medical or surgical treatment**
3. that treatment was provided under the supervision of a **medical practitioner or a nurse**.



Examples of incidents that require a mandatory report

- Barry purchases vertical blinds at a shop and arranges for a service provider to install them. Later that week, Barry finds his child trapped in the vertical blinds and notices they have caused cuts on his child's arms and neck. Some of the cuts require stitches, which are applied by a nurse. The injury is serious (an acute injury requiring medical treatment by a nurse) and may have been caused by a consumer good (vertical blinds) or product related service (the installation of vertical blinds).

If the manufacturer of the vertical blinds, the shop that sold the vertical blinds, or the installer of the vertical blinds becomes aware of this injury, they are all required to submit a mandatory report within 2 days of becoming aware of it. Alternatively, one supplier could authorise the other supplier to submit the mandatory report on behalf of both of them.

- A person takes their mobile phone into a store to be repaired. Immediately after being repaired, the mobile phone becomes very hot and burns the person's fingers. The injured person visits a medical practitioner who treats their burn with ice and a bandage. The mobile phone repair service provider (and the mobile phone supplier, if they become aware of the incident) must submit a mandatory report about this incident. As medical treatment was required, the incident is reportable.

Timeframe to submit a mandatory report

If you become aware that a consumer good or product related service that you supply has caused a death or serious injury or illness, you must report it to the Commonwealth Minister **within 2 days** of becoming aware.

You can 'become aware' of the death or serious injury or illness in many ways. For example, from a consumer, media (including social media), a repairer or insurer, an expert report, or a government agency. Regardless of how you become aware, you must submit a mandatory report within 2 days.

| If you become aware of a death or serious injury or illness on: | Your mandatory report is due by 11.59pm of the next: |
|---|--|
| Monday | Wednesday |
| Tuesday | Thursday |
| Wednesday | Friday |
| Thursday | Monday |
| Friday | Monday |
| Saturday | Monday |
| Sunday | Tuesday |

The day on which you become aware of the death or serious injury or illness does not count toward the 2-day reporting period. If the day your report is due falls on a weekend or public holiday, the deadline moves to the next business day.

When a mandatory report is not required

You are not required to submit a mandatory report for incidents that:

- did not result in death or serious injury or illness
- were not caused by the consumer good or product related service that you supply
- are required to be reported to another agency.

When you need to report to another agency

You are not required to submit a product safety mandatory report for incidents that are required to be reported to another authority under a law or industry code specified in the Competition and Consumer Regulations 2010, Regulation 92. This includes laws for:

- agricultural and veterinary chemicals
- biological agents
- food-borne infectious diseases
- reporting deaths to a coroner
- road vehicle accidents on public roads.

Links to other agencies can be found on the Product Safety Australia website, www.productsafety.gov.au/about-us/who-regulates-what.

How to submit a mandatory report

You can submit your mandatory report to the Commonwealth Minister using the ACCC online mandatory reporting form, which is available at www.productsafety.gov.au/contact-us/for-retailers-suppliers/mandatory-report-0.

Mandatory reports are:

- confidential
- not expected to be comprehensive (if full information is not yet known to you)
- not an admission of liability.

You are expected to complete the report to the best of your knowledge at the time of reporting. You can provide further information after your initial report.

Completing the form to submit a mandatory report should take you about 15 minutes.

If you are unable to submit the online form, please contact the ACCC on 1300 302 502 or email mandatoryreporting@accc.gov.au.

Achieving compliance with mandatory reporting laws

If you supply consumer goods or product related services, you need to have internal procedures in place to ensure that an appropriate person within your business quickly receives information about incidents that could be reportable.

You are responsible for making the mandatory report, regardless of who in your business becomes aware of a death or serious injury or illness. This includes any employees, contractors or other representatives of the business. It is important to routinely remind your staff about their mandatory reporting requirements. You can do this by sending out a mandatory reporting notification to your staff. A template 'Notice to employees' about mandatory reporting obligations is available at www.productsafety.gov.au/mandatoryreporting/download.

If in doubt, report it

If you are in any doubt about whether a mandatory report is required, you should submit it to ensure you comply with the 2-day reporting deadline. Your report is confidential, is not an admission of liability and should include information known to you as at the date of the report.

Reporting other safety issues voluntarily

The ACCC strongly encourages you to adopt the best practice approach of voluntary reporting. This includes reporting incidents that could have caused a death or serious injury or illness but did not in that instance, and other incidents where a mandatory report is not legally required. For example:

- A near miss
- The injury or illness is serious but developed slowly over time (not acute)
- A pre-existing condition contributed to the death or serious injury or illness
- The serious injury or illness was treated by someone who is not a medical practitioner or a nurse (for example, a dentist or physiotherapist)
- The incident was caused by the consumer good being misused in an unforeseeable way.

We encourage you to submit a voluntary report if:

- you have assessed that a mandatory report is not legally required
- the consumer good or product related service did not cause a death or serious injury or illness but had the potential to do so with a slight change in circumstances.

Voluntary reports made to the ACCC are confidential and treated in accordance with the ACCC/AER Information Policy, www.accc.gov.au/publications/accc-aer-information-policy.

You can submit a confidential voluntary report to the ACCC using the Product Safety Australia website 'contact us' page, www.productsafety.gov.au/contact-us/for-retailers-suppliers.

Example of an incident that should be voluntarily reported

A hoverboard charger caused a house fire and fortunately, no one was injured. As there was no death or serious injury or illness, the supplier of the hoverboard charger is not required to submit a mandatory report. However, this was still a potentially dangerous incident and the ACCC encourages suppliers to make voluntary reports in these circumstances to assist with monitoring emerging risks.

More information

You can find more detailed information about your mandatory reporting obligations in the **Mandatory Reporting Guideline** at www.productsafety.gov.au/mandatoryreporting/download.

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