

**Case Note**

*Labour Hire Licensing Authority v UNG Services Pty Ltd & Anor [2022] VSC 740*

**Failure to disclose director's convictions results in costly breach of labour hire licensing legislation**

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**Labour Hire  
Licensing Act  
2018 (Vic) —  
record  
penalties  
imposed by  
Supreme  
Court of  
Victoria**

***Labour Hire Licensing Authority v UNG Services Pty Ltd & Anor [2022] VSC 740***

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**1 Facts**

- The Labour Hire Authority (the **Authority**) in Victoria is responsible for regulating the *Labour Hire Licensing Act 2018 (Vic)* (the **Act**).
- Nico Keat was a director of Amatak Labour Hire Services (**Amatak**). Amatak lodged a labour hire licence (**LHL**) application in August 2019.
- Mr Keat was sentenced to six months imprisonment with an 18-month community corrections order after being found guilty of trafficking a drug of dependence in September 2020. The Authority rejected Amatak’s application in January 2021 as Mr Keat was not a fit and proper person for the purposes of section 22 of the Act.
- Mr Keat became the sole director, secretary and shareholder of UNG Services Pty Ltd (**UNG**) on 18 November 2021. UNG already held a LHL. Neither UNG nor Mr Keat notified the Authority of this change which it was required to do within 30 days.
- The Authority cancelled UNG’s LHL and commenced proceedings in the Supreme Court of Victoria alleging that:
  - UNG contravened sections 43 and 44 of the Act by failing to notify the Authority that Mr Keat had become the director / shareholder within 30 days – particularly given that Mr Keat was previously deemed to not be a fit and proper person by the Authority; and
  - Mr Keat contravened section 95 of the Act by being directly or indirectly knowingly concerned in or a party to UNG’s contraventions.

**2 Holding**

- The Authority obtained default judgment against UNG and Mr Keat in the absence of a defence and appearance.
- The relevant question for the Court was the appropriate penalties. The Court determined that any penalties must consider the ‘knowing nature of the contraventions’ which ‘strike at the heart of the protective purpose of the Act’.
- The Court held that the actions of UNG and Mr Keat had the potential to undermine the Authority’s discharge of its protective and regulatory function which placed them ‘at the serious end of the behavioural spectrum’.
- Based on a need for specific deterrence, the Court imposed penalties of \$386,742.72 to UNG and \$96,685.68 to Mr Keat. This is the highest combined penalty in Australia history for a breach of labour hire licensing legislation.

**3 Key takeaways**

- This decision serves as a timely reminder of the potential consequences for failure to notify the Authority of relevant changes under section 43 and 44 of the Act.
- Corporate and individual holders of a labour hire licence should regularly the need to make relevant notifications to the Authority.

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## **Our team**

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