

SafeWork SA Policy

Inspector attendance at workplaces when notified of a proposed entry by a WHS Entry Permit Holder

Introduction

This document sets out SafeWork SA's policy in relation to the circumstances when inspectors will attend at a workplace when notified of the proposed entry of Work Health and Safety Entry Permit Holders (EPH) under section 117 of the *Work Health and Safety Act 2012* (the Act).

Background – Legislative Basis

Section 117 (4) of the Act requires the Executive Director to establish and maintain a policy that relates to the circumstances when inspectors will attend at workplaces when notified of the proposed entry by an EPH under this section.

Policy Position

1. Pursuant to section 117 of the Act, an EPH must, if it is reasonably practicable, give notice to the Executive Director of a proposed entry to a workplace to inquire into a suspected contravention of the Act. For the purpose of this policy and section 117 of the Act, a notification to SafeWork SA is taken to be a notification to the Executive Director.
2. EPH entry notifications must be made by telephoning SafeWork SA on **1800 777 209** (24 hours per day 7 days per week).
3. SafeWork SA will establish an electronic recording system to record all EPH entry notifications and will record and maintain a register of all notifications received including details of attendance or non-attendance by Inspectors.
4. The EPH entry notification will be processed in accordance with SafeWork SA's triage procedures.
5. An inspector will attend the workplace which is subject to an EPH entry notification where the information provided by the EPH indicates any of the following:
 - 5.1. There is an imminent risk to life or where workers are in serious and immediate danger;
 - 5.2. Unsafe plant is in operation and the plant presents an immediate risk to workers; and
 - 5.3. Where a Person Conducting a Business or Undertaking (PCBU) is reported to be attempting to refuse, unduly delay, hinder or obstruct the EPH rightful entry to the workplace to inquire into a suspected contravention.
6. Where an inspector is required to attend the workplace pursuant to this policy:
 - 6.1. An inspector will attend the workplace as soon as reasonably practicable;
 - 6.2. An inspector will endeavour to attend a workplace within the Adelaide metropolitan area within 90 minutes of EPH entry notification; and

- 6.3. Where the workplace is outside of the Adelaide metropolitan area, an inspector will endeavour to contact the EPH and the PCBU and advise of an anticipated time of attendance at the workplace.
7. If an EPH enters a workplace and is not accompanied by an Inspector; then the EPH must provide a report to SafeWork SA pursuant to section 117 (6) of the Act. Upon receipt of the report SafeWork SA will give consideration to what action, if any, should be taken in regard to any matters outlined in the report.
8. Matters referred to SafeWork SA under clause 7 above will be processed in accordance with SafeWork SA's triage procedures.
9. SafeWork SA will prepare regular reports for the SafeWork SA Advisory Council and the Minister on:
 - 9.1. The number of EPH entry notifications received;
 - 9.2. The number of EPH entry notifications that were attended by an inspector;
 - 9.3. The number of EPH reports received where the EPH entered a workplace without being accompanied by an inspector;
 - 9.4. Identified issues or concerns such as disputes regarding the right of entry of EPHs, alleged refusals, delay, hindrance or obstruction of an EPH and alleged misuse of powers or functions by an EPH; and
 - 9.5. Any other relevant information including matters referred to SafeWork SA for the purposes of enforcing compliance with legal duties. *Note: data such as this will be used to identify trends in safe work practices which will further inform future intervention activity to prevent workplace injuries and incidents.*

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Executive Director
SAFEWORK SA

Date: 20 December 2012