

RIGHT OF ENTRY

A 3-STEP GUIDE TO RIGHT OF ENTRY

Fair Work Act 2009



Australian Government
Office of the Australian Building and
Construction Commissioner

1 REASON

A UNION OFFICIAL WHO IS A PERMIT HOLDER MAY ENTER A SITE TO:

2 REQUIREMENT

TO ENTER A SITE A UNION OFFICIAL MUST:

3 ENTRY

ASSESSMENT OF THE REASON AND REQUIREMENTS FOR ALLOWING OR REFUSING ENTRY:

Investigate a suspected contravention of the *Fair Work Act 2009* (FW Act) or a fair work instrument provided that:

- there are reasonable grounds to suspect a contravention has occurred, and
- it relates to or affects a member of the union who works on the site, and
- the union is entitled to represent the member's industrial interests.

- Provide at least 24-hours written notice specifying particulars of the suspected contravention.
- Show the official's federal permit and entry notice detailing the suspected contravention to the occupier or an affected employer on request.
- Only visit during working hours.

Hold discussions with employees:

- who work on the site, and
- whose industrial interests the union is entitled to represent, and
- who wish to participate in those discussions.

- Provide at least 24-hours written notice.
- Show the official's federal permit and entry notice to the occupier of the site on request.
- Only hold discussions during meal times or other breaks.

Perform inspections and functions under an OHS law.

- The right to enter a workplace for OHS reasons is primarily governed by State and Territory laws.
- If entry is under an OHS law 24-hours written notice may not be required.

- Show the official's federal permit to the occupier of the site or an affected employer on request.
- Only visit during working hours.

✓ YES ALLOW ENTRY

If the union official:

- 1 has a valid reason to enter, and
- 2 meets all the requirements for entry
- 3 **YOU MUST ALLOW ENTRY.**

You must not refuse or unduly delay the official.

✗ NO REFUSE ENTRY

If the union official:

- 1 does not have a valid reason to enter, or
- 2 does not meet the associated requirements for entry
- 3 **YOU MAY REFUSE ENTRY.**

YOUR RIGHTS WHEN A UNION OFFICIAL IS ON SITE

Union officials must:

- Comply with your reasonable requests about:
 - the rooms or areas they may use on the site for holding discussions
 - the route they should take to access those rooms or areas
 - OHS.
- Not misrepresent the authority granted to them under the FW Act.
- Not intentionally hinder or obstruct any person or otherwise act in an improper manner.

RIGHTS OF UNION OFFICIALS WHEN THEY ARE ON YOUR SITE

Union officials have specific rights once they are lawfully on site. In investigating suspected contraventions they may:

- Inspect any work, process or object relevant to the suspected contravention.
- Interview any person whose industrial interests the union represents and who agrees to be interviewed about the suspected contravention.
- Inspect and make copies of directly relevant records of their members kept on the premises or accessible on a computer.

- In order to inspect and copy any record of a **non-member** that is directly relevant to the suspected contravention, the union official **must** have either the written consent of the non-member or an order of Fair Work Australia.
- Serve a notice requiring the production of member records at a later date.
- Exercise these rights without being intentionally hindered or obstructed.

IF A UNION OFFICIAL ENTERS YOUR SITE WITHOUT RIGHT OR CONSENT:

- Make it clear the union official does not have your consent to enter and ask the official to leave.
- Contact the ABCC hotline on **1800 003 338** for assistance.
- Contact the police to remove the union official from your site.