

Unions entering the workplace

On 1 July 2019, the requirements for right-of-entry permits changed. The [Fair Work Amendment \(Modernising Right of Entry\) Regulations 2019](https://www.legislation.gov.au/Details/F2019L00377) [☞](https://www.legislation.gov.au/Details/F2019L00377) (https://www.legislation.gov.au/Details/F2019L00377) now require a photo and signature on new permits. The information on this page has been updated to reflect this change. You can read more about these changes and the entry permit application process on the [Fair Work Commission website](https://www.fwc.gov.au/registered-organisations/entry-permits) [☞](https://www.fwc.gov.au/registered-organisations/entry-permits) (https://www.fwc.gov.au/registered-organisations/entry-permits) .

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Right-of-entry in the workplace

To enter the workplace, a person needs to be a 'permit holder' and have a valid right-of-entry permit. A permit holder must be an:

- elected officer of the union, or
- employee of the union.

A permit holder also needs to be a fit and proper person, as determined by the Fair Work Commission (the Commission).

Permit holders can enter the workplace if a worker wants to speak to them. They can also enter if they think there is a breach of workplace laws, including:

- the [National Employment Standards](http://www.fairwork.gov.au/Dictionary.aspx?TermID=2027) (www.fairwork.gov.au/Dictionary.aspx?TermID=2027)
- an award
- a registered agreement or
- workplace healthy and safety laws (in some states and territories).

When a permit holder enters a workplace, they can talk with workers if:

- the workers are at the workplace and want to talk with them, or
- they suspect a breach and they're entitled to represent the employee.

There are rules for when a permit holder enters a workplace.

Entry permit requirements

Permit holders must show their right-of-entry permit:

- when they arrive at the workplace, if the employer asks to see it
- when they want to access documents.

From 1 July 2019, all new right-of-entry permits must include a photo and signature of the permit holder.

Current permit holders can keep using their existing permits until 1 October 2019. From then, they'll either need to:

- get a new right-of-entry permit from the Commission, or
- show their current permit and suitable photo ID.

Suitable photo ID needs to be:

- issued by a government department (such as a drivers licence)
- current, or expired less than 2 years ago.

Right-of-entry permits are valid for 3 years and expires as soon as one of the following happens:

- the permit is 3 years old
- the permit holder stops being a union employee or official, or
- the Commission suspends or revokes the permit.

To find out more about right-of-entry permits, go to [Entry Permits - the Commission !\[\]\(99f58673407353e96a019fbca558fd72_img.jpg\) \(http://www.fwc.gov.au/index.cfm?page-name=entry\)](http://www.fwc.gov.au/index.cfm?page-name=entry) .

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Notice of the visit

Permit holders entering a workplace must give written notice at least 24 hours and less than 14 days before their visit.

The Commission can give permit holders an 'exemption certificate', which allows them to enter with less notice. The Commission will allow early entry if they think that any evidence may be:

- altered
- hidden, or
- destroyed.

The notice must show the rules that everyone needs to follow when the permit holder enters the workplace.

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What permit holders can do in the workplace

Where there's a suspected breach, permit holders can:

- inspect any work, process or object that relates to the suspected breach
- interview any person related to the suspected breach
- meet with workers
- access records relating to the suspected breach.

Permit holder can only interview or meet with workers who are:

- entitled to be represented by the union
- willing to meet with the union.

Permit holders aren't allowed to see the records of non-union members, except with:

- the non-member's permission, or
- an order from the Commission.

Discussions have to be during meal or other breaks. Permit holders can't talk with workers during paid work time.

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Accessing documents and records

A permit holder can inspect and copy any record or document that's directly relevant to the suspected breach where:

- it's kept on the premises, or
- it's accessible from a computer that's kept on the premises.

The records must substantially relate to a union member, unless the permit holder has a Commission order to access non-member records.

The permit holder must show their right-of-entry permit when they want to access documents.

Access to meeting rooms for discussions and interview

When an employer agrees, permit holders can have access to meeting rooms.

If the employer doesn't agree, permit holders can hold discussions and interviews where the workers normally take their breaks.

Visiting remote workplaces

When a permit holder visits remote workplaces, accommodation and transport may not be reasonably available. If this happens, they can ask the employer to help arrange accommodation and/or transport with them.

Sometimes, the employer and the permit holder can't agree on an arrangement. In this situation, the employer needs to provide or arrange accommodation or transport if:

- it doesn't cause undue inconvenience for the employer
- the permit holder gives a reasonable amount of notice.

The employer can charge a fee for the accommodation or transport. It can't be more than it cost.

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Rules for entering a textile, clothing or footwear industry workplace

There are important differences to the rules when unions enter workplaces in the textile, clothing and footwear industry.

Unlike other permit holders, unions representing outworkers can:

- look into suspected breaches of outworkers terms in an award or registered agreement
- enter the workplace without giving advanced notice or the workers being there
- talk to any workers who work on the premises and want to speak to the permit holder
- access records of workers who aren't union members.

While permit holders don't need to provide advanced notice, they still need to provide notice in writing. The notice needs to be before or as soon as possible after they enter the premises.

Stopping a permit holder from entering

Permit holders who've followed the right-of-entry rules shouldn't be stopped or delayed when entering the workplace.

If a person stops or unnecessarily delays the permit holder, they can be fined under the Fair Work Act.

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Source reference: [Fair Work Act 2009 s.481 - 483AA and 521A-521D](#) [↗] (<http://www.comlaw.gov.au/Series/C2009A00028>)

Need help resolving general protections issues?

For employees:

If you've lost your job, contact the Fair Work Commission (the Commission) first if you think you were sacked because of:

- www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work discrimination (www.fairwork.gov.au/Employee-entitlements/Protections-at-work/protections-from-discrimination-at-work)
- a reason that is harsh, unjust or unreasonable
- another protected right.

You have 21 days starting from the day after you were dismissed to lodge an application with the Commission. Check the information at the [Commission website](https://www.fwc.gov.au/) [↗] (<https://www.fwc.gov.au/>) to find out if you can apply for:

- [unfair dismissal](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) [↗] (<https://www.fwc.gov.au/termination-of-employment/unfair-dismissal>) (not available if you lost your job because of a genuine [Redundancy](http://www.fairwork.gov.au/Ending-employment/Redundancy/default) (www.fairwork.gov.au/Ending-employment/Redundancy/default))
- a general protections dismissal
- unlawful termination.

For other general protections issues:

- consider whether the action taken against you was unlawful after reading the information on this page
- see our [Help resolving workplace issues](http://www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) (www.fairwork.gov.au/How-we-will-help/How-we-help-you/Help-resolving-workplace-issues/default) section for practical advice on:
 - talking to your employer about fixing the problem
 - getting help from us if you still can't resolve it.

For employers:

Take general protections issues seriously. Speak with your employee to address the problem after reading the information on this page.

We have resources to help you:

- Take our [Difficult conversations in the workplace - manager course](http://www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/difficult-conversations-in-the-workplace-manager-course) (www.fairwork.gov.au/how-we-will-help/online-training/online-learning-centre/difficult-conversations-in-the-workplace-manager-course) to learn how to handle the conversation well and deal with the problem.
- Download our [Managing underperformance best practice guide](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/managing-underperformance) (www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/managing-underperformance) for information about how to take reasonable management action to make sure employees are doing their job properly. Disciplinary action should be carried out by a manager in a reasonable, lawful way.

What to do next

- Visit the commission website to learn more about:
 - [Entry permits – Rights and obligations](https://www.fwc.gov.au/registered-organisations/entry-permits) [↗](https://www.fwc.gov.au/registered-organisations/entry-permits) (<https://www.fwc.gov.au/registered-organisations/entry-permits>)
 - [Check an entry permit](https://www.fwc.gov.au/registered-organisations/entry-permits/check-entry-permit) [↗](https://www.fwc.gov.au/registered-organisations/entry-permits/check-entry-permit) (<https://www.fwc.gov.au/registered-organisations/entry-permits/check-entry-permit>)
 - [Apply for a Fair Work entry permit](https://www.fwc.gov.au/registered-organisations/entry-permits/apply-fair-work-entry-permit) [↗](https://www.fwc.gov.au/registered-organisations/entry-permits/apply-fair-work-entry-permit) (<https://www.fwc.gov.au/registered-organisations/entry-permits/apply-fair-work-entry-permit>)
 - [Disputes about entry](https://www.fwc.gov.au/registered-organisations/entry-permits/disputes-about-entry) [↗](https://www.fwc.gov.au/registered-organisations/entry-permits/disputes-about-entry) (<https://www.fwc.gov.au/registered-organisations/entry-permits/disputes-about-entry>)

You might also be interested in

- [Right of entry fact sheet](http://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/right-of-entry) (www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/rights-and-obligations/right-of-entry)
- [Union membership](http://www.fairwork.gov.au/Employee-entitlements/industrial-action-and-union-membership/union-membership) (www.fairwork.gov.au/Employee-entitlements/industrial-action-and-union-membership/union-membership)
- [The role of unions](http://www.fairwork.gov.au/Employee-entitlements/industrial-action-and-union-membership/The-role-of-unions/default) (www.fairwork.gov.au/Employee-entitlements/industrial-action-and-union-membership/The-role-of-unions/default)
- [Unions and employer associations](http://www.fairwork.gov.au/Website-information/Related-sites/unions-and-employer-associations) (www.fairwork.gov.au/Website-information/Related-sites/unions-and-employer-associations)

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.