

Inspector functions and powers



Inspectors play an important role in ensuring compliance and enforcing work health and safety legislation. This legislation incorporates the *Work Health and Safety Act 2012 (SA)* (the WHS Act), the *Work Health and Safety Regulations 2012 (SA)* (the WHS Regulations) and approved codes of practice.

Our inspectors may:

- provide information and advice about compliance with the WHS legislation
- issue improvement and prohibition notices to require compliance with the WHS legislation
- assist in the resolution of work health and safety issues at workplaces
- assist in a right of entry by a WHS entry permit holder
- review disputed provisional improvement notices
- investigate contraventions of WHS legislation and assist in the prosecution of offences
- undertake other functions or powers conferred by the regulations.

General powers of entry

[WHS Act, Section 163](#)

Inspectors may enter any place they reasonably suspect is a workplace at any time and without prior notice. An inspector can enter a workplace with, or without, the consent of the person with management or control of the workplace.

An inspector cannot enter a place that is used only for residential purposes unless the inspector:

- has authority under a search warrant; or
- believes there is no reasonable alternative means of accessing a suspected workplace.

Under s.166 an inspector may have someone accompany them to a worksite in order to assist them in their duties such as, an unauthorised inspector, interpreter or expert.

Notification of entry

[WHS Act, Section 164](#)

As soon as practicable after entry to a workplace or suspected workplace, an inspector must take all reasonable steps to notify the purpose of their entry to:

- the relevant person conducting a business or undertaking (PCBU) at the workplace
- the person with management or control of the workplace; and
- any health and safety representative for workers carrying out work for that PCBU at the workplace.

However, an inspector is not required to notify any person if to do so would defeat the purpose for which the place was entered or cause unreasonable delay.

General powers on entry

[WHS Act, Section 165](#)

Upon entry to a workplace an inspector may:

- inspect, examine anything and make enquiries at the workplace
- bring to the workplace and use any equipment or materials that may be required
- take measurements, conduct tests and make sketches or recordings (inc. photographs, films, audio, video, digital or other recording)
- take and remove samples for analysis of any substance or thing without paying for it
- require a person at the workplace to give the inspector reasonable help to exercise the inspector's powers
- exercise any compliance power or other power that is reasonably necessary to be exercised by the inspector for the purposes of the WHS Act
- require the production of documents
- copy and retain documents
- ask questions and conduct interviews
- seize anything as evidence; and
- request a person's name and address.



Ensuring compliance

When an inspector identifies breaches of WHS legislation, enforcement action may be taken to compel a duty holder to remedy any identified contravention.

Notice to produce

WHS Act, section 171

An inspector who enters a workplace may, after showing identification and advising the person of their rights under s.172, s.173 and s.269:

- require a person to tell the inspector who has custody of, or access to a document; or
- require a person to produce a document that they have access or custody of; or
- require a person to answer any questions asked by the inspector.

A person must not without reasonable excuse, refuse or fail to comply with a requirement under this section.

Issue of improvement notices

WHS Act, Section 191

An inspector may issue an improvement notice if they reasonably believe that a person:

- is contravening a provision of the WHS legislation; or
- has contravened a provision in circumstances that make it likely that the contravention will continue or be repeated.

An inspector may issue an improvement notice requiring the person to:

- remedy the contravention
- prevent a likely contravention from occurring; or
- remedy the things or operations causing the contravention or likely contravention.

Issue of prohibition notices

WHS Act, section 195

An inspector may issue a prohibition notice if they reasonably believe that:

- an activity is occurring at a workplace that involves or will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard; or
- an activity may occur at a workplace that, if it occurs, will involve a serious risk to the health or safety of a person emanating from an immediate or imminent exposure to a hazard.

The inspector may give a person who has control over the activity a direction prohibiting the carrying on of the activity, or the carrying on of the activity in a specified way, until an inspector is satisfied that the matters that give or will give rise to the risk have been remedied.

Any prohibition may be issued verbally. A person must comply with a verbal prohibition. A verbal prohibition will be followed up with a written prohibition notice.

Non-disturbance notices

WHS Act, section 198

An inspector may issue a non-disturbance notice in order to facilitate the exercise of their compliance powers.

The non-disturbance notice may:

- require a person to preserve a site
- require a person to prevent the disturbance of a particular site, item, plant, substance, structure or thing.

Your obligations

WHS Act, section 165(1f), 188, 189, 190

If you receive a visit from a SafeWork SA inspector, you must:

- provide them with any reasonable help that they require when exercising their powers
- comply with the inspector's direction when they exercise their enforcement powers under the WHS Act
- not hinder or obstruct, impersonate, assault, threaten or intimidate an inspector; to do any of these is an offence.

