

Legislative Council—Bill No 240

Amendments to be moved by Minister for Employment [3]

Filed 14.11.17

South Australia

Labour Hire Licensing Bill 2017

Amendment No 1 [Employment–3]—

Clause 5, page 5, after line 7—

After the definition of *premises* insert:

provider—see section 6(1);

Amendment No 2 [Employment–3]—

Clause 6, page 5, lines 35 to 36 [clause 6(1)]—

Delete subclause (1) and substitute:

- (1) A person (a *provider*) provides *labour hire services* if, in the course of conducting a business, the person supplies, to another person, a worker to do work in and as part of a business or commercial undertaking of the other person.

Note—

See section 7 for the limited definition of *worker*.

- (1a) The regulations may prescribe circumstances in which a person does not, despite subsection (1), provide labour hire services for the purposes of this Act.

Amendment No 3 [Employment–3]—

Clause 7, page 6, lines 21 to 24 [clause 7(1)]—

Delete subclause (1) and substitute:

- (1) An individual is a *worker* for a provider if the individual enters into an arrangement with the provider under which—
 - (a) the provider may supply, to another person, the individual to do work; and
 - (b) the provider is obliged to pay the individual, in whole or part, for the work.

Amendment No 4 [Employment–3]—

Clause 26, page 17, lines 22 to 23 [clause 26(3)]—

Delete subclause (3) and substitute:

- (3) The Commissioner may approve the application if—
 - (a) the Commissioner has complied with the requirements of section 27B; and
 - (b) the Commissioner is satisfied that the proposed appointee is suitable for appointment as a responsible person.

Amendment No 5 [Employment–3]—

New clauses, 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 individual 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—
 - (a) the Commissioner has complied with the requirements of section 27B; and
 - (b) the Commissioner is 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.

27B—Objection to appointment of responsible person or substitute responsible person

- (1) If the Commissioner receives an application to which this section applies, the Commissioner must cause notice of the application to be published on a website determined by the Commissioner.
- (2) A designated entity may, in response to a notice published under subsection (1) in respect of an application and by notice in writing, lodge with the Commissioner an objection to the application on the grounds that the person proposed to be appointed as a responsible person, or as a substitute responsible person, is not a fit and proper person to be a responsible person.
- (3) A notice of objection under subsection (2) must—
 - (a) state reasons for the objection; and
 - (b) be made within 14 days of notice of the application being published under subsection (1).
- (4) If the Commissioner receives a notice of objection under subsection (2) in respect of an application, the Commissioner must—
 - (a) forward a copy of the notice of objection to the person making the application as soon as reasonably practicable after receiving the notice; and
 - (b) allow a period of 14 days from the date of forwarding the notice for the applicant to respond to the notice of objection.

- (5) If a notice of objection has been lodged under subsection (2) in respect of an application—
 - (a) the Commissioner must not grant the application unless the Commissioner has taken into account the objection and the response of the applicant to the objection (if any); and
 - (b) if the Commissioner grants the application, the Commissioner must give notice of the grant to the designated entity that lodged the notice of objection.
- (6) This section applies to the following applications:
 - (a) an application under section 26(1)(b) to appoint another individual as a responsible person for a licence;
 - (b) an application under section 27A(1) to appoint an individual as a substitute responsible person.
- (7) In this section—

designated entity has the same meaning as in section 15.