

# TEMPORARY AGENCY WORK AND THE EVOLVING EMPLOYMENT MODEL IN AUSTRALIA

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*This article reviews agency employment in Australia in the context of a shifting national employment model and underlying labour regulation regime. The development of agency employment is instructive in the way that standard employment, together with workforce collectivism, can be undermined, while exposing the inadequacies of national systems of labour regulation. Over recent years there has been a trend towards individualised and de-collectivised employment models where increasingly, work and work arrangements, are becoming more fragmented and diverse. Concurrently, the rise of agency work has been steadily increasing, from a low base, across many OECD economies. Through this ongoing growth in agency work we can see some of the forces that are shaping the national labour employment models, while challenging traditional employment models. This article explores these developments in Australia by examining research and industry data in order to uncover what the agency sector says about itself, what it does, and what is revealed by the emerging patterns of agency employment.*

## Introduction

Over the past two decades there has been extensive growth and internationalisation of the agency employment sector, with organisations such as Kelly's, Drake, Randstat, Manpower, Adecco being established throughout most OECD towns and cities. The spectacular growth of the industry has made it more visible, thus alerting trade unions and regulators to the growth in agency employment and its potential implications for employment conditions. Consequently, in Australia, there have been several public inquiries into the sector, in part reflecting the general ignorance surrounding the dimensions of the agency sector and the implications for public policy (Labour Hire Task Force 2001; Productivity Commission, 2005; Federal Parliamentary Inquiry into Labour Hire and Contracting 2005).

The rise of the temporary agency sector across many countries can be interpreted as one manifestation of organisations shedding internal

labour and reducing internal labour costs while shifting recruitment, training and on-costs to employment agencies and to the agency workers (Storrie 2002). It can also be regarded as reflecting the restructuring of the internal labour market where organisations retain 'core' employees and use a variety of employment arrangements, including fixed-term and part-time labour, to provide both numerical and skill flexibility to the organisation (Burgess and Connell 2004a).

Agency employment is a substantial component of the employment services sector that incorporates placement, labour hire, outsourcing, sub-contracting and human resource services. The employment services sector has been a beneficiary of the restructuring of the public sector, the privatisation and corporatisation of many government activities (especially job search and job placement) and the ongoing restructuring of organisations. Through its peak organisation (the Recruitment and Consulting Services Association; RCSA), it has been a supporter and advocate for a more neoliberal labour regime. As a result of labour brokerage, consultancy and intermediation, the employment services sector has grown considerably, around 10 per cent per year, since the late 1990s. The growth of the sector in Australia mirrors the spectacular growth in the United States over the 1980s and 1990s (Peck and Theodore 2004).

This article proceeds by discussing the evolving employment model in Australia, before the role of agency intermediation in the employment relationship is examined both in general terms and in the Australian context. Next we explore the growth of the sector and the Australian model of regulation before making concluding comments.

### **The Evolving Employment Model in Australia: A Shifting Regulatory Regime**

A national employment model is a set of tendencies surrounding the construction of employment and its regulation. In Australia, employment was historically constructed around a model of production and social reproduction that accorded rights to (male) full time employees, gave recognition rights to trade unions, established a code of minimum terms and conditions of employment and accorded responsibility for the management of the employment regulation regime to third party conciliation and arbitration authorities. This model was supported by the state who provided tariff protection to industry, supported a full employment policy and, through time, developed an elaborate system of social support for those who were not employed (for example, receiving retirement pensions). This has been labelled as the Australian national settlement (ACIRRT 1999). Through time, and for a variety of reasons (see discussions in Watson, Buchanan, Campbell and Briggs 2003; Pocock 2003), the fabric of this model has been broken down as the composition of the workforce has changed and the political economy of the arrangements supporting this model has been eroded (for example, tariff protection

for manufacturing). Over the past decade the mechanisms, regulations and institutions governing work and the workplace have been subject to pressure and change. A major factor in promoting change has been a more deregulated product market regime and a shift in the composition of employment towards services. A notable change has been the shift towards a more decentralised bargaining regime for determining wages and conditions (Burgess and Macdonald 2003) since the early 1990s, the restructuring of the public sector and the public sector employment contract (Fairbrother, Paddon and Teicher 2002), and a shift in the powers and responsibilities of industrial tribunals (especially at the Federal level). Throughout these change processes, an important participant in the development and sustainability of the employment model—trade unions—have suffered from a declining density and several attempts to limit and restrict its activities by conservative governments at both the State and Federal level.

The *Federal Workplace Relations Act 1996* (Cth) introduced statutory individual employment contracts and a new institution (the Office of the Employment Advocate) to register these individual agreements. In 2006, new legislation, coined 'WorkChoices', will further privilege the role of individual contracts and place severe limits on the role and functions of industrial tribunals. It will also change the minimum terms and conditions of employment (including restricting the application of unfair dismissal laws; see Peetz 2005; Burgess and Waring 2005). These changes to regulations surrounding work and the workplace has a definite neoliberal intent (to promote individualism, enhance managerial prerogative, erode the rights and reach of trade unions, and reduce third party intervention). They are part of the process of reallocating power in the employment relationship and enhancing the ability of managers to deploy labour with fewer limitations and regulations. In this evolving neoliberal regime, the employment services industry has been a direct promoter of arrangements that undermined the 'old' employment model (through such practices as agency employment and contracting out) while supporting a neoliberal regime. Nonetheless, with further deregulation of employment in the near future, we could ask whether there remains a need for agency employment (beyond traditional 'temping' needs) and for innovative employment service arrangements where organisations already have few restrictions placed on their labour use strategies.

### **Agency Work: Intermediation Equals Ambiguity**

In Australia, agency employment is known as 'labour hire', and the terms agency employment, labour hire and temping used in this article refer to the processes of labour intermediation and brokerage. However, agency employment stands out among employment arrangements for its ambiguity whereby the agency intermediates between the worker and the hiring organisation. A triangular employment relationship is

established that incorporates sub-relationships between the agency and the worker, the agency and the hiring organisation, and the hiring organisation and the worker. The agency intermediates as a broker and is typically paid a fee for service for each placement. The agency, by inserting itself into the employment relationship, produces uncertainty as to who is actually the employer during employment engagement. Such ambiguity means that the assignment of rights and responsibilities in the employment relationship can generate confusion and create gaps in which employment arrangements and workforce collectivism can be restructured. In Australia, there have been several legal cases and industrial disputes surrounding the use of agency employment arrangements that have assisted in eroding the conditions of employees and de-unionising workplaces (Underhill and Kelly 1993; Dabscheck 1998; Stewart 2002). Agency work has now extended beyond traditional temping arrangements and applies to all occupations and all industries. It offers a means to recontractualise and commodify labour, and to challenge existing models of employment and employment regulation. This expanded application has been assisted by a liberal regime regulating agencies and agency employment.

There are other ambiguities associated with agency employment beyond the ambiguity of legal responsibility. In terms of employment arrangements the nature of agency assignments is short and fixed term. This can encompass full-time and part-time assignments. However, the majority of assignments are short term, which means that most temporary placements in Australia are regarded as being 'casual'. To be a casual worker in Australia is to be engaged on a very short-term basis, and as a consequence, the worker does not qualify for employment rights (such as notice of employment termination) nor does the worker qualify for employment conditions that are associated with continuity of service, the major ones being holiday and sickness benefits (Campbell and Burgess 2001). Agency employment is another path towards workforce casualisation, but there remains an interesting analytical issue as to whether agency employment is needed if there are few limitations placed on the use of casual work within organisations (Burgess, Rasmussen and Connell 2004).

Another area of ambiguity for agencies concerns employment status. Not all agency workers are employees; some may be placed as self-employed contractors. As such, these workers do not receive the protection and benefits associated with employee status. Moreover, since they are not employees, they are located outside of the domain of trade union membership. This has been a source of friction between trade unions and particular employers in Australia where contracted agency labour has been used in some cases to replace unionised employees (Campbell, Watson and Buchanan 2004). It also intersects with the development of contracting arrangements that have a high degree of dependency; that is, contractors as surrogate employees (see the ACTU's submission to the parliamentary inquiry; ACTU 2005).

## Agency Employment in Australia

Storrie (2002) indicates that agency working is not included in the employment typology in many EU countries. Many national authorities responsible for gathering labour market statistics have yet to include agency work in their national surveys. For example, retirees may be on the books of agencies and prepared to carry out the occasional short-term engagement since they possess specialist skills. Moreover, the unemployed may sign on with agencies in order to obtain work experience, training and job placement, such as those under the umbrella of the Jobs Network in Australia (Burgess 2003). Short-term employment practices associated with labour hire may also be associated with clandestine activities such as the employment of illegal immigrants and income tax avoidance. As such, there will be a degree of under reporting of total employment in the sector. In addition, the contracting organisation may itself be an intermediary, so the employment relationship can be further removed through subsequent sub-contracting. This situation is evident in the Australian construction sector (Labour Hire Taskforce 2001). Multiple employer and multiple contracting arrangements serve to further complicate the employment relationship, the status of the agency worker and the responsibilities of the parties involved (Rubery, Earnshaw, Marchington, Cooke and Vincent 2000). An individual agency worker may also shift between assignments across several agencies, and hold multiple short-term assignments over the week or the month.

There are other problems that make the official estimation of agency employment problematic. First, there are potential differences in employee status: some agency workers may be employed on a self-employed contract basis. Counts of agency employees will understate total agency employment (Campbell, Watson and Buchanan 2004). The second problem is that agency assignments may be very short-term equating to just hours or days of engagement. Since the labour force survey takes stock employment estimates at one point in time, it can miss the potential short-term assignments associated with agency employment. The number of job placements by agencies in Australia for 2001 was around 3 million. This represents about one third of the total employment stock, yet only around three per cent of workers are agency workers (Burgess, Connell and Rasmussen 2005). The problem is that many placements are for periods that are so short that between the monthly employment counts, many agency jobs have been created and terminated during that period. Since agencies are performing multiple functions linked to the provision of employment services, the placement of workers can cover both labour hire (agency employment) and job placement.

Given these issues, the estimates for temporary agency employment are problematic in Australia and it is difficult to obtain reliable estimates through time. In the labour force survey there is no employment



category for agency work. The Australian Bureau of Statistics (ABS) Employment Services Survey (Catalogue 8558.0) indicated that around 280,000 workers were on-hired in 1999 by businesses providing employment services. Around 30,000 of the labour hire workers were apprentices and trainees associated with group training arrangements. The ABS Forms of Employment Survey 2001 (Catalogue 6359.0) suggests that there were 162,000 labour hire workers but that 721,000 workers obtained their jobs through agencies and labour hire organisations. It seems that around 12 per cent of employees obtained jobs through agencies but that around 2-5 per cent of employees are agency workers, a minority of whom is paid directly by the agencies. It is likely that labour hire work is also associated with some multiple job holding since invariably workers register with more than one agency and may concurrently hold part-time jobs. Since the labour force survey counts only primary jobs, secondary jobs are not included in the job count. As previously mentioned, the very short duration of many labour hires means that the monthly count will not capture the number of labour hire jobs that are generated and terminated within a month. Hence, it seems likely that the conventional labour force data will understate the significance of temporary agency work in the economy.

Hall (2005) cites data from the Household, Income and Labour Dynamics in Australia (HILDA) survey, which indicates that agency employees constitute 3.7 per cent of all employees. Hall (2005) suggests that this estimate would place Australia toward the top end of the proportion of agency workers in OECD workforces (OECD 2002).

In what industries are agency workers located? Hall (2005) indicates that for Australia there is a heavy representation in utilities and communications (at least 10 per cent of the workforce), but that the largest number of workers is located in manufacturing, business services and health and community services. The Productivity Commission (2005) report on agency employment indicates that the density of agency employment (as a percentage of all employees) was greatest in communication services (11.1 per cent), manufacturing (6.2 per cent) and property and business services (6.1 per cent).

### **The Growing Agency Employment Sector**

The rationale for hiring temporary workers tends to be the same as many other workplace initiatives: labour cost savings associated with downsizing, increased global competition, the introduction of new technology and the need to respond quickly to an ever-changing marketplace (Connell and Burgess 2002). The rise of the temporary agency sector can be interpreted as one manifestation of increased flexibility in which the restructuring of internal labour markets and lower internal labour costs ('headcount costs') are associated with organisations externally shifting recruitment, training and on-costs to the temporary agencies and temporary workers. Temporary agency

employment not only offers flexibility and cost saving potential, it also potentially removes responsibility for compliance with many employment regulations, such as unfair dismissal, employment insurance, employment benefits and pension entitlements, onto the agency. In this context, temping or labour hire allows for a shifting of the responsibilities and risks associated with direct employer responsibilities. This process also allows for the potential of employment substitution – labour hire for permanent employees, non unionised for unionised workers (Dabscheck 1998; *Telstra on Charges* 2003).

There are also traditional reasons driving the temp work sector, including labour shortages in the context of strong economic growth. This applies to the professions including IT, accounting, nursing and teaching. Short-term assignments are available for those with the requisite skills. For those with family caring responsibilities, semi-retirees, post-graduate students and those who do not require the commitment of a full-time and ongoing job, temping can satisfy lifestyle options, and complement non-work activities. That is, the demand imperative for more just-in-time employment arrangements is being matched by the global growth of an industry that can facilitate this process. While there is a hype surrounding portable careers, mobile workers, the glamour of challenging assignments and 'new' information service work (Handy 1989; Hall 2000), the reality is that the majority of temps are generally unskilled and semi skilled, and employed under casual employment arrangements (Hall 2000; Nollen 1996).

The agency sector itself is growing and diversifying. In addition to engaging in agency placement or job brokerage, the sector offers a vast array of employment services from contracting to recruitment and training. There are a few large (typically) multinational agencies surrounded by a multitude of smaller, and specialist agencies. Internationally, the larger agencies are assertive in promoting their services and their ability to manage all aspects of human resource management services for client organisations (Labour Hire Taskforce 2001; Peck and Theodore 2004). The agencies may offer specialist services (for example, payroll management) or specialise in particular sectors (for example, mining, construction) or in particular occupations (for example, IT, accounting, nurses, trades workers). The services offered by the sector are collectively labelled as 'personnel services'. This includes brokerage, job search, training, payroll management, human resource consulting and managing the unemployed (Hall 2005). The sector is diverse, growing and increasingly internationalised in terms of ownership and operations. Many agencies arrange for job placements in the Middle East, Europe and North America, as well as the provision of skilled migrant labour for Australian based organisations (Xiang 2001).

An industry survey of 150 user organisations in Australia reported by Hall (2005) suggested that the main reasons for agency work were to fill vacancies; reduce administrative costs while providing access to skills

and the provision of 'labour flexibility'. While the survey questions were in some cases vague, and in others conflated (as with flexibility), the use of agency workers was regarded as complementary, not as a substitute for, ongoing and internal staffing arrangements. Similarly, the NSW Labour Hire Taskforce (2001) suggested that traditional reasons were largely behind the decision to utilise agency employment arrangements. These reasons included covering absences, meeting unexpected and short-term labour needs and providing specialist skills. In an analysis of the increase in agency employment in Australia, the Productivity Commission (Laplagne, Glover and Fry 2005) suggested that changes in the industrial relations and the competitive environment of industry were the major reasons promoting increased agency employment over the period 1990 to 1995. With regard to the first reason, considerable legislative change to industrial relations in Australia (Burgess and Macdonald 2003), have increased the ability of managers to utilise agency workers and to extend managerial prerogative. In the past such practices were moderated and limited by collective agreements or closely policed by trade unions. With respect to competitive pressures, this has been a generic response from workplace managers as to why they increased their usage of agency workers. Within this response can be implied the various flexibility advantages outlined above.

The 2003 survey of the employment services industry (ABS Catalogue 8558.0), indicated that there were over 2,700 organisations in 2001/02, with around 250 of these being not-for-profit organisations. Total industry sales comprised over AUD10 billion per year. From 1998/99 the number of organisations in the sector had increased by 29 per cent. Other findings of the survey were that:

- i) Employment agencies operate in over 5,000 locations and around 60 per cent have four or fewer employees.
- ii) Less than 2 per cent had more than 100 employees and the average profit margin was around 3 per cent; suggestive of a highly competitive industry.
- iii) Over 80 per cent of placements made by the industry were temporary/contract placements.
- iv) The major occupational groups accounting for placements were health care, trades and clerical.
- v) Over the three years since the previous survey, the total number of placements had increased by 31 per cent.

In terms of the United States model of the industry outlined by Peck and Theodore (2004), in Australia there is a diversification of activity and a definite supply-side pressure towards greater utilisation of its services by business and industry.



### **The Australian Model of Agency Regulation**

It is evident that confusion and uncertainty surround the status, the assignment of rights and responsibilities within the employment relationship, and indeed the number of agency jobs and workers. This confusion and ambiguity lends itself towards exploitation, and has resulted in some countries introducing extensive regulations governing both the operation of agencies and the agency employment contract (de Ruyter 2004; Storrie 2002). The Australian model of temporary agency employment regulation is straightforward: there is hardly any regulation. Regulations can apply at a number of different areas and levels: direct regulation of the agencies, regulation of the contract of employment for agency workers, regulation of employment conditions associated with agency employment and regulation of the work undertaken by agency workers.

In Australia, there is no national regulation of temporary work agencies. Those regulations that do exist are confined to State jurisdictions within Australia. Employment agents must be licensed at State level and licensing usually involves an application for licensing; that is, filling in a form and paying an application fee. There is a growing awareness of the industry and the issues associated with its development and growth in Australia. To date, a few inquiries have been spawned, but actions regarding regulation are limited and largely left to State governments. Queensland was the first State to attempt to set out the nature of the employment relationship between the labour hire company, hiring organisation and the worker (*Queensland Industrial Relations Act 1999*). The Queensland Act establishes the temporary agency as the employer and the labour hire worker as the employee. The NSW Taskforce on Labour Hire (2001) recommended that the employment relationship involved in labour hire arrangements should be clearly established through legislation. While there has been debate and discussion of the NSW Labour Hire Taskforce recommendations, to date there has been very little legislative action, despite media pressure (Hepworth 2002). A tripartite council to oversee the industry in NSW was formed and the peak union body has submitted a test case to the NSW Industrial Relations Commission on casual and labour hire employment conditions (O'Neill 2004).

In Australia, there are no reporting obligations, financial bonds do not have to be posted by the agencies and there are no limitations on the occupations/industries that can be covered through agency employment arrangements. In some countries 'dangerous' industries, such as construction, are prohibited from employing agency workers (Storrie 2002). There is also an absence of regulation with respect to the contract of employment and of the employment status of agency workers. This contrasts with some the extensive regulatory regimes that exist within the EU in countries such as Germany and Italy (Storrie 2002; see Weinkopf this volume).

### Regulatory Concerns and Public Inquiries Regarding Agency Work

The relatively small size of the temporary employment sector in Australia would suggest that its non-regulation or its ability to operate outside of a regulatory framework should not be an issue of public concern. However, there is considerable public concern over several negative aspects that tend to be associated with agency employment: large corporations restructuring their workforce through the replacement of permanent workers with labour hire workers (often non unionised with unionised) (*Telstra on Charges* 2003; Underhill and Kelly 1993), for the potential for labour hire workers to be subject to greater risk from workplace accidents (Underhill 2003), for labour hire workers to be without many rights and protections associated with employee status (Hall 2000) and for labour hire in itself to undermine any strategy to enhance formal and informal forms of on-the-job training and skill acquisition (Connell and Burgess 2001). It has also been suggested that labour hire workers are being paid award (minimum) rates while working on the same site and doing the same job as workers covered by collective agreements that provide higher wages (O'Neill 2004).

In Australia, labour hire represents a gap that can potentially be exploited and lead to nefarious practices which, in the end, can undermine the credibility of the industry and impose a cost on the public. The ambiguous employment status of temp workers has potentially adverse implications for labour rights, taxation status and access to employment benefits and workers' compensation. In turn there is scope to use labour hire practices to de-unionise the workplace, undermine employment conditions and avoid statutory obligations linked to taxation and workers compensation. Of note, the interest of governments had become more intense with respect to labour hire (and indeed contracting arrangements) when it was realised that there was potential for revenue leakage, whether it be from State payroll taxes or from Federal income tax collections.

The House Standing Committee on Employment, Workplace Relations and Workforce Participation (HSCEWRWP) 2005 Inquiry into Independent Contracting and Labour Hire Arrangements is representative of the public concerns associated with the expanding use of temping and other ambiguous employment arrangements such as contracting. The Inquiry was asked to report on:

- The status and range of independent contracting and labour hire arrangements;
- Ways independent contracting can be pursued consistently across State and Federal jurisdictions;
- The role of labour hire arrangements in the modern Australian economy; and

- Strategies to ensure that independent contracting arrangements are legitimate.

There were 75 submissions to the report. These were from individuals, trade unions, trade associations, employer associations, State and Federal government departments and advocacy groups (for example, the Law Council of Australia).

The committee provided a split report that followed divisions between political parties. The majority (government parties) recommendations included:

- The implementation of a skills development and best practice guide for the labour hire industry.
- Improved training, accreditation and monitoring of labour hire agencies with respect to OHS regulations.
- That further research be conducted on the relative accident and injury rates of labour hire workers.
- That a voluntary labour hire code of practice be developed and implemented by the industry.

This gave recognition to concerns that labour hire arrangements can undermine the process of skill development and workplace safety. The recommendations are largely couched in terms of the need for further research, greater education and benchmarking within the sector, and the development of a code of self-regulation by the industry.

In the minority report (from dissenting opposition party members), there were recommendations that:

- labour hire workers be converted to permanent employee status after a period of 12 months continuous service with the host firm;
- labour hire agencies be assigned joint responsibility for some employer obligations, such as unfair dismissal;
- labour hire agencies be prohibited from undercutting wages and conditions prescribed within awards and workplace agreements applying in the host organisation; and
- a mandatory Federal system of registration apply to labour hire agencies.

These above recommendations address the regulation of the labour hire contract and the labour hire industry, but they are still relatively limited in terms of those regulations that apply in Europe (de Ruyter 2004). Also, they are from the non-government members of the committee, they are very unlikely to be enacted through legislation.

### **The Agency Sector as a Supporter of a Neoliberal Regulatory Regime**

The temp agency sector has been a direct participant in, and a beneficiary of, neoliberal policy initiatives in Australia. The peak organisation for agencies is the RCSA. It has been active in lobbying governments, contributing to political debate and of course, making submissions to the various public inquiries on agency work. Its public position is that the employment services sector improves the working of the labour market, creates job opportunities and enhances career path development. The following statement outlines these views.

The RCSA believes that on-hired employment provides the opportunities for flexible, meaningful and increasingly sustainable employment arrangements that in many cases would not have been available through direct hire arrangements. Our industry is contributing significantly to the Australian economy, and on-hired employee services may be in a position to provide continuous employment and a degree of security to a significant proportion of the casualised workforce through back to back assignments with a single professional employer rather than disjointed direct hire casual engagements.

*(RCSA Submission to the Independent Contractors and Labour Hire Enquiry, Media release, 5 April 2005).*

The RCSA has 3,000 members throughout Australia and New Zealand, but does not represent all the large agency providers. For example, two of the largest agencies, Skilled and Adecco are not members. The RCSA has played an active part in promoting the industry, participating in the numerous inquiries into the industry and lobbying governments on behalf of the industry. It also provided active support in the Australian Federal elections for the conservative Liberal-National Party Coalition for its proposed reforms of industrial relations laws. The Association's website (refer to <[www.rcsa.com.au](http://www.rcsa.com.au)>) describes the activities and services of its members and was the source of the following overview of the sector.

In terms of the employment services offered by its members, these are diverse and far reaching, reflecting how far employment and employment services are being recontractualised in Australia. These services include operating as:

- a. An on hired employer service provider (this is the traditional labour hire function).
- b. A contracting service provider (the provision of services for a particular outcome, this would be associated with consulting services).
- c. A manager of contract and project services (involving the delivery of a project package including labour and capital).

- d. A sub-contractor of services (where the above services are contracted to an independent contractor).
- e. A recruitment service (job placement services).
- f. An employment consulting service (covering a range of specialist services including change management, outsourcing, human resource management services, training, equal employment opportunity and occupational health and safety).

Agencies are diverse in terms of the services they offer and the scope of their operations. Some specialise in labour hire, some in recruitment and others in offering labour consulting services. Likewise, they can specialise in providing services to occupations (nursing, IT, trades) and in industries (mining, construction, health). They encompass profit and not for profit organisations. Not-for-profit agencies largely contract with the government to provide employment services for the unemployed. What is important is that the RCSA encompasses the full range of processes through which labour can be recontractualised and/or commodified. In their study of the United States industry, Peck and Theodore (2004) highlighted how the industry has grown and diversified to offer a range of services and labour flexibility packages to a very heterogeneous client base. These services include contracting out, the substitution of labour hire and contractors for regular employees, and the shifting of divisions and groups of workers elsewhere, into different employment arrangements and with the potential for a different employment status. Agencies are at the forefront as active participants and beneficiaries in the process of organisational restructuring and fragmentation, where organisations are broken down and reconstituted. In this process, work and workers can also be restructured. What is left is what Marchington, Grimshaw, Rubery and Willmott (2005) call a 'blurring' of organisational boundaries and fragmentation and ambiguity surrounding employment.

As noted above, in terms of its activities, the RCSA speaks for the industry on issues that affect its membership and it actively lobbies governments. This activity is most obvious through its press releases. Reference to its website reveals that recent press releases have highlighted that:

- 'OHS laws need amending to reflect contemporary employment: RCSA Victoria' (19 July 2005).
- 'New approaches to agreements will create employment' (26 May 2005).
- 'Labour hire industry regulation will not be necessary: RCSA' (16 May 2005).
- 'Recruiters are set to be age management champions' (13 April 2005).



- 'Peak body says labour hire registration is unnecessary' (22 December 2004).

In its press releases, the RCSA performs its primary duty of presenting a positive image of the industry and opposing any regulation of the industry. In the United Kingdom, Stanworth and Druker (2004) note that the United Kingdom agency peak body (the Recruitment and Employment Confederation) lobbied intensively against the European Union directive that employment rights and conditions for agency workers should match those of direct employees. Similarly, in Australia, the RCSA has come out strongly in support of neoliberal reforms in the labour market and against any direct regulations of agencies or agency employment. While obviously pro the agency and user firms, their support does not extend to agency workers.

There are obvious 'image' problems associated with the agency industry in terms of claims related to the undermining of wages and conditions, de-unionising workforces, reducing the skill content of jobs and reducing workforce safety. The industry itself is diverse and fragmented, and there remains a tension between an association of competitors. In its submission to the House of Representative Inquiry, one of the large players in the industry, SKILLED Group (not a member of the RCSA), acknowledged that the sector was beset by image problems associated with some questionable practices within the sector. Indeed, their submission sought to highlight the segregation of the industry into 3 tiers:

- Tier 1: large reputable companies, good cash flow, paying award rates, excellent OHS and industrial relations record.
- Tier 2: medium sized organisations that may be able to support good OHS and industrial relations practices.
- Tier 3: operators with questionable business practices (Skilled, 2005).

SKILLED Group argued that the image problems arose from the Tier 3 operators, as those in the other tiers were providing important services and sustaining employment and collective standards. Skilled recommended the establishment of a licensing regime to raise and sustain the standard of operations within the agency sector (a recommendation of the NSW Labour Hire Report 2000).

There are obvious contradictions facing the industry as the employment regime becomes further deregulated. It appears that direct casual labour is a potential substitute for labour hire; arguments that support a more permissive neoliberal regime and place fewer checks on direct casual employment would seem to undermine labour hire. Similarly, the undermining of conventional employment arrangements, such as through the reduced application of unfair dismissal regulations contained in the WorkChoices legislative changes (Waring, de Ruyter and Burgess 2005), will obviate the need for labour hire arrangements.

The only way for agencies to compete would be to offer contracts that undercut the rates for casual workers and minimum pay, often with nefarious arrangements, a problem present in the competitive hire sector of the United States (Peck and Theodore 2004). Another contradiction is that while labour hire offers the opportunity for 'distancing' in terms of assigning responsibilities in the employment relationship, if taken too far, legislators will revert to assigning responsibility to the most visible party, the agency. Here there is an inherent contradiction between the user organisation attempting to shift the responsibilities of the employer elsewhere and, in the absence of an identifiable employer these responsibilities could shift to the agencies. This will apply where state finances are at risk, especially in the areas of payroll tax, income tax and workers insurance premiums. As Connell and Burgess (2002) found in their study, agencies have largely not only taken over the payroll, tax and insurance responsibilities but in some cases all of the related 'traditional' human resource functions where temporary working was concerned. Hence, while offering organisations the possibility of fewer regulations in employment, the agencies are also assigned the responsibility for occupational health and safety, taxation and workers' compensation in lieu of no other 'employer' accepting such responsibility.

At the other end of the spectrum there are problems associated with heavy dependence on agency workers, including quality, skills, safety implications and commitment. There is a human resource management dilemma between short-term cost savings and longer term organisational objectives (eg quality product delivery) (Burgess and Connell 2004a). This contradiction is reflected by the evidence cited by Hall (2005), that while most large organisations do use temps, they tend to be either for traditional reasons or for 'non core' skills.

### **Towards Greater Commodification and Insecurity of Employment**

The agency sector is growing across many OECD economies. Part of this growth is due to aggressive marketing to client organisations as a provider of an array of labour services and in some cases, specific skills for given occupations and industries. Agencies have also attempted to create closer relationships with employers (through obtaining preferred supplier status) and becoming 'strategic partners' with their client companies (Burgess, Connell and Rasmussen 2005). The sector has also been an important provider of job placement services to the unemployed, with some temp positions leading to appointments into permanent work. 'Trying before buying' is built into the activities of most agencies since agency work may be used by client organisations as both a recruitment device and a form of screening potential employees. This has often been the case for the unemployed and constitutes a new, often officially-sponsored market opportunity for agencies (Rasmussen, Lind and Visser 2005). Agency employment also offers considerable

labour flexibility advantages to user organisations, especially in comparison with waged labour. However, agency employment is also insecure and has the potential to compromise occupational health and safety standards. In Australia, and especially compared to the EU, agency employment is very lightly regulated.

There is a clear trend towards greater insecurity and ambiguity surrounding the employment relationship in Australia. Apart from the obvious momentum provided by product market deregulation, the restructuring of the public sector and changes in the bargaining regime, the employment services sector has been a promoter and participant in the process. Labour hire represents one important component of the sector and through labour hire we can see how standards and conditions of employment can be undermined. There will always be traditional reasons for labour hire, especially in a growing economy, however the scope of labour hire now extends beyond these reasons. There remain tensions within the employment services industry (especially between the large organisations and the multitude of smaller organisations). There are also tensions between labour hire organisations and users, especially where it is difficult to identify an employer, and contradictions exist in that if the employment regime is further deregulated, this will reduce the leverage and attraction of labour hire to user organisations.

The new WorkChoices industrial relations legislation makes it easier to deploy agency labour on the one hand, but on the other, it removes some of the advantages for labour hire over conventional employment arrangements. The new legislation removes any restrictions being placed on labour hire and contracting being placed in collective agreements. However, by reducing the application of unfair dismissal legislation, it renders short-term direct employment arrangements more attractive. Additionally, the entitlements or non wage benefits attached to employment status are, for many workers, set to diminish (Waring *et al.* 2005).

Future opportunities for the employment services sector will emerge with the ongoing restructuring of large organisations as they attempt to reduce costs and remain competitive in an international regime and as service work is reconfigured and automated, especially in the context of call centre development (Srivastata and Theodore 2006). Currently, there is an emerging integration between the employment services sector, business restructuring, the reconfiguration of service work and the offshoring of jobs (Burgess and Connell 2004b). Ultimately, we predict that this will place pressure on traditional norms and standards in employment, and even the regulation of the employment services sector will not restrain these new pressures on the traditional employment model.

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