

Bundaberg Fruit and Vegetable Industry Audits

Summary

Workplace Inspectors from the Queensland office of the Workplace Ombudsman in conjunction with inspectors from the Queensland Department of Employment and Industrial Relations visited 26 businesses in the Bundaberg fruit and vegetable industry between August 2008 and January 2009.

Key outcomes of the campaign as at April 2009:

- 17 (71%) of the 24 employers audited were found to be in breach of Commonwealth workplace laws which related to:
 - Employers paying piece rates which did not meet the minimum award entitlements under the *Queensland Fruit and Vegetable Growing Industry Award 2002*.
 - Incorrect rates of pay/record keeping and payslip requirements.
 - Non payment of overtime.
 - Confusion about which legislation applied.
- A total of \$69,738 is due to be recovered for 841 workers.

Background

This local initiative came about in light of numerous enquiries from various associations highlighting potential issues within the Bundaberg fruit and vegetable industry particularly relating to vulnerable workers and those from a non-English speaking background.

The audit focused on ensuring compliance with workplace laws relating to rates of pay (including casual rates and minimum rates), penalty loadings (including weekends and late nights), meal breaks, the issuing of pay slips, time and wages recording keeping requirements and the paying of allowances.

The audits were undertaken between August 2008 and January 2009.

Aim and objectives

The main objectives of the audits were to:

- Ensure that workers in the Bundaberg fruit and vegetable industry were being paid their lawful wages and entitlements.
- Audit the level of compliance by a number of employers in the Bundaberg fruit and vegetable industry.
- Provide education and information across the sector to assist employers meet their obligations under federal legislation.

Methodology

Inspectors conducted audits in the field where possible and made 'cold calls' to various farms, backpacker hostels and contractors to farms in the Bundaberg region.

Inspectors conducted a review of wages and conditions on site where employer records were available. When issues were identified, further records were sought from the employer and assessments were completed by the inspectors and/or the business at a later date.

Employers were notified of any breaches of relevant legislation and were requested to calculate and

make back payments to employees where necessary

Employers not meeting record keeping and payslip requirements were requested to complete a Compliance Undertaking form and the Workplace Inspectors educated them further about their mandatory obligations under Commonwealth workplace laws.

Status of audits

As of February 2009 when the results of this campaign were compiled:

- 39 businesses had been targeted for a compliance audit.
 - 13 (33%) of the 39 audits were discontinued as the enterprise had no employees or did not fall under the WO jurisdiction.
 - 24 (92%) of the 26 audits have been undertaken and finalised.
 - 2 (8%) of the 26 audits remain outstanding as records have yet to be assessed.

Of the 24 audits undertaken and finalised.

- 17 (71%) of the 24 employers audited were found to be in breach of Commonwealth workplace laws relating to:
 - Employers paying piece rates which did not meet the minimum award entitlements under the *Queensland Fruit and Vegetable Growing Industry Award 2002*.
 - Incorrect rates of pay/record keeping and payslip requirements.
 - Non payment of overtime.
 - Confusion about which legislation applied.
- 7 (29%) of the 24 businesses were found to have no breaches of record keeping and pay slip requirements.
- A total of \$69,738 is due to be recovered for 841 workers.

Most employers rectified underpayments voluntarily.

Note: At the time of writing this report a couple of employers are currently being considered for litigation.

Conclusions

This local campaign provided the Workplace Ombudsman with the opportunity to work in partnership with the Queensland Department of Employment and Industrial Relations, audit and educate employers in the Bundaberg fruit and vegetable industry on their rights and obligations under Commonwealth workplace laws, provide assistance and advise to employers, and raised the profile of the Workplace Ombudsman.

Articles were published in the Bundaberg newspaper and Julie Wade, State Director, Queensland was interviewed by the ABC.

The audit also identified the need to consider a follow-up campaign in this industry in Bundaberg and other regions within Queensland that engage seasonal workers.