

TABLE OF THE GOVERNMENT'S RESPONSE TO THE 212 RECOMMENDATIONS OF THE ROYAL COMMISSION INTO THE BUILDING AND CONSTRUCTION INDUSTRY

	Recommendation	Australian Government response
1	Amendments to <i>Royal Commission Act 1902 (C'wth)</i>	Under consideration by the Australian Government
2	Pattern bargaining prohibited in the new Building and Construction Industry Improvement Act (BCIIA)	The Government's response to this recommendation is reflected in the Building and Construction Industry Improvement Bill (BCIIB).
3	Nominal expiry date (NED) of agreements	The Government's response to this recommendation is reflected in the BCIIB.
4	AIRC not to certify pattern agreements	The Government's response to this recommendation is reflected in the BCIIB.
5	Ballot of employees re representation in agreement negotiation	The Government's response to this recommendation is reflected in the BCIIB.
6	Limit on retrospective pay increases. Legislation to have objective that parties reach agreement before NED of existing agreement.	The Government's response to this recommendation is reflected in the BCIIB.
7	Representation of minority interests in bargaining	The Government's response to this recommendation is reflected in the BCIIB.
8	Genuine bargaining	The Government's response to this recommendation is reflected in the BCIIB.
9	Secret ballots before protected industrial action	The Government's response to this recommendation is reflected in the BCIIB.
10	Ban on unprotected industrial action	The Government's response to this recommendation is reflected in the BCIIB.
11	Limits on protected industrial action	The Government's response to this recommendation is reflected in the BCIIB.
12	No discrimination against contractors on the grounds of agreement type	The Government's response to this recommendation is reflected in the BCIIB.
13	Limits on certification of project agreements	The Government's response to this recommendation is reflected in the BCIIB.
14	Statutory prohibition on non pertaining matters including union bargaining fees for non-members	The Government's response to this recommendation is reflected in the BCIIB.
15	Statutory prohibition on industrial action in pursuit of claims for non pertaining matters	The BCIIB contains a prohibition on industrial action in pursuit of matters that do not pertain to the employment relationship. The recommendation to provide the Federal Court with the power to make declarations about whether or not a matter pertained has not been accepted.
16	Secondary boycotts in support of bargaining proscribed	The Government's response to this recommendation is reflected in the BCIIB.
17	The Commonwealth to foster a new paradigm in the building and construction industry. Work must be performed safely, as well as on budget and on time.	Accepted. This recommendation is being addressed through changes to the National Code.

	Recommendation	Australian Government response
18	Regular occupational health and safety (OHS) conferences for the industry to be organised by National Occupational Health and Safety Commission (NOHSC).	The Government has referred this recommendation to NOHSC for action.
19	The Commonwealth refer submissions, evidence and other material tendered before the Royal Commission that related to occupational health and safety to NOHSC.	Under consideration by the Australian Government.
20	Uniform national OHS standards in the industry a priority under the National Priority Action Plan.	The Government has recommended to the Workplace Relations Ministers Council (WRMC) that NOHSC progress action on developing national OHS standards for the industry.
21	NOHSC reporting to WRMC on OHS in the industry.	The Government has referred this recommendation to NOHSC for action.
22	Tabling NOHSC reports (as per recommendation 21) on OHS in the Parliament.	Under consideration by the Australian Government.
23	Use and development of the comparative performance monitoring project in the industry.	The Government will continue and further develop the CPM project with the support of NOHSC.
24	Investigate appropriateness of UK construction regulations	The Government has referred this recommendation to NOHSC for action.
25	Develop guidance and use of safe design by public and private sectors and investment funds.	The Federal Safety Commissioner (FSC), established by the BCIIIB, will promote the consideration of safe design.
26	OHS to be a core principle of value for money in Commonwealth Procurements Guidelines.	OHS will be a core element of the Building Code and the requirement to implement the Code will be incorporated in the Commonwealth Procurement Guidelines.
27	Obligations of designers on Commonwealth construction in relation to OHS.	Designers will be required to consider OHS when preparing designs for Government construction projects.
28	Public Works Committee to have regard to OHS measures.	Accepted. The Public Works Committee will continue to address OHS issues in its work as appropriate.
29	Establishment of Commonwealth pre-tender OHS qualification scheme.	To be implemented on the establishment of the FSC.
30	Head contractor contractual OHS obligations on Commonwealth funded projects.	To be implemented on the establishment of the FSC.
31	Tied grants to the State and Territories for additional OHS inspectors.	Under consideration by the Australian Government.
32	System of periodic inspection by State inspectors on Commonwealth projects exceeding \$3m, funded by the Commonwealth.	Under consideration by the Australian Government.
33	Establishment of the Office of the Commissioner for Occupational Health and Safety in the Building and Construction Industry (Federal Safety Commissioner).	Accepted. The BCIIIB establishes the FSC.
34	Consequential OHS amendments to the National Code.	The Building Code, enabled by the BCIIIB, will include provisions dealing with OHS.

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35	A new legislative scheme for dealing with OHS disputes in the industry.	The BCIIIB establishes arrangements for dealing with OHS disputes.
36	A privacy code be developed for the building and construction industry in accordance with Part IIIAA of the <i>Privacy Act 1988 (C'wth)</i>	Under consideration by the Australian Government.
37	A provision, modelled on s. 170MN of the <i>Workplace Relations Act 1996 (C'wth)</i> (WR Act), be included in new BCIIA.	Accepted. This recommendation is being addressed through the BCIIIB.
38	Protected action not to be available to support claims outside of the employer/ employee relationship, and a power for the Federal Court to issue a declaration on such matters.	The BCIIIB contains a prohibition on industrial action in pursuit of matters that do not pertain to the employment relationship. The recommendation to provide the Federal Court with the power to make declarations about whether or not a matter pertained has not been accepted.
39	Obligation to notify the Australian Building and Construction Commission (ABCC) of s.127 orders and give powers to the ABCC to vary or enforce such orders.	Accepted. This recommendation is being addressed through the BCIIIB.
40	The National Code and the Implementation Guidelines apply to all projects to which the Commonwealth directly or indirectly provides funds for construction.	Accepted. States and Territories have been advised that the National Code and the Implementation Guidelines will apply to significant new projects which are fully or partly federally funded. The extension of the National Code and the Implementation Guidelines to all construction projects indirectly funded by the Australian Government, subject to agreed funding thresholds, will take effect from 1 January 2004. The Implementation Guidelines will be revised to reflect this broader application.
41	The Commonwealth should agree only to do business with those who comply with the Implementation Guidelines on both publicly and privately funded projects.	This recommendation will not be actioned at this stage.
42	A national system of private sector pre-qualification based initially on self-assessment and self-certification by way of statutory declaration.	This recommendation will not be actioned at this stage.
43	The obligation of all Commonwealth departments and agencies to comply with the National Code and the Implementation Guidelines in all building and construction procurement activities be emphasised by prominently stating an obligation in the substantive section of the Procurement Guidelines and making that obligation clear to all those Commonwealth departments and agencies which are bound by them.	Accepted. States and Territories have been advised that the National Code and the Implementation Guidelines will apply to significant new projects which are fully or partly federally funded, subject to funding thresholds. The Commonwealth Procurement Guidelines will be revised to include the requirement to comply with the National Code and Implementation Guidelines.

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44	Where there is a direct and quantifiable loss to the Commonwealth, contractors or subcontractors, arising from unlawful industrial action in consequence of the insistence by the Commonwealth on compliance with the National Code and Guidelines, the loss should be recovered from whoever caused that loss.	The BCIIB prohibits unlawful industrial action and provides an avenue for recovery of losses.
45	Department of Employment and Workplace Relations (DEWR) to be the lead agency within the Commonwealth in relation to the National Code and the Implementation Guidelines.	Accepted.
46	The Commonwealth reviews its arrangements for the oversight and monitoring of the National Code and its implementation, with a view to devising review mechanisms.	Accepted. DEWR, in consultation with other agencies will review current arrangements for the oversight and monitoring of the National Code and its implementation in line with the criteria identified by the Royal Commission. The FSC will establish its own arrangements for the monitoring and review of OHS-related elements of the National Code and Implementation Guidelines.
47	ABCC have a presence on the revitalised Code Monitoring Group and have the capacity to investigate Code breaches.	The Government's response to this recommendation is reflected in the BCIIB. The Government will give further consideration to ABCC presence on the Code Monitoring Group.
48	DEWR to take a lead role in sponsoring a periodic, cross-portfolio review of the Commonwealth's performance in implementing the National Code.	Accepted. To be implemented through administrative means.
49	Parties bound by the National Code be required to report breaches to the ABCC.	The BCIIB allows the ABCC to request reports on Code compliance.
50	ABCC and DEWR be authorised to publicise non-compliance with the National Code and the Implementation Guidelines by contractors and Commonwealth departments and authorities.	The Government's response to this recommendation is reflected in the BCIIB.
51	The National Code and the Implementation Guidelines be amended to ensure that they are consistent with the terms of BCIIA.	Accepted. This recommendation will be addressed following passage of the BCIIB.
52	The Implementation Guidelines to the National Code to include an obligation to comply with orders and directions of courts and tribunals.	Accepted. The Implementation Guidelines will be revised to reflect these changes.
53	Conduct contrary to the National Code to include bargaining fees on non-union workers, employer obligations to employ a non-working shop steward or delegate and compelling employers to employ an individual nominated by the union.	Accepted. The Implementation Guidelines will be revised to reflect these changes.
54	Right of entry (RoE) to building and construction sites that are subject to the National Code only be in accordance with the statutory right of entry, and an obligation to notify the ABCC if there are breaches of this requirement.	Accepted. The Implementation Guidelines will be revised to reflect these changes.

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55	Provide that industrial action is not protected action if the reason, or one of the reasons, for the action is the existence of a demarcation dispute between unions.	Accepted. This recommendation is being addressed through the BCIIB.
56	AIRC orders about demarcation disputes could be sought by any adversely affected person.	Accepted. This recommendation is being addressed through the BCIIB.
57	Provide that a person who suffers loss by reason of contravention of a demarcation order be entitled to bring proceedings to recover a civil penalty and compensation from the responsible party or parties.	Accepted. This recommendation is being addressed through the BCIIB.
58	ABCC have standing to apply for orders in relation to demarcation disputes, including orders for the imposition of a civil penalty.	Accepted. This recommendation is being addressed through the BCIIB.
59	Specific statement of objects relating to RoE.	Accepted. This recommendation is being addressed through the BCIIB.
60	No RoE permit unless Industrial Registrar is satisfied that union training has been conducted, and 'fit and proper person' assessment made.	Accepted. This recommendation is being addressed through the BCIIB.
61	A range of remedies be available where an organisation falsely certifies that it has provided an officer or employee with training as to the rights and obligations of permit holders. Those remedies include civil penalties and the payment of compensation.	Accepted. This recommendation is being addressed through the BCIIB.
62	AIRC to have a power to revoke or suspend the right of a union to obtain RoE permits, and for all permits issued to be revoked or suspended.	Accepted. This recommendation is being addressed through the BCIIB.
63	Registrars have the power to impose conditions on the granting of permits, including conditions that the permit holder not be permitted to enter specified premises.	Accepted. This recommendation is being addressed through the BCIIB.
64	Entry and inspection provisions in the BCIIA be implemented to the full extent of Commonwealth Constitutional power.	Accepted. This recommendation is being addressed through the BCIIB.
65	The Commonwealth seek to persuade each State to enact mirror legislation.	The Government will progress through WRMC.
66	Persons exercising RoE to give occupier or employer a written Federal notice containing specified details at least 24 hours before entering premises.	The Government's response to this recommendation is reflected in the BCIIB.
67	RoE onto specified premises only in accordance with the Federal notice that was issued.	The Government's response to this recommendation is reflected in the BCIIB.
68	The Federal RoE notice must specify the suspected breach or an objectively reasonable suspicion on which entry is sought. Notice to be provided to ABCC. Civil penalties and possible orders against employers who destroy/conceal relevant documents. AIRC to be able to issue certificates allowing union entry without notice in cases where destruction/concealment suspected.	The Government's response to this recommendation is reflected in the BCIIB.

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69	RoE provisions in building industry awards and agreements to be removed.	The Government's response to this recommendation is reflected in the BCIIIB.
70	ABCC be empowered to investigate complaints concerning RoE and seek revocation of permits.	The Government's response to this recommendation is reflected in the BCIIIB.
71	Legislative directions to Registrars for suspension or revocation of RoE permits, including acting in an 'improper manner'.	The Government's response to this recommendation is reflected in the BCIIIB.
72	Meaning of action in an 'improper manner' when exercising RoE to be defined.	The Government's response to this recommendation is reflected in the BCIIIB.
73	Mandatory minimum periods of suspension of RoE permits to be legislated for.	The Government's response to this recommendation is reflected in the BCIIIB.
74	Right of appeal to AIRC against mandatory minimum periods of suspension.	The Government's response to this recommendation is reflected in the BCIIIB.
75	Revocation of suspension of permits under state law can lead to federal revocation or suspension.	The Government's response to this recommendation is reflected in the BCIIIB.
76	Specific offences relating to right of entry permits be outlined and attract civil penalties.	The Government's response to this recommendation is reflected in the BCIIIB.
77	Increase maximum civil penalties for breach of right of entry permits in the industry.	The Government's response to this recommendation is reflected in the BCIIIB.
78	Include statutory objects relating to freedom of association.	The Government's response to this recommendation is reflected in the BCIIIB.
79	Make clear the conscientious objection certificates do not denigrate from FoA rights.	The Government's response to this recommendation is reflected in the BCIIIB.
80	The regulation of freedom of association (FoA) in the BCIIA apply as broadly as possible having regard to Constitutional limitations.	The Government's response to this recommendation is reflected in the BCIIIB.
81	The proposed FoA provisions extend to conduct intended to adversely affect a constitutional corporation.	The Government's response to this recommendation is reflected in the BCIIIB.
82	The Commonwealth seek to persuade each State to enact complementary FoA provisions of specific application to the building and construction industry in terms which mirror those in the BCIIA. An alternative means of establishing a uniform regulatory environment would be for States to refer relevant powers to the Commonwealth.	The Government supports this proposal, and will progress it through WRMC.
83	FoA provisions in the BCIIA include a definition of 'threat' which specifies that threats may be direct, indirect, express or implied.	The Government's response to this recommendation is reflected in the BCIIIB.
84	Simplified FoA provisions in the BCIIA to apply to all participants in the industry.	The Government's response to this recommendation is reflected in the BCIIIB.
85	FoA provisions in the BCIIA provide that a person who engages in prohibited conduct, and intends to engage in that conduct for a prohibited reason, is taken to have engaged in the conduct for that prohibited reason.	The Government's response to this recommendation is reflected in the BCIIIB.

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86	Extension of the existing prohibition on offering inducements to cease being an officers/member of an industrial association to also prohibit inducements to become or remain an officer/member.	The Government's response to this recommendation is reflected in the BCIIIB.
87	Extend the current prohibitions on industrial associations demanding that employers or contractors take action that is prohibited conduct so that an industrial association would contravene the FoA provisions irrespective of whether or not the employer or contractor is contemplating or even able to take such action.	The Government's response to this recommendation is reflected in the BCIIIB.
88	To include an expanded definition of 'discriminatory action' which includes advising, encouraging or inciting another person to engage in discriminatory action.	The Government's response to this recommendation is reflected in the BCIIIB.
89	BCIIA to include FoA provisions that prohibit industrial associations taking, or threatening to take, industrial action against a person with intent to coerce them to take discriminatory action.	The Government's response to this recommendation is reflected in the BCIIIB.
90	Extend prohibition on industrial associations acting against independent contractors to include persons employed or engaged by independent contractors.	The Government's response to this recommendation is reflected in the BCIIIB.
91	Provision equivalent to s298B(2) and s298V of the WR Act be replicated in the BCIIA.	The Government's response to this recommendation is reflected in the BCIIIB.
92	FoA action can be taken by employees and contractors of persons targeted, not just the persons targeted.	The Government's response to this recommendation is reflected in the BCIIIB.
93	ABCC be empowered to investigate FoA breaches, commence legal proceedings on FoA and fund legal representation of FoA parties.	The Government's response to this recommendation is reflected in the BCIIIB.
94	FoA civil penalties increased from \$10 000 and \$2000 to \$100 000 and \$20 000 respectively.	The Government's response to this recommendation is reflected in the BCIIIB.
95	Union encouragement clauses in industry awards or agreements to be prohibited and all industry awards and agreements to include a standard FoA clause.	The Government's response to this recommendation is reflected in the BCIIIB.
96	Draft legislative FoA provision prepared by the Royal Commission be referred to Office of Parliamentary Counsel.	Accepted. The draft was provided to the Office of Parliamentary Counsel and taken into consideration in drafting the BCIIIB.
97	Prohibition on industry associations requiring employers or contractors to employ or not employ a person, or to perform or not to perform designated duties.	The Government's response to this recommendation is reflected in the BCIIIB.
98	Restriction on AIRC award making powers in relation to allowances.	The Government's response to this recommendation is reflected in the BCIIIB.
99	AIRC unable to specify in awards when ordinary hours, overtime and rostered days off must occur or be taken. AIRC be able to set maximum number of overtime hours in the award.	The Government's response to this recommendation is reflected in the BCIIIB.

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100	The Commonwealth initiate, through the WRMC, the development of a Code of Conduct and Practice for Labour Hire in the building and construction industry	Under consideration by the Australian Government.
101	The Commonwealth encourage the States and Territories to consider the adoption of the provisions contained in s. 16LA of the <i>Pay-Roll Tax Act 1971 (NSW)</i> to address phoenix company activities in the building and construction industry. These provisions make all members of a group jointly liable for the payroll tax debts of other group members.	Although this recommendation specifically concerns tax debts, it in effect imposes liability on related parties and therefore implies a significant change to current corporate law and insolvency law policy. The Government considers that such changes are not warranted at this time.
102	The Commonwealth discuss with the States and Territories appropriate methods of permitting their revenue authorities to share information relevant to the detection of payroll tax evasion in the building and construction industry where this does not already occur.	The Government will form a working party, comprising of the relevant parties, to consider these issues. It is noted, further, that meetings between the Australian Taxation Office and Offices of State Revenue have been held and are continuing.
103	The Commonwealth encourage the States and Territories to continue efforts to harmonise between jurisdictions the key definitions of the payroll tax system, particularly the definition of wages.	The Chief Commissioner of State Revenue, NSW has written to the Commissioner of Taxation on behalf of the Offices of State Revenue seeking to form a consultative forum to discuss this issue. The Government supports the formation of such a forum.
104	The Commonwealth establish guidelines on the separate responsibilities of the major government agencies, particularly the Australian Securities and Investments Commission (ASIC) and the Australian Taxation Office (ATO), in combating fraudulent phoenix company activity in the building and construction industry. The agencies given major responsibilities should be given appropriate resources to combat fraudulent phoenix company activity in the building and construction industry.	The ATO and the ASIC have prepared a draft, updated Memorandum of Understanding between both agencies.
105	The Commonwealth convene a working party consisting of representatives of the ATO, the ASIC and State and Territory revenue authorities, together with the Privacy Commissioner, to address the issue of appropriate amendments to relevant legislation to permit the exchange of information which may assist in the detection of fraudulent phoenix company activity in the building and construction industry.	The Government will form a working party, comprising of the relevant parties, to consider these issues.
106	The measures developed by the ASIC to check all new company officers against the National Personal Insolvency Index and to check that current directors have not been declared bankrupt appear to address this issue and should be implemented without further delay.	ASIC, in conjunction with the Insolvency & Trustee Service of Australia (ITSA), has recently developed measures to have persons listed on ITSA's National Personal Insolvency Index checked against ASIC's database to identify bankrupts appointed as directors. This process is currently in the implementation and testing stage, which ASIC aim to have finalised shortly.
107	ASIC ensure that its procedures identify when companies in the building and construction industry are left without a director following the bankruptcy of a serving director.	The Government will investigate the need for procedural and/or legal reform regarding identification of companies left without directors.

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108	The Commonwealth, after consultation with the ASIC, consider the need for an increase in the maximum penalties provided in the <i>Corporations Act 2001 (C'wth)</i> for offences that may be associated with fraudulent phoenix company activity.	<p>As part of the CLERP 9 – draft legislation (released on 8 October 2003 for public consultation), the Government proposes that the <i>Corporations Act 2001</i> be amended so the maximum disqualification periods of persons from managing corporations for insolvency and non-payment of debts will be increased from 10 to 20 years.</p> <p>Further, other Government proposed amendments allow ASIC to apply to a Court to have an automatic 5 year disqualification order extended by up to a further 15 years.</p> <p>In line with the CLERP 9 issues paper recommendation, the Government proposes to review the penalties associated with phoenix company activity as part of a wider review of all the <i>Corporations Act 2001</i> civil and criminal penalty provisions.</p>
109	The Commonwealth, after consultation with the ASIC, consider the need for an amendment to s206F of the <i>Corporations Act 2001 (C'wth)</i> to provide for the power of disqualification contained therein to be exercisable in appropriate circumstances after a person on one occasion has been an officer of a corporation that has been wound up and been the subject of a liquidator's report under s533(1) of the <i>Corporations Act 2001 (C'wth)</i> .	<p>The Government considers that such a change is not warranted as this recommendation would reduce the current criteria to one corporate collapse, and deliberate phoenix activity typically involves two or more such failures.</p> <p>Currently, ASIC may disqualify a person from managing corporations for up to five years if the person has been an officer of two or more corporations that have been wound up and been the subject of a liquidator's report. No conviction for breach of the law is necessarily required under s.206F of the <i>Corporations Act 2001</i>, although it is a factor.</p>
110	Additional restriction on unions deducting union fees from underpayment recoveries.	The Government's response to this recommendation is reflected in the BCIIIB.
111	The Commonwealth encourage State and Territory governments to amend their unclaimed moneys legislation so that unions are required to treat moneys recovered by them on behalf of workers as a result of wage claims as unclaimed moneys if they have remained unclaimed (in whole or in part) for more than two years.	Under consideration by the Australian Government.
112	All governments, including the Commonwealth, continue to monitor, review and improve their approach to prequalification with a view to improving security of payments within the building and construction industry.	The Government considers that issues surrounding security of payment warrant further examination, taking into account State government initiatives.
113	The Commonwealth require, as a condition of the provision of Commonwealth funding to State or Territory projects, that tenderers be required to promote good payment practices to subcontractors on those projects.	Under consideration by the Australian Government.

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114	The Commonwealth in consultation with industry participants commence a study to assess the implications of a compulsory insurance scheme to secure payments to contractors, subcontractor and suppliers.	Under consideration by the Australian Government.
115	The Commonwealth initiate an education campaign, aimed primarily at small subcontractors, to explain the Commonwealth's security of payments arrangements and improve subcontractors' understanding of the various mechanisms, including State mechanisms, which they can use to protect their interests and their understanding of their rights and obligations under common forms of contract.	Under consideration by the Australian Government.
116	The Commonwealth enact a Building and Construction Industry Security of Payments Act in the form of the Building and Construction Industry Security of Payments Bill 2003.	Some State governments have enacted security of payments legislation to address the concerns of sub-contractors. The Government is still considering whether to proceed with federal security of payments legislation as recommended by the Royal Commission.
117	The detailed submissions made on behalf of the contractor organisations in relation to the Building and Construction Industry Security of Payments Bill 2003 be considered in any debate concerning the development or enactment of that Bill.	The Government is still considering whether to proceed with federal security of payment legislation as recommended by the Royal Commission. The Government will consult with relevant parties, as necessary.
118	The ATO review impact of Superannuation Guarantee (SG) legislation after 12 months in relation to payment of contributions in the building and construction industry.	As outlined in the Regulation Impact Statement covering the introduction of the quarterly SG regime, the review is to take place 3 years after the introduction of the quarterly SG regime and will evaluate the effect of compliance levels in general.
119	The ATO be empowered to notify an employee that it intends to pay moneys held on behalf of that employee to the fund of which that employee is a member unless the employee advises otherwise. (The object of this recommendation will be implemented if the <i>Superannuation Legislation Amendment Bill 2002</i> , currently before the Commonwealth Parliament is enacted.)	From 1 July 2003, the Commissioner of Taxation is able to pay recovered SG shortfall amounts to superannuation accounts without any communication from the employee. <i>Amendments to the Small Superannuation Accounts Act 1995</i> which will allow a transfer of a Superannuation Holding Accounts Reserve balance out by the Commissioner without a request from the individual have been passed by Parliament.
120	The Commonwealth consult with the superannuation industry to ensure that superannuation funds operating in the building and construction industry review their policies and practices so that the provision of information to third parties is consistent with any requirements of confidentiality and privacy attaching to member information.	The Government will form a working party to examine privacy issues.
121	The Commonwealth consult with the superannuation industry to ensure that superannuation funds operating in the building and construction industry review their policies and practices to ensure that only lawful means are used to recover unpaid employer contributions.	The Government will consult with relevant parties.

	Recommendation	Australian Government response
122	The ATO ensure that persons in the building and construction industry making complaints about non-payments of superannuation contributions receive a response stating in reasonable detail the outcome of the complaint.	The Government is currently examining the feasibility of the changes required to facilitate the ATO disclosing, in reasonable detail, the outcome of a complaint.
123	The Commonwealth amend the secrecy or confidentiality provisions in relevant legislation to permit such responses by the ATO.	The Government is currently examining the feasibility of the changes required to facilitate the ATO disclosing, in reasonable detail, the outcome of a complaint.
124	The Commonwealth consider providing increased funding to the ATO for additional resources to be utilised for compliance activities in the building and construction industry.	The Government considers that the ATO has applied appropriate resources to compliance activities within the building and construction industry.
125	The ATO consider dedicating additional resources to audit, monitor and review compliance by the building and construction industry with the Alienation of Personal Services Income (APSI) legislation.	The ATO's compliance program includes a focus on the Alienation of Personal Services Income (APSI) legislation. Tax office compliance officers working within the industry are monitoring the application of the APSI provisions.
126	The ATO review the impact of the Alienation of Personal Services Income legislation for the year ended 30 June 2003 (following 12 months of operation within the building and construction industry) and critically examine the results of the review to determine the effectiveness of the legislation in ensuring contractors in the building and construction industry comply with their taxation obligations.	The Government will undertake a review after the relevant tax returns for the income year ended 30 June 2004 have been lodged (i.e. after 2 full years of operation).
127	Senior ATO staff responsible for the oversight of the Australian Business Number system implement an auditing process of ABNs issued to persons participating in the building and construction industry.	The ATO has a process in place for the review of the entitlement to an ABN. ABN reviews are a continuous process and part of the overall ABN integrity measures.
128	The ATO provide an opportunity for persons and businesses in the building and construction industry holding ABNs, to which they are not entitled, to surrender them without penalty.	Where a person has made a genuine mistake in assessing eligibility for an ABN they can voluntarily apply to the Registrar to have the ABN cancelled.
129	The ATO increase its educative activities within the building and construction industry to endeavour to ensure that industry participants, at all levels, understand their taxation obligations and the purpose of ABNs.	The ATO will review current educative activities in consultation with industry participants to ensure they are adequate.
130	The Commonwealth and the ATO consider, as a matter of priority, the utility for the building and construction industry of an amendment to the <i>Income Tax Assessment Act 1936</i> (Cwth)(the Tax Act) in the form of s16LA of the <i>Payroll Tax Act 1971</i> (NSW) making all the members of a group jointly and severally liable for the taxation debts of other group members.	Insertion of section 16LA type provisions into the <i>Income Tax Assessment Act 1936</i> presents insurmountable difficulties in the administration of the taxation system and, as such, the Government considers that such a change is not warranted.

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131	The Commonwealth and the ATO consider, as a matter of priority, the utility for the building and construction industry of an amendment to s. 222AOB of the Tax Act to remove the right of a director of a phoenix company involved in fraudulent activity to avoid the consequences of a Director's Penalty Notice by placing the company into voluntary administration or into liquidation.	The Government supports this proposal, modified slightly, to avoid certain identified uncertainties.
132	The ATO enhance or establish its links with and, to the greatest degree possible, share information relevant to the detection of tax evasion in the building and construction industry with relevant Commonwealth, State and Territory government agencies.	The ATO has established closer working relationships with a number of State and Federal Agencies, especially concerning the focus on the cash economy and work on the building and construction industry.
133	The Commonwealth, after consultation with the ATO and the ASIC amend relevant legislation to permit Commonwealth agencies to provide, subject to appropriate safeguards, information relevant to the detection of tax evasion in the building and construction industry to State and Territory revenue authorities and workers compensation authorities.	The Government will form a working party, comprising of the relevant parties, to consider these issues.
134	The Commonwealth discuss with the States and Territories the steps that they might take to obtain the amendment of relevant State and Territory legislation to permit State and Territory revenue authorities and workers compensation authorities to provide, subject to appropriate safeguards, the ATO with information relevant to the detection of tax evasion in the building and construction industry.	The Government will form a working party, comprising of the relevant parties, to consider these issues.
135	The ATO establish a Building and Construction Industry Forum on taxation matters to include representatives of unions and employer organisations	The Australian Taxation Office will convene a conference of key industry players in Sydney on 28 November 2003 to discuss issues around the establishment of a forum.
136	The Australian Competition and Consumer Commission (ACCC) investigate whether the industry agreements in the building and construction industry in Victoria, Queensland and Tasmania breach or have breached the <i>Trade Practices Act 1974 (C'wth)</i> .	The ACCC is currently investigating whether industry agreements in the building and construction industry in Victoria, Queensland and Tasmania breach or have breached the <i>Trades Practices Act 1974 (C'th)</i> .
137	DEWR prepare a paper for the consideration of the Australian National Training Authorities (ANTA) Ministerial Council pertaining to impediments to the implementation of Training Packages in the building and construction industry caused by industrial relations licensing requirements across jurisdictions.	A paper addressing the impediments to the implementation of Training Packages in the building and construction industry is being prepared for consideration by the ANTA Ministerial Council.
138	The Commonwealth request an independent audit, preferably overseen by the Australian National Audit Office of past funding arrangements for all building and construction industry related skill centres that have received Commonwealth funding through the ANTA.	The Government, in consultation with ANTA, will seek advice on preferred auditing arrangements.

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139	The Commonwealth, through the ANTA identify a method of determining the value of public funding of training in the industry and balance between public and private funding.	The Government is examining this proposal and will refer it to ANTA for inclusion in current discussions on resourcing mix.
140	The ANTA seek a revised agreement from the States and Territories on consistent terminology for apprentices and trainees in the building and construction industry, following input from industry stakeholders.	Under consideration by the Australian Government.
141	The Commonwealth take steps to facilitate the introduction of wage structures and conditions that encourage the adoption of school-based apprenticeships and traineeships.	The Government supports implementation of this proposal. The National Training Wage Award 2000 and a number of other federal awards do provide for school-based New Apprenticeships. On 13 March 2003, the Australian Government was granted leave by the AIRC to intervene in a case that involves the inclusion of school-based apprenticeship provisions in the <i>National Building and Construction Industry Award 2000</i> . Master Builders Australia, the Australian Chamber of Commerce and Industry and the Australian Government supported the variation of the award to include a model clause that has been by an AIRC Full Bench and included in at least 17 key federal awards. The CFMEU vigorously opposed variation to the award. Final submission were made on the 23 and 24 September 2003 and the AIRC's decision is reserved.
142	Commonwealth implement a policy aimed at increasing the employment of apprentices and trainees working on publicly funded building and construction projects.	Under consideration by the Australian Government.
143	The ABCC, as part of its educative function be empowered to encourage and monitor strategies to increase the representation of women at all levels in the building and construction industry.	Accepted. This proposal will be addressed once the ABCC is established.
144	The BCIIA impose an obligation on employers to notify the ABCC of the substance of any demand or claim to make a payment to an employee in relation to a period during which the employee engaged or engages in industrial action.	The Government's response to this recommendation is reflected in the BCIIIB.
145	The BCIIA require registered organisations, as soon as practicable after the end of each financial year, to lodge with the Industrial Registrar a statement of showing particulars of donations exceeding \$500.	The Government's response to this recommendation is reflected in the BCIIIB.
146	Require statements referred to in R145 to be provided to the ABCC to assist in its function of monitoring compliance with and enforcing the law.	The Government's response to this recommendation is reflected in the BCIIIB.

	Recommendation	Australian Government response
147	BCIIA require clients, head contractors and subcontractors to notify promptly the ABCC of any request or demand that a donation exceeding \$500 be made to, or at the direction of, a registered organisation or an official, employee, delegate or member of a registered organisation.	The Government's response to this recommendation is reflected in the BCIIIB.
148	Substantial civil penalties for failure to report donations as required by legislation.	The Government's response to this recommendation is reflected in the BCIIIB.
149	Maximum civil penalties for failure to disclose or notify strike pay demands or donations be \$100 000 (company) or \$20 000 (individual)	The Government's response to this recommendation is reflected in the BCIIIB.
150	States and Territories consider quarterly workers compensation payment by employers in the industry, and consider principal contractors being liable for payments when not paid by subcontractors.	Under consideration by the Australian Government.
151	The Commonwealth discuss with States and Territories appropriate methods of permitting their workers compensation authorities to share information with revenue authorities relevant to the detection of avoidance of obligations in the building and construction industry.	The Government will form a working party, comprising of the relevant parties, to consider these issues.
152	The Commonwealth consider as a matter of priority giving State and Territory workers compensation authorities' access to relevant information in Business Activity Statements filed with the ATO for the purpose of detection of non-compliance with obligations in the building and construction industry, subject to safeguards against the information being used for a purpose other than for which it was provided.	The Government will form a working party, comprising of the relevant parties, to consider these issues.
153	The Commonwealth encourage the States and Territories to continue efforts together with the Commonwealth to harmonise between jurisdictions the key definitions of the various workers compensation systems, particularly the definition of 'worker'.	The Government supports this recommendation and will be addressed through WRMC. The Government will take into consideration the Productivity Commission's findings from its current inquiry into workers compensation and occupational health and safety and the lack of consistency in definitions of who is a worker.
154	BCIIA provide that the jurisdiction conferred on the Federal Court by s. 127A, s. 127B and s. 127C of the WR Act also be conferred upon the Federal Magistrates' Court in the case of matters arising in or in connection with the building and construction industry.	Accepted. This recommendation is being implemented through the BCIIIB.
155	The Commonwealth through the ABCC and DEWR through the workplace services function, provide a service in connection with the recovery of unpaid entitlements for labour-only subcontractors in the building and construction industry whose annual earned income does not exceed \$50 000.	Under consideration by the Australian Government.

	Recommendation	Australian Government response
156	The Commonwealth encourage the States and Territories, that do not already do so, to provide a service in connection with the recovery of unpaid entitlements by labour-only subcontractors in the building and construction industry whose annual earned income does not exceed \$50 000.	Under consideration by the Australian Government.
157	The Commonwealth, through the ABCC and DEWR through its workplace services function adopt a greater role in the enforcement of employee entitlements in the building and construction industry, including by conducting regular random inspections of employers' time and wages records and publicise the role that they play in the industry.	Accepted. DEWR's Office of Workplace Services (OWS) will include the building industry in its targeted compliance program.
158	The Commonwealth encourage the States and Territories to adopt a greater role, through their respective departments and agencies, in the enforcement of employee entitlements in the building and construction industry, including by conducting regular random inspections of employers' time and wages records and publicise the role that they play in the industry.	Accepted. The Government supports this recommendation, which will be addressed through WRMC.
159	The Commonwealth take the necessary steps so that the ABCC, and DEWR through its workplace services function and those State agencies which provide advisory and compliance services to the Commonwealth in connection with employee entitlements, provide advice and where appropriate representation for all employees in the building and construction industry in respect of genuine claims for unpaid entitlements arising under Commonwealth awards, agreements or industrial instruments.	DEWR has implemented.
160	The Commonwealth encourage State and Territories, where they do not do so already, to provide advice and where appropriate representation for all employees in the building and construction industry in respect of genuine claims for unpaid entitlements owing under State awards, agreements industrial instruments or common law contracts.	Accepted. The Government supports this recommendation, which will be addressed through WRMC. All State jurisdictions are already providing these services in respect of employees covered by State awards and agreements.
161	The BCIIA provide that, for the purposes of matters arising in or in connection with the building and construction industry, the maximum amount of any claim brought under the small claims procedure contained in s179D of the WR Act should be \$25,000.	The Government's response to this recommendation is reflected in the BCIIIB.
162	The BCIIA provide that for the purposes of proceedings brought under Part VIII of the WR Act arising in or in connection with the building and construction industry the definition of court of competent jurisdiction in s. 177A in the WR Act include the Federal Magistrates' Court.	The Government's response to this recommendation is reflected in the BCIIIB.

	Recommendation	Australian Government response
163	The ABCC monitor the availability and efficiency of mechanisms available to employees in the building and construction industry to recover unpaid entitlements and report to the Minister for Employment and Workplace Relations any changes that would improve those recovery mechanisms at the Commonwealth level, or that the Commonwealth might encourage States or Territories to make.	The Government's response to this recommendation is reflected in the BCIIIB.
164	The Commonwealth encourage the WRMC to foster the development of a uniform definition of 'employee' for employee entitlement purposes in the building and construction industry.	Under consideration by the Australian Government.
165	(a) The BCIIA provide that, for the purposes of proceedings for breach of an award, agreement or order in or in connection with the building and construction industry, the maximum penalty provided for in s178(4) and s178(4A) be \$100 000 in the case of body corporate and \$20 000 in any other case. (b) The Commonwealth encourage the States to review the level of penalties in their legislation applicable to the breach of awards or agreements by employers not paying employee entitlements in the building and construction industry.	(a) The Government's response to this recommendation is reflected in the BCIIIB. (b) The Government supports this recommendation, which will be addressed through WRMC.
166	Prohibit employee associations from directing income or assets of that employee association to any person or body where the effect is, or might be, to put that income or those assets beyond the reach of creditors of that employee association.	The Government's response to this recommendation is reflected in the BCIIIB.
167	The Commonwealth encourage the States and Territories to ensure that moneys held or received by long service leave funds should be used only for the purpose of paying employees' entitlements.	Under consideration by the Australian Government.
168	Surpluses in redundancy funds either be credited to the employee members' accounts to be payable only in the event of redundancy or, if funds held are sufficient to meet redundancy obligations, used to reduce any contributions required. The distribution of surpluses in accordance with this recommendation should be a prerequisite for a redundancy fund being prescribed as a fund exempt from fringe benefits tax.	The Government has provided an FBT exemption for certain payments to approved worker entitlement funds from 1 April 2003. For the exemption to apply, the payments into the fund and the fund itself must satisfy certain criteria. The Government considers that the current requirements are appropriate.
169	Legislation be enacted to implement a uniform system of financial reporting, external auditing, actuarial assessment and annual reporting to a prudential authority for redundancy funds. The systems presently applying for superannuation and long service leave funds should be points of reference. Documents produced, in compliance with the legislation, be public documents.	Prudential regulation into the financial system is about promoting systemic stability. Problems associated with a redundancy fund (even a large one) would be highly unlikely to threaten the stability of the financial system. As such, the Government considers that such changes are not warranted.

	Recommendation	Australian Government response
170	Compliance with those requirements be a prerequisite to a redundancy fund being prescribed as a fund exempt from fringe benefits tax.	The Government has provided an FBT exemption for certain payments to approved worker entitlement funds from 1 April 2003. For the exemption to apply, the payments into the fund and the fund itself must satisfy certain criteria. The Government considers that the current requirements are appropriate.
171	The proposed obligation to genuinely bargain in the BCIIA include the requirement that there be full disclosure, in writing, of any direct, or indirect financial benefit that may be derived by any negotiating party to an industrial agreement from any term sought in the enterprise bargaining agreement, such as commissions or other income (see also Recommendation 8)	Accepted. This recommendation is being implemented through the BCIIIB.
172	The reporting guidelines issued by the Industrial Registrar include a requirement that a reporting unit disclose all commissions and other benefits received, directly or indirectly.	Accepted. This recommendation is being implemented through the BCIIIB.
173	The Industrial Registrar prepare an annual report addressing the completeness of the financial and operating reports prepared by reporting units of registered organisations with coverage in the building and construction industry.	The Government's response to this recommendation is reflected in the BCIIIB.
174	The BCIIA provide that the AIRC not certify any industrial agreement or instrument or make an award which restricts the choice of superannuation funds or schemes available to an employee, or require an employer to make contributions on behalf of an employee to a particular superannuation fund or scheme.	The Government's response to this recommendation is reflected in the BCIIIB.
175	The BCIIA provide that a person shall not, by threat of industrial action, coercion or other form of intimidation, persuade or attempt to persuade an employee or prospective employee to nominate a particular superannuation fund or scheme.	The Government's response to this recommendation is reflected in the BCIIIB.
176	The ABCC be authorised to monitor projects where development funds are provided by building and construction industry superannuation, long service leave, redundancy or other industry funds to ensure that conditions are not attached to such loans or equity interests which infringe provisions of the BCIIA or the WR Act .	The Government's response to this recommendation is reflected in the BCIIIB.
177	The Commonwealth Parliament enact a statute of special application to the building and construction industry, provisionally called the BCIIA, containing provisions designed to enforce the rule of law in that industry. The Act would prevail to the extent of any inconsistency over the WR Act.	The Government's response to this recommendation is reflected in the BCIIIB.

	Recommendation	Australian Government response
178	There be established a statutory authority, provisionally called the ABCC, the function of which is to enforce the provisions of the BCIIA, the WR Act and other laws applicable to the building and construction industry.	The Government's response to this recommendation is reflected in the BCIIIB.
179	An ABCC be established and its function, duties and powers be regulated by legislation.	The Government's response to this recommendation is reflected in the BCIIIB.
180	<p>The ABCC have responsibility for the investigation of all forms of unlawful and inappropriate conduct which occur in the building and construction industry unless there is an agency better equipped by way of legislative power, experience, resources and expertise. For example:</p> <p>(i) breaches of OHS standards should be dealt with by Commonwealth and State OHS inspectors and regulatory authorities;</p> <p>(ii) illegal migrant labour issues are best dealt with by the Department of Immigration, Multicultural and Indigenous Affairs; and</p> <p>(iii) breaches of revenue laws are best dealt with by the ATO.</p> <p>(b) If possible, the ABCC monitor the progress of any matter referred and inform complainants as to the results of their complaints.</p>	The Government's response to this recommendation is reflected in the BCIIIB.
181	The BCIIA contain secondary boycott provisions mirroring ss45D to s45E of the <i>Trade Practices Act 1974 (C'wth)</i> but limited in operation to the building and construction industry.	Not accepted.
182	The ABCC share jurisdiction with the ACCC in investigating and taking legal action concerning secondary boycott in the building and construction industry.	Not accepted. The ACCC will retain exclusive jurisdiction to investigate ss45D to 45E of the <i>Trade Practices Act 1974</i> .
183	<p>The ABCC:</p> <p>(a) be established as a body corporate by statute;</p> <p>(b) be constituted by a chairman and a small number of other statutory office holders, each of whom must have appropriate experience, stature and independence, and each of whom is appointed for a fixed but renewable term. Only the chairman and members should be able to exercise coercive powers. They should be able to do so individually;</p> <p>(c) have regional offices, initially, at least, in Sydney, Melbourne, Brisbane and Perth; and</p> <p>(d) employ suitably qualified lawyers, investigators, financial analysts, industry experts and support staff.</p>	The Government's response to this recommendation is reflected in the BCIIIB.

	Recommendation	Australian Government response
184	The BCIIA provide that the ABCC be given powers equivalent to those conferred upon the ACCC by s. 155 and s. 156 of the <i>Trade Practices Act 1974 (C'wth)</i> but with the proviso that such a provision contain a use immunity provision in the form of s. 6DD of the RC Act.	The Government's response to this recommendation is reflected in the BCIIIB.
185	Powers of the ABCC be identified in legislation.	The Government's response to this recommendation is reflected in the BCIIIB.
186	The BCIIA define the building and construction industry.	The Government's response to this recommendation is reflected in the BCIIIB.
187	For the purpose of restraining contraventions of the BCIIA, the WR Act, other Commonwealth legislation relevant to the building and construction industry and the National Code of Practice for the Construction Industry and the Commonwealth Implementation Guidelines, the ABCC: (a) be given equivalent powers to the ACCC under s. 80 of the TPA including powers to obtain interim, interlocutory and permanent injunctions, in all cases without being required to give an undertaking as to damages; and (b) have power to bring proceedings for contempt to enforce injunctions or orders which have not been obeyed.	The Government's response to this recommendation is reflected in the BCIIIB.
188	The ABCC have attached to it Australian Federal Police officers and officers of the Commonwealth Director of Public Prosecutions.	The Government's response to this recommendation is reflected in the BCIIIB. The BCIIIB will allow for secondments.
189	The ABCC able to continue to investigate if it uncovers a breach of Commonwealth criminal law in exercise of its general investigating powers.	Not accepted. The ABCC will refer matters to appropriate agencies.
190	The BCIIA provide that a function of the ABCC is to monitor the National Code of Practice for the Construction Industry and the Commonwealth Implementation Guidelines.	The Government's response to this recommendation is reflected in the BCIIIB.
191	The ABCC engage in a range of educative functions, including formal discussions with industry participants, information sessions for interested persons, and distribution of literature about its role, and the law applicable to the building and construction industry.	The Government's response to this recommendation is reflected in the BCIIIB.

	Recommendation	Australian Government response
192	<p>The ABCC have the statutory capacity:</p> <p>(a) to satisfy itself, and complainants to it, that a complaint or an issue which has come to its attention has been satisfactorily dealt with; and</p> <p>(b) in the absence of a satisfactory response to a request for information from other Government departments and agencies (both Commonwealth and State), including information about the fate of a complaint or referral to that other body, to report the matter to the Minister responsible for the relevant department or agency.</p>	Not accepted. The relationship between agencies will be dealt with administratively.
193	<p>The ABCC's role in relation to civil litigation involving actions for damages be limited to:</p> <p>(a) investigations;</p> <p>(b) providing legal advice to aggrieved persons concerning their right to bring legal action; and</p> <p>(c) bringing appropriate proceedings for the imposition of pecuniary penalties.</p>	The ABCC's role is set out in the BCIIIB.
194	The Commonwealth encourage the States to second State police officers to the ABCC.	Accepted. Provision for this to occur is provided for in the BCIIIB.
195	Administrative arrangements be established between the ABCC and the State Directors of Public Prosecutions whereby offences can be referred by the ABCC to the State Directors for prosecution.	To be addressed when the ABCC is established.
196	The ABCC report annually to the responsible Minister, such reports to be tabled in each House of the Parliament. Such reports shall include information on the number and types of matters investigated, the amount of employee entitlements recovered from recalcitrant employers, and the employers aggregate cost of unlawful industrial action in the industry.	The Government's response to this recommendation is reflected in the BCIIIB.
197	The ABCC be subject to the jurisdiction of the Commonwealth Ombudsman.	The Government's response to this recommendation is reflected in the BCIIIB.
198	The BCIIA provide that s166A of the WR Act not apply to the building and construction industry.	The Government's response to this recommendation is reflected in the BCIIIB.
199	The BCIIA contain a new statutory norm concerning industrial action.	The Government's response to this recommendation is reflected in the BCIIIB.
200	<p>The BCIIA contain a provision to the following effect:</p> <p>A person arguing that action was due to an imminent concern about their health and safety has the onus of proving this was the case.</p>	The Government's response to this recommendation is reflected in the BCIIIB.

	Recommendation	Australian Government response
201	<p>Jurisdiction for actions brought in relation to the new statutory norm be conferred upon:</p> <p>(a) the Federal Court;</p> <p>(b) the Federal Magistrates Court;</p> <p>(c) the courts of the States within the limits of their several jurisdictions, whether those limits are as to locality, subject-matter or otherwise; and</p> <p>(d) subject to the Constitution, the several courts of the Territories.</p>	The Government's response to this recommendation is reflected in the BCIIIB.
202	<p>The BCIIA contain an injunction provision empowering the Federal Court or other court of competent jurisdiction to grant interim, interlocutory and final injunctions to restrain threatened or ongoing unlawful industrial action.</p>	The Government's response to this recommendation is reflected in the BCIIIB.
203	<p>Proceedings to recover a pecuniary penalty from persons who breach the new statutory norm by engaging in unlawful industrial action be able to be brought by a person who suffers loss or by the ABCC.</p>	The Government's response to this recommendation is reflected in the BCIIIB.
204	<p>The maximum penalty for a breach of the statutory norm be \$100 000 for a body corporate and \$20 000 for other persons and the penalties be paid into the Consolidated Revenue Fund.</p>	The Government's response to this recommendation is reflected in the BCIIIB.
205	<p>The BCIIA contain, for all relevant purposes, a deeming provision modelled on s. 298B of the WR Act.</p>	The Government's response to this recommendation is reflected in the BCIIIB.
206	<p>The BCIIA contain a provision to the following effect:</p> <p>A reference to a person involved in a contravention of [the statutory norm which defines unlawful industrial action] shall be read as a reference to a person who:</p> <p>(a) has aided, abetted, counselled or procured the contravention;</p> <p>(b) has induced, whether by threats or promises or otherwise, the contravention;</p> <p>(c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or</p> <p>(d) has conspired with others to effect the contravention.</p>	The Government's response to this recommendation is reflected in the BCIIIB.

	Recommendation	Australian Government response
207	<p>The BCIIA contain a provision to the following effect:</p> <p>A person who suffers loss and damage by conduct of another person that was done in contravention of the [statutory norm] may recover the amount of the loss or damage from that other person or from any person involved in the contravention.</p>	<p>The Government's response to this recommendation is reflected in the BCIIIB.</p>
208	<p>The BCIIA provide that:</p> <p>(a) the ABCC be notified within 24 hours of threatened or actual industrial action, such notification to be made by the affected person; and</p> <p>(b) within 14 days of unlawful industrial action occurring, any person who has suffered loss must lodge with the ABCC a statement of the quantum of loss or damage incurred or likely to be incurred as a result of the action, with supporting documentation.</p>	<p>The Government's response to this recommendation is reflected in the BCIIIB.</p>
209	<p>The BCIIA provide:</p> <p>(a) for the establishment of a panel of expert assessors with appropriate experience whose role will be to assess the victim's loss quickly, justly and cheaply;</p> <p>(b) appropriate powers for the assessors;</p> <p>(c) that if an assessor accepts the accuracy of the victim's assessment, he or she will certify to that effect. If the assessor does not agree then he or she will determine an alternative figure. Short reasons should be provided with the certificate;</p> <p>(d) that an assessor's loss certificate be prima facie evidence of the quantum of the loss in any proceedings where it has been determined that the statutory proscription has been breached by identified persons. The certificate would not prevent a respondent from challenging the quantum, but if it did not do so, it would be open to the Court exercising jurisdiction to act on the certificate.</p>	<p>The Government's response to this recommendation is reflected in the BCIIIB.</p>
210	<p>The BCIIA provide that, in proceedings brought under the Act, costs should normally follow the event.</p>	<p>The Government's response to this recommendation is reflected in the BCIIIB.</p>

	Recommendation	Australian Government response
211	<p>The BCIIA provide that where a judgment for damages against a registered organisation is obtained but is not satisfied in accordance with its terms, then:</p> <p>(a) either the person entitled to the benefit of the judgment or the ABCC may file with the Industrial Registrar of the Australian Industrial Relations Commission the certificate of judgment, together with evidence that the judgment has not been satisfied; and</p> <p>(b) on receipt of the certificate of judgment and evidence that the judgment has not been satisfied, the Registrar is bound immediately to issue a certificate cancelling the registration of the registered organisation, such certificate to take effect on the expiration of 14 days, unless the judgment debt is paid, set aside or stayed within that 14 day period.</p> <p>The above provisions should be subject to the capacity of the court which has given judgment to grant a stay of execution of the judgment to permit an appeal against the judgment, providing that a timely application is made.</p>	<p>The Government's response to this recommendation is reflected in the BCIIIB.</p>
212	<p>The BCIIA:</p> <p>(a) require that an official of a registered organisation, or an employee or agent of such an organisation who exercises functions for or on behalf of the organisation in relation to the WR Act and or the BCIIA, be a fit and proper person to hold such office or exercise such functions, in relation to the building and construction industry;</p> <p>(b) provide that the Federal Court or any other Court of competent jurisdiction have jurisdiction to disqualify the official from holding such office, or the agent or employee from exercising such functions, if they disobey either the criminal or civil law (including the provisions of the WR Act or the BCIIA) or act in any manner which the Court considers demonstrates a lack of fitness and propriety. Failure to adhere to a dispute resolution clause in an award or enterprise bargaining agreement should amount to evidence of lack of fitness or propriety; and</p> <p>(c) provide that the ABCC have standing to bring such disqualification proceedings.</p>	<p>The Government's response to this recommendation is reflected in the BCIIIB.</p>