



Powers of Australian Building and Construction Commission Inspectors

Inspectors from the Office of the Australian Building and Construction Commissioner (ABCC inspectors) have the power to enter premises for the purpose of investigating possible breaches of the law, conduct interviews and inspect documents. It is an offence to impede them.

ENTRY TO PREMISES

The purpose

An ABCC Inspector may enter premises to investigate compliance by a building industry participant with:

- workplace laws including the *Building and Construction Industry Improvement Act 2005* (BCII Act), the *Fair Work Act 2009* (FW Act) and the *Independent Contractors Act 2006* (IC Act)
- Commonwealth industrial instruments including awards, transitional awards, collective agreements or pre-WorkChoices certified agreements and the National Employment Standards
- court orders and orders of Fair Work Australia (FWA)

ABCC Inspectors also have a contractual right of entry for projects covered by the National Code of Practice. See the ABCC's National Code fact sheets for more information.

When can ABCC Inspectors enter premises?

An ABCC Inspector may enter premises during ordinary working hours or, if necessary, at any other time.

What does an ABCC Inspector have to do when entering premises?

An ABCC Inspector must inform the occupier they are authorised to enter the premises and show their identity card.

What sort of premises can ABCC Inspectors enter?

An ABCC Inspector may enter any premises where the ABCC Inspector believes:

- building work is being, or has been, carried out that is covered by a Commonwealth industrial instrument
- a breach of the BCII Act, the FW Act, the IC Act, a Commonwealth industrial instrument, a court order or order of FWA, is occurring, or is likely to occur
- there are documents relevant to any matter the ABCC Inspector is empowered to investigate.

An ABCC Inspector may enter business premises where the inspector believes there is a person working with information relevant to a matter that the inspector is empowered to investigate.

An ABCC Inspector cannot enter a part of premises that is used for residential purposes.

What can an ABCC Inspector do on the premises?

An ABCC Inspector may:

- interview any person on the premises
- request a person to produce a document
- inspect and make copies of any documents
- inspect any work, material, machinery, appliance, article, or facility
- take samples of any goods or substances.

Do I have to accompany an ABCC Inspector when they are on the premises?

You are allowed to accompany an ABCC Inspector while the inspector is on your premises. There is, however, no legal requirement to do so.

PRODUCTION OF DOCUMENTS

When and where do I have to produce documents?

Documents that are at the premises must be produced as requested by an ABCC Inspector. The Inspector may request the documents immediately or request they be produced within a specified time.

Documents that you have custody of or access to that are not on the premises must be produced within a specified time.

If you ignore a request for documents, an ABCC Inspector can serve a written notice instructing you to produce the documents at a specified place within a period of not less than 14 days.

What can an ABCC Inspector do with the documents?

An ABCC Inspector can inspect and make copies of documents produced.

An ABCC Inspector can retain the documents and keep them for as long as is necessary for their inquiries. You are entitled to inspect and make copies of your documents while they are being kept by the ABCC Inspector. The ABCC Inspector will give you a receipt if the documents are required to be kept.

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

OFFENCES

What happens if I don't do what an ABCC Inspector requires?

You may be committing one of the following offences, which carry serious penalties:

- Refusing or unduly delaying entry to the premises by an ABCC Inspector.
Maximum penalty of up to \$110,000
- Obstructing, hindering, intimidating or resisting an ABCC Inspector.
Maximum penalty of up to \$13,200 and/or imprisonment for 2 years.
- Knowingly misleading an ABCC Inspector or providing false information, including false or misleading documents.
Maximum penalty of up to \$6,600 and/or imprisonment for 12 months.

In addition to these offences, it is unlawful industrial action if a work stoppage occurs in protest to the presence of ABCC Inspectors on site.

For more information, refer to the fact sheet 'Unlawful Industrial Action in the Building and Construction Industry'.



Need language help?

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