

Entry by SafeWork Inspectors

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Workplace Relations, Employment & Safety

We suggest you assert your rights, comply with your obligations and take steps to ensure the Inspector lawfully exercises his or her powers on entry. The following is a non exhaustive list of matters you should turn your mind to.

- Has the Inspector shown identification and advised what section of the *Work Health & Safety Act 2012 (SA) (Act)* permits entry?
- Has the Inspector notified you of the purpose of the entry as required by s164?
- If entering under s165 he or she must only exercise those powers. S165 does not allow an Inspector to interrogate but he or she may make inquiries.
- If the Inspector is asking specific questions about a particular incident ask what section of the Act is the Inspector exercising when asking the questions? He or she must be exercising s171.
- Is the Inspector purporting to ask questions on entry of an individual person or an incorporated entity?
- If an individual person - is that person entitled to rely upon the privilege of self-incrimination set out in section 172 and therefore decline to answer questions or produce documents on the grounds that the answers or the documents tend to incriminate them?
- Remember s269 says you and the entity do not have to disclose information that is subject to legal professional privilege
- Remember you are entitled to obtain legal advice as to your rights and obligations before providing

information to an Inspector

- If the Inspector has asked you to provide documents has he or she made that request by written notice as required by section 171(2)?
- Ask which section of the Act he or she is purporting to rely upon to obtain the documents?
- Closely examine the relevant section. If Section 171, has the Inspector complied with the requirements set out in 173. In other words, has the Inspector identified himself or herself; warned you that a failure to comply without reasonable excuse would constitute an offence; advised you as to the effect of section 172 (self-incrimination); and importantly s269 (legal professional privilege)?
- Is the request for information made under s155? If so, does the Inspector have a delegation from the Executive Director?

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