

31 August 2017

NAT 018/17

Licensing legislation for the supply of labour – harsh penalties for breaches by businesses that supply or use labour

SUMMARY

The State Governments in Queensland and South Australia have each introduced Bills into Parliament to license the supply of labour across all industries. The licensing schemes in the Queensland *Labour Hire Licensing Bill 2017* and the South Australian *Labour Hire Licensing Bill 2017* would require businesses that supply labour to hold a licence and would require businesses that use labour supplied by another business to only use a licensed provider.

Ai Group is strongly opposing the legislation which would lead to the disruption of countless business to business services, and expose businesses, their owners and managers, to significant risks and added costs. The coverage definitions in the Bill go far beyond any reasonable notion of 'labour hire'.

The Victorian Government has not yet introduced legislation into Parliament but it has announced its intention to introduce a licensing scheme for the supply of labour in Victoria.

Queensland and South Australian Labour Hire Licensing Bills

In May this year, the Queensland [Labour Hire Licensing Bill 2017](#) was introduced into the Queensland Parliament by the State Government. Ai Group made a detailed [submission](#) to a Queensland Parliamentary inquiry into the Bill, expressing strong opposition to the proposed legislation. The Queensland Bill has not yet been voted upon in Parliament.

On 10 August, the South Australian [Labour Hire Licensing Bill 2017](#) was introduced into the South Australian Parliament by the State Government. The Government has called for submissions on the Bill by 8 September. Ai Group is preparing a detailed submission expressing strong opposition to the Bill.

Which businesses do the Bills cover?

The Bills cover businesses that supply labour and businesses that use labour supplied by other businesses.

The coverage definitions in the Bills go far beyond any reasonable notion of 'labour hire'.

Within industry, businesses provide a huge array of different services to other businesses, and often labour is involved to a greater or lesser extent. The Bill would lead to the disruption of countless business to business services, and expose businesses, their owners and managers, to significant risks and added costs.

What are the licensing requirements?

Businesses that supply labour would be required to hold a license and businesses that use labour supplied by another business would be required to only use a licensed provider.

The Bills contain broad definitions of 'worker' that go beyond 'employees' and would include many contractors.

The Bills would require labour suppliers to meet numerous criteria to be eligible for a licence, including satisfying a 'fit and proper person test'.

The 'fit and proper person test' would take into account whether the applicant has a history of compliance with relevant laws, and whether the applicant has ever been insolvent or an executive of a corporation that was placed into administration, receivership, or liquidation.

What penalties would apply for breaches of the legislation?

Both Bills include very harsh penalties for breaches of the legislation by suppliers of labour and users of labour supplied by other businesses.

The Queensland Bill includes penalties of up to \$365,700 for companies. The maximum penalty for individuals is \$126,045 or imprisonment for up to three years.

The South Australian Bill includes penalties of up to \$400,000 for companies. The maximum penalty for individuals is \$140,000 or imprisonment for up to five years.

The penalties would apply to those that provide 'labour hire services' without a licence and those that use an unlicensed labour provider. The penalties would also apply to persons who enter into an arrangement to avoid obligations under the legislation or the licensing scheme.

What reporting arrangements would apply?

The Bills contain very onerous reporting requirements for licence holders.

In Queensland, this includes requiring licensees to report every 6 months on the number of workers supplied, the employment arrangements, the locations where the work was performed, and the type of work performed.

Similar reporting obligations on licence holders are in the South Australian Bill, but the reporting period is 12 monthly.

Proposed Victorian labour hire licensing scheme

The Victorian Government has announced its intention to introduce a labour hire licensing scheme in Victoria but it has not yet introduced legislation into Parliament.

The Government has established a consultation process to consult with stakeholders, including Ai Group, about the establishment of the proposed labour hire licensing scheme.

Ai Group Webinar

Ai Group is conducting a webinar on the proposed labour hire licensing laws between **11am and 12pm on Wednesday 20 September 2017** [Register here](#).

Do you require further advice?

For information or assistance, please contact the **Ai Group Workplace Advice Line** on 1300 55 66 77.

For more detailed advice about the proposed legislation, please contact Nicola Street, National Manager – Workplace Relations Policy of Ai Group on email nicola.street@aigroup.com.au

Should you require any detailed advice on developing employment policies, contracts of employment or other workplace relations arrangements, our team of professional workplace relations advisers and lawyers at [Ai Group](#) and [Ai Group Workplace Lawyers](#) are available to assist you.



Stephen Smith
Head of National Workplace Relations Policy