



Enforcement of Industrial Relations Laws in the Building and Construction Industry

Policy Background

- A litany of royal commissions, inquiries and Federal Court decisions have continually highlighted a persistent and pervasive culture of industrial lawlessness in the commercial construction industry, particularly in relation to the conduct of the construction union.
- In 2005 the Australian Building and Construction Commission (ABCC) was set up as a specialist construction industry enforcement body. It followed the Cole Royal Commission and held a number of coercive powers, supported by industry specific fines and penalties.
- In 2012 the government abolished the ABCC, replacing it with a division of the Fair Work Ombudsman, being the Fair Work Building and Construction.
- The ABCC was re-established as the specialist enforcement body in 2016 with the introduction of a new national building code and the reinstatement of the powers held by the agency in 2005.

Policy Issues

- The enforcement of industrial relations laws in the building and construction industry is a polarising issue.
- The debate over the role of a federal regulatory, such as the ABCC, industry lawlessness and union corruption continues to be robust, politicised and emotive.
- Systemic lawlessness, including illegal strikes, pattern bargaining, right of entry infringements and coercion of non-unionised contractors and workers is an ongoing issue in the building industry.
- Any agency tasked with the enforcement of industrial relations laws in the building and construction industry should be able to act without fear or favour against both unions and employers alike and must be able to investigate allegations of lawlessness, harassment and corruption, despite any threats of retribution.
- There is a case for a stand-alone specialist statutory agency for the building industry, for example evidence provided by Independent Economics showed that during the Fair Work Building Commission era there were significant losses in productivity and that consumers were better off by \$7.5 billion on an annual basis if the ABCC was reinstated with its initial powers.
- There is consensus amongst employer groups that a stand-alone specialist statutory agency can help clean up much of the lawlessness in the building industry.

HIA's Policy Position on the Enforcement of Industrial Relations Laws in the Building and Construction Industry

1. The building industry needs an effective deterrent and enforcer of the rule of law.
2. HIA supports a stand-alone specialist statutory agency for the building industry. The construction industry requires access to an independent body, which is able to quickly and effectively respond to unlawful activity on site.

Powers and Functions of a Building Industry Specific Regulator

3. The primary function of the Regulator is to police industrial lawlessness in the construction industry. HIA opposes any attempts to divert or redirect resources away from this primary function.
4. HIA supports the Regulator's ability to enforce the rule of law by the use of coercive information gathering powers including the provision of information, production of documents and attendance to answer questions in order to carry out effective investigations into unlawful behaviour.
5. The Regulator's compliance powers should be supported by serious industry specific penalty provisions to adequately deter unlawful and inappropriate behaviour from occurring or recurring.
6. The powers of the Regulator should be extended to off-site manufacture, detached housing sites and the residential building sector.

Role of the Commonwealth

7. HIA supports the use of the Commonwealth's purchasing power including the Commonwealth Building Code to promote genuine industry reform and unravel unproductive and anti-independent contracting pattern bargaining agreements.