

## Union access to workplaces

### Can unions access the workplace without permission under the auspices of the Fair Pay Agreements Act (FPA)?

Yes, but they may only do so only if:

- an application to initiate bargaining for an FPA has been approved by MBIE
- the FPA would cover workers in the workplace, and
- the union is a bargaining party to the FPA.

If these conditions are not met, the union may not enter the workplace using the FPA Act as its authority to do so.

### Can a union representative access the workplace for reasons other than an FPA?

Yes, they can, under the Employment Relations Act 2000 (ER Act). The employer's consent is required for a union representative to access a workplace. Consent is not to be unreasonably withheld.

Under the ER Act, union reps have a right to access workplaces for purposes related to:

- the employment of the union's members
- the union's business
- the health and safety of any employee on the premises who is not a member of the union if the employee requests the assistance of a representative of the union on those matters.

Purposes related to the employment of a union's members include:

- participating in bargaining for a collective agreement
- dealing with matters concerning the health and safety of union members
- monitor compliance with the operation of a collective agreement
- to monitoring compliance with the Employment Relations Act 2000 Act and other acts dealing with employment-related rights in relation to union members
- with the authority of an employee, to deal with matters relating to an individual employment agreement or a proposed individual employment agreement or an individual employee's terms and conditions of employment or an individual employee's proposed terms and conditions of employment
- to seek compliance with relevant requirements in any case where non-compliance is detected.

Purposes related to a union's business include:

- discussing union business with union members
- seeking to recruit employees as union members
- providing information on the union and union membership to any employee on the premises.

A discussion in a workplace between an employee and a representative of a union must not exceed a reasonable duration. An employer must not deduct pay in respect of the time spent in any discussion.

### Can employers deny union access?

An employer cannot unreasonably withhold consent for a request to enter and must respond to the request by the working day after the date of the request. Consent is treated as having been obtained if an employer does not respond to a request within two working days after the date of the request.