

43. Powers

- (1) An inspector may, for the purposes of this Act —
 - (a) at all reasonable times of the day or night, enter, inspect and examine any workplace;
 - (b) enter any workplace at any other time that the performance of his or her functions under this Act requires such entry;
 - (c) when entering any workplace, take with him or her such equipment and materials as he or she considers appropriate;
 - (d) conduct such examination and inquiry as he or she considers necessary to ascertain whether there has been compliance with this Act;
 - (e) examine any plant, substance or other thing whatsoever at the workplace;
 - (ea) provide information to any person for the purpose of facilitating compliance with this Act;
 - (f) take and remove samples of any substance or thing, without paying for it;
 - (g) take possession of any plant or thing for further examination or testing or for use as evidence;
 - (h) take photographs and measurements, and make sketches and recordings;
 - (i) require the production of, examine, and take copies or extracts of, any document;
 - (j) require that the workplace, or any part of it, be left undisturbed for as long as is specified in the requirement;
 - (k) in accordance with subsections (1b) and (1c), interview any person who the inspector has reasonable grounds to believe —
 - (i) is, or was at any time during the preceding 3 years —
 - (I) an employee working at a workplace; or
 - (II) an employee occupying residential premises mentioned in section 39G(2),
in relation to which the inspector is inquiring;
 - (ii) was at such a workplace or such residential premises at a time that is relevant to a matter about which the inspector is inquiring; or
 - (iii) may otherwise be able to provide information relevant to a matter about which the inspector is inquiring;
 - (l) require any person whom the inspector interviews under paragraph (k) to answer any questions put to him or her and, if the inspector considers it appropriate, to verify any such answer by statutory declaration;
 - (m) require any person to state his or her name and address;
 - (n) require the employer or any person who works at a workplace to render such assistance to the inspector as the inspector considers necessary for the performance of his or her functions under this Act;

- (o) exercise such other powers as may be conferred on him or her by the regulations or as may be necessary for the performance of his or her functions under this Act.
- (1a) In subsection (1) —
“**workplace**” includes residential premises that an employer is or was under a duty to maintain by virtue of section 23G(2).
- (1b) An interview referred to in subsection (1)(k) is to be conducted in private if —
 - (a) the inspector considers that to be appropriate; or
 - (b) the person to be interviewed so requests,but this subsection does not limit the operation of subsection (2) or section 44.
- (1c) Subsection (1b) may be invoked during an interview by —
 - (a) the inspector; or
 - (b) the person being interviewed,in which case that subsection applies to the remainder of the interview.
- (2) In exercising any of his or her powers under this Act an inspector may be accompanied by any other person whose assistance the inspector considers necessary, and that person may do such things as are necessary to assist the inspector in the performance of his or her functions, and any thing so done shall be deemed to have been done by the inspector.
- (3) In carrying out the functions of an inspector under this Act, an inspector shall act in such a manner as to avoid unduly or unreasonably interfering with any work or work process or affecting adversely a covert operation within the meaning of section 4A(1).

[Section 43 inserted by No. 43 of 1987 s.13; amended by No. 30 of 1995 s.32; No. 54 of 2002 s. 7; No. 51 of 2004 s. 10, 59, 91, 102.]