

\$25,000 returned to Taiwanese backpackers

9 October 2014

Three Taiwanese backpackers have been reimbursed more than \$25,000 after an investigation by the Fair Work Ombudsman found they had been underpaid.

The backpackers were in Australia on 417 working holiday visas and employed by a poultry processor at Ormeau, in Queensland.

They started work at 2.30 am and regularly clocked up to 60 hours a week for a flat rate of \$17 an hour for all hours worked.

The Fair Work Ombudsman found they should have been paid between \$21 and \$33 an hour, depending on their shift.

They were short-changed \$12,347, \$7702 and \$5513 respectively.

The employer – B&E Poultry Holdings Pty Ltd – has previously been required to back-pay tens of thousands of dollars to other staff who were underpaid.

Since 2012, the Fair Work Ombudsman has required the company to back-pay more than \$140,000 to 15 other employees.

B&E owns and operates processing facilities at both Ormeau and at Blacktown, in NSW. It also provides labour-hire services to other companies

As a result of the latest contraventions, the company has entered into an Enforceable Undertaking with the Fair Work Ombudsman as an alternative to litigation.

The Taiwanese backpackers, employed as casuals, should have been paid according to the provisions of the Poultry Processing Award 2010.

They were underpaid their minimum hourly rates of pay, casual loadings, shift penalties, overtime rates and weekend penalty rates.

B&E Poultry has reimbursed all outstanding entitlements and issued a written apology expressing its “sincere regret” for breaching federal workplace laws.

The company also posted a workplace notice advising other employees of its contraventions, giving a commitment that such conduct will not occur again.

B&E Poultry is also required to undertake workplace relations training on employee entitlements under the Fair Work Act and to engage independent, external consultants to review and report on its compliance at six monthly intervals for the next two years.

Further, the company must take all reasonable steps to ensure that its associated entities also comply with workplace laws, and that if within two years any part or all of the business is transferred or sold to another party, a copy of the Enforceable Undertaking must be provided to that party in advance.

Fair Work Ombudsman Natalie James says the matter should serve as a timely reminder to all employers of the importance of checking that they are paying their employees under the correct industrial instrument.

Enforceable Undertakings were introduced by legislation in 2009 and the Fair Work Ombudsman has been using them to achieve strong outcomes against companies that breach workplace laws without civil court proceedings.

“We use Enforceable Undertakings where we have formed a view that a breach of the law has occurred, but where the employer has acknowledged this and accepted responsibility and agreed to co-operate with us and fix the problem,” Ms James said.

“Many of the initiatives included in EUs help to build a greater understanding of workplace responsibilities, motivate the company to do the right thing and help them avoid the same mistakes again.

“It also means we can resolve matters more speedily than if we proceed down a path towards litigation, often achieving outcomes, such as training sessions for senior managers, which are not possible through the Courts.”

Copies of all Enforceable Undertakings are available on the Fair Work Ombudsman website at www.fairwork.gov.au.

Employers and employees seeking assistance should visit the website or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

Ms James says the Fair Work Ombudsman is making compliance easier for businesses by continually building on the information available on its website.

The Fair Work Ombudsman has recently announced a review of the wages and conditions of overseas workers in Australia on the 417 Working Holiday Visa (see [Fair Work Ombudsman to review entitlements of overseas visa-holders on working holidays](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/august-2014/20140804-working-holiday-entitlements-review) (www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2014-media-releases/august-2014/20140804-working-holiday-entitlements-review) media release).

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Download:

- [B&E Poultry Holdings Pty Ltd Enforceable Undertaking \(DOCX 110.4KB\)](http://www.fairwork.gov.au/ArticleDocuments/837/be-poultry-holdings-enforceable-undertaking.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/837/be-poultry-holdings-enforceable-undertaking.docx.aspx) (PDF 367.9KB) (www.fairwork.gov.au/ArticleDocuments/837/be-poultry-holdings-enforceable-undertaking.pdf.aspx)

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Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

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Contact the Translating and Interpreting Service (TIS) on 13 14 50

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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