CWR CARRINGTON WORKFORCE RISK

The Workforce Risk Briefing

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Three recent decisions that change how you award contracts, hire and pay. What each one means and what I would check.

> I read the industrial decisions so you do not have to. These three are recent, they are real and they each carry a lesson you can act on this week. The citations are there if you want the full judgment.

LABOUR HIRE · MINING

Labour hire on a mine site now has to be paid like the workforce it sits beside.

The decision. Applications by the Mining and Energy Union and the AMWU re Goonyella Riverside, Peak Downs and Saraji mines **[2025] FWCFB 134**. Fair Work Commission Full Bench, 30 July 2025.

WHAT HAPPENED

The Full Bench made same job same pay orders over BHP's in-house labour hire (OS Production and OS Maintenance) and the external providers WorkPac and Chandler Macleod. More than 2,000 labour hire workers move onto the same protected rate as directly employed staff under the BHP Mitsubishi Alliance agreement. For many that is around $30,000 a year more.

WHY IT MATTERS TO YOU

If a contractor's price counts on paying labour hire less than your own workforce, this decision can take that saving away. A same job same pay order lifts those workers up to the site rate. The contractor wears that cost or they come back to you for it. Either way the tender that looked cheapest can end up the dearest.

> **THE ONE THING TO CHECK**
>
> Ask every shortlisted contractor how much of the crew is labour hire, on what instrument and whether their price is built on the site rate or a lower one.

LICENSING · CONSTRUCTION

Using an unlicensed labour hire provider is the host's problem too and the directors pay.

The decision. Labour Hire Authority (Victoria) enforcement, Supreme Court of Victoria penalties announced 3 October 2024. Breaches of the **Labour Hire Licensing Act 2018 (Vic)**.

WHAT HAPPENED

The court penalised five construction companies and three directors a total of $759,674. Some were unlicensed providers. Others were hosts that engaged unlicensed subcontractors, penalised at more than $100,000 each. Three directors were personally penalised $25,444 each.

WHY IT MATTERS TO YOU

In a licensing state, engaging an unlicensed provider is not just the provider's risk. The host and its directors can be penalised. In Queensland the host penalty runs into the hundreds of thousands of dollars. It is easy to miss too. The head contractor can be licensed while a subcontractor two layers down is not.

> **THE ONE THING TO CHECK**
>
> Before you award, confirm every labour hire party in the chain holds a current licence in the state of the work. Check the subcontractors, not just the head contractor.

SALARIED PAY · ALL SECTORS

Paying a good salary does not cover you. The award has to be met every single pay period.

The decision. Fair Work Ombudsman v Woolworths Group Ltd **[2025] FCA 1092**. Federal Court, Justice Perram, 5 September 2025.

WHAT HAPPENED

Woolworths paid salaried managers a set annual salary meant to cover their award entitlements. The court held a salary can only be set off against entitlements that arose in the same pay period. A surplus in one fortnight cannot cover a shortfall in another. Each pay period has to stand on its own against the award.

WHY IT MATTERS TO YOU

A salary above the award is not a safe harbour. If the hours swing, a well-paid person can still be underpaid in a heavy period. The gap is a breach even if the year averages out. This is why the classification and the real cost of the roster matter, not just the headline number.

> **THE ONE THING TO CHECK**
>
> For any salaried award-covered role, test the worst pay period, not the average. Does the salary still clear the award once that period's overtime, penalties and allowances are counted.

Where this leaves you

If you award contractor work, the Critical Path Screen reads your shortlisted tenderers for these exact risks before you sign. Send me your shortlist and I will tell you which one or two I would look hardest at. That first read is free.

If you employ award staff, the award tools place a role and show its real cost, live from the Fair Work database. The rate lookup is free and needs no signup.

Either way the point is the same. The industrial risk is easier to read before you commit than after.

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This briefing is general information to help you ask better questions. It is not legal advice. Where a matter needs a lawyer, get one. The decisions are summarised from public sources and the citations are shown so you can read them in full.   Carrington Workforce Risk · ABN 21 703 493 219 · Australia.