

Summary

Four Corners Programme

The Bill is largely a response to a hard-hitting ABC *Four Corners* programme run on 4th May 2015. The programme exposed underpayment and exploitation of rural workers, particularly migrants working on farms. Victoria featured prominently.

Law breaking exposed

Several farms were using labour hire firms. This became a focus of attention. That is, the suggestion was/is that labour hire was the cause of the exploitation. But evidence is that the exploitation is a result of persons breaking existing laws. The solution is to be found in improved enforcement.

Enforcement

Following the Four Corners show regulators moved in hard and fast with enforcement activities. The Fair Work Ombudsman (FWO) was, in 2015, a relatively new player in the enforcement mix, the first regulator having effective pay rate enforcement powers. The FWO

- Conducted audits of farms and labour hire firms
- Imposed enforcement undertakings on both farms and labour hire firms
- Required back-pay to affected workers
- Imposed ongoing auditing and monitoring on farms and labour hire firms

The FWO's enforcement has worked.

However the Victorian Bill ignores the development of effective enforcement by the FWO and other regulators. The Bill instead introduces a totally new and draconian system controlling who can operate a labor hire business in Victoria.

Main features The Bill;

- Takes in all labour hire in all sectors including high-end consulting and so on. It would even, for example, require a firm who 'loans staff' to another firm to be licensed as 'labor hire' even if labor hire is not its business.
- Only provides a 3-year license that must be renewed every 3 years.
- Allows parties to object to a license, including unions and a labor hire firms competitors.
- Enables the cancelling of a license before judicial review of a cancelling can occur.

Outcomes The Bill

- Is major regulatory overreach to a problem that has arguably been addressed through quality, targeted enforcement.
- Denies basic justice because the cancelling of a license effectively kills a business neutering the businesses capacity to appeal to the courts.
- Invites and facilitates corruption because competitors, unions and others will be able to blackmail labor hire firms for favours and money with the promise not to object to licence holding.

Recommendation & Request

That the Bill be rejected.