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Report confirms sham contracting rife across Australian industries, say unions

Workplace protections must be strengthened to ensure secure jobs in the wake of a Fair Work Ombudsman's report that sham contracting is rife across a range of industries, say unions.

ACTU President Ged Kearney said the Fair Work Ombudsman's report confirmed longstanding concerns that employers are avoiding their obligations, including pay and entitlements, by disguising a straightforward employment relationship as a contracting arrangement.

The office of the Fair Work Ombudsman Nicholas Wilson has today released a report based on an investigations of employers in the cleaning, hair and beauty and call centre industries, which found one-in-five engage in sham contracting, a third of them knowingly. The Ombudsman has already prosecuted a number of employers and is considering further legal action in other cases.

The report found the issue is not limited to these industries, confirming union reports that it is also rife in construction, transport and other sectors.

"Sham contracting is one of the dirty secrets of the modern Australian workplace," Ms Kearney said. "By hiring someone as a contractor, employers manage to avoid their legal responsibilities including pay rates and other entitlements.

"Hiring an employee as a contractor shifts the risk onto the worker and makes it impossible for them to plan for their future because they have little or no job security, slim chance of securing a mortgage and no holiday or sick pay.

"We have cleaners, call centre workers, hairdressers and other workers forced to register an Australian Business Number and be treated as a contractor so their regular employer can avoid giving them decent pay and conditions, and entitlements like superannuation.

"We know that 40% of workers in Australia are engaged as casual, on short-term contracts, in labour hire, or as contractors in work that is unpredictable, uncertain, and that undermines what ordinary Australians need to feel secure in their lives and their communities.

"Insecure work makes it tough on working families, who have less certain incomes, rising fixed household costs, and the shouldering of more and more household debt, and are trying to plan for their future. Secure jobs are getting harder and harder to find and this is not about improving efficiency or productivity - it is about shifting risks and costs onto workers, to increase profits.

Ms Kearney said unions were aware the problem had become so widespread that there were cases where people had to register for an ABN to get work dropping leaflets in a letterbox.

"Stronger enforcement of existing laws and tougher legislation and penalties are necessary to prevent employers setting up sham contract arrangements, either knowingly or unknowingly.

"The definition of sham contracting needs to be tightened too, to make sure it captures cases where the employer claims it did not deliberately break the law," Ms Kearney said.

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