



How do I know when the National Code and Guidelines apply?

The National Code sets minimum standards that businesses must meet to be eligible for certain Australian Government building and construction work.

The National Code Implementation Guidelines provide supporting detail on compliance requirements.

See other ABCC fact sheets to determine when the National Code applies and which set of Guidelines to use.

This fact sheet is relevant to projects complying with the June 2006 Guidelines.

WHEN DOES THE NATIONAL CODE APPLY?

The National Code of Practice for the Construction Industry (National Code) and the Australian Government Implementation Guidelines for the National Code (Guidelines) apply to:

- directly funded Australian Government work
- indirectly funded Australian Government work, thresholds apply
- privately funded work in certain circumstances.

The obligation to comply with the National Code and Guidelines passes down the contractual chain from the client to the head contractor to subcontractors, suppliers and consultants. All parties along this contractual chain must be informed that the National Code and Guidelines apply to the project.

Building industry participants interested in working on National Code compliant building and construction work must be informed that the National Code and Guidelines apply to the project. Ultimately, it is the responsibility of the client or head contractor to ensure that these information requirements are met.

See the ABCC fact sheet: 'The National Code of Practice for the Construction Industry and Implementation Guidelines.'

WHEN DO I HAVE TO COMPLY WITH THE NATIONAL CODE AND GUIDELINES?

A contractor who submits a tender or expression of interest in an Australian Government funded project on or after 1 November 2005 must apply the National Code to any privately funded building project they undertake that commences after that date. This requirement applies regardless of whether the tender was successful or not.

DOCUMENTATION

Note: This fact sheet only applies to projects that commenced prior to 1 August 2009.

Public tender material such as advertisements, expressions of interest and requests for tender must contain advice that the National Code and Guidelines apply to the project.

Tender documents must either contain copies of the National Code and Guidelines as an attachment, be made available on request or advise that the National Code and Guidelines can be viewed online at www.abcc.gov.au/abcc/NationalCode

Tender schedules must contain an undertaking to apply the National Code and Guidelines on the project and any new private construction work.

Contracts must include clauses that bind subcontractors, material suppliers and consultants to the National Code and Guidelines. This includes contracts for major and minor works and purchase orders.

DECLARATION OF COMPLIANCE

Site management may ask subcontractors to provide a 'Declaration of Compliance' statement for their records. This will confirm that the subcontractor is aware of its commitment to comply with the National Code and Guidelines.

WORKPLACE ARRANGEMENTS

A contractor must ensure its:

- industrial instruments are National Code compliant before making an expression of interest or tendering for Australian Government funded building and construction work
- subcontractors and material suppliers are complying with the National Code and Guidelines
- contracts include the requirement to comply with the National Code and Guidelines
- on-site work behaviours are consistent with the National Code and Guidelines.

The Department of Education, Employment and Workplace Relations (DEEWR) provides a free service to assess industrial instruments against the National Code and Guidelines. DEEWR can provide a letter advising whether workplace arrangements are National Code compliant.

WHAT ASSISTANCE IS AVAILABLE?

- Model tender documentation, contract clauses and a 'Declaration of Compliance' template are available on the DEEWR website: www.deewr.gov.au/building

These documents contain model tender clauses and contract provisions for drafting contracts relating to projects either directly or indirectly funded by the Australian Government and may be adopted on privately funded projects by head contractors.

- DEEWR can assess your workplace arrangements for compliance. This normally involves an assessment of industrial instruments that cover a contractor. If not compliant, DEEWR will issue a letter identifying which clauses of the industrial instrument are inconsistent with which provisions of the National Code and Guidelines. If your industrial instrument is not National Code compliant, you will be unable to tender for Australian Government funded building and construction work.

CHECKLIST ITEMS:

1. Have you received documentation that includes:

- a statement that the project is subject to the National Code and Guidelines?
- access to a copy of the National Code and Guidelines?
- a request to submit a 'Declaration of Compliance'?

YES You must be National Code compliant to work on this project.

NO Find out if the National Code and Guidelines apply to this project.

2. Are your workplace arrangements compliant with the National Code and Guidelines?

YES You are eligible to express interest in or tender for Australian Government funded building and construction work.

NO You are not eligible to express interest in or tender for Australian Government funded building and construction work.

You may wish to seek confirmation from DEEWR by submitting your industrial instrument for assessment.

FURTHER INFORMATION

To make an enquiry or obtain copies of the National Code and Guidelines, fact sheets and other reference material, contact:

The Office of the Australian Building and Construction Commissioner

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

The Department of Education, Employment and Workplace Relations

- National Code Mailbox: building@deewr.gov.au
- National Code Hotline: 1300 731 293

For an assessment of workplace arrangements for National Code compliance, visit

- Code Assessments Online:
www.deewr.gov.au/building



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