



# Security industry guidance

## Labour hire providers and hosts

**Security companies that supply guards or crowd controllers to work in 'host' businesses are labour hire providers. Under Victorian law, these companies must hold a labour hire licence, and anyone using their services must only use licensed providers.**

To maintain a licence, providers must meet obligations including meet their obligations to workers regarding pay and conditions, comply with other legal obligations in areas such as taxation and superannuation, and for key people in the business to be 'fit and proper'.

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

The Labour Hire Authority (LHA) oversees Victoria's labour hire licensing scheme – including 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 attempts to avoid or circumvent the law.

Penalties also apply for advertising labour hire services without a licence. Any sub-contractors supplying workers to a labour hire provider must also be licensed.

LHA encourages host businesses, licensed labour hire providers, and workers to report any illegal activity. All licensed providers are listed



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on the LHA website, and businesses can subscribe to be notified of any changes to a provider's licence status or conditions.

### Security industry – key issues

#### Sham contracting

Sham contracting – where an employer attempts to disguise an employment relationship as independent contracting – is usually 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 and serious penalties 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.

#### Case study –

##### sham contracting



LHA recently conducted a compliance campaign around sham contracting.

Labour hire providers with unusually high proportions of independent contractors were identified and contacted.

LHA engaged with these providers, highlighting the differences between employees and independent contractors, and provided guidance materials.

These providers were given the opportunity to correct any misclassification, and converted a significant number of contractors to employees as a result.

LHA continued to monitor and provide advice to ensure ongoing compliance.

## Security industry – key issues (cont.)

### Pyramid contracting

Pyramid contracting involves a host engaging a labour hire provider to supply workers, who then subcontract to other providers, who subcontract 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 longer and more complex.

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

### Case study – Pyramid contracting



LHA had identified a range of compliance issues in the security industry around multi-tiered labour supply chains.

Security industry providers were invited to a forum with LHA and other relevant regulators, and consulted about the issue.

LHA incorporated feedback from the forum and developed practical guidance for the industry around contract pricing, and the minimum legal costs of meeting obligations to workers.

Licence conditions were also introduced for larger labour hire providers around their supply chains, promoting transparency and limiting the potential for worker exploitation.

LHA continued to monitor and provide advice to ensure ongoing compliance.

### Illegal phoenixing

Illegal phoenixing occurs where a company is liquidated, wound up or abandoned to avoid paying debts, with a new company started to continue the same business activities.

LHA utilises a range of intelligence and analysis mechanisms, including through data-sharing with other agencies, to detect and address phoenixing. Licence applications may be refused or licences cancelled where it is believed illegal phoenix activity is taking place.

## HOSTS

Host businesses – those that engage labour hire providers – also have obligations under the *Labour Hire Licensing Act 2018 (Vic.)*.

The key obligation for hosts is to use only licensed labour hire providers, though hosts can also be liable for a provider's contraventions under workplace and migration law.

Significant maximum penalties apply for hosts found breaching the Act, exceeding:

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

To ensure a provider is licensed, hosts should:

- Use LHA's [Register of Licensed Labour Hire Providers](#) to check a provider is licensed.
- Use LHA's [Follow My Providers](#) tool to be notified of any changes to providers' licence status or conditions.

Hosts have a range of obligations to workers, and should be aware that many of these remain, whether staff are engaged as employees or via a labour hire arrangement.

To minimise compliance risks and help ensure continuity of service, hosts should also:

- 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.
- Limit subcontracting arrangements in their engagement of labour hire providers.

## MORE INFORMATION

[labourhireauthority.vic.gov.au/security](http://labourhireauthority.vic.gov.au/security)

Visit LHA's dedicated security 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 [enquiries@labourhireauthority.vic.gov.au](mailto:enquiries@labourhireauthority.vic.gov.au)