



# Horticulture industry guidance

## Labour hire providers and hosts

**Companies that supply workers to ‘host’ businesses to perform services such as picking, packing or pruning fruit or vegetables are labour hire providers.**

**Under Victorian law, labour hire providers must hold a licence, and anyone using their services must only use licensed providers.**

Licensing helps to ensure labour hire companies meet their obligations to workers, and supports fairness, transparency, and integrity in the industry.

To comply with licence conditions, labour hire providers must meet a range of requirements, including around worker pay and conditions, superannuation and taxation. Key people in the business must also be ‘fit and proper’.

The Labour Hire Authority (LHA) oversees Victoria’s labour hire licensing scheme – including a range of monitoring, compliance, and enforcement activities.

### Penalties

There are significant penalties – for both companies and individuals – for breaches of the *Labour Hire Licensing Act 2018* (Vic).

For using or providing unlicensed labour hire services, penalties can exceed:

- **\$600,000 for a corporation**
- **\$150,000 for an individual.**

These penalties also apply to any attempts to avoid or circumvent the law, and to unlicensed sub-contractors supplying labour hire workers.

Penalties also apply for advertising labour hire services without a licence.

A register of all licensed labour hire providers is published on the LHA website, and businesses can subscribe to be notified of any changes to a provider’s licence status or conditions. LHA encourages businesses and workers to report any unlawful activity by labour hire providers.

## HOSTS

Host businesses – those that engage labour hire providers – also have obligations under the Act.

Hosts’ key obligation is to use only licensed providers – significant penalties apply for using unlicensed providers.

Hosts also have obligations to workers – whether engaged via an employment or labour hire arrangement – and hosts can be liable for contraventions by a provider under workplace and migration law.

Hosts should ensure that any provider they use is licensed, and that they meet their own legal obligations.

### Before engaging a provider

- Check the provider is licensed using LHA’s [Register of Licensed Labour Hire Providers](#).
- Confirm the company offering services is the same as the one listed on the Register – check details, and contact the licensed company’s nominated officer if required.
- Check the age of the provider’s company, industry details, and their number and proportion of independent contractors.
- Ask for evidence of providers’ company structure, hierarchy of control and contracting arrangements.

### When engaging a provider

- Sign a written contract with identification such as ABN, director IDs and full names.
- Set clear expectations, including that the provider advise of any changes to company officers, licence status or compliance issues.
- Place limits on sub-contracting.
- Use LHA’s [Follow My Providers](#) tool to be notified of any changes to a provider’s licence status.



## HORTICULTURE INDUSTRY KEY ISSUES

### Sham contracting

Sham contracting – where an employer attempts to disguise an employment relationship as independent contracting – is often an attempt to avoid responsibility for employee entitlements.

While labour hire providers may lawfully supply genuine independent contractors, some claim that workers covered by an award are contractors. Many of these workers are legally employees and have rights under the *Fair Work Act 2009*, even if there is a written agreement stating they are independent contractors.

Sham contracting is unlawful; serious penalties can apply. Providers should ensure that all staff working in and for their business, along with all apprentices, trainees, labourers and trade assistants, are engaged as employees.

### Pyramid contracting

Pyramid contracting involves a host engaging a labour hire provider to supply workers, who then sub-contracts to other providers, who sub-contract further.

These layers of contracting can involve larger contractors transferring risks and responsibilities to smaller and less stable entities. As a result, the risk of worker exploitation and non-compliance increases as supply chains become more complex.

It's important that providers and hosts maintain a line of sight throughout their supply chains, with appropriate visibility and responsibility across all arrangements.

### Accommodation

Providers are required to advise LHA if they intend to procure or provide accommodation in connection with a labour hire service.

As a class of prescribed accommodation, labour hire accommodation must be registered by the proprietor with the local council, and must meet minimum standards.

These standards include requirements around:

- occupancy limits
- maintenance and cleanliness
- safety
- toilet and bathing facilities.

## REPORT A PROBLEM

Businesses can help protect workers and improve the integrity of the labour hire industry by reporting any providers or hosts doing the wrong thing via the LHA website.

Reports may be made around issues such as:

- labour hire worker mistreatment
- unlawful behaviour, such as tax avoidance
- unlicensed advertising or provision of labour hire services
- a host using an unlicensed provider.

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

## MORE INFORMATION

[labourhireauthority.vic.gov.au/horticulture](https://labourhireauthority.vic.gov.au/horticulture)

Visit LHA's dedicated horticulture industry webpage to access a range of guidance and information, LHA tools, the LHLO Portal, and an electronic version of this fact sheet.



You can also contact LHA on 1300 545 200 or at [enquiries@labourhireauthority.vic.gov.au](mailto:enquiries@labourhireauthority.vic.gov.au)