



## Powers of Fair Work Inspectors

### Summary

Fair Work Inspectors investigate possible contraventions of workplace laws. They have the powers to:

- enter premises
- conduct interviews
- ask for a person's name and address
- require a person to produce records or documents
- issue compliance notices.

You can face significant penalties for intentionally hindering or obstructing a Fair Work Inspector, or for providing false or misleading information.

### Who are Fair Work Inspectors?

Fair Work Inspectors are government officials appointed by the Fair Work Ombudsman under the Fair Work Act (FW Act). The FW Act gives Fair Work Inspectors certain powers to perform their role to promote and monitor compliance with relevant Commonwealth workplace laws.

A Fair Work Inspector's role includes:

- investigating suspected contraventions of relevant Commonwealth workplace laws and Fair Work instruments (for example, an award or industrial agreement)
- conducting compliance audits
- investigating workplace complaints
- taking steps to enforce relevant Commonwealth workplace laws and Fair Work instruments through the court system (where necessary)
- conducting targeted education campaigns in industries and regions.

All Fair Work Inspectors are issued with an identity card that they must carry with them at all times when performing functions or exercising their powers. You can ask to see a Fair Work Inspector's identity card to confirm their identity.

### What are their powers?

#### Powers to enter premises

A Fair Work Inspector may enter certain premises for compliance purposes if they reasonably believe either:

- the FW Act, or a Fair Work instrument applies to the workplace, or
- records or documents relevant to compliance are on business premises (including documents on a computer).

Before entering premises, a Fair Work Inspector must show their identity card to the occupier of the premises or their representative. If this isn't possible, the Fair Work Inspector must show their identity card as soon as practicable after entering.

In entering premises, a Fair Work Inspector must not use force, but does not need permission from the occupier. However, they must not enter a part of a premises that is used for residential purposes unless they reasonably believe that work is being performed on that part of the premises.

A Fair Work Inspector may enter premises at any time during working hours, or at any other time they believe is necessary for compliance purposes.

#### Powers while on the premises

A Fair Work Inspector may exercise one or more of the following powers while on the premises:

- inspect any work, process or object
- interview anyone (with their consent)
- require a person to tell them who has or who can access a record or document
- require the person with access to a record or document to hand it over while the inspector is on the premises or within a specific time frame
- inspect and make copies of any record or document kept on the premises (including in hardcopy or accessible from a computer)
- take samples of any goods or substances after informing the owner or other relevant person in charge of the goods or substances.

To assist an investigation, a suitably qualified and experienced person may accompany a Fair Work Inspector onto the premises. For example, assistants may include information technology specialists, forensic accountants, or interpreters. Such assistants can attend the premises with a Fair Work Inspector only if the Fair Work Ombudsman is satisfied that the assistance is necessary and reasonable.

### **Intentionally hindering or obstructing a Fair Work Inspector**

The FW Act prohibits a person from intentionally hindering or obstructing a Fair Work Inspector (or a person assisting a Fair Work Inspector on premises) in the course of performing functions or exercising powers. This includes denying entry to a premise or intentionally withholding documents.

A person will not contravene this obligation if:

- there was a reasonable excuse for the hindrance or obstruction, or
- the inspector is required to show their identity card, and the inspector either:
  - didn't show their identity card, or
  - didn't tell the person they may be contravening the FW Act if they intentionally hinder or obstruct the inspector in performing their functions or exercising their powers.

### **Powers to ask for a person's name and address**

If a Fair Work Inspector reasonably believes that a person has contravened the FW Act, or a Fair Work instrument, and the contravention may attract a monetary penalty, the Fair Work Inspector can require that person to tell them their name and address.

The Fair Work Inspector may also require a person to provide evidence (for example, a driver's licence) that the name and address they provided are correct.

The Fair Work Inspector must show their identity card and tell the person that they may be liable to a civil penalty should they not comply.

The person must comply with the requirement to provide evidence of their name and address unless they have a reasonable excuse (for example, if they are asked to provide evidence and they do not have a form of identification available).

### **Powers to require a person to produce records or documents**

In the course of an investigation, a Fair Work Inspector can issue a written Notice to Produce Records or Documents, requiring a person to provide records or documents at a particular location, within a specified time period of at least 14 days.

It is a contravention of the FW Act if a person fails to comply with a written Notice to Produce Records or Documents and has no reasonable excuse. A person cannot refuse to comply with a Notice to Produce Records or Documents on the grounds that providing the requested records or documents may incriminate them.

Where a person has failed to comply with a written Notice to Produce Records or Documents, the Fair Work Inspector may recommend litigation against the person for civil penalties.

A Fair Work Inspector can keep any records or documents they are provided for any period that is considered necessary. A Fair Work Inspector must make the records or documents available at all reasonable times to the person who produced them (or another person they authorise), or anyone else entitled to their possession, for inspection or to copy.

### **Providing false or misleading information or documents**

The FW Act prohibits a person from knowingly or recklessly providing false or misleading information or documents to a Fair Work Inspector exercising powers or performing functions under a Commonwealth law.

The Fair Work Inspector must take reasonable steps to tell the person that they may be liable to a civil remedy for providing false or misleading information or documents.

Knowingly providing false or misleading information or documents to a Commonwealth official may also be a criminal offence under the Criminal Code Act 1995.

### **Powers to issue compliance notices**

A Fair Work Inspector can issue a compliance notice where they hold a reasonable belief that a person has contravened certain provisions of the FW Act or certain Fair Work instruments (for example, modern awards, enterprise agreements or the national minimum wage order).

A compliance notice will include information about:

- how the person has breached a workplace law
- what the person needs to do to fix the issue (for example, pay an amount to one or more employees and/or give evidence to show the issue has been fixed)
- the time the person has to fix the issue (for example, that payment is made within 28 days)
- how the person can apply to have the notice reviewed by a court
- what happens if a person doesn't comply with the notice.

The Fair Work Ombudsman cannot initiate legal proceedings for breaches set out in the compliance notice if the person complies with it.

Our [Compliance notices online course](#) can help employers understand what a compliance notice is and how to respond if they get one. Complete the course at any time at [fairwork.gov.au/cncourse](http://fairwork.gov.au/cncourse)

## Potential consequences of not complying with obligations

Civil penalties under the FW Act may be sought by the Fair Work Ombudsman where a person has:

- failed to comply with a compliance notice
- failed to comply with a notice to produce records or documents
- intentionally hindered or obstructed a Fair Work Inspector
- knowingly or recklessly provided false or misleading information or documents to a Fair Work Inspector.

A court can impose penalties for these contraventions of up to:

- \$18,780 per breach for an individual
- \$93,900 per breach for a company
- \$469,500 per breach for certain contraventions by a company with 15 or more employees.

Penalty amounts may change. You can check the [current maximum penalty amounts](#) at [fairwork.gov.au/litigation](http://fairwork.gov.au/litigation)

## What can their powers be used for?

A Fair Work Inspector may use their powers in order to determine whether the rights and obligations under relevant Commonwealth workplace laws are being complied with.

A Fair Work Inspector may investigate matters such as:

- underpayments of wages and entitlements, including entitlements related to termination of employment
- pay slip, time and wages, and record-keeping obligations
- freedom of association
- right of entry by trade unions
- undue influence or pressure in relation to individual flexibility arrangements, guarantees of annual earnings, and deductions from wages
- contraventions of general protections provisions including adverse action, coercion and misrepresentations in relation to a person's workplace rights
- an employer's obligations under the Paid Parental Leave Scheme for matters referred to the Fair Work Ombudsman by the Department of Human Services
- transfer of business arrangements
- sham contracting arrangements
- unprotected industrial action
- unlawful discrimination.

The Fair Work Ombudsman can ask a court to make orders in relation to contraventions of relevant Commonwealth workplace laws. This can include orders for the imposition of financial penalties, payment of compensation (for example, payment of outstanding monies to employees), injunctions, or that a person or business undertake training or an audit.

For more information, please see the Fair Work Ombudsman's [Compliance & Enforcement policy](#) at [fairwork.gov.au/compliancepolicy](http://fairwork.gov.au/compliancepolicy)

Fair Work Inspector functions and powers are provided for by sections 703–717 of the FW Act. Find the [current version of the FW Act](#) at [fairwork.gov.au/legislation](http://fairwork.gov.au/legislation)



## CONTACT US

Fair Work online: [fairwork.gov.au](https://www.fairwork.gov.au)

Fair Work Infoline: **13 13 94**

### Need language help?

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

### Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National Relay Service (NRS).

Select your [preferred access option](#) and give our phone number: **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet 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 a workplace relations professional.

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