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Exploitation Magnet

Why the Absence of Labour Hire Licensing in NSW is Attracting Unscrupulous Employment Practices

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Contents

Introduction

In recent years, it has become increasingly apparent that lax regulation in the labour hire sector has exacerbated the exploitation of workers. Labour hire operators are firms that supply labour to other firms, often in short-term arrangements such as seasonal work. These firms, which specialise in sourcing and allocating labour on behalf of 'host' employers, can play a legitimate role in the economy. However, loopholes and poor regulation have allowed nefarious, and often illegal, operators to emerge in the sector.

Most notoriously, the horticulture sector has become rife with bad faith labour hire operators who circumvent labour laws, supply 'cheap' labour to host employers, and have been shown to systematically underpay workers.

This widely accepted reality has prompted new tranches of regulation across the country. The McKell Institute has long supported the establishment of nationally consistent labour hire regulation. A licensing scheme is a straightforward way to ensure that those who run labour hire firms do so within the law, and to give governments a tool to limit market access for those who do not.

However, efforts to establish a nationally consistent scheme have not materialised. In the interim, several jurisdictions have introduced schemes of their own. Queensland and Victoria run the most established of them, both economy-wide and both relatively effective at curtailing bad faith operators, while South Australia and the ACT now license labour hire as well.

New South Wales is the conspicuous exception. It is the country's largest state economy, yet every state on its borders now licenses labour hire, as does the ACT. With no scheme of its own, NSW gives bad faith operators an incentive to relocate from the jurisdictions that have one. That risk is sharpened by the state's exposure in its agricultural regions, with the Coffs Coast and the Riverina in particular long associated with widespread breaches of labour law.

This report examines that dynamic and argues that the NSW Government should establish, with urgency, a standalone labour hire licensing scheme for the state.

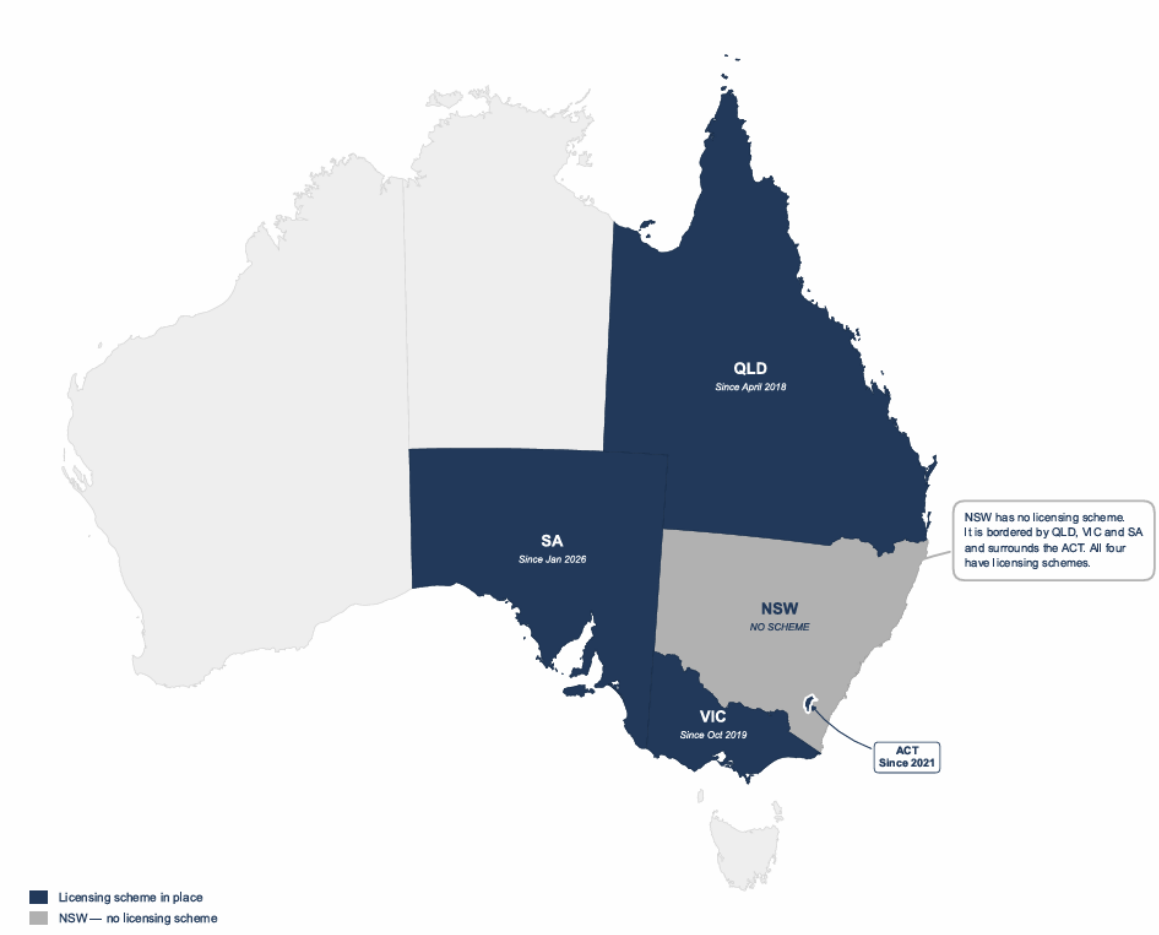
Part 1 explains the rationale for NSW establishing its own scheme. Citing the collapse of efforts to establish a national scheme, it sets out why that failure has left NSW exposed to bad faith operators. The absence of regulation in NSW, set against Queensland and Victoria in particular, creates a magnetic pull for labour hire operators seeking to exploit seasonal workers for profit.

Part 2 then considers what other states have done, with a focus on Victoria and Queensland. While the two schemes differ, both offer real safeguards for workers. Victoria's authority, moreover, is wholly funded by the licence fees it charges, which should give NSW confidence that a scheme of its own could recover its running costs once established, with the initial set-up the main cost to the budget.

In **Part 3**, this report sets out design recommendations for a NSW scheme, drawing on the strengths of other jurisdictions as well as the gaps in their frameworks. These include economy-wide coverage, fees scaled to the size of the business, and a rigorous test at the point of entry paired with a lighter touch for established good-faith operators. It also recommends a streamlined way to recognise the vetting providers have already passed interstate, without NSW giving up its own standards, and a provision to fold the scheme into a national regulator if one is ever established.

NSW now needs a standalone labour hire licensing scheme. This report offers a path ahead for such a scheme.

Key Findings



Finding 1: NSW is highly attractive to bad faith labour hire operators, because it has no labour hire regulations, and is home to multiple locations in which labour exploitation has been well documented. As many as **63 business operating in NSW have had their labour hire licenses cancelled in either Victoria or Queensland, yet remain open for business in NSW.**

Finding 2: Previous efforts to establish a national labour hire licensing scheme were supported by the NSW Government. The fact that a national scheme was being proposed reasonably slowed efforts to establish a state specific policy in NSW. However, efforts to establish a national scheme have not materialised, leaving NSW exposed. Establishing a scheme now would give NSW a stronger hand in shaping the eventual national scheme, an influence the states with established schemes already hold.

Finding 3: Queensland and Victoria have robust labour hire licensing schemes in place. The schemes vary in design, cost and compliance requirements for business, but offer design elements the NSW Government may wish to consider in a standalone NSW scheme.

Finding 4: Victoria's labour hire authority is wholly funded by the licence fees it charges. This should give the NSW Government confidence that a standalone scheme need not be a lasting burden on the state budget, since its ongoing costs could be recovered through fees once the scheme is established, leaving the initial set-up as the main cost.

Finding 5: Evidence from Queensland and Victoria shows the efficacy of labour hire licensing as a way of curtailing labour exploitation. It is therefore recommended that NSW Government expedite the implementation of a standalone scheme in NSW.

Recommendations

Table 1: Recommendations of the report

Recommendation		Summary
1	The NSW Government should establish a labour hire regulator	The NSW Government should commit to establishing a standalone labour hire licensing scheme for NSW, introducing enabling legislation to the NSW Parliament during the current parliamentary term, with the scheme operational no later than 1 July 2027. To meet this timeline, the NSW Government should immediately commence preliminary design work for the scheme, including consultation with the Victorian Labour Hire Authority and the Queensland Labour Hire Licensing Compliance Unit on lessons from their respective models.
2	The NSW Government should establish their regulator as a hybrid of the best bits of the Queensland and Victorian models	The NSW Government should adopt Queensland's upfront registration system, that genuinely vets applicants, along with Victoria's cost recovery fee model to ensure it is fiscally neutral over the medium to long-term
3	NSW should act now instead of waiting for the Commonwealth to introduce a national scheme	There is no set deadline for the Commonwealth to finalise the establishment of the national regulator. In the meantime, NSW continues to offer respite to dodgy operators who have been refused licences in Queensland or Victoria States that have already established their regulators will have a stronger position at the negotiating table on scheme design and cost sharing. Even if NSW incurs costs to establish the scheme now, it is possible that the costs establish now will be recouped through the cost sharing negotiation process with the Commonwealth
4	The scheme should bind host employers and connect the regulator to other agencies	The regulator should hold a full enforcement toolkit, from audits and information orders to enforceable undertakings, licence conditions, suspension, revocation and civil penalties. Its reach should extend to host employers, who should be prohibited, without reasonable excuse, from engaging an unlicensed provider, and made jointly liable with providers for failures to meet workplace safety and employment standards. The regulator should also be empowered to enter information-sharing agreements with bodies such as the NSW Anti-slavery Commissioner, SafeWork NSW, the Fair Work Ombudsman and registered unions.

Part 1: Why NSW needs a labour hire licensing scheme

Key Points:

1. The NSW Government previously endorsed a national labour hire licensing regime.
2. It is widely accepted that labour hire licensing is a critical tool that helps limit the exploitation of workers, especially in seasonal work.
3. The collapse of national efforts to establish a national scheme have left NSW exposed, without protections for workers and good-faith operators.
4. NSW is now the most attractive jurisdiction for bad faith operators, who are magnetically drawn to the state's lucrative, poorly regulated market. **5 per cent of LHLs cancelled in Victoria and Queensland are operating in NSW.**

Currently, NSW is bordered on three sides by states that regulate labour hire. Queensland and Victoria, to the north and south, have operated licensing schemes since 2018 and 2019 respectively, and South Australia, to the west, extended its scheme to all industries in January 2026. The ACT has licensed labour hire since 2021. NSW alone has no scheme.

This means that there is a strong incentive for unscrupulous labour hire operators to shift their business to NSW when they lose, or are refused, a licence in a neighbouring state. This dynamic was noted by the national Anti-Slavery Commissioner, Chris Evans, who observed: "I've been briefed by both the Victorian and Queensland authorities in the last couple of months, and both of them argued that, as a result of their activities, dodgy providers had moved to New South Wales, particularly so in Queensland."[1]

When one jurisdiction licenses labour hire, unscrupulous operators tend to move toward those that do not, rather than leave the market altogether. When one jurisdiction regulates and a neighbouring one does not, the unregulated area becomes the path of least resistance. McKell's own research has identified exactly this "regulatory shopping", naming

both NSW and Tasmania as destinations for operators relocating from states with stronger licensing laws.[2]

This has left labour hire workers in NSW, and migrants on the Pacific Australia Labour Mobility (PALM) scheme in particular, more exposed to exploitation and modern slavery than their counterparts in neighbouring states.

The problem with an unregulated sector

The exploitation of migrant workers in Australia is widespread and well documented. In 2026, the Migrant Justice Institute published *Off the Books*, the largest survey of migrant workers ever conducted in the country, drawing on responses from close to 10,000 people. It found that two-thirds of migrant workers on temporary visas were paid less than the law required, that more than a third were paid below the national minimum wage, and that international students alone were being underpaid by around $3.18 billion each year. The report described this underpayment as structural and deliberate, with honest businesses undercut by employers who gain a cost advantage by exploiting migrant workers.[3]

New South Wales is home to a large share of this temporary migrant workforce. The state's Anti-Slavery Commissioner, Dr James Cockayne, has put the number of temporary migrant workers in NSW at around 300,000, and there is no official estimate of how many more are working off the grid.[4]

Previous McKell research has uncovered significant problems with Australia's labour hire sector and the impact inadequate regulation has on migrant workers. In 2025, the McKell Institute released *Licensing Labour Hire*, a report promoting a national labour hire licensing scheme to prevent exploitation of Australia's migrant horticultural workforce.

That report documented how one labour hire provider, A L Star Express, was fined more than $600,000 for underpaying and mistreating workers in Victoria's horticulture sector. The company had knowingly operated without a licence, supplying international workers who received wages as low as $17 per hour, some of whom had limited English. At the time, it was the largest penalty imposed in Australia under labour hire licensing regulations. Critically, this enforcement outcome was only possible because Victoria had a licensing scheme. In NSW,

the same conduct would not have constituted a licensing breach, because there is no licence to breach.

The report also revealed the scale of non-compliance visible even to private actors attempting to clean up their own supply chains. Woolworths' 2022 verification process identified 257 unique labour hire providers operating across its horticulture supply chains. Of those, 15 had their licence cancelled or refused in a licensed jurisdiction, and a further 23 could not be verified as meeting basic requirements. Without a licensing register in NSW, host businesses have no equivalent mechanism to screen providers before engaging them.[5]

These findings built on the McKell Institute's earlier investigative work. In 2020, the Institute's *Blue Harvest* report documented extreme exploitation on blueberry farms near Coffs Harbour in NSW, where backpackers and migrant workers were paid as little as $3 an hour. Workers described being recruited through social media platforms with no vetting, housed in overcrowded shipping containers and share houses at inflated rents, and left with little practical recourse. The report prompted calls for a royal commission and drew national media attention, but the underlying regulatory gap that enabled the exploitation remains open.

One of the workers interviewed, an Ecuadoran woman the report calls Sara, described working full days, from 8am to 4pm, and still earning only $20. She told the investigators that she and others did not complain to the contractors, for fear that speaking up would cost them their work. [6]

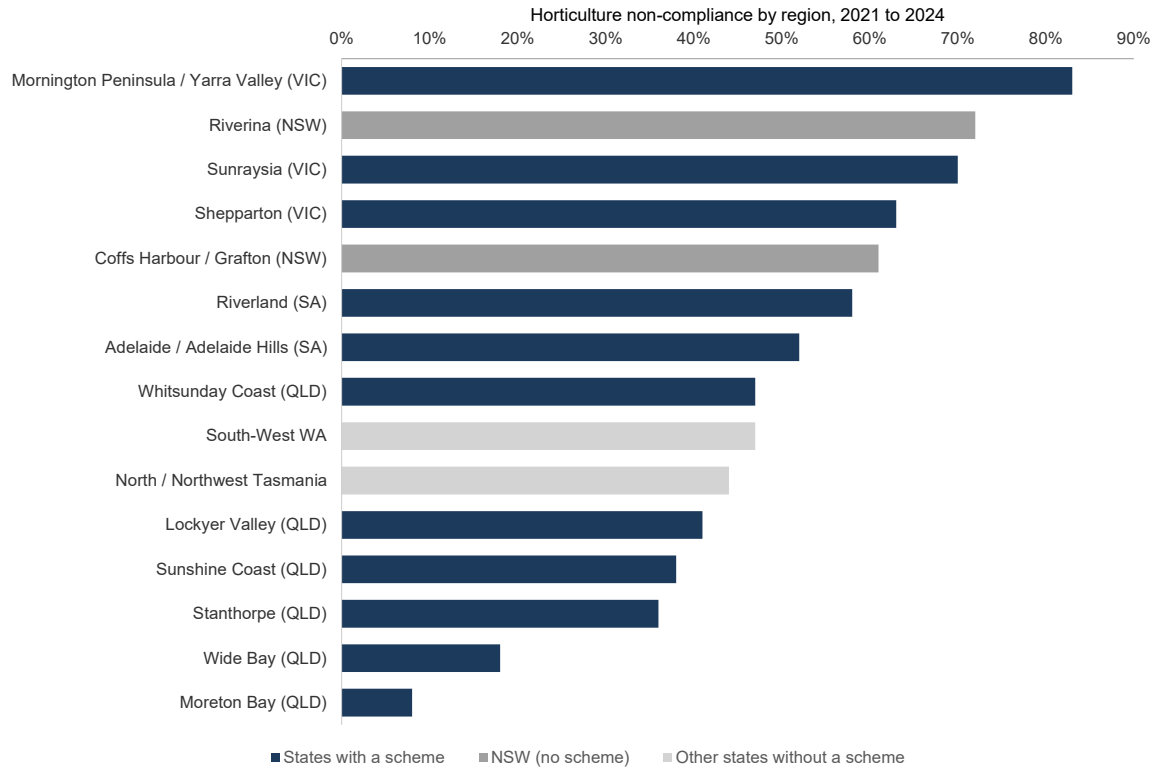
The way labour is recruited into these regions shows how openly the exploitation continues. Unions NSW's 2021 audit of more than 1,000 horticulture job advertisements, placed on backpacker and community-language platforms, found that 88 per cent advertised a piece rate rather than an hourly wage, and that 96 per cent of those piece rates were set at a level that would not allow a worker to earn the national minimum wage. Coffs Harbour made up the largest single share of the advertisements audited, and the lowest rate advertised there equated to around $1.86 an hour.[7]

Testimony gathered for the same audit shows how this works on the ground. One strawberry picker described being managed by foremen the farm had engaged rather than

by the grower directly, being made to work through rain under threat of having her payslips withheld, and staying on a site where most pickers earned under $10 an hour because she needed the days counted towards her second-year visa.[8]

The problem extends well beyond horticulture. The Fair Work Ombudsman's Horticulture National Compliance Strategy, which ran from December 2021 to November 2024 and inspected 512 businesses across 15 regional hotspots, found that in the five worst-performing regions, 80 per cent of the non-compliant employers were labour hire providers. 91 per cent of the 166 infringement notices issued under the strategy went to labour hire providers rather than direct employers. Two of the worst-performing regions were in NSW: the Riverina recorded a non-compliance rate of 72 per cent and Coffs Harbour/Grafton recorded 61 per cent. By contrast, Queensland regions recorded the lowest non-compliance nationally, with Wide Bay at 18 per cent and Moreton Bay at 8 per cent, an outcome the FWO attributed to the combined enforcement effort with Queensland's licensing compliance unit.[9]

Figure 1: Non-compliance rates by region



Source: Fair Work Ombudsman

Both Queensland and Victoria license labour hire, so the gap between their results warrants a closer look. Much of it reflects how the figures were produced. The rates come from targeted inspections in known problem areas rather than representative samples, so they capture where regulators chose to look as much as the true state of each region, and the regions inspected differ markedly in their crops and workforce. The figures also measure compliance with wage and record-keeping law, which is a different matter from whether a licensing scheme is working, since a provider can hold a licence and still underpay its workers.

These caveats mean the regional rates cannot be read as a straightforward ranking of the two schemes. They are more useful as a pointer to what works on the ground. Queensland's regions recorded the lowest non-compliance of any inspected, and the Fair Work Ombudsman attributed this partly to the ongoing compliance work of Queensland's Labour Hire Licensing Compliance Unit, alongside higher rates of direct employment and industry programs.[10] An active regulator was associated with stronger compliance. Victoria brings a different strength. It runs a larger and better-resourced enforcement operation through a standalone authority and has imposed substantially more in penalties than Queensland, including the largest labour hire penalty in the country's history.[11] Together they point to the same conclusion. A scheme works best when it screens rigorously at the point of entry and enforces actively once licences are held, and that combination is what this report recommends.

The pattern is not confined to farms. The NSW Anti-slavery Commissioner has identified modern slavery risks in NSW school cleaning, where approximately 7,000 cleaners work under outsourced arrangements involving labour hire contractors with no licensing obligations.[12] In the meat processing sector, the FWO has prosecuted NSW-based labour hire operators for exploiting migrant workers at regional abattoirs.[13] In construction, the Victorian Labour Hire Authority's dedicated taskforce has cancelled or refused 170 construction-sector licences, suggesting the scale of non-compliance that would be found in NSW if a regulator existed to look.[14]

The 2019 Migrant Workers' Taskforce, chaired by Professor Allan Fels, identified the core dynamic driving exploitation in the sector. It found that the main driver of unscrupulous labour hire operators is the desire to lower labour costs and gain a competitive advantage, and that in high-risk sectors where the work is intensive and low-skilled, reducing labour costs is the primary means of increasing the operator's profit margin. The Taskforce recommended a national registration scheme. Seven years later, workers in NSW remain unprotected.[15]

This exploitation is also systematically under-reported, which is part of why it persists. Unions NSW's 2024 survey of more than 3,000 migrant women on temporary visas found that around three-quarters of those who had experienced workplace sexual harassment did not report it. Concern about visa status was widespread, running at between roughly half and two-thirds of respondents depending on the industry, and about half were worried that reporting would cost them their job.[16] The same fear suppresses complaints about underpayment. Where workers cannot safely raise a problem themselves, a scheme that screens operators before they begin trading, and that can act on information brought to it by others, does not depend on the individual worker coming forward.

An unregulated sector also costs the public purse

The cost of an unregulated labour hire sector falls on the public as well as on workers. The clearest example is phoenixing, where a company is wound up to avoid paying its debts and a new entity is started to carry on the same business without them. The Australian Taxation Office estimates that illegal phoenix activity costs the economy around $4.89 billion a year, including around $1.44 billion in costs to government, much of it unpaid tax. That figure spans the whole economy, but the Tax Office identifies labour hire as one of the sectors where phoenixing is most prevalent, alongside construction, security and agriculture, where layered subcontracting and the ease of closing and reopening a business make liabilities simple to shed.[17]

This is where a licensing scheme earns its keep for government. A public register of accountable providers, a fit and proper person test that screens out directors with histories of liquidated and abandoned companies, and a financial viability requirement together make

it harder for serial operators to fold, walk away from their debts and re-emerge under a new name. Regulating the sector therefore protects public revenue as well as the workers within it.

Analysis of license cancellations in Victoria and Queensland reveals nefarious businesses operating in NSW

All cancelled Labour Hire Licenses (LHLs) in Qld and Vic as of 10 June 2026 were examined via a desktop search, including 148 in QLD and 1,033 in Vic (1,181 total). Licenses cancelled at the request of the business were excluded and not included in this data. Cancelled licences contained details such as the business entity, ABN, Nominated Officer, and sometimes a phone number.

Each business was assessed on the basis of whether there was evidence it was operating in NSW. Evidence that was considered included where a business had an NSW address, was a registered supplier on the Buy.NSW website, or advertised NSW-based services.

Where there was evidence a business with a cancelled license was operating under a new name or entity, this was considered. For example, where a director of the new entity was the Nominated Officer on the cancelled LHL of the old entity.

Whether a business appeared to be operating at all was also considered. For example, a business which did not appear to be in operation was not considered to be operating in NSW even if it had an NSW address.

Sixty-three (63) businesses with cancelled LHLs in either Qld or Vic were identified as showing evidence of operating in NSW. This is the equivalent of 5 per cent of all businesses with licenses cancelled across both jurisdictions. Businesses operating in NSW under licences that had been cancelled but subsequently renewed were excluded from the results.

This is likely to be an underrepresentation of the total amount for several key reasons. Firstly, many of the LHLs contained a person's name in place of a business name, making it impossible

to investigate whether the licence holder was operating in NSW. Nevertheless, these LHLs were included in the dataset but could not contribute to the results, thereby reducing the total percentage reported.

Secondly, cancelled licences were included in the dataset even where the associated business had subsequently obtained a new licence. However, businesses operating in NSW under those renewed licences were excluded from the results. As a result, these cancelled-and-renewed licences increased the size of the dataset without increasing the number of businesses counted in the results, further reducing the total percentage reported.

Lack of action on national model requires state scheme

The obvious answer to this patchwork is a single national scheme, and for several years one has been promised. In 2022 the Commonwealth committed to establishing a National Labour Hire Regulator that would license providers across the country and supersede the existing state schemes.[18] In December 2023, Commonwealth, state and territory ministers agreed in principle to a harmonised model.[19] Victoria was named the host jurisdiction, responsible for passing the model law and establishing the regulator,[20] and in April 2024 it set up a project office to carry out the work.[21]

Since then, progress has stalled. By the middle of 2025, the project office had produced a draft intergovernmental agreement and drafting instructions for the model law, rather than an enacted law or an operating regulator.[22] The Commonwealth reaffirmed its commitment after the May 2025 election but has set no commencement date,[23] and the portfolio has been held by three workplace relations ministers since the original commitment was made. More than two years after governments agreed to act, no national scheme is in place.

Accordingly, NSW has been waiting for a national scheme that has not arrived and for which no commencement date has been set, while its workers remain unprotected and its borders stay open to operators refused a licence elsewhere.[24] NSW does not need to keep waiting. It can establish its own scheme now, as Queensland, Victoria, South Australia and the ACT have done, and fold it into a national regulator if and when one commences. Moving first would

also give NSW a hand in shaping that national scheme, rather than waiting to inherit a model designed by others.

Part 2: Lessons from established schemes

Key Points:

1. Queensland, Victoria, South Australia and the ACT all license labour hire. Queensland and Victoria operate the largest and longest-running economy-wide schemes, which makes them the most instructive for NSW.

2. The two are built differently. Victoria runs a large, standalone enforcement authority, while Queensland administers its scheme through a compliance unit inside a broader department. Each offers NSW a different strength to draw on.

3. Victoria's authority is funded wholly by licence fees, which indicates that a standalone scheme can be designed to recover its running costs over time, leaving the initial set-up as the main cost to government.

Four states and territories now license labour hire. Queensland, Victoria and the ACT have operated economy-wide schemes for some years, and South Australia, which previously covered only certain high-risk industries, extended its scheme to all sectors in January 2026.[25] This report focuses on Queensland and Victoria, the two largest and longest-running economy-wide schemes and the ones with the most developed enforcement records to learn from.

Queensland: screening at the point of entry

Queensland was early to license labour hire, with its scheme commencing in April 2018 under the Labour Hire Licensing Act 2017. It applies across all industries and is administered by the Labour Hire Licensing Compliance Unit within the Office of Industrial Relations.[26] The regulator may refuse a licence to any applicant it is not satisfied is a fit and proper person and financially viable, weighing the applicant's character, compliance history, any past licence refusals or cancellations, and any insolvency or disqualification, among other matters.[27]

Licensees report every six months and renew annually.[28] The effect is to make the point of entry a meaningful screen.

Behind that screen sits an active enforcement record. In its first five years, to 2023, the scheme refused 77 licence applications, cancelled 101 licences and suspended more than 320, and secured 19 successful prosecutions, with court-imposed fines totalling $1.125 million.[29] Queensland shows that a scheme can combine a demanding entry test with sustained enforcement.

Victoria: a dedicated, standalone regulator

Victoria followed in October 2019, when its scheme commenced under the Labour Hire Licensing Act 2018,[30] and it too applies across all industries.[31] Victoria's distinctive choice was structural. It established the Labour Hire Authority as a standalone, independent statutory body devoted solely to regulating labour hire, funded wholly by licence fees, which licenses providers, monitors compliance and takes enforcement action. Since 2019 the Authority has grown to around 110 staff.[32] Its fit and proper test treats an applicant as suitable unless specific disqualifying circumstances apply.[33]

That dedicated capacity shows in its enforcement. The Authority pursues unlicensed operators through the courts, and in the construction industry alone it has cancelled 126 licences and refused a further 44 applications.[34] In one case it secured penalties of $759,674 against five companies and three directors for unlicensed labour hire in construction, the largest penalty imposed under labour hire licensing laws anywhere in Australia.[35] In December 2024 the Victorian Government announced it would strengthen the Authority's powers further to address unlawful conduct in the sector.[36] Victoria shows what a well-resourced, standalone regulator can do.

Victorian and Queensland schemes differ

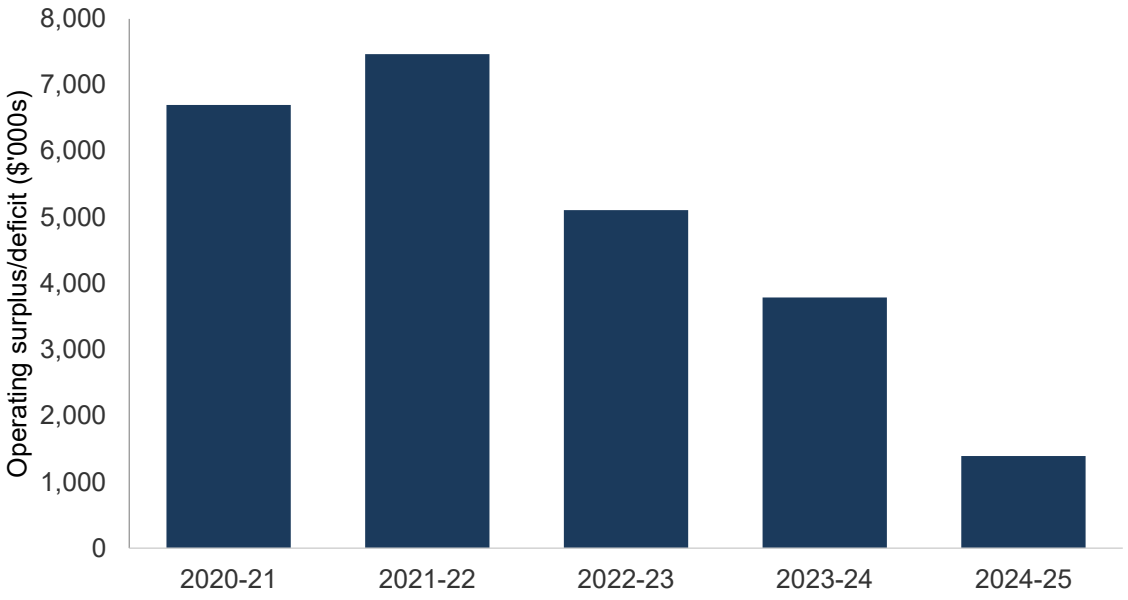
The Victorian and Queensland licensing schemes vary in their design, costs and operation within government.

When the Victorian Government committed to establishing labour-hire licensing in the state, it did so pledging to start a new agency. The Labour High Licensing Authority now stands alone as a government agency, not housed within another agency like in Queensland. This standalone body has around 110 staff, and is responsible for both the licensing and enforcement.

Cost to government

Establishing a new regulator carries a cost, and a fair question is what it would mean for the state budget. Victoria's experience speaks directly to this. Its Labour Hire Authority is funded wholly by licence fees paid by the businesses it regulates, so the scheme meets its running costs from the sector rather than from general revenue.[37] A NSW authority could be designed the same way. The main cost to government would be the initial set-up, after which licence fees can be set to carry the scheme's ongoing operation, as they do in Victoria.

Figure 2: Victorian Labour Hire Authority operating surplus through the years, 2020-21 to 2024-25



Source: Labour Hire Authority

Costs to businesses

Licence fees fall on providers, and in both states they are modest set against the scale of a labour hire business. The two schemes set them differently, which makes a direct comparison imprecise. Queensland charges a single fee, tiered by the wages a provider pays to the workers it supplies and payable on application and at each annual renewal. Victoria charges an application fee and a separate annual fee, both tiered by turnover, with licences running for three years. The figures for 2025-26 are set out below.

Because Queensland tiers by wages and Victoria by turnover, and because they structure their fees and licence terms differently, the headline numbers are not strictly comparable. Fees scale with the size of the business, sit in the low thousands of dollars a year for most providers, and run somewhat higher in Victoria, consistent with its model of funding a standalone authority entirely from fees. For a provider, they are a minor cost set against the wages and turnover involved.

Table 2: Fee structures of the labour hire licensing schemes in Victoria and Queensland

Provider size	Queensland Single annual fee, tiered by wages paid	Victoria Application fee plus annual fee, tiered by turnover
Small	Wages of $1.5m or less: about $1,158 a year	Turnover under $2m: $1,815 to apply, then $1,261 a year
Medium	Wages of $1.5m to $5m: about $3,476 a year	Turnover of $2m to $10m: $4,841 to apply, then $3,362 a year
Large	Wages over $5m: about $5,793 a year	Turnover over $10m: $8,943 to apply, then $6,186 a year

Source: Queensland Government, Victorian Government

What NSW should take from each

The two schemes point to different strengths, and a NSW scheme can be built to capture both. Queensland's strength is at the point of entry. Its regulator weighs an applicant's full circumstances, can take into account any matter it considers relevant, and must be satisfied that an applicant is both fit and proper and financially viable before granting a licence. That breadth of discretion keeps unsuitable and financially unstable operators out before they

begin trading. Victoria's strength is institutional. By housing its scheme in a standalone authority funded entirely by licence fees, it has built a dedicated regulator with the capacity to investigate and enforce at scale.

These strengths are complementary, and they point to a single model for NSW. A NSW scheme could pair a broad, discretionary fit and proper test and a financial-viability requirement, as Queensland has, with a standalone, fee-funded authority resourced to enforce, as Victoria has. The financial-viability test does more than protect workers. It is also a direct check on phoenixing, screening out operators with a record of insolvency and abandoned companies before they can repeat the pattern. Victoria's own experience reinforces the value of a demanding gate, since following a 2024 review it is now strengthening its fit and proper test.[38] A rigorous gate combined with an authority equipped to enforce is the model the next part of this report sets out.

The United Kingdom: two decades of licensing

The case for licensing does not rest on Australian experience alone. The United Kingdom has licensed labour providers for two decades, [39] and its scheme is the model the Victorian inquiry drew on when designing Victoria's.[40] In February 2004, 23 Chinese cockle pickers drowned in Morecambe Bay after a gangmaster sent them onto the sands and the tide came in.[41] The Gangmasters (Licensing) Act 2004 followed, and from 2006 anyone supplying workers to agriculture, horticulture, shellfish gathering or food processing and packaging has needed a licence, granted only to operators who meet published licensing standards and a fit and proper person test.[42]

Two decades on, the scheme is widely regarded as having worked. There has been no disaster on the scale of Morecambe Bay since licensing began, official assessments credit it with reducing undeclared work and the worst exploitation in the regulated sectors, and the regulator has convicted more than 70 offenders. [43] Compliant labour providers, for their part, gained a more level playing field.

The regime has been built up rather than wound back. In 2017 the regulator gained wider powers to tackle labour exploitation across the economy,[44] and in April 2026 its functions,

including the licensing scheme, were consolidated into a new and larger enforcement body, the Fair Work Agency.[45] The United Kingdom has retained labour hire licensing and reinforced the enforcement behind it, rather than retreating from it.

Part 3: Design considerations and recommendations

Key Points:

1. NSW should establish its own labour hire licensing scheme now, built so that it can fold into a national regulator if one is ever created.
2. The scheme should combine the strengths of the Queensland and Victorian models: economy-wide coverage, a broad and discretionary entry test backed by a financial-viability requirement, and an independent regulator funded by licence fees.
3. Funded by licence fees, the scheme would recover its running costs, leaving the initial set-up as the main cost to government.
4. The scheme should be proportionate, screening rigorously at the point of entry while keeping compliance light for the good-faith operators who make up most of the sector.
5. The regulator should hold an enforcement toolkit that allows it to extend regulation to host employers, supported by information-sharing agreements with other agencies.

Having shown why NSW needs a labour hire licensing scheme and what the established schemes show, this part turns to how one should be designed. The recommended model combines the strengths of the Queensland and Victorian schemes. It would be an independent statutory authority, funded by licence fees and dedicated to regulating labour hire. It would screen applicants through a broad and discretionary fit and proper test and a financial-viability requirement before granting a licence, and it would cover all industries. The table below sets out this design alongside the existing schemes, and the sections that follow take each element in turn.

Coverage across all industries

The NSW scheme should apply to all labour hire providers across all industries.

The scheme should cover the whole labour hire sector rather than a list of nominated industries. Exploitation is most visible in agriculture, food processing and similar high-risk sectors, and it would be tempting to confine a scheme to them, but that would be a mistake.

A scheme limited to nominated industries leaves workers in every other sector unprotected, and it creates an obvious route for avoidance, since an operator can shift its labour into an uncovered industry or recategorise the work to fall outside the scheme. It also forces the regulator to spend effort policing the scheme's boundaries instead of regulating the sector as a whole.

South Australia's experience makes the point. Its scheme originally covered all industries, was narrowed to five high-risk sectors in 2020, and is being restored to economy-wide coverage from January 2026, on the view that the narrower version left too many workers unprotected. Queensland, Victoria and the ACT have covered the whole sector from the outset. NSW should do the same, both to protect all labour hire workers and to keep its scheme aligned with its neighbours for the cross-border recognition discussed below.

Fees scaled to business size

Licence fees should be tiered by business size and set to recover the cost of administering the scheme.

Licence fees should do two things. They should scale with the size of the business, so that a small operator is not deterred by a fee a large one can easily absorb, and across the scheme they should be set to recover the cost of running it, as Victoria's fees do. Both the Queensland and Victorian schemes already tier their fees by size, Queensland by the wages a provider pays and Victoria by turnover. Either measure works, and this report takes no position on which NSW should adopt. As Part 2 showed, fees of this kind are a minor cost for a labour hire business set against the wages and turnover it handles, so a tiered, cost-recovering schedule can fund the authority without burdening the operators it regulates.

A proportionate, risk-based scheme

The scheme should take a risk-based approach to compliance and enforcement, concentrating scrutiny on high-risk sectors and operators while offering compliant operators longer licence terms and a lighter compliance burden.

Most labour hire operators comply with their obligations. The serious exploitation documented in Part 1 is concentrated among a minority of providers and in particular high-risk sectors, and it is that minority a scheme is meant to catch. In an unregulated market, compliant operators are among its victims, undercut by competitors who lower their costs by underpaying and mistreating workers. A scheme that removes those operators is therefore as much in the interest of good-faith providers as it is in the interest of workers.

It follows that the scheme should be rigorous at the point of entry and in pursuing bad actors, but proportionate in what it asks of operators who comply. A risk-based approach lets it strike that balance, concentrating inspection and enforcement on the sectors and operators that pose the greatest risk. In high-risk sectors, licences might be renewed more frequently and scrutinised more closely. Operators with a clean compliance record could hold longer, multi-year licences and face a lighter renewal process. The aim is to keep the burden where the risk is, so that the compliant majority are not made to carry the cost of the non-compliant minority.

A regulator equipped to enforce

The regulator should hold a full enforcement toolkit, from audits and information-gathering powers through to civil penalties pursued in the courts, so that it can act against non-compliance wherever it is found.

A licensing scheme is only as strong as the powers behind it. A demanding entry test keeps unsuitable operators out, but the regulator also needs the means to act once licences are held, both to deal with operators who slip through the gate and to respond to those whose conduct deteriorates over time.

At the lower end, the regulator should be able to audit a licensee's records and operations, and to issue information orders requiring a provider, and where relevant a host, to produce documents and answer questions. Where it finds a problem that does not warrant removing a licence, it should be able to impose conditions on the licence, or accept an enforceable undertaking that commits the operator to a course of corrective action. For more serious or persistent non-compliance, it should be able to suspend a licence, and ultimately to revoke it.

Behind all of these, it should be able to pursue civil penalties through the courts, both against unlicensed operators and against licensees who breach their obligations.

Queensland and Victoria already hold powers of this kind, including the power to impose conditions, suspend and cancel licences, and prosecute, and Victoria's record shows what an authority resourced to use them can achieve.[46] A NSW scheme should be built with the same toolkit from the outset, applied through the risk-based approach set out above, so that the weight of enforcement falls on the operators who pose the greatest risk.

Bringing host employers within the scheme

The scheme should reach host employers as well as labour hire providers, prohibiting any employer, without reasonable excuse, from engaging an unlicensed provider, and making hosts jointly liable, alongside providers for failures to meet workplace safety and employment standards.

A scheme aimed only at providers leaves out the businesses that engage them, and it is often the host that sets the commercial terms that drive a provider to cut corners. Bringing hosts within the scheme closes that gap and gives the regulator authority over both sides of the labour hire arrangement, not the provider alone.

The first obligation on a host should be a simple one. No employer should be able to engage a labour hire provider that does not hold a licence, absent a reasonable excuse, and the public register makes compliance straightforward, since a host need only confirm that a provider is licensed before engaging it. This mirrors the approach in Queensland and Victoria, where using an unlicensed provider is itself an offence.[47] An operator refused or stripped of a licence loses access not only to the register but to the hosts who rely on it.

Hosts should also bear responsibility for what happens to the workers placed with them. A host already owes duties to labour hire workers under work health and safety law, and NSW has recently strengthened that regime.[48] The scheme should build on that foundation by making host employers jointly liable, alongside the provider, for failures to meet workplace safety and employment standards, so that a host cannot contract out of responsibility for the conditions under which work is performed. Joint liability of this kind changes the incentives,

giving hosts a reason to engage reputable providers and to satisfy themselves that the workers in their operations are being treated lawfully.

These obligations would make the regulator responsible for the whole labour hire relationship, not the provider alone. It would license and oversee providers, screen and penalise hosts that engage unlicensed operators, and hold both accountable for the treatment of the workers involved.

Drawing on third-party intelligence

The scheme should give the regulator a clear, resourced channel to receive and act on information from third parties, including unions, worker organisations and host businesses, about the compliance of labour hire providers.

A regulator cannot watch every workplace. Labour hire workers are dispersed, often in regional areas, and, as Part 1 set out, many cannot safely raise a complaint themselves. The parties closest to these workplaces, among them unions, worker organisations, host businesses and community organisations, are often the first to see non-compliance. A scheme that gives them a clear route to bring that information to the regulator extends its reach at little cost, while leaving the regulator solely responsible for assessing the information and deciding what action to take.

This approach is well established. The United Kingdom's regulator, discussed in Part 2, has long been intelligence-led, drawing on confidential reports from workers and referrals from partner organisations to direct its enforcement.[49] Victoria's Labour Hire Authority similarly gathers intelligence from members of the public and from other agencies to inform its compliance work.[50] More broadly, regulators internationally have found that worker organisations reach into hard-to-monitor industries in a way the state on its own cannot, an approach sometimes described as co-enforcement.[51]

For NSW, this could take the form of a formal channel for unions and other third parties to provide compliance intelligence to the authority, supported by a consultative role in the scheme's operation. The channel should keep workers' information confidential, given the visa sensitivities set out above, and include safeguards against vexatious or competitively

motivated reports. Designed this way, it serves compliant providers as well as workers, since both gain from a market in which operators who break the rules are identified and removed.

Information-sharing agreements

The scheme should empower the regulator to enter into information-sharing agreements with other bodies, including the NSW Anti-slavery Commissioner, SafeWork NSW, the Fair Work Ombudsman and registered unions, so that intelligence about non-compliant operators can move between the agencies best placed to act on it.

The third-party intelligence channel described above brings information to the regulator from those closest to the workplace. A second mechanism is needed for the regulator to exchange information with other arms of government, and with worker organisations, on a more formal footing. The conduct a labour hire scheme is concerned with rarely sits neatly within one agency's remit. The same operator may be underpaying workers, breaching safety duties, avoiding tax and exploiting people on temporary visas, matters that fall variously to the Fair Work Ombudsman, SafeWork NSW, the Australian Taxation Office and the Anti-slavery Commissioner. Without a way to share what each knows, intelligence stays siloed and operators exploit the gaps between regulators.

The scheme should therefore give the regulator a clear statutory power to enter into information-sharing agreements with these bodies, and with registered unions, so that a licence refusal in one forum, a safety breach found by another, or a pattern of exploitation reported to a third can inform the regulator's own decisions, and the regulator's findings can in turn assist them. When NSW established SafeWork NSW as a standalone regulator in 2025, it gave that regulator an express power to enter into information-sharing arrangements with relevant agencies, and to share certain confidential information with registered unions and employer organisations.[52] The labour hire regulator should be equipped the same way.

Any agreement involving worker information should preserve the confidentiality protections set out above, given the visa sensitivities that deter workers from coming forward. Designed with those safeguards, information-sharing agreements turn a set of separate regulators into a network, each able to act on what the others see.

Preventing phoenixing

The scheme should be designed to prevent phoenixing, screening out financially unsound operators at entry and giving the regulator power to disqualify individuals as well as companies, and to act against the directors, key people and close associates who control an operator, so that cancelling a licence cannot be defeated by re-incorporating under a new name.

One of the clearest harms in an unregulated labour hire market is phoenixing, the practice described in Part 1 of winding up a company to escape its debts and obligations and starting a new one to carry on the same business. In labour hire it leaves workers unpaid and the public out of pocket, and it recurs because the people behind a failed or banned operator can simply re-emerge behind a new corporate name. A licensing scheme is well placed to prevent it, but only if it is designed to do so.

Two design features do the work together. The financial-viability requirement at the point of entry, recommended above, keeps out operators that are not financially sound. At the other end, the scheme must be able to reach the individuals behind an operator. Its fit and proper test should examine the directors and key people behind an applicant, and their history of insolvencies, cancelled licences and disqualifications, and it should be able to bar an individual found unfit from holding or controlling a licence, however the business is restructured around them. It should also be able to look through to the people who in practice control an operator, beyond those named as directors, so that a banned operator cannot reappear under a relative or associate. Victoria is moving in this direction, extending its fit and proper test from June 2026 to take in an applicant's close associates.[53]

Together, these features close phoenixing off at both ends, keeping unsound operators out of the market and stopping banned ones from returning to it. NSW should build both in from the start.

Recognising interstate licences

NSW should offer a streamlined licensing pathway to operators already licensed under comparable interstate schemes, recognising their existing vetting while keeping them on

the NSW register, and should give businesses relocating to NSW a grace period of 12 to 24 months, or until their existing licence expires, to obtain a NSW licence.

A NSW scheme would be the fifth in the country, and a provider that already holds a licence in Queensland or Victoria would face the prospect of obtaining another. There is no general mutual recognition of labour hire licences between the schemes. Victoria has deliberately excluded labour hire from the national Automatic Mutual Recognition arrangements, on the view that each jurisdiction should be able to vet the providers operating within it,[54] and Queensland does not take part in those arrangements at all.[55] The practical result is that a provider operating across state lines needs a separate licence in each.

NSW should ease this burden without giving up its own oversight. An operator already licensed under a comparable scheme, such as Queensland's or Victoria's, has been vetted to a similar standard, so it should face a streamlined pathway to a NSW licence rather than starting again from scratch. NSW would still issue the licence, keeping the provider on its register and within reach of its enforcement powers, while recognising the interstate vetting rather than duplicating it. Businesses relocating to NSW should have a grace period, of 12 to 24 months or until their existing licence expires, to make the change.

Making room for a national scheme

The NSW scheme should include a transition provision allowing its functions, register and licensees to be transferred to a national labour hire regulator if and when one is established.

Part 1 set out why NSW should not wait for the stalled national scheme. Acting now, however, does not mean acting at cross-purposes with a national regulator if one is eventually established. The scheme should be built from the outset to fold into a national scheme, through a transition provision that allows its functions, its register and its licensees to be transferred to a national regulator when one commences. This answers the main objection to a state acting alone, that it risks creating a fifth set of rules a national scheme would later have to unpick. A NSW scheme designed to step aside for a national regulator would protect workers in the interim and then make way, rather than adding permanently to the patchwork.

The transition would be straightforward because of the design this report recommends. The national model agreed in principle in 2023 is to be modelled on Victoria's authority, the kind of independent, fee-funded regulator this report also recommends. A NSW scheme of this kind would already be broadly aligned with the likely shape of a national regulator, so folding one into the other would be a matter of transferring licensees and functions rather than reconciling incompatible regimes. A single national licence would also remove the need for the cross-border recognition described above.

Acting now would also give NSW a hand in shaping the national scheme, rather than only preparing to receive it. Victoria's central role in the national process, as host jurisdiction and the basis for its model, follows directly from its having a scheme to point to. NSW, the country's largest state economy, has none, and correspondingly little say over a model being designed around it. A scheme of its own would give NSW a working model to bring to the table and a direct stake in how the national scheme is finalised.

Conclusion

New South Wales is the largest gap in Australia's patchwork of labour hire regulation. Every state on its borders now licenses providers, and the ACT does too. Yet the country's largest state economy still has no scheme of its own. The result is predictable. Operators refused a licence elsewhere have a clear incentive to set up in NSW, where there is no register to screen them and no licence to lose, and it is migrant and seasonal workers who bear the cost.

Other jurisdictions show what a scheme can do. Queensland and Victoria have spent years screening operators at the point of entry and acting against those who break the rules, and the United Kingdom has licensed labour providers in its highest-risk sectors for two decades, with a substantial fall in exploitation over that time. Costs should not stand in the way, since Victoria's authority is funded entirely by the fees it charges, leaving set-up as the main call on the NSW budget.

This report has set out what a NSW scheme should look like. It should cover all industries, screen applicants through a broad fit and proper person test and a financial viability requirement, and be run by an independent, fee-funded authority. That authority should hold a full enforcement toolkit, from audits and enforceable undertakings to licence suspension, revocation and civil penalties, and its reach should extend to host employers as well as providers, who should be prohibited from engaging unlicensed operators and held jointly liable for the conditions under which their work is performed. It should also be able to share information with other agencies and with unions, so that operators cannot exploit the gaps between regulators.

The scheme should be rigorous at the point of entry and in pursuing bad actors, while sitting lightly on the established operators who do the right thing. Finally, it should be built from the outset to fold into a national scheme if and when one is established.

The case for waiting has run out. A national scheme was agreed in principle more than two years ago and is no closer to operating, while workers in NSW remain unprotected. Acting now would close that gap, and would also give NSW a hand in shaping the national scheme

rather than inheriting one designed by others. The NSW Government has left its workers, and the honest businesses that compete with those exploiting them, without a cop on the beat. The simplest thing it can do now is provide one.

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