

Spotlight returns to cherry orchards

2 December 2014

Fair Work Ombudsman inspectors will return to cherry orchards in NSW, Victoria and South Australia this month to check if seasonal workers are being paid correctly.

The fresh round of monitoring follows auditing of 49 orchards last season which found that eight employers had underpaid 51 pickers and packers a total of \$8918.

Employers found to have underpaid workers were operating at orchards in Adelaide and the Adelaide Hills, Young in NSW and Victoria's Yarra Valley.

Many of the underpaid employees were under 25-year-old backpackers on the 417 working holiday visa who were working to support an application for a second-year visa.

Some were employed directly by orchards and others by labour-hire contractors.

The largest underpayment was \$2883 for seven pickers at an Adelaide Hills orchard who were underpaid their minimum hourly rates.

The orchard operator received a Letter of Caution, warning that future non-compliance with workplace laws would result in enforcement action.

In another case, six packers at a Young orchard were underpaid a total of \$2723.

Fair Work inspectors issued Infringement Notices (on-the-spot fines) to seven employers, with penalties ranging from \$110 to \$1700.

These were issued for their failure to keep adequate records and issue sufficiently detailed pay slips to employees.

Fair Work Ombudsman Natalie James says that while it was disappointing to find a number of underpayments, it was pleasing that employers agreed to rectify the mistakes and accepted assistance from Fair Work inspectors to put processes in place to ensure ongoing compliance.

Inspectors have already made follow-up visits to many of the orchards assessed last season and will continue their site visits throughout December.

Last month, Fair Work inspectors visited Young and areas surrounding Beechworth, Benalla and Wangaratta in Victoria.

Throughout December they will visit Adelaide and the Adelaide Hills, Orange in NSW and Victoria's Goulburn Valley region.

Employers will be asked to open their books, allowing inspectors to view their records, with a particular emphasis on minimum hourly rates, penalty rates and allowances.

Compliance with pay slip and record-keeping obligations will also be monitored.

"These visits provide an opportunity for us to ensure those we met last season are now fully compliant with workplace laws and that any new entrants to the industry are fully aware of their obligations," Ms James said.

Ms James says that during the audits cherry pickers will be encouraged to come forward with any queries or concerns they have.

"We are conscious that many cherry pickers are overseas workers who may be vulnerable if they are not fully aware of their entitlements or reluctant to complain, so it's important that we are proactive about ensuring they are receiving their full lawful entitlements," Ms James said.

The preference of inspectors will be to assist employers to voluntarily rectify any issues. However, in cases of serious, deliberate or repeated contraventions, or if employers are not willing to co-operate, they may consider taking further action.

Inspectors will also educate employers about the range of free resources available at www.fairwork.gov.au/harvesttrail to assist them to comply with workplace laws.

The Fair Work Ombudsman has enlisted the support of key stakeholders, including the National Farmers Federation, Cherry Growers Australia and local state-based associations, to help promote compliance with workplace laws among the industry.

Ahead of last season's site visits, inspectors ran free information sessions for employers about their obligations under the Fair Work Act 2009 and Horticulture Award 2010.

Over the next few years the Fair Work Ombudsman will visit dozens of fruit and vegetable farms throughout Australia as part of its focus on the Harvest Trail and the entitlements of seasonal workers.

Fair Work inspectors recently visited blueberry farms on the NSW Mid-North Coast, mango growers at Katherine in the Northern Territory and strawberry growers at Caboolture in South-East Queensland.

"The knowledge we gain from these activities will help us to better direct our education and campaign activities, particularly in relation to the overseas workers employed in this sector," Ms James said.

Ms James says checking that employers are complying with their obligation to have written agreements in place for workers paid piece rates is also a key focus of the Harvest Trail program.

"This is a really important issue. In the absence of a written piece rate agreement, workers are required to be paid hourly rates of pay," Ms James said.

A free template piece rate agreement is available on the Fair Work Ombudsman website.

Employers and workers seeking assistance can consult the industry-specific information available at www.fairwork.gov.au/harvesttrail, or call the Fair Work Infoline on 13 13 94. A free interpreter service is available on 13 14 50.

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