

Information about Right of Entry

Overview of the role of work health and safety (WHS) entry permit holders and under what circumstances they can enter your workplace.

This information is for persons conducting a business or undertaking (PCBUs) but may also be useful for workers and health and safety representatives. It explains who a WHS entry permit holder is and what to expect when they enter your workplace.

Who is a WHS entry permit holder?

A WHS entry permit holder is a union official who has completed an approved training course and holds or will hold an entry permit under the Commonwealth Fair Work Act 2009.

Entry to inquire into suspected breaches

A WHS entry permit holder may enter a workplace during its usual working hours to inquire into a breach if they reasonably suspect one has or is occurring. While at the workplace, they may:

- inspect any work or thing that directly relates to the matter
- talk to any worker who is entitled to be represented by the union
- warn anyone they believe is exposed to a serious health or safety risk
- request to look at, and make copies of, relevant records or documents kept at your workplace in hard copy or on a computer.

An entry permit holder must give you at least 24 hours (but not more than 14 days) notice of the proposed entry. They must also give you, or the person with management and control of the workplace, notice that they have entered as soon as is reasonably practicable (unless the notice would defeat the purpose of the entry or cause unreasonable delay in an urgent case).

When inquiring into a matter, an entry permit holder can also inspect or make copies of relevant documents held by a person other than you. At

least 24 hours notice must be given to you and the person from whom the documents are requested before the proposed entry.

Entry permit holders may consult with your workers about health and safety matters and provide advice to workers about those matters. They may also warn any person whom the entry permit holder reasonably believes to be exposed to a serious risk, emanating from an immediate or imminent exposure to a hazard of that risk

Who is a 'PCBU'?

'PCBU' is a new term in the WHS law that replaces 'employer' in the Northern Territory old health and safety legislation. If you previously had duties as an employer, you are now a PCBU under the WHS laws.

In many cases PCBU still refers to an employer but it's also used to describe others such as contractors, designers, manufacturers, suppliers, importer, persons who install, construct or commission plant or structures, franchisees and self-employed people. It's a broad concept that aims to capture all types of working arrangements.

A PCBU may be an individual person or legal entity, working for profit or not-for-profit.

Conditions of entry

A WHS entry permit holder that comes into your workplace must produce their WHS entry permit, photographic identification and written notification of their entry. They must:

- only enter the area of your workplace where workers relevant to the suspected breach carry out their work or any other area that directly affects the health and safety of these workers
- comply with your reasonable requests in relation to a work health and safety requirements (e.g. site induction)
- protect the identity of workers by not disclosing their names to you unless they have been given consent.

Entry permit holders must not enter outside the usual working hours of your workplace or enter any part of your workplace that is used for residential purposes (e.g. a WHS entry permit holder could enter a convenience store where work takes place but not the living quarters of the residence if work is not carried out there).

You should let your security and other point-of-entry staff know if you are expecting a visit from a WHS entry permit holder.

There is a publicly accessible register of WHS entry permit holders at the NT Work Health Authority.

Dealing with disputes

You may call in an inspector to assist in resolving any disputes concerning right of entry. The inspector won't make a determination on the issue but will assist you and the parties involved resolve the dispute.

The NT Work Health Authority may also deal with a dispute on its own initiative or on the application of you, an entry permit holder, the relevant union, NT WorkSafe, or another person affected by the exercise of right of entry powers. The NT Work Health Authority may deal with a dispute in any way it determines, including mediation, conciliation or arbitration.

Prohibitions relating to WHS entry permit holders

You must not refuse or delay entry of the WHS entry permit holder, or hinder or obstruct a WHS entry permit holder (e.g. not providing access to records the permit holder is entitled to inspect).

Penalties apply for these offences.

At the same time, WHS entry permit holders must not delay, hinder or obstruct any person or disrupt work at your workplace, or act in an improper manner. Permit holders must not disclose unauthorised information collected from your workplace for purposes unrelated to the right of entry.

Revoking WHS entry permits

If you believe a WHS entry permit holder has breached a condition of their permit or has

intentionally hindered or obstructed you at your workplace, you can make an application to have their permit revoked.

You must apply in writing to the WHS entry permit holder and relevant union, stating the grounds for seeking to have their permit revoked.

The NT Work Health Authority will advise the WHS entry permit holder of their right to provide reasons for it not to be revoked, and may suspend the WHS entry permit while the application is being considered.

The NT Work Health Authority can suspend or revoke a permit or impose conditions on it.