

Finance & Administration Committee  
Parliament House  
George Street  
BRISBANE QLD 4000  
Via email: [FAC@parliament.qld.gov.au](mailto:FAC@parliament.qld.gov.au)

16<sup>th</sup> June 2017

Dear Secretary,

**Submission into draft labour hire licensing bill 2017 (the Bill)**

Thank you for the opportunity to provide feedback on the draft Bill. Chandler Macleod *Labour Hire Licensing Bill 2017* (the Bill).

Chandler Macleod strongly supports view that initiatives that increase the confidence of the community that labour hire is a lawful and legitimate method of employment for thousands of employees across Australia, should be supported.

The Recruitment & Consulting Services Association, the peak industry body of which Chandler Macleod is a member, has submitted, that the Government should focus licensing on high risk industries that present the greatest threat to workers and those in which disreputable labour contractors are most prominent. We agree with this direct and targeted approach.

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**CHANDLER MACLEOD GROUP**  
Level 15, 108 St George's Terrace  
Perth WA 6000

**T** 08 9217 0510  
**E** [info@chandlermacleod.com](mailto:info@chandlermacleod.com)  
**W** [chandlermacleod.com](http://chandlermacleod.com)

We also strongly support the view that not all labour hire firms are created equal. This Bill as currently drafted, will capture labour hire firms that already comply with the law and, is likely to fail to capture dodgy operators that fly below the radar and have no intention of applying for a license.

We note that the Minister for Employment and Industrial relations, Racing and Multicultural affairs, the Hon G Grace has stated that the scheme is:

*aimed squarely at protecting workers and restoring a level playing field so that ethical operators can compete fairly, without imposing any unnecessary administrative burdens<sup>1</sup>*

In reviewing the Bill, we have considered some of the specific elements that in our view, do not effectively meet the objective of 'unnecessary administrative burdens' as follows:

#### **Section 7- meaning of provider of labour hire services.**

The current clause creates a very broad scheme that has the potential to encapsulate a range of service models, over and above 'genuine' labour hire above and beyond the stated objects.

We understand the Government's desire to cast a wide net and include 'pyramid models' and not those of subcontracting or direct employment. Some examples of organisations that will require a licence will include:

- *A corporate health service that "supplies" a nurse to deliver 'flu vaccinations;*
- *A religious body that "supplies" a chaplain or pastoral care worker under the Australian School Chaplaincy Programme;*
- *A first aid attendant "supplied" by one school to another schools sporting event;*
- *A community organisation that "supplies" a cultural advisor to government or to a business;*
- *Or, a secondary or tertiary educational facility that "supplies" students on work experience or practical placements.*

<sup>1</sup> Media Release: **Mandatory Licensing scheme introduced** 25 May 2017

<http://statements.qld.gov.au/Statement/2017/5/25/mandatory-labour-hire-licensing-scheme-introduced>



While its clear from reading the extraneous materials that the intention may not have been to capture these types of arrangements, the plain and ordinary reading of the Bill, does not support this conclusion. The Bill and the proposed Regulations need significant amendments to ensure that there is clarity on what types of arrangements will be included as 'genuine' labour hire.

### **Section 8- Definition of "worker"**

The definition currently encompassed could encompass independent contracting arrangements that are used in some market segments, for example IT contracting. Chandler Macleod looks forward to seeing more detail in the Regulations, once released to understand the scope of the types of working relationships that the Bill intends to cover.

### **Section 17- term of licences.**

An annual licence scheme creates an onerous administrative burden for Chandler Macleod, who have many compliance systems already embedded in its operations, as well as quality accreditation through the ISO9001 program for its business.

As an alternative, Chandler Macleod suggests that the Government consider using the tiered

Category of Licensee	Licensing period	Licence Fee per application
Small	Annually	\$1,000
Medium	Bi- annually	\$6,000
Large	3- yearly	\$15,000

system envisaged for licence fees to also apply to the licence term. For example:

The benefits of this tiered approach include:

- a) budgeted fees could still be collected on application and renewal;
- b) it delivers more efficient use of the Chief Executive and her/his staff regarding the volume and frequency of licence applications, which could free up resources to engage in compliance initiatives; and
- c) There is no change or reduction any of the powers conferred in the Bill, provided to the Chief Executive to engage in compliance or review activities and if required, suspend or cancel a licence during a licence period.

### Section 32 Reporting requirements

This section will cause a significant and unnecessary administrative burden to Chandler Macleod and other large, ethical labour hire providers, running contrary to the aims of the Bill. This type of compliance activity will cause a significant increase reporting, and manual editing of documents to provide to the Chief Executive in the format requested. This in turn makes licensed providers more expensive, and less competitive in an already high commoditised labour hire market place.

Chandler Macleod is of the view that all, or significant components of the data proposed to be requested could be obtained by other means, for example;

- Single touch payroll for employers engaging more than 20 people is mandatory from 1 July 2018. All data relating to the number of workers, their pay, allowances, superannuation is remitted weekly;
- Serious injuries as defined in *Work Health and Safety Act 2011* sets out a clear list of injuries, illnesses and dangerous incidents that are reportable to that body;
- The QComp Workers Compensation scheme is administered by the Qld Government, so there is already a record of all claims available; and
- Fair Work Ombudsman investigations and findings or Fair Work Commission decisions are published and often publicised, outlining any 'breaches' of relevant laws.

These data sources, could with liaison with the relevant government bodies enable the efficient transfer of a range of data to the Chief Executive at a time and format of its choosing. This would have the added benefit of potentially capturing labour hire operators who have failed to obtain licences.

### Section 102 Mutual recognition

The Recruitment & Consulting Services Association, the peak industry body of which I am a member, has created an audit based certification program for workforce services providers to support the integrity, compliance and professionalism of the industry and, very importantly, provide end-users with a very easy choice between good practice and malpractice.



Key features of the Certification program include:

- An independent audit firm (SGS) manages a biennial audit. High risk companies, either identified through the audit process or by the RCSA, will be required to have annual audits until they are confirmed as meeting the certification standard.
- RCSA's Certification covers six key areas:
  - Fit & Proper Person
  - Work Status and Remuneration
  - Financial Assurance
  - Safe Work
  - Migration
  - Decent Accommodation
- Certified companies will be listed on an online register of *Certified Workforce Services*, and any Workforce Services Provider lawfully carrying on business can apply to be Certified.

We are aware the Bill includes provisions for Mutual Recognition of accreditation schemes. We strongly encourage the Committee to recognise the RCSA Certification program as meeting all requirements of the proposed licensing scheme.

#### **Section 105- publication of information.**

On its face the ability for the Chief Executive to make public those organisations that have conditions, or enforcement action taken against them is a reasonable approach. However, there appears to be a discrepancy between the information being discussed at government led briefing forums regarding the nature and specifics of what the Chief Executive will publish. This seems to be unnecessary additional detail that could have unintended consequences including;

- Personal information may be ascertainable from the way in which the information is presented, noting that personal information under the *Privacy Act 1988* has a broad definition. Notwithstanding section 104, there appears no mechanism to challenge even an inadvertent publication of information which could reasonably identify a person and therefore constitute a breach of other laws (that contain penalties) on behalf of the licensee; and
- That commercial in confidence information could be published. Publicly available data on where workers located and in what number leads to an ease of mapping a competitor operation and destabilising their commercial arrangements. It will lead to targeted and unsolicited re-pricing. This in turn leads to uncertainty for Licensees, and critically their workers.

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We strongly recommend the Committee reconsider the requirements for reporting to include information that workers or users of labour hire services would reasonably expect is available in determining if the provider they are dealing with is reputable and compliant:

1. Licensee's full name and contact details
2. Status of the license and licensee's (ie: suspended, pending actions)
3. The business name, ABN and address of the business that is the subject of the license
4. Is the licensee a Certified Workforce Services Provider, and details of other standards and quality certification held by the licensee.

We make these recommendations based on our experience in the industry and, our commitment to maintaining the quality of workforce services in Queensland. Our vision at Chandler Macleod is to unleash the potential of the working population of Australia. We believe that every Australian, regardless of location, age, race, religion, ability and gender, has a right to a job. A job they love. We are supportive of increasing confidence of the community that the role we play is legitimate. Our motivation is genuine that we don't want any obstacle to the true outcome of what we are seeking to achieve – jobs for every Australian.

I would welcome the opportunity to further discuss these recommendations with you.

Yours sincerely

Tania Sinibaldi  
Chief Operating Officer- Staffing Services  
Chandler Macleod

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