

Agri-Labour to pay migrant workers \$50,000

23 April 2019

A labour-hire company will change the way it pays its workforce after a Fair Work Ombudsman investigation found it had failed to correctly compensate tomato pickers on a farm near Shepparton for their individual work.

Agri-Labour Australia Pty Ltd, based in Brisbane, has signed a Court-Enforceable Undertaking (EU) requiring it to pay \$50,823 to 19 nationals of Vanuatu it employed under the Seasonal Worker Programme between December 2017 and April last year.

Fair Work Inspectors found that Agri-Labour was paying some workers a group piecework rate, based around a team's quantity picked, despite the company's enterprise agreement and piecework agreements providing for workers to be paid based on their individual productivity.

Agri-Labour admitted it could not determine if the amounts paid sufficiently compensated the workers as no records were kept of actual hours worked. It also admitted to incorrectly deducting money from wages for wet weather gear and making higher deductions than those authorised in writing.

Fair Work Ombudsman Sandra Parker said the EU sent a clear message to horticultural employers across the country to get piecework agreements right.

"Improving compliance across the horticulture industry is a priority for the Fair Work Ombudsman after our Harvest Trail Inquiry found widespread breaches of the Fair Work Act," Ms Parker said.

"All horticultural businesses must be aware of how to lawfully pay their workers and, if using piece rates, ensure workers are paid in accordance with piecework agreements. We also advise that employers should keep accurate records of hours worked."

"Under the Court-Enforceable Undertaking, Agri-Labour has committed to extensive measures aimed at sustained workplace compliance, and we will scrutinise their work practices for the next two years."

Under the EU, Agri-Labour must pay pieceworkers based on individual productivity; keep a record of hours worked for each pieceworker; engage an external professional to complete two audits of the pay and conditions of employees; and commission workplace relations training for all persons who have responsibility for human resources, recruitment, on-site management and payroll functions.

Agri-Labour must ensure the piece rates paid are sufficient to allow an average competent employee to earn 15 per cent more than the minimum hourly rates provided by the enterprise agreement.

In addition to compensating its workers, with the largest individual payment of \$4,591, Agri-Labour will make a \$15,000 contribution payment to the Commonwealth Government Consolidated Revenue Fund.

The FWO released its [Harvest Trail Inquiry report](https://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/november-2018/20181122-harvest-trail-inquiry-media-release) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/november-2018/20181122-harvest-trail-inquiry-media-release>) last year, and is now working with stakeholders to implement the recommendations.

Employers and employees can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their rights and obligations in the workplace.

Migrant workers should be aware that, in line with an [agreement](https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants) (<https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants>) with the Department of Home Affairs, they can seek assistance from us without fear of their visa being cancelled.

Information for those in the horticulture sector can be found at www.fairwork.gov.au/horticulture (<http://www.fairwork.gov.au/horticulture>) .

A free interpreter service is available on 13 14 50.

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Download the [Agri-Labour Australia Enforceable Undertaking \(DOCX 149.8KB\)](http://www.fairwork.gov.au/ArticleDocuments/1416/agri-labour-australia-enforceable-undertaking.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/1416/agri-labour-australia-enforceable-undertaking.docx.aspx) (PDF 2.9MB) (www.fairwork.gov.au/ArticleDocuments/1416/agri-labour-australia-enforceable-undertaking.pdf.aspx)

Media inquiries:

Matthew Raggatt, Senior Media Adviser

Mobile: 0466 470 507

matthew.raggatt@fwo.gov.au (<mailto:matthew.raggatt@fwo.gov.au>)

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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