

# Information Sheet: Labour Hire Licensing Scheme (Victoria)

## Introduction

Following the recommendations of the Victorian Inquiry into the Labour Hire Industry and Insecure Work, the Victorian Government passed the *Labour Hire Licensing Act 2018* (Vic.) (the Act). Obligations under the legislation commenced from 30 October 2019.

The Victorian Labour Hire Licensing Scheme aims to regulate labour hire arrangements, and protect vulnerable labour hire workers from exploitation by the providers of labour hire services and businesses or organisations that use the services of labour hire providers (otherwise known as hosts).

The Act imposes obligations on both labour hire providers and hosts. Certain providers of labour hire services are now required to hold a licence to operate in Victoria and hosts must only use licensed labour hire providers. Hosts that engage labour hire providers which do not hold a licence could face significant penalties.

## What are 'labour hire services'?

A licence is required to be held by a person who 'provides labour hire services'. A person provides labour hire services if both of the following are met:

- in the course of conducting business, they supply one or more individuals to another person (host) to perform work in, and as part of, the host's business or undertaking
- the individuals are workers for the provider.

An individual is a 'worker' for a provider where the arrangement between the host and the provider involves the provider supplying the individual to the host to perform work and, in this arrangement, the provider is obliged to pay the individual for the performance of that work, whether directly or indirectly through one or more intermediaries.

## Which labour hire service providers are required to hold a licence when supplying workers to schools?

The table below includes an overview of the types of workers in schools which are typically engaged through a labour hire provider and advice as to whether a licence is required.

Labour hire arrangement	Is a licence required when providing labour to a school?
Emergency teachers engaged through a company	Yes
Cleaning staff engaged through a company	Yes
Health professionals (i.e. psychologists, occupational therapists, speech pathologists) engaged through an agency	Yes
Temporary administrative staff engaged through an agency	Yes
Maintenance staff engaged through a company	Yes. However, where occasional or ad hoc specialised work is required (e.g. plumbing, electrical, painting etc.), it does not need to be undertaken by a company with a labour hire licence.

Labour hire arrangement	Is a licence required when providing labour to a school?
Religious services provided by an individual in a religious order, in exchange for the payment of a stipend to the religious order	No
Secondment arrangements between schools	No
ICT staff engaged through an external company	Yes
Canteen staff who work for a company that conducts its business on school premises	No

## Contractors and independent contractors

Whether a contract for arrangements is covered by the provisions of the Act will depend on the manner in which the contractor is engaged by the school to perform the services.

In circumstances where an independent contractor is engaged directly by a school as an individual contractor to perform services, a licence will not be required. This is because the contractor is not supplying workers to the school, but is in fact supplying their own services directly to the school.

A licence will also not be required where a school engages a person to perform services as an independent contractor and that person decides to contract with the school through a company of which they are the sole director (or one of only two directors).

## How to check whether a labour hire provider holds a licence

To check whether a labour hire provider holds a licence, search the register on the Labour Hire Authority website at [www.labourhireauthority.vic.gov.au](http://www.labourhireauthority.vic.gov.au).

Businesses or organisations (including schools) that engage a labour hire provider which is not licensed can face substantial penalties. There are also significant penalties for organisations or businesses, including hosts, which seek to enter arrangements with suppliers aimed at avoiding or circumventing obligations that would otherwise be imposed by the Act.

It is worth noting that it will not be sufficient to rely on any confirmation from a company, which a school has engaged, as to whether the company is required to hold a labour hire licence. The school should take all reasonable steps to verify whether the company is required to have a licence.

Additionally, it is recommended that any new labour hire arrangements entered into include a term in the contract which requires the provider to guarantee they have obtained (or applied to the Labour Hire Authority to obtain) a licence under the Act.

## Recordkeeping

Schools are advised to keep a record of the check(s) conducted as to whether a labour hire provider holds a licence and put a system in place to review the currency of a labour hire provider's licence.

## Further queries

Any further queries can be directed to the Employee Relations Unit at Catholic Education Melbourne on 03 9267 0431 or [ceoir@cem.edu.au](mailto:ceoir@cem.edu.au), or your diocesan office.