

Blueberry farm workers get \$46k back-pay

30 November 2015

Please note that since this Media Release was issued, the Fair Work Ombudsman has not been able to confirm that the underpaid employees included 417 working holiday visa-holders. The underpaid workers were from the local area, interstate and overseas. Some workers were international student visa-holders and some were from non-English speaking backgrounds.

The operators of blueberry farms at Sandy Beach in NSW underpaid their workers tens of thousands of dollars, an investigation by the Fair Work Ombudsman has revealed.

Almost 140 seasonal workers were short-changed a total of more than \$46,000 between July last year and the end of January this year.

The largest single underpayment was \$966. Many of the employees were overseas backpackers in Australia on the 417 working holiday visa.

The employers, Jusbinder Singh Benning, Tarlochan Sing Benning, Balbir Kaur Benning and Amarjit Kaur Benning have agreed to repay all outstanding wages and entitlements.

Their properties were audited in March this year as part of the Fair Work Ombudsman's national Harvest Trail project targeting the horticulture industry.

Trading as K S Benning & Sons, the employers failed to pay the correct wages and entitlements applicable under the Horticulture Award. They underpaid casual loadings, penalty rates and failed to keep appropriate employment records.

The Bennings' have apologised and expressed sincere regret for their behaviour and given a commitment that such conduct will not occur again. They have also signed an Enforceable Undertaking (EU) with the Fair Work Ombudsman.




As well as reimbursing the underpaid employees, Bennings' must now:

- Engage an external accounting professional to audit its workplace practices,
- Place workplace notices at its work sites explaining the workplace contraventions and actions taken to remedy them,
- Register with the Fair Work Ombudsman's online tool My Account,
- Implement systems and processes to ensure future compliance with workplace laws,
- Arrange training in workplace relations for managers with responsibility for human resources, recruitment and payroll functions, and
- Make a \$5000 donation to the Adele Residential Treatment Program.

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 the need for civil court proceedings.

"They are used 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 and fix the problem," says Fair Work Ombudsman Natalie James.

She encouraged employers who had any uncertainty about their workplace practices to visit www.fairwork.gov.au or call the Fair Work Infoline for advice on 13 13 94.

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- [K S Benning and sons Enforceable Undertaking \(DOCX 108.3KB\) \(www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-ks-benning-and-sons-redacted.docx.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-ks-benning-and-sons-redacted.docx.aspx) ([PDF 525.5KB\) \(www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-ks-benning-and-sons-redacted.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/884/enforceable-undertaking-ks-benning-and-sons-redacted.pdf.aspx)

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Page reference No: 5662

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