

Senate Standing Committee on Education Employment and Workplace Relations

**QUESTIONS ON NOTICE
Additional Estimates 2010-2011**

Agency - Australian Building and Construction Commission

DEEWR Question No.EW0712_11

Senator Abetz provided in writing.

Question

INVESTIGATIONS

Please provide a breakdown of the current potential contraventions under investigation by category e.g. unlawful industrial action, freedom of association, coercion, intimidation, right of entry, sham contracting?

Answer

The Office of the Australian Building and Construction Commissioner has provided the following response:

The potential contraventions under current investigation can be classified into ten categories. One investigation may include multiple contraventions. The table below details the potential contraventions as of 23 February 2011.

Contravention	Number	%
1. Industrial Action		
s38/39 BCIIA Unlawful Industrial Action	40	
s417FWA Unlawful Industrial Action	21	
s346FWA Adverse Action regarding Industrial Activity	5	
s340FWA Adverse action regarding Workplace Rights	1	
Total	67	43%
2. Coercion		
s43BCIIA Coercion	2	
s44BCIIA Coercion	3	
s348FWA Coercion to Engage in Industrial Activity	2	
s343FWA Coercion	5	
Total	12	8%
3. Right of Entry		
s494FWA Permit Required For Ohs Entry	1	
s495FWA Giving Notice of Entry	2	

s500FWA Permit Holder Hindering Or Obstructing	2	
s507FWA Revocation of Permit	1	
s508FWA Misuse of Rights	1	
Total	7	5%
4. Freedom of Association		
s354FWA Discrimination regarding Particular Instrument	3	
s351FWA Discrimination	1	
s45BCIIA Discrimination	3	
Total	7	5%
5. Strike Pay		
s42BCIIA Pay Strike Pay	2	
s42BCIIA Receive Strike Pay	1	
s475FWA Accepting or Seeking Strike Pay for Unlawful Industrial Action	2	
s474FWA Pay Strike Pay for Unprotected Action	1	
s473FWA Accepting or Seeking Strike Pay	1	
Total	7	5%
7. FWA		
s345FWA Misrepresentations	1	
s350 FWA Inducements re. Membership Action	1	
s676FWA Intimidation	1	
s418FWAFWA Orders	1	
Total	4	3%
8. Pay and Entitlement		
s.50 Breach of Enterprise Agreement	3	
s.441(1) Breach National Employment Standards	7	
s.45FWA Breach of Modern Award	6	
s.323 (1) FWA Breach of Frequency of Payments	9	
s.323(3) FWA Breach of Method of Payment	4	
Total	29	19%
9. Independent Contractors		
s357FWA Misrepresenting Employment as ICA	9	
s358FWA Dismissing to Engage as IC	1	
s359 Misrepresentation to Engage IC	5	
Independent Contractors	3	
Total	18	12%

10. Taxation		
Taxation Legislation All Breaches	3	
Total	3	2%
11. State IR Legislations		
State IR Legislation Other Breaches	1	
Total	1	1%
TOTAL	155	