



**INDEPENDENT
INQUIRY into
Insecure Work**

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Independent Inquiry into Insecure Work in Australia

Written submission cover sheet

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CONSTRUCTION FORESTRY MINING AND ENERGY UNION NEW SOUTH WALES BRANCH



To the Independent Inquiry into Insecure Work in Australia

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The CFMEU, Construction & General Division, NSW Branch has historically campaigned to enhance the rights and job security of building workers. Sham subcontracting and casual employment practices are endemic. More and more building workers are casual, with very limited employment rights or conditions of employment.

One of the biggest drivers of insecurity in the building and construction industry is the prevalence of Sham subcontracting. We attach a copy of the CFMEU's submission, *Race to the Bottom Sham Subcontracting* that sets out the nature and extent of the problem as well as the human and monetary cost.

The vast majority of building workers are paid an hourly or daily rate of pay with no entitlement to traditional employment benefits such as holiday pay, sick leave and payment for public holidays. Large sections of the workforce are from a non-English speaking background, who have no, or very limited understanding, of their rights. A traditional "European" workforce is being rapidly replaced by an underclass of Asian and Arabic workers. Companies that engage these workers on lower rates of pay are increasingly undercutting contractors, who are more compliant with traditional patterns of permanent employment.

Workers, including unskilled labourers and even apprentices, are advised they are "contract workers". The majority of these workers, who are not incorporated, have an entitlement to superannuation and workers' compensation coverage, but are overwhelmingly denied these entitlements. Attached as Appendix 1 are two examples of workers being underpaid. The union can provide other examples should the inquiry require more information.

The CFMEU negotiates each year hundreds of enterprise bargaining agreements (EBAs), which provide for good rates of pay and conditions of employment. The EBAs regulate the wages and conditions for thousands of building workers. Attached, as Appendix 2, is a copy of our standard EBA. You will note the following clauses which seek to provide greater security for workers:

- Clause 12.3 Redundancy
- Clause 12.4 Superannuation
- Clause 12.5 Top-Up Workers Compensation Insurance / Income Protection
- Clause 12.6 Workers Compensation
- Clause 12.7 Security of Entitlements under this Agreement
- Clause 13. TERMS OF EMPLOYMENT
- Clause 16. INCLEMENT WEATHER
- Clause 17. TRAINING AND RELATED MATTERS
- Clause 23. CASUAL LABOUR

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- Clause 24. EMPLOYMENT SECURITY, STAFFING, RECRUITMENT AND REPLACEMENT LABOUR
- Clause 25. COMPLIANCE
- Clause 26. DISPUTE RESOLUTION PROCEDURE
- Clause 27. OCCUPATIONAL HEALTH AND SAFETY
- Clause 30. LONG SERVICE LEAVE
- Clause 32. TRADE UNION RIGHTS AND REPRESENTATION

Through the CFMEU EBA strategy, the union seeks to negotiate with employers to take out accident and sickness insurance. The CFMEU in NSW has 15,000 workers covered by U-PLUS top-up workers compensation and 24 hour accident insurance. U-PLUS is supplied by Coverforce and other workers are covered by other Coverforce schemes, e.g., Pay Cover and Civil Cover. These insurance arrangements are a way in which casual/ABN workers can have some protections in the event of sickness and/or accident at or away from work. More information in respect of these schemes can be obtained from www.coverforce.com

Unfortunately, the majority of building workers are not covered by these agreements and have virtually no rights or entitlements. This is devastating for a building worker. Not only have they no entitlement to sick leave, holiday pay, bereavement leave or payment for public holidays, but if it rains, for example for a period of 3 to 4 days, they receive no pay. Workers engaged by labour hire companies are often not sure if there is work available for them the next day, being employed on weekly hire. Often builders close their sites for 2 weeks at Christmas. A casual/ABN worker is simply without any wages for this 2 week shutdown. The prevalence of a more informal arrangement also affects the bargaining power of workers who want to bargain for better conditions and companies that may wish to do so, because they are put in an economic and competitive disadvantage in winning work in a cut throat subcontracting industry where labour costs can be slashed by entering into sham subcontracting and avoiding their lawful obligations.

This is further compounded by the ease by which companies in the building industry can close and re-open as fresh legal entities leaving unpaid liabilities behind. We again commend the CFMEU submission that discusses in great detail the means by which companies avoid their obligations and which further undermines the security of employment of workers already having to deal with the boom and bust cycle that is construction.

Enterprise bargaining and the negotiation of insurance benefits cannot adequately address the crisis of insecure employment. Government action to eradicate sham subcontracting, plus enhancing the rights of casual workers is of vital importance.

Yours faithfully,



Rita Mallia
State President