

Right of Entry

Workplace Relations Act 1996 (Cth)

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Partner

8 August 2007



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Objects

- Establish framework balancing union's right to represent members and investigate suspected breaches of OSH laws
and
- Right of occupiers of premises / employers to conduct business without undue interference or harassment



Objects (cont'd)

- Permits to enter premises and inspect records held only by those who understand their rights and obligations and are fit or proper persons to exercise those rights.
- Occupiers of premises / employers understand their rights and obligations.
- Permits suspended or revoked if rights are misused.



Entry for OSH Purposes

- Constitutional corporation must occupy or control the premises

or

- Right relates to constitutional corporation (employer)

or

- Right relates to conduct engaged in / activity undertaken or controlled by:
 - a constitutional corporation (employer);
 - employee of constitutional corporation;
 - contractor providing services to constitutional corporation



Entry for OSH Purposes (cont'd)

or

- Exercise of right will directly affect:
 - constitutional corporation (employer)
 - employee of constitutional corporation
 - contractor providing services to constitutional corporation



Permit required (s756)

- Union official with rights under a State OHS law to enter premises must **NOT** exercise that right unless he/she:
 - holds a permit issued under Part 15 WR Act; and
 - exercises the right during working hours



Right to Inspect Employment Records (s757)

- Person required to enter premises under State OHS law with a right under that law to inspect / access employment records on premises must:
 - give at least 24 hours written notice to occupier of the intention to exercise the right **and** reasons for doing so



Failure to comply with occupier's requests

- If occupier requests:
 - production of permit, then permit holder must not enter or remain on premises unless permit produced
 - permit holder to comply with reasonable request to meet OHS safety requirement applicable to premises, then permit holder who fails to comply with the request must not enter or remain on premises



Prohibitions

- Permit holder must not intentionally hinder, obstruct or otherwise act in improper manner when exercising his/her rights
- Person must not refuse/unduly delay entry to premises by permit holder who has rights under s756
- Person must not intentionally hinder or obstruct permit holder exercising rights under s756/757
- Person must not engage in conduct with intention of giving another person the impression or is reckless as to whether he/she gives the impression that he/she or another person is authorised by law to do a particular thing



Enforcement

- Federal Court/Federal Magistrate's Court may impose penalties for contravention:
 - fine up to \$33,000 for body corporate
 - fine up to \$6,600 for individual
 - fix compensatory amount for damage caused
 - injunction
 - other orders necessary to stop or remedy conduct



Powers of AIRC

- AIRC, if satisfied that union or union official has abused rights conferred under Part 15, may make whatever orders it considers appropriate to restrict those rights:
 - revoke/suspend permit
 - placing conditions on permit
 - ban issue of further permits for set time
- “Abuse of rights” includes permit holder engaging in “recruitment conduct” (encouraging membership) if is unduly disruptive



Powers of AIRC (Cont'd)

- AIRC, if satisfied that affected employer/occupier has made an unreasonable request to permit holder, may make orders it considers appropriate, including an order entitling the permit holder to enter specified premises (or parts thereof) for specified period to exercise his/her rights.
- AIRC may make orders settling disputes about operation of Part 15 and in so doing must have regard to fairness between the parties while not conferring rights additional to or inconsistent with rights under Part 15.



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