



**NSW WORK HEALTH AND SAFETY ACT 2011
Section 84 Cease Unsafe Work**



PCBU representative - Tony Voss,
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Clarence Correctional Centre
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cc: whs@psa.asn.au

Re: Risk of Serious Staff Assault

Background: Correctional Officers at Clarence Correctional Centre have contacted the CPSU NSW (the Union) for assistance on the matter of increasing assaults on staff at the centre, due to ongoing staffing shortages. Officers advised that over recent months there has been a marked increase in assaults on Correctional Officers, as a consequence of these staff shortages. Officers continue to report incidents through the appropriate workplace system but have not been consulted by the PCBU to discuss risk mitigation strategies.

Management have introduced a system of "locking down" areas of the centre, to attempt to manage staff shortages and reduce risk of assaults on officers

Officers advised the union that the "lock down" strategy is not being used widely enough across the centre, to reduce the number and frequency of assaults.

Cease Work action:

As a consequence of this serious risk to my health and safety, I/we,, are exercising my right under [section 84 of the NSW Work Health and Safety Act 2011](#) (the Act), to cease unsafe work.

In accordance with [section 87 of the NSW Work Health and Safety Act 2011](#) I am available for suitable alternative duties until it is safe to resume normal duties e.g. I will: provide essential services such as distributing meals, medical response, and respond to critical incidents.

It is also requested that a consultation and risk management process is commenced as a matter of urgency and that the affected workers are involved in that consultation and risk management process. Risk management measures that can be discussed include but are not limited to increased use of "lock down", and consultation with the PCBU on the Officers' proposal for safe staffing levels, determined by the number of inmates, risk profile, workload.

I/we also appoint the CPSU NSW as my/our representative under [section 4](#) and [section 81](#) of the NSW Work Health and Safety Act 2011 and request that they be included in consultations to resolve this issue.

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Signed Date

Name: (please print)

Workplace name:

Workplace address:

Work Health and Safety Act 2011 No 10

Current version for 27 October 2020 to date

[Part 5 Division 6](#) Section 84

84 Right of worker to cease unsafe work

A worker may cease, or refuse to carry out, work if the worker has a reasonable concern that to carry out the work would expose the worker to a serious risk to the worker's health or safety, emanating from an immediate or imminent exposure to a hazard.

85 Health and safety representative may direct that unsafe work cease

(1) A health and safety representative may direct a worker who is in a work group represented by the representative to cease work if the representative has a reasonable concern that to carry out the work would expose the worker to a serious risk to the worker's health or safety, emanating from an immediate or imminent exposure to a hazard.

(2) However, the health and safety representative must not give a worker a direction to cease work unless the matter is not resolved after:

(a) consulting about the matter with the person conducting the business or undertaking for whom the workers are carrying out work, and

(b) attempting to resolve the matter as an issue under Division 5 of this Part.

(3) The health and safety representative may direct the worker to cease work without carrying out that consultation or attempting to resolve the matter as an issue under Division 5 of this Part if the risk is so serious and immediate or imminent that it is not reasonable to consult before giving the direction.

(4) The health and safety representative must carry out the consultation as soon as practicable after giving a direction under subsection (3).

(5) The health and safety representative must inform the person conducting the business or undertaking of any direction given by the health and safety representative to workers under this section.

(6) A health and safety representative cannot give a direction under this section unless the representative has:

(a) completed initial training prescribed by the regulations referred to in section 72 (1) (b), or

(b) previously completed that training when acting as a health and safety representative for another work group, or

(c) completed training equivalent to that training under a corresponding WHS law.

86 Worker to notify if ceases work

A worker who ceases work under this Division must:

(a) as soon as practicable, notify the person conducting the business or undertaking that the worker has ceased work under this Division unless the worker ceased work under a direction from a health and safety representative, and

(b) remain available to carry out suitable alternative work.

87 Alternative work

If a worker ceases work under this Division, the person conducting the business or undertaking may direct the worker to carry out suitable alternative work at the same or another workplace if that work is safe and appropriate for the worker to carry out until the worker can resume normal duties.

88 Continuity of engagement of worker

If a worker ceases work under this Division, that action does not affect the continuity of engagement of the worker for prescribed purposes if the worker has not unreasonably failed to comply with a direction to carry out suitable alternative work:

(a) at the same or another workplace, and

(b) that was safe and appropriate for the worker to carry out.

89 Request to regulator to appoint inspector to assist

The health and safety representative or the person conducting the business or undertaking or the worker may ask the regulator to appoint an inspector to attend the workplace to assist in resolving an issue arising in relation to the cessation of work.