

*Fair Work Act 2009*  
*Paid Parental Leave Act 2010*  
*Fair Work (Transitional and Consequential Amendments) Act 2009*

### DIRECTION TO INSPECTORS

I, **NICHOLAS PAUL WILSON**, the Fair Work Ombudsman, under subsection 704(1) of the *Fair Work Act 2009* (the Act) and subsection 33(3) of the *Acts Interpretation Act 1901*, revoke all previous Directions issued under subsection 704(1) of the Act, including the Direction I issued on 31 August 2009 (F2009L034871) and direct as follows:

#### Commencement

- (1) This Direction is of general application and commences to operate on the day it is registered on the Federal Registrar of Legislative Instruments, in accordance with the *Legislative Instruments Act 2003*.

#### Definitions

- (2) In this Direction:

**Act** means the *Fair Work Act 2009*;

**commencing litigation** means lodging with a court the documents necessary to institute civil proceedings, where the proceedings are instituted by, or on behalf of, the Fair Work Ombudsman exercising powers or performing functions conferred by the Act, the Regulations or any other Act or Regulations that confer an ability on the Fair Work Ombudsman to commence or intervene in litigation (including the *Paid Parental Leave Act 2010* and the *Fair Work (Transitional and Consequential Amendments) Act 2009*) and includes but is not limited to applying to a court for orders in relation to a contravention or proposed contravention of civil remedy provisions of these Acts;

**FWO** means Office of the Fair Work Ombudsman;

**The Regulations** means the *Fair Work Regulations 2009*; and

**Fair Work Inspector** means a person appointed as a Fair Work Inspector under section 700 of the Act.

## **Direction**

- (3) Other than in the case of an Australian Building Construction Commission Inspector (**ABC Inspector**) who is also a Fair Work Inspector, before commencing, or intervening in, litigation on my behalf, a Fair Work Inspector must:
- a. comply with any Guidance Note concerning the litigation policy of the FWO;
  - b. be satisfied that:
    - i. there is sufficient evidence to commence civil proceedings; and
    - ii. the facts in the matter and all the surrounding circumstances demonstrate that civil proceedings are in the public interest (including that the contraventions are not trivial or minor); and
  - c. obtain my consent or the consent of a member of staff authorised by me to give such consent.
- (4) In respect of a Fair Work Inspector who is also an ABC Inspector, I direct that before commencing, or intervening in, litigation involving building industry participants, a Fair Work Inspector who is also an ABC Inspector must comply with the Direction of the Australian Building and Construction Commissioner made on 28 February 2011 in respect of litigation under the FW Act and related legislation.

**Dated 24 March 2011**

**Nicholas Paul Wilson**  
**Fair Work Ombudsman**  
**Office of the Fair Work Ombudsman**