

The *Implementation Guidelines to the New South Wales Code of Practice for Procurement: Building and Construction* (the Guidelines) outline requirements relating to right of entry.

## What is right of entry?

Right of entry refers to the part of Commonwealth workplace laws which regulate the rights of organisation officials (such as a trade union) to enter premises.

These laws seek to balance the right of occupiers of premises and employers to go about their business without undue inconvenience, with the right of organisations to represent their members in the workplace, hold discussions with potential members, and investigate suspected contraventions of workplace laws and instruments, including workplace health and safety laws.

## Fair Work Act

Part 3-4 of the *Fair Work Act 2009* contains right of entry rights and responsibilities, including procedures relating to access to employer and employee records and/or the holding of discussions with employees. Further information about right of entry rights and responsibilities can be found in the Fair Work Building and Construction fact sheets at [www.fwbc.gov.au](http://www.fwbc.gov.au).

## Guidelines

Under the Guidelines, no employer or employee is to grant an employee or official of an industrial association admission to a site by other than in strict compliance with the relevant provisions of the *Fair Work Act 2009*, and any relevant and applicable work health and safety or NSW legislation. See Section 10 of the Guidelines for further information about compliance.

## Responsibilities

To comply with the Guidelines, it is essential to understand the right of entry rights and responsibilities of both site management and union officials. Contractors, site management and site foremen should be familiar with the right of entry provisions of the *Fair Work Act 2009*.

# Right of Entry

## Workplace Relations Management Plan

Part K of the *Model Workplace Relations Management Plan* requires a tenderer to explain how it will comply with the right of entry requirements of the Guidelines. Tenderers are also required to state how they will ensure that right of entry standards are maintained and enforced by subcontractors, and how right of entry will be monitored and reported if misused. The *Model Workplace Relations Management Plan* and the Construction Compliance Unit's fact sheet on the Workplace Relations Management Plan is available on the NSW Industrial Relations website.

## Reporting obligations

Section 3.2 of the Guidelines provides that any alleged breach of the Guidelines must be reported to the Construction Compliance Unit (CCU) within 24 hours of the alleged breach. This includes breaches of right of entry requirements. Reports under the Guidelines can be made via the CCU mailbox:

[ccu@industrialrelations.nsw.gov.au](mailto:ccu@industrialrelations.nsw.gov.au).

In addition, positive obligations about reporting requirements are set out in Part 6 of the *Model Tender and Contract Documentation*, which comprises a Compliance Schedule for inclusion in tender contracts for works valued over \$25,000 - see section 1.8.

The *Model Tender and Contract Documentation* is available on the NSW Industrial Relations website.

### For further information

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CCU mailbox: [ccu@industrialrelations.nsw.gov.au](mailto:ccu@industrialrelations.nsw.gov.au)  
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