



Fact Sheet

Compliance Measures under the Australian Government Building and Construction WHS Accreditation Scheme

The Australian Government Building and Construction WHS Accreditation Scheme (the Scheme) operates such that, subject to certain thresholds, only head contractors (or ‘persons’) who are accredited under the Scheme can enter into contracts for building work that is funded directly or indirectly by the Australian Government. The Scheme was established under the Building and Construction Industry Improvement Act 2005, now named the *Fair Work (Building Industry) Act 2012 (FWBI Act)*.

The Federal Safety Commissioner (FSC) has responsibility for promoting and implementing the Scheme.

The *Fair Work (Building Industry – Accreditation Scheme) Regulations 2005* provide the FSC with the power to accredit head contractors who meet the Scheme requirements.

All accredited persons must:

- have appropriate WHS policies and procedures and safe work practices;
- agree to post-accreditation audits and the prescribed audit process;
- comply with reporting requirements; and
- comply with conditions of accreditation, including additional conditions that the FSC may impose.

Accredited companies are required to comply with the Scheme requirements and conditions to maintain accreditation. The FSC has the power to issue compliance measures against an accredited company who fails to comply with these requirements and conditions.

The FSC has adopted a collaborative approach to ensure compliance with the Scheme. This means that the FSC will undertake active partnerships with Australian Government stakeholders, states and territories, key industry representatives and head contractors.

The collaborative approach is reflected in the structure of the compliance measures.

A two-tiered compliance system has been developed for the Scheme.

Tier one Actions	Regulation 15(1) further conditions
Tier two Sanctions	Regulation 17(1)(a) further conditions Suspension under regulation 17(1)(b) Revocation under regulation 17(1)(c) and 17(2)

Tier one actions may be issued where no breach of the accreditation conditions has occurred but there are safety issues of a less serious nature arising out of an audit, or when the FSC has general concerns over an accredited company’s WHS performance.

The further condition may be in the form of (but not limited to):

- increased audits;
- an improvement plan;
- a requirement to provide specific documentation;
- self audits;
- policy and safety awareness program; and/or
- safety commitment statement.

Non-compliance with a tier one action constitutes a breach of an accreditation condition.

Sanctions may be imposed when the accredited person breaches an accreditation condition.

Further conditions can be any condition issued to the accredited company to improve their WHS performance on building or construction project

Suspension means that the accredited company cannot enter into building or construction contracts for which accreditation is required. Suspension remains in place until the FSC is satisfied that the breach has been remedied.

Revocation means that the company will be removed from the accreditation register and cannot undertake Australian Government building work which falls within the scope of the Scheme, until and unless the company successfully re-applies for accreditation.

The FSC can take the following factors into account to determine whether a breach has occurred:

- there is a demonstrable failure of the accredited company's WHS management system;
- the company's actions pose an immediate threat to life;
- the accredited company's overall WHS performance is below the standard required for an accredited person;
- the company fails to provide notification of a Scheme project; and
- the willingness of the accredited company to cooperate with the FSC to remedy the breach.

If an accredited company does not agree with a decision by the FSC to implement a compliance measure, that company may request the FSC to review that decision.

Further information on appealing a decision is available in the fact sheet '*How to appeal a decision of the Federal Safety Commissioner*' and at www.fsc.gov.au.

More information on compliance measures is available in the Compliance Policy Manual which is available at www.fsc.gov.au.

For further information you can:

- visit the FSC website at **fsc.gov.au**
- contact the FSC Assist Line on **1800 652 500**
- contact the OFSC via email at **ofsc@employment.gov.au**

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