

Right of entry changes

Exemption certificates relating to suspected underpayments

From 1 July 2024, the Commission has an additional ground on which it may issue an exemption certificate allowing an entry permit holder to enter a workplace or business premises without prior notice. The new ground applies where the entry permit holder is investigating a suspected contravention that involves the underpayment of wages.

Union officials who hold a valid entry permit can enter workplaces or business premises to investigate suspected contraventions of the [Fair Work Act 2009](#) (the Fair Work Act) or a fair work instrument, or to hold discussions.

A permit holder usually needs to provide written notice (called an entry notice) at least 24 hours before they enter. However, the permit holder's union can apply to the Commission under section 519 of the Fair Work Act for an **exemption certificate** that allows them to enter without notice. This applies where the permit holder is investigating a suspected contravention and advance notice might result in the destruction of evidence.

From **1 July 2024**, the Commission can also issue an exemption certificate if:

- the suspected contravention involves the underpayment of wages to a member of the union who works on the premises, and
- the Commission reasonably believes that advance notice of the entry would hinder an effective investigation.

If the Commission has issued an exemption certificate, the permit holder must give a copy to any occupier or affected employer who is on the premises, either before or as soon as practicable after entering.

The exemption certificate issued on this new ground must specify:

- the premises being entered
- the name of the union and any permit holders who can enter
- the date or dates on which entry may occur, and
- details of the suspected contravention.

If entry rights are misused, the Commission can impose conditions on or ban the issue of exemption certificates relating to suspected underpayments to a specific union or permit holders.



See Part 3-4 of the [Fair Work Act 2009](#) for more information about right of entry.

Find out more



About right of entry

Visit the Fair Work Ombudsman's website to [learn more about right of entry](#) and the rights and responsibilities of permit holders, employers and other persons on the premises.

Visit our website to learn more about the Commission's [powers to issue entry permits](#) and how we can help to resolve a [dispute about right of entry](#).

You can check details of current entry permits issued by the Commission on the [Find an entry permit](#) page on our website.



Where to get help

You can ask your union or employer organisation, or seek independent legal advice, about the changes.

You can find out [where to find legal help](#) on our website.