

DIRECTION TO INSPECTORS

I, **Leigh Andrew Hyland JOHNS**, the Australian Building Commission Commissioner, under subsection 57(4) of the Building and Construction Industry Improvement Act 2005 direct as follows:

Commencement

1. This Direction is of general application and commences operation 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:

ABC Commissioner	means the Australian Building and Construction Commissioner appointed under section 9 of the Building and Construction Industry Improvement Act 2005;
BCII Act	means the Building and Construction Industry Improvement Act 2005;
FW Act	means the <i>Fair Work Act 2009</i> ;
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 (who is also an ABC 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 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;
Regulations	means the <i>Fair Work Regulations 2009</i> ;
Fair Work Inspector	means a person appointed as a Fair Work Inspector under section 700 of the Act who is also an ABC Inspector appointed under section 57 of the BCII Act.

Direction

3. Before commencing, or intervening in, litigation under the FW Act, a Fair Work Inspector (being an ABC Inspector) must:
 - (a) comply with any Guidance Note concerning the litigation policy of the ABC Commissioner;
 - (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 the SES of the office of the ABC Commissioner authorised by me to give such consent.

Dated: 28 February 2011

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Leigh Andrew Hyland Johns
ABC Commissioner