



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

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Re: Risk of violence and assault from High Risk Detainee *insert detainee initials. insert detail of the serious risk, for example: risk of violence if understaffed when escorting inmates / releasing from room / attending programs*

Background: Detainee *insert detainee initials* has been non-compliant and has had a number of incidents in the last *insert period of time, eg. X days, X weeks, X months*. These have included *threats of harm to officers and other people, spitting on officers and other people, throwing blood / human waste at officers and other people, assaults on officers,*

Insert detainee initials is not complying with his detainee risk management plan and this is putting workers and others at risk.

(insert details of work process that is causing serious risk to health and safety arising from an immediate or imminent exposure to the hazard. Insert details of how you or your HSR/union delegate have tried to consult with the Department)

Cease Work action:

As a consequence of this serious risk to my health and safety, I, *insert your name*, am exercising my right under [section 84 of the NSW Work Health and Safety Act 2011](#) (the Act), to cease unsafe work with this detainee. This includes not undertaking the following actions with detainee *insert detainee initials*:

- facilitating interaction with the general population
- movement without an agreed safe level of staffing

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. Please note that duty of care work in respect of *insert detainee initials*. will be done including supplying food, drink and medicine; and exercise when operationally appropriate.

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 *select or add appropriate measures, placement within the centre, restraining belt, handcuffs, ankle cuffs, continuous confinement, removal from programs, staffing ratios,* I also appoint the PSA as my 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.

.....
Signed Date

Name: (please print)

Workplace name:

Workplace address:

Work Health and Safety Act 2011 No 10

Current version for 21 March 2018 to date (accessed 2 April 2019 at 12:24)

[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.