

South Australia

Labour Hire Licensing (Scope of Act) Amendment Act 2025

An Act to amend the *Labour Hire Licensing Act 2017*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Labour Hire Licensing (Scope of Act) Amendment Act 2025*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Labour Hire Licensing Act 2017*

3—Amendment of section 6—Interpretation

- (1) Section 6, definition of *aquatic animal*—delete the definition

- (2) Section 6—before the definition of ***authorised officer*** insert:

annual wages, for an individual undertaking work, is the amount of remuneration, taking into account the individual's pay rate for the work (such as an hourly or weekly rate), that the individual would be entitled to if the individual undertook the work on a full-time basis for a period of 12 months;

- (3) Section 6, definition of ***cleaning work***—delete the definition

- (4) Section 6—after the definition of ***criminal intelligence*** insert:

director, of a body corporate, has the same meaning as in the *Corporations Act 2001* of the Commonwealth;

- (5) Section 6, definition of ***fishing***—delete the definition

- (6) Section 6, definition of ***horticultural processing work***—delete the definition

- (7) Section 6, definition of ***meat***—delete the definition

- (8) Section 6, definition of ***meat processing work***—delete the definition

- (9) Section 6, definition of ***prescribed work***—delete the definition

- (10) Section 6—after the definition of ***relevant law*** insert:

remuneration has the same meaning as in the *Fair Work Act 1994*;

- (11) Section 6, definition of ***seafood***—delete the definition

- (12) Section 6, definition of ***seafood processing work***—delete the definition

- (13) Section 6—before the definition of ***substitute responsible person*** insert:

senior manager, of a body corporate, means a person (other than a director or secretary of the body corporate) who—

- (a) makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the body corporate; or
- (b) has the capacity to affect significantly the corporation's financial standing;

- (14) Section 6, definition of ***trolley work***—delete the definition

4—Amendment of section 7—Meaning of *labour hire services*

- (1) Section 7(2)(b) and (c)—delete paragraphs (b) and (c) and substitute:

- (b) where an individual is supplied to a host to undertake work by a body corporate that has not more than 2 directors and the individual is a director or senior manager of the body corporate and is the only individual who is supplied by the body corporate to undertake work for another person;
- (c) where an individual is supplied to a host to undertake work by a business carried on by a partnership comprised of no more than 2 persons and of which the individual is a partner;
- (d) where an individual is supplied to a host to undertake work by a business carried on by the individual operating as a sole trader;

- (e) where an individual is supplied to a host to undertake work for which the annual wages for the individual are equal to or more than the amount of the high income threshold within the meaning of the *Fair Work Act 2009* of the Commonwealth and the individual's employment is not subject to or covered by a modern award or enterprise agreement under that Act;
 - (f) any other circumstances prescribed by the regulations.
- (2) Section 7(3)—after paragraph (b) insert:
- or
 - (c) an individual supplied by the person to undertake work is an employee of the person; or
 - (d) a contract is entered into between the worker and the person, or between the person and the host.

5—Amendment of section 8—Meaning of *labour hire worker*

Section 8(2)(b)—delete paragraph (b) and substitute:

- (b) the individual is an employee of the other person, where the other person is 1 of a group of entities that carry on business as a group, and the employee does work for another entity in that group; or
- (c) the individual is a public sector employee within the meaning of the *Public Sector Act 2009* who is seconded, transferred, provided or made available to do work for another person or entity pursuant to an Act; or
- (d) the individual is, or is of a class of person, prescribed by the regulations.

6—Amendment of section 20—Duration of licence, periodic fee and report

Section 20(6), definition of *prescribed information*, (d)—delete "prescribed"

7—Insertion of section 45A

After section 45 insert:

45A—Labour hire workers in public sector

- (1) If labour hire workers are supplied to a public sector agency to undertake work in a financial year, the agency's annual report for that year must include the following information:
 - (a) the number of labour hire workers supplied to the agency in that year;
 - (b) the number of full-time equivalent (FTE) positions filled by labour hire workers supplied to the agency in that year;
 - (c) the amount of money expended by the agency in connection with labour hire workers supplied to the agency in that year.

- (2) If a labour hire worker is supplied to a public sector agency—
 - (a) the worker must, at all times while undertaking work for the agency, observe the public sector code of conduct; and
 - (b) it is taken to be a term of the contract between the public sector agency and the person who supplied the worker that the worker will observe the public sector code of conduct.
- (3) A public sector agency to which a labour hire worker is supplied must ensure that the worker is given the same induction into the workplace as employees of the agency in relation to—
 - (a) work health and safety (including psychosocial risk); and
 - (b) the public sector code of conduct, conflicts of interest and information security; and
 - (c) the agency's bullying and harassment policies.
- (4) In this section—

public sector agency and *public sector code of conduct* have the same respective meanings as in the *Public Sector Act 2009*.

Schedule 1—Transitional provisions

1—Application of sections 11 and 12 of *Labour Hire Licensing Act 2017*

- (1) Section 11 of the *Labour Hire Licensing Act 2017* does not apply during the relevant period in relation to a person who—
 - (a) immediately before the relevant day was not the holder of a licence under the *Labour Hire Licensing Act 2017*; and
 - (b) provides a labour hire service comprised of the supply of an individual to undertake work that is not prescribed work.
- (2) Section 12 of the *Labour Hire Licensing Act 2017* does not apply during the relevant period in relation to an arrangement for the provision of a labour hire service comprised of the supply of an individual to undertake work that is not prescribed work.
- (3) In this clause—

labour hire service has the same meaning as in the *Labour Hire Licensing Act 2017* as in force on the relevant day;

prescribed work has the same meaning as in the *Labour Hire Licensing Act 2017* as in force immediately before the relevant day;

relevant day means the day on which section 3(9) of this Act comes into operation;

relevant period means the period of 6 months commencing on the relevant day.