



# Unacceptable workplace practices and workplace arrangements

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.

Prior to the Australian Government's introduction of the National Code of Practice for the Construction Industry (National Code) and the Australian Government Implementation Guidelines for the National Code (Guidelines) it was common to find unacceptable workplace practices on building and construction sites. These included behaviours that were unlawful, undermined the freedom of association principles and hindered the adoption of world best practice.

The introduction of the National Code and Guidelines works to remove these unacceptable practices by putting in place a model for behaviour to reform the building and construction industry and bring about productivity improvements.

### UNACCEPTABLE PRACTICES IN RELATION TO FREEDOM OF ASSOCIATION

The following examples are practices that are inconsistent with the National Code and Guidelines:

- employers providing the names of new staff or job applicants to unions
- supplying the names of contractors to unions
- 'no ticket, no start' signs, or other notices such as posters, helmets, stickers or union logos or flags, that imply union membership isn't a matter of individual choice
- 'show card' days
- employers encouraging or discouraging employees to join a union
- the imposition upon a subcontractor or employer to employ a non-working shop steward or job delegate or other person, or to hire an individual nominated by a union
- pressuring subcontractors to join employer associations
- using site delegates to undertake or administer site induction processes
- using induction or other forms requiring employees to identify their union status

- a requirement for an employer to apply union logos, mottos or other promotional material to company supplied property, equipment and clothing
- a requirement for an employee to be exclusively represented by a union in a dispute settlement
- a requirement for any person or enterprise to pay a fee to a registered organisation of which they are not a member.

### BREACHES IN WORKPLACE ARRANGEMENTS

Your workplace arrangements and practices **MUST NOT**:

- prescribe the ratio or number of permanent, temporary and casual employees a company can employ on a site
- include 'one-in-all-in' arrangements in relation to workplace practices such as overtime
- contain 'last on, first off' arrangements or criteria for redundancy that relates to seniority of employees - redundancy arrangements must relate to the employer's organisational requirements
- restrict the employer's short or long term labour requirements or the terms and conditions of any employee who is not a party to the industrial instrument or workplace arrangements
- contain any provisions that the union must be consulted or approve the employer's short or long term labour requirements
- prohibit employers making 'all-in payments' to an employee for work done that is made on an hourly, daily or weekly basis and which is in lieu of payment for all or some entitlement specifically provided for by agreements, awards or legislation, such as annual leave loading or overtime. This does not include statutory obligations, such as superannuation contributions
- negate or make the National Code or Guidelines ineffective. The workplace agreement should not include clauses with wording such as 'nothing shall be contrary to the law...'; 'clauses that are inconsistent with Commonwealth law...'; and 'clauses that are inconsistent with the National Code and Guidelines will have no effect...'

## PROJECT AND SECTOR AGREEMENTS

Unregistered project and sector agreements are strictly prohibited and no attempts should be made to enforce their requirements. A specific review should be undertaken to remove any 'legacy provisions' of these project and sector agreements from existing contractual documents.

## LEGAL OBLIGATIONS

The reform of these workplace practices in no way relieves building industry participants from their legal obligations. All parties must comply with the provisions of their industrial instruments. All employers must comply with employment obligations such as workers compensation, superannuation, long service leave and employee entitlements.

## 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](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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