

Harvest Trail Inquiry recovers \$1 million for workers

22 November 2018

A Fair Work Ombudsman Inquiry into workplaces along Australia's Harvest Trail has found widespread non-compliance, with inspectors recovering more than \$1 million in unpaid wages for over 2,500 workers.

During the inquiry, the FWO took court action against eight employers for serious alleged breaches of the Fair Work Act, with four actions involving labour hire contractors. Six matters have now been finalised resulting in over \$500,000 in penalties, and two remain before court.

Fair Work Inspectors also issued 150 formal cautions to employers, 132 infringement notices and 13 compliance notices for breaches of workplace laws during the inquiry, and entered into seven Enforceable Undertakings.

As part of the inquiry, inspectors investigated 638 businesses connected with the harvesting of various crops including citrus, grapes, strawberries, cherries, mushrooms, apples and tomatoes. There were 444 growers and 194 labour hire contractors investigated.

Inspectors found over half of these businesses breached workplace laws, including deliberate and significant underpayments of base pay rates, falsification of records, deliberate withholding of payslips, non-payments and unauthorised deductions.

Some businesses were randomly selected, while other employers were targeted based on intelligence gathered from stakeholders including industry, government agencies and workplace participants. Several employers with ongoing compliance issues were investigated multiple times.

The inquiry found that almost 70 per cent of harvest trail businesses employed visa holders. Working holiday subclass 417 visa holders (aged 18-31 years old) were the most common migrant workers on the trail.

The FWO found that more than a third of employers were paying piece rates or a combination of piece and hourly rates, which are acceptable under horticultural awards. However, over 100 of those employers were not engaging pieceworkers correctly, by having no written piecework agreement or having an invalid piecework agreement.

Fair Work Ombudsman Sandra Parker said the inquiry exposed widespread non-compliance along the Harvest Trail.

"The Fair Work Ombudsman visited hundreds of horticulture businesses and found over half did not comply with workplace laws. Our inquiry highlighted unacceptable practices of underpaying workers in one of Australia's largest rural industries."

"Growers rely heavily on migrant workers to pick, pack and process crops, and these workers can be particularly vulnerable. Migrant workers may not seek help because of language and cultural barriers, concerns about visa status, or because they are unaware of their workplace rights," Ms Parker said.

"All workers in Australia have the same rights and protections at work, regardless of citizenship or visa status. During this inquiry, we assisted hundreds of migrant workers to recover their pay, and any workers with concerns should contact us."

"We will continue to monitor harvest trail employers and prioritise any requests for assistance from workers. Growers and labour hire operators can expect to face further action if they do not comply with Australia's workplace laws," Ms Parker said.

As part of the inquiry, the FWO commissioned research into the preferences of fruit and vegetable consumers to better understand the role of the community in promoting workplace compliance.

"Amongst consumers who were concerned about farm workers' conditions, over 80 percent said they would avoid buying produce if they knew workers had been underpaid or provided poor working conditions," Ms Parker said.

"Many consumers said they were prepared to pay up to \$0.50 per kilo extra for fairly produced fruit and vegetables. We are considering all options for driving change in the horticulture industry, including education, compliance, enforcement, and raising awareness among consumers to help them make informed purchasing decisions."

The Fair Work Ombudsman will establish a stakeholder reference group to consider crucial next steps to implement the recommendations outlined in the inquiry report and help build a culture of compliance.

"We are inviting industry representatives to join a reference group that will develop and deliver specific strategies to stop the unlawful underpayment of vulnerable workers in this sector," Ms Parker said.

Employers and employees can seek assistance at www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available on 13 14 50.

Visa holders should be aware that, in line with an agreement with the Department of Home Affairs, they can seek assistance from the Fair Work Ombudsman without fear of their visa being cancelled. More information is available on our [Visa holders and migrants](https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants) (<https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants>) page.

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Download the Harvest Trail Inquiry Report (PDF 9.7MB) (<https://www.fairwork.gov.au/ArticleDocuments/1461/fair-work-ombudsman-harvest-trail-inquiry-report.pdf.aspx>) (DOCX 6.2MB) (<https://www.fairwork.gov.au/ArticleDocuments/1461/fair-work-ombudsman-harvest-trail-inquiry-report.docx.aspx>)

Background

The trail follows the seasonal harvesting of fresh fruit and vegetables, involving thousands of horticulture and viticulture businesses. The extensive inquiry involved 1,300 education and compliance activities across the country.

Growers ranged from small family-run businesses, large scale family-run farms operating across multiple states, to big companies with significant market share. Labour hire contractors that serviced growers were also of widely varying business size and sophistication.

Media inquiries:

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Harvest Trail legal actions

- [Maroochy Sunshine Pty Ltd and Mr Emmanuel Bani](https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/march-2017/20170328-maroochy-sunshine-penalty) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/march-2017/20170328-maroochy-sunshine-penalty>) – \$186,000 penalty against company, \$41,300 against sole director M Bani
- [Gurmakh Singh Dosanjh](https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/may-2016/20160518-dosanjh-penalty) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/may-2016/20160518-dosanjh-penalty>) – \$13,005 penalty against Mr Dosanjh
- [I Luv Pty Ltd, Mr Hour Him and Ms Tay-Duc Nguyen](https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/september-2016/20160926-i-luv-penalty) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/september-2016/20160926-i-luv-penalty>) – \$56,000 penalty against company, \$6,400 against Mr Him and \$6,400 for Ms Nguyen
- [Mr Vinai Chaipom](https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/december-2017/20171214-mango-shop-penalty) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/december-2017/20171214-mango-shop-penalty>) – \$25,412 penalty against Mr Chaipom
- [Seasonal Farm Services Pty Ltd and Mr Ram Kumar](https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/june-2017/20170602-seasonal-farm-services-penalty) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/june-2017/20170602-seasonal-farm-services-penalty>) – \$85,000 penalty against company, \$17,000 against Mr Kumar
- [HTA Farmings Pty Ltd and Mr Tuan Le](https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170726-hta-farmings-penalty) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170726-hta-farmings-penalty>) – \$70,550 against company, \$14,110 against Mr Le
- [Ms Hu Tao, Marland Mushrooms Qld Pty Ltd and Mr Troy Marland](https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/october-2016/20161012-mushroom-pickers-litigation) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2016-media-releases/october-2016/20161012-mushroom-pickers-litigation>) – aspects of the decision are under appeal
- [Zucco Farming Pty Ltd and Mr Chris Zucco](https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170705-zucco-farming-litigation) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170705-zucco-farming-litigation>) – awaiting penalty decision, with breaches admitted by respondents

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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