

Unions say Bill is bad news

Simon Hayes

MAY 02, 2006 UNIONS have labelled proposed independent contractor legislation worse than Work Choices, warning that the federal Government risks creating an "underclass" of IT contractors who will undercut the pay of salaried staff. With an Independent Contractors Bill aimed at stripping state industrial commissions of their so-called deeming powers _ which allow them to treat some independent contractors as employees _ due to be introduced into Parliament later this year, unions are warning IT workers of a "race to the bottom".

"This is going to have a bigger impact than Work Choices," Association of Professional Engineers Scientists and Managers Australia national legal officer Joseph Kelly said. "The Bill creates an entire different class of workers, and the normal rules do not apply to these people.

"This legislation has the potential to create an underclass of workers who come in and are paid less, and undercut those workers who are represented collectively."

The association represents 25,000 workers, including IT employees, in many major corporates and IT services companies.

Work Choices overrides a decision by the Australian Industrial Relations Commission last year that industrial agreements could include a restriction on the proportion of contractors used, and a requirement that contractors be offered permanent employment under certain circumstances.

The unions warn that it means employees and contractors could clash, particularly over pay negotiations. If workers demanded a pay rise, employers could threaten to bring in more contractors to take up the slack.

The unions accept that contractors have a place in the workforce, but maintain they should be used only to plug gaps not able to be filled by permanent employees.

"We understand that there's a role for contractors in providing special skills and topping up when there's high demand," he said.

"Our concern is that we need a properly conceived framework to monitor these people, rather than treating them just as commercial transactions.

"These workers will be denied access to the Workplace Relations Act, industrial instruments such as awards, occupational health and safety legislation, long service leave legislation, superannuation and protection from unfair contracts.

"What little protection is currently afforded to independent contractors will be swept away."

The Independent Contract and Recruitment Association said the technology sector relied heavily on contract labour, with 55 per cent of the workforce contracting at any time; a figure growing by an average 8 per cent yearly.

The recruiters' association is a lobby group representing some of the sector's largest recruitment companies.

Contractors are doing more than just filling the gaps created by unexpected demand, increasingly working side by side with employees.

Contractors are commonly used in software development and infrastructure support and maintenance.

Ancillary workers such as call centre operators are less likely to be contractors because they work under the immediate direction of their employer. A contractor must, by definition, have control over the way the work they are paid to do is performed.

"This is a fairly simple piece of legislation that protects independent contractors in common law rather than employment law," recruiters' association executive director Norman Lacey said.

"This protects them from state legislation that attempts to include contractors in their industrial relations systems," he said.

Many contractors were young people attracted to the industry by high pay and flexibility, Mr Lacey said.

The recruiters want the Bill to include provision of a low-cost court, possibly the Federal Magistrates' Court, to resolve contract disputes.

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