

**AWARD MODERNISATION SUBMISSIONS AND
DRAFT AWARD PROVISIONS**

Stage 4 – Pre Exposure Draft

Joint Submission of Ai Group and the RCSA

“Labour Hire” Services



24 July 2009

AWARD MODERNISATION – STAGE 4

AM2008/85 - LABOUR HIRE SERVICES

1. This submission is made jointly by the Australian Industry Group (Ai Group) and the Recruitment and Consulting Services Association (RCSA).
2. “Labour hire services” have been included within the list of Stage 4 Industries / Occupations.
3. The term “labour hire services” is problematic given the lack of a clear and broadly accepted definition
4. The companies involved in what is sometimes referred to as the “labour hire industry” typically supply labour in a variety of ways, including:
 - **Short-term labour hire:** the on-hire of employees to a client on an hour by hour basis, who work under the general direction of the client. These workers are often referred to as “temps”.
 - **Ongoing labour hire:** the on-hire of employees to a client on an ongoing basis, who work under the general direction of the client. For example, a manufacturer may complement and/or supplement its permanent workforce with a team of employees employed by a “labour hire” company.
 - **Outsource workforce solutions:** the performance of outsourced operations (eg. maintenance, logistics) for a client in accordance with a contractual arrangement. For example, a “labour hire” firm may be contracted to perform all mechanical maintenance services for a manufacturer for a two year period. The “labour hire” firm would

typically employ a team of maintenance employees who work on a full-time basis at the client's premises and work under the direction of a supervisor or manager employed by the "labour hire" firm.

- **Project - based workforce solutions:** the performance of shut-down, installation or relocation work for a client within a defined performance based contract scope. The "labour hire" firm would typically employ a team of skilled employees who work on the project under the direction of a supervisor or manager employed by the "labour hire" firm.

5. Given the uncertainty surrounding the term "labour hire", award provisions which purport to include or exclude labour hire employees from a modern award are not easily drafted and could create confusion.
6. **Nearly all modern awards would cover on-hire employees, as presently drafted, similar to many existing federal awards and NAPSAs.**
7. Accordingly, Ai Group and RCSA strongly oppose the creation of a "labour hire" modern award.
8. Further, the concept of inserting a provision into each modern award specifying that the award covers on-hire employees would not be a straightforward task and would require careful analysis.
9. In the small minority of cases where the coverage provisions of a modern award are drafted in a manner which would not include labour hire employees (eg. those awards that are drafted to apply to particular employers such as Rail Transport Operators or Port Authorities), it should be open to an interested party to apply for the coverage of the award to be extended or clarified. If such an application is made the issue would then be able to be properly considered in the context of the relevant industry.