

Legislative Council—Bill No 240

Amendments to be moved by Minister for Employment [1]

Filed 26.10.17

South Australia

Labour Hire Licensing Bill 2017

Amendment No 1 [Employment–1]—

New clause, page 4, after line 15—

After line 15 insert:

4A—Registered group training organisation exempt from application of Act

- (1) This Act does not apply in respect of a registered group training organisation to the extent that the organisation supplies apprentices or trainees to do work for other persons.
- (2) In this section—

registered group training organisation means a group training organisation registered in South Australia on the Group Training Organisation National Register maintained by the Commonwealth.

Amendment No 2 [Employment–1]—

Clause 5, page 5, line 32 [clause 5, definition of *substitute responsible person*]—

Delete the definition and substitute:

substitute responsible person means a person appointed as a substitute responsible person under section 27 or section 27A;

Amendment No 3 [Employment–1]—

Clause 9, page 6, line 38 [clause 9(1)(a)]—

Delete paragraph (a) and substitute:

- (a) the person's character including, for example, the person's honesty, integrity and professionalism;

Amendment No 4 [Employment–1]—

Clause 15, page 11, after line 20 [clause 15(1)]—

After paragraph (a) insert:

- (ab) a person nominated to be a responsible person for the purposes of the licence is not a fit and proper person to be a responsible person; or

Amendment No 5 [Employment–1]—

Clause 15, page 11, line 26 [clause 15(2)(b)]—

Delete "28" and substitute:

14

Amendment No 6 [Employment–1]—

Clause 16, page 12, line 9 [clause 16(1)]—

Delete "may" and substitute:

must

Amendment No 7 [Employment–1]—

Clause 16, page 12, line 14 [clause 16(1)(a)(ii)]—

Delete "; or" and substitute:

; and

Amendment No 8 [Employment–1]—

New clause, page 13, after line 7—

After clause 17 insert:

17A—Prohibition on licence transfer, sale etc.

The holder of a licence must not transfer, sell, dispose of, lend or hire out the licence to another person.

Maximum penalty: \$25 000 or imprisonment for 1 year.

Amendment No 9 [Employment–1]—

Clause 24, page 17, lines 2 to 9—

Delete the clause and substitute:

24—Requirements for responsible persons

A responsible person, for a licence, must be an individual who—

- (a) is responsible for the day-to-day management and operation of the business to which the licence relates; and
- (b) is a fit and proper person to be a responsible person; and
- (c) satisfies any other requirements prescribed by regulation.

Amendment No 10 [Employment–1]—

New clause, page 18, after line 12—

After clause 27 insert:

27A—Appointment of substitute responsible person by Commissioner on application

- (1) If a responsible person for a licence will be absent from the business to which the licence relates for a period of more than 30 days the Commissioner may, on application by the holder of the licence, appoint another person as a *substitute responsible person* in respect of the licence for the period of that absence.

- (2) An application under subsection (1) must be accompanied by enough information about the person proposed to be appointed to enable the Commissioner to decide whether the person is suitable for appointment as a substitute responsible person.
- (3) The Commissioner may only appoint a person as a substitute responsible person under this section if satisfied that the person is suitable for appointment as a responsible person.
- (4) If the Commissioner approves the application, the Commissioner must update the register to record the change to the licence details.

Amendment No 11 [Employment–1]—

Clause 30, page 19, line 32 [clause 30(2)]—

Delete "persons" and substitute:

Public Service employees

Amendment No 12 [Employment–1]—

Clause 34, page 21, line 30—

After "authorised officer" insert:

, or a person assisting an authorised officer,

Amendment No 13 [Employment–1]—

Clause 38, page 22, lines 37 to 38 [clause 38(1)(b)]—

Delete paragraph (b) and substitute:

- (b) a decision under section 17 to impose a condition on, or vary a condition of, a licence held by the person (including a condition imposed on the grant of the licence);

Amendment No 14 [Employment–1]—

Clause 38, page 23, after line 4 [clause 38(1)]—

After paragraph (e) insert:

- (f) a refusal to extend the appointment of a person as a substitute responsible person under section 27(6);
- (g) a refusal to appoint a person as a substitute responsible person under section 27A.

Amendment No 15 [Employment–1]—

New clause, page 25, after line 19—

After clause 43 insert:

43A—Advertisements to include licence number

The holder of a licence must not publish, or cause to be published, an advertisement relating to the provision of labour hire services unless the advertisement specifies, alongside the name or contact details of the holder of the licence, the licence number preceded by the letters "LHS".

Maximum penalty: \$2 500.

Amendment No 16 [Employment–1]—

Clause 44, page 25, lines 20 to 40—

Delete the clause

Amendment No 17 [Employment–1]—

Clause 45, page 26, lines 26 to 27 [clause 45(4)]—

Delete subsection (4) and substitute:

- (4) This section does not apply in relation to a prosecution for a contravention of section 10.