

Defend our Jobs and Living Standards Against Attacks

21. LABOUR HIRE

1. Congress declares that all workers should be entitled to the same basic protections and rights under the law and recognises that inequality is partly driven by the differential treatment of workers based on their employment relationships. The use of labour hire as a business model has been a regular feature of workplaces and industries where workers' rights and entitlements have been reduced.
2. Congress notes the continued substantial growth of labour hire agencies in recent years, despite the significant and ongoing union and media attention to serious cases of worker exploitation within the workforce. Labour hire is now a \$19 billion a year industry which, in many cases, causes and perpetuates worker exploitation and abuse.
3. Many labour hire agencies ignore the provisions of industrial instruments and applicable laws and by avoiding tax liability, and non-payment or underpayment of return to work premiums. Corporations and some government agencies have opted for labour hire as part of complex industrial arrangements designed to facilitate the stripping of conditions and driving wages down below industry standards. They use labour hire as a means of putting wages into competition through outsourcing that puts the workforce beyond the reach of enterprise bargaining with the controller of the host business.
4. Congress declares that labour hire workers must have the capacity to bargain through their unions with the effective controller of the host business and must be capable of being covered by the same collective agreements that cover those workers who are directly employed by the controller of the host business. Collective agreements must have the capacity to place restriction upon, or establish agreed approach to, labour hire and casual employment.
5. Congress also notes that the increasing use of labour hire arrangements represents one facet of the ongoing casualisation of the Australian workforce, with labour hire workers being employed in insecure jobs that were in many cases, previously secure jobs. Congress believes that Governments should act as model employers, and directly employ workers to deliver public services and provide 'frank and fearless' policy advice. Congress notes, however, the increased use by Governments of labour hire as a vehicle to outsource public service work, undermine collective bargaining and the rights of workers, and to avoid Ministerial accountability and transparency. Congress also notes the increasing use of labour hire in providing strategic and policy advice to governments. Congress believes that the use of labour hire in the public service is detrimental to workers, and inimical to the accountability, transparency and democratic control of Government and public services.

6. Congress welcomes the inquiries conducted by many state governments into the labour hire industry, all of which found significant systemic issues relating to worker exploitation. As these inquiries have found, labour hire must be regulated to ensure that all workers are able to access the same rights and entitlements as other workers, regardless of how their job was filled.
7. While the steps taken, in the absence of federal action, to implement state-based solutions are welcome, Congress calls for a national system of regulation that includes a labour hire licensing scheme that has the following features:
 - a) Applies to all labour hire providers across all industries;
 - b) Requires all labour hire service providers to hold a license and users of labour hire services to be required to use only licensed providers;
 - c) Establishes a publicly accessible register of licensed labour hire providers
 - d) Imposes minimum capital requirements for any person or company seeking to register a labour hire agency and regular reporting obligation relating to compliance with legal obligations;
 - e) Creates a licensing system that includes a ‘fit and proper person’ test for all licensees and the ability of interested person to object to the granting of a labour hire license;
 - f) Contains multiple avenues for monitoring, enforcement and penalizing companies in breach of licensing conditions and workplace and other legal obligations, including disqualification from government tender lists and publicly funded contracts/projects, pursuing legal action and revoking licenses.