

# ARE YOU AN INDEPENDENT CONTRACTOR, FREELANCER OR SELF-EMPLOYED?

**Your right to choose to work for yourself is under threat!**

There are over one million self-employed Australians who work as independent contractors. They may be set up as a company, trust or sole trader with the ABN. People do this because they enjoy the freedom and flexibility to be their own boss.

The Albanese Government is threatening to take this away because, in their eyes, if you are not a permanent employee, you are in insecure work. We know that is not the case.

New laws currently being debated in Parliament known as the Same Job, Same Pay or Closing Loopholes Bill will make it harder for businesses to engage independent contractors or, worse, see independent contractors lose their business and be treated as employees

## Introducing a definition of employment

The current law is clear and simple. It respects the right for work to be done by someone under an independent contractor arrangement for a client. As long as both parties freely agree and standards are met, independent contracting is legitimate and lawful. People doing work this way are self-employed and not an employee.

However, the Government is wanting to insert a formal definition of 'employment' into the law that will undermine the rights for self-employed people to work as independent contractors. This definition says that it doesn't matter what a self-employed person or their client have freely agreed or what they want, and instead points to other things that are unclear and could change over time.

It will no longer be sufficient to simply look to the terms of a contract. This means that there will be self-employed who may have to give up their business or be treated as an employee of their client.

The Government is estimating this will see at least 1 in 5 independent contractors reclassified

as employees. That's over a 250,000 people!

For businesses that engage independent contractors, this makes it incredibly risky for them to continue to do so, as the agreement made between both parties at the start of the project is no longer sufficient.

Some might say this is to stop people who want to be employees but are being forced to become an independent contractor in order to get work. This is not the case. There are already existing laws in place to protect people who might find themselves in this situation. These are known as sham contracting laws.

This new definition will impact all sectors of the economy from building and construction, IT, care and support, manufacturing and the arts.

You may have heard in the media there are changes proposed that affect independent contractors who work on a digital platform like rideshare or food delivery drivers. That is a different area of the legislation.



## Why is this bad for building and construction?

Building and construction has the largest share of independent contractors or self-employed tradies in the country. There are over 260,000 of them, representing half of all the businesses in the industry.

These new laws do not understand how building work is performed in practice.

A residential construction project could have 15 – 20 independent contractors or subcontractors work on the site at any one time.

They don't all work at the same time and are called in when they are needed. For example, a concreter for when it's time to pour the foundations, a tiler for when it's time to finish the bathroom, and an electrician once the frame is up and it's time to connect the switches.

These specialist tradies must all follow the timings and rules set by the head builder. It makes sure that all tradies on site are kept safe and the project is delivered in the most efficient way.

Under these new laws, these self-employed tradies could be treated as employees because they don't have autonomy over their work or when it is performed.

If the builder is forced to do this, it will drive up the cost of building a home.

We have heard from builders on the ground these changes are not practical or feasible. Businesses simply cannot afford to have a whole lot of full-time tradies on their books, especially when there is no work for them during chunks of time.



*The loss of independent contractors **would make it impossible for us to continue our business.** We are not large enough to employ people full time. It would increase our cost to the point where we would become uncompetitive.*

– Clyde Hulme, CH&L Builders

In the middle of a housing crisis and a time when we need to attract almost 500,000 new entrants to the building and construction industry, why are we making it harder for people to work?



*I am a small independent contractor. I choose to be and have been successful for over 25 years. My team mates are also contractors. We work together successfully and do a really good job at renovating and restoring some of Ballarat's beautiful period homes. **We love it and we especially love the freedom we have to work the hours we wish and be responsible for our own destiny. Please leave it that way.***

– Dan Whitmore, Renovations and Restorations Pty Ltd

Independent contractors deserve to maintain their rights to:

- set their own rates and conditions
- utilise tax arrangements that suit them and their families
- choose when to take a break or leave
- buy the tools and equipment they need

**Want to help us stop these changes? visit: [www.defendyourrights.com.au](http://www.defendyourrights.com.au)**

**to email your local member of parliament or senator to oppose these changes because everybody deserves the right to be their own boss.**