



Maddy Parker

Director

Labour Hire Workplace Exploitation Branch

Employee Entitlement Safeguards and Policy Division

Australian Government Department of Employment and Workplace Relations

By email: WRSubmissions@dewr.gov.au, LabourHireConsultation@dewr.gov.au

Dear Maddy & Team

Submission regarding Labour Hire Regulation

COSBOA, on behalf of Small Business, seeks an approach that will consider each matter with the following perspectives:

- to ensure we have a clear understanding of what problem is being solved.
- to achieve objectives in the most effective manner
- to ensure clear understand the impact of any proposed change or new measure upon Small Business including employees
- to seek reduction in red tape and compliance burden on a Small Business
- to seek the development of the workforce, agreed flexibility in employment arrangements and improve business productivity.

Perspective

In considering the proposed changes we seek an understanding by Government as to the typically productive, efficient and mutually beneficial relationship in small business between the employer and the workers, aswell as between businesses. Small business thrive with effective workplaces. When the matters are being considered we seek an impact on the processes that already exist or the additional processes that will be required.

All Small Business should not be subject to a complex and burdensome registration and compliance framework that is designed to prevent a specific set of problems.

Principles in forming our response

We support National consistency.

We look for one system throughout Australia.

We look for protection and fair pay to all workers.

We seek any Labour Hire system to be consistent with the Governments "Tell us once" principle.

We seek this measure to be targeted to address the documented issues that have been identified.

We seek consistency between overlapping or related laws in terms of employee/contractor definitions and impact.

Practical Impacts

We are concerned that the proposals being considered will negatively impact through increased registration, licencing and compliance costs with no benefit e.g.

- Temporary or relief workers
- Temporary or relief workers on a one off or adhoc basis
- Locums
- Inhouse service entities (e.g. service trusts for professional firms)
- Contract businesses that provide services that may be categorised as 'labour-centric'.
- Different business models ie seat-hire, shared premises

We are concerned that the proposal will in effect cause every entrepreneur to cease innovation while they contemplate whether their business development needs for engaging people or contractors will also require labour hire registration. Discussions have indicated a significant number of businesses will be required to undertake a second business registration as Labour Hire Entity.

The entrepreneurs and small business fear of being discovered to having breached proposed labour hire requirements at some time in the future. Therefore they seek to register at commencement at a significant potential cost to finances and time thereby reducing their ability to commence business.

Concerns

The proposed system must ensure that it does not impose a cost, additional regulation and process burden on all business in order to prevent or solve a problem that could be applicable to a few. While prevention is better than cure, illegitimate or illegal actors will work outside of any system imposed on those that willingly seek to comply, without benefit to the system. Offenders should be subject to compliance actions rather than have all legitimate actors penalised in an attempt to prevent the misbehaviour of the few.

Further concepts for consideration

It should only be the deliberate and intentional or repeat breaches that are penalised. The FWO approach to compliance including their application of the Accessorial Liability provisions should be considered.

Recommendations

The definition of Labour Hire to be carefully considered to ensure only the correct targeted entities are being regulated. The discussed terminology is too broad and will include far too many small businesses.

That any new system should be designed into existing Government registry system such as the new Australian Business Registry System (ABRS).

The fit and proper person tests or similar should align with the ABRS/ASIC Director Identification Number requirements and process.

Any periodic review/renewal of registration should occur in conjunction with existing Government processes ie Strengthening ABR (the annual review).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Addison', written in a cursive style.

Matthew Addison
Chair
Council of Small Business Organisations Australia (COSBOA)
26 April 2023