

Penalty for underpayment of mushroom farm workers

9 July 2020

The Fair Work Ombudsman has secured a \$22,440 penalty against the former owner-operator of a labour-hire company following the underpayment of 80 workers on a Queensland mushroom farm.

The Federal Court has imposed the penalty against Ms Tao Hu, who operated labour-hire company HRS Country Pty Ltd before it went into liquidation in 2016.

Ms Hu admitted that she was involved in underpaying 80 employees a total of \$78,664 over an eight-month period in 2014 at a mushroom farm, at Stapylton, south of Brisbane.

The Court ordered that Ms Hu's penalty be distributed by the Fair Work Ombudsman to the employees to partially rectify the underpayments, which remain outstanding.

The workers were employed by Ms Hu's labour-hire company, which was contracted to supply labour to the farm.

Some of the underpaid employees were migrant workers, including visa holders. The underpaid employees were paid a flat hourly rate of \$16.37.

The flat rate was insufficient to meet the minimum hourly rate, casual loading and public holiday rates the employees were entitled to under the Horticulture Award 2010.

The employees were also not provided with paid rest breaks they were entitled to under the Award and a pay-slip law was contravened.

Fair Work Ombudsman Sandra Parker said taking action to improve compliance levels in the horticulture industry remained a priority for the regulator.

"The Fair Work Ombudsman discovered these underpayments during the [Harvest Trail Inquiry \(www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/november-2018/20181122-harvest-trail-inquiry-media-release\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/november-2018/20181122-harvest-trail-inquiry-media-release) which was aimed at improving compliance with workplace laws across the horticulture industry."

"The horticulture sector employs a significant number of vulnerable workers and it is important that we take actions to ensure that they are receiving their full lawful wages and entitlements."

"We continue to monitor employers along the harvest trail and any workers with concerns should contact us," Ms Parker said.

In 2018, in relation to workers paid on piecework rates, the Court dismissed the Fair Work Ombudsman's separate allegations that farm operator Marland Mushrooms Qld Pty Ltd and the company's owner director Mr Troy Marland were involved as accessories in the underpayment of pieceworkers.

The Court also rejected some submissions made by the Fair Work Ombudsman in relation to the operation and application of piecework agreements under clause 15.2 of the Horticulture Award 2010.

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. A free interpreter service is available on 13 14 50.

The Fair Work Ombudsman's [Horticulture Showcase \(www.fairwork.gov.au/horticulture-showcase\)](http://www.fairwork.gov.au/horticulture-showcase) makes it easier for employers and workers in the sector to understand their workplace rights and obligations.

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