C O R R E C T E D V E R S I O N

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Labour Hire Employment in Victoria

Melbourne — 13 September 2004

Members

Mr B. N. Atkinson
Mr R. H. Bowden
Mr H. F. Delahunty
Mr B. J. Jenkins
Ms M. V. Morand
Mr N. F. Pullen
Mr A. G. Robinson

Chair: Mr A. G. Robinson
Deputy Chair: Mr B. N. Atkinson

Staff

Executive Officer: Dr R. Solomon
Research Officer: Ms K. Newitt

Witnesses

Mr D. Oliver, State Secretary (Victoria); and

Ms C. Chew, Assistant Research Officer, Australian Manufacturing Workers Union.

The CHAIR — Welcome. I think one other person was to be here, but we are not expecting anyone else, are we?

Mr OLIVER — Yes. We were expecting "Employee A", an employee from a labour hire company, to give some direct evidence in regard to the type of employment she is engaged in. Unfortunately she could not make it, but we are in a position to a table a supplementary report, if we can, which contains statements of "Employee A" and "Employee B", two workers engaged in the labour hire industry. Charmaine will talk a bit to them in our submission; they go to the heart of the submission that we have put up.

The CHAIR — Thanks, Dave. Just as a prelude to allowing you to speak to your submission, I need to outline some background to you. This is the Economic Development Committee of the Parliament of Victoria. It is one of 11 standing committees of the Parliament and it is an all-party committee. We have been asked to investigate and report on matters pertaining to labour hire employment in Victoria. You have seen our terms of reference, no doubt, which have allowed you to construct your submission. We are due to report to the Parliament on this before the end of the year. Anything that you say today in our public hearing will be recorded by Hansard. We will make sure that a transcript of that is made available to you; that will take 10 days to two weeks. You can make corrections and send it back to us. Anything you say here today is covered by parliamentary privilege. That does not extend to what you say once you go out the door. The committee has the prerogative to in the future adopt as a submission anything that you provide in a written form as part of your submission, which will later become publicly available. If for any reason you do not want that to be adopted or made publicly available in that way, you simply have to let us know. We will commence by allowing you to speak for 20 minutes or so and then we will ask questions.

Mr OLIVER — I might take the opportunity to table the supplementary reports from the two labour hire employees. Attached to those is an additional submission on occupational health and safety matters which has been put together by health and safety officers. It basically reflects a lot of submissions we put to another inquiry on occupational health and safety in regard to the Maxwell report, focusing on the issue of roving reps, which we think is more than appropriate for this kind of industry.

In regard to labour hire generally, the AMWU has been trying to come to grips with this issue for many, many years. If we go back to more than 15 years ago, we took a very strong position, when we first saw labour hire coming in, that we would basically oppose it. We took steps to try to inhibit the ability of labour hire to grow in the manufacturing sector. Now, 15 years down the track, we have seen that was not the way to go. Clearly the labour hire area has exploded; it is a worldwide phenomenon. The two single largest employers in the world now are labour hire companies, Manpower and Adecco. So over the years we have changed our position from outright opposition to one of now trying to look at some kind of regulation of labour hire. What we have been attempting to do in regulation in the workplace is something that we would be keen to see being done through regulation across the industry. That is outlined in the submission that we put forward.

If you look at labour hire and go back to its original intention — again looking at the manufacturing sector — it was always sold to us on the basis that it was to fill short-term labour needs, particularly in seasonal-type manufacturing operations where they operate on peaks and troughs. The proposition was that employers would keep a core labour work force and top that up with supplementary labour. The preferred option for using supplementary labour would be via labour hire companies and in most cases the labour hire companies would employ persons on a casual basis. That was its original intent and that was how we saw it being applied many years ago.

If you come to where we are at the moment, as outlined in our submissions — and I am sure you have seen in all the submissions put forward — labour hire has taken on a new dimension. It has gone from looking at taking up to fill a short-term gap to becoming an alternate means of employment. In cases now we are seeing that being used by employers to basically undermine wages and conditions on the factory floor. That is why our industrial approach to it has been through the bargaining process via enterprise agreements, to get provisions in agreements that regulate the use of casual and labour hire employees to the extent where we would provide minimum and maximum periods of engagement. But the primary concern is that we want to ensure that the wages and conditions that apply at a particular workplace will apply to those labour hire workers and casual employees. To date we have been very successful through our bargaining process in bringing in that kind of regulation.

So we have gone from a process where we have had employees engaged on a short-term basis to them being engaged on a long-term basis. In our submissions we have indicated that now one in 10 manufacturing labour hire employees are engaged on the basis of two years or more. When you get around to looking at the statements put in by "Employee A" and "Employee B" you will see that they exactly highlight that fact — that they have been brought in and engaged for many years. You might be aware also of the cases we ran in the Industrial Relations Commission several years ago to get greater rights for casual employees, where there were two main objectives. One was to increase the casual loading for casuals and the second was to get a conversion regime in place over a minimum period. We asked the Commission and said that we thought three months was long enough. The Industrial Relations Commission deemed that six months would be the conversion period. That is what came down in their Metal Industry Award, so we got an increase in loading from 20 per cent to 25 per cent and the ability of casual employees to convert to permanent status after six months. That is recognised in one of the major awards in this country and in many other awards, yet it is not recognised in law at this point in time. Again, it is something that we are keen to have recognised. The general thrust of what we are trying to do about wages and conditions is to ensure that labour hire can no longer be used to undermine those wages and conditions that are in place, and also that the employees engaged in that industry, who are predominantly casuals, are afforded the same rights as permanent employees, in particular in regard to the question of converting over a minimum period.

The other area we want to focus on is the question of continuity of service. We have cases where employees have been working at the same premises for a number of years but during the course of that period they have changed labour hire providers. Their continuity of service is not recognised in a particular workplace; it is deemed to recognised only with that particular labour hire company. Therefore they do not attract any rights are legally to access to entitlements such as long service leave or redundancy payment, if that happens.

The other option that we have put in there is one that we have been toying around with for a couple of years. We have had some preliminary discussions with the labour hire industry here in Victoria about floating this option of creating a mobile permanent — that is, instead of a labour hire employee being paid a casual loading they would be able to nominate part of that loading to go into a central fund. That central fund could be used to provide paid leave entitlements, such as annual leave or sick leave, and even look at the establishment of a portable long service leave fund that operates at the moment in similar types of industries of an itinerant nature, such as the building and construction industry. Irrespective of how many employers a building worker might work for over a 10-year period, they get access to long service leave. Again we would be interested in trying to translate that across. I am heartened that one of the largest labour hire companies, Adecco, has announced publicly that that is something that they are willing to explore further and we are more than willing to have a discussion with them about following that one through.

Again, it is something that we would like applied on a broader basis. No doubt you will find in your inquiry that you have a lot of labour hire employees who are basically deemed to be second-class citizens. They see themselves as second-class citizens, employers treat them as second-class citizens, and even fellow workers at factory workplaces treat labour hire employees as second-class citizens in some cases. We have what I refer to as an industrial apartheid that exists, because one poses a threat to the other. A casual labour hire employee is a threat to a permanent worker and vice versa. So we have had cases where they have been some tensions in the workplace in regard to that. We want to try to fix that by giving them the same kinds of rights as permanent employees. As I said, we have a supplementary submission on the occupational health and safety issues. Our submission contains a lot of our concerns, mainly around the issue of the lack of induction training being provided to health and safety representatives.

The other concern is that in the cases where we have individuals who raise health and safety or industrial concerns they are very fearful of losing their jobs. Again I refer you to "Employee B"'s statement. He actually refers to that in his own circumstances, where he has raised occupational health and safety issues and has found himself in a situation where the client no longer wants him working at a particular site or his guaranteed tenure of employment has been reduced from what may have been six weeks to two weeks. So there is a real reluctance among labour hire employees to what they refer to as 'pop their head up', because if they do very little protection is afforded to them. There is no real regime of training for health and safety reps being provided by labour hire companies. Again that is why we want to look at the issue of roving reps. They can have a pool of health and safety reps who have the ability to move around from one client site to the other.

The other aspect that we touch on briefly is the structure of the workers compensation premiums. It seems that in this industry they are broken down into only two areas and that is determined by what colour collar you wear. If

you wear a blue collar it is a different rate as opposed to wearing a white collar, but there is no distinction between what particular industry you are working in, whether you are wearing a blue collar or not. Another area of concern is unfair dismissals. Again, we are getting examples of labour hire employees being told that their services are no longer required because the client company, for whatever reason, has said that they do not want them working on a particular site. They have gone to the labour hire company, it cannot place them anywhere, so in effect they are being constructively dismissed. There is no real recourse for that.

Another area of concern is in regard to right of entry to inspect wage books and wage records. The act provides that we go onto the premises where they are stored. In a lot of cases with labour hire employees we do not know exactly where they are. Or if there is an issue at a particular site we have difficulty in accessing that site even though we have a member working there. We are told that is not his place of employment.

The other big issue for us is the question of training generally. The indicators we are getting from speaking to employers and from the studies that have been conducted at the declining skills in the manufacturing industry are showing that the skills have dramatically declined, particularly over last 10 to 15 years. We put it down to traditional large manufacturing employers who engaged a lot of apprentices and invested in training and put in accredited training programs no longer doing that. They are opting for the short-term fix of engaging labour hire to provide skilled labour in their workplace. So in essence instead of investing in a four-year program to train apprentices in a workplace an employer may consider it easier to pick up the phone and get a labour hire tradesman to come out. Our studies are showing that these labour hire companies invest very little, if anything, in training and engaging apprentices, and putting those skills back into the manufacturing sector.

One thing that we are proposing in our submission is to look at putting in some kind of licensing regime for all those issues I have already canvassed, but also that the licensing regime be utilised to provide revenue to go into a centralised fund which could be pooled for the purposes of providing accredited training back into the industry for labour hire workers, whether in the form of group training programs or adult apprenticeships. So long as it is an accredited program it should be utilised.

I imagine it would be similar to the now-abandoned federal centralised fund levy that was in place many years ago, when there was a levy of 1 per cent on employers that went into a central scheme. Employers could use that for accredited training programs, and I stress that if we go down that path we have to ensure that those training programs are accredited. Overall our submission touches on all of those areas of concern. We see the best solution as creating some kind of licensing regime where there would be enforceable standards to ensure that wages and conditions are provided to employees, to ensure that labour hire employees are afforded the same rights as any other worker in our industry, whether permanent or casual, in respect of workers compensation, occupational health and safety and with access to unfair dismissal remedies. I will leave my overall report at that and ask Ms Chew to outline the two statements we have tabled in our submission.

Ms CHEW — I will be brief about the case studies because they essentially speak for themselves. They do not raise any new or unique issues that you would not have come across before.

"Employee A" is very typical of a lot of labour hire employees in the food industry that we cover. She has been at this particular food factory for approximately three years, and has tried in those three years to be made permanent but has failed each time. I think she has applied six times. Her major concern is lack of certainty in her working life as to how many hours she gets, and what shifts she does. She tells us that sometimes she works in the morning, gets home and is called up to do the night shift. There is a 10-hour gap that is required for a break, but every so often she does get called up to do practically two shifts in a day. It is very difficult for someone like her. She has also mentioned concerns about taking time off work when she is sick or injured. She feels reluctant to because if she takes time off work she has no income, which comes back to the lack of any type of leave provisions for labour hire employees. She mentioned that she has not much of an idea about what her health and safety rights are. She mentioned that she was injured. I asked her what kind of injury she had and how it happened, and she could not give much of an answer as to why it happened or how it could have been solved or what could have been done differently to improve it.

Her case study is fairly typical. She has applied for various loans at different points in time and has been rejected all three times, the main reason being that she is casual — there is no certainty in her employment, and therefore banks are reluctant to lend her any money, even a small loan to fix her car. She relies on the generosity of her parents to fund her previous loan, and also on her mechanic accepting weekly payments when she is able to pay it. Her

biggest concern is lack of certainty in her future. She cannot make any plans, she always feels that she is catching up with previous bills. It is very easy to get behind on bills because if you miss one payment and do not get much work, it blows your whole routine out of sync.

Turning now to the second case study, "Employee B" is a welder from the Latrobe Valley. It is a region that does not have a great deal of employment at the moment. He is forced to accept and juggle short-term contract work and labour hire work. He faces similar concerns about certainty in his family life, social life and financial situation. He mentioned that he applied for a loan of $5000 to get his wife's car fixed and had to show the bank five years' worth of tax records, and three months' worth of pay slips leading up to his loan application. Eventually did get the loan and it was assisted by the fact that he had a 90 per cent equity in his house, but it shows the great difficulty in getting the loan. If he had been a permanent employee he believes he would have got the loan over the phone.

The second concern is that "Employee B" is an occupational health and safety representative and has had training in 1987 and 1997, but he has felt that on the several occasions that he has raised concerns he has either been told, 'Look, we don't want you here any more; go and find other work' — and that was on his second day — or there has not been work forthcoming from that same company after he raises OHS concerns. He mentions that when he goes on to the job he observes other workers performing work in a way he that he would not recommend. For instance, welders doing work on ladders. I am not a tradesperson but that sounds pretty dangerous to me. He has refused to accept work like that but he can see that that kind of work is being carried out by other people who are either not as conscious of their health and safety rights and conditions as he is, or they are just desperate for the money.

So those are the two issues that come up in his statement. He raises time limitations at home with his family. He mentions that when he is home priority is given to his family but he spends a lot of time looking for work. The rest of it is fairly self-explanatory. The impression we get is that a lot of our labour hire employees feel disposable, nameless, faceless employees that no-one really has to look after, and that is the major concern.

The CHAIR — Thank you for that. Before I proceed to questions, I just want to be clear. I appreciate the case studies — they are very useful — but you have used the actual names of the workers. In the case of the first one, there is a fair bit of information about what that worker has gone through. I want to be sure that that worker is happy for her name to be used. We do not have a problem if it is easier to just say, 'The case study that we've been familiarised with', rather than using the name.

Ms CHEW — I will speak to her again. Initially we put the name of the company in then took it out because she did not want her name to be linked to the company. I have had limited contact with both of them because they work different hours and are always away. I am happy, perhaps at the end of today, to get a confirmation from them as to whether they are happy to have their names published.

The CHAIR — That is advisable. We do not have any problem accepting that this is an accurate record of that person's experience, but I am just conscious that all that information is in there and on the public record, it may not help that person down the track.

Ms CHEW — Sure.

The CHAIR — We will note that when we consider the matter for adoption. We will wait for your advice on that. The first question I had was that in 2000 you commented on the Commission increasing the casual loading and allowing for the conversion to full-time or part-time employment after six month's service, and I understand that the loading increase has decreased casual employment to some extent. But I am more interested in how many people have availed themselves of that conversion right. What has been the experience in the workplace?

Mr OLIVER — Our experience has shown that we have not had a great deal. In fact we have been reminded of comments made by the head of Manpower Services at the time, quoted in the *Australian Financial Review*, saying that the union wasted their time for fighting that because if you look at the record a lot of people have not taken that option to convert across. From our point of view in respect of our membership, the bulk of them would be covered by those enterprise agreements that already have a regulatory regime that converts employees, and the norm in Victoria is that it occurs after a three-month maximum, and that works very well; and we have many cases where employees have converted on the enterprise bargaining agreement as opposed to the award. I would estimate that probably 3 per cent of our membership operate on the basis of the bare award, and the problem we have in trying to reach out to those award or non-EBA-covered employees is that they are predominantly

non-union workplaces, and again the feedback we are getting when we come across long-term casuals and ask why they have not exercised their right to convert is clear: 'If we do that, we will not be engaged. There will not be a job there.'

The CHAIR — Simply upon applying to convert, that will be the end of it?

Mr OLIVER — Yes. Our preference was that originally we wanted the Commission to make it an automatic right. It failed to do that, and it became a situation where the employee would apply and then an employer would not unreasonably reject the offer. In most cases where we have been confronted with this for non-EBA-employed workers, the reason they have not exercised that right is that if they do, the job will no longer be available for them.

The CHAIR — In the EBA that right exists as well and is more broadly accepted, you are saying?

Mr OLIVER — Absolutely.

The CHAIR — And what would be the statistics in EBAs where workers in that arrangement had made a conversion?

Mr OLIVER — The majority of EBAs have provisions in them. About 90 per cent of agreements here in Victoria — and we have 1500 of them — have provisions for conversion, and in all of those cases they are either exercised or labour hire casual employees have been utilised for that the short-term period and have not gone beyond that three–month period. I can quote you one very good example, which was Autoliv Australia in the northern suburbs where, as part of our last EBA round, we managed to convert 100 casuals to permanent employees, and if you speak to the employer out there, they even admit that it was an amazing thing to behold because the workers that did convert were holding parties in the car park the day the conversion took place. She recognised the value and how much it meant to those workers in reaching that conversion point, and that is something we got through the enterprise agreement — nowhere else.

The CHAIR — In that case those were casuals that the company employed rather than labour hire casuals that had been employed at the company?

Mr OLIVER — They had been provided by a labour hire company. Their conversion was that they then moved from the labour hire company onto the books of the company as permanent employees.

The CHAIR — So your experience is that through the EBA process that conversion is a live option, and through those arrangements only covered by the award it is not really happening to the extent that was envisaged?

Mr OLIVER — Yes, that is right. The other point I wish to make on that, particularly in light of recent developments, is that we now have a decision from the High Court, and there is much debate going on within the movement at the moment about what is in and what is out of enterprise agreements. This is a High Court decision that said that the only matters that can be contained in an enterprise agreement are those matters that directly pertain to the relationship between the employer and the employee. We know that some commissioners are raising a question now as to whether or not a provision regulating casuals and contractors or labour hire workers fits into that definition. We may well see a move by commissioners to actually remove those clauses from agreements.

Ms MORAND — Would you like to see the minimum conversion time, whether it be three months or six months, as part of a licensing or registration scheme? You mentioned some of the occupational health and safety things, but would that be part of it?

Mr OLIVER — Absolutely. Again we need to make the definition about what is truly a casual worker. These oxymorons appear about 'permanent casual', and that was language that was thrown at us throughout the case we ran in the Commission for the casual loading. We really want to define what an itinerant worker is. If a company needs a short–term fix, our view is and our experience has shown that three months is more than sufficient. We want some kind of regime there to recognise a short-term basis — engage people on a casual basis for three months, then they should be given the option about translating across to permanent conversion. We also have provisions such that if there are special circumstances, depending on the industry, for example the white goods industry — and we do not have any left in Victoria but when we did have them here — we had the ability to

extend that from three months by another month or two months by agreement between the parties, depending on the nature of the work and the seasonality of the work, if the season went longer than expected.

Ms MORAND — And forgive me if this is in your submission, but do you have any statistics on which industries have the highest rate of casualisation among your members?

Mr OLIVER — No, we have not broken it down; we have just given the overall statistics about where we see the casualisation residing. It quotes a lot of other material that we have used, particularly in the metal industry award case, and some of the reports that Acer Australia have done for us. However, we can provide that for you if you are unable to obtain it.

Mr JENKINS — The case study of "Employee A" states that she has been working in a factory for a long time. Do you have any idea how many of the employees there are permanent direct employees and how many are labour hire?

Ms CHEW — No, I cannot give you anything accurate. The only information I have is from what she tells me. She tells me the company does have a policy for converting casuals to permanent, but it is a very discretionary policy, and she feels that that policy is not based on objective criteria. She has been there for three years, she obviously has the skills, and for whatever reason she has failed in that conversion process. She has talked about other casuals being there one month who have been converted to permanent, so I think because of the lack of regulation it is fairly discretionary and that comes down to who speaks up, who makes a fuss, who does as they are told, who has a higher absentee record for whatever reason — all those discretionary factors come into play. Even though we recognise them as permanent workers, these people are assessed on those criteria quite subjectively, so I cannot give you statistics on that particular work force, but I think her experience is quite common in the food industry.

Mr JENKINS — We had some comments that some labour hire firms operating on the margins have really been only about getting out of some responsibilities and obligations, either in the short or long-term, that they may have to what would normally be their employees. Are you aware of any cases where single firms or factories are hiring through a labour hire company that, for all intents and purposes, is the same organisation but is just allowing them to spilt the responsibilities?

Mr OLIVER — A high profile example is what happened with Ansett. After Ansett was selling off all the assets, the engineering base was taken up on the basis where they set up another company just to finalise the contracts that they were engaged in. They engaged the services of a labour hire company that actually provided the whole labour for that particular site that they engaged. So it was not an entity as such, it was just that the labour hire company was responsible for all the day-to-day running of that particular site.

Mr JENKINS — But the sorts of issues that raises in terms of the long-term obligations to severance and so on, is that where the dangers are?

Mr OLIVER — They clearly are. If I can give you an example, this came from a senior manager of a labour hire company. He had a number of labour hire employees working at Telstra. They had 12-month contracts, and on the 11th month Telstra took away their contracts from labour hire company A and gave it to labour hire company B. Labour hire company B approached the labour hire workers and said, 'We are happy to keep you on, but you have to start a new contract of employment with us'; so therefore at the end of that two-year period their length of service was only recognised as being a 12-month period, therefore that negated any entitlement for redundancy benefits. In those circumstances you can see that occurring, yes.

Mr JENKINS — And under current regulations you could set up labour hire company B for $10 overnight?

Mr OLIVER — I can remind you of a very famous case involving the waterside workers and Patricks, where there was an employment arrangement construed to move all the employees into a shell company, which was a labour hire company with no assets, and that is the other problem associated with labour hire. If a labour hire company goes bust, there are no assets. A lot of them operate out of a post office box, a phone and fax at home or a mobile phone while they are running around in their car. They may have many employees on their books, but if they go belly up, what assets are there for them to meet their obligations? Zip!

Mr PULLEN — In your overseas arrangements you quote a number of other countries, mainly in relation to the trade union movement. I am interested to learn, with these particular countries, what controls they have on labour hire companies and stuff like that. Do you have anything along those lines? I am referring to the roving health and safety representatives.

Ms CHEW — That was prepared by our health and safety officer. When the report was tabled for the OHS Maxwell report, I think it was, it was to give that particular committee an overview of the kinds of initiatives undertaken in other parts of the world. I think that some of them have ideas such as regional representatives, where you have a pool of trained people in an area who go out and look after the work sites in that particular regional area. I think the roving reps idea is similar but slightly different.

Mr OLIVER — Our supplementary report outlines the different arrangements that operate in these different countries, which is on our supplementary submission if you want to make reference to it.

Mr PULLEN — Fair enough. Charmaine, you have given us two case studies, and both people wanted only minor loans. My greatest concern — and I have asked this of just about everyone who has appeared here — is in relation to housing loans. Do you have any evidence of the ability and difficulty of workers — casual workers, whether they be labour hire or whatever — obtaining home loans?

Ms CHEW — I take it that if someone like "Employee A" cannot obtain $2000 to fix her car that her ability to get any loan bigger than that amount must be negligible. She says she has no option but to rent, and that really is a testament to her inability to build up any long-term future.

Mr PULLEN — Dave, just one of the recommendations is that casual employment be defined to cover only irregular engagements and to expressly exclude casual employment with a regular pattern of over four weeks. I am interested to know how that could marry in with, say, the three months before a person has the possibility of being permanently employed. That is on the basis that, say, a company had a person who went on long service leave or something like that and the person might have six months long service leave. Do you expect that they will have a different person there every month or something like that?

Mr OLIVER — One of our major awards — that is, the metal and engineering on-site construction award — had that provision in it for four weeks because it wanted to recognise the true nature of casual employment — in other words, if you have a job that goes beyond a month, then in our view there is nothing to stop an employer from directly employing a permanent or fixed-term employee for that duration. When you try to break it down logically and sit down with the employers and say, 'What is your concern?', there seems to be this mythology around that if you engage someone as a casual employee for nine months that they are okay, that if you engage a person for nine months as a permanent worker they all of a sudden grow two heads and you cannot get rid of them. There is this mythology built up about unfair dismissal. If it is based purely around unfair dismissals then there are provisions for less than three months. There is access there. Beyond three months, if their concern is in regards to redundancy benefits, in the majority of cases all the award provisions show that there is no redundancy entitlement unless you have 12 months service or more. The overwhelming majority of our redundancy agreements have the same — that is, that in the first 12 months you are not entitled to any other benefits. I cannot see the logic when I sit down with the employers and say, 'If you know you have got three or four months work, why do you not put them on as a permanent employee for that period of time knowing full well that at the end of that term, if there is no more work, that they will be required to move on?' The reason we came up with four weeks is because that has been something that has been in one of our longstanding awards — that is, the construction award. By negotiated agreement it can be extended by another two weeks to a maximum period of six weeks. In effect that is what we were arguing. We went to the metal industry award for that six-week period but we got the six months instead.

The CHAIR — Thank you. David and Charmaine, I want to come back to OHS. To some extent my question is about what we mean by OHS and proper induction and what we mean by training. At times the two are getting mixed up. I note with some concern the comments in the two case studies — for example, the first of them is on page 3 of your submission under the heading 'Health and safety'. The statement is:

> I don't really know what my rights are. There is some basic health and safety training given to us but I know that the permanent workers get a lot more training.

The bottom of page 5 says:

> The level of OHS training on the job depends on the company where I am placed. Some provide quite extensive information while others don't provide very much at all.

The bottom of the next paragraph says:

> I can see that those workers with lower OHS expectations get more work.

When we had the RCSA early in our inquiry they had a survey that had been conducted by RMIT. It was very useful but was a bit like a double-edged sword. One of the findings of their survey — and I think I am right in recollecting this accurately — was that about 49 per cent of their members had at some stage refused to provide or to contract with host companies on the basis of concerns about OHS. My question back to the association was, 'What happens in those 49 per cent of cases? The message might get through to the host, but more often than not they will go around and source labour from someone who does not give a hoot'. I am trying to get to the heart of what does suffice as an adequate OHS induction procedure. The two case studies you have given us show — and this is reinforced by other witnesses — that there does not seem to be any standard. We could sit around here and say, 'An adequate or minimum standard would be that the labour hire company sits down with their employee and gives them some sort of training in OHS standards, that the labour hire company sits down with its clients and says "This is what we expect you will do for our employees when they are on your sites", and that the labour hire company would visit the client and make sure that those expectations are being met'. That would not be an unreasonable expectation if we were trying to get a minimum standard. But from what I can gather the standards are all over the place. People come to us and say, 'We have a code', or, 'This is the way we do things', but we still end up with reports like this. The questions I want to ask are: has the union tried to establish a standard with regard to OHS and induction, and if so what have been the results of that? And secondly, I want to be clear I understand that when you talk about training you are talking about both the OHS side of things and the long-term training and skills development sort of thing.

Mr OLIVER — That is correct. In regards to your question about induction training, we have tried to create standards for induction, but again it depends on what industry. We have workers engaged in the food, print and building and construction industries. A lot of our work has been focused in the building construction industry and the contracting industry. We have now got a system in place in the building and construction industry — that is, the red card training program. That is the minimum standard we like to base it on about induction. You bring workers in for one day's training, which provides them with accreditation. They can go onto any construction site with a red card which shows that they have the basic induction skills that are being required. That may vary from industry to industry, but we would see something similar to that which operates now in the construction industry being applied in those other industries. From this evidence, and the evidence we get from talking to hundreds of other workers in the industry, they are just not getting the training. We would like to be here to provide a stack load of more case studies like this, but to be honest it took a lot of work even to get these two people to come forward because employees are fearful of coming forward and being identified. It is, as you pointed out, a brave move on there behalf. We have spoken to them about it and they have said they are okay with it, but we will go back and confirm it one more time. They have come forward because they are sick and tired of seeing what is happening out there. So it is something in regards to that occupational health and safety area, and we want something similar to what is operating at the moment, particularly in the building and construction industry.

The CHAIR — Charmaine, do you have anything to add?

Ms CHEW — I probably do not have much to add to that. When I spoke to "Employee B" he said that the level of OHS training varies from site to site. He obviously does something different; he does welding work. I think he was working at Longford, and he mentioned that there was quite extensive training there given by the host employee, not the labour hire company. It is obviously because that is a major hazardous site it is their clear obligation to fulfil their OHS requirements. He also mentions that because he gets a lot of short-term work he says, 'Traditionally employers are expected to supply you with your overalls, your work boots, your safety goggles — everything'. But he says that he has found that on shorter jobs he is expected to supply his own materials, and it is of concern to him because it indicates to him that no-one is taking the issue seriously. If you are relying on my own expectation and knowledge it is great that he is an OHS person, but what about the next person who does not have that training or does not know what is involved and what is required. His concern, especially for those people who are not aware of their rights, that there is a real transfer of obligations from the host employer to the labour hire company back to the labour hire employee. That is what I heard very clearly from someone like him.

The CHAIR — I listened to your comment about mobile employment. That interests me because we have had a witness who talked about what a company has created in the meat industry up in Wodonga. We hear wonderful things about this company. Obviously we are going to have to go up there and visit, except that it is an abattoir and we are not looking forward to that in one sense, but we will go up there. If we understand him correctly, that workplace has turned itself around. He very much is of the view that you need, as much as is humanly possible, to treat casuals like full-time employees and give them all those entitlements. They have a practice of effectively syphoning off some component of the casual pay rate and putting it into an annual leave account. They also have an arrangement that supplements that whereby they try and have workers working for 48 or 50 weeks of the year, so that they have some money for holidays at the end of the year. But he came up with some very practical problems, and one of them was that the tax office queried what this great bank account holding was for and how they were going to treat it. It was one of the unexpected complications. If the notion of mobile employment became more firmly established how would that tally with what you are asking for insofar as licensing fees being used in part to provide employee entitlements? It seemed to me that the idea of mobile employment and the syphoning arrangement is indeed to do that with any part of the hypothetical licensing fee being used for the same thing.

Mr OLIVER — Yes and no. Your experience with that particular employer is on the basis of site-specific conditions. One of the issues we touched on is in regards to industry-specific conditions, such as long service leave. We would see income in particular being derived from the industry to fund a long service leave scheme. If it is based on similar to what operates in the building and construction industry and managed right, over a period of time they become self-funding, depending on how much is utilised out of it. To answer your other question about the way the tax office would treat it, our union along with many others in the manufacturing industry has been pursuing for some time this notion of setting up industry funds, particularly to protect employee entitlements but also to provide portability. We do have a fund, and a number of other funds operate at the moment. These funds now have the appropriate tax rulings, because there was a cloud over their heads in regards to FBT, but these funds are now FBT exempt. In fact there are some incentives for employers to pay into their funds. There are taxation benefits for an employer to pay into them. I am happy to provide that further upon request. We have set up a national fund called NEST — that is, National Entitlement Security Trust Fund — for the manufacturing sector. That can be utilised. The systems are in place. It is transparent and the technology is there. That can be utilised by central payments going in. It can break it down to individual leave components to individual employees. An employee could nominate to convert part of their casual loading for the purpose of saying, 'I have annual leave or an end-of-job severance payment' perhaps, then the industry itself can look at some kind of notion of funding a long service leave regime in place. That would be the difference in regards to what a company is doing for site-specific entitlements as opposed to what the industry can do for industry-specific entitlements, such as long service leave and even severance pay. They are not new. They operate, as I said, in the building and construction industry, which is now being expanded into the engineering contracting area.

The CHAIR — The only other question I had was related to licensing. We have had reasonably broad comment that some form of higher accreditation licensing would be desirable, but probably not for the same reasons as you are putting forward although you have touched on it. One is that there are currently no barriers to entry. I think you have just made the point that you just need a post office box and a mobile phone and you can set yourself up. The other is to try and lift standards. In fact a number of organisations have said to us that they understand that there is a problem at the lower end and they think that that may be that some form of licensing may be a means of dissuading people from going down that path. I will make that observation, although your suggestion goes a lot further than that with the way the fees would be used and things like that.

Mr OLIVER — In addition, of course! It is not just for that reason. It is like the tariff debate. There are tariffs because it is good income.

The CHAIR — I understand that. Thank you for the submission. In the great tradition of the AMWU it never leaves us guessing where it stands. It is good, and that is what we value — that is, people coming forward with lots of recommendations that give us something to chew on. I do not have any more questions. Does anyone else? It has been terrific. Thank you very much for your time. We will wait to hear from you before we formally adopt that submission. We want to be absolutely sure we do not harm anyone.

Ms CHEW — Who should we contact?

The CHAIR — You can contact Kirsten, our research officer. Thank you for your time.

Committee adjourned.