



COMPLIANCE AND ENFORCEMENT POLICY

The Labour Hire Licensing Authority (Labour Hire Authority) is an independent statutory authority created by the *Labour Hire Licensing Act 2018 (Vic)* (Labour Hire Act).

This policy

- sets out the principles we adopt to achieve compliance with the Labour Hire Act
- outlines strategies and tools used to monitor and investigate compliance, conduct investigations and enforce compliance with the Labour Hire Act and Labour Hire Licensing Regulations (Vic) (Labour Hire Regulations)
- explains how we will publicise compliance and enforcement.

PURPOSE

The Labour Hire Act establishes a licensing system to regulate the provision of labour hire services in Victoria, and to impose civil penalties upon providers and users of labour hire services from anyone other than licensed providers of labour hire services.

We aim to protect workers from being exploited by providers of labour hire services and hosts, and improve the transparency and integrity of the labour hire industry.

PRINCIPLES

In regulating the labour hire scheme, we are guided by the principles set out below.

Principle	Labour Hire Authority will:
Protect workers from being exploited	Work with business, workers, unions, community groups and government agencies to promote, monitor and enforce compliance with our legislation
Improve transparency and integrity of labour hire industry	Work with business, workers, unions, community groups and government agencies to develop solutions to improve transparency and integrity in the labour hire industry
Fair and impartial	Remain neutral, independent and objective
Transparent, accountable and consistent	Publish our compliance and enforcement policy Publish details about licence applications



Principle	Labour Hire Authority will:
	Publish a Register of Licensed Providers to record information about licence holders and licences including conditions, variations, suspensions and cancellations
Respectful	Remain professional and respectful at all times
Helpful	Provide appropriate and timely information to help participants meet their compliance obligations
Proportionate	Ensure our response is in proportion to the conduct or problem to be addressed
Predictable	Apply our regulatory approach predictably for regulated parties in equivalent circumstances

MONITORING COMPLIANCE

Our role does not finish once a labour hire licence is granted.

We will

- proactively monitor licence holders' compliance
- proactively monitor hosts to ensure they only use licensed providers
- respond to complaints, information or intelligence we receive
- conduct campaigns and inquiries.

INVESTIGATING COMPLIANCE

Investigating compliance with the Labour Hire Act and the Labour Hire Regulations is one of our core functions.

We will do this, through a variety of means, when:

- we become aware of non-compliance
- we become aware that workers are being exploited
- issues arise in a high-risk sector such as horticulture, commercial cleaning or meat processing
- there is disregard of an order of a court or tribunal
- the integrity of the labour hire industry is at risk.



ENFORCING COMPLIANCE

We have a range of enforcement tools at our disposal to promote the objects of the Labour Hire Act. When deciding how to use them, we will take into account a range of factors including the nature and extent of non-compliance, and level of co-operation received.

OUTCOMES

The Labour Hire Authority has a variety of compliance and enforcement outcomes available. The Labour Hire Act sets out the legal requirements for each outcome, as well as time limits, and the courts' powers to make orders and impose financial penalties.

1. Infringement notice

An infringement notice is a fine given for breaching sections of the Labour Hire Act related to matters such as

- not producing a licence or relevant business documents upon request
- refusing or failing to comply with an entry and search requirement.

2. Licence conditions

The Labour Hire Authority may impose licence conditions at the time of, or after, the licence is granted. Licence conditions may be imposed for a variety of reasons.

The Labour Hire Authority will impose licence conditions to ensure labour hire services are provided in accordance with all relevant legal obligations including workplace law. Licence conditions may also be imposed to require licence holders to provide information or allow inspections.

3. Compliance notice

The Labour Hire Authority may give the holder of a licence a notice to comply if the Labour Hire Authority reasonably believes the holder of a licence is not complying with the Labour Hire Act or Labour Hire Regulations, or there are grounds on which the Labour Hire Authority could suspend or cancel the licence.

If the Labour Hire Authority decides to give a notice to comply, it will give the licence holder a written notice with details including

- name of the licence holder
- provision of the Labour Hire Act or Labour Hire Regulations that the Labour Hire Authority believes have been contravened
- grounds for suspension or cancellation that the Labour Hire Authority believes to exist
- a statement as to the steps to be taken to remedy the non-compliance or to remove the grounds on which the licence could be suspended or cancelled
- the time within which the notice must be complied
- that the licence holder may apply to VCAT for review of the decision to issue the notice.



4. Licence suspension

The decision to suspend a licence may be taken where the Labour Hire Authority is satisfied substantial harm or detriment will be caused unless the licence is suspended and the Labour Hire Authority

- reasonably believes the licence holder has contravened the Labour Hire Act or Labour Hire Regulations
- is no longer satisfied each relevant person in relation to the licence is a fit and proper person
- is not satisfied each relevant person is compliant with legal obligations, or
- is satisfied the licence holder has given materially incorrect or misleading information or that the licence was obtained or renewed because of materially incorrect or misleading information.

If the Labour Hire Authority decides to suspend a licence, it will give the licence holder a written notice stating the decision and reasons for decision, the period of suspension and that the licence holder may apply to VCAT for review of the decision.

5. Licence variation

The Labour Hire Authority may vary a licence if it reasonably believes it is appropriate to do so. Before deciding to vary a licence, the Labour Hire Authority will give the licence holder a show cause notice giving the licence holder 14 days to respond to the proposed variation.

Where the Labour Hire Authority decides to vary a licence on its initiative or refuses to vary a licence on application, the licence holder will be given written notice stating the decision and reasons for decision and that the holder of the licence may apply to VCAT for review of the decision.

6. Licence cancellation

Before deciding to cancel a licence, the Labour Hire Authority will give the licence holder a show cause notice giving the licence holder 14 days to respond to the proposed cancellation.

The decision to cancel a licence may be taken where the Labour Hire Authority

- reasonably believes the licence holder has contravened the Labour Hire Act or Labour Hire Regulations
- is no longer satisfied each relevant person in relation to the licence is a fit and proper person
- is no longer satisfied each relevant person is compliant with legal obligations
- is satisfied the licence holder has given the Labour Hire Authority materially incorrect or misleading information or that the licence was obtained or renewed because of materially incorrect or misleading information, or
- is satisfied the licence holder is no longer providing labour hire services.

The Labour Hire Authority will consider any response provided by the licence holder within 14 days after the show cause notice is given.

Where, having considered any response provided by the licence holder to the show cause notice, the Labour Hire Authority decides to cancel a licence, it will give the licence holder written notice stating the decision and reasons for decision, the date on which the cancellation takes effect (which



will not be less than 14 days from the date of the notice) and that the licence holder may apply to VCAT for review of the decision.

7. Civil action

In serious cases of non-compliance, the Labour Hire Authority will take cases to court to enforce the law or seek a penalty.

Civil action is an essential tool because it deters people from engaging in unlawful behaviour and sends a powerful message to others not to engage in similar conduct.

8. Working with other government agencies

We will work with other government agencies when assessing licence applications and monitoring and enforcing compliance. We may share information with those other government agencies where authorised by the Labour Hire Act.

Publicising compliance and enforcement

The Labour Hire Authority will publish on its website the name and business name of

- an applicant for a licence, if the application is refused or withdrawn
- a former licence holder, in respect of a licence that is suspended or cancelled, or that the Labour Hire Authority refuses to renew
- a person against whom enforcement action has been or is being taken under the Labour Hire Act in relation to a licence including suspension or cancellation of the licence and investigations or proceedings on foot in relation to the licence.