

Australian Industry Group

Draft Guidelines - Operation of  
Part 2-7A – Regulated Labour Hire  
Arrangement Orders

**Submission**

**25 October 2024**



## **DRAFT GUIDELINES – REGULATED LABOUR HIRE ARRANGEMENT ORDERS**

1. This Australian Industry Group (**Ai Group**) submission is made in response to the statement<sup>1</sup> issued by the President on 14 October 2024 (**Statement**) and accompanying *Draft guidelines in relation to the operation of Part 2-7A – Regulated labour hire arrangement orders* (**Draft Guidelines**).
2. The Draft Guidelines have been prepared pursuant to s.306W of the *Fair Work Act 2009* (Cth) (**FW Act**) which confers a discretion on the Fair Work Commission (**Commission**) to make written guidelines in relation to the operation of Part 2-7A of the FW Act. Part 2-7A was inserted into the FW Act by the *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (Cth), and contains a new regulated labour hire arrangement jurisdiction. If made, any Commission guidelines under s.306W must be in force by 1 November 2024.
3. The Statement invited interested parties to comment on the content of the Draft Guidelines and whether they should be made at all, by Friday, 25 October 2024.
4. Ai Group submits that the Draft Guidelines accurately describe the legislative framework of Part 2-7A. We did, however, identify one typographical error at the top of page 14 of the Draft Guidelines. We have assumed that the reference in the first bullet point on that page to s.306F(1) is intended to be a reference to s.306G(1) which deals with exceptions to pay the protected rate of pay in the context of applicable training arrangements.
5. The Draft Guidelines provide limited practical guidance on the application of Part 2-7A. This is likely a feature of the fact that no contested application for a regulated labour hire arrangement order has yet been heard by the Commission. If made, it will be important that the guidelines are updated to reflect the outcomes of significant decisions issued by the Commission. An intention to do so was foreshadowed by the President in the Statement, and we support this.<sup>2</sup>

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<sup>1</sup> *Guidelines in relation to the operation of Part 2-7A* [2024] FWC 2854.

<sup>2</sup> Statement at [5].

Ensuring the guidelines remain updated and current will mean the document will be of optimum utility to parties accessing the jurisdiction.