

Labour Hire Licensing Bill 2017

Resupply of Explanatory Notes

Short title

The short title of the Bill is the *Labour Hire Licensing Bill 2017*.

Policy objectives and the reasons for them

The policy objectives of the *Labour Hire Licensing Bill 2017* (the Bill) are to protect labour hire workers from exploitation and restore confidence in the labour hire industry through the regulation of providers of labour hire services in Queensland.

In response to ongoing and serious allegations of exploitation of workers in labour hire arrangements, in December 2015 the Queensland Legislative Assembly agreed to a motion that the Finance and Administration Committee (FAC) inquire into and report on the practice of the labour hire industry in Queensland. The Report of the FAC Inquiry, released on 30 June 2016, contained disturbing evidence of exploitation and mistreatment of labour hire workers in Queensland. The Report made one recommendation – ‘that the Minister progress this issue through COAG meetings to work together with the Federal Government to address the issuance of ABNs to employees as a way for labour hire companies to avoid their employer obligations’.

The Queensland Government accepted the recommendation of the Report and has addressed this recommendation with the Commonwealth Government, however the Queensland Government noted that the mistreatment and exploitation was unlikely to be satisfactorily addressed by adopting the sole recommendation. The Government committed to taking into account the recommendations put forward by Government members of the Committee in their Statement of Reservation, as well as considering options for a labour hire licensing scheme and doing more to protect vulnerable workers in Queensland.

In December 2016, the Queensland Government published an Issues Paper titled ‘Regulation of the Labour Hire Industry 2016’ seeking feedback from stakeholders on the components of a labour hire licensing scheme and other measures to stop the exploitation and mistreatment of workers, ensure the bona fides and provide minimum standards for a labour hire service provider, and improve the confidence in the overall integrity of labour hire in Queensland. Submissions to the Issues Paper supported the Government’s aim to provide greater transparency in labour hire arrangements.

The Bill seeks to introduce a scheme which balances the need to provide protections for vulnerable workers while minimising the administrative burden on labour hire providers and those who engage their services.

Inquiries in Victoria and South Australia have identified similar disturbing allegations of exploitation of workers in labour hire arrangements and support the introduction of a licensing scheme to deter and prevent the exploitation of labour hire workers.

Achievement of policy objectives

The Bill will achieve its policy objectives by:

- establishing a mandatory business licensing scheme for the labour hire industry in Queensland;
- requiring labour hire providers to be licensed;
- requiring persons who engage labour hire providers to only engage a licensed labour hire provider;
- requiring a labour hire licensee to satisfy a fit and proper person test to establish that they are capable of providing labour hire services in compliance with all relevant laws and that the business is financially viable;
- requiring a licence holder to report regularly;
- providing strong penalties for breaches of obligations; and
- providing an awareness, monitoring and enforcement function through a compliance unit.

The requirement to be licensed and the requirement on users of labour hire providers to use only licensed operators will be supported by a public register of licensed providers. This will also enable workers and prospective workers to ensure the labour hire provider they might work for is licensed. Through reporting and the application process, data will be captured in relation to labour hire arrangements in Queensland to inform policy development, monitor the effectiveness of the scheme, and to report back to industry about performance and emerging issues in the labour hire industry.

Alternative ways of achieving policy objectives

The Government has considered four options to achieve the policy objective to protect labour hire workers from exploitation and restore confidence in the labour hire industry.

Options considered for implementation were:

1. No regulation (status quo)
2. Self-regulation (for example, industry accreditation scheme or code of conduct)
3. An independent body to administer a licensing scheme (for example, the United Kingdom Gangmasters' Licensing Authority model)
4. Government administered licensing scheme.

A Government administered licensing scheme is the preferred model.

Through the Issues Paper, the components of a labour hire licensing scheme and how such a scheme could operate in Queensland have been considered. The Bill balances the impost of a licensing scheme with the benefits to be derived by workers, industry and the community.

The Government considers that the introduction of the business licensing scheme through legislation is the best method for achieving the Government's policy intent.

Estimated cost for government implementation

It is considered that the cost to Government of the scheme will be low, with annual revenue estimated to be between \$4 million and \$10 million. It is estimated that operational costs for the scheme, including compliance costs will not exceed \$5 million in the first two years and not exceed \$2 million per year thereafter. Increased expenditure is anticipated in the first two years of operations as a consequence of start-up activities including an initial awareness campaign and compliance activities.

It is proposed to harness existing government resources as much as possible to establish the licensing system.

Stakeholder feedback during consultation on the Bill has revealed a very high expectation for additional resources to be provided to ensure a strong presence is established for the enforcement and monitoring of the labour hire licence scheme. In response it is anticipated that a well-resourced compliance unit will be established to promote awareness of the scheme and ensure compliance.

An appeal of a licensing decision made by the chief executive will be heard in the Queensland Civil and Administrative Tribunal (QCAT). While the number of appeals that might be made is unknown, the potential for additional costs associated with hearing appeals at QCAT is acknowledged. These costs are not considered to be significant.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles (FLP) and gives sufficient regard to these principles. Legislation establishing a licensing scheme and inspectorial powers will generally have provisions which by their nature touch on FLP. Any provisions which could potentially breach FLP are considered justifiable to achieve the Government's objective to protect labour hire workers from exploitation and restore confidence in the labour hire industry. The Government has sought to mitigate the potential for FLP breach.

The Office of Queensland Parliamentary Counsel (OQPC) has raised the following issues which may infringe FLPs.

Legislative Standards Act 1992, section 4(4)(a) – allows the delegation of legislative power only in appropriate cases and to appropriate persons.

Several clauses of the Bill allow elements of the licensing scheme to be prescribed by regulation. While this is a delegation of legislative power, it is appropriate that the specific details of particular matters be prescribed by regulation with a suitable head of power in the substantive legislation. A matter such as the prescription of fees or the type of information that is required to support an application for a labour hire licence is primarily administrative in nature and may be subject to change over time. The Bill provides that certain persons or classes of labour hire providers or workers may, by regulation, be removed from the scope of the licensing scheme in particular circumstances. This recognises the complexity in defining labour hire services and is available to ensure coverage does not capture or extend to unintended classes of workers.

Legislative Standards Act 1992, section 4(3)(d) – legislation should not reverse the onus of proof in criminal proceedings without adequate justification.

The Bill reverses the onus of proof in some evidentiary matters i.e. the appointment and signature of an inspector, a copy of a notice issued under this Bill or a certificate issued by the chief executive. The reversal of the onus of proof is equivalent to that provided in the judicial notice provisions of the *Evidence Act 1977*. It is justified on the basis that it enables the administering authority to put evidence before the courts about a range of basic matters relating to its activities and records without the need to recall witnesses. This will improve administrative efficiency and reduce the workload of officials administering the Bill.

Legislative Standards Act 1992, section 4(3)(e) – legislation should not confer power to enter premises, and search for or seize documents or other property, without a warrant issued by a judge or other judicial officer.

Part 6, Division 2, Subdivision 1 of the Bill provides inspectors with general powers to enter any premises, including residential premises in limited circumstances, i.e. if they reasonably believe the residential premises to be a workplace or for the purposes of gaining access to a suspected workplace. Entry may be by consent, without consent or by warrant.

The power to enter premises without consent or a warrant is considered justified as the prevailing public interest is to protect the vulnerable workers from exploitation. Labour hire workers may work in homes (e.g. cleaning) and may be accommodated in residential premises, and some labour hire providers do not operate from a separate business premises. These powers allow inspectors to enter residential premises to determine if labour hire work is being undertaken, or if the work being done is pursuant to the conditions of the licensee's licence. The provisions of the Bill balance the competing interests of an individual's right to privacy in their residential premises while seeking to guard vulnerable workers against exploitation.

The Bill also allows an inspector to seize a thing, and exercise powers relating to that thing. A requirement for a warrant in all circumstances would not be practical when inspectors are in regional or remote locations and an allegation or complaint is raised at the time which would necessitate urgent investigation and seizure of evidence.

The Bill also provides the chief executive with the power to enter an applicant's place of business by consent for the purpose of ascertaining whether an applicant is a fit and proper person. No other powers are associated with the entry. This provision is considered necessary to assist the chief executive to be satisfied that an applicant is fit and proper for the purpose the labour hire licensing scheme.

Legislative Standards Act 1992, sections 4(2)(a) legislation should have sufficient regard to the rights and liberties of individuals

Offences

The Bill introduces a number of new offences. New penalties are needed to enforce the objective of the licensing scheme to protect workers from exploitation by providers of labour hire and promote the integrity of the labour hire industry. A range of offences, in addition to administrative sanctions, will also ensure that the scheme operates effectively by providing an effective deterrent for non-compliant conduct.

The highest penalties introduced by the Bill are for the serious contraventions of the core tenets of the licensing scheme i.e.(i) for operating as a labour hire provider without a licence; (ii) for entering into an arrangement with an unlicensed provider; and (iii) for entering into an avoidance arrangement. The maximum penalties for a breach of these provisions is 1034 penalty units or 3 years imprisonment for an individual or 3000 penalty units for a corporation. These penalties provide an effective deterrent and are comparable with offences recently introduced by the Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017 which similarly aim to prevent the exploitation of vulnerable workers. They are also comparable with high penalties for serious offences in the *Industrial Relations Act 2016*.

The Bill provides for a person's dealing with inspectors and the prohibition of providing false and misleading information. These offences are justified on the basis that they are necessary practicalities of a licensing scheme with a strong enforcement presence. Contraventions of these clauses attracts a maximum penalty of 100 penalty units. These penalties are comparable with similar offences introduced by other state licensing schemes such as the *Property Occupations Act 2014*, the *Motor Dealers and Chattel Auctioneers Act 2014*, the *Debt Collectors (Field Agents and Collection Agents) Act 2014* and the *Electrical Safety Act 2002*.

The Bill places obligations to comply with the administrative and enforcement functions of the scheme. A contravention of these obligations carries a maximum penalty of 200 penalty units for failing to comply with a requirement of an inspector, with more administrative offences attracting lower maximum penalties of 40 penalty units. These offences and penalties are considered necessary to ensure the effective operation of the scheme and are comparable with similar offences and penalties introduced under the *Property Occupations Act 2014*, the *Motor Dealers and Chattel Auctioneers Act 2014*, the *Debt Collectors (Field Agents and Collection Agents) Act 2014* and the *Liquor Act 1992*.

Privacy

The Bill provides the chief executive with the capacity to publish information about applicants and licensees, and enforcement actions taken under the scheme, on a departmental labour hire website. These provisions balance the competing interests of an individual's right to privacy and guarding against the exploitation of workers. Enabling the chief executive to publish information on the labour hire website will increase the public's awareness of the licensing scheme. This is also anticipated to improve licensee compliance with the legislation and protect labour hire workers and those labour hire businesses who operate ethically and responsibly.

The Bill also provides a broad power for a person engaged in the administration of this Bill to disclose confidential information if the disclosure is consented to by the person to whom it relates or authorised under an Act or law or in connection with the administration of enforcement of a relevant law. This will enable the administering unit to make referrals to agencies in the Commonwealth, State and local government about suspected non-compliance with relevant laws that are within the responsibility of those agencies.

Consultation

Following the FAC public inquiry and report on the practice of the labour hire industry in Queensland, the Queensland Government has been actively examining issues within the labour hire industry in Queensland.

On 15 December 2016, the Queensland Government published an Issues Paper titled 'Regulation of the Labour Hire Industry 2016' (Issues Paper). The Issues Paper was publicly available on the Queensland Treasury website, with submissions open for seven (7) weeks. A total of 40 submissions were received from business, workers, consumers, unions, industry peak bodies, academics and other community representatives. The list of the submissions can be found at <https://treasury.qld.gov.au/fair-safe-work/industrial-relations/regulation-labour-hire-industry/review-submissions.php>.

Submissions to the Issues Paper acknowledged the evidence that labour hire employees are vulnerable to poor treatment at work and cited examples of mistreatment ranging from cases of underpayment and unauthorised deductions of wages, dangerous conditions of work and substandard accommodation, to more extreme cases of exploitation akin to slavery and bonded labour. Submissions also supported action for reform in the labour hire sector to protect vulnerable labour hire workers from exploitation, to support ethical labour hire providers and also to provide confidence to host employers who utilise labour hire arrangements in good faith.

Consultation with stakeholders continued between December 2016 and May 2017 to inform the development of this Bill including:

- Queensland Council of Unions
- National Union of Workers
- Australian Workers' Union
- Growcom
- Chamber of Commerce and Industry Queensland
- Chandler Macleod
- Maurice Blackburn Lawyers
- Recruitment & Consulting Services Association Australia & New Zealand
- Australian Human Resource Institute
- Information Professional Group
- Workpac Group
- AWX
- Programmed
- AGHR
- Network Ag
- Queensland Agriculture Workforce Network
- Rimfire Resources
- Labour Solutions
- Meat Processors Group
- Staff360
- Apprentice Employment Network
- Residential Tenancies Authority
- Housing Industry Association
- AiGroup

- Queensland Law Society
- Master Builders Queensland
- APSCo
- Queensland Resources Council.

The Office of Industrial Relations (OIR) has consulted with the following Queensland Government agencies:

- Queensland Treasury
- Workplace Health and Safety Queensland
- Electrical Safety Office Queensland
- Workers' Compensation Regulator and Policy Unit
- Department of Justice and Attorney-General
- Queensland Police Service
- Department of Transport and Main Toads
- Department of Housing and Public Works
- Department of Agriculture and Fisheries
- Queensland Horticulture Interagency Working Group;
- Department of Education and Training
- Department of Tourism, Major Events, Small Business and the Commonwealth Games

OIR has also consulted counterpart agencies in Victoria and South Australia, the Department of Economic Development, Jobs, Transport and Resources Victoria and SafeWork South Australia.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland and is not uniform or complementary to legislation of the Commonwealth or another State.

Notes on provisions

Part 1 Preliminary

Division 1 Introduction

Clause 1 states that the short title is the *Labour Hire Licensing Act 2017*.

Clause 2 provides that the Bill commences on a day to be fixed by proclamation.

Clause 3 provides that the main purpose of the Bill is to protect workers from exploitation by providers of labour hire services; and promote the integrity of the labour hire industry. This will be achieved by establishing a licensing scheme to regulate the provision of labour hire services.

Clause 4 provides that this Bill binds all persons, including the State. Nothing in this Bill makes the State liable to be prosecuted for an offence.

Clause 5 provides that this Bill applies in Queensland and outside Queensland, to the full extent of the extraterritorial legislative power of the Parliament. The Bill is intended to cover where workers are supplied as provided in the Bill and the work is performed in Queensland, whether or not the labour hire provider is based in Queensland.

Division 2 Interpretation

Clause 6 provides that the dictionary in Schedule 1 defines particular words in the Bill.

Clause 7 defines the meaning of a person (provider) who provides labour hire services for the purposes of the Bill. *Clause 7* (together with *clause 8* and *clause 9*) sets out the scope of the Bill.

The Government's policy position is for the implementation of a mandatory business licensing scheme covering all labour hire providers in Queensland.

The Finance and Administration Committee Parliamentary Inquiry into the practices of the labour hire industry in Queensland, noted that 'Inquiry stakeholders identified that labour hire arrangements can be difficult to define, taking in a diverse array of arrangements'¹. The combination of *clauses 7* and *8* in the Bill seeks to cover a range of circumstances of how a labour hire relationship may form in an attempt to address the diversity of these arrangements, and keeping in mind that such arrangements may be sought out to exploit workers because they can be difficult to identify.

Clause 7(1) sets out that a person provides labour hire services, if in the course of carrying on a business, the person supplies to another person a worker to do work. The Bill has a broad scope to address the wide range of labour hire arrangements. It is intended to capture the triangular relationship between the worker, provider, and the client that a worker is supplied to

¹ Finance and Administration Committee, Inquiry into the practices of the labour hire industry in Queensland, Report No. 25, 5th Parliament, June 2016

which is characteristic of a labour hire arrangement, as well as variations on this model which can be used to disguise labour hire arrangements. Under these types of arrangements, a labour hire business supplies worker to perform work to a third party, generally for an agreed fee. The labour hire provider retains the contractual, employment or other relationship with the worker and is responsible for ensuring the worker's entitlements are met as well as associated responsibilities and liabilities, including legal requirements for workplace health and safety, workers' compensation and taxation.

Clause 7(1) provides examples of businesses which would be considered providers under the Bill: a contractor who supplies workers to a farmer or fruit grower to pick produce for the farmer or grower; a group training organisation or principal employer organisation under the *Further Education and Training Act 2014* that supplies an apprentice or trainee to an employer; an employment agency who on-hires temporary administration staff to a business.

Recruitment services resulting in direct employment/permanent placement and genuine independent contracting arrangements are not in the scope of the Bill.

Examples of other arrangements that would not be labour hire services include: volunteer arrangements where an organisation allows or organises for its workers to perform volunteer work for example at a community organisation or legal centre; work experience or student practical placements arranged through an educational institution. Genuine volunteer work or pro bono work where for example workers at an organisation are encouraged to undertake volunteer or pro bono work at a community organisation or legal centre is not considered within scope of the Bill. Work experience or student practical placements arranged through an educational institution are also not intended to be within the scope of this Bill.

Clause 7(2) provides that, without limiting clause 7(1) a provider provides labour hire services whether or not: the worker is their employee; a contract is entered into between the worker and provider, or between the provider and the person to whom the worker is supplied; the worker is supplied by the provider to another person directly or indirectly through one or more agents or intermediaries, for example through a chain of labour hire arrangements; and whether the work done by the worker is under the control of the provider, the person to whom the worker is supplied or another person. Clause 7(2) further clarifies the scope of the Bill by outlining these elements and characteristics will not be relied upon to determine whether or not a person is providing labour hire services. This is to ensure that labour hire arrangements cannot be hidden behind a particular set or combination of arrangements.

Clause 7(3) provides that a person is not merely a labour hire provider because the person is: a private employment agent under the *Private Employment Agents Act 2005*, a contractor who enters into a contract to carry out construction work within the meaning of the *Building and Construction Industry Payments Act 2004* section 10 and engages subcontractors to carry out the work; or at clause 7(3)(c) the person is, or is of a class of person, prescribed by regulation.

Clause 7(3) is to clarify that a person is not a labour hire provider solely because of the characteristic specified under 7(3) or under clause 7(3)(4) where the person is or is of a class of person prescribed by a regulation (see also clause 7(4)). However if a person who does not provide labour hire services 'merely because' of characteristics set out under 7(3) or the regulation referred to under 7(3)(c) and 7(4) supplies workers in a way that would otherwise be in scope under this division (clauses 7, 8 and 9), then they will be a labour hire provider for the purposes of the Bill. For example, a person might be a Private Employment Agent under the *Private Employment Agents Act 2005* but may not supply workers as defined in this Bill.

In that case, that person would not need to be licensed as a labour hire provider. However, if they began to supply workers within the scope of this Bill, then notwithstanding being a Private Employment Agent and being listed at 7(3), they would be a labour hire provider and would need to be licensed.

Clause 7(4) provides an ability to prescribe by regulation a person or class of person to be covered by clause 7(3)(c) if the supply of a worker is not a dominant purpose of the business ordinarily carried on by the person or class of person.

Clause 8 defines the meaning of worker for the purposes of the Bill. An individual is a worker for a provider if the individual enters into an arrangement with a provider under which: the provider may supply, to another person, the individual to do work; and the provider is obliged to pay the worker, in whole or part, for the work. The term ‘worker’ is deliberately broad to include in scope a wide range of arrangements which may be entered into and to not put out of scope a particular arrangement which may be used to engage a person who performs work.

Clause 8(2) provides that an individual is not a worker if the individual is or is of a class of individual if prescribed by regulation. This recognises the complexity in defining labour hire services and is available to ensure coverage does not capture or extend to unintended classes of workers.

The definition of worker under clause 8 is relevant for the interpretation of the other clauses of this Division and therefore the scope of the Bill. If a worker or class of worker does not fall under the clause 8 definition of worker, for example, because they have been prescribed by regulation under clause 8(2) as not a worker, then a person supplying that worker would not be within the scope of the Bill. However, if the person supplying the labour hire services provided other workers who were within scope, the obligation to be licensed and the other obligations under the Bill would still apply for that supply.

Clause 8(3) declares to remove any doubt a worker includes a person who enters into a training contract arranged by a provider who is a group training organisation or principal employer organisation under the *Further Education and Training Act 2014*.

Clause 9 provides that for the purposes of the Bill, the supply of a worker to do work for a person happens when the worker first starts to do work for the person in relation to the supply. This clause also relates to clauses 7 and 8 for the purposes of interpretation of the scope and operation of the Bill. A person who provides labour hire services within the scope of the Bill should ensure they are able to meet their obligations under the Bill when they supply to another person a worker to do work (under clause 7) and the worker first starts to do work for the person in relation to the supply (clause 9). If a person who provides labour hire services is supplying workers from commencement of the Bill, the transitional clause (clause 109) is also relevant and sets out the transitional arrangements.

Part 2 Prohibited conduct and exemptions

Division 1 Prohibited conduct

Clause 10 provides that a person must not provide labour hire services unless they are the holder of a licence. Contraventions of this provision may attract a maximum penalty of 1,034

penalty units or three years imprisonment for individuals and 3,000 penalty units for corporations.

Clause 10(2) is an offence provision and provides that a person must not advertise, or in any way hold out, that they provide labour hire services unless they are authorised to do so. Contraventions of this provision may attract a maximum penalty of 200 penalty units

Clause 11 provides that a person must not, without a reasonable excuse, enter into an arrangement with a provider, unless the provider is the holder of a licence. Clause 11(2) provides that it is a reasonable excuse for the person not to comply if when the person entered into the arrangement the provider was shown on the published register as the holder of a licence. Contraventions of this provision have a maximum penalty of 1,034 penalty units or three years imprisonment for individuals and 3,000 penalty units for corporations.

Clause 12 provides that a person must not enter into an avoidance arrangement with another person for the supply of a worker if the person knows, or ought to know, the arrangement is designed to circumvent or avoid an obligation imposed by this Bill, unless the person has a reasonable excuse. Contraventions of this provision may attract the same maximum penalties as clauses 10 and 11 (1,034 penalty units or three years imprisonment for individuals and 3,000 penalty units for corporations).

An avoidance arrangement is an arrangement with another person for the supply of a worker if the person knows, or ought reasonably to know, the arrangement is designed to circumvent or avoid an obligation imposed by the Bill. The practical effect of this clause is to make clear that the users of labour hire services and labour hire providers cannot conspire together or otherwise agree to enter arrangements or take steps to avoid their obligations under this Bill including their obligations to comply with all relevant laws at clause 28. For example, if a user of labour hire knows that a labour hire company provides labour hire services within the meaning of this Bill, it would be an avoidance arrangement to enter into an arrangement for the supply of workers as provided in this Bill and not characterise it as labour hire in order to circumvent obligations, such as by recording the arrangement as a transaction of a different nature, or not recording or keeping information. This provision is not intended to capture 'legitimate and lawful business arrangements' which would not be characterised as labour hire or involving the supply of workers as set out in the Bill.

In relation to an avoidance arrangement where the arrangement is seeking to avoid obligations imposed by clause 28 of the Bill which makes it a condition of a licence to comply with all relevant laws - the offence applies to the action of entering into an avoidance arrangement, not for the breach of a relevant law itself.

The intent of this provision and the strong penalties attached is to deter labour hire providers and persons who engage them from entering into arrangements which might benefit both or one or the other, for example lower costs to a person engaging a labour hire provider, or lower record keeping or other obligations on a labour hire provider, and to ensure that both parties have responsibility (with an offence available) to ensure that the labour hire arrangement meets the obligations under this Bill and obligations to workers including statutory protections and minimum standards for entitlements, safety, anti-discrimination, superannuation, PAYG tax etc.

This provision goes to the object of this Bill to both to protect workers and promote the integrity of the labour hire industry and responds to concerns that labour hire companies that comply with their legal obligations as legitimate businesses find it increasingly difficult to compete with businesses who structure their arrangements to avoid obligations to operate at a lower cost.

Part 3 Licences

Division 1 Application and grant

Clause 13 sets out the requirements for an application for a licence under the Bill, including that the application must be in the approved form and include specified information including: the applicant's full name and contact details; business name; Australian Business Number and business address; full name and contact details of nominated officer/s as prescribed in the Bill; and whether the applicant is providing or intends to provide accommodation or any other service (for example: meals, transport) in connection with the provision of labour hire services. The clause provides also that the application must be accompanied by a fee to be prescribed by regulation; information prescribed by regulation in relation to the financial viability of the business; compliance with the *Work Health and Safety Act 2011* and the *Workers' Compensation and Rehabilitation Act 2003* and other information prescribed by regulation the chief executive reasonably requires to determine whether applicants and other persons mentioned in clause 15(b) are fit and proper persons to provide labour hire services.

Clause 14 sets out persons who cannot apply, including that a person who was the holder of a cancelled licence cannot apply for a licence for a period of two years after the cancellation. To deal with corporations, the clause also sets out that a corporation that was the holder of a licence that has been cancelled and any related body corporate of the corporation can not apply for a licence unless the chief executive is satisfied that because of a genuine sale, the requirements set out at clause 14(5) are met. Clause 14(3) provides that if a person applies for a licence and the chief executive refuses to grant the licence, the person is restricted from applying for another licence for three months after the day the chief executive gives the person the information notice about the decision, or where a person has reviewed or appealed the decision not to grant and the decision is confirmed, for three months after the day the decision is confirmed.

Clause 15 provides a range of criteria that the chief executive must consider in deciding whether to grant an applicant a licence under the Bill. The criteria are if the chief executive is satisfied that each of the persons required to pass a fit and proper test are fit and proper persons to provide labour hire services and the business to which the application relates is financially viable.

Clause 16 provides that after considering an application, and the relevant information obtained in relation to the application, the chief executive may decide to refuse or grant the licence.

Clause 16(2) enables the chief executive to grant the licence subject to a condition under clause 29(1) and if a condition is imposed, the chief executive must give the licensee an information notice for the decision to impose the condition. If the chief executive decided to refuse to grant the licence, the chief executive must give the applicant an information notice for the decision.

Clause 17 provides that a licence may be granted for a term of up to one year and comes into force on the day stated in the licence. *Clause 17(3)* provides that a licence stops being in force if it is surrendered, cancelled or expires without being renewed.

Division 2 Renewal and restoration

Clause 18 enables a licensee to apply to the chief executive for renewal of the licensee's licence before the licence expires. The application must be in the approved form and be accompanied by the prescribed renewal fee. *Clause 18(3)* provides that if the chief executive does not make a decision on a renewal application before the licence expires, the licence is taken to be in force until the day the chief executive decides on the application, or the licensee withdraws the application.

Clause 19 enables a licensee to apply to the chief executive for the restoration of an expired licence and the requirements for the application including that it must be made within 28 days after the licence expires and be accompanied by the restoration fee prescribed by regulation.

Clause 20 requires the chief executive to consider an application for the renewal or restoration of a licence and enables the chief executive to grant the application, with or without conditions (under Part 4, Division 1), or to refuse to grant the application. *Clause 20(2)* sets out the criteria that the chief executive must be satisfied of when granting an application for renewal or restoration. If the chief executive refuses a licence renewal or restoration application they must give the applicant an information notice for the decision.

Clause 21 provides that a renewed licence is granted for the term of up to one year starting on the day it would have expired if the licence were not renewed under this division. *Clause 21(2)* provides that a restored licence is taken to have been in force from the day after it expired and is granted from the term of one year starting on the day after expiration.

Division 3 Suspension, cancellation and surrender

Clause 22 enables the chief executive to suspend a licensee's licence in certain circumstances, as set out in *clause 22(1)*. For example, the chief executive may suspend a licence if they are satisfied that the licensee has failed to give a report under *clause 31* or if the licensee is no longer a fit and proper person to hold the licence or the licensee has contravened or is contravening a relevant law. If the chief executive decides to suspend a licence, *clause 22(2)* provides that the chief executive must give the licensee an information notice and the suspension takes effect on the day stated in the information notice and continues for a period of not more than 90 days and subject to the conditions stated in the notice. *Clause 22(3)* provides that the day stated in the information notice for *clause 22(2)* suspending the licence must be a day after the notice is given to the licensee.

Clause 23 requires the chief executive to give a licensee a show cause notice if they are proposing to cancel a licence under *clause 24*. The show cause notice must state that the chief executive proposes to cancel the licence, the reasons for the proposed cancellation, and that the licensee may within 14 days give the chief executive a written response to the proposed

cancellation. Clause 23(3) requires the chief executive to consider the licensee's response, if any is received, before deciding whether to cancel the licence.

Clause 24 provides that the chief executive may cancel a licence if they are satisfied that:

- the licensee has contravened a condition of the licence;
- the licensee is no longer a fit and proper person to provide labour hire services;
- the licensee or an employee or representative of the licensee has contravened a relevant law (defined in Schedule 1 of the Bill), whether or not they have been convicted of an offence for the contravention;
- if the licensee is an individual – the licensee is insolvent under administration under the *Corporations Act 2001*, section 9; or
- if the licensee is a corporation – the licensee has been wound up or deregistered under the *Corporations Act 2001*.

Clause 24(2) provides that the cancellation takes effect on the day stated in the information notice.

Clause 25 imposes an obligation on a person whose licence has been suspended or cancelled to return the licence to the chief executive within 14 days after the suspension or cancellation, unless the person has a reasonable excuse. A maximum penalty of 40 penalty units applies for contraventions of this requirement. Clause 25(2) requires the chief executive to return a licence to the licensee if it is still current at the end of a period of suspension.

Clause 26 allows a licensee to surrender their licence by giving written notice to the chief executive and returning the licence. A surrendered licence stops having effect on the day it is surrendered.

Division 4 Fit and proper persons

Clause 27 provides that in deciding whether a person is a fit and proper person to provide labour hire service the chief executive must have regard to:

- the person's character (for example, the person's honesty, integrity and professionalism);
- the person's history of compliance with relevant laws;
- whether the person is able to demonstrate an ability to comply with relevant laws;
- if the person has previously held a licence that has been cancelled or suspended, or had conditions imposed;
- if the person has been convicted of an offence against a relevant law or another law that affects the person's suitability to provide labour hire services;
- if the person is an individual— if they have been insolvent under the *Corporations Act 2001*, section 9;
- if a corporation has been placed into administration, receivership or liquidation while the person was an executive officer of the corporation;
- if a person has been disqualified from managing corporations under the *Corporations Act*;
- if a person is under the control of, or substantially influenced by, another person whom the chief executive considers is not a fit and proper person to provide labour hire services.

A fit and proper person test is a relatively common element in licensing schemes. Similar fit and proper person tests or ‘suitable’ or ‘appropriate’ person tests are found in other licensing schemes such as the *Security Providers Act 1993* (Qld), *Liquor Act 1992* (Qld), *Motor Dealers and Chattel Auctioneers Act 2014* (Qld).

Clause 27(1)(h) prescribes that the chief executive may also have regard to whether the applicant is under control of, or substantially influenced by, another person whom is not considered a fit and proper person to provide labour hire services.

For the purposes of this clause, an ‘influencing’ or ‘controlling’ person may include any other person, including for example but not limited to:

- a spouse, domestic partner, parent, brother, sister or child; or
- a member of the same household;
- a member of a partnership;
- a related body corporate;
- a person who has a right to participate (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or
- a person who is in a position to exercise control or influence over the conduct of the other.

When considering whether an applicant is under control of, or substantially influenced by another person, the chief executive may have regard to whether the applicant is known or alleged to be closely linked/associated or related to an ‘influencing’ or ‘controlling’ person who, for example:

- has had a licence cancelled;
- was found not to be a fit and proper person under the scheme;
- runs a non-compliant business which appears to have been a previous incarnation of the applicant’s business (to address ‘phoenix’ behaviour);
- has been convicted of an offence against a relevant law (e.g. a former director of the same company who has been made insolvent under the *Corporations Act 2001* section 9); or
- has been disqualified from managing a company under the *Corporations Act 2001*.

In order to make this determination the chief executive may rely on any complaints or reports made to the compliance unit or chief executive. They may also monitor labour hire businesses which have had applications refused or licences cancelled. Further, the chief executive may also liaise with other regulatory bodies to gather information about known ‘dodgy operators’ or relevant prosecutions, for example using the chief executive’s Part 5 powers. Another consideration may be whether there is evidence that the ‘influencing’ person would not pass the fit and proper person test prescribed by the Bill.

Clause 27(2) provides that the chief executive may also have regard to any other matter they consider relevant in deciding whether the person is a fit and proper person to provide labour hire service. This may include for example membership (or disqualification) of a professional association or body.

The fit and proper person test is a living test throughout the period of holding a licence, as well as at application. If, at any time while a licence is in force, the chief executive decides the

licensee is no longer a fit and proper person to provide labour hire services, the chief executive may take action to suspend or cancel the licence under division 3.

This clause is intended to ensure that the chief executive, in making her/his decision whether a person is fit and proper to provide labour hire services, is able to have regard to an appropriately broad range of characteristics and relevant information given the broad scope of the scheme. The *Motor Dealers and Chattel Auctioneers Act 2014* also has a broad power to allow the chief executive to consider any information he/she reasonably requires to decide whether an applicant is a suitable person to hold a licence.

Part 4 Obligations of licensees

Division 1 Licence conditions

Clause 28 provides that it is a condition of a licence that a licensee must comply with all relevant laws applying to the licensee.

It is not uncommon for a licensing scheme to require compliance with other regulatory requirements. This requirement is considered necessary given the broad range of issues and the broad scope of this Bill.

Under the Bill a condition of holding a licence is that a licensee must comply with all relevant laws. Under this Bill, a relevant law is defined as the Act; or a provision of an Act or law of the State, the Commonwealth or another State imposing an obligation on a person in relation to workers, including, for example, obligations about –

- (i) keeping records about workers; and
- (ii) the payment of tax or superannuation for workers; and
- (iii) ensuring the health and safety of workers.

Examples of relevant laws are provided for in the dictionary at Schedule 1 of this Bill. These examples are not exhaustive.

Clause 29 provides that a licence may be subject to conditions imposed by the chief executive. The chief executive may also impose, vary or revoke the conditions if they consider it appropriate.

Clause 29(2) provides that a condition may require:

- the licensee to hold insurance of stated kind and amount;
- a licensee to lodge with the chief executive a security that complies with stated requirements; or
- a licensee to give the chief executive stated information, or allow the chief executive to inspect the premises at which the licensee carries on business at stated reasonable intervals.

The inclusion of the ability to impose conditions on a licence is a common feature of licensing schemes. Business licence schemes, such as WorkCover, may seek solvency and Australia Prudential Regulation Authority requirements, the provision of financial statements, and or recording of information.

Examples of types of conditions are (without limiting) described at clause 29(2) and include holding insurance and offering a security or report at specified intervals. The provision of a condition attached to a licence is intended to strengthen the scheme while allowing persons to operate where their application may have otherwise failed. Any condition imposed would need to be reasonable, appropriate and consistent with the issue it seeks to deal with, and subject to review and appeal under Part 8 of this Bill.

Clause 30 requires the chief executive to give a licensee a show cause notice before imposing or varying a condition on a licence. The show cause notice must state the reasons for the proposed condition variation. The licensee has 14 days after the written notice is issued to give the chief executive a written response to the proposed condition or variation. If the chief executive then decides to impose or vary the condition they must also give the licensee an information notice for the decision.

Division 2 Reporting

Clause 31 requires a licensee to give the chief executive a report that complies with this clause within 28 days after a reporting period for the licensee ends. Contravention of this clause is an offence that carries a maximum penalty of 200 penalty units. Reporting is a key component of the scheme to ensure labour hire providers are meeting their obligations under the scheme and to inform monitoring, enforcement and compliance activities.

Clause 31(2) requires the licensee to include in their report:

- the licensee's full name and contact details;
- the business name, ABN and address of the business that is the subject of the licence;
- the nominated officer's name full name, address and contact details;
- the number of workers the licensee has supplied to another person to do work for that person during the reporting period;
- a description of the arrangements entered into between the licensee and workers during the reporting period including, for example, whether the workers are engaged by the licensee under a contract;
- details of the type of work carried out by workers supplied by the licensee during the reporting period, including the industry in which the work is carried out;
- the location in Queensland where work was carried out by relevant workers;
- if accommodation is provided for workers in connection with the provision of labour hire services:
 - the address of the accommodation;
 - whether the relevant workers paid a fee for the accommodation; and
 - the number of relevant workers that used the accommodation.
- if the licensee is aware that accommodation was provided by another person to the relevant workers, to the best of the licensee's knowledge:
 - who provided the accommodation;
 - the address of the accommodation;
 - whether the relevant workers paid a fee for the accommodation; and
 - the number of relevant workers that used the accommodation.
- whether any other services were provided to the relevant workers by the licensees, or to the best of the licensee's knowledge by a person to whom a worker was supplied, for example meals or transport;

- information about the licensee's compliance with relevant laws for the reporting period;
- disclosure of any disciplinary action or enforcement action taken or started against the licensee by a regulatory body under a relevant law during the reporting period;
- the number of notifiable incidents involving a relevant worker notified under clause 38 of the *Work Health and Safety Act 2011*;
- the number of applications for compensation made by a relevant worker under the *Workers' Compensation and Rehabilitation Act*; and
- any other matter prescribed by regulation under clause 32.

The information sought in relation to accommodation at clause 31(2)(i) is to be provided to the best of the licensee's knowledge. If the licensee has arranged accommodation for workers, or is otherwise aware of the accommodation arrangements of workers - for example: the labour hire provider regularly engages workers who stay at particular hostels and/or the provider arranges for transport for workers from a particular hostel or premises - it will be necessary for the labour hire provider to keep details of these arrangements and to report under these elements. Clauses 31(2)(h) and (i) are necessary elements of the reporting obligations of the Bill and numerous inquiries have highlighted vulnerability of labour hire employees to poor treatment linked to the provision of accommodation including substandard or unsafe accommodation, and being forced to agree to deductions from wages to pay for accommodation.

Clause 31(3) provides that for this clause a reporting period means the period of six months starting on the day the licensee's licence is granted; and the period of six months starting immediately after the day the reporting period for the previous report required under this clause has ended.

Clause 32 provides that a regulation may prescribe further matters in relation to the reporting requirement under clause 31. These details can be about a matter mentioned in clause 31 (2) that must be included in the report. For example, details about the number of workers the licensee has supplied who are of a non-English speaking background and the information required about the licensee's compliance with a relevant law. Clause 32(b) provides that regulation can prescribe how the information about the licensee's compliance with a relevant law is to be provided.

Division 3 Nominated officers

Clause 33 provides the requirements for a nominated officer of a licence. The nominated officer must be an individual who:

- is responsible for the day-to-day carrying on, or takes part in, the management of the business to which the licence relates; and
- satisfies any other requirements prescribed by regulation.

Clause 34 requires a licensee to ensure that each of the licensee's nominated officers are reasonably available to be contacted by the chief executive or a member of the public during business hours. Contravention of this obligation is an offence that carries a maximum penalty of 40 penalty units.

Clause 35 enables a licensee to apply to the chief executive to remove a nominated officer from office and appoint another individual as a nominated officer. The application must be

accompanied by enough information about the appointee to enable the chief executive to decide whether person satisfies the requirements of a nominated officer mentioned in clause 33(1) and is a fit and proper person to provide labour hire services.

Clause 35(4) provides that if the chief executive approves the application they must record the details of the change on the register. Clause 35(5) provides that if the chief executive refuses the application they must give the licensee an information notice for the decision.

Clause 36 provides that a licensee may appoint a substitute nominated officer if they are absent from the licensee's place of business for not more than 30 days and the person consents. The substitute nominated officer must also satisfy the requirements of a nominated officer listed under clause 33(1). The substitution of a nominated officer is intended as an ad hoc arrangement only, for example if the nominated officer is on a short absence from work for illness or holiday. See also clause 37.

Clause 36(2) requires the licensee to ensure that the appointment is in writing and states the period of appointment. The appointment and consent must also be kept at the premises where the substitute nominated officer will be responsible for the day to day management of the business. It must also be made available to an inspector if requested. Contravention of this provision is an offence that carries a maximum penalty of 40 penalty units.

Clause 37 provides that a licensee may apply to extend the appointment of a substitute nominated officer if the nominated officer will be absent from the licensed business for a period of more than 30 days. This process must be followed to ensure a substitute nominated officer is not appointed for longer duration without the chief executive being aware of this, and in light of the requirement for nominated officers to be fit and proper persons to provide labour hire services. To do this, the licensee must either apply to the chief executive in the approved form for the appointment or extension of appointment of a substitute nominated officer, or apply under section 35 to remove the absent nominated officer and appoint another person as the nominated officer.

Division 4 Other obligations

Clause 38 requires a licensee to produce a copy of their licence for inspection if asked by an inspector, worker or another person with whom the licensee is dealing. Contravention of this provision is an offence that may attract a maximum penalty of 100 penalty units.

Clause 39 prohibits a licensee from transferring, selling, disposing of, lending, or hiring out the licensee's licence to another person. Contravention of this provision is an offence that may attract a maximum penalty of 200 penalty units or one year's imprisonment.

Clause 40 requires a licensee to give the chief executive a written notice of a prescribed change in circumstances within 14 days. A contravention of this provision may attract a maximum penalty of 200 penalty units. For this clause, a prescribed change means a change prescribed by regulation relating to:

- a matter the chief executive must consider in deciding whether the licensee is a fit and proper person;
- details about the licensee contained on the register; or
- accommodation for workers supplied to another person by the licensee.

Part 5 Obtaining information

Clause 41 allows the chief executive to require a person applying for a licence or renewal or restoration of a licence to provide information or material the chief executive reasonably requires to decide the application. If the person fails to provide the material or information, the person is taken to have withdrawn the application or request.

Clause 42 allows the chief executive to enter an applicant's place of business for the purpose of ascertaining whether the applicant is a fit and proper person to provide labour hire services. This power applies to both an application for a licence and an application for renewal or restoration of a licence. Clause 42(3) provides that the entry must be during times the business is being carried on or with the consent of the applicant. Under this clause, a place of business does not include a part of the place where a person resides. This provision allows entry to view only and no other powers are associated with the entry.

Clause 42 allows entry to the applicant's place of business without notice and without consent or a warrant, at a time when the applicant's business is being carried on. Consent would be required if entry was to occur at a time when the applicant's business was not being carried on. The use of the wording 'at a time the applicant's business is being carried on' rather than reference to business hours deals practically with the situation where a business might 'carry on' its business outside of standard business hours or the business's own trading hours, or may not operate across standard business hours, but where entry may be necessary to achieve the purpose of the provision – that is to ascertain whether the applicant is a fit and proper person to provide labour hire services.

The power to enter a premises when the applicant's business is being carried on without consent or a warrant is not an unusual provision for a business licensing scheme and is considered justified in light of the purpose of the Bill and prevailing public interest to protect workers from exploitation.

Clause 43 allows the chief executive to reasonably require information from a licensee about whether a licensee is, or continues to be, a fit and proper person; or the business to which a licence relates is financially viable. The provision requires the chief executive to make this request by written notice and give the licensee a period of 21 days to supply the information. A contravention of this provision may attract a maximum penalty of 40 penalty units.

Clause 43(2) provides that the chief executive may also require the person to verify this information or document by statutory declaration. Clause 43(5) enables the chief executive to give information obtained under this clause to an auditor under clause 104(3) (d) and to ask the auditor to provide advice about financial information given to the chief executive by a licensee.

Clause 44 permits the chief executive to make inquiries about an applicant for a licence to assist them in deciding whether the person is, or continues to be, a fit and proper person for a licence or if the business to which the person's licence relates is financially viable. The inclusion of the ability to seek a criminal history check is essential to the operation of the scheme for example to be able to verify information provided at application and on an ongoing basis in relation to whether a person satisfies the fit and proper test at clause 27. The application and reporting processes and forms will make clear that the information provided is subject to

verification including criminal history check and that in providing the information they acknowledge and agree as part of applying that the information may be verified, including by criminal history check. If an applicant does not agree to this, the application for a licence may not be considered.

These inquiries may include asking the Queensland Police Commissioner for a report about the criminal history and a brief description of the nature of the offence or alleged offence giving rise to a conviction or charge mentioned in the applicant's or licensee's criminal history. If a report is requested, the commissioner must comply with the request. However, the report is only required to contain information in the commissioner's possession, or to which the commissioner has access. Clause 45 restricts the use of information about a charge mentioned in a person's criminal history, and clause 46 sets out confidentiality provisions.

Clause 45 clarifies that the information obtained under clause 44 may only be used by the chief executive for making a decision mentioned in clause 44(1), i.e. about whether a person is, or continues to be, a fit and proper person to provide labour hire services, or if the person is a licensee, whether the business is financially viable.

Clause 45(3) provides natural justice protections which limit when the chief executive may rely on information about a charge for making a decision. The use of charge information may be used to inform the chief executive of, for example, a pattern of behaviour, but may not be relied on to suspend a licence under clause 22 or for making a decision as to whether the person is, or continues to be, a fit and proper person to provide labour hire services.

Clause 46 applies to a person who possess a report of information given to the chief executive about a person criminal history information.

Clause 46 (2) provides that a person must not directly or indirectly disclose the information unless permitted under clause 46(3). Contraventions of this provision carry a maximum penalty of 100 penalty units. The provision also requires the chief executive to destroy a document containing criminal history information as soon as practicable after it is no longer needed for the purpose for which it was given.

Part 6 Monitoring and enforcement

Division 1 Appointment of Inspectors

Clause 47 specifies an inspector's functions. These include monitoring compliance with the Bill, investigating alleged contraventions of the Bill and informing providers and workers of their rights and obligations under the Bill.

Clause 48 provides that the chief executive may appoint an appropriately qualified public service employee as an inspector.

Clause 49 provides that an inspector holds office on any conditions stated in the instrument of appointment, or a signed notice, or a regulation.

Clause 50 provides that the office of an inspector ends if the terms stated in a condition of office ends, under another condition of office, or the inspector's resignation under clause 51 takes effect.

Clause 51 provides that an inspector may resign by signed notice given to the chief executive.

Clause 52 provides that the chief executive must give each inspector an identity card. The identity card must contain a recent photo of the inspector, a copy of the inspector's signature, identify the person as an inspector under this Bill and state an expiry date of the card.

Clause 53 provides that in exercising a power under this Bill an inspector must produce their identity card for inspection by a person or display the card so it is clearly visible. However, if it is not practicable to produce or display the card before exercising a power, the card must be produced for inspection at the first reasonable opportunity.

Clause 54 provides that if the office of an inspector ends, the person must return the identity card to the chief executive. A maximum penalty of 40 penalty units is prescribed for failing to comply with this requirement.

Division 2 Powers of entry

Subdivision 1 Power to enter

Clause 55 sets out an inspector's general power to enter places and specifies that an inspector may enter a place if the occupier consents and they comply with clause 59, if it is a public place and the entry is made when the place is open to the public, or if the entry is authorised by warrant and or if there is an occupier that clause 66 has been complied with.

Clause 55 is considered to include a workplace where a labour hire worker works.

Clause 55(1)(d) provides that an inspector may enter a place if the place is a workplace, it is open for business, work is being carried out, or it is required to be open for inspection under a condition of a licence.

Clause 55(2) provides that if the power to enter arose by consent of the occupier, the power is subject to any conditions of the consent and cease if the consent is withdrawn.

Clause 55(3) provides that if the power to enter arose under a warrant, the power is subject to the terms of the warrant.

Clause 55(4) provides that entry may be made with or without consent where the place is a workplace under clause 55(1)(d).

The general powers prescribed by this clause are not dissimilar to powers exercised by industrial inspectors, workplace health and safety inspectors and inspectors appointed under the *Fair Trading Inspectors Act 2014* which provides the inspectoral powers for a range of licensing and other schemes administered by the Office of Fair Trading (Queensland), Department of Justice and Attorney-General. These powers are considered both adequate and appropriate given the seriousness of and range of issues that are associated with labour hire

arrangements, and are considered necessary for effectively achieving the objects of and monitoring compliance with this Bill.

An inspector's 'general power of entry' are set out in this clause. The premises for clause 55 could include the labour hire provider's business or the business of the person who has engaged the worker through the labour hire provider and other premises if a series of labour hire arrangements are entered into. This clause makes clear that an inspector may enter a place if (a) the occupier consents; or (b) it is a public place and entered at a time when the place is open to the public; or (c) by warrant (where the conditions for obtaining and entering by warrant are further prescribed at clauses 61 to 66).

For entry to a workplace, clause 55(1)(d) provides that an inspector can enter if (and only if) the place is a workplace that is open for carrying on business; or work is being carried out at the workplace; or the workplace is required to be open for inspection as a condition of the licence for example to inspect the premises at stated reasonable intervals (see clause 29). For entry under clause 55(1)(d), consent would not be required as provided in clause 55(4).

The definition of place, which includes premises, is made clear at Schedule 1 (the dictionary) which gives an ordinary and customary use of the words and includes a building or structure or part of a building or structure, a caravan or vehicle, a cave or tent. It is anticipated that any licence condition imposed for a workplace to be open will be clear and unambiguous in its detail.

Clause 56 provides that powers of an inspector in relation to entering a place are not exercisable in relation to any part of a place that is used only for residential purposes except when:

- the occupier consents and clause 59 has been complied with;
- the inspector has obtained a warrant under clause 66; or
- it is only for the purpose of gaining access to a suspected workplace and the inspector reasonably believes that no alternative access is available and it is a reasonable time to inspect the workplace.

Subdivision 2 Entry by consent

Clause 57 provides that this subdivision applies if an inspector intends to ask an occupier of a place to consent to entry under clause 55(1)(a).

Clause 58 provides that for the purposes of obtaining consent an inspector can enter land around a premises or enter part of the place that members of the public are ordinarily allowed to enter (to the extent that it is reasonable) in order to contact the occupier.

Clause 59 provides a list of matters, including the purpose of the entry, an inspector must give a reasonable explanation about before asking for the consent of the occupier to enter a place.

Clause 60 provides that if an occupier gives an inspector consent to enter a place, the occupier must sign an acknowledgement of the consent. Clause 60(2) prescribes what the acknowledgement must state.

Subdivision 3 Entry under warrant

Clause 61 makes provision for the application for a warrant. The inspector must prepare a written application that states the grounds on which the warrant is sought and the written application must be sworn.

Clause 62 provides that a magistrate may only issue a warrant if they are satisfied that there are reasonable grounds for suspecting there is, or will be, within the next seven days, a particular thing or activity that may provide evidence of an offence against this Bill. It also provides a list of requirements that must be stated in the warrant.

Clause 63 provides that an application under clause 61 may be made by phone, fax, email, radio, videoconferencing or another form of electronic communication if the inspector considers it necessary because of urgent circumstances or other special circumstances such as an inspector's remote location.

Clause 64 outlines additional procedures that must be followed after a magistrate issues a warrant for an application made under clause 63.

Clause 65 provides that a warrant is not invalidated by a defect in unless the defect affects the substance of the warrant in a material particular.

Subdivision 4 Entry procedure

Clause 66 applies when an inspector is intending to enter a place under a warrant issued under subdivision 3. Clause 66 (2) provides a list of things which an inspector must do, or make a reasonable attempt to do, before entering the place including: identify himself or herself; give a copy of the warrant and tell the person that the inspector is permitted by the warrant to enter the place and give the person an opportunity to allow the inspector immediate entry to the place without using force.

However an inspector does not need to comply with clause 66 (2) if the inspector reasonably believes that entry to the place without consent is required to ensure the execution of the warrant.

Division 3 Powers on entering

Subdivision 1 General

Clause 67 provides that a power under this subdivision may be exercised if an inspector enters a place under clause 55(1)(a), (c) or (d). However, if an inspector enters under clause 55(1)(a) or (c) the powers under this subdivision are subject to any conditions of the consent or terms of the warrant.

Clause 68 provides the general powers an inspector has when entering a workplace under this Bill. In particular, an inspector has the general power to take to, into or onto the place, any person, equipment or materials that the inspector reasonably requires to exercise their powers, for example, an inspector may take an interpreter with them to a site to assist with communication. These powers are consistent with inspectors' powers under other Queensland legislation, for example the *Industrial Relations Act 2016*.

Clause 69 provides an inspector with the power to require an occupier or person of a place to give the inspector reasonable help to exercise a general power, including for example, to produce a document or to give information.

Clause 69(2) and (3) provide that when requiring the help of an occupier the inspector must warn the person that, without a reasonable excuse, it is an offence for the person not to comply with the requirement. The offence is provided for by clause 89 *Failure to comply with a requirement of an inspector* and carries a maximum penalty of 200 penalty units.

Clause 70 provides an inspector who enters a place under this part with the power to require the production of certain documents required to be kept by the person under this Bill. For an electronic document, compliance with this requirement means making the document available or a clear printed reproduction of the electronic document. An inspector may keep the document to copy it but must return the document to the person as soon as practicable after copying it. The offence is provided for by clause 89. Failure to comply with a requirement of an inspector and carries a maximum penalty of 200 penalty units.

In relation to the possibility of a person incriminating themselves by producing documents under this clause, clause 70(6) requires that the inspector must inform the person in a way that is reasonable in the circumstances that they must comply even though complying might tend to incriminate the person or expose them to penalty, and also inform the person of the limited immunity provided by clause 101 in relation to information provided under this clause.

The waiver of the defence of self-incrimination in regard to the production of a document required to be kept under the legislation is not uncommon and ensures that an inspector is able to inspect a document that is required to be kept by the person under that legislation. The protection against its derivative use is also not uncommon and provides suitable protection against self-incrimination.

An example of similar provisions are in the *Fair Trading Inspectors Act 2014* (Qld) at clauses 57 and 58 (relating to the production of document) and clause 72 (evidential immunity provision).

Clause 71 applies if an inspector reasonably believes that an offence against this Bill has been committed and a person may be able to give information about the offence.

Clause 71(2) provides that the inspector may in this case give a notice to the person requiring the person to give the inspector information related to the offence by a stated reasonable time, or attend before the inspector at a stated reasonable time and place to answer questions or produce documents related to the offence.

These powers are necessary for the effective operation of the Bill given the seriousness of issues which arise in the labour hire industry, and to monitor and enforce compliance with the Bill and its obligations. The power to require a person to provide information or attend a meeting is a standard provision in other legislative schemes where inspectors are given a range of powers to monitor and ensure compliance to deal with serious risks of non-compliance. For example under the *Fair Trading Inspectors Act 2014* which sets out the inspectoral powers of Office of Fair Trading inspectors under a range of portfolio legislative licensing schemes including Security Providers, Motor Dealers, Property Occupations.

Clause 71(4) refers to the offence provision under clause 89 which applies to this clause (*Failure to comply with a requirement of an inspector* and carries a maximum penalty of 200 penalty units). However, clause 71(4) provides a protection from self-incrimination in that it is a reasonable excuse for the offence under clause 89 for the individual not to comply if complying might tend to incriminate the individual or expose the individual to a penalty.

Subdivision 2 Seizure of evidence

Clause 72 provides an inspector with the power to seize things at a workplace that they have entered without consent or warrant if they reasonably believe there is evidence of an offence against this Bill.

Clause 73 relates to the seizure of property when the inspector enters a place with the consent of an occupier or by a warrant. If an inspector enters the place with consent, they may only seize a thing if they reasonably believe that it is evidence of an offence against this Bill, and the seizure is consistent with the purpose of entry as explained to the occupier when asking for the occupier's consent. If an inspector enters the place under a warrant, the inspector may seize the evidence for which the warrant was issued.

Clause 74 provides that an inspector may seize property and exercise power relating to the thing, despite a lien or other security over the thing claimed by another person.

Clause 75 provides that having seized a thing under this division, an inspector may move it from the place, or leave it at the place but take reasonable action to restrict access to it. For example, an inspector may make a piece of equipment inoperable by dismantling it or removing a component without which the equipment cannot be used.

Clause 76 provides that if an inspector restricts access to a seized thing under clause 75, a person must not tamper, or attempt to tamper with the thing, or attempt to enter the place in contravention of the restriction without the inspector's approval or a reasonable excuse. A maximum penalty of 100 penalty units is prescribed for failing to comply with the requirement. This is intended to preserve the integrity of the seized evidence.

Clause 77 provides that an inspector must give a receipt for a seized thing as soon as practicable after seizing it.

Clause 78 provides that unless a seized thing is forfeited or returned, the inspector must allow the owner to inspect it at a reasonable time or if it is a document, to copy it.

Clause 79 applies if a seized thing is not forfeited or dealt with under clauses 80 to 83; or subject to a disposal under clause 84. As soon as the chief executive stops being satisfied there are reasonable grounds for retaining the thing, the chief executive must return it to its owner (clause 79(2)).

Clause 79(3) provides that if the seized thing is not returned within three months after being seized, the owner may apply to the chief executive for its return.

Clause 79(4) sets out that within 30 days of receiving an application made under clause 79(3), if the chief executive is satisfied that there are reasonable grounds for retaining the thing and

decides to retain it, the chief executive must give the owner written notice of the decision including the grounds, or otherwise return the thing to the owner.

Clause 79(5) sets out reasonable grounds for this clause including if the thing is required to be examined or needed or may be needed for a prosecution or appeal, or if it is not lawful for the owner to possess the seized thing.

Clause 79(6) provides that clause 79(5) does not limit the reasonable grounds for retaining the seized thing.

Clause 79(7) provides that nothing in this section affects a lien or other security over the seized thing.

Clause 80 provides that a seized thing is forfeited to the State if the inspector after making reasonable inquiries cannot find its owner or cannot return it to its owner.

Clause 81 provides that if an inspector decides to forfeit a seized thing to the State, they must give the former owner an information notice about the decision and allows the former owner to apply to QCAT for a stay decision if they wish to review the decision.

Clause 82 provides that a thing becomes the property of the State if the thing is forfeited to the State under clause 80(1) or the owner of the thing and the State agree, in writing, to transfer the ownership of the thing to the State.

Clause 83 applies if, under clause 82, a thing becomes the property of the State. It provides how the property may be dealt with by the chief executive.

Clause 84 applies if a person is convicted of an offence against this Bill. The court may make an order for the disposal of anything that was the subject of, or used to commit the offence and any other thing the court considers is likely to be used by the person in committing further offence against this Bill. The court may make a disposal order for a thing whether or not it has been seized or returned to the former owner under this Bill.

Division 4 Miscellaneous provisions relating to inspectors

Clause 85 provides that an inspector must take all reasonable steps to cause as little inconvenience, and to do as little damage as possible in exercising a power under this Bill.

Clause 86 applies if an inspector damages something when exercising, or purporting to exercise a power under this Bill. The inspector must give notice of the damage to a person who appears to the inspector to be an owner, or in control, of the damaged thing. However, if the inspector believed that the damage was caused by a latent defect in the thing or other circumstances beyond the control of the inspector, they may state so in a notice.

Clause 87 provides that a person may claim compensation from the State if they incur a loss because of the exercise, or purported exercise, of a power by an inspector. This includes a loss arising from compliance with a requirement made of the person under Division 3 of this Bill.

Clause 87(2) provides that compensation may be claimed and ordered in a proceeding brought in a court with the appropriate jurisdiction or for a proceeding for an alleged offence against this Bill which gives rise to the claim for compensation.

Division 4 Obstructing and failure to comply with inspectors

Clause 88 prohibits a person from obstructing an inspector, or a person helping an inspector, unless they have a reasonable excuse. A maximum penalty of 100 penalty units is prescribed for failing to comply with the requirement. If an inspector decides to proceed with an exercise of power under this provision they must warn the person that it is an offence to cause an obstruction without a reasonable excuse, and that the inspector consider the person's conduct an obstruction. For the purposes of this clause, obstruct includes assault, hinder, resist, attempt to obstruct and threaten to obstruct.

Clause 89 provides that person must comply with a requirement of an inspector under this Bill, unless they have a reasonable excuse. A maximum penalty of 200 penalty units is prescribed for failing to comply with this requirement.

Part 7 General offences

Clause 90 applies if a person (labour hire provider) has supplied, or intends to supply a worker to another person and the other person (the client) is aware, or ought to be aware, that supply is an avoidance arrangement. An avoidance arrangement is defined in clause 12 of this Bill as an arrangement that is designed to circumvent or avoid an obligation imposed by this Bill.

Clause 90 (2) provides that the client must give the chief executive a notice stating the name of the non-complying party and a brief description of the avoidance arrangement as soon as practicable after they have become aware, or ought to have become aware that the arrangement is designed to circumvent this Bill, unless they have a reasonable excuse. A maximum penalty of 200 penalty units is prescribed for failing to comply with this requirement.

Clause 91 provides that a person must not state anything to an official the person knows is false or misleading in a material particular. Contravention of this provision is an offence with a maximum penalty of 100 penalty units. However, the offence does not apply to a person who when giving the document informs the official to the best of the person's ability how the document is false or misleading, and gives the correct information to the official if the person has, or can reasonably obtain, the correct information.

Clause 92 applies to a person who procures or aids the commission of an offence under this Bill. The person is taken to have committed the offence and is liable for the penalty prescribed by that offence. This clause does not limit section 7 of the Criminal Code and is analogous with similar state provisions which create offences for aiding and abetting.

Part 8 Reviews and appeals

Division 1 Reviews

Clause 93 provides that a person who has been given, or is entitled to be given, an information notice for a decision may apply for a review.

Clause 93(1) provides that a person (an applicant or a licensee depending on the decision being appealed) is entitled to apply for a review of a decision for which an information notice is given or entitled to be given. These decisions are:

- refusal to grant a licence (clause 16(3));
- if a condition is imposed (clause 16(2) and see also clause 29(1));
- refusal to grant renewal or refusal to grant restoration or if granted subject to conditions imposed under clause 29(1);
- suspension of licence at clause 22;
- cancellation of licence at clause 24;
- impose, vary or revoke a condition at clause 29;
- chief executive refusal of application to change nominated officer at clause 35(5);
- seizure of thing by inspector (receipt and information notice given) clause 77; and
- forfeiture of seized thing (decided under clause 80, information notice under clause 81. In relation to this provision, clause 81 specifies that the owner may seek a stay of the decision at QCAT.

Clause 93(2) also provides that an interested person (defined at 93(3)) may apply for a review of the following decisions of the chief executive:

- grant of licence at clause 16
- suspension of licence at clause 22
- impose, vary or revoke a condition at clause 29

Clause 93(3) defines ‘interested person’ as ‘a person or organisation, other than a licensee, who has an interest in the protection of workers or the integrity of the labour hire industry’. Another licensee may not apply for a review to prevent vexatious applications for review relating to a competitor’s business.

The inclusion of a review and appeal right for interested persons allows for persons and organisations who may have oversight over labour hire arrangements or particular issues or industry sectors and an interest in the purpose of the Bill to appeal limited and specified decisions of the chief executive as set out in clause 93(2) – grant of a licence; suspension of a licence; imposing, varying or revoking a condition of a licence. The interested person appeal rights support the purpose of the Bill and are appropriate given the vulnerability of many workers in the labour hire industry, and the range and seriousness of issues which have been identified as arising in relation to the use of labour hire arrangements.

If an interested person appeals a decision, the chief executive must notify the licensee of an application for review of a decision by another person under clause 95.

Examples of an interested person prescribed by clause 93(3) could be unions and relevant employer or industry organisations or peak bodies, and social justice organisations.

Clause 94 sets out how to apply for an application for review of a decision. The application must be in the approved form and supported by enough information to enable the chief executive to decide the application. The application must be made within 28 days after the day the person is given the information notice about the decision; or if the person is not given an

information notice, the day the person becomes aware of the decision. The chief executive may extend the period for applying for a review.

Clause 95 provides that the chief executive must inform the licensee of an application for review by an interested person under clause 93(2) and must provide a copy of the application to the licensee.

Clause 96 provides that an application for review of a decision does not stay the decision, but the applicant may immediately apply for a stay of the decision to QCAT. QCAT may stay the decision to secure the effectiveness of the review and a later appeal to QCAT. The clause also sets out that QCAT may give conditions and a period for a stay, and may amend or revoke the stay. The period of the stay must not extend past the time when the chief executive makes a review decision and any later period QCAT allows the applicant to enable the applicant to appeal against the review decision. An application for review of a decision affects the decision only if the decision is stayed.

Clause 97 sets out that within 21 days of receiving an application to review a decision, the chief executive must review the decision and confirm, amend or substitute it with another decision, and give the applicant notice of the review decision. Clause 97(2) provides that the application must not be dealt with by the person who made the original decision or a person in less senior office than the person who made the original decision. Clause 97(3) provides that this does not provide to a decision made by the chief executive personally.

Clause 97(4) provides that if the review decision is not the decision sought by the applicant, the review notice must be accompanied by a QCAT information notice.

Clause 97(6) provides that if the chief executive does not give the review notice within the required period, the chief executive is taken to have made a review decision confirming the original decision. Clause 97(6) is a protection provision to prevent unnecessary delays or uncertainty by providing the right to a prompt review and appeal if necessary for an applicant or licensee in the event that the review decision is not made within 21 days as required under clause 97(1). The effect of clause 97(6) is to enable the applicant to progress directly to QCAT for appeal rather than have to wait for a decision of the chief executive if that is not received within 21 days. This is considered an appropriate process and is used elsewhere in Queensland legislation, for example the *Guide, Hearing and Assistance Dogs Act 2009* – Section 69; *Petroleum and Gas (Production and Safety) Act 2004*, section 818.

Division 2 Appeals

Clause 98 provides that a person or organisation who is given a QCAT information notice by the chief executive for a decision may apply, as provided for under the QCAT Act, for a review of the decision. Clause 98(2) sets out that if the person or organisation making the application is a person mentioned in clause 93(2), the holder of the licence to which the decision relates is a party to the review proceeding.

Part 9 Legal proceedings

Clause 99 sets out the treatment of evidentiary matters for legal proceedings under this Bill and the relevant onus of proof. For example, the appointment of a person as an inspector and the

authority of an inspector to take proceedings and do any act and an inspectors' signature must be presumed until the contrary is proved. The reversal of onus of proof is equivalent to that provided in the *Evidence Act 1977*.

Clause 100 provides that proceedings for an offence under this Bill must start within one year after the offence is committed, or six months after the commission of the offence comes to the complainant's knowledge but within two years after the commission of the offence.

Clause 101 applies if an individual gives or produces information or a document, other than a document, required to be kept or given under this Bill, to the chief executive 'subject to a requirement' to give information under clause 43 or to an inspector if the inspector has required the production of the document or information under clause 70. Clause 101(2) provides that the information or document, and other evidence directly or indirectly derived from them, obtained under clause 43 or 70 is not admissible against the individual in any proceeding to the extent that it incriminates the individual, or exposes the individual to a penalty, in the proceeding. However, clause 101(3) makes clear that this does not apply to a proceeding about the false or misleading nature of the information or evidence.

Clause 101(2) applies if an individual gives or produces information or a document, other than a document required to be kept or given under this Bill, to the chief executive. Clause 101(2) provides that the information or document, and other evidence directly or indirectly derived from them, obtained under clause 43 or 70 is not admissible against the individual in any proceeding to the extent that it incriminates the individual, or exposes the individual to a penalty, in the proceeding.

This provision is considered to mitigate the impacts of the Bill on abrogating the common law self-incrimination protection as it prevents a person from being required to provide evidence of their own failure or guilt.

Part 10 Miscellaneous

Clause 102 provides that the chief executive may waive a relevant information requirement (for example for information at application or at reporting) if the chief executive is satisfied that the applicant or licensee has complied with information requirements under another regulatory scheme of the Commonwealth or a state, or another scheme that provides for the accreditation of persons for particular industries or professions and that the 'relevant information' is substantially the same as the information to which the requirement relates. This is intended to include non-regulatory schemes where the chief executive considers that the scheme ensures an appropriate degree of rigour.

Clause 102(1)(b) also allows the chief executive to waiver a requirement about an applicant or licensee demonstrating their ability to comply with a relevant law under the Bill, where the applicant or licensee has obtained a qualification or accreditation relating to the applicant's or licensee's obligations under the relevant law and the qualification or accreditation demonstrates that the licensee is able to comply with the relevant law. This is a practical inclusion and will assist applicants and licensees who hold qualifications that could be taken into account for clause 27(1)(b) under the fit and proper person test and ability to comply with relevant laws, and will also help the chief executive in practice in having regard to a person's ability to comply

under clause 27(1)(b) by taking into account qualifications or accreditations that person may have.

Clause 102(2) and (3) also provide that the chief executive may make a policy about a waiver of particular relevant information requirements, and that if the chief executive makes a policy under this provision, the chief executive must publish the policy on the labour hire website.

The inclusion of this clause is intended to allow flexibility to reduce the administrative burden of applying for a licence or reporting on activity by recognising information that applicants and licensees may have already established as part of an application process under another scheme or reported on. For example, if a suitable regulatory or accreditation scheme has a similar requirement for compliance with the *Work Health and Safety Act 2011* the chief executive may make a policy decision to waive the information requirement prescribed by clause 13(3)(c)(iii) (which deals with compliance with the *Work Health and Safety Act 2011*) when that applicant applies for a labour hire licence.

It is not intended that this clause will exempt prospective licensees and applicants from application and reporting requirements in their entirety but this provision enables the chief executive to recognise that specific elements have been met by other suitably rigorous means.

Clause 103 provides that the chief executive must keep a register of licences, and the particulars the register must contain for each licensee, including:

- the licensee's name and contact details;
- the name and contact details of each of the licensee's nominated officers;
- address for business premises;
- the industries to which the licensee supplies workers;
- whether accommodation is provided for workers supplied by the licensee;
- location of where work is carried out by workers supplied by the licensee;
- any conditions imposed on the licence by the chief executive under clause 24;
- details of any enforcement action taken under the Bill against the licensee, including information about prosecutions;
- details of any surrender, suspension or cancellation of the licensee's licence, and
- any other matter prescribed by regulation.

The chief executive must make the register available on the labour hire website.

The range of information to be published will inform potential or existing users or workers in relation to labour hire providers in Queensland, and the matters specified under clause 103 (2) are considered necessary and appropriate to ensure the objects of the scheme are achieved and for the effective operation of the labour hire licensing system. The matters specified respond to serious issues related to the use of labour hire arrangements that have been raised in various inquiries, for example, related to provision of accommodation, poor work health and safety, claims of harassment and discrimination, and underpayment of entitlements.

Additionally clause 103 ensures that licence holders can be identified on the basis of the industries and areas in which they operate. This will benefit the licence holder, those looking to source a licensed labour hire provider for workers in a particular sector, and potential workers looking to link up with a labour hire provider. Addresses of workplaces, beyond broad

geographical location (e.g. post codes) and accommodation will not be published on the register.

Clause 104 provides that a person engaged in the administration of the Bill or who has obtained confidential information from a person engaged in the administration of the Bill must not disclose confidential information acquired to anyone other than as provided under clause 104 (3). If confidential information is disclosed to another person in connection with the administration or enforcement of a law, the person must not disclose the information to anyone else other than in connection with that purpose. For contraventions of this clause a maximum penalty of 100 penalty units applies.

This clause will allow the provision of confidential information about a licensee to enforcement agencies and competent authorities at all levels of government – Commonwealth, state and territory, and local government.

Clause 105 provides that the chief executive may publish information on the labour hire website including:

- applicant's name and name of applicant's business;
- information about enforcement action taken under the Bill including prosecutions, suspension, and cancellation, and
- information about a licensee who has surrendered a licence.

In relation to the publication of enforcement action under clause 105(1)(b), information published under this clause must not include information that could identify or lead to the identification of an individual other than a licensee or a person who has been convicted of an offence against this Bill.

This clause allows the chief executive to publish specified information about applicants, licensees, and former licensees on the website. It is not unusual for information on persons seeking to become a licensed operator to be made public, for example, public registers of applications for liquor and gaming machine licensing. The publication of applicants' names and business names is intended to help the chief executive assess an applicant and be aware of any serious concerns about the suitability of an applicant. For example, other enforcement or regulatory bodies or other members of the public may be aware of serious issues relating to applicants for a licence, such as if the applicant is known to have engaged in phoenix behaviour with other labour hire businesses or is under the control or substantial influence of another person who did, and could be considered by the chief executive to inform a decision to grant or not grant a licence, and the chief executive could utilise the powers under Part 5 if further information was required in relation to an allegation. The review and appeal rights attached to the chief executive's decision to grant or not grant a licence under Part 8 of this Bill would in all cases apply.

Clause 106 provides that the chief executive may delegate the chief executive's powers under this Bill to an appropriately qualified officer of the department.

The intent of this clause is that the chief executive may by instrument appoint an appropriately qualified senior public service employee to exercise the powers of the chief executive. Any senior public service official is bound by the Queensland Public Service Code of Conduct and must act with proper process, due diligence and in good faith.

Clause 107 provides that the chief executive may approve forms for use under this Bill and is a standard provision. It is noted that the obligations under Part 12A of the *Acts Interpretation Act 1954* also apply in relation to forms.

Clause 108 provides a regulation making power. The Governor in Council may make regulations under this Bill. A regulation may:

- provide for fees including refunding or waiving of all or part of the fees;
- impose a penalty of not more than 20 units for a contravention of a regulation;
- provide for the keeping of records including the form in which the records are to be kept; and
- provide for the length of time documents are required to be kept.

Part 11 Transitional provisions

Clause 109 is a transitional provision and provides that if a person is supplying a worker to do work for another person within 28 days of the commencement of this Bill and were it not for the operation of this clause that person would be required to be licensed, the person is taken not to be provider of labour hire services in relation to the supply of workers to do work until the later of:

- the day that is 28 days after the commencement; or
- if the application is made within the 28 day period – the day the application is decided.

For clause 109, when a worker is supplied (clause 9) is also relevant. This transitional treatment is to ensure that labour hire businesses operating at commencement can continue to operate and supply workers, but also ensures that existing and new businesses are encouraged to quickly apply for a licence if they wish to supply workers for the effective operation of this scheme. If a person providing labour hire services has not made an application by 28 days after commencement, and they are supplying workers after that point, the full range of obligations under the Bill apply immediately. If a person has made an application within 28 days of commencement, they are taken not to be a ‘provider of labour hire services’ under the Bill until the application is decided.

Clause 110 provides a broad transitional regulation-making power about a matter for which:

- it is necessary or convenient to assist in the transition to the operation of the licensing scheme; or
- the Bill does not make provision or sufficient provision.

Clause 110 (2) provides that a transitional regulation may have retrospective operation to a day not earlier than the day of commencement. Clause 110 (3) provides that transitional regulation must declare that it is a transitional regulation. This clause and any transitional regulation expires 2 years after the day of commencement of this Bill.

Schedule 1 Dictionary

The Dictionary sets out definitions for terms used in the Bill.