

Changes to VBA's power of entry to non-residential premises

This fact sheet explains the changes to the VBA's powers of entry, information gathering and inspection of non-residential premises under the *Building Act 1993* (the Act) which take effect from 31 January 2018.

WHAT THE CHANGES MEAN

Entry for monitoring and other purposes

Authorised VBA Officers will have the power to enter and search non-residential buildings or land to determine compliance with the Act and Regulations, and to assist in the enforcement of safety of buildings and building and plumbing standards, if the officer believes on reasonable grounds:

- a person is conducting a business relating to the building or plumbing industry; or
- a person is keeping records or documents that are required to be kept under the Act (as evidence to establish compliance with the Act or Regulations); or
- building or plumbing work is being or has been carried out.

In exercising this power, Authorised VBA Officers may also be assisted by any person necessary to provide technical assistance.

This power can be exercised between the hours of 8am and 6pm, when the business is open, building or plumbing works are being conducted or at any other time with written consent of the occupier.

Should an Authorised VBA Officer be denied entry or obstructed in any way without reasonable excuse, police assistance may be sought and a penalty of **60 penalty units** (approx. \$9,514 as at 1 July 2017) may apply.

If an Authorised VBA Officer exercises this power of entry without the owner or occupier present, a notice will be left, setting out the details and purpose of the search.

However, this power of entry cannot be exercised without the consent of the owner if the building is used for residential purposes.

Conduct of the Search

Authorised VBA Officers who enter any building or land may:

- examine, make copies, take samples and seize any item (including electronic equipment);
- operate or request a building occupier to operate electronic equipment to access information;
- examine any building/plumbing work;
- require the production of documents;
- take photos, videos and audio recordings;
- bring any equipment necessary to perform the search and inspection; and
- require owner builders, plumbers and building practitioners to attend an inspection of their work.

Seizure

Authorised VBA Officers will have the power to seize any item connected to a contravention of the Act or Regulations. A receipt of seizure will be provided which identifies the item/s, states why it was taken, and provides the name of the Authorised VBA Officer. If the Authorised VBA Officer retains possession of a document seized from a person, a certified true copy will be provided to that person as soon as practicable. Any item seized will be returned within 12 months of seizure or after proceedings are concluded.

Want to know more?

Review new and amended sections within the Building Act 1993.

Please submit an enquiry or call us on 1300 815 127.

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