

# Alert

## EMPLOYMENT LAW

### Weatherill State Government's Labour Hire Regulation Commences Today

Ready or not - you can't hide any longer!

By Ben Duggan & Jonathan Ikonomopoulos

The *Labour Hire Licensing Act 2017* (SA) ("**Act**") has commenced today, Thursday 1 March 2018.

A controversial aspect of the Act when it was first introduced to Parliament was section 6 which defined the scope of the operation of the proposed regulatory licensing scheme.

We observed previously that the scope of the Act was so broad that in its proposed form it would establish a regulatory licensing scheme that applies to all South Australian industries that provide varying levels of skilled labour rather than only targeting those who are exploiting vulnerable workers, in the context of a labour hire agreement.

Not surprisingly, the business community and the labour hire industry, in particular, expressed their disquiet about the negative impact of the proposed broad scope of the Bill.

In response the Weatherill Government introduced an amendment to section 6 (which defines the scope of the Act), it now reads as follows:

*"A person (a **provider**) provides **labour hire services** if, in the course of conducting a business, the person supplies, to another person, a worker to do work in and as part of a business or commercial undertaking of the other person."*

The amendment to section 6 sought to narrow the definition of labour hire services so as to capture those who are providing labour in the setting of a tripartite service arrangement, which traditionally involves an agent (or provider), a worker and a third person.

Information provided by the South Australian Government

A clearer picture as to what constitutes the provision of **labour hire services** can be gleaned from information recently published [online](#) by the South Australian Government.

Most importantly, that publication provides specific information regarding the remunerative components, as contemplated by the words "*in and as part*

*of a business or commercial undertaking"* that appear in section 6 to capture those "*individuals and companies who... pay for the worker's wages, accommodation or meal allowance either in full or in part must be licensed.*"

Further, "*In part' payment may take many forms, including paying any part of an employee's remuneration package.*"

To be granted a licence applicants must meet certain criteria, including qualification and financial requirements. Applications must also include details of the nominated responsible persons who are accountable for the day-to-day management and operation of the business.

For the purposes of assisting those uncertain as to whether their business requires a labour hire licence ("**Licence**") the South Australian Government has circulated a factsheet which can be accessed [online](#).

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## Applications

On 16 February 2018 Commissioner of Consumer Affairs, Dini Soulio issued a media release noting that Consumer and Business Affairs (“**CBS**”) is *“urging labour hire companies to make sure they apply for a licence by the start of August, ahead of the mandatory licensing system for the sector that comes into effect in September.”*

A transitional period will be provided to allow those affected by the Act time to be fully compliant with the obligations it imposes. This means that those providing **labour hire services** must be licensed by **Saturday, 1 September 2018** (“**Compliance Date**”).

Applications are open for submission from today and must be submitted online to CBS by **Wednesday, 1 August 2018** for the purposes of allowing a sufficient amount of time for CBS process applications and to ensure that those providers are compliant prior to the Compliance Date.

Applications will be published online for 14 days, offering government agencies, local government and industrial associations an opportunity to object to applications they believe have been submitted by individuals or companies directed by individuals that are not fit and proper persons.

We reiterate that those operating in South Australia unlicensed following the Compliance Date face significant penalties which include fines and terms of imprisonment.

We are currently assisting clients with the preparation and submission of their Licence applications. If this is something you feel you need assistance with please give us a call and we will walk you through the steps required to submit an application.



[MORE INFO](#)

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