

FAQs - LABOUR HIRE LICENCE

When did the ACT labour hire licensing scheme start?

The scheme commenced on 27 May 2021.

What is the purpose of the labour hire licensing scheme?

The objective of the *Labour Hire Licensing Act 2020* (the Act) is to:

- protect workers from exploitation by providers of labour hire services;
- ensure labour hire providers meet their workplace obligations and responsibilities to the workers they supply;
- promote the integrity of the labour hire services industry; and
- promote responsible practices in the labour hire services industry.

Who requires a licence?

The scheme applies to all labour hire providers who are based in the ACT, those who hire out labour outside the ACT, and those providers who are based outside the ACT and provide labour hire inside the ACT.

Labour hire providers are broadly defined as a person (individual or business) that, while carrying out business, supplies a worker to complete work for another person (the host), where the provider pays the worker for that work, directly or indirectly.

However, a licence is not required where all workers supplied are:

- a public servant (a **public servant** is defined as someone who is employed in the public service which is defined as the ACT public service).
- high income workers – defined as a person whose annual wages are equal to or more than the amount of the high-income threshold under section 333 of the [Fair Work Act 2009 \(Cwlth\)](#), and whose employment is not subject to or covered by a modern award or enterprise agreement under the *Fair Work Act 2009 (Cwlth)*
- an employee who is a director or senior manager of a corporation, where the corporation has not more than two directors, and the employee is the only worker 'supplied' to undertake work for another entity
- an 'in-house employee' who is temporarily supplied to another person, where an 'in-house' employee is defined as an individual who:
 - is engaged as an employee by the provider on a regular and systematic basis
 - has a reasonable expectation the employment with the provider will continue
 - primarily performs work directly for the provider other than as a worker supplied to another person to do work for the other person
- employed by an employing entity, and only supplied to work within a single recognisable business (this usually applies to larger businesses with a 'group' structure)

If you are unsure if you need a licence, please refer to the [information page](#) on the WorkSafe ACT website.

In the event you remain unable to determine whether you are required to have a licence or not, please contact the labour hire licensing team on labourhirelicensing@worksafe.act.gov.au

Do 'host' organisations who hire labour hire workers need a licence?

Businesses who use labour hire workers *do not* need to be licensed but *should only* hire workers from a business who holds a labour hire licence.

Financial penalties may apply to hosts who engage with unlicensed providers.

How can I get a licence?

The online application form is on the [information page](#) of the WorkSafe ACT website.

When you apply you will need to:

- provide details of your company, e.g. ABN, trading name, business address, etc
- provide details of industries you supply labour hire workers to
- provide details of Directors and influential people in your company
- show that the applicant and other persons nominated on the application are suitable people to provide labour hire services
- show that you can comply with State and Commonwealth laws relevant to running a labour hire business and employing workers
- show that the labour hire business is financially viable
- pay an application fee.

An [application guide](#) is available to help you prepare for the application process.

How much does the licence cost?

\$2,900 for a 12-month licence (fee for 2021 – 2022)

I made a mistake in my application. How do I amend it?

Please email labourhirelicensing@worksafe.act.gov.au with details of any changes you wish to make, or to provide any additional information or documents.

I already have a Labour Hire Licence in another state or territory. Do I need one in the ACT as well?

Yes, as different legislations apply to each State and Territory. If you hold a licence in another jurisdiction, please provide details of that licence as part of your application as it will assist with assessment and processing.

After I apply for a licence how long will it take for my licence to be granted?

In most cases, where no further inquiries need to be made, the application will be processed within three to four weeks from date of lodgement.

Where further information is required, or an audit is necessary, the application will take longer to progress.

When can I commence operating as a labour hire provider after I have applied for a licence?

You must be licensed before you can provide labour hire services in the ACT. However, a 6-month transition period is in place till 26 November 2021 to give labour hire providers time to apply for and be issued with their licences. After that date, compliance enforcement activities will commence.

The volume of applications being received are increasing week on week, and we anticipate that the time taken to assess and issue licences will also increase as we approach the end of the transition period on 26 November.

Therefore, please ensure that you submit your application in sufficient time for your application to be assessed – we anticipate that applications lodged after 15 October 2021 will not be finalised before the 26 November 2021 deadline.

When should I submit my application?

Applications must be lodged by 15 October 2021 to ensure there is enough time to assess and process your application.

Applications lodged after the 15 October 2021 risk longer assessment times.

What will happen if I don't have a licence on 27 November 2021?

If you engage in labour hire services after this date without a licence, financial penalties may apply which can be up to a maximum of \$128,000 for an individual and up to \$2,430,000 for a corporation.

When will my licence need to be renewed?

The licence must be renewed annually. An application for renewal must be made before the licence expires. A reminder notice will be sent to the licensee prior to the licence expiring.

What do I have to do as a labour hire provider?

You should provide details of your labour hire licence to all organisations you hire out labour to.

You should keep accurate records of all workers hired out under labour hire agreements.

You must ensure that you are meeting your workplace obligations.

You must notify the Labour Hire Licensing Commissioner, in writing, of any changes in your business as soon as practicable, but not later than 7 days after the change.

Examples of a change are:

- contact details of the licensee or any other persons named in the application
- any changes to the business or trading name
- other changes that are integral to your labour hire function

What do I have to do if I want to use labour hire workers?

If workers are supplied to you, you need to check whether the arrangements are considered labour hire under the Act.

If you wish to hire labour hire workers, you must only use a licensed labour hire provider. Penalties apply if you use a labour hire provider who isn't licensed.

Please review the [register](#) to check if the provider you intend to use holds a current labour hire licence, or you can search for a provider.

How will compliance with the scheme be enforced?

Labour hire licensing inspectors conduct audits and monitor providers' compliance with the Act and investigate suspected breaches of the Act.

Inspectors have relevant powers to obtain documentary evidence from providers and host businesses to support compliance activities, and may impose conditions on a licence, suspend the licence, or cancel it.

Evidence obtained which relates to a failure to comply with another workplace law or standard may be referred to the relevant authority.

How do I report a problem?

Please email problems to labourhirelicensing@worksafe.act.gov.au

Problems could include:

- labour hire providers operating without a licence
- a business using an unlicensed labour hire provider
- a labour hire provider not complying with relevant State and Commonwealth laws

I need to change my details, how do I do this?

Changes can be made by emailing labourhirelicensing@worksafe.act.gov.au

Please note: Changes should be notified to the labour hire licensing team as soon as practicable, but not later than 7 days after the change.

Examples of a change include:

- trading names
- business address and contact details
- if the business begins to provide accommodation
- changes to Directors, Executive Officers, Influential People
- changes to the Suitable Person declarations
- if the business begins to supply work to workers on temporary visas.

What support is there to complete an application from start to finish?

Before starting the online application form, you should review the [application guide](#), as this will inform you of the documents you must upload as part of your application.

It also acts as a checklist for the information you must provide in the application form.

Further information is available on the [information page](#) page of the WorkSafe ACT website.