



# Dispute Settlement

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.**

Industrial disputes will arise from time to time on building and construction sites. The National Code of Practice for the Construction Industry (National Code) and the Australian Government Implementation Guidelines for the National Code (Guidelines) emphasise the need for issues to be resolved by discussion between the employer and the employees. Employees have the freedom to decide who will represent them in these discussions.

## WHAT SHOULD HAPPEN WHEN A DISPUTE TAKES PLACE?

If a dispute is not resolved between the parties, the workplace agreement should provide graduated steps for resolution involving higher levels of authority. Reasonable time limits should be allowed for each stage of the relevant dispute settlement processes. While dispute settlement procedures are being followed the parties should ensure that:

- industrial action does not occur
- the circumstances that existed prior to the dispute are maintained
- work continues as normal without detriment to any of the parties.

Whatever resolution is decided upon, it must be consistent with the National Code and legislative obligations.

## INDEPENDENT MEDIATORS

An enterprise agreement may allow a dispute to be referred to an independent mediator, panel or tribunal. When this occurs, the terms of the resolution of the dispute must be consistent with relevant legislation, the National Code and the Guidelines.

## WHO NEEDS TO KNOW WHEN AN INDUSTRIAL DISPUTE TAKES PLACE?

The client of the principal contractor must be advised of all industrial disputes that take place on the project at the earliest opportunity. Any dispute relating to OHS must be resolved in accordance with the legislation of the relevant state or territory.

## CAN WORKERS RECEIVE STRIKE PAY?

No payment should be made to employees for time spent engaged in unlawful industrial action. It is unlawful for an employer to pay an employee, and an employee to accept payment, for taking industrial action except:

- action based on a reasonable concern by an employee about an imminent risk to health or safety, provided that the employee did not refuse to comply with a reasonable direction to do other work that was safe, or
- action authorised or agreed to in advance and in writing by the employer.

## CHECKLIST ITEMS:

1. Are disputes handled between the employer and employees and their chosen representatives? **YES/NO**
2. Does your enterprise agreement contain gradual steps for resolving disputes? **YES/NO**
3. Do the workers have freedom of choice on who represents them? **YES/NO**

If you answered **NO** to any of these questions, the workplace arrangements may not be National Code compliant and you should contact the ABCC or the Department of Education, Employment and Workplace Relations.

## FURTHER INFORMATION

For more information see the 2006 Guidelines

- Section 8.7: Dispute Settlement, and
- Section 8.8: Strike Pay.

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](http://www.abcc.gov.au)
- Email: [enquiry@abcc.gov.au](mailto:enquiry@abcc.gov.au)

The Department of Education, Employment and Workplace Relations

- National Code Mailbox: [building@deewr.gov.au](mailto: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](http://www.deewr.gov.au/building)



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