

Horticulture Industry Shared Compliance Program 2010

Final Report
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Prepared by the Fair Work Ombudsman's Targeted Campaigns Unit



Australian Government

Fair Work
OMBUDSMAN

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Summary

The Fair Work Ombudsman conducted the *Horticulture Shared Compliance Program* (the Program) between March and September 2010. The Program was prompted by:

- the commencement of the *Fair Work Act 2009* (the Act)
- the introduction of the *Horticulture Award 2010* on 1 January 2010, and
- the recognition by the Australian Government and several industry associations that there was a need to provide information to employers and employees in the industry on the new rights and obligations under the Act and the *Horticulture Award 2010*.

The Program commenced with an educational phase on 9 March 2010. The education phase included a mail out to 14 864 growers informing them about the Program and directing them to the dedicated horticulture employer information at www.fairwork.gov.au/horticulture. Between March and June 2010 this website was visited 804 times with 1463 pages viewed.

The website contained a copy of the jointly-branded publication, *A guide to the Horticulture Award 2010 – Understand your responsibilities as an Employer* (the Employer Guide). The Employer Guide included a self audit checklist and CD Rom with other useful information. Over 8000 printed copies of the Employer Guide and 10,000 copies of an Employee Guide were produced.

During March and April 2010 a range of educational activities were undertaken across Australia, including Over 250 educational visits were made to growers and 55 employer seminars were conducted, many in cooperation with regional industry associations.

In May 2010, the compliance phase of the program commenced. From the 277 audits undertaken, 168 (61%) employers were found to be compliant with Australian workplace laws. Of the remaining 109 employers, 101 (36%) were found to have contraventions and a further 8 (3%) require ongoing intervention into alleged contraventions.

Contraventions identified include non payment of current minimum wage rates and entitlements, particularly to casuals and juniors. Western Australia had the greatest amount of underpayment compared to the other states and territories, whilst the vegetable growing (outdoors) sector accounted for the majority of the underpayments when compared with other horticulture sectors. We also found a significant number of contraventions relating to time and wage record keeping and the issuing of pay slips.

At the time of preparing this report, we had recovered \$227 308 for more than 585 workers. Due to ongoing investigations arising from the audits, the amount of money recovered for employees is likely to increase.

We consider the non-compliance rate of 39% to be of concern, and in particular, more than a third of the contraventions identified related to underpayment of wages and other allowances.

The Program findings reinforce the importance of this type intervention, and also the importance of continued education support and contact with the horticulture industry as a whole.

Detailed findings are outlined in the results section of this report.

Background

Horticulture is an important industry in Australia, with approximately 30 000 growers employing 130 000 people and a farm gate value of \$9 billion. Horticulture is the second-largest and fastest-growing sector of agriculture with exports in 2008 totalling \$1631 million.

Employers in the industry are mostly small businesses and are spread across regional areas in Australia. With the commencement of the *Fair Work Act 2009* and, from 1 January 2010, the *Horticulture Award 2010*, there is a need for information to be provided to employers and employees in the industry on the new rights and obligations under the Act and the award.

On 26 August 2009, the Australian Government and the employer and employee representatives listed below (the Partners) agreed to join together to deliver the *Horticulture Industry Shared Compliance Program* (the Program). The aim of the Program was for the Partners to work cooperatively to educate employers and employees on their rights and obligations under the *Horticulture Award 2010*, the National Employment Standards (NES), the Act and the Fair Work Regulations (the Regulations).

The Program aimed to provide employers with all the information and advice they needed to properly implement the *Horticulture Award 2010* and NES obligations, followed by formal compliance activity undertaken by the Fair Work Ombudsman.

The Program was based on the strategy used effectively during the Workplace Ombudsman's National Hospitality Program, conducted during 2008 in partnership with the Australian Hotels Association.

The Fair Work Ombudsman strongly supports these cooperative programs, conducted by unions, employer organisations and Government bodies and aimed at improving workplace relations and practices.

Program partners

The partners in the Horticulture Industry Shared Compliance Program were:

- The Australian Government
- The Fair Work Ombudsman
- Australian Workers' Union (AWU)
- National Farmers' Federation (NFF)
- Australian Industry Group (Ai Group)
- Horticulture Australia Council (HAC).

Program aim and objectives

The aim of the program was for the Partners to work in cooperation to educate employers and employees on their rights and obligations and to promote compliance with the *Horticulture Award 2010*, the NES, the Act, and the Regulations.

The specific objectives of the program for the Fair Work Ombudsman were to:

1. work with the Partners to develop a jointly-branded, simple Guide to the *Horticulture Award 2010*, the National Employment Standards (NES) and other employment-related obligations all tailored to the needs of the industry
2. assist the Partners in the development of seminar and education materials for their members, including a self audit tool which would allow employers to examine their work and pay records to ensure they are complying with the *Horticulture Award 2010*
3. assist the Partners prepare employers for compliance audits through the promotion of the educational seminars, materials and self audit checklist
4. conduct a compliance audit of a targeted number of employers to ensure the targeted employers complied with their minimum wage and entitlements obligations.

The specific objectives of the program for the Partners were to:

1. set an example to their members by working collaboratively with other Partners to ensure a spirit of goodwill and transparency exists within the horticulture industry sectors
2. ensure that their members understand and are compliant with the *Horticulture Award 2010* by engaging in the agreed education strategy
3. increase employee confidence within the sector that they are receiving their correct employment entitlements.

Stakeholder involvement

As well as contact with the Partners, the Fair Work Ombudsman also contacted approximately 60 other relevant stakeholders to advise them of the Program.

This included the various regional horticulture industry associations identified by HAC who we invited to comment on the program and assist with the educational activity. It was pleasing that several regional growers' associations offered their facilities and promotional assistance in the organisation of seminars for local growers.

The Department of Immigration and Citizenship (DIAC) provided us with intelligence on 'hot spots' for illegal migrant labour in the horticulture industry, assisting us determine areas to target. They also agreed to distribute the Employee Guide to all new visa applicants and in some cases to work alongside Fair Work Inspectors in regard to the audits. DIAC also issued a media release in support of our Program, '*Immigration backs campaign against illegal work practices*' published on 15 March 2010.

For full details of stakeholders approached, please see Appendix A.

Methodology

Stage 1: Guides to the *Horticulture Award 2010*

The Fair Work Ombudsman worked with the Partners to develop a jointly-branded publication, *A Guide to the Horticulture Award 2010* (the Employer Guide) including a self audit tool, CD Rom of reference materials, an Employee Guide and a national seminar program based on the Employer Guide.

Roundtable discussions were held on 1 December 2009 and 22 January 2010, with the Fair Work Ombudsman project management team, the Partners and DIAC representatives attending.

A significant amount of time was spent discussing both the style and content to ensure that the Employer and Employee Guides were tailored to the needs of the industry.

Regular email and phone contact was maintained with the Partners during the development of the guides and their endorsement was received on final copy before publication

In addition, Partners provided a set of frequently asked questions by the horticulture industry, which were forwarded to Fair Work Infoline team to assist with employer and employee telephone enquiries.

Stage 2: Planning for compliance – education stage

On 9 March 2010, the Fair Work Ombudsman officially commenced the educational stage of the Program in Perth. Specifically:

- we launched the *Employer Guide* and the dedicated horticulture information on the Fair Work website at www.fairwork.gov.au/horticulture, which included the Employer Guide, the self audit checklist and other relevant material
- we sent 14 864 letters (8500 to incorporated entities and 6364 to unincorporated entities) to horticulture growers using Australian Business Register data. The letters advised them of the education and audit phases of the program, the availability of education materials and the series of education seminars
- we circulated an Australia-wide media release to promote the Program and the availability of educational resources to assist employers in the industry.

Continuing through March and April 2010 we produced 8000 printed copies of the Employer Guide for distribution by the Partners and through educational visits by Fair Work Inspectors and seminars.

We also produced 10 000 horticulture Employee Guides for distribution through the AWU and the National Harvest Information Service.

Fair Work Inspectors in Queensland, New South Wales and South Australia undertook 258 education visits to horticulture employers transitioning from the state to the national workplace relations system. These visits focussed on the growing areas of Wagga Wagga, Albury, Orange in New South Wales (9 visits), Cooktown and Mackay in Queensland (216 visits) and Golden Grove and Gumeracha in South Australia (34 Visits)

Fifty five seminars were conducted in New South Wales, Queensland, Victoria, Western Australia, South Australia and Northern Territory (see Appendix B). Fourteen were conducted by the Partners, a further 21 by Growcom Queensland and 20 by the Fair Work Ombudsman. The NFF conducted sessions for their members and the Ai Group and Growcom Queensland offered sessions open to all growers. Several of the regional horticulture associations identified by HAC worked in liaison with the Fair Work Ombudsman to organise and promote seminars in their regional areas which were conducted by Fair Work Inspectors. The associations included the following:

- Vegetables WA
- WA Fruit Growers Association
- Grow SA
- Citrus SA
- Murray Valley Citrus Board
- Riverina Citrus
- Apple and Pear Australia
- Summer Fruit Australia
- Australian Banana Growers Council
- Australian Passionfruit Industry Association
- NSW Cherry Growers Association.

The Partners and the regional horticultural associations assisted with the promotion of the Employer Guide and self audit checklist by providing printed copies or directing employers to the website.

Our Fair Work Infoline advisers was well prepared to respond to callers with prepared answers to frequently asked questions provided by HAC.

The dedicated information at www.fairwork.gov.au/horticulture was visited 804 times with 1463 page views from 9 March through to 30 June 2010.

Stage 3: Auditing compliance

Between mid May and September 2010, following the education and self-audit activities, the Fair Work Ombudsman wrote to and notified 617 employers nationwide of their selection for audit. Of the employers that could be audited, Fair Work Inspectors assessed their level of compliance with the *Horticulture Award 2010*, the NES, and the Regulations.

The period for which Fair Work Inspectors requested employment records varied for each state and territory as follows:

- Queensland – 25 April to 8 May 2010
- New South Wales/Australian Capital Territory – 29 March to 16 April 2010.
- Victoria – 28 February to 13 March 2010
- Tasmania – 15 to 26 March 2010
- South Australia – 15 to 26 March 2010
- Western Australia – 22 February to 7 March 2010
- Northern Territory – 5 to 16 April 2010

Fair Work Ombudsman Campaign Coordinators liaised with state DIAC representatives regarding the sharing of intelligence and the possibility of conducting joint audits. In Victoria, as a result of DIAC intelligence, a joint site visit was conducted. In Western Australia, the Fair Work Ombudsman and DIAC undertook joint activities in October 2010, during the main tomato picking season.

When contraventions were found, Fair Work Inspectors used the opportunity to provide additional personalised education and worked with the employers to encourage voluntary compliance.

Audit results

We undertook the following detailed statistical analysis of the audit findings.

Please note that these results were collated in October 2010. As some investigations are ongoing, some findings, particularly the amount of money recovered on behalf of employees, may vary in the future.

Entities suitable for audit

The Fair Work Ombudsman initially targeted a total of 617 growers from the Australian Business Register database for an Australia-wide audit campaign. However, 340 (55%) of the businesses targeted were unsuitable to audit for the following reasons:

- no longer trading – 68 (20%)
- could not be contacted – 69 (19.5%)
- have no employees – 160 (47.5%)
- not within our jurisdiction – 43 (13%).

The Fair Work Ombudsman believes that the high number of growers that we were unable to audit (particularly those no longer trading or with no employees) is a reflection of the vulnerability in parts of the industry because of drought. In some cases those employers that had no employees indicated they either operated with family members or used contractors during peak times.

Case study: employer unable to be audited

Employer A operates a horticulture business in Tasmania. He received a letter from the Fair Work Ombudsman informing him that his business had been selected for auditing.

Employer A advised that he no longer had any staff. Due to financial hardship brought about by environmental factors, he made all his employees redundant last year. Although he is operating the business by himself now he continues to struggle to keep the business operational.

As a result of having no employees at the time of the audit, The Fair Work Ombudsman was unable to audit Employer A.

Outcome of audits

Outcomes of the 277 audits undertaken are as follows:

- 168 (61%) employers were found to be compliant
- of the audits finalised to date, 101 (36%) employers were found to have contraventions:
- a further 8 (3%) audits are yet to be finalised as further investigation is required into the assessment of alleged contraventions.

Of the employers with contraventions approximately one third had contraventions that related to underpayments. The number of employers found with contraventions is an indicator that the industry requires intervention in order to achieve compliance.

See details of contraventions in Chart 1 below.

Outcome of audits by state

The table below provides an overview of the outcome of audits by state. Queensland has the highest compliance rate with 75% of employers found to be compliant and Tasmania the lowest rate with 33%.

Table 1 – Outcome of audits by state – October 2010

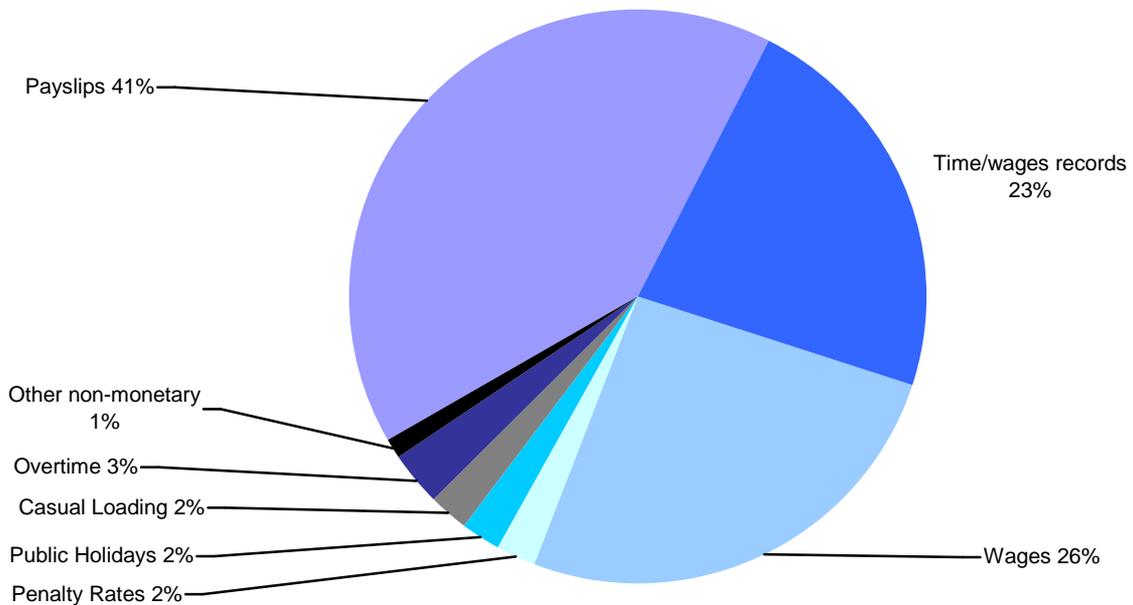
	NSW/ACT	VIC	QLD	WA	SA/NT	TAS	TOTAL
Employers compliant	56 (60%)	19 (61%)	53 (75%)	18 (47%)	20 (53%)	2 (33%)	168
Finalised audits - employers found to be in contravention	34 (37%)	12 (39%)	17 (24%)	20 (53%)	14 (37%)	4 (67%)	101
Ongoing investigations into contraventions	3 (3%)	–	1(1%)	–	4 (10%)	–	8
Totals	93	31	71	38	38	6	277

Contraventions

Chart 1 illustrates the types of contraventions identified. Overall, 26% of the contraventions related to the underpayment of wages, 3% to overtime and 2% related to penalty rates.

A further 23% of contraventions related to record keeping requirements and 41% of contraventions related to pay slip requirements.

Chart 1: Contravention types



Case study: education aids compliance

Employer B, a citrus grower, attended a horticulture education seminars. For the previous two years he had engaged a family member to complete his payroll. In attending the seminar he realised that he was underpaying his employees. Following the seminar he returned to his business and adjusted the pay rates for his staff.

Employer B happened to be selected for auditing and when he was visited by a Fair Work Inspector he advised that he had adjusted the pays accordingly. We asked whether if he had rectified the underpayments for the period prior to the seminar, which he stated that he did not. We asked the employer to rectify the underpayments for that period. To date approximately \$3500 has been paid to 12 of his employees with payments continuing.

Contraventions by state

An analysis of contraventions by state show that over 40% of the contraventions identified in New South Wales/Australian Capital Territory, Queensland and South Australia/Northern Territory related to underpayments. Victoria had the lowest rate (20%) of underpayment contraventions.

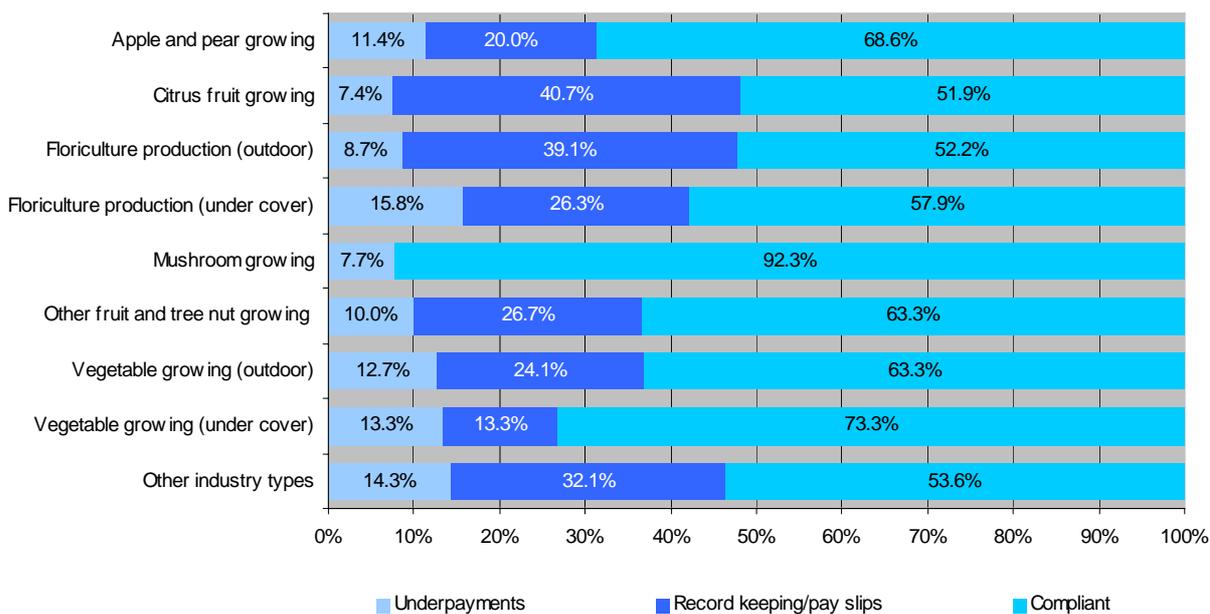
Table 2 – Contraventions identified by state							
	NSW/ACT	VIC	QLD	WA	SA/NT	TAS	Totals
Record keeping/payslip contraventions	59%	80%	50%	72%	60%	75%	65%
Underpayment contraventions	41%	20%	50%	28%	40%	25%	35%

Contraventions by horticulture sector

An analysis of contravention by horticulture sectors shows that the highest percentages of underpayment contraventions were in undercover floriculture production, other industry type and vegetable growing.

The three sectors with the highest number of record keeping and payslip contraventions were citrus fruit growing, outdoor floriculture production and other sectors which include berry and stone fruit growing.

Chart 2: Contravention rate by horticulture sector

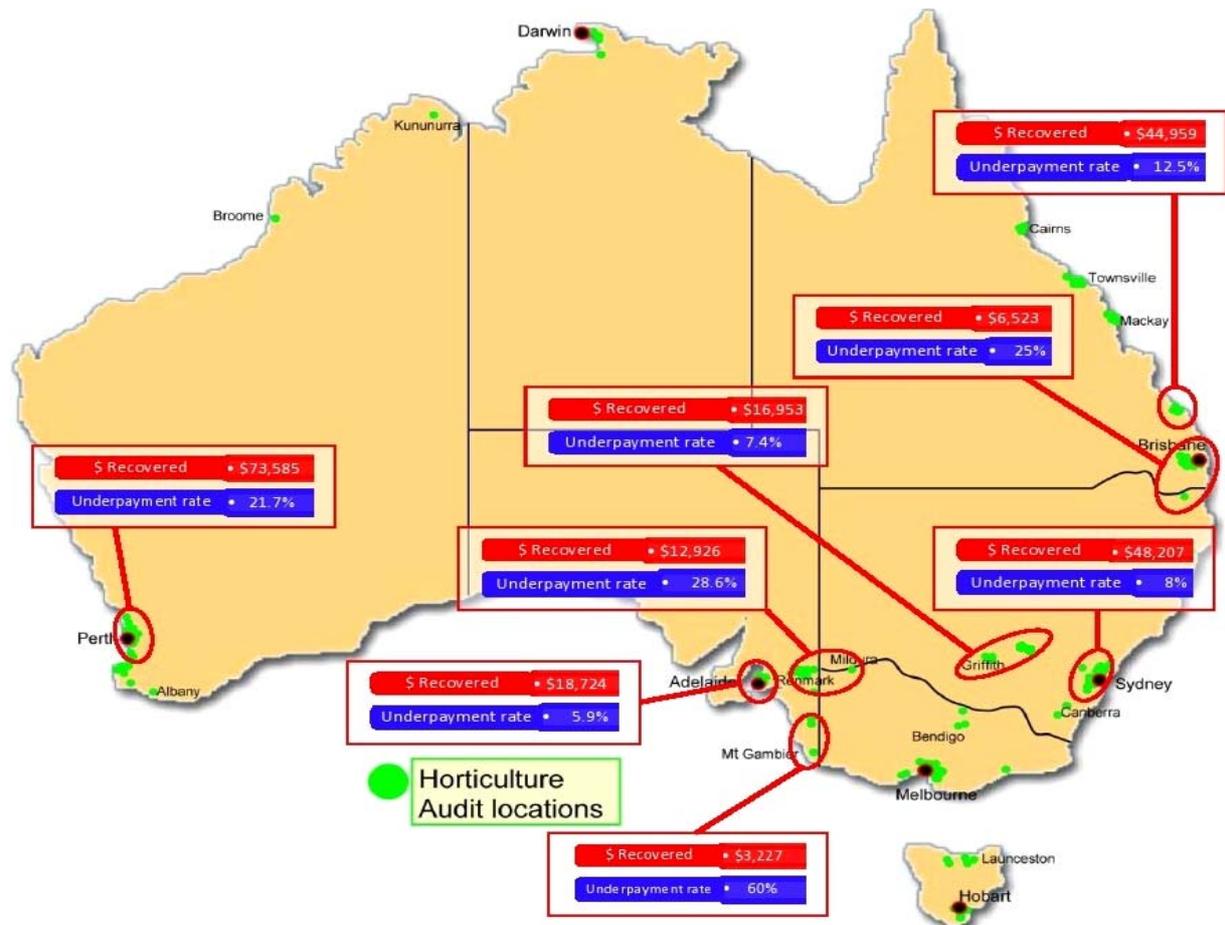


Contraventions by region

An analysis of the various horticulture regions targeted during this campaign show that for finalised audits the area with the highest rate of underpayment contraventions was the Riverland, which includes Berri, Renmark, Mildura, and Robinvale. Of the 14 audits finalised in this region, four (28.6%) underpayment contraventions were identified and to date \$12 926 has been recovered.

The region with the highest total amount recovered in underpayments (\$73 585 to date) was the region of Perth and outer suburbs which includes Baldivis, Karragullen, Osborne Park and Wanneroo.

Chart 3 – Underpayment rate per region



Money recovered for employees

To date we have recovered a total of \$277 308 for 585 workers as a result of this campaign.

As there are continuing investigations and a number of employers subject to agreed payment plans, this amount will increase over time.

Money recovered by state

An analysis of money recovered by region shows that Western Australia accounted for 32% of money recovered, followed by New South Wales with 31% of recoveries. Tasmania accounted for 1% of money recovered.

Table 3 - Money recovered by state - October 2010							
	NSW/ACT	VIC	QLD	WA	SA/NT	TAS	TOTAL
Amount of money	\$70 039	\$3687	\$47 212	\$73 585	\$32 561	\$224	\$227 308
Number of employees	87	4	372	90	31	1	585

Money recovered by horticulture sector

The table below shows a breakdown by horticulture sector. The greatest recovery was from the outdoor vegetable growing sector which accounted for 71% of the money recovered.

Table 4 - Money recovered for employees by sector - October 2010		
	Amount of money	Number of employees
Apple and pear growing	\$9737	68
Berry fruit growing	\$9494	3
Citrus fruit growing	\$16 842	58
Floriculture (outdoors)	\$4099	17
Floriculture (indoors)	\$1595	23
Grape growing	\$2316	1
Other fruit and tree nut growing	\$14 169	9
Labour support services	\$1484	78
Vegetable growing (outdoors)	\$160 114	324
Vegetable growing (indoors)	\$7458	4
Total	\$227 308	585

Case study: employer found to be underpaying vulnerable employees

Employer C operates a private company that employs many backpackers. Prior to the audit, Employer C was of the belief that his industry was award-free and consequently was not paying his staff penalty rates and overtime. The employer was not aware of minimum wage provisions or of the introduction of the Horticulture Award 2010.

In undertaking the audit, Fair Work Inspectors educated the employer on both the correct pre-modern and modern awards that governed the entitlements of his staff. Fair Work Inspectors also assessed his employment records where we identified that his staff had been underpaid.

The audit recovered \$32 755 for 39 backpackers. Without undertaking the audit, the employer would have continued to underpay his staff.

Other findings by state

New South Wales/Australian Capital Territory

In New South Wales there was a significantly low response rate to the letter to targeted employers requesting records, which generated numerous follow up enquiries. Despite the audit correspondence stating that employers were still to complete various parts of the audit form even if they had no employees or were no longer trading, many non-respondent employers followed up stating that they were of the belief they did not need to complete and return the forms

Of the employers audited, preliminary findings indicated that some employees appeared to be underpaid. However, upon further investigation, it was discovered that the employees in question were on supported wage schemes.

Due to some employers operating seasonal businesses, during the audit period of March to April 2010 some employers did not have any employees and consequently could not be audited.

Some employees of audited businesses had their employment wages and conditions governed by the *Nursery Federal Award 2010*, *Storage Services and Wholesale Award 2010* or the *Nurseries Employees State Award - Storeman & Packers General State (NSW) NAPSA*, depending on the period of time audited.

Some employers under the national workplace relations system were not aware of the *Horticulture Award 2010* or the NES. Others expressed confusion with transitional provisions of modern awards, especially with regards to phasing. Other employers were confused as to what instrument (award or agreement) they were to utilise in applying rates of pay. Interestingly, Fair Work Inspectors reported that in the Australian Capital Territory there was curiosity rather than confusion about the national system and when modern awards would apply.

In the Wagga Wagga region, in general, many of the employers engaged contractors to organise their seasonal labour. In the Orange region many employers employed individuals on working holiday visas. The Fair Work Ombudsman considers the educational activity in the Wagga Wagga region has been effective as generally businesses seemed to be well informed about the correct rates of pay, the NES and the *Horticulture Award 2010*.

Victoria

Victoria also experienced a high rate of unsuitable entities for audit. The most common reason was that businesses were family operated, only using extra labour for seasonal peaks.

The results show that the majority of contraventions in Victoria related to record keeping and pay slip content requirements. Even though the results by region show that the Riverland area, which includes the Victorian towns of Mildura and Robinvale (as well as the South Australian towns of Berri and Renmark), accounted for the highest underpayment rate in the country, the Victorian state results showed that only two of the 10 employers found in contravention accounted for a recovery of \$3687.

Consideration will be given to undertaking further field audits in Victoria during picking time when workers are present.

Queensland

The areas targeted in Queensland were Bundaberg, Lockyer Valley, Stanthorpe, Bowen and the Atherton Tablelands, due to the high concentration of horticultural entities within the regions.

In cases where employers did not employ employees as a result of the audit occurring between planting and harvesting time, the Fair Work Ombudsman selected an audit period where employees were engaged.

Clear evidence was found that most businesses with employees were concerned with employee entitlements and that many had their own certified or collective agreements. In addition, it was encouraging to see a number of employers requesting a visit from Fair Work Inspectors, and wanting further information on the new changes to the legislation. Very few employers complained about the audit program.

In the main, employers demonstrated their willingness to work with us to rectify any identified contraventions. The most common contravention identified was the underpayment of casual minimum wages. Some contraventions were as a result of a lesser rate of payment in a certified agreement and some were based on the state wage rates. Other contraventions occurred as a result of employers simply not being aware of their obligations in regard to the pay scales from the *Fruit and Vegetable Industry Award – State 2003*.

There did not appear to be a large number of employers who were members of an industry association, although in Bundaberg the influence of the local growers' association was inferred by some employers.

Contractor issues in relation to a large national grower have proved the most difficult. This investigation is still ongoing and any interviews with the contractor will require the use of an interpreter.

Western Australia

In Western Australia, 58 businesses were selected for audit, however, 18 (31%) of these could not be audited for a number of reasons. Some businesses are family businesses, which have family members working in the company as shareholders or directors, and not as employees. Other businesses could not be audited as they had ceased trading due to financial reasons or weather damage, were no longer contactable, or the business was outside the scope of the campaign.

The main contraventions found during this campaign were pay slip and record keeping contraventions. Some employers failed to issue pay slips as they said some employees, specifically family members and backpackers, did not want them. Other employers who issued pay slips were found to have contravened pay slip content requirements. In addition, record keeping requirements were generally not met by employers who engage pieceworkers.

Vegetable growers in Western Australia are most affected by the introduction of the modern award, as historically they were award-free and had no obligation to pay overtime and penalty rates. As of 1 January 2010, they are covered under the *Horticulture Award 2010*, which provides for overtime and penalty rates. This is quite a significant change for vegetable growers. Many of them were appreciative of the campaign as they genuinely wanted clarification so they can do the right thing. This provided the Fair Work Ombudsman with opportunities to show employers how to obtain the correct information on its website.

During the campaign and audit process, some vegetable growers advised the Fair Work Ombudsman that they would have to change their business structure to remain viable, such as changing hours of work or rosters, employing more people instead of having to pay overtime, or employing more workers on casual basis.

Due to the timing of the audits, being prior to 1 July 2010, only a few monetary contraventions were found. This was due to the transitional provisions of the *Horticulture Award 2010*, particularly for vegetable growers as penalty rates had not taken effect during the audit period.

Fruit growers, however, had been covered under the *Fruit Growing and Fruit Packing Industry Award* NAPSA up until 31 December 2009. Under this NAPSA, there were provisions for overtime rates and penalty rates. Nevertheless, the audits found serious contraventions of overtime and penalty rates against a tomato grower covered under the NAPSA, who mainly employed backpackers. This particular business not only underpaid the hourly rate, but also failed to pay the correct overtime and weekend penalty rates.

Other fruit growers engaged full-time employees on fixed salaries and asserted that these employees only worked 38 hours during ordinary hours though time sheets were not kept. The Regulations do not specifically require time sheets to be kept for full-time employees, therefore, it was difficult to ascertain whether overtime or penalty rates applied. It was also difficult to ascertain whether pieceworkers, especially those employed by strawberry farmers, were receiving their minimum rate under the *Horticulture Award 2010*, due to limited record keeping.

South Australia/Northern Territory

In South Australia approximately 50% of the entities targeted for audit were found to be unsuitable because they were not contactable, had no employees during the audit period or only had family members who were shareholders and/or directors of the company working for them. A significant number of farmers contacted were no longer trading as they had taken exit grants, had no water, changed from horticulture to another farming activity or sold the horticulture business but retained the company. Although unsuitable for audit, Fair Work Inspectors took the opportunity to provide these farmers with educational information and advice.

In the Northern Territory, recent intelligence has been provided by the Horticulture Association in relation to an employer that was not selected for auditing. The Fair Work Ombudsman is currently undertaking an audit of this employer.

Tasmania

In Tasmania, a high number of targeted businesses were found to be unsuitable for audit. Many were residential properties registering business names for hobby industries or had no visible business on the premises. Other businesses were either seasonal operations with no employees at the time of the audit, or family entities run solely by the partners/directors of the business with no employees.

There were also instances where the entity had ceased trading due to economic circumstances; however the business name was still registered in the hope that sometime they may be able to resurrect the business.

Concluding remarks

This Program was a first for the Fair Work Ombudsman in regard to working in close collaboration with more than one industry partner. The willingness of the Partners to come to the table in a spirit of cooperation was impressive. The two one-day roundtables proved to be very worthwhile in sharing perspectives, with the Fair Work Ombudsman acquiring a better understanding of the needs of the horticulture industry and what was required regarding the content and style of the Employer and Employee Guides.

While Partners were willing to undertake seminars and educational visits, due to a misunderstanding about the availability of funding to undertake these activities, the Partner involvement was limited. We were encouraged to facilitate the involvement of several regional industry associations who assisted in promoting and arranging seminars (conducted by Fair Work Inspectors) for their local growers.

There was also a view from the Partners that one-to-one meetings with growers would be more beneficial than undertaking seminar programs. It was therefore pleasing that over 250 educational visits were undertaken in Wagga Wagga, Albury, Orange in New South Wales; Cooktown and Mackay in Queensland; and Golden Grove and Gumeracha in South Australia.

The key challenge for Fair Work Inspectors was finding businesses suitable for audit. As shown in the results and highlighted in the state reports, we found a significant number 334 (55%) that we targeted for audit to be either family businesses or having no employees during the audit period. A significant number of growers were found to be no longer trading or undertaking a horticulture activity due to factors such as the drought.

Of the audits undertaken, the number of contraventions identified highlights the need for further education and intervention within the horticulture industry. It is pleasing therefore, that in September 2010, the NFF received funding as part of Fair Work Ombudsman's Shared Industry Assistance Projects grant scheme to develop modern award guidance material in relation to the *Horticulture Award 2010*.

Moreover, since the completion of the Program, the Fair Work Ombudsman has received requests from industry associations such as the Cherry Growers Association SA and Pear Growing Association SA to speak at their regional meetings. The Fair Work Ombudsman will take these opportunities to provide ongoing education to the industry.

The involvement and support of DIAC at the roundtable discussions provided valuable industry intelligence and, in a few cases, DIAC undertook joint audits with Fair Work Inspectors. This liaison will be maintained by Fair Work Ombudsman particularly if further audits are undertaken in areas where growers predominantly use contractors, such as Victoria.

In acknowledging the ongoing interest of all the stakeholders identified in Attachment A, the Fair Work Ombudsman will consider the merits of auditing the sector in the next three years to assess the level of compliance with the *Horticulture Award 2010*.

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Appendix A - Stakeholder List

Australian Chamber of Commerce & Industry
Almond Board of Australia
Apple & Pear Australia Ltd
Agricultural Investment Managers Australia
Australian Rubus Growers Association
Australia Mango Industry Association
Australian Asparagus Council
Australian Banana Growers' Council Inc
Australian Custard Apple Growers Association
Australian Lychee Growers' Association
Australian Macadamia Society
Australian Melon Industry
Australian Mushroom Growers
Australian Nashi Growers Association
Australian Nut Industry Council
Australian Olive Association
Australian Passionfruit Industry Association
Australian Table Grape Association
Australian Walnut Industry Association
Ausveg
Avocados Australia
Cherry Growers Association of Australia
Chestnut Australia Inc
Citrus Australia
Fruit Growers Tasmania
Department of Innovation, Industry and Regional Development
Department of Justice and Attorney General
Department of Consumer and Employment Protection
Department of Immigration and Citizenship
Department of Commerce
GrowSA
Growcom
Horticulture Australia Council
Horticulture Australia Limited
Northern Territory Horticultural Association
Onions Australia
Office of Industrial Relations
Papaya Australia
Persimmon Industry Association Inc.
Pistachio Growers Association Incorporated
SA Fresh Fruit Growers Association
SafeWork SA
Strawberries Australia
Summerfruit Australia
The Australian Dried Fruits Association Inc
Tropical & Exotic Fruit Australia (TEFA)
WA Fruit Growers Association
Workplace Standards Tasmania
Victorian Workplace Rights Advocate
Vegetable Growers Association of Victoria (VGAV)
Vegetables WA
NSW Farmers Association - Horticulture Section
Northern Territory Chamber of Commerce
Victorian Farmers Federation - Horticulture Section
Australian Horticulture Exporters' Association
Victorian Association of Agricultural and Horticulture Educators

Workplace Relations Group - DEEWR
Indigenous Employment and Migration Policy - DEEWR
Office of the Migration Agents Registration Authority
Primary Industries and Resources South Australia - Horticulture
Team

Appendix B – Seminar program



All seminars are free to attend. Please contact the relevant organisation for more details.

The horticulture industry seminars are delivered in association with



State	Date & time	Location	Presented by
NSW	18 March 2010 9.30am – 12.00 noon	51 Walker St, NORTH SYDNEY	Ai Group
NSW	16 April 2010 9.30am-12.30pm	Ai Group, 51 Walker St, NORTH SYDNEY	Ai Group
QLD	21 April 2010 9.30am – 12.30pm	Ai Group, 202 Boundary St, SPRING HILL	Ai Group
VIC	29 April 2010 9.30am – 12.30pm	Ai Group, 20 Queens Rd, MELBOURNE	Ai Group
NSW	27 April 2010 5pm – 7pm	Batlow RSL Club, Memorial Avenue, BATLOW	Apple and Pear Australia Limited & Summerfruit Australia
NSW	29 April 2010 5pm – 7pm	Nashdale Hall, Cargo Road, ORANGE	Apple and Pear Australia Limited & Summerfruit Australia
NSW	28 April 2010 5.00pm – 7.00pm	Club Coffs, 61a West High St, COFFS HARBOUR	Australian Banana Growers' Council
NSW	29 April 2010 5.00pm – 7.00pm	Murwillumbah Services Club, 10 Wollumbin St, MURWILLUMBAH	Australian Banana Growers' Council
QLD	25 March 9.30am – 12.00 noon	202 Boundary St, Spring Hill, BRISBANE	Australian Industry Group
QLD	25 March 2010 9.30am – 12.00 noon	202 Boundary St, Spring Hill, BRISBANE	Australian Industry Group

State	Date & time	Location	Presented by
VIC	23 March 2010 9.30am – 12.00 noon	20 Queens Rd, MELBOURNE	Australian Industry Group
NSW	30 April 2010 3.00pm – 5.00pm	Murwillumbah Services Club, 10 Wollumbin St, MURWILLUMBAH	Australian Passionfruit Industry Assoc
SA	22 March 2.00pm and 7.00pm	WAIKERIE	Citrus SA/FWO (SWSA)
SA	23 March 2.00pm and 7.00pm	BERRI	Citrus SA/FWO (SWSA)
SA	23 March 2010 10.00am	LOXTON	Citrus SA/FWO (SWSA)
SA	24 March 2010 10.00am	REMARK	Citrus SA/FWO (SWSA)
SA	14 April 2010 11.00am	Mannum Community Club, 66 Randall St, MANNUM	Grow SA & Fair Work Ombudsman
SA	15 April 2010 1.00pm – 3.30pm	Virginia Horticulture Council, Old Port Wakefield Rd, VIRGINIA	Grow SA & Fair Work Ombudsman
SA	29 April 2010	Lakes Resort, 17 Lake Terrace West, MT GAMBIER	Grow SA & Fair Work Ombudsman
QLD	17 March 2010 3.00pm	Bundaberg Research Station, 49 Ashfield Rd, KALKIE	Growcom
QLD	24 March 2010 3.00pm	Keppel Bay Sailing Club, Anzac Pde, YEPPOON	Growcom
QLD	10 March 2010 4.00pm	Sugar Mill Rec Hall, Mill Reserve Rd, TULLY	Growcom
QLD	11 March 2010 5.00pm	Burdekin Canegrowers, 141 Young St, AYR	Growcom
QLD	2 March 2010 11.00am	Stanthorpe RSL, Marsh St, STANTHORPE	Growcom
QLD	3 March 2010 11.00am	DPI Gatton Research Station, Warrego Highway, LOCKYER VALLEY	Growcom

State	Date & time	Location	Presented by
QLD	4 March 2010 11.00am	Nambour Community Centre, 2 Shearer St, NAMBOUR	Growcom
QLD	9 March 2010 4.00pm	Halloran's Hill Observation Bldg, HALLORAN'S HILL	Growcom
QLD	9 March 2010 12 noon	DPI Enviro Resource Centre, 28 Peters St, MAREEBA	Growcom
QLD	9 March 2010 4.00pm	Halloran's Hill Observation Bldg, 15-17 Centenary Dr, ATHERTON	Growcom
QLD	10 March 2010 11.00am	Sth Johnstone DPI, Sth Johnstone Rd, INNISFAIL	Growcom
QLD	10 March 2010 4.00pm	Sugar Mill Rec Hall, Mill Reserve Rd, TULLY	Growcom
QLD	11 March 2010 11.00am	Crystal Creek Cmty Hall, 11 Barrilgi Rd, Mutarnee, ROLLINGSTONE	Growcom
QLD	11 March 2010 5.00pm	Burdekin Canegrowers, 141 Young St, AYR	Growcom
QLD	12 March 2010 10.00am	Bowen DPI, 6 Herbert Street, BOWEN	Growcom
QLD	17 March 2010 3.00pm	Bundaberg Research Station, 49 Ashfield Rd, KALKIE (Bundaberg)	Growcom
QLD	18 March 2010 10.00am	Grand Hotel, 2 Meson St, GAYNDAH	Growcom
QLD	24 March 2010 3.00pm	Keppel Bay Sailing Club, Anzac Pde, YEPPOON	Growcom
QLD	4 March 2010 11.00am	Nambour Community Centre, 2 Shearer St, NAMBOUR	Growcom
QLD	10 March 2010 11.00am	Sth Johnstone DPI, Sth Johnstone Rd, INNISFAIL	Growcom
QLD	11 March 2010 11.00am	Crystal Creek Cmty Hall, 11 Barrilgi Rd, MUTARNEE	Growcom
VIC	24 March 2010 7.00pm	MILDURA	Murray Valley Citrus Board/FWO (SWSA)

State	Date & time	Location	Presented by
VIC	24 March 2010 3.00pm	MILDURA	Murray Valley Citrus Board/FWO (SWSA)
NT	15 April 2010 11.00am	Berrimah Research Farm, Stuart Hwy, DARWIN	National Farmers' Federation
NT	16 April 2010 11.00am	Katherine Research Station, Stuart Hwy South, KATHERINE	National Farmers' Federation
VIC	4 April 2010	CRANBOURNE	National Farmers' Federation
VIC	21 April 2010	SWAN HILL	National Farmers' Federation
VIC	27 April 2010	SHEPPARTON	National Farmers' Federation
VIC	20 April 2010	MILDURA	NFF
VIC	29 April 2010	Yarra Valley (MONBULK)	NFF
NSW	28 April 2010 5pm – 7pm	Young Fruit Growers Cool Stores, 154 Nasmyth Street, YOUNG	NSW Cherry Growers Association & Summerfruit Australia
NSW	12 April 2010 6.30pm	Primary Industries Research Station, Murray Road, GRIFFITH	Riverina Citrus
NSW	13 April 2010 7.30am	Stan Axil Centre, Leeton Soldiers Club, LEETON	Riverina Citrus
WA	27 April 2010 4.00pm	Department of Agriculture, BUNBURY	Wageline WA & Fair Work Ombudsman
WA	28 April 2010 4.00pm	Horticulture Research Institute, MANJIMUP	Wageline WA & Fair Work Ombudsman
WA	29 April 2010 4.00pm	Department of Agriculture, ALBANY	Wageline WA & Fair Work Ombudsman

Appendix C - List of industrial instruments

Agriculture, Forestry and Fishing Industry Minimum Wage Order 1997
Australian Workplace Agreements
Building Employees Mixed Industries (NSW) NAPSA
Certified Agreements
Collective Agreements
Fair Work Act 2009
Fair Work Regulations 2009
Farmers and Fruit Growing (TAS) NAPSA
Fruit Growing and Fruit Packing Industry (WA) NAPSA
Fruit and Vegetable Growing Industry (QLD) Pay Scale
Horticulture Award 2010
Horticulture Industry (AWU) Award 2000
Horticulture Industry (NSW) NAPSA
Minimum Conditions of Employment (WA) NAPSA
Mushroom Industry Employees (NSW) NAPSA
Pastoral Employees (NSW) NAPSA