

# Summary of right of entry requirements where an entry permit holder suspects a breach of the legislation

## Introduction

This guide provides a brief summary of the requirements for entry to a workplace by an entry permit holder (EPH) where they suspect a contravention of the Work Health and Safety Act 2012 or the Work Health and Safety Regulations 2012.

Full details of entry permit requirements and entry by an EPH are set out in the Guidance Note 'Workplace Right of Entry by Work Health and Safety Entry Permit Holders'.

## Notice requirement

Where an EPH suspects there is a contravention of the legislation, they may enter without prior notice (other forms of entry require between 24 hours and 14 days written notice). However, as soon as is reasonably practicable **after** entering the workplace, the EPH must provide **written** notice of entry to the relevant person conducting a business or undertaking (PCBU) and person with management or control of the workplace.

The only exceptions to this requirement are where this would:

- defeat the purpose of entry to the workplace (eg the activity concerned will cease if the EPH stops to give notice after entry)
- unreasonably delay the EPH in an urgent case (eg may relate to working at height without fall protection or demolishing asbestos containing material without breathing apparatus).

## How much information is required on the contravention?

An EPH must provide sufficient information about the suspected contravention in order to enable the PCBU or an inspector to be able to determine the scope of the inquiry including general location(s) (eg suspected contravention in the provision of safe plant within production areas of the workplace).

An EPH is not required to provide such specific detail that individual workers may be identified (eg lack of machine guarding on production line one stamping machines).

## Is the EPH able to access other areas of the workplace not relevant to the suspected contravention?

Entry is confined to only those areas of the workplace relevant to the suspected contravention.

## After an EPH inquires into a suspected contravention what action may they take?

The EPH's role is to inquire into a suspected contravention with both the relevant workers and relevant PCBU, and provide suggestions on what could be done to resolve identified concerns. They do not have power to direct what needs to be done to remedy the contravention.

If the EPH and the PCBU cannot agree on what action needs to be taken, then WorkSafe Tasmania can be contacted to help with the matter in dispute.

## **Does the EPH have the power to re-enter the workplace at a future occasion to check if the contravention has been remedied?**

Where there is agreement on how a contravention will be remedied, there should also be agreement on a clear process as to how the EPH will be satisfied that the contravention has been remedied (eg a future visit at an agreed time, or emailing of photos). In the absence of an agreement or other reasonable evidence that the contravention has been remedied, the view of the regulator is that the EPH does have the ability to re-enter the workplace to establish whether the contravention still exists.

## **For further information or if you wish to register a dispute or a complaint:**

See contact details below.

### **For more information contact**

Phone: 1300 366 322 (within Tasmania)  
(03) 6166 4600 (outside Tasmania)

Fax: (03) 6233 8338

Email: [wstinfo@justice.tas.gov.au](mailto:wstinfo@justice.tas.gov.au)

Mail: PO Box 56 Rosny Park 7018

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