

ALP policies on independent contractors

During 2007 Independent Contractors of Australia Inc. had extensive liaison with the ALP on its independent contractor policies. ICA published the ALP's statements to them and their commentary. Below is a consolidation of the key ALP statements and ICA's comments. The ALP have assured ICA that these statements are the firm policies that it took to the November 24 election and ICA assume they will be the policies implemented during this term of its government.

5th July 2007

ALP policy statement passed at ALP National Conference

The following clauses are from the ALP policy statement relating to Independent Contractors, passed at ALP National Conference April 2007, with ICA's comments underneath.

134 Labor supports reward for effort, risk-taking and entrepreneurship.

ICA strongly supports this.

135 Labor supports the choice of Australians to pursue a career as independent contractors and small business operators. Australia's independent contractors and small businesses are vital contributors to national prosperity and job creation.

ICA strongly supports this.

136 Labor recognises, as recognised by the ILO, that genuine independent contractors are governed by commercial law, while employees are governed by employment law.

ICA sees this as a significant and welcome breakthrough for Australian independent contractors. Finally, the reality of the legal framework in which independent contractors work is recognized as a policy principle by the ALP. ICA is keen to see this policy principle fully reflected in the specifics of ALP policy and that it is not subverted or reversed in the policy detail.

137 Labor opposes sham contractor arrangements, where employees are re-classified as contractors by employers to avoid obligations such as superannuation guarantee payments, workers' compensation coverage and the payment of annual leave and sick leave entitlements. Labor will ensure that, as far as practicable, ambiguity and uncertainty regarding the nature of the contractual relationship is minimised.

ICA strongly supports this.

138 Labor supports the principles behind the alienation of personal services income regime and will apply these principles with consistency and transparency.

ICA strongly supports this.

139 Labor recognises that TCF workers and owner-drivers are among the most vulnerable groups of workers and accordingly commits itself to the maintenance and enhancement of existing protections for these workers.

ICA strongly rejects this. On ICA's investigations and experiences, many of the existing alleged 'protections' for TCF workers and owner-drivers in fact disadvantage TCF workers and owner-drivers. TCF workers and owner-drivers, like all independent contractors, are vulnerable to bad commercial practices and bad laws.

- TCF: Because of the nature of the clothing contract manufacturing chain, the processes imposed by Federal and State laws deliver price control to unions. These processes have escalated the cost of contract transactions and depressed the price paid to TCF workers. Further, the complexity of the processes has encouraged the closure of the local industry directly costing the jobs of some of the most vulnerable NESB, women in our community.
- Owner-drivers: The NSW owner-driver laws facilitate massive intimidation of owner-drivers by unions. The NSW laws directly dictate prices paid under commercial contracts, thereby suppressing the pay to NSW owner-drivers. The Victorian owner-driver laws are largely beneficial to owner-drivers because they impose processes for ensuring integrity in commercial contracts. ICA supports these aspects of the Victorian laws. Regrettably, the Victorian laws also allow for processes that impose price controls under commercial contracts for owner-drivers. In the long term, this will suppress owner-drivers' remuneration.

ICA supports law that strengthens the integrity of commercial transactions and the operation of free markets. Any form of price-fixing, however disguised by sham language, distorts commercial transactions and free markets, and disadvantages independent contractors.

142 Labor supports competition in the business sector. Where market failure creates anti-competitive conditions Labor will legislate to promote competition. In particular, Labor will legislate effective protections against monopolistic pricing, collusive behaviour, abuse of market power, predatory pricing and unconscionable conduct. Labor recognises that collective bargaining can benefit the public by allowing small businesses and independent contractors to address imbalances in bargaining power with larger businesses. Labor believes small businesses and independent contractors should have choice as to who represents them in collective bargaining.

ICA supports this with the proviso that the way in which 'choice' is allowed under law does not force independent contractors into a collective arrangement or compel them to use a union or any other prescribed body as a bargaining agent.

147 Labor recognises the imperative of small businesses and independent contractors to have access to low-cost, timely and informal dispute resolution procedures in respect of their employment and commercial disputes and will ensure that such avenues are available. Dispute resolution procedures will be able to deal with claims of unfair contracts.

ICA strongly supports this and encourages the ALP to move strongly in the direction of developing and promoting small claims-type processes for independent contractors as already exist in some States.