



Maurice Blackburn Pty Limited

ABN 21 105 657 949

Level 8

179 North Quay

Brisbane QLD 4000

PO Box 13247

George Street

Brisbane QLD 4003

DX 1060 Northpoint

T (07) 3016 0300

F (07) 3236 1966

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Committee Secretary
Finance and Administration Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: FAC@parliament.qld.gov.au

Dear Secretary

I welcome the opportunity to provide a submission in relation to the *Labour Hire Licensing Bill 2017* on behalf of Maurice Blackburn Lawyers.

Please do not hesitate to contact me and my colleagues if we can further assist with the Committee's important work.

Yours faithfully

Giri Sivaraman
Principal
Employment & Industrial Law Section
Maurice Blackburn



Maurice Blackburn

Offices in Queensland, Victoria, New South Wales, Australian Capital Territory, Western Australia, Northern Territory and South Australia

mauriceblackburn.com.au

Submission to the Finance and Administration Committee of the Queensland Parliament regarding the Labour Hire Licensing Bill 2017

Background

Maurice Blackburn has been advocating on behalf of Queensland workers regarding their employment rights, workplace safety and workers compensation for a generation. It is in this context that we welcome the opportunity to make a submission to this Inquiry.

Over our time advocating for local workers, the economic, social and legal context of work in Queensland has evolved significantly.

While traditional frameworks of industrial relations and workplace safety has largely served employees well in the past, the rise of labour hire and other insecure and precarious employment arrangements, particularly over the past decade, has resulted in a critical need for reforms.

Although no policy makers would ever publicly assert that working people employed under labour hire and other arrangements should be treated unfairly, paid improperly or made to carry out their duties in unsafe conditions, this evolution of work combined with a failure to effectively regulate the practice has led to just that.

Maurice Blackburn Lawyers has considerable experience representing workers employed through insecure arrangements such as through labour hire and franchising. This has revealed that many workers are being exposed to substantial underpayments and unlawful working conditions through cost and risk-shifting models. For instance, we are currently representing multiple 7-Eleven workers who have experienced this form of unlawful treatment in the workplace.

Our previous submission strongly supported the establishment of a licence scheme for the Queensland labour hire industry. We noted that similar schemes have been successfully implemented overseas, including several OECD nations.

We have also advocated for the establishment of licence schemes in other Australian States. Whilst this is a nationally significant issue and the Australian Parliament is best placed to legislate, we do welcome reform at the State level to protect the interests of working people.

Overall comments

In a time of stagnant wage growth where, in some industries, take home pay is going backwards due in part to the unregulated use of labour hire companies by employers, this legislation is an important step in reversing the decline in wages.

In the past, many employers have repeatedly sought to replace permanent workforces with cheaper, more precarious labour hire employment.

Our previous submission advocated for a scheme where labour hire providers are financially stable and that occupational health and safety obligations were being met.

It also advocated that all labour hire providers will be licensed. Furthermore, end-user enterprises would be legally obliged to use licensed providers.

The end-user enterprise would also have to guarantee the payment of any entitlements owed by the labour hire provider to its workers, which would also ensure that costs and risks were not inappropriately shifted.

Maurice Blackburn congratulates the Minister, the Government and the supportive Members of Parliament for pursuing this important change.

More generally, the signal this reform sends to others who promote precarious work practices is significant in its own right. It puts upward pressure on community expectations and by consequence, the socially acceptable standard of employer behavior.

These changes also demonstrate that governments with the right values and commitment to crack down on these insidious practices can deliver.

Specific feedback on Bill

Whilst Maurice Blackburn is strongly supportive of the legislation, there are three specific issues we wish to raise.

In relation to clause 13, part 3 of the Bill, we had previously advocated that a licence application should detail the nature and manner of the work, including the industry or sector in which the licensee is expected to operate.

Exploitation in the economy and particularly exploitation using labour hire is concentrated in specific industry sectors where low pay, low cost and casual work is common. For instance, recent work by the University of Queensland Trafficking in Persons Working Group notes the role of labour hire mechanisms in perpetuating labour trafficking in both the agriculture and construction sectors.¹

The recent report by Professor Anthony Forsyth of RMIT University stated that rogue labour hire operators are more likely to be in the horticultural, meat and cleaning industries sectors.²

By identifying or specifying industry sector associated with licences, inspectors are better able to target potential exploitation and breaches of the Act. It will also enable more granular, useful data to be gathered and analysed as the regular reporting and review of the Scheme takes place.

Secondly, pursuant to the Act, a person who counsels, procures or aids the commission of an offence under the Act is taken to have committed the offence. In our view, it would be beneficial for the Act to provide clarity that contravention of a relevant law by a provider is an offence under the Act. This will provide greater protection to workers from exploitation by providers of labour hire services and accordingly is consistent with the main purposes of the Act.

The third aspect of the Bill we wish to discuss is the definition of “relevant law”. In line with the acts already included as examples, the following legislation being the federal workplace health and safety legislation should be included:

- *Safety, Rehabilitation and Compensation Act 1988;*

¹ TC Beirne School of Law, <https://law.uq.edu.au/research/research-activities/human-trafficking/labour-trafficking>

² Victorian Inquiry into the Labour Hire Industry and Insecure Work, Professor Anthony Forsyth, State Government of Victoria, August 2016 page 25

http://economicdevelopment.vic.gov.au/_data/assets/pdf_file/0016/1390111/IRV-Inquiry-Final-Report-.pdf

- *Work Health and Safety Act 2011;*
- *Occupational Health and Safety (Maritime Industry) Act 1993;*
- *Seacare - Seafarers Rehabilitation and Compensation Act 1992;*
- *Dust - Asbestos-related Claims (Management of Commonwealth Liabilities) Act 2005;*
- *Defence - Military Rehabilitation and Compensation Act 2004; and*
- *Defence - Veterans' Entitlements Act 1986.*

We are available to discuss these matters in detail, should the Committee so require.