



## Labour hire Q&As – for host employers

### What is a labour hire arrangement?

A labour hire arrangement is one where a labour hire business or agency provides labour (workers) to you, the host employer. The labour hire business is ultimately the employer and responsible for the worker's remuneration and therefore their work injury insurance.



### Am I required to provide details of payments made to labour suppliers?

Yes, host employers are required to provide ReturnToWorkSA with details of businesses that have supplied labour to them during the previous financial year as part of their employer remuneration return.

The information you provide will assist us in targeting those labour hire businesses that are not doing the right thing.

The details we require include the name of the labour hire businesses you have used, their ABN and the total contract amount (excluding GST) paid to each labour hire business during the financial year.

To check if the labour hire businesses you have engaged are registered with ReturnToWorkSA, use our online **employer lookup** tool.

## Why should host employers be concerned about contract labour brought onto their business premises?

Declaring correct remuneration and paying proper premiums ensures that employers are not subsidising those who are not complying with their statutory obligations and workers are not disadvantaged.

Fraudulent labour hire businesses can factor **non-payment of statutory liabilities** into their pricing decisions (e.g. work injury insurance premiums, PAYG withholding and superannuation contributions). This then allows them to offer discounted rates to host employers, pricing compliant businesses out of the market.

If as a host employer you use workers who are not directly engaged by your business e.g. labour hire or labour supply contractors, you must ensure you have undertaken due diligence in respect of these businesses to make sure they are adequately registered for work injury insurance.

### If a host employer engages an unregistered labour hire business, the host employer may:

- **be held liable for the underpaid premiums**
- **have fines imposed on them.**

Choosing a labour hire business that offers the lowest price without looking more closely and asking questions about how they can offer such low prices can damage the reputation of your business and expose you to potential financial penalties if workplace laws are breached.

We are relying on host employers and their communities to help us uncover non-compliant labour hire businesses.

For more information on risks for host employers, as well as guides and checklists, see the following link:

### **Contracting labour**

## What is a piece rate?

A **piece rate** is where a worker gets paid by the piece. This means the worker gets a pay rate for the amount picked, packed, pruned or made.

Host employers need to be vigilant when engaging labour hire businesses that offer piece rates that appear unreasonably low, also for the reasons previously explained.

For more information on piecework, see the following link:

### **Piecework**

## What can I do to protect my business from non-compliant labour hire businesses?

If you are considering using a labour hire business, please also consider the following due diligence measures:

- check the labour hire business' insurance status via our **employer lookup tool**
- check the labour hire business is **registered with a valid ABN**
- check the labour hire business, if a company, is **currently registered with ASIC**
- look for unrealistic labour quotes that don't reflect proper wages, remembering that a labour hire business is required to pay on-costs just like any other employer
- check the rates the labour hire business is paying to their workers
- ensure the labour hire business will not be subcontracting to another labour hire business without your knowledge and consent
- ask for references
- find out if the directors or managers have been operating multiple, successive labour hire companies or businesses
- complete a credit check
- look online for adverse media reports
- avoid making cash payments.

Host employers should make sure they have a written contract with their labour hire businesses outlining what is expected (including the use of subcontractors), the rates they will be charged and whether the workers will be employed in-line with Australian workplace laws.

### **What is illegal phoenix activity and what should I be concerned about?**

Illegal phoenix activity happens when company directors deliberately shift their business to a new entity, depriving the first company of assets to pay its debts, including ReturnToWorkSA premiums, taxes, superannuation and other employee entitlements.

You can protect yourself from illegal phoenix activity by looking out for the following signs:

- a labour hire business is able to offer **significantly discounted rates** compared to other contractors
- a new labour hire business quickly or automatically replaces one that is wound up but retains the same employees
- common management and invoice styling between successive (phoenixed) labour supply businesses
- workers are underpaid or paid irregularly
- casual labour hire positions in your industry being advertised online with low hourly rates.

### **What is ReturnToWorkSA doing about unscrupulous labour hire businesses?**

ReturnToWorkSA is conducting targeted audit and forensic investigations of employers suspected of either:

- not being correctly registered with ReturnToWorkSA, or
- under-declaring the remuneration paid to workers.

Where premium under-collection is detected, employers will be notified in writing, an amended premium assessment made and adjustment notes issued for any additional premium payable.

ReturnToWorkSA is a member of the national Phoenix Taskforce and is working with key government agencies to protect public revenue, businesses and employee entitlements by identifying and deterring illegal phoenix behaviour.

For more information on the Phoenix Taskforce, see the following link:

**[Phoenix Taskforce](#)**