



**RECRUITMENT & CONSULTING
SERVICES ASSOCIATION
AUSTRALIA & NEW ZEALAND**

Parliament of South Australia
Economic and Finance Committee

Inquiry into the Labour Hire Industry

Submission of

Recruitment & Consulting Services Association (RCSA)

July 2015

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Introduction to RCSA

The Recruitment & Consulting Services Association Australia & New Zealand (RCSA) is the leading industry and professional body for the private employment services sector in Australia and New Zealand which includes recruitment, on-hire worker and HR services. It represents over 3,000 company and individual Members with over 60% of Australian on-hire workers being employed by RCSA members.

RCSA members assign (on-hire) and place employees and independent contractors with businesses, governments and not-for-profit organisations operating within every industry in Australia and provide workforce consulting services to improve the productive capacity of Australian business in an ever-changing global economy.

Members of RCSA provide advice, information, support and guidance in relation to recruitment, employment and workforce management matters to business and government from small and medium sized business through to multinationals and the Commonwealth Government.

The RCSA membership is focused on promoting positive outcomes for business, workers and governments across Australia. The RCSA sets the benchmark for recruitment and on-hire industry standards through representation, education, and research and business advisory support.

All RCSA member organisations and Accredited Professionals agree to abide by the ACCC authorised RCSA Code for Professional Conduct.

RCSA members, as professional employers and work facilitators, operate within the workplace relations framework with their clients and know it intimately. Their knowledge, understanding, interpretation and support of the aims of the framework are evident in dealings that they have with their clients, employees and independent contractors every day.

The RCSA believe that a progressive and pragmatic approach to the provision of on-hire worker service in Australia is, and will continue to be, a key element in the achievement of balanced Australian workplaces, where vulnerable workers are protected and the workforce and business are free to prosper to provide productivity, wealth and security to Australia's workforce and the wider community.

RCSA Code for Professional Conduct

RCSA has a Code for Professional Conduct (the Code) which is authorised by the ACCC. In conjunction with the RCSA Constitution and By Laws, the Code sets the standards for relationships between Members, best practice with clients and candidates, and general good order with respect to business management, including compliance. Acceptance of, and adherence to the Code, is a pre-requisite of Membership. The Code is supported by a comprehensive resource and education program and the process is overseen by the Professional Practice Council, appointed by the RCSA Board. The Ethics Registrar manages the complaint process and procedures with the support of a volunteer Ethics panel mentored by RCSA's Legal Adviser, Andrew Wood Hon FRCSA (Life), Barrister at law.

RCSA's objective is to promote the utilisation of the Code to achieve self-regulation of the on-hire worker services sector, wherever possible and effective, rather than see the introduction of additional legislative regulation.

RCSA CORPORATE MEMBERSHIP CATEGORIES OF SERVICE



1

ON-HIRED EMPLOYEE SERVICES

A commercial service where an organisation, in return for an hourly fee, assigns one or more of its employees to perform work for a third party (client) under their general management and instruction.

2

CONTRACTING SERVICES

A commercial service where an organisation, in return for a fee, completes a defined scope of work for a third party (client). Such services may be performed utilising employees or sub-contractors employed or engaged by the service provider.

3

CONTRACTOR MANAGEMENT SERVICES

A commercial service where an organisation, in return for a fee, recruits independent contractors on behalf of a third party (client) and, following direct engagement of the independent contractors by the client, the organisation manages the ongoing supply of the independent contractors and their contract performance.

4

JOB PLACEMENT

A commercial service where an organisation, in return for a fee, recruits on behalf of a third party (client) candidates that match a desired profile for employment or engagement by the client.

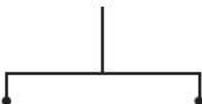
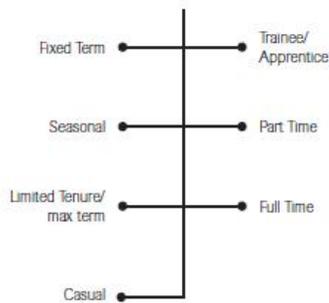
5

WORKFORCE CONSULTING SERVICES

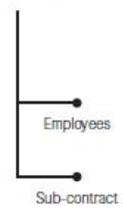
A commercial service where an organisation, in return for a fee, identifies and/or responds to client workforce issues and implements strategies designed to assist clients to achieve business success.



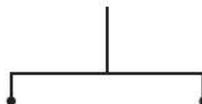
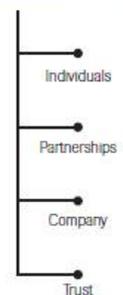
EMPLOYMENT CATEGORIES



MANAGED PROJECT/ CONTRACT SERVICES

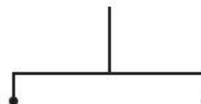


SUB-CONTRACT



INDEPENDENT CONTRACT RECRUITMENT

CONTRACT MANAGEMENT



CANDIDATE PLACEMENT

JOB PLACEMENT SERVICES



OCCUPATIONAL HEALTH & SAFETY

- EEO
- EMPLOYEE RELATIONS
- HR MANAGEMENT
- CHANGE MANAGEMENT
- OUTPLACEMENT
- CAREER MANAGEMENT

RCSA Submission Overview

RCSA's Core Submission

1. The Committee is inquiring into practices in the Labour Hire industry in South Australia. While there is currently legislation which regulates licensing of employment agents in South Australia, Employment Agents Registration Act 1993 and the Employment Agents Regulations 2010, there is no harmonisation of various regulations and no consistent national enforcement.
2. The lack of a single national approach to regulating the conduct of on-hire and labour-hire firms leaves the door open for a small number of unscrupulous operators to operate outside existing laws and regulations.
3. RCSA Members, in the provision of private employment services, contribute to productive Australian workplaces, and improved working lives, on a level which cannot be ignored.
4. At the core, private employment service providers facilitate an efficient allocation of labour and management by sourcing, matching, placing, assigning and supporting the best individuals for the job at hand within the most effective engagement model for both worker and hirer.
5. Australian's are adapting to changing economic conditions, social demands and looking to work differently to how our parents, and earlier generations, worked. It is critical that the regulations which govern the supply of labour reflect the needs and requirements of workers and employers within the existing and future world of work in Australia.
6. RCSA are committed to achieving the right balance between the protection of vulnerable workers and the promotion of a responsive and flexible work arrangements to ensure Australia can compete in the global market and under changeable economic conditions.
7. RCSA has released for public consultation its proposal for a Prescribed Industry Code for the sector which could for the first-time provide a single national framework for the regulation of all participants in the employment services and on-hire marketplace.

The role of Private Employment Service Providers:

- ✓ as labour market intermediaries, facilitate the free flow of information between business and workers to ensure they are able to make quick and informed work and business decisions;
- ✓ enable adaptation to change in increasingly volatile and complex labour markets by more rapidly and effectively matching labour supply with labour demand following such change;
- ✓ reduce both structural unemployment by creating new jobs and skills and frictional unemployment by ensuring a better and faster match between supply and demand in labour markets;
- ✓ drive down segmentation of labour markets by providing a stepping-stone function that enables individuals to transition from education to work, from unemployment to employment and from job to job; and
- ✓ deliver decent work through a marriage of flexibility and security, whereby disparate direct hire casual and contract work can be combined through an employment service provider to become a permanent or regular engagement.

About the Employment Services Industry:

The vast majority of labour-hire companies are professional providers of employment services that comply with the relevant laws and regulations governing the industry and the industry sectors in which they operate.

The RCSA believes the prevalence of illegal and illegitimate labour hire operators is restricted to less than one percent of the recruitment and on-hire sector (approximately 3,500 companies). The RCSA is realistic in its view that these illegal and illegitimate operators are unlikely to be members of the RCSA or any other industry association, nor are they likely to apply for or concern themselves with the requirements of a licensing scheme.

They seek to 'fly below the radar' of licensing schemes and regulators. Recent media reporting on the ABC's *Four Corners* program shone a much needed light on the appalling practices of this small section of the on-hire industry.

There already exists multiple layers of regulation and legislation governing the conduct and behaviour of labour-hire and on-hire firms, including:

- The conditions of employment and engagement of labour;
- The payment of wages and the appropriate wages and entitlements due to workers;
- The safety of workers and the conditions and environment in which workers operate; and
- The responsibility of the host employer and the on-hire agency in supplying labour.

The RCSA believes this forms the basis of a sound environment for the supply and purchase of employment services. RCSA members are expected to abide by all relevant and applicable regulations and laws. This is an undertaking of their membership and a requirement within the Code for Professional Conduct.

Single National Regulatory Framework:

There is currently no consistent national framework and no harmonisation for the regulation of the employment services and on-hire marketplace across different states and territories. The lack of a single national approach to regulation leaves the door open for unscrupulous operators to operate outside existing licensing or regulated environments. They are essentially criminals committing criminal acts.

The first moves towards a national regulatory framework were in 2003 with the ACCC's authorisation in Australia of the RCSA Code for Professional Conduct. The Code has been developed and authorised twice since then, most recently in 2014. However, the RCSA Code in its present form only applies to RCSA members.

In order to set a new standard for all points of the employment services supply chain, the RCSA in June 2015 released for public consultation its proposal for a Prescribed Industry Code (PIC) for the sector which could for the first-time provide a single national framework for the regulation of all participants in the employment services and on-hire marketplace.

The RCSA's proposed Employment Services Industry Code (ESIC) would adopt a national approach by operating federally, and not within the boundaries of any one state. It would also extend to the conduct of Australian employment service providers in off-shore jurisdictions, and would subject suppliers to employment services located overseas to any international covenants and treaties ratified by the source country of that labour.

The key characteristics of the proposed Employment Services Industry Code are:

1. Harmonise existing licensing requirements into a single national framework for the regulation of the employment services and on-hire marketplace
2. Operate federally and within the Australian Consumer Law and C181 – Private Employment Agencies Convention, 1997 and focus the attention of the ACCC and Commonwealth regulation onto users and those involved in the supply of employment services
3. Regulate the conduct of users of employment services as well as the conduct of employment service providers at all points of the supply-chain for labour
4. Require users of on-hire services to take all reasonable steps to ensure they are not in breach of the ESIC
5. Require all suppliers of on-hire services to identify all those involved in the supply of labour in a tiered supply or chain of supply arrangement
6. Operate across all classes of employment services and operate to eradicate unfair practices

We have included a copy of the Public Exposure Draft with this submission for the information of the Committee. Further copies of the Exposure Draft are available from the RCSA or from the website at www.rcsa.com.au

We have also included a copy of the RCSA Code for Professional Conduct for the information of the Committee. Further information about the RCSA Code for Professional Conduct is available from the website at www.rcsa.com.au

The RCSA believes a single national framework would be a significant step toward the legal and ethical conduct of all parties and at all points of the employment services supply-chain for labour.

The adoption of a proposed Employment Service Industry Code could address a number of the areas of conduct and practice identified within the scope of this inquiry.

The RCSA thanks the Committee for the opportunity to make this submission. RCSA would welcome the opportunity to provide further information and to present to the Committee at an appropriate time and place.

For further information please contact Simon Schweigert, Manager Media and Government Relations on (03) 9663 0555 or sschweigert@rca.com.au