EXPLANATORY STATEMENT
(Issued by the authority of the Australian Building and Construction Commissioner)

Building and Construction Industry Improvement Act 2005
Direction to Inspectors

Background

By reason of subsection 57(1) of the Building and Construction Industry Improvement Act 2005 (BCII Act), the Australian Building and Construction Commissioner is empowered to appoint Australian Building and Construction Inspectors (ABC Inspectors).

By reason of subsection 700(1) of the Fair Work Act 2009 (FW Act), the Fair Work Ombudsman is empowered to appoint Fair Work Inspectors.

From 1 March 2011, the Fair Work Ombudsman has appointed a number of ABC Inspectors as Fair Work Inspectors.

Under subsection 57(4) of the BCII Act, ABC Inspectors, in the performance of their functions or the exercise of their powers as ABC Inspectors, are required to comply with Directions made by the Australian Building and Construction Commissioner.

Consultation

No consultation was undertaken pursuant to section 17 of the Legislative Instruments Act 2003 because these Directions are unlikely to have a direct, or substantial indirect, effect on business and are unlikely to restrict competition. The Directions are technical in nature and do not substantially alter existing arrangements.

Notes on clauses

Clause 1

This clause specifies when the Directions will commence. The Directions will commence on the day that they are registered on the Federal Register of Legislative Instruments.

Clause 2

This clause is a formal definitions provision. It provides definitions for commonly used words and phrases in the Directions.

Clause 3

This clause applies to litigation action commenced or intervened in by Fair Work Inspectors who are also appointed as ABC Inspectors. The clause requires such Fair Work Inspectors, before commencing or intervening in litigation, to comply with relevant Guidance Notes, be satisfied that there is sufficient evidence and it is the public interest to commence litigation, and obtain the consent of the Australian Building and Construction Commissioner or an authorised Senior Executive Service member of the staff of the Office of the Australian Building and Construction Commissioner.