



Strengthening rights of entry to investigate underpayments

This proposed measure will amend the right of entry provisions of the *Fair Work Act 2009* (the Act) to enhance the ability of permit holders to enter a workplace to investigate suspected wage underpayments.

What is proposed?

Right of entry refers to the part of the Act which regulates the rights of registered organisations to enter workplaces or business premises to investigate suspected contraventions or hold discussions with members. In order to enter a workplace, an official of an organisation must have a valid entry permit from the Fair Work Commission (the Commission) and meet other entry requirements.

This proposed measure will amend the Act to enhance the ability of permit holders to enter a workplace to investigate suspected wage underpayments. Registered organisations will be able to apply to the Commission for an exemption certificate which would waive the usual 24-hours' notice period for entry to workplaces. The Commission will be required to issue the exemption certificate if satisfied that a suspected contravention involves the underpayment of wages affecting a member of the registered organisation.

In the event of misuse, the Commission will have the power to ban the issue of, or impose conditions on, exemption certificates relating to suspected underpayments for a specified period. The amendments will also prohibit other persons, including employers and occupiers, from acting in an improper manner towards a permit holder. Finally, the changes provide the Commission with the power to impose conditions on an entry permit as an alternative sanction to revoking or suspending a permit.

What will it mean?

The proposed changes will enhance the ability of registered organisations to investigate suspected underpayments, enabling them to seek an exemption certificate to enter a workplace without advance notice. The amendments will complement the Fair Work Ombudsman's role in detecting and addressing wage underpayments, subject to appropriate safeguards.

Existing safeguards under the Act will operate in relation to entry under the new provisions, including restrictions on the unauthorised use or disclosure of information, the prohibition on hindering or obstructing any other person, the obligation to comply with work health and safety requirements, and the prohibition on entering any part of a premises that is used mainly for residential purposes.

When will it come into effect?

The proposal is subject to the passage of legislation.

For more information on the Closing Loopholes legislation, visit: <https://www.dewr.gov.au/workplace-relations>