

**A STRONGER ECONOMY
A STRONGER AUSTRALIA**



**THE HOWARD
GOVERNMENT
ELECTION 2004 POLICY**

**PROTECTING AND SUPPORTING
INDEPENDENT CONTRACTORS**



INDEPENDENT CONTRACTORS

TABLE OF CONTENTS

PART 1	PROTECTING AND SUPPORTING INDEPENDENT CONTRACTORS	2
PART 2	ESTABLISH AN INDEPENDENT CONTRACTORS ACT	3
(i)	Legislate to Support the Status of Independent Contractors	3
(ii)	Legislate to Protect Independent Contractors....	4

PART 1 PROTECTING AND SUPPORTING INDEPENDENT CONTRACTORS

More than a million Australians work as independent contractors and sole traders, epitomising the spirit of entrepreneurship that is fundamental to Australia's prosperity.

Independent contractors might be owner-drivers, sole traders, building sub-contractors or cleaners – to name just a few. They work in areas as diverse as housing construction, home-based businesses, engineering, farming, transport and information technology.

They opt for the flexibility of hours, the freedom to move easily between workplaces and, frequently, the higher rates of pay. They choose to be independent contractors, not because there are no other options, but because they can work and achieve more than they could within the rigid structure of full-time permanent employment and industrial relations restrictions.

This flexibility of working arrangements offers hundreds of thousands of Australian workers freedom of choice and, as such, is a vitally important feature of the Australian economy.

Yet independent contracting is under attack from unions, Labor State governments and Labor Party policy. Labor seeks to give unions the right to frustrate the use of contractors and to drag contractors back into a rigid workplace relations system.

The Coalition Government is determined to protect the rights of independent contractors. We will not allow union officials to strip these enterprising Australians of the right to choose how they live and work.

A re-elected Coalition Government will not permit unions, industrial tribunals or State Labor governments to attack the freedoms of independent contractors.

PART 2 ESTABLISH AN INDEPENDENT CONTRACTORS ACT

In 1996 the Coalition Government introduced the *Workplace Relations Act 1996*. This represented a shift away from Australia's previous top-down, centralist approach to regulating workplaces by providing a framework in which workplace agreements can be negotiated, collectively or individually, at the workplace level.

Employers and employees covered by the *Workplace Relations Act 1996* enjoy the freedom to tailor their workplace arrangements to meet their particular circumstances. This approach has contributed to higher economic growth, higher productivity in Australian workplaces and higher real incomes for Australian workers.

Now, as a result of the ever-increasing contribution that independent contractors make to our growing economy, the Coalition recognises the need to establish separate legislation which will enshrine and protect the status of independent contractors.

Accordingly, a re-elected Coalition Government will establish an Independent Contractors Act.

(i) *Legislate to Support the Status of Independent Contractors*

The Independent Contractors Act will legislate to protect and enhance the freedom to contract and to encourage independent contracting as a wholly legitimate form of work.

While courts have developed tests to uncover "sham" independent contractor arrangements, there is a view in the community that these tests have gone too far and that, too frequently, the honest intentions of parties are disregarded and overturned.

A party's freedom to contract must be upheld and there must be certainty in commercial relationships. The Independent Contractors Act will seek to ensure that these principles are enshrined and protected.

(ii)

Legislate to Protect Independent Contractors

Labor resents the fact that independent contractors are flourishing in the Australian marketplace, free from union control.

A number of State Labor governments have legislated to insert specific provisions into their industrial relations legislation which enable unions, on application to the State industrial relations tribunals, to treat independent contractors as employees.

State Labor governments are also conducting “reviews” of contractor and labour hire practices. This is part of a concerted union campaign to undermine such practices. It is expected that all of these “reviews” will result in further attempts to treat contractors as employees.

Federal Labor’s National Platform for Industrial Relations states that a Latham Labor government would expand the definition of employee to “include those in employment type relationships”.

The rights of individual contractors are under serious threat from these proposals.

A re-elected Coalition Government will introduce the Independent Contractors Act to prevent the workplace relations system from being used to undermine the status of independent contractors.

In particular, the Independent Contractors Act will prevent unions from seeking orders from the Australian Industrial Relations Commission which would impose limits, constraints or barriers on the freedom to contract, the freedom to operate as a genuine independent contractor, or the freedom to engage work through labour hire arrangements.