

*Practical Tips • Tax • Work Safety • News • Contracts • Superannuation  
Definitions • Research • Lobbying • Planning • Legal • International*



## BACKGROUND

**Independent Contractors Australia (ICA)** was established in 1999, with the aim to create a powerful and well-respected national association for independent contractors. ICA is a not-for-profit association incorporated under the *Associations Incorporation Act* (1981) of Victoria.

ICA was formed with the objective of protecting the rights of independent contractors in Australia to be treated fairly, justly and equitably and to be allowed to work free from intimidation or harassment from bureaucrats, the Australian Taxation Office, political parties, unions and others.

ICA is governed by a Board under the rules established by its Articles of Association.

ICA strives for excellence in representing independent contractors' interests and in providing them with the information they need to thrive in the Australian workforce. ICA took a lead role in the development and passage of the *Independent Contractors Act 2006* through the Commonwealth Parliament. ICA will continue to work with all political parties and industry to enshrine the right of all Australians to have a choice between employment and contracting.

ICA is the foremost body in Australia established to champion the profile, status and well-being of people choosing to work as independent contractors and to protect their rights.

### MISSION

- *to present to Government and the public a clear and positive view of independent contractors;*
- *to provide an ideal legal and professional framework in which independent contractors can thrive and feel legally secure;*
- *to support members by creating an environment that allows them to grow within the economy;*
- *to provide members with access to relevant services, including education, literature and news updates.*

## OBJECTIVES

The objectives for which ICA has been established are:

1. to uphold and defend the right of all eligible Australians to engage in the labour market as free and independent contractors, and to be fully and unambiguously recognised by governments, tax officials and regulators as independent contractors;
2. to engage in lobbying and public debate to ensure that the Australian community is constantly reminded that freedom is indivisible, and that if Australians' rights to engage freely in the labour market are impaired or denied, then the rights of all Australians to live in freedom will be at risk;
3. to take advantage of opportunities to entrench within the common law the distinctions which the courts, over many years, have made between employment and contract in labour market relationships;
4. to do all such other things as the association or the committee shall think instrumental or conducive to the attainment of the aforesaid objects.

## FROM THE PRESIDENT



*Welcome to Independent Contractors Australia.*

*The defining element of independent contractors is that they work through commercial contracts instead of employment contracts, thus they are "in business".*

*ICA is a unique organisation in so far as it seeks to represent the interests of both independent contractors and the businesses that engage them. ICA is not interested in a "them and us" mentality. In business we all have one need in common – fairness. We all have responsibilities and obligations to each other.*

*The purpose of this brochure is to introduce the 'new' ICA. We are moving into an era in which we will continue our active representation of independent contractors' aspirations, but do so in conjunction with member organisations engaging contractors, while activating a wide range of value-added services to our members. In this I am supported by a highly experienced and talented Board, all of whom either work as independent contractors or engage them.*

*The Board is committed to adding to our extensive range of services for Members over the next 12 months.*

*I invite you now to join us in our mission. Become a member by completing the online Application Form at [www.contractworld.com.au](http://www.contractworld.com.au).*

*If you would like to have more information before you decide, please go to our website.*

***Norman Lacy, President ICA***

## ACHIEVING OBJECTIVES

*ICA seeks to achieve its objectives by:*

- **Education.** To assist independent contractors to understand their status and rights under the law. This is a primary role of the website.
- **Networking.** To assist independent contractors across all industry sectors to network on issues of common interest through conferences and other programs. Attacks against independent contractors in one sector must be seen and defended as attacks on all independent contractors.
- **Lobbying/Advocacy.** To undertake public and private lobbying to ensure that legislation and regulation treats independent contractors with justice and equity. The chief lobbying power comes from the ability of ICA to network, as proven in its 2001 effort in relation to the *Personal Services Income (Tax)* legislation, in 2003–6 at the International Labour Organisation and in 2005–6 with the *Independent Contractors' Act*.
- **Research.** During 20010–11 and beyond, ICA will be actively engaged in research to expand understandings of and about independent contractors, working on 'fair' contracts' with corporations and government, and developing international agendas to further independent contractors' rights.

## BENEFITS OF MEMBERSHIP

By joining *ICA*, you get the backing of a highly respected national association that can help you to obtain the best support for your business.

Benefits include:

- professional information in key areas of business including legal, taxation, OH&S and other areas;
  - powerful networks with business affiliates and associates for Members' benefit;
  - support for your right to work freely and independently as an independent contractor;
  - lobbying of Government for the fair treatment of independent contractors;
  - ongoing education for members on topics relevant to independent contractors;
  - business issues templates and other business 'tools'.
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## MEMBERSHIP CATEGORIES

### Contractor Full Membership

- Available to all Independent Contractors;
  - Access to all services, including professional information, full website access, updates, attendance at seminars, reduced rates for education programmes;
  - Up to 4 representatives on Board.
- FEE: \$100.00 pa or \$200.00 for 3 years

### Contractor Affiliate Membership

- Available to anyone;
  - Access to all website areas.
- FEE: \$50 pa or \$100 for 3 years

### Company Full Membership

- Available to Companies who engage independent contractors;
  - Access to all services, including professional information, full website access, updates, attendance at seminars, reduced rates for education programmes;
  - Up to 3 representatives on Board.
- FEE: Based on employee and/or contractor numbers: 1-50 = \$1,000, 51-100 = \$2,000, 101-200 = \$4,000, 201+ = \$6,000 pa

### Company Affiliate Membership

- Available to Companies who provide products and services to independent contractors;
  - Access to all services, including professional information, full website access, updates, attendance at seminars, reduced rates for education programmes.
- FEE: \$4,000 pa

### Industry Membership

- Available to Industry Associations whose members engage independent contractors;
  - Access to all services, including professional information, full website access, updates, attendance at seminars, reduced rates for education programmes;
  - Up to 3 representatives on Board.
- FEE: Based on number of member companies: 1-25 = \$1,000, 26-50 = \$2,000, 51-100 = \$4,000, 101-200 = \$8,000, 201+ = \$12,000 pa

Prices are exclusive of GST

Applicants for *Industry* and *Company* membership should contact ICA's office.

Application Forms for *Contractor* membership are available online at [www.contractworld.com.au](http://www.contractworld.com.au).

## ICA BOARD

<b>THE HON. NORMAN LACY</b>	<b>President</b> (Former Minister for Educational Services and the Arts, <i>Government of Victoria</i> ; Former Executive Director <i>ITCRA</i> )
<b>MATTHEW FRANCESCHINI</b>	<b>Vice President</b> (Chief Executive Officer, <i>Entity Solutions</i> )
<b>MICHAEL MOORE</b>	<b>Treasurer</b> (Retired entrepreneur of agricultural businesses)
<b>STEVE HARRISON</b>	(Managing Director, <i>Back Office Biz</i> P/L; Former National Secretary, <i>AWU</i> )
<b>GLENN HUTCHINSON</b>	(General Manager, <i>Raykon Group</i> WA)
<b>JUDY MAYNARD</b>	(Managing Director, <i>Odco Contracting Systems Australia</i> P/L)
<b>DR TUI MCKEOWN</b>	(Lecturer, Faculty of Business and Economics, <i>Monash University</i> )
<b>PAULA NADAS</b>	(Public policy analyst and consultant)
<b>LYN PROWSE-BISHOP</b>	(Owner/Manager, <i>Executive Stress Office Support</i> ; Founder of the <i>Australian Virtual Business Network</i> )
<b>PETER STRONG</b>	(Principal, <i>Alternative Bookshop</i> , ACT; Executive Director <i>COSBOA</i> )
<b>JAMES TAYLOR</b>	(Managing Director, <i>Fleets</i> )
<b>KEN PHILLIPS</b>	<b>Executive Director</b> (Vice-Chairman, <i>COSBOA</i> )



## INDEPENDENT CONTRACTORS ACT 2006

In 2006 the Australian government created the first (probably in the world) *Independent Contractors Act*. It is unique in protecting the status of independent contractors in the economy and society. *ICA* was a principal advocate for, and lobbyist on, the Act.

The legislation gives new protections to independent contractors that have not been available before.

Specifically, it contains provisions for the:

- review of unfair contracts,
- prevention of sham contracts,
- voiding of State laws that deem independent contractors to be employees for industrial relations purposes.

The Act provides a new benchmark for the fair treatment of independent contractors which *ICA* is pursuing.

## ICA CHARTER OF CONTRACTUAL FAIRNESS

Increasingly, the Australian community judges corporations and government instrumentalities on the basis of whether they act fairly. The issue of 'contractual fairness' is a key factor in this judgment, whether the commercial transaction is with consumers or small business service providers.

Contractual fairness is about achieving balance in contracts. The terms that make contracts unfair for consumers are the same as those that make contracts unfair for businesses - particularly self-employed people - when they deal with large organisations, whether they are companies or government instrumentalities.

Unfair contract terms are those that disadvantage one party to a contract, but that are not reasonably necessary for the protection of the legitimate interests of the other.

During 2009, ICA began campaigning to have contractual fairness enshrined in the law and in commercial practice. To achieve this it drew up a **Charter of Contractual Fairness** (available on [www.contractworld.com.au](http://www.contractworld.com.au)) and began promoting it to large corporations and lobbying governments to have its principles adopted as the basis of their engagement of small business service providers including independent contractors and the self-employed.

The elements of ICA's **Charter of Contractual Fairness** seek to create protections from unfair contracts in all business to business commercial relationships. In March 2010, the *Trade Practices Act* was amended with support from all political parties to create these same protections from unfair contracts for consumers. The goal of the **Charter of Contractual Fairness** is to achieve these protections for small business people, the self-employed and independent contractors.

ICA believes that corporations and Government instrumentalities should aspire to having fairness in their contracts. The extent to which corporate ethics are 'real' can be identified, firstly, in the contracts large corporations and government instrumentalities use in their commercial relationships and secondly, in how their managers and staff apply these contracts.

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## INTRODUCING KEN PHILLIPS, EXECUTIVE DIRECTOR, ICA

**Ken Phillips** is an independent contractor operating as his own business, as a researcher, commentator, lobbyist and strategist on labour and workplace reform issues. He has been Executive Director of ICA since 2000.



Amongst his many activities, Ken is a published authority on independent contractor issues, directs research on industrial relations versus trade practices and other issues, and promotes the management concept of 'markets in the firm'. He also consults to businesses on reform strategies. Through his articles in the *Australian Financial Review*, *Business Spectator*, *The Age*, other newspapers and think-tank and academic journals, he is known for approaching labour issues from outside normal perspectives.

Ken was ICA's representative at the 2003 and 2006 *International Labour Organisation* debates on the *Scope of Employment Relationship*. This culminated in a 2006 ILO Recommendation protecting the legitimacy of independent contractors and the commercial contract and led in Australia to the Independent Contractors Act. He is ICA's principal lobbyist and advocate.

He is the author of *Independence and the Death of Employment*.



# DECLARATION OF INDEPENDENT CONTRACTORS' RIGHTS

## ***Who are independent contractors?***

Independent contractors are people who have rejected the bondage of employment. They are not employees and do not want to be employees. They want to be free to work flexibly and efficiently in their own time, and in ways that best suit them, to achieve the required results.

Independent contractors, under law, have equal rights with their contracting parties to control their working contracts. There are no employers. Power is determined by the marketplace, and the balance will swing over time from one side to another in tune with supply and demand. The state does not need to assume power it should not have.

## ***What do independent contractors want?***

Independent contractors have basic rights that include:

- The right to have their status as workers under 'contracts for services' determined only by the authority of independent courts ruling within historically established legal principles.
- The right not to have their legal status violated by bureaucrats, regulators and parties with vested interests in ways that force independent contractors to become employees.
- The right to business tax and legal treatment as applies to all entities working under contracts for services, and not to be artificially forced into employee-type tax and legal treatment.

Within these rights, independent contractors accept that they work within business regulatory regimes that involve obligations to treat their contract parties with fairness and justice within the law. In turn, those same business regulatory and legal regimes must provide independent contractors with key, effective protections which deliver fairness and justice under the law in a way not available to employees.

Independent contractors:

- Reject the claim that "employment" regulation is the only form of protection available to workers who supply their labour.
- Deliberately seek out contractor status, in the full knowledge that it involves business risks (not taken by employees), in the confident expectation that they will achieve reward and success in their own business (not available to employees).

## ***Freedom***

Workers must not be denied the right to choose freely between the two working options of being an independent contractor or an employee.

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## ICA WEBSITE

The ICA website at [www.contractworld.com.au](http://www.contractworld.com.au) has been established for ICA Members and the public at large. Members have their own secured section specifically designed for 'Members Only' access. The ICA website is an extremely useful resource with a wide range of information suitable for every aspect of being an independent contractor or engaging an independent contractor.

The website covers relevant Australian legislative developments affecting independent contractors; Information on tax, identifying independent contractors, fair/unfair contracts; ICA's advocacy and lobbying campaigns; International issues, including economic developments; research, statistics and more.



## **INDEPENDENT CONTRACTORS OF AUSTRALIA**

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