



On-site practices - freedom of association and right of entry

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.

FREEDOM OF ASSOCIATION

Freedom of association means having the right to choose whether or not to join a union or an employer association. The *Fair Work Act 2009* (FW Act) and *Building and Construction Industry Improvement Act 2005* (BCII Act) make it unlawful to discriminate against anyone on these grounds. It is also unlawful to force anyone to pay fees to such organisations if not a member.

The National Code of Practice for the Construction Industry (National Code) and the Australian Government Implementation Guidelines for the National Code (Guidelines) outline practices that ensure freedom of association is protected, such as:

- posters, signs and other promotional material implying compulsory union membership are not displayed on site
- 'no ticket, no start' signs or 'show card' days not allowed on-site
- site induction processes are undertaken by site management
- employees are not required to identify their union status in any way.

Any suspected breach of freedom of association must be reported to the Office of the Australian Building and Construction Commissioner (ABCC) within 21 days.

RIGHT OF ENTRY

Any site visits by union officials must be in accordance with the right of entry requirements of the FW Act. That is, union officials must:

- hold a valid federal right of entry permit
- provide at least 24 hours written notice of entry, unless in relation to specific OHS law
- show their federal permit and notice of entry upon request

- only visit during working hours and hold discussions during meal times or other breaks
- provide details of any alleged breach they are investigating, if applicable.

Site management should keep records of all requests by union officials to visit the site and details of any visits that take place. Records should include the name of the union and official, permit numbers and reason for visit.

CHECKLIST ITEMS:

1. Are there policies in place that ensure:
 - posters, signs and other promotional material implying compulsory union membership are not displayed on site? YES/NO
 - site induction processes are undertaken by site management? YES/NO
 - employees are not required to identify their union status in any way? YES/NO
2. Are there systems in place that ensure union officials:
 - hold a valid federal right of entry permit? YES/NO
 - provide at least 24 hours written notice of entry, unless in relation to OHS law? YES/NO
 - show their valid permit and notice of entry upon request? YES/NO
 - only visit during working hours and hold discussions during meal times or other breaks? YES/NO
 - provide details of any alleged breach they are investigating? YES/NO

Answering **NO** to any of these questions may mean the site is not National Code compliant. For further advice, call the ABCC Hotline on 1800 003 338.

FURTHER INFORMATION

For more information see Section 8.5 of the Guidelines, which deals with freedom of association and right of entry.

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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