

## Farmer paid no overtime to backpackers who worked two months without a day off

12 May 2017

The operators of a remote beef cattle farm in Queensland have been penalised a total of \$130,000 after failing to pay overtime entitlements to overseas backpackers who worked more than two months straight, without a day off.

Robert Maudsley, who operates a cattle feedlot at Goomeri, west of Gympie, has been penalised \$20,000 and Waterfall Feedlot Pty Ltd, of which Robert Maudsley is a director, has been penalised a further \$110,000.

The penalties, imposed by the Federal Circuit Court, are the result of legal action by the Fair Work Ombudsman.

Maudsley and his company underpaid six backpackers a total of \$38,254 between January, 2014 and September, 2015.

The backpackers, five men and one woman in their 20s from the UK and Ireland, were in Australia on the 417 working holiday visa when they were underpaid.

They went to work on Maudsley's farm, after responding to advertisements on the Gumtree website, because they wanted to qualify for a second-year extension to their visas.

Fair Work Ombudsman inspectors investigated after the backpackers lodged requests for assistance.

Inspectors discovered the backpackers had worked up to 13 hours a day, six or seven days a week, but were mostly paid a flat rate of \$17 an hour for all hours worked, resulting in significant underpayment of their overtime entitlements.

Three of the backpackers did not have a single day off during their employment, respectively working 64, 80 and 88 consecutive days.

Under the Pastoral Award 2010, the backpackers should have been paid up to \$37.96 per hour for overtime work. Minimum hourly rates for ordinary hours, casual loading, public holiday pay and leave entitlements were also underpaid.

The company was also penalised for failing to make a copy of the Pastoral Award 2010 available to employees.

The six backpackers were underpaid between 28 and 51 per cent of their total minimum entitlements and the largest individual underpayment was \$11,592. The backpackers have now been back-paid in full.

The latest contraventions occurred despite the Fair Work Ombudsman having previously advised Mr Maudsley of his obligations under federal workplace laws in the course of investigations dating back to 2006 that resulted in recovering \$4000 for four workers, including two backpackers.

Fair Work Ombudsman Natalie James says the penalties imposed by the Court send a message that there are serious consequences for exploiting vulnerable overseas workers.

"Employers who think they can get away with just back-paying workers who complain and then refusing to change their habits should think again," Ms James said.

"We take the mistreatment of overseas workers very seriously because we know they can be vulnerable if they are not fully aware of their workplace rights in Australia and are often reluctant to complain.

"Minimum wage rates apply to everyone in Australia – including visa-holders – and they are not negotiable.

"I am particularly disappointed that in this instance we have had to proceed to litigation given the employer was previously put on notice through their interactions with my agency," Ms James said.

Addressing exploitation of workers on Australian farms has long been a priority for the Fair Work Ombudsman, with a number of Inquiries aimed at identifying and addressing the structural and behavioural drivers of non-compliance in the horticulture and viticulture networks and supply chains.

The Fair Work Ombudsman last year concluded an Inquiry into the experiences of 417 working holiday visa-holders in Australia and found that many backpackers had been exploited while working on Australian farms to satisfy the 88-day requirement to stay in Australia for two years.

In its Inquiry Report, the Fair Work Ombudsman makes a series of recommendations focused on enhancing the regulatory framework and enhancing information, education, compliance and support - see: [Inquiry into the wages and conditions of people working under the 417 Working Holiday Visa Program \(http://www.fairwork.gov.au/about-us/access-accountability-and-reporting/inquiry-reports#417-visa\)](http://www.fairwork.gov.au/about-us/access-accountability-and-reporting/inquiry-reports#417-visa) .

The Fair Work Ombudsman is currently completing its Harvest Trail Inquiry into the horticulture and viticulture sectors nationally in response to ongoing requests for assistance from employees in the sector, persistent underpayments and confusion among growers and labour-hire contractors about their workplace obligations. The Inquiry findings are due to be released later this year.

Employers and employees can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or phone the Fair Work Infoline on 13 13 94. An interpreter service is available by calling 13 14 50.

Information to assist people from culturally and linguistically diverse backgrounds has been translated into 27 languages and is available on the website. The Agency also has fact sheets tailored to overseas workers and international students on the website and YouTube videos in 14 languages to assist workers to understand their workplace rights.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (http://twitter.com/NatJamesFWO) , the Fair Work Ombudsman [@fairwork\\_gov\\_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork\_gov\_au) or find us on Facebook [www.facebook.com/fairwork.gov.au](http://www.facebook.com/fairwork.gov.au) (http://www.facebook.com/fairwork.gov.au) .

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Call through the National Relay Service (NRS):

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