



Australian Government

Fair Work OMBUDSMAN

Pooraka Produce Market Campaign 2010

Final Report

Summary

In June 2010, the Fair Work Ombudsman (FWO) conducted an audit of 48 businesses operating out of Adelaide Produce Markets located at Pooraka, north of Adelaide. The audit was undertaken as a result of a high number of complaints received by the FWO from market employees and as a follow up to the Adelaide Produce Market Campaign 2009.

Following advance written notification of the audit to the businesses, 5 Fair Work Inspectors (FWIs) conducted site visits on 30 June 2010. The FWIs provided educational information and conducted an assessment of record keeping obligations and hourly rates of pay.

Of the 44 businesses audited, 35 (83%) were found to be compliant and 7 were found to be in contravention of the *Fair Work Act 2009*. The contraventions identified related to underpayments of the correct hourly rate and/or record keeping. Two audits remain ongoing.

To date \$3,647 has been recovered for 13 employees, with FWO anticipating further monetary recoveries as a result of outstanding investigations.

Further information regarding the campaign is detailed below.

Background

The Adelaide Produce Market is South Australia's centre for the wholesale distribution and marketing of fresh fruit and vegetables. An estimated 185,000 tonnes of fresh produce passes through the Adelaide Produce Market system each year, with an estimated wholesale value of \$600 million. There are more than 40 employers operating out of the market, employing a significant number of employees.

The audit was implemented as a result of the findings which emerged from the FWO's Adelaide Produce Market Campaign 2009; where we found 13 employers of the 29 audited to be in contravention of time and wage record keeping obligations.

Given the high level of non compliance and the fact that numerous employees working at the Adelaide Produce Market are considered to be 'vulnerable' (ie. casuals, youth, individuals from non-English speaking backgrounds), this follow up campaign was conducted and extended to include the assessment of hourly rates of pay.

Campaign aim & objectives

The primary aim of this campaign was to assess long term compliance of businesses at the Adelaide Produce Markets with the *Fair Work Act 2009*. Specifically the objectives were to;

- Educate employers on time and wage record keeping obligations and minimum hourly rates of pay
- Assess compliance with time and wage record keeping obligations and minimum hourly rates of pay
- Promote the role of the FWO

Stakeholder involvement

We engaged the assistance of the market administration body, Adelaide Produce Market Limited, prior to the audits. The administration body was able to supply to us a list of all the businesses located at the site and also conducted Occupational Health & Safety (OH&S) training for FWIs prior to the audits.

Methodology

Having contacted Adelaide Produce Market Limited in June 2010, we advised them of our intention to conduct audits of employers operating out of the market. They then supplied us with a list of employers operating at the Adelaide Produce Markets. On 8 June 2010 we sent market employers audit notification letters.

The audit notification letters detailed the date the audits would occur, the records the employer would need to make available for assessment and contact details should they have had any questions.

On the 30 June 2010 FWIs conducted audits at the market. Where records were not available for assessment as requested, a statutory notice was issued upon the employer advising of the requirement to produce the documents to the FWI.

If minor technical payslip or time record keeping contraventions were identified, the employer was asked to sign a compliance commitment form, committing them to rectifying the contravention/s.

In the instance monetary contraventions were identified, records were returned to the office for further assessment. The employer was advised in writing of the contraventions identified and asked to voluntarily rectify the contravention/s.

If an employer was found to be compliant, the employer also received written confirmation of the outcome of their audit.

Results

Statistical findings

When the results of this campaign were compiled on 28 April 2011, the campaign had achieved the following:

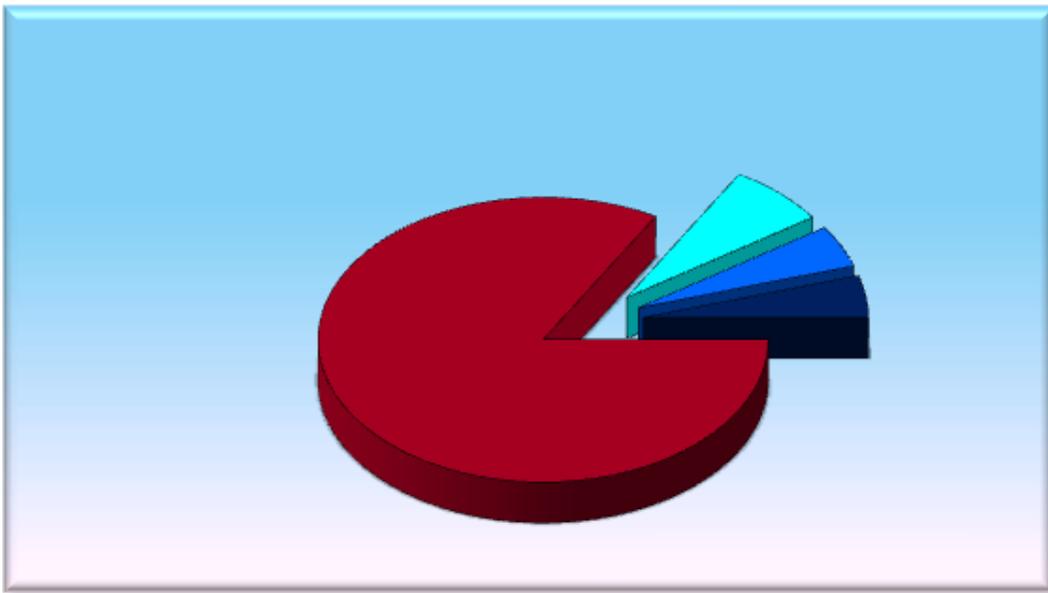
Of the 48 site visits conducted, only 44 could be audited.

Of the 44 sites audits undertaken:

- 35 businesses were compliant (83%)
- 7 businesses were found to be in contravention of the *Fair Work Act 2009*. Specifically, the contraventions identified related to;
 - Non-compliance with payslip and record keeping regulations.
 - Underpayment of minimum hourly rate.
- Two investigations remain ongoing
- \$3,647 has been recovered for 13 employees

Status of audits	
Employers targeted	48
Unable to audit	4
Audits finalised	42
▪ <i>Employers compliant</i>	35 (83%)
▪ <i>Employers in contravention</i>	7 (17%)
Audits not yet finalised	2
Money recovered	\$3,647
Employees paid	13

A breakdown of finalised audit findings are summarised below;



Other findings -

Analysis:

It was encouraging to find 83% of employers to be compliant. This is an improvement from the Adelaide Produce Market Campaign 2009 (2009 campaign) where only 56% of employers audited were compliant.

In the 2009 campaign, 44% of employers audited were found to be non compliant with record keeping and payslip obligations as opposed to 12% in this follow up campaign.

In terms of long term compliance the employers found to be in contravention at the time of the 2009 campaign were found to be compliant in the 2010 campaign.

As illustrated above, the majority of the 2010 campaign contraventions related to payslip and record keeping requirements whilst two employers (5%) were identified as underpaying minimum hourly rates.

Of the audits finalised, all employers found to be non compliant have voluntarily rectified the contraventions.

Currently, there are 2 employers whom are still being investigated for underpayments of hourly rates. Both have provided preliminary calculations identifying underpayments.

Conclusion Campaign outcomes

As was the case with our initial campaign, we received positive support from the market administration. Encouragingly, all of the employers found to be non compliant in the initial campaign were found to now be compliant. The overall results were also favourable, with a 32% improvement on record keeping and pay slip compliance compared to the 2009 campaign. On the basis of the site visit reports, businesses appeared to have a reasonable understanding of workplace law requirements regarding paying the correct award entitlements. The high number of vulnerable workers at the markets means it will continue to be monitored and may require further follow up work in the future to ensure long term compliance.

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