

DIRECTION TO INSPECTORS

(FWO2009/01)

I, **NICHOLAS PAUL WILSON**, the Fair Work Ombudsman, under subsection 704(1) of the *Fair Work Act 2009* revoke all previous Directions issued under:

- a. subsection 704(1) of the Act, including the Direction I issued on 1 July 2009 (F2009L02679);
- b. subsection 167(7) of the *Workplace Relations Act 1996*, as far as such Directions continue to have effect under item 15 of schedule 18 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, including the Direction issued by the Workplace Ombudsman on 4 July 2007 (F2007L02341); 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, a Fair Work Inspector exercising powers or performing functions conferred on the Fair Work Inspector by the Act, the Regulations or any other Act or Regulations that confer an ability on a Fair Work Inspector to commence or intervene in litigation and includes but is not limited to applying to a court for orders in relation to a contravention or proposed contravention of a civil remedy provision of the Act;

FWO means Office of the Fair Work Ombudsman;

Regulations means the Fair Work Regulations 2009;

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

Direction

- (3) Before commencing, or intervening in, litigation, a Fair Work Inspector must:

- c. comply with any Guidance Note concerning the litigation policy of the FWO;
- d. 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
- e. obtain my consent or the consent of a member of the staff of the FWO authorised by me to give such consent.

Dated: 31 August 2009

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