

Submission by the Australian Nursing and Midwifery Federation

**Reform to non-compete clauses and other
restraints on workers
ANMF submission in response to
consultation paper**

September 2025



**Australian
Nursing &
Midwifery
Federation**



Annie Butler
Federal Secretary

Australian Nursing and Midwifery Federation
Level 1, 365 Queen Street, Melbourne VIC 3000
E: anmffederal@anmf.org.au
W: www.anmf.org.au



Introduction

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 345,000 nurses, midwives and care-workers across the country.
2. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.
3. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.
4. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.
5. The ANMF thanks the Treasury Competition Review for the opportunity to provide feedback on the framing of the ban on the use of non-compete and other restraints on workers.



Background

6. On 23 August 2023, the Federal Treasurer announced a review of competition policy settings with a view to building a more dynamic and productive economy.¹ Among the areas for consideration were non-compete and related clauses that restrict workers from shifting to better paying jobs.
7. In April 2024, the Commonwealth Treasury published an issues paper entitled: *Non-competes and other restraints: understanding the impacts of jobs, business and productivity*.² The purpose of the issues paper was to seek views to inform the Treasury Competition Review's consideration of potential reforms around the use of non-compete clauses and other restraints of trade that limit worker mobility.
8. On 25 March 2025, as part of the 2025-26 Federal Budget, the Treasurer announced that the Government would legislate to ban non-compete and other restraints of trade being imposed on workers.³
9. On 25 July 2025, Treasury released a consultation paper entitled: *Reform to non-compete clauses and other restraints on workers*.⁴ The purpose of this consultation paper is to seek views on possible legislative reforms to curtail the use of non-compete and other restraint clauses on workers in light of the Federal Government's decision to ban such clauses.

ANMF Position

10. The ANMF commends the Federal Government for its commitment to legislating to curtail the use of non-compete and other restraints.
11. The ANMF provided a submission in response to the 2024 issues paper highlighting the

¹ The Hon Dr Jim Chalmers MP and the Hon Dr Andrew Leigh MP, 'A more dynamic and competitive economy', (Media Release, 23 August 2023).

² Competition Taskforce, The Treasury, 'Non-competes and other restraints: understanding the impacts on jobs, business and productivity' (2024).

³ The Hon Dr Jim Chalmers MP, Senator the Hon Murray Watt and the Hon Dr Andrew Leigh MP, 'Cracking down on non-compete clauses to boost wages and productivity', (Media Release, 25 March 2025).

⁴ Competition Taskforce, The Treasury, 'Reform to non-compete clauses and other restraints on workers' (2025).



prevalence of such clauses being used to limit the mobility of workers seeking alternative employment. The ANMF relies on its earlier submissions as evidence of the improper use of non-competes and other worker restraints against nurses, midwives and other care workers. The ANMF is of the view that there is ample evidence to not only justify a legislative ban on these clauses, but also for that ban to be as broad as possible.

12. To that extent, the ANMF supports the submission provided by the Australian Council of Trade Unions (ACTU), of which the ANMF is an affiliate.
13. We note the ACTU's position in relation to client non-solicitation clauses. The ANMF is supportive of a full ban on these clauses. This is particularly pertinent in the case of workers in healthcare, disability services, aged care, and other similar settings. Health is a public good and the provision of healthcare is a fundamental right for all Australians. The work of nurses, midwives, and other care workers is central to the operation of the health system.
14. It follows that any Australian seeking healthcare and other support services should be at liberty to choose their preferred healthcare provider. Patients should be able to choose between public and private sectors, service providers, and even individual practitioners where appropriate.
15. One of the problems with client non-solicitation clauses, aside from its impact on worker mobility and the broader economy, is that such clauses can hinder the rights of patients and healthcare recipients to seek out their own healthcare providers where that provider is a worker moving between employers. People seeking healthcare from their preferred provider should be able to retain their preferred practitioners if they so choose. For example, nurses who play a pivotal role in the provision of support services and care under the National Disability Insurance Scheme, could be prevented from offering ongoing support to clients with whom they have established a relationship of trust and confidence, solely due to the operation of a client non-solicitation clause. The fact that these clauses, to which the patient or care recipient is never a party, operate to prevent the benefits of continuity of care is inconsistent with the principle of accessible healthcare.



16. If the Government is not minded to legislate a total ban on client non-solicitation clauses, the ANMF would be open to the ACTU's proposal of a time restriction placed on the operation of these clauses. However, for the reasons cited above, the ANMF submits that there should be a total prohibition on client non-solicitation clauses for all workers in health, aged care, and other similar settings, even if such clauses are permitted to operate elsewhere in the workforce.