Guidance for labour hire hosts

If your business uses cleaners, security guards or temporary staff, you are likely considered a 'labour hire host' under Victorian law.

Labour hire generally involves a business that supplies workers and pays them to perform work at a host business.

Under the *Labour Hire Licensing Act 2018* (Vic), businesses that provide labour hire services must be licensed, and hosts must only use licensed providers.

Licensing helps to ensure labour hire companies are run lawfully, by fit and proper people – to protect workers and improve the integrity of the industry.

Under the Act, the same penalties apply to businesses found using unlicensed labour hire services or providing those services – maximum penalties per breach exceed:

- $660,000 for a corporation
- $160,000 for an individual.

Using licensed providers also helps to protect your business against unlawful operators.

Site visits by Labour Hire Authority (LHA) officers

LHA undertakes inspections of labour hire sites to monitor and enforce compliance.

Under the Act, LHA inspectors may enter and search any occupied business premises during normal business hours, without consent, where labour hire workers are or have been working.

By law, LHA inspectors may:

- require you to produce documents such as invoices or service agreements
- inspect and make copies of documents, take photos or make audio-visual recordings
- seize anything they reasonably believe relates to a contravention of the Act
- require you, or any other relevant person at the premises, to answer questions.

You must not refuse or fail to comply with a request made by an LHA inspector under the Act without reasonable excuse.

It is an offence to provide false information or to hinder an LHA inspection.

Engaging a labour hire provider

1. Check the labour hire licence.

- Do not rely on paper documentation, and keep records of all checks and their outcomes
- Visit the Labour Hire Licence Register on the LHA website.
- Locate the business by searching by name or ABN – tap 'View licence details'.
- Confirm the licence status is 'Active'.
- Note any licence conditions.

2. Verify the identity of the person and business.

- Check the person you are dealing with is acting on behalf of the licensed business.
- Check their identification, role, and authority to act.
- Ask for evidence of company structure, hierarchy of control, and any sub-contracting.
- If in doubt, contact the nominated officer of the licensed business using their details from the Register.

3. Establish a clear, lawful contract.

A signed, written contract should:

- properly identify the parties involved
- ensure correct wages and entitlements are paid
- set clear and specific expectations, including of compliance with all workplace laws
- limit and/or require pre-approval of sub-contracting
- require the business to advise you of any changes in its compliance or licence status.

Check and follow your current providers

Take two quick actions now to protect your business and support a fairer labour hire industry:

1. Check the licence of any provider you currently use.
2. Subscribe to be notified of any changes to your providers' licence status.

To access free tools and more information, visit: **lha.vic.gov.au/check**

Key issues in labour hire

Standard licence conditions

For providers operating in industries with higher risks of worker exploitation and unlawful conduct, LHA applies standard conditions to all new licences, as well as progressively to existing licences.

In the high-risk industries of horticulture, meat and poultry processing, commercial cleaning and security, the standard conditions include provisions to limit the risk of worker exploitation, such as worker misclassification, complex supply chains and underpayments.

Host businesses in these industries should be particularly vigilant when engaging labour hire providers, including by checking licences and seeking transparency around worker, payment and subcontracting arrangements.

Licence fraud

Licence fraud involves persons mispresenting themselves as being associated with a licensed provider.

The practice can expose hosts to the risk of involvement with criminal elements, and of participating directly in unlawful conduct.

Licence fraud impacts businesses – as potential targets of fraud, reputational damage, and market disadvantage – while also increasing the risk of harm to workers including loss of wages or entitlements.

Hosts should be aware of potential indicators of licence fraud, including:

- paper documentation that cannot be verified – e.g. licences, bank statements, contact details
- any provider information that does not match the Labour Hire Licence Register
- bank account names which either do not match a licensed provider, or which frequently change.

Hosts should follow the Engaging a labour hire provider checklist to verify the licence and identity of providers they're seeking to use to protect their business and workers.

Subcontracting arrangements

Pyramid contracting involves a host engaging a labour hire provider to supply workers, who then subcontracts to other providers, who subcontract further.

Subcontracting can be legitimate in labour hire, but the risk of worker exploitation and non-compliance increases as supply chains become more complex, due to factors including:

- confusion about who the true employer of the workers is
- reduced visibility of companies further down the supply chain and their compliance
- the potential for unlicensed providers to be introduced into the supply chain
- each business in the supply chain taking a cut, leaving workers exposed to underpayment.

Generally, every business that supplies labour hire workers to a host – whether directly or through intermediaries – must have a labour hire licence.

Labour hire hosts can manage supply chain risk by including conditions in service agreements that stipulate:

- the use of subcontracted providers is prohibited or controlled by clear agreement
- subcontractors must meet legal obligations
- compliance auditing may be undertaken.

All parties in the supply chain should also ensure contract prices are sufficient for businesses to meet their legal obligations.

REPORT A PROBLEM

Anyone with evidence of non-compliance with Victoria's labour hire law can make a report to LHA, including issues such as:

- labour hire worker mistreatment
- unlawful behaviour
- unlicensed providers advertising or providing labour hire services
- hosts using unlicensed providers.

Reports should include details such as business names and addresses, dates, relevant documents or evidence such as emails or screenshots.

MORE INFORMATION

To access a range of guidance and information, LHA tools and the LHLO portal, visit the LHA website: **lha.vic.gov.au/host**
You can also contact LHA on **1300 545 200** or **enquiries@labourhireauthority.vic.gov.au**

Interpreter

If you need an interpreter, call TIS National on 131 450. If you are deaf or have a hearing or speech impairment, contact us via the National Relay Service at relayservice.gov.au

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