

Attachment 9 – Offences

Table 1: Penalties of business licensing schemes – examples from other jurisdictions

<i>Scheme</i>	<i>Offence</i>	<i>Penalty</i>
Gangmasters Licensing Authority (UK)	Operating as a gangmaster (LHP) without a licence	Maximum penalty is 10 years in prison and/or a fine or not exceeding the statutory maximum.*
	Possessing a document – either false, improperly obtained or belonging to someone else – with the intention of inducing someone to believe that a gangmaster (LHP) is licensed	Maximum penalty is 10 years in prison and/or a fine or not exceeding the statutory maximum.*
	Entering into an agreement with an unlicensed gangmaster as a labour user	Maximum penalty of six months in prison and/or a fine not exceeding the statutory maximum.*
	Obstructing a GLA officer in the course of their duties	Maximum penalty of six months in prison and/ or a fine not exceeding the statutory maximum.*
Ministry of Manpower Employment Agencies (Singapore) – for this scheme demerit points also apply for less serious offences	Operating as an employment agency without a licence	First offence - A fine of up to \$80 000 (\$AUD) and/or up to 2 years imprisonment Subsequent offence - A fine of up to \$160 000 (\$AUD) and/or up to 4 years' imprisonment
	Noncompliance with notice of intent to revoke or suspend Employment agency licence	First offence - A fine of up to \$80 000 (\$AUD) and/or up to 2 years imprisonment Subsequent offence - A fine of up to \$160 000 (\$AUD) and/or up to 4 years' imprisonment
	Providing false information to the Commissioner of Employment or officers authorise under the EAAA, or to members of public in the provision of EA services	A maximum fine of \$15 000 and/or 12 months imprisonment.
	Failure to comply with summons	A maximum fine of \$5 000 and/or 6 months imprisonment.
	Breach of fee caps	A maximum fine of \$5 000.
	Offering kickbacks to employers	A maximum fine of \$5 000 and/or 6 months imprisonment
	Making employment related application on behalf of unlicensed EAs without conducting due diligence	First offence - A fine of up to \$80 000 (\$AUD) and/or up to 2 years imprisonment Subsequent offence - A fine of up to \$160 000 (\$AUD) and/or up to 4 years' imprisonment
	Misrepresentation by presenting a forged or invalid registration card (licence).	A maximum fine of \$15 000 and/or 12 months imprisonment.
Failing to issue a registration card in accordance with the template prescribed in the rules	First offence - A fine of up to \$1000 Subsequent offence - A fine of up to \$2000 and/or up to 6 months imprisonment	

* As at April 2015 the statutory cap on the maximum fine that can be imposed on a summary conviction of (£5, 000) was removed and the statutory maximum is now unlimited.

	Obstruction of officers	A maximum fine of \$5 000 and/or 6 months imprisonment
	Breach of licence conditions	A maximum fine of \$5 000 and/or 6 months imprisonment
	Failure to register with MOM as an EA personnel before performing EA-related work, or deregister upon leaving the EA industry or cessation of EA-related work	A maximum fine of \$5 000 and/or 6 months imprisonment
	Failure to attain the Commissioner's approval before being a key appointment holder in an executive position or an EA employee of performing EA-related work when prohibited from doing so	A maximum fine of \$5 000 and/or 6 months imprisonment
	Engaging an unlicensed EA knowingly or without exercising due diligence in verifying whether the EA is bona-fide	A maximum fine of up to \$5000 per employee engaged
Queensland Tattoo operator licence	Performing tattoo work without a valid licence	First offence: a maximum fine of \$60,950 Second offence: a maximum fine of \$85,330 or 6 months in prison Third offence or later: a maximum fine of \$121,900 or 18 months in prison
	Employing an unlicensed person to do tattooing work.	First offence: a maximum fine of \$60,950 Second offence: a maximum fine of \$85,330 or 6 months in prison Third offence or later: a maximum fine of \$121,900 or 18 months in prison
	Breaching licence conditions	A maximum penalty of \$4876
	Failing to return a cancelled or suspended licence within 14 days	A maximum penalty of \$2438
	Failing to advise the chief executive of the Office of Fair Trading of awareness of a reason why their licence should be cancelled or suspended	A maximum penalty of \$4876
	Making a false or misleading statement to an inspector, police officer, or the chief executive of the Office of Fair Trading	A maximum penalty of \$24,380 or 2 years imprisonment
	Giving a false or misleading document to an inspector, police officer, or the chief executive of the Office of Fair Trading (unless you say that it's false or misleading)	A maximum penalty of \$24,380 or 2 years imprisonment
	Obstructing an inspector or police officer (without a reasonable excuse)	A maximum penalty of \$7314
	Failure to show licence to an inspector or police officer	A maximum penalty of \$2438
	Failure to obey a closure order	A maximum penalty of \$12 190
	Allowing an unlicensed non-staff member to perform tattoo procedures	A maximum penalty of \$4876
	Failing to submit a change in certain particulars within 20 days	A maximum penalty of \$4876
	Failing to keep records in English	A maximum penalty of \$12 190
Failing to keep records on licensed premises at all times	A maximum penalty of \$12 190	

	Failing to give an inspector or police officer access to records	A maximum penalty of \$4876
	Failing to let an inspector or police officer take copies, notes or extracts from records	A maximum penalty of \$4876
Queensland Brothel Licence	A licence must not: <ul style="list-style-type: none"> provide prostitution under the licence at a place other than the brothel; have more than 13 staff at the brothel at any 1 time; provide prostitution at the brothel in contravention of any condition or restriction of a licence or a certificate; provide prostitution at the brothel while the licensee's licence is suspended 	A maximum penalty of 200 penalty units or 5 years imprisonment.
	Operating licensed brothel other than in a building	A maximum penalty of 200 penalty units or 5 years imprisonment.
	Not being personally supervised by licensee or an approved manager	A maximum penalty of 60 penalty units or 6 months imprisonment.
	Operating a brothel in partnership or in association with unlicensed person	A maximum penalty of 200 penalty units or 5 years imprisonment.
	Non-compliance with police officer	A maximum penalty of 20 penalty units.
	Failure to produce licence	A maximum penalty of 10 penalty units.
	Failure to display licence	A maximum penalty of 100 penalty units.
Tow truck vehicle licence	Making false statements as a licence holder about the status of an application or holding a licence	
	Contravening a condition of a licence	A maximum penalty of 20 penalty units.
	Notify Chief Executive of a change of name, address or postal address	A maximum penalty of 20 penalty units.
	Notifying Chief Executive of a change that may affect the conditions upon which they hold a licence (within 14 days)	A maximum penalty of 20 penalty units.
	Keeping licence in safe custody at the place of business stated in the licence	A maximum penalty of 20 penalty units.
Nightclub Licence	Selling, giving allowing a minor to consume liquor	\$25 000 maximum fine for an individual, or an infringement notice of \$2500
	Selling, giving allowing an unduly intoxicated patron to consume liquor	A maximum penalty of \$50 000 for a licensee.
	Irresponsible service of alcohol	A maximum penalty of \$10 000 for a licensee.
	Irresponsible service practices	Maximum penalties for the licensees include requiring the licensee to pay the Office of Liquor and Gaming Regulation an amount of money not exceeding \$10 000 per ground
	Failure to provide a safe environment	A maximum penalty of \$10 000 for a licensee.
	Failure to check identification/seize false documents	A maximum penalty of \$10 000 for a licensee.
	Failure to comply with any condition on the licence	A maximum penalty of \$4000 for a licensee.

Builder Licence (QBCC) (NB: penalties included here which relate to licence/breach of licence only)	Unlicensed contracting/carrying out work without the appropriate licence	A maximum penalty of 250 penalty units.
	Improper use of licence (e.g. Lending an unauthorised person a licence/licence borrowing)	A maximum penalty of 250 penalty units.
Real estate agent licence	Working without a licence or registration	A maximum penalty of \$24 380 or 2 years imprisonment
	Employing a person who is unlicensed and unregistered	A maximum penalty of \$24 380 or 2 years imprisonment
	Selling, hiring or lending out a licence or registration	A maximum penalty of \$24 380

Table 2: Proposed penalties for a labour hire licensing scheme – submissions to the issues paper

Submission	Suggested Penalty/s
Anti-Discrimination Commission Queensland	Proposed that penalties should be established for host-employers who use unlicensed labour hire providers.
Independent Education Union of Australia Qld and NT Branch	Submitted that the imposition of heavy penalties for those who fail to comply with licensing and registration would be beneficial.
Queensland Law Society	Submitted that a possible scheme should require the host employer to engage the services of licensed labour hire providers and enforce requirements by way of civil penalties.
Australian Manufacturing Workers' Union Qld & NT	Submitted that the system should be underpinned by civil penalty provisions.
Maurice Blackburn Lawyers	Submitted that a contravention of the scheme should be enforced by way of civil penalties. Proposed that a breach of a licence requirement should attract civil penalties. Proposed that penalties should apply to other breaches, including: Engaging an unlicensed labour hire company; intentionally structuring an employment relationship to avoid the obligation for a labour hire company to be licensed; failure by licensed labour hire company to comply with workplace laws; employing 'authorised representatives' persons who are not fit and proper; providing false or misleading information to compliance unit; failure to provide required workplace rights and entitlements training.
Electrical Trade Unions	Submitted that substantial penalties should apply for the use of non-licensed labour hire agencies and licence contraventions.
United Voice	Proposed that penalties for failing to self-report could include loss of licence (temporary or permanent) and/or the imposition of financial penalties. Submitted that strict penalties should apply in any event.
Lockyer Valley Regional Council	Proposed that substantial penalties should apply. Submitted that substantial penalties for non-compliance, would ensure that many cases of workplace exploitation and associated abuses of human rights would be reduced. Proposed that penalties must exist not only for labour hire contractors but also the hosts who use unaccredited, unlicensed providers.
Construction Forestry Mining and Engineering Union	Submitted that the Government should introduce civil penalties for any potential offences.

National Union of Workers	Submitted that to acknowledge the seriousness of breaches, substantial civil and criminal penalties should apply in appropriate cases. Proposed that the contravention of the licensing scheme should attract civil penalties, and in serious breaches, criminal penalties.
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