



WORK HEALTH & SAFETY FACTSHEET

FACTSHEET 6 – WHS Entry Permit Holders

Entry to inquire into suspected contraventions	Model WHS Act: s117
<p>(1) A WHS entry permit holder may enter a workplace for the purpose of inquiring into a suspected contravention of WHS Act that relates to, or affects, a relevant worker.</p> <p>(2) The WHS entry permit holder must reasonably suspect before entering the workplace that the contravention has occurred or is occurring. Note Section 118 Describes Rights that may be exercised while at the workplace and Section 119 Notice of Entry</p>	
Entry to inspect employee records or information held by another person	Model WHS Act: s120
<p>(1) This Section applies if a WHS entry permit holder is entitled under section 117 to enter a workplace to inquire into a suspected contravention of this Act</p> <p>(2) For the purposes of the inquiry into the suspected contravention, the WHS entry permit holder may enter any workplace for the purpose of inspecting, or making copies of:</p> <ol style="list-style-type: none">employee records that are directly relevant to a suspected contravention; orother documents that are directly relevant to a suspected contravention and that are not held by the relevant PCBU. <p>(3) Before doing so, the WHS entry permit holder must give notice of the proposed entry to the person from whom the documents are requested and the relevant PCBU.</p> <p>(4) The notice must comply with the regulations.</p> <p>(5) The notice must be given during usual working hours at that workplace at least 24 hours, but not more than 14 days, before the entry.</p> <p>Note: The use or disclosure of personal information obtained under this section is regulated under the <i>Privacy Act 1988 (Cwth).</i></p>	
'Entry to consult and advise workers' & 'Notice of Entry'	Model WHS Act: s121 & 122
<p>Section 121</p> <p>(1) A WHS entry permit holder may enter a workplace to consult on work health and safety matters with, and provide advice on those matters to, one or more relevant workers who wish to participate in the discussions.</p> <p>(2) A WHS entry permit holder may, after entering a workplace under this Division, warn any person whom the WHS entry permit holder reasonably believes to be exposed to a serious risk to his or her health or safety, emanating from an immediate or imminent exposure to a hazard, of that risk.</p> <p>Section 122</p> <p>(1) Before entering a workplace under this Division, a WHS entry permit holder must give notice of the proposed entry to the relevant person conducting a business or undertaking.</p> <p>(2) The notice must comply with the regulations.</p> <p>(3) The notice must be given during the usual working hours at that workplace at least 24 hours, but not more than 14 days, before the entry.</p>	
WHS entry permit revoking permits	Model WHS Act: s138
<p>Persons entitled to request a WHS entry permit be revoked include:</p> <ul style="list-style-type: none">the regulatorthe relevant PCBUany other person who has been the subject of, or affected by a WHS entry holder exercising their rights under the WHS Act.any other person affected by the exercise or purported exercise of a right by a WHS entry permit holder	



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WHS entry permit holders right to show cause

Model WHS Act: s139

The show cause notice must:

- contain a statement to the effect that the WHS entry permit holder may, not later than 21 days after the day the WHS entry permit holder is given the notice, give the authorising authority written reasons explaining why the WHS entry permit should not be revoked; and
- be accompanied by a summary of the reasons for the application; and
- if applicable, be accompanied by a notice of suspension of the permit.

Determination of application to revoke permit

Model WHS Act: s140

If the authorising authority is satisfied on the balance of probabilities that the WHS permit holder is no longer eligible, has contravened a condition of entry, has acted in an improper manner or hindered or obstructed a PCBU or workers it may make one or more of the following orders:

- an order imposing conditions on the WHS entry permit;
- an order suspending the WHS entry permit;
- an order revoking the WHS entry permit;
- an order about the future issue of a WHS entry permit to the person whose WHS entry permit is revoked;
- an order imposing any alternative action the authorising authority considers appropriate.

In deciding what action to take in relation to a person, the authorising authority must take into account:

- the seriousness of any findings of the authorising authority having regard to the object of the WHS Act; and
- any other matters the authority considers relevant.

Dealing with a dispute

Model WHS Act: s141

If a dispute arises about the exercise or purported exercise by a WHS entry permit holder of a right of entry under this WHS Act, any party to the dispute may ask the regulator to appoint an inspector to attend the workplace to assist in resolving the dispute.

The authorising authority may deal with the dispute in any manner it thinks fit, including by means of mediation, conciliation or arbitration.

If dealing with the dispute through arbitration the authorising authority may order one or more of the following in relation to a WHS entry permit:

- impose conditions
- suspend or revoke the permit
- impose requirements for the future issue of a permit to one or more persons
- any other order considered appropriate.