



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

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

- Non-compete clauses** > > > prevent workers from joining a competitor or starting a new business in competition with their current employer 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 conditions of their staff.

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

The use of restraint clauses is widespread:



1 in 5

workers have a non-compete clause



50%

of workers have some kind of restraint clause



40%

of **very large** businesses use non-compete clauses



21%

of **all** businesses use non-compete clauses

Source: Australian Bureau of Statistics (2024) and e61 Institute (2023)





Australian Government
The Treasury

**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 businesses and workers



'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 working for a competitor within a 25km radius.



'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.



'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.

Have your say

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Review**