

EXPLANATORY STATEMENT

(Issued by the authority of the Fair Work Ombudsman)

Direction to Inspectors

Background

By reason of subsection 700(1) of the *Fair Work Act 2009* (**FW Act**), the Fair Work Ombudsman is empowered to appoint Fair Work Inspectors.

Under subsection 704(3) of the FW Act, Fair Work Inspectors, in the performance of their functions or the exercise of their powers as Fair Work Inspectors, are required to comply with directions made by the Fair Work Ombudsman.

On 1 October 2014, the Fair Work Ombudsman (Acting) made a Direction under subsection 704(1) in the form of Legislative Instrument F2014L01374 which replaced a previous direction in the form of Legislative Instrument F2009L03487.

Consultation

No consultation was undertaken pursuant to section 17 of the *Legislative Instruments Act 2003* because these Directions are unlikely to have a direct, or substantial indirect, effect on business and are unlikely to restrict competition. The Directions are technical in nature and do not substantially alter existing arrangements.

Notes on clauses

Clause 1

This clause specifies when the Directions will commence. The Directions will commence on the day that they are registered on the Federal Register of Legislative Instruments.

Clause 2

This clause provides that the Direction applies to persons appointed as Fair Work Inspectors under subsection 700(1) of the FW Act, in relation to the performance of functions or the exercise of powers as an inspector.

Clause 3

This clause provides a definition for commencing litigation in the Directions.

Clause 4

This clause requires Fair Work Inspectors, before commencing or intervening in litigation to:

- a. comply with any guidance note(s) of the Office of the Fair Work Ombudsman concerning commencing litigation; and
- b. obtain the consent of the Fair Work Ombudsman or the consent of an authorised member of staff of the Office of the Fair Work Ombudsman.