

Backpackers snap-up back-pay from far north Queensland croc farm

(www.fairwork.gov.au/%E2%80%9C#twitter) 13 September 2017

Two overseas backpackers who were paid low, flat rates while working at a crocodile farm in far north Queensland have been back-paid more than \$13,000, following an investigation by the Fair Work Ombudsman.

The British nationals, who were in Australia on 417 working holiday visas, worked as casuals at the farm for four months in 2016 in order to complete the 88 days of regional work required to be eligible to stay in Australia for a second-year on their visas.

The workers' duties included feeding crocodiles, cleaning crocodile pens, preparing crocodile feed, and undertaking general maintenance and manual labour at the farm, which supplies crocodile skins to high end European fashion manufacturers.

They generally worked about 37 hours per week and were each paid a flat rate of \$324 per week, with one of the workers later receiving a pay increase to \$463 per week after he started driving a dump truck on the farm.

The flat weekly rates fell well short of the employees' legal minimum entitlements under the Pastoral Award 2010.

Under the Award at the time, the workers were entitled to receive up to \$22.13 for ordinary hours, up to \$26.55 for overtime hours and up to \$35.40 on public holidays.

The backpackers contacted the Fair Work Ombudsman after becoming concerned their working arrangements at the farm might not satisfy the requirements for second year visas.

Under amendments made to the Migration Regulations 1994 in 2015, working holiday visa holders must be able to demonstrate they have been remunerated in accordance with Australian workplace laws during their 88 days of regional work when applying for their second year visa.

Following the Fair Work Ombudsman's investigation, the workers were back-paid their outstanding wages. One of the workers has since successfully applied for a second-year 417 visa and the other worker intends to apply soon.

The Fair Work Ombudsman also put the crocodile farm on notice to pay employees correctly and comply with its record keeping and payslip obligations in future.

Fair Work Ombudsman Natalie James says the farm operators had no previous history of non-compliance with workplace laws and co-operated with Fair Work inspectors.

"Employers need to be aware that we treat the underpayment of migrant workers particularly seriously and will not hesitate to take appropriate action to enforce the law when we become aware of an employer deliberately taking advantage of vulnerable workers," Ms James said.

Ms James says visa-holders are entitled to receive the same minimum rates and entitlements that apply to all workers in Australia – and the rates are not negotiable.

"Employers cannot undercut minimum wages, even if employees offer to accept lower rates," she said.

The Fair Work Ombudsman's website has a range of tools and resources available to educate employers and assist them to meet their obligations, including a Pay and Conditions Tool (PACT) and guides and resources.

Employers can sign up to the Ombudsman's 'My Account' feature and receive updates and information about wages and conditions applicable to their business.

Employees, including visa-holders, who are unsure about their workplace rights and obligations can visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94 for assistance.

Overseas workers can also anonymously report workplace issues in their own language following the launch of the Fair Work Ombudsman's [Anonymous Report function in 16 languages other than English \(www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170731-migrant-worker-anon-report-tool\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170731-migrant-worker-anon-report-tool).

Earlier this year the Agency released the Record My Hours smartphone app which is aimed at helping young and migrant workers to

keep records of the hours they work and is available for download from iTunes and the Google Play store.

The Fair Work Ombudsman last year completed an Inquiry into the experiences of 417 working holiday visa-holders in regional Australia.

The 417 Visa-holder Inquiry found the requirement to do 88 days of specified, regional paid work to qualify for a second-year visa was unintentionally creating an environment where some unscrupulous operators are exploiting overseas workers, who are often reluctant to complain.

In the 417 Visa-holder Inquiry Report (www.fairwork.gov.au/about-us/access-accountability-and-reporting/inquiry-reports), available at www.fairwork.gov.au, the Fair Work Ombudsman makes a series of recommendations focused on enhancing the regulatory framework and enhancing information, education, compliance and support.

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Fair Work Online: www.fairwork.gov.au

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