



## Entry to assist Health and Safety Representatives

The *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* amends the *Fair Work Act 2009* (the Act) to provide that officials of registered organisations, who do not hold a Fair Work entry permit, may enter workplaces to assist health and safety representatives (HSRs).

### What has changed?

Currently, under state and territory work health and safety (WHS) laws, Health and Safety Representatives (HSRs) may request the assistance of any person to perform their role in the workplace (an HSR assistant), and employers must provide the HSR assistant access to the workplace if it is necessary to enable the assistance to be provided. However, if the workplace is covered by the Commonwealth jurisdiction and the HSR assistant is an official of a registered organisation, they must hold an entry permit under the Act.

The 2018 independent Review of the Model Work Health and Safety Laws recommended exploring “how to achieve the policy intention that a union official accessing a workplace to provide assistance to an HSR is not required to hold an entry permit under the Fair Work Act”.

The *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* responds to this recommendation by removing the requirement for officials of registered organisations to hold a Fair Work entry permit to assist an HSR. The amendments include requirements for officials entering premises in these circumstances to:

- comply with reasonable directions from employers relating to WHS,
- not intentionally hinder or obstruct any person or otherwise act in an improper manner,
- not misrepresent rights that the official may exercise as an HSR’s assistant,
- not use or disclose information or documents obtained as an HSR’s assistant for an unauthorised purpose.

Further, in these circumstances, the amendments will impose requirements on other persons (such as employers and occupiers) to:

- not refuse or unduly delay entry onto premises by an official,
- not intentionally hinder or obstruct an official who is assisting an HSR.

The amendments provide for a review of the new provisions, to begin within 9 months of their commencement and conclude with a written report to the Minister within 6 months.

## What do these changes mean?

The changes form part of the Government's commitment to improving health and safety in the workplace, by enabling officials of registered organisations without a Fair Work entry permit to provide assistance to an HSR in the workplace.

The amendments will assist HSRs to address safety issues in the workplace by helping to ensure they have access to appropriate expertise.

## When will these changes come into effect?

These changes commenced on 15 December 2023.

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