



Role of the ABCC under Independent Contractors Legislation

The Office of the Australian Building and Construction Commissioner (ABCC) enforces independent contractors legislation where it applies to a building industry participant or building work.

The *Independent Contractors Act 2006* (IC Act) commenced in 2007 and was aimed at protecting the status of independent contractors.

The ABCC is responsible for ensuring independent contractor laws are upheld in the building and construction industry.

FUNCTIONS OF THE ABCC

The ABCC's roles in the building and construction industry:

- monitor and promote standards of conduct
- investigate suspected contraventions
- bring or intervene in legal proceedings
- provide assistance and advice
- provide representation
- publish information such as fact sheets.

SHAM CONTRACT ARRANGEMENTS

The ABCC is able to seek penalties against an individual or body corporate that has contravened the sham contract provisions produced by the legislation.

A sham contract arrangement is one where an employer tries to misrepresent a genuine employment relationship as an independent contracting relationship. For more information see the 'Sham Contract Arrangements' fact sheet.

UNFAIR SERVICES CONTRACTS

The IC Act creates a new national jurisdiction that overrules the current state systems for the review and regulation of services contracts.

Under the new laws, applicants who wish to have an unfair services contract set aside or varied may apply to either the Federal Court or the Federal Magistrates Court.

WHEN DO THE LAWS APPLY?

The laws took effect on 1 March 2007 and apply immediately for new contracts.

For existing and continuing contracts there is a transitional period, which will end on 1 September 2011. However, the unfair contract system applies immediately from the date the laws took effect.

Parties that have an existing contract can enter the new system by signing an 'opt-in' agreement.

NOTIFY THE ABCC

Building industry participants must notify the ABCC of applications made to a court under the IC Act that involve a building industry participant and building work.

PUBLICATION OF NON-COMPLIANCE

The ABCC may publish details of non-compliance with the IC Act by a building industry participant, including releasing the name of the participants.

FURTHER INFORMATION

The Office of the Australian Building and Construction Commissioner

- Hotline: 1800 003 338
- Website: www.abcc.gov.au

Department of Education, Employment and Workplace Relations

- Independent Contractors Hotline: 1300 667 850
- Website: www.workplace.gov.au

Please note: The Australian Government has proposed changes to the building industry legislation. The contents of this fact sheet will apply until the BCII Act is amended.



Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50