

Sections 203(5) & (6) Protection of the Environment Operations Act 1997

# Nomination of place and time to attend and answer questions

«AcctPartyName»  
«AcctPartyTradingName»  
«AcctPartyABN»  
«PostalAddressStreet»  
«PostalAddressSuburb» «PostalAddressState» «PostalAddressPostcode»

This notice must only be issued after a notice under s 203(2) for the nomination of a corporate representative has been issued and a response received. This is because answers given by a person nominated under s 203(2) bind the corporation. The person to whom this notice is directed must be the individual nominated under s 203(2).

The regulatory authority must not require the recipient of this notice to attend at a place and time until after they have been given the opportunity to nominate a place and time to attend to answer questions (s 203(6)(a)). This notice allows the regulatory authority to specify a place and time to attend in the event that the place and time nominated by the recipient is not reasonable in the circumstances, or a place and time is not nominated by the person (s 203(6)(b)). This format has been accepted by the Land and Environment Court NSW in *Fordham v Environment Protection Authority*.

Notice Number «NoticeNumber»  
File Number "FileNumber"  
Date «NoticeIssueDate»

## Nomination of place and time to attend and answer questions

### Why is the <insert regulatory authority name> writing to you?

An authorised officer of the <insert relevant authority> suspects on reasonable grounds that you have knowledge of <insert matters for which information is required> in respect of which information is required for the purposes of the *Protection of the Environment Operations Act 1997* (POEO Act) and requires you to answer questions in relation to those matters.

### What are you required to do?

Nominate a place and time to attend and answer questions put by an authorised officer of the <insert relevant authority>. If you fail to nominate a place and time to attend or the place and time nominated by you is not reasonable in the circumstances, you must attend <insert place nominated by the authority> at <insert time nominated by the authority> to answer questions.

### Background

1. The <insert relevant authority> has responsibility for enforcement of the POEO Act.
2. Section 203 of the POEO Act enables an authorised officer of the <insert relevant authority> to require a person whom the authorised officer suspects on reasonable grounds to have knowledge in

respect of which information is reasonably required for the purposes of the POEO Act to answer questions in relation to those matters.

3. <Insert relevant background information that demonstrates why this notice needs to be issued. I.e. On <insert date> the <insert regulatory authority> saw [set out what the authority has seen or has knowledge of, i.e. the facts giving rise to the incident under investigation and how this links to the corporation. It should be clear what the incident is and the section of the POEO Act that is suspected of being contravened. Use multiple paragraphs to set out this description.]>
4. I suspect on reasonable grounds that you have knowledge of this incident and that this knowledge is reasonably required for the purposes of the POEO Act.
5. Section 203(6)(a) provides that the place and time at which you are required to attend is to be nominated by you.
6. Section 203(6)(b) provides that, where you fail to nominate a place and time, or the place and time that you nominate is not reasonable in the circumstances, the authorised officer may nominate a place and time that is reasonable in the circumstances.

### Requirement to nominate a place and time to attend and answer questions

7. I, <Insert Authorised Officer Name>, an authorised officer for the purpose of s 203(5) of the POEO Act require you, [insert as applicable]: «AcctPartyName» or <name of corporation representative> on behalf of «AcctPartyName», to attend at a specified place and time to answer questions under s 203 of the POEO Act.

### Nomination of a reasonable place and time

8. Section 203(6)(a) of the POEO Act provides that the specified place and time is to be nominated by you and as such, I request that you provide to me, by **no later than <insert time and date for nomination of place and time to attend>**, details in writing of the nominated place and time.

This information is to be provided to:

(by mail)

<Insert Authorised Officer Name>

<Insert Authorised Officer title>

<Insert Authorised Officer Branch/Division>

<Insert mailing address>

(or by email)

<insert email address>

9. The <insert regulatory authority> would consider that the nomination of a time between <insert date> and <insert date> is reasonable. If you are nominating a time later than this you must provide information about the reason for nominating this later date so I can consider whether it is reasonable in the circumstances.
10. If you nominate a place and time, I will write to confirm whether or not the proposed interview will proceed at the time you have nominated.

### Failure to nominate a reasonable place and time

11. Section 203(6)(a) of the POEO Act provides that the specified place and time is to be nominated by you and as such, I request that you provide to me, by **no later than <insert time and date for nomination of place and time to attend>**, details in writing of the nominated place and time.
12. If you fail to provide a nominated place and time within the time frame stipulated (that is, by no later than 5pm <insert date for nomination of place and time to attend>), or if the place and time nominated

by you is not reasonable in the circumstances, then I consider that under s 203(6)(b) of the POEO Act, the following place and time is reasonable in the circumstances for you to attend and answer questions under s 203 of the POEO Act.

TIME: <insert time>

DATE: <insert date>

PLACE: <insert address>

- 13. Should you require the services of an interpreter, please notify me by <insert as applicable: [phone/email/post]> on <insert phone number/email/postal address as applicable>.
- 14. If you have questions concerning this notice, please contact me by phone on <insert phone number>.

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<Insert Authorised Officer Name>

<Insert Authorised Officer Title>

<Insert Authorised Officer Location>

(by Authorisation)

### Warning and information about this notice

- It is an offence against the *Protection of the Environment Operations Act 1997* to neglect or fail to comply with this notice unless you have a lawful excuse for not complying. It is also an offence to furnish information under this notice knowing that the information is false or misleading.
- The maximum penalty for each of these offences is, for a corporation, \$1,000,000 and a further \$120,000 for each day the offence continues, and, for an individual, \$250,000 and a further \$60,000 for each day the offence continues.
- This warning is given for the purposes of section 212 of the *Protection of the Environment Operations Act 1997*.

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