

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2005-2006 ADDITIONAL SENATE ESTIMATES HEARING
16 FEBRUARY 2006
EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO**

QUESTIONS ON NOTICE

**OFFICE OF THE AUSTRALIAN BUILDING AND CONSTRUCTION
COMMISSIONER**

Outcome: Workplace Relations laws are enforced in building and construction industry workplaces

Question Number: W825-06

Question:

Senator Marshall asked at *Hansard* page 95:

Can an employee be terminated by their employer for not attending work due to a summons by the ABCC?

Answer:

- The Freedom of Association (FoA) provisions in the *Workplace Relations Act 1996*, prohibit an employee from being dismissed for a prohibited reason. Under section 793(1)(k), a prohibited reason includes where the employee “has participated in, proposes to participate in or has at any time proposed to participate in a proceeding under an industrial law.”
- The ABCC considers that attending an examination would constitute participating in a proceeding under an industrial law.
- If an employee was dismissed as a result of attending an examination, the ABCC could initiate an action under the FoA provisions on behalf of the employee.