

Bartsch Builders is committed to ensuring compliance with work health and safety legislation. As such, it will comply with the right of entry provisions that provide for a union official with a work health and safety entry permit to enter a workplace where there are relevant workers for specific reasons.

A relevant worker is one:

- Who is a member, or eligible to be a member of the union which the permit holder represents;
- Whose industrial interests the relevant union is entitled to represent, and;
- Who works at the workplace.

## Right to Enter a Workplace

The specific reasons for right of entry are:

- To enquire into a suspected contravention;
- To inspect, or make copies of employee records or other documents directly relevant to the suspected contravention;
- To consult on work health and safety matters, and provide advice on those matters to relevant workers who wish to participate in the discussion.

These are the only reasons upon which a union official will be granted right of entry under WHS legislation and only if that union official holds an entry permit under the work health and safety laws. (Note: Union officials may also be able to exercise right of entry for industrial relations purposes but this will be dealt with under other laws. In all cases, industrial relations right of entry requires giving the occupier at least 24 hours written notice of the intention to enter.)

## Notification of Entry Generally

Any entry must be accompanied by the appropriate notification as follows:

- To inquire into a suspected contravention, notice must be in writing, include the information set out in the work health and safety laws, and be provided as soon as reasonably practicable after entering a workplace (unless giving the notice would defeat the purpose of entry or unreasonably delay the union official in an urgent case). This notice must be given to both the occupier of the site and the affected PCBU(s).
- To inspect/copy records/documents held by another person or to consult/advise with relevant workers, notice must be in writing, include the information set out in the work health and safety laws and be provided at least 24 hours prior to the date of proposed entry. This notice must be given to any PCBU who engages the worker the official wishes to consult with or obtain the records, as the case may be.

Bartsch Builders will refuse right of entry if the above notification requirements are not complied with by the union official.

Abuses of right of entry have the potential to cause significant damage and are unacceptable. It is an offence to intentionally and unreasonably delay, hinder or obstruct any person or disrupt any work at a workplace, or otherwise act in an improper manner. As such, Bartsch Builders will ensure compliance with work health and safety laws and the Union Right of Entry Procedure.

As soon as a right of entry notice is received, the appropriate Manager/Supervisor must be immediately advised. The Managing Director should then be informed and provided with a copy of the notice.

If the entry relates to a subcontractor on-site, both the subcontractor and principal contractor must be served with the notice.

The notice should be in writing and must include the following information:

- Full name of the WHS entry permit holder;
- The name of the union that the WHS entry permit holder;
- The section of the Act under which the WHS entry permit holder is entering or proposing to enter the workplace;
- Name and address of the workplace entered or proposed to be entered;
- The date of entry or proposed date of entry.

<b>Page Number:</b>	1 of 3	<b>Document Number:</b>	PRO 022	<b>Parent Document:</b>	WHS PROCEDURES
<b>First Issued:</b>	11.01.2018	<b>Last Reviewed:</b>	01.05.2023	<b>Next Review:</b>	01.05.2024
<b>Version:</b>	1.0	<b>Owner:</b>	Bartsch Builders	<b>Authorisation:</b>	Kristie Bartsch
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## Notification to Enquire into a Suspected Contravention

If the notice is in relation to enquiring into a suspected contravention, the following information must be included:

- So far as is practicable, the particulars of the suspected contravention;
- A declaration stating:
  - That the union is entitled to represent the industrial interests of a worker who carries out work at the workplace entered and is a member, or eligible to be a member, of that union;
  - The provision in the union's rules that entitles the union to represent the industrial interests of that worker;
  - That the suspected contravention relates to, or affects, that worker.

## Notification to Inspect/Copy Records/Documents

If the notice relates to inspecting or making copies of employee records or other documents directly relevant to the suspected contravention, the following information must be included:

- So far as is practicable, the particulars of the suspected contravention to which the notice relates;
- A description of the employee records and other documents, of the classes of records and documents, directly relevant to the suspected contravention, that are proposed to be inspected;
- A declaration stating:
  - That the union is entitled to represent the industrial interests of a worker who carries out work at the workplace entered and is a member, or eligible to be a member, of that union;
  - The provision in the union's rules that entitles the union to represent the industrial interests of that worker;
  - That the suspected contravention relates to, or affects, that worker;
  - That the records or documents proposed to be inspected relate to that contravention.

## Notification to Consult Relevant Workers

If the notice relates to consulting with relevant workers, the following information must be included:

- A declaration stating:
  - That the union is entitled to represent the industrial interests of a worker who carries out work at the workplace proposed to be entered is a member, or eligible to be a member, of that union;
  - The provision in the union's rules that entitles the union to represent the industrial interests of that worker.

## Requirements of Entry

Entry must only occur on the day nominated and may only occur during normal working hours. Under no circumstances is entry permitted to any part of a premises used for residential purposes.

If the entry is to inquire into a suspected contravention, the union permit holder is only entitled to enter the premises if they have at least one union member working at the premises that is affected by the suspected breach. To enter to participate in WHS discussions, the union official must have at least one member, or person eligible to be member, working at the site.

The WHS entry permit holder can only enter the workplace if they also hold an entry permit under the Fair Work Act 2009 (Commonwealth).

On arrival the union official must be met by the appropriate Manager/Supervisor who must check to ensure that the union official has a valid WHS and Fair Work entry permit and check for photographic identification.

No person is to be admitted entry unless they produce the valid permits and identification. No entry will be granted to a union official seeking to enter a part of a premises used for residential purposes.

The appropriate Manager/Supervisor must accompany the union official at all times. The union official must comply with any reasonable requests made by [Company Name] and any other person conducting a business or undertaking or the person with management or control of the workplace with:

- Any work health and safety requirements that apply to the workplace;
- Any other legislated requirements that applies to the type of workplace.

The union official is not entitled to inspect records or documents which do not directly relate to a suspected contravention. Bartsch Builders will not provide records or documents, or parts thereof, if to do so would contravene a law of the Commonwealth or the State.

A union official must not unreasonably disrupt work while on site.

<b>Page Number:</b>	2 of 3	<b>Document Number:</b>	PRO 022	<b>Parent Document:</b>	WHS PROCEDURES
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<b>Version:</b>	1.0	<b>Owner:</b>	Bartsch Builders	<b>Authorisation:</b>	Kristie Bartsch
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## Right of Entry Dispute

If a dispute arises about the exercise or purported exercise by a WHS entry permit holder of a right of entry, any party to the dispute may ask the regulator to appoint an inspector to attend the workplace to assist in resolving the dispute. (Note: the inspector does not have any power to determine the dispute. A dispute can only be determined by an application by a party to whom the dispute relates to the appropriate court/tribunal or at the court/tribunal own initiative.)

Where a union official fails to comply with the provisions of this procedure, they are trespassing on Company property, and the police may be called to remove them.

<b>Page Number:</b>	3 of 3	<b>Document Number:</b>	PRO 022	<b>Parent Document:</b>	WHS PROCEDURES
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