



Australian Government
**Department of Employment and
Workplace Relations**

National Office

GPO Box 9879 CANBERRA ACT 2601

Dr Anna Dacre
Committee Secretary
Standing Committee on Employment, Workplace Relations
and Workforce Participation
House of Representatives
Parliament House
CANBERRA ACT 2600

Dear Dr Dacre

**DEWR submission to the House of Representatives Standing Committee
on Employment, Workplace Relations and Workforce Participation Inquiry
into Independent Contracting and Labour Hire**

I provide, by way of this letter and attachment, the Department of Employment and Workplace Relations' submission to the Committee's Inquiry into Independent Contracting and Labour Hire.

The Department is currently undertaking a consultation process with stakeholders on similar issues, with a view to implementing the Government's 2004 election policies on independent contractors. These policies include creating an Independent Contractors Act to protect the status of independent contractors and encourage independent contracting as a wholly legitimate form of work. The Minister for Employment and Workplace Relations has undertaken to consult with stakeholders before the content of the legislation is settled.

To this end, the Department has prepared the attached departmental discussion paper: 'Proposals for Legislative Reforms in Independent Contracting and Labour Hire Arrangements'. The discussion paper canvasses some options for reform to prevent unreasonable workplace regulation of independent contractors, including the removal of constraints and barriers on the freedom to contract. It also addresses labour hire employment and contracting arrangements, an issue closely related to barriers faced by independent contractors.

The main areas of reform the paper addresses are:

- reviewing definitional issues regarding ‘independent contractor’, ‘employer’ and ‘employee’;
- preventing federal awards and agreements from containing clauses which restrict the use of independent contractors or labour hire workers, or which seek to put conditions on their engagement (for example, requiring that they have the same conditions as employees);
- protecting independent contracting arrangements (including ‘Odco’ arrangements) as commercial arrangements, not employment arrangements, under the law;
- addressing inappropriate State and Territory legislation which ‘deems’ independent contractors to be employees for the purpose of workplace relations regulation, including by overriding that legislation where appropriate;
- ensuring that ‘sham’ arrangements are not legitimised; and
- preventing State and Territory legislation from impacting negatively on labour hire and contracting arrangements.

The paper addresses all of the Committee’s terms of reference, providing material on the status and range of independent contracting and labour hire arrangements and their role in the modern economy, as well as addressing reform options for national uniformity in this area and strategies to ensure independent contracting arrangements are legitimate. The paper also gives an indication of the Government’s current thinking on these issues, which, of course will be reviewed in light of the submissions the Department receives in response to the paper and in light of the outcomes of the Committee’s deliberations.

Thank you for considering this submission. I understand the Department will be called to give evidence before the Committee on 12 May 2005, by which time we may be in a position to inform the Committee about the outcomes of our consultation process. If you have any queries, please contact Kate Waterhouse on 61217887 or David Denney on 61217912.

Yours sincerely

James Smythe
Chief Counsel
Workplace Relations Legal Group

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