



LIFE | WORK

Slide the bar to get the perfect balance.

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Free and Public Material

Members-only Material

2 million self-employed
Their interests are our interest

It's your contract: Take control of it!

We say you should control your contract. Here's how. Check for clauses that are:



Red for Stop

Amber for Caution

Green for Go

You can also make use of our Contract Template to design your contract.

Matrixes and template are available [here](#) (ICA members only). Not a member? Join [here](#) for as little as \$55.

You and Your Contract



Charter of Contractual Fairness.

Debate: Suck it up?

[Contract problems?](#)

Fixing business disputes

There's lots happening for new dispute resolution services for small business people.

Federal
The Federal government has initiated a review.
[ICA submission](#).
Dispute resolution [discussion paper](#).
Point-form [summary of discussion paper](#)

Small Business Commissioners
The Small Business Commissioner (SBC) model is being rolled out across Australia.
[Explanation of developments](#)
[Explanation of South Australia](#)
[Explanation of the politics](#)

Case Study: Guy's case
[Business Spectator article](#)
[Counterpoint interview](#)

Watching: Self-employed entrepreneurs

[Our discussion on enabling innovation](#)

Watching: The coordinated attack against self-employed in Australia

[Fiddling the tax system against self-employed people](#)

[Sham contracting campaign](#)

Watching: New Technology

[Opportunities and new threats for self-employed people](#)

Sham Contracts

ABCC report on sham contracting An issue to be addressed but not a major problem ICA comment on the report

3 December 2011

The Australian Building and Construction Commissioner released the [Report](#) of his self-initiated inquiry into Sham Contracting on 29 November 2011. The Report found that 'sham contracting' is not rife in the building industry (as claimed by the construction union, the CFMEU). He also rejected proposals for radical action such as changes to legislation, opting instead for a range of measures to improve existing education and administrative arrangements.

The Report's Recommendations represent a very substantial retreat from the positions canvassed in the Commissioner's Discussion Paper issued last year, and are a vindication of arguments that 'sham contracting' is real, needs to be addressed (as it is being) but is not a major problem.

The Report also fails to provide any justification for the concerted attacks on contracting and small business by the ACTU, construction unions and some politicians and academics over the last 12 months. In particular, the inquiry found that "the conclusions reached by the CFMEU are not reliable" (Par 4.223).

In summary, the Recommendations are that the ABCC:

- **develop** a Fair Work Contractor Statement D containing information on the common law test for employment and the consequences of being engaged as a contractor rather than an employee D which would be voluntarily provided to independent contractors before engagement;
- **boost** compliance by using tools available under the Fair Work Act, such as compliance notices and enforceable undertakings, using research findings to conduct targeted compliance campaigns and review the results of the audit of the construction and finishing trades, which is underway now;
- **develop** a sham contracting "guidance note" for the industry, available to be handed out by those engaging contractors;
- **investigate further** an MBA proposal for a voluntary 'negative licensing' system for independent contractors, backed by a solicitor's certificate;
- **reject** proposals for developing a labour hire code of conduct, a concept of joint employment, or a new legal category of "dependent contractors";
- **conduct** research to develop an "accurate picture" of sham contracting;

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3 Govt Handbooks on Independent Contractors

ICA says "essential reading"

- [Govt guides on starting/running a business](#).
- [Contracts made simple](#).
- [The essential guide](#).



Virtual Business Providers
[Click here](#)

Contractor or Employee?

[Access the ATO's new 'decision tool'](#) (for tax/super only)



Compare with ICA's (for general law):
[Simple check list](#)
[Swinging pendulum test](#)

Got 'Grey Hair'?

Forget about trying to get a job. Learn to package your 'grey hair' skills as a SELF EMPLOYED consultant. Next 'High Income' Consulting Course STARTS SOON

Entity solutions

Save time. Save money.
Complete risk mitigation.
Your one stop engagement and management solution

Register Your Business Name

Charles Dickens on debt and misery



'Income 20 pounds; expenditure 21 pounds; result misery!'

Our Campaigning

We need unfair contract protections
 Stop sham contracts
 Stop phoenix companies
 Defend contractor tax laws

Watching: Your Superannuation

Abbott says ATO to administer Super
 High Court challenge to super
 Super Review and Govt response.

Watching: Work Safety Laws Harmonised laws have big problems.



Watching Global Economies

Watching Global Economies
 Watching the USA
 Watching China
 Central Banks on Debt
 Watching Housing Bubbles
 Ken Phillips on the debt equation

Watching: Government Contracts

Military Aircraft (JSF)
 National Broadband Network

Watching: Fair Work Act

We're watching

What the AIG wants

Bureaucracy can be so confusing!



The perils of designing a traffic sign

Handy ATO Links

Filing your tax return:
 A member's problem
 ATO advice

Handy ATO tax links:

ATO debt collection: overview
 ATO debt collection: 'Products'
 Guide to managing your debt
 Not-for-profit tax guide
 Lodge your BAS online
 PAYG withholding tax tables
 New tax form: Taxpayer Statement of Account
 New tax form: Notice of Assessment
 Mortgage scams
 Small business support
 Payment arrangement calculator
 Want an ATO visit?
 ATO Help for small business
 ABN eligibility rules
 Self managing your tax debt

Handy Super links:

ATO SMSF compliance
 ATO free seminars.
 SMSF Admin advice
 New Super clearing house
 Tax on SMSF loans

CONTRACTING

- **convene** a roundtable after the research has been completed to consider the effectiveness of legislative amendments to eliminate sham contracting;
- **undertake** education activities to boost understanding among employees and employers of the appropriate use of ABNs; and
- **review** its National Code activities to ensure it devotes enough resources to identifying sham contracting activity.

Many of the Commissioner's recommendations, including for further research by the ABCC, have doubtful relevance if the ABCC is to be abolished, as proposed by the Gillard Government in legislation currently before the Senate. This is coupled with the fact that this additional research will more likely than not require extra funding for the agency, something that is far from guaranteed given the Government's current budgetary climate.

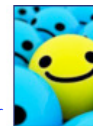
What is important is what the Report does not recommend. This includes:

- No assertion is made in the Report that sham contracting is 'rife' or even 'widespread'. The ABCC accepts that present information does not permit such a conclusion;
- CFMEU claims made in its 'Race to the Bottom' publication, are said in the Report to be "unreliable" and its proposals were rejected;
- There is no discussion about, and no findings are made, as to APSI tax definitions, or tax avoidance by contractors;
- Academic proposals for new definitions of employment are comprehensively rejected;
- The current legal definition in the Fair Work Act is accepted as the correct approach to the issue, and proposed wider definitions of sham contractors as workers who on moral or social grounds "should be treated as employees" are expressly rejected by the ABCC;
- Union and academic attacks on the labour hire industry are dismissed as unjustified.

All in all, the Report contains very little of the exaggerated and inaccurate material that was being circulated in late 2010 and earlier in 2011. It's a useful public rebuttal to 'hysterical' agitation about "sham contracting" and "precarious employment".

Here's how to [register your business name nationally](#).

Business getting you down?
 There's help!
 Beyond Blue for you.



Handy Business Links:

[Melbourne Hotels](#)



Govt Contracting Tips

Managing liability clauses.

[Contracting guidelines](#)
[Model clause](#)
[ICA summary](#)

Scam Alert!

A list of [scam companies](#) from the Australian business regulator.

Big Links List to Government and Other Organizations

Looking for a government or organization? Check [this link](#).

Small Business Commissioners

In place: [Victoria](#)

Plans to introduce:
[WA](#)
[SA](#)
[NSW](#)

UK National Freelancers Day

[Great small business videos](#)

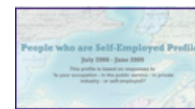
Modern Awards

Here's a [list](#) of most of them. ICA Members only.

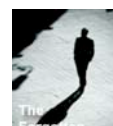


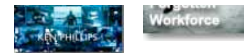
Publications

People who are Self-Employed Profile



© Roy Morgan Research





[The Workforce Superhighway \[PDF\]](#)
Bob Day

ICA Small Business Videos




'Business in Crisis'
[Click here](#)



'The Early Years'
[Click here](#)



'Research & Marketing'
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