

Non-competes and other restraints: understanding the impacts on jobs, business and productivity

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# Non-competes and other restraints

These restraints – intended to protect the confidential information and relationships of businesses – may be limiting the movement and job opportunities of workers

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| **Non-compete clauses:** prevent workers from joining a competitor or starting a new business in competition with their current employers for a period of time.  **Non-solicitation clauses:** prevent workers from soliciting former customers and co-workers.  **Non-disclosure clauses:** prevent workers from disclosing confidential information relating to their employment.  **No-poaching agreements:** are between businesses who agree not to hire each other’s staff.  **Wage-fixing agreements:** are agreements between businesses to cap wages or condition of their staff. |

These clauses broadly apply across workers and industry sectors from financial services to childcare and fast-food.

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| The use of restraint clauses is widespread:  1 in 5 workers have a non-compete clause  50 per cent of workers have some kind of restraint clause  40 per cent of **very large** businesses use non-compete clauses  21 per cent of **all** businesses use non-compete clauses  Source: Australian Bureau of Statistics (2024) and e61 Institute (2023) |

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| These clauses matter for businesses, workers and consumers  Can prevent workers moving to better paid jobs and create staff shortages  Can stifle startups and prevent businesses growing and thriving  Can support business investment in attracting talent and developing staff  May hurt economic growth, if workers stay in less productive roles  May limit innovation and the spread of good ideas, making Australian firms less competitive  Enforcing these clauses is costly, creating uncertainty for business and workers |

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| ‘Bruce’ (Key cutter, 21)  Worked four months for an inner-city business then resigned to work for a suburban business closer to home. Bruce’s former employer took legal action to enforce a six month non-compete clause preventing him from working for a competitor within a 25km radius. |

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| ‘Amy’ (Consultant)  Worked for a management consulting firm for five years advising business startups. Another firm offered her a role restructuring and modernising their advisory practice. Amy’s existing employer sought to enforce an 18 month non-compete clause without compensation. |

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| ‘M-Frame Solutions’ (IT infrastructure and support services)  M-Frame relies on specialist skilled employees with experience managing complex mainframes. There is a skill shortage, and M-Frame offers relocation and development incentives to attract overseas talent. Coupled with immigration costs, the company can spend $20,000 for each new worker. Non-competes increase their confidence in making this investment. |

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