

Possible legislative and other impediments

- 9.1 As part of the inquiry, the Committee considered a number of possible impediments to the operation of the Seasonal Worker Programme (SWP), with the most notable being the requirement to undertake labour market testing, administration for superannuation payments, and travel and up-front costs.

Labour market testing

- 9.2 Approved employers are responsible for testing the labour market, and trying to recruit local workers before seeking access to seasonal workers.
- 9.3 Many submitters questioned the benefits of undertaking labour market testing.
- 9.4 Owen Pacific Workforce Pty Ltd (OPW) reasoned that ‘the farmer’s request should be sufficient evidence that a genuine need exists and that there are insufficient reliable workers to fill the need.’¹ OPW added that market testing was onerous and time consuming, calling for it to be either removed completely from the SWP or for the requirement to be removed after the first year for approved employers.²
- 9.5 Golden Mile No.1 Pty Ltd and the Victorian Famers’ Federation (VFF) both concurred with the view that market testing was time consuming.³ The VFF added that it was also ‘costly and serves no benefit as it is almost

1 Owen Pacific Workforce, *Submission 1*, p. 4.

2 Owen Pacific Workforce, *Submission 1*, p. 4.

3 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1; Victorian Farmers’ Federation, *Submission 9*, p. 5.

impossible to test the market so many months prior to the actual position becoming available.⁴

- 9.6 Apple and Pear Australia Limited (APAL) also called market testing an onerous task and suggested that it either be conducted annually or removed entirely, because:
- Such requirements do not exist for the employment of ‘international backpackers’ (417 Visa holders). It is therefore cheaper to employ 417 Visa holders than seasonal workers.
 - The SWP was established by the Australian Government in 2012 in recognition that a low-skilled labour mobility programme could provide strong benefits to the Australian horticulture industry through greater labour certainty and increased efficiency. Nothing has changed to alter this fact and access to seasonal labour from the pool of Australian residents remains tight. Obliging growers to continually demonstrate that there is no ready pool of local Australian labour actually works against the SWP program.⁵
- 9.7 The VFF suggested that the Government undertake market testing when then SWP is reviewed:
- Labour market testing should only be a requirement of government at each Program review with the onus removed from individual employers or third party Approved Employers wishing to participate in the Program.
- It is unlikely an employer would seek to employ a Seasonal Worker over a willing Australian resident as the cost of participation in the Program is considerably higher than the cost of employing a local.⁶
- 9.8 Vernview Pty Ltd understood the need to undertake market research but said they would welcome a different mechanism.⁷
- 9.9 While the National Farmers’ Federation (NFF) supported the current market testing requirements under the SWP, they believed it represented a large commitment for little return.⁸ The NFF recommended exempting the requirement in regions that have a demonstrated labour shortage.⁹
- 9.10 While acknowledging that the financial costs for market testing or advertising was not significant, the Voice of Horticulture believed that

4 Victorian Farmers’ Federation, *Submission 9*, p. 5.

5 Apple and Pear Australia, *Submission 33*, p. 3.

6 Victorian Farmers’ Federation, *Submission 9*, p. 5.

7 Vernview Pty Ltd, *Submission 13*, p. 6.

8 National Farmers’ Federation, *Submission 21*, p. 16.

9 National Farmers’ Federation, *Submission 21*, p. 17.

there was a significant reporting cost to the DoE.¹⁰ The Voice of Horticulture submitted that the requirements should be streamlined suggesting:

... that there could be scope for the development of a national process run by the Department of Employment [DoE] to exclude particular areas rather than the individual process currently operating where each employer market tests their specific jobs.¹¹

9.11 Growcom reported that growers were frustrated with the market testing requirement 'especially in remote and regional areas and where testing has previously shown a lack of (willing) local or Australian workers.'¹² Growcom reasoned that 'growers would not be accessing programs such as the SWP if there were not a clear and present need for such programs to complement the workforce.'¹³

9.12 Growcom held the view that the local labour market did not change significantly over a year and suggested the preference of conducting market testing regionally once every twelve months.¹⁴

9.13 Commenting on approved employers' frustration in doing market testing, Connect Group Pty Ltd called for a more flexible approach.¹⁵

9.14 In its joint submission, the Development Policy Centre (DPC) and World Bank noted that employers looking to hire Working Holiday Makers (WHMs) were not required to undertake market testing. The DPC recommended either removing the requirement entirely or amending the current requirements:

... at least (a) for postcodes that qualify for the Working Holiday (subclass 417) second-year visa extension and (b) for employers whose earlier labour market testing has shown no or inadequate Australian worker interest¹⁶

9.15 AUSVEG supported the recommendation by the DPC¹⁷ and called for a evidenced based approach to market testing:

We are not suggesting that there should be an across-the-board abolition of labour market testing, because clearly there are areas where it is necessary, but that there should be a more evidence-

10 Voice of Horticulture, *Submission 34*, p. 2.

11 Voice of Horticulture, *Submission 34*, pp. 2-3.

12 Growcom, *Submission 16*, p. 3.

13 Growcom, *Submission 16*, p. 3.

14 Ms Mogg, Growcom, *Transcript*, 30 November 2015, p. 52.

15 Connect Group Pty Ltd, *Submission 18*, p. 7.

16 Development Policy Centre and World Bank, *Submission 22*, p. 9.

17 AUSVEG, *Submission 25*, p. 5.

based approach to labour market testing, where we actually look at particular areas and determine whether there is a need for labour market testing, because in some cases growers are being required to do this testing when it is apparent that there is no chance of them getting a local worker. That acts as a prohibition against uptake of this program in those regional areas.¹⁸

- 9.16 MADEC Australia held a contrary view, stating that the process was not overly onerous, could be made easier by implementing good processes, and while it requires some administrative time, can be done at no cost.¹⁹
- 9.17 The Australian Council of Trade Unions (ACTU) remarked that market testing was an integral part of the SWP and should continue.²⁰
- 9.18 Dr Howe said that it was important that the SWP ‘not become a de facto low skill work visa without any labour market testing of whether the skill is actually in shortage in the domestic economy.’²¹
- 9.19 The State, Society and Governance in Melanesia Program (SSGMP) believed that the requirement to test the local labour market provided a safeguard:
- Labour market testing required by the Department of Employment for Australian employers seeking to recruit workers through the SWP provides an important safeguard that SWP workers are ‘not taking Australian jobs’. While labour market testing is regarded by some employers in the SWP as onerous, it does provide a safeguard that the SWP is not undermining the integrity of the Australian labour market.²²
- 9.20 The SSGMP suggested that there may be other alternatives to labour market testing in areas of long term labour shortages:
- ... there may be mechanisms for making labour market testing less onerous in regions and industry sub-sectors where there is clear evidence of long-term structural labour market shortages.²³
- 9.21 The DoE asserted that the Australian Government’s priority is to support local job seekers but recognised the need to source additional labour.²⁴

18 Mr White, AUSVEG, *Transcript*, 28 October 2015, p. 18.

19 MADEC Australia, *Submission 17*, p. 2.

20 Australian Council of Trade Unions, *Submission 19*, p. 4.

21 Dr Howe, *Submission 36*, p. 4.

22 State, Society and Governance in Melanesia Program, *Submission 38*, p. 23.

23 State, Society and Governance in Melanesia Program, *Submission 38*, p. 23.

24 Department of Employment, *Supplementary Submission 2.2*, p. 17.

9.22 The DoE stated that SWP labour market testing requirements were stronger than the requirements for working visas, and that additional protections were put in place for the local labour market:

In addition, changes announced on 18 June 2015 strengthen protections for the local labour market by:

- a requirement for the Department of Employment to report back to the Australian Government by mid-2017 on whether Australian job seekers are being disadvantaged by the Seasonal Worker Programme; and
- providing the Minister for Employment with discretion to cap, exclude and review the placement of seasonal workers in geographical locations, including metropolitan areas and areas with high unemployment and low workforce participation.²⁵

9.23 The DoE also noted that the DoE would request added information from approved employer's in the following circumstances:

- the Department identifies that the labour market testing section of the recruitment plan has not been fully completed
- the Department identifies that the advertisement has not run for the required 14 days prior to seeking approval to recruit seasonal workers
- the Department identifies that the approved employer has not provided a 'finalised' result or the employer indicates that the local applicant selection is still in process (the department requires a definitive result as to how many applicants were offered or not offered a position)
- the Department identifies that a reason for discounting a local applicant was not in line with programme requirements or workplace relations law, or
- the labour market testing advertisement does not meet programme requirements.²⁶

9.24 When asked about the cost of market testing, the DoE advised that approved employers could place a free ad on an Australian Job Search website.²⁷

9.25 The DoE added that labour market testing would form the basis of determining the number of SWP places:

From 1 July 2015, the annual cap on the number of workers participating in the Seasonal Worker Programme has been removed entirely so that businesses may more easily access seasonal labour when they are unable to source labour locally.

25 Department of Employment, *Supplementary Submission 2.2*, pp. 2-3.

26 Department of Employment, *Supplementary Submission 2.2*, p. 1.

27 Mr Roddam, Department of Employment, *Transcript*, 24 June 2015, p. 5.

Removing the annual cap on programme places means that the number of seasonal workers who will come to Australia will be determined through labour market testing.²⁸

Committee comment

- 9.26 With 525,200 unemployed people looking for full-time work; 207,400 looking for part-time work; and an unemployment rate of 5.8 per cent,²⁹ it is vitally important that Australian employers in all industries do everything possible to employ Australian workers first, particularly in regional areas where concentrations of youth unemployment can be far higher than national averages.
- 9.27 The Committee recognises that there are a number of reasons why Australians would prefer to seek full-time employment in sectors other than current seasonal work opportunities in the agriculture or horticulture sectors. However, the Committee is of the view that the requirement to undertake market testing is not overly burdensome and should therefore remain at this stage.
- 9.28 Currently, the labour market testing requirements vary across visa subclasses:
- The working holiday maker programme does not require employers to undertake labour market testing.
 - Sponsors of 457 visa holders must provide evidence that they have tested the local labour market in the 12 months prior to nomination. However, all skill level 1 and 2 occupations (except nursing and engineering) are exempt.
 - Seasonal Worker Programme approved employers must 'advertise for a two week period and within three months of an employer seeking to bring seasonal workers into Australia.'³⁰
- 9.29 These differing requirements could place an additional regulatory burden on employers. The Committee has therefore formed the view that it is beneficial to standardise the labour market testing requirements across the range of work visas.

28 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 5.

29 Australian Bureau of Statistics, *Labour Force, Australia, Feb 2016*, cat. no. 6202.0

30 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 6.

Recommendation 7

That the Australian Government standardise the labour market testing requirements across the range of temporary work visas.

Superannuation

- 9.30 A few submitters suggested that the administration for superannuation payments was overly burdensome and difficult for seasonal workers to access upon returning home.
- 9.31 OPW asserted that, as superannuation was a provision for retirement, it was inappropriate for seasonal workers,³¹ remarking that:
- seasonal workers were unable to claim super after returning to their home country as the compliance requirements were too challenging;
 - in circumstances where a claim was made, fifty per cent of the claim was taken in tax due to the Australian citizen early retirement rules.³²
- 9.32 OPW highlighted that the *Superannuation Guarantee (Administration) Act 1992* contained a provision exempting employers from making superannuation payments when an employee earns less than \$450 per month for certain age groups.³³ The OPW made two proposals:
- exempt employers from making superannuation payments to all workers under the SWP; or
 - allow super for seasonal workers to be accrued in the payroll like annual leave and paid out upon termination.³⁴
- 9.33 The VFF believed that there was 'a significant administrative burden on Approved Employers surrounding the payment and claiming of superannuation.'³⁵ The VFF repeated the recommendation by OPW to exempt employers from making superannuation payments to SWP workers.³⁶

31 Owen Pacific Workforce, *Submission 1*, p. 3.

32 Owen Pacific Workforce, *Submission 1*, p. 3.

33 Owen Pacific Workforce, *Submission 1*, p. 3.

34 Owen Pacific Workforce, *Submission 1*, p. 3.

35 Victorian Farmers' Federation, *Submission 9*, p. 5.

36 Victorian Farmers' Federation, *Submission 9*, p. 3.

- 9.34 Gracekate Farms also noted the rationale for superannuation being for retirement and commented on how the paperwork was overly burdensome for both workers and approved providers. Gracekate Farms suggested a couple of options:
- paying subclass 416 visa holders a higher rate to compensate for no superannuation payments; or
 - that equivalent payments, in lieu of superannuation, be 'paid into a trust account or directly to their home governments to be used only for certain projects agreed to with the Australian Government'.³⁷
- 9.35 The NFF also commented on the administrative requirements in relation to superannuation, holding the view that these were likely to increase.³⁸
- 9.36 Golden Mile No. 1 Pty Ltd observed that SWP participants need to close and reopen a superannuation account each time they depart and return to Australia. Golden Mile remarked that the administrative burden was high, suggesting that approved employers 'pay the money into separate funds that could be managed by [the Department of Employment] or via us, and then that money is automatically released when they leave the country'.³⁹
- 9.37 The DPC believed that the present super refund arrangements were 'cumbersome and inequitable'.⁴⁰ The DPC also recommended the superannuation be paid directly into the wage.⁴¹
- 9.38 Papua New Guinea's (PNG) Department of Labour and Industrial Relations also highlighted difficulties that seasonal workers have in accessing super funds, recommending:
- Appropriate arrangement to enable accessibility to superannuation funds which would assist seasonal workers to utilise added funds to enhance their livelihood as well as to invest savings wisely through the re-integration programme.⁴²
- 9.39 The Democratic Republic of Timor-Leste's Secretary of State for Professional Training and Employment Policy (SSPTEP) also called on simplifying the process of acquiring superannuation for seasonal workers from overseas.⁴³
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37 Gracekate Farms, *Submission 14*, p. 4.

38 National Farmers' Federation, *Submission 21*, p. 15.

39 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1; Victorian Farmers' Federation, *Submission 9*, p. 9.

40 Development Policy Centre and World Bank, *Submission 22*, p. 8.

41 Development Policy Centre and World Bank, *Submission 22*, p. 8.

42 Papua New Guinea's Department of Labour and Industrial Relations, *Submission 29*, p. 4.

43 Secretary of State for Professional Training and Employment Policy, Democratic Republic of Timor-Leste, *Submission 6*, p. 2.

9.40 The Solomon Islands' Ministry of Foreign Affairs and External Trade (MFAET) posited that the administration associated with superannuation acted as a deterrent to hiring seasonal workers. The MFAET stated that their Labour Mobility Unit also 'found it very challenging to retrieve superannuation funds for returned workers',⁴⁴ adding:

Some workers have not been able to retrieve their funds due to complicated administrative and logistical requirements that can only be completed once workers return to Solomon Islands. For instance, many workers return to their regional provinces which do not even have banking facilities.⁴⁵

9.41 The MFAET also pointed out the additional tax and bank fees added in circumstances when they are able to access their super and that Recognised Seasonal Employers in New Zealand are not required to make superannuation contributions to their seasonal workers.⁴⁶

9.42 The MFAET remarked that it would not be appropriate to remove superannuation with equivalent compensation elsewhere, and recommended either:

... (a) automatically include superannuation payments within the employees' payslips or (b) remove superannuation obligations altogether in exchange for an equivalent reduction in the current income tax rate.⁴⁷

9.43 The National Union of Workers (NUW) recommended that employers continue to pay SWP participants superannuation:

Seasonal Workers must receive the same pay, conditions and entitlements as Australian permanent residents and citizens, including superannuation, and should be paid those entitlements through the same mechanisms. Where one group of workers are not provided equal wages or conditions, systematic exploitation can begin to take root.⁴⁸

9.44 The DoE explained the superannuation obligations on employers:

An employer's superannuation guarantee obligations are generally the same for all employees regardless of whether they are temporary residents (such as visitors on the Seasonal Worker Programme) or Australian residents. The superannuation

44 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

45 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

46 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

47 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.

48 National Union of Workers, *Submission 42*, p. 7.

guarantee contribution rate is currently 9.5 per cent of an employee's ordinary time earnings.⁴⁹

9.45 On the issues of how to access superannuation, the tax that applies, and unclaimed superannuation payment amounts, the DoE stated:

- Overseas workers on temporary visas can claim their superannuation after they leave Australia and their visa expires by applying for a Departing Australia Superannuation Payment.
- The total tax that applies to their superannuation includes the nominal 15 per cent tax applied to employer contributions and earnings on all contributions in the fund; and a withholding tax (38 per cent in 2014-15 and 2015-16) when a Departing Australia Superannuation Payment claim is paid.
- Departing Australia Superannuation Payment amounts not claimed within six months of a temporary resident's departure are transferred to the Australian Taxation Office as unclaimed money and are held in consolidated revenue. Former temporary residents may claim these amounts at any time.⁵⁰

9.46 The DoE remarked that it was aware of the difficulties residents from Kiribati and Tuvalu found in claiming superannuation entitlements and noted that the World Bank was conducting an evaluation for the Department of Foreign Affairs and Trade (DFAT)⁵¹ which will 'collect information about the amount of superannuation expected to be claimed by workers when they leave Australia.'⁵²

9.47 The DoE also remarked that it was aware of the suggestions by employers that superannuation payments to be rolled into the wages of seasonal workers, adding:

The Department of Employment does not have a particular view on whether this should be the case, and note that at the moment this is an arrangement that is determined through the Department of Treasury and through the established superannuation framework.⁵³

49 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 22.

50 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 22.

51 Seasonal Worker Programme Development Impact Evaluation 2015-16.

52 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 22.

53 Ms Smith, Department of Employment, *Transcript*, 24 June 2015, pp. 2-3.

9.48 When asked about the number and proportion of seasonal worker participants who claim superannuation on returning home and the length of time it takes make a claim, the DoE stated:

The Australian Government does not collect this information. All seasonal workers participating in the programme are able to claim their superannuation once they have departed Australia.

Seasonal workers are provided with information on superannuation in their pre-departure, on-arrival and return to country briefings. Each seasonal worker is also provided with information by their approved employer that will enable them to claim their superannuation once they have departed Australia. In some cases labour sending units in participating countries' departments of labour assist seasonal workers to claim their superannuation on return.⁵⁴

9.49 On 25 June 2015, the *Superannuation Guarantee (Administration) Amendment Act 2015* received Royal Assent. The Act removed the obligation for employers to offer a choice of superannuation fund to temporary resident employees.⁵⁵

Committee comment

9.50 It appears, based on the evidence provided by submitters, that the administration of superannuation payments is an arduous process for both approved employers and seasonal workers.

9.51 However, there does not appear to be enough supporting evidence to recommend that employers be exempt from making superannuation payments, reducing the current income tax rate for seasonal workers, include superannuation payments within the employees' payslips, or making equivalent payments into a trust account.

9.52 The Committee therefore recommends that the Department of Treasury undertake a review of current superannuation arrangements for seasonal worker programme participants, having regard to:

- whether or not current arrangements meet the objectives of the Seasonal Worker Programme;

54 Department of Employment, *Supplementary Submission 2.4*, p. 2.

55 Australian Taxation Office, 'Change to choice of superannuation fund obligations for employers', viewed on 8 April 2016, < <https://www.ato.gov.au/General/New-legislation/In-detail/Super/Change-to-choice-of-superannuation-fund-obligations-for-employers/> >.

- the barriers to accessing accumulated superannuation funds for seasonal workers and measures to improve access.
- 9.53 This review should be conducted primarily with a view to ensuring seasonal workers receive their full entitlements as efficiently and quickly as possible.

Recommendation 8

The Committee recommends that the Department of Treasury undertake a review of current superannuation arrangements for Seasonal Worker Programme participants, having regard to:

- **whether or not current arrangements meet the objectives of the Seasonal Worker Programme;**
- **the barriers to accessing accumulated superannuation funds for seasonal workers and measures to improve access.**

The review should be conducted primarily with a view to ensuring seasonal workers receive their full entitlements as efficiently and quickly as possible.

Travel costs

- 9.54 As part of the SWP, approved employers are responsible for paying for the full cost of each seasonal workers return international airfare and domestic transfer arrangements up front, and recouping from the combined cost any amount over \$500 from seasonal workers' pay over time.
- 9.55 Some submitters commented that this travel cost, as well as additional up-front costs, were acting as a disincentive for employers to engage in the SWP and an added regulatory burden for SWP approved employers.
- 9.56 OPW said that paying the first \$500 for airfares inflated the cost of the SWP and recommended that the requirement be removed for approved employers.⁵⁶

56 Owen Pacific Workforce, *Submission 1*, p. 3.

- 9.57 The VFF were concerned about both the up-front and airfare costs which they viewed as prohibitive:
- Up-front costs (including airfares, visas, rental, ground transport and living expenses) can amount to \$1,000 - \$2,000 per worker prior to any productivity. An employer who requires 20 workers would have to find approx \$20,000 - \$40,000 from their cash flow to participate.⁵⁷
- 9.58 Commenting on the airfare cost, the VFF argued that the initial \$500 of any airfare for the first year should be paid, but that seasonal workers should pay the cost of a return airfare in subsequent years.⁵⁸
- 9.59 MADEC Australia suggested that seasonal workers were ‘well placed, particularly in subsequent visits, to cover a higher proportion of their travel costs.’⁵⁹
- 9.60 However, MADEC pointed out the financial costs for seasonal workers participating in the SWP and the length of time it would take for workers to pay back those costs:
- [Seasonal workers] would have quite substantial fixed costs such as airfare and visa and some other fixed costs that need to be paid off. Typically they will take five or six weeks maybe to pay all of those costs off. If they are here for a three-month assignment, they have not got a lot of time after that to make net income to remit back home.⁶⁰
- 9.61 Growcom and MADEC Australia suggested implementing a phased approach or sliding scale to retrieving travel costs.⁶¹ MADEC Australia added:
- So what we are suggesting is, if a worker is here for a three-month assignment or less, which is now allowed under the rules, that the grower contribute \$500 towards the airfare cost as is the case now. If they come for six months, the worker contributes it all because they have got a much greater earning capacity in six months. And somewhere in between, there is a sliding scale. So if they are here for four months, they pay \$100; if they are here for five months it would be \$250 et cetera. That is a graduated thing. It would encourage growers to have workers for longer periods of time, which benefits the workers, and it does not disenfranchise workers

57 Victorian Farmers’ Federation, *Submission 9*, p. 5.

58 Victorian Farmers’ Federation, *Submission 9*, p. 5.

59 MADEC Australia, *Submission 17*, p. 4.

60 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 60.

61 Growcom, *Submission 16*, p. 4; MADEC Australia, *Submission 17*, p. 4.

who are here for shorter periods of time. We think that is a good way of helping to reduce the costs for the growers because the \$500 contribution is always an issue but it would not disenfranchise workers who are here for shorter periods of time and who are earning less money.⁶²

- 9.62 The NFF commented that costs were a major disincentive to the SWP, especially when the set-up, regulatory compliance, travel and accommodation costs and the risks that they will not be recovered in the event that SWP participants choose to leave the programme are all taken into account.⁶³
- 9.63 The NFF recommended reviewing the costs associated with seasonal employment compared with other solutions including the working holiday maker visa.⁶⁴
- 9.64 Tourism Accommodation Australia (TAA) also believed that the current costs for approved employers to participate in the SWP would act as a disincentive:
- This will be the main impediment to the hospitality industry taking on these workers. As the requirement will largely be for entry level positions, the considerable costs in securing these workers – Airfares from country of origin; accommodation; cost of compliance training such as RSA – will limit the attractiveness of this option except in areas of acute shortages.⁶⁵
- 9.65 TAA agreed with the suggestion of implementing a sliding scale for returning workers to retrieving travel costs.⁶⁶
- 9.66 APAL suggested that there was a very small risk that approved employers would not be able to recover airfare costs if the seasonal worker absconds or is sent home.⁶⁷ APAL did, however, contend that many employers were unaware that most additional costs could be recouped from an employee's wage.⁶⁸

62 Mr Hayes, MADEC Australia, *Transcript*, 28 October 2015, p. 60.

63 National Farmers' Federation, *Submission 21*, p. 15.

64 National Farmers' Federation, *Submission 21*, p. 15.

65 Tourism Accommodation Australia, *Submission 28*, p. 4.

66 Miss Graham, Tourism Accommodation Australia, *Transcript*, 13 November 2015, p. 27.

67 Apple and Pear Australia, *Submission 33*, pp. 4-5.

68 Apple and Pear Australia, *Submission 33*, p. 4.

- 9.67 The DPC described a survey that it conducted in 2014 with approved employers about what key changes would make the SWP more appealing to growers. The DPC found that 'the main parameters that need to be altered are the upfront costs, along with employer contributions to international and domestic travel costs.'⁶⁹
- 9.68 The DPC did note, in particular, that the travel costs to Australia for some pacific island countries (Kiribati and Tuvalu) are higher which put an additional financial burden on seasonal workers.⁷⁰
- 9.69 The DPC recommended removing the up front costs and employer contributions to travel costs, believing that they would:
- ... help to level the playing field for Pacific seasonal workers and allow them to compete on a cost basis with backpackers and other categories of workers.⁷¹
- 9.70 The DPC contended that removing the upfront costs would make the SWP more attractive:
- The removal of this requirement would undoubtedly lift uptake of Pacific seasonal workers. When we conducted our employer survey across the horticulture industry, 67% of growers suggested their main reason for not participating in the Seasonal Worker Programme was because it was 'too costly'. Furthermore, amongst those AEs [Approved Employers] and participating growers surveyed, 75% suggested that reducing the international travel cost would make the SWP more attractive to growers. This included both having to pay the international airfare upfront and also needing to make a \$500 contribution.⁷²
- 9.71 AUSVEG also highlighted the changes to the SWP announced in the *Developing Northern Australia White Paper* (White Paper) on cost sharing arrangements,⁷³ and remarked they were a welcome addition.⁷⁴
- 9.72 AUSVEG did, however, believe that the ability for employers to recoup travel costs should be amended to make the SWP more attractive to employers:
- If we were to increase the Seasonal Worker Program's utilisation by growers it is imperative to reduce the cost and administrative

69 Development Policy Centre and World Bank, *Submission 22*, p. 7.

70 Development Policy Centre and World Bank, *Supplementary Submission 22.1*, p. 2.

71 Development Policy Centre and World Bank, *Submission 22*, p. 7.

72 Development Policy Centre and World Bank, *Supplementary Submission 22.1*, p. 5.

73 Simplifying cost sharing arrangements by combining the employer's contribution to the seasonal worker's international and domestic airfare to a total of \$500.

74 AUSVEG, *Submission 25*, p. 6.

burden of employing seasonal workers. One simple and effective method of doing so, with no added cost to the taxpayer or to the government, would be to amend the current ability of employers to recover any travel costs above \$500 from a worker's wages over time and to extend that to cover all travel costs paid for by the employer. This will help to make the program more appealing to growers and increase the viability of the Seasonal Worker Program as an alternative to using backpackers.⁷⁵

- 9.73 Mossmont Nurseries, recommended that the initial costs for airfares should be the responsibility of SWP participants.⁷⁶
- 9.74 The Golden Mile No.1 Pty Ltd suggested the preference for a flexible funding model 'where the \$825 is allocated to the person for his or her choosing (as practical as possible).'⁷⁷
- 9.75 While not directly referring to travel costs, the Office of the Chief Trade Advisor (OCTA) asserted that burdensome costs both up-front and during the duration of their involvement were deterring potential employers from participating in the SWP.⁷⁸
- 9.76 The ACTU did not agree with the view of shifting SWP costs like travel further onto participants,⁷⁹ adding:
- Such changes would reduce the net benefit accruing to the workers, their families and communities and undermine the fundamental objective of the program to promote development in the Pacific.⁸⁰
- 9.77 The SSGMP stated that the costs were more prohibitive on seasonal workers:
- Although costs have been reduced for many employers, transportation costs for workers are a barrier for many in Pacific island states, especially those living in either remote rural regions or countries such as Kiribati, PNG, Tuvalu and the Solomon islands where transportation costs have them at a disadvantage compared to other Pacific nations.⁸¹

75 Mr Mulcahy, AUSVEG, *Transcript*, 28 October 2015, p. 12.

76 Mr Moss, Mossmont Nurseries, *Transcript*, 28 October 2015, p. 42.

77 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1.

78 Office of the Chief Trade Advisor, *Submission 5*, p. 8.

79 Australian Council of Trade Unions, *Submission 19*, p. 18.

80 Australian Council of Trade Unions, *Submission 19*, p. 18.

81 State, Society and Governance in Melanesia Program, *Submission 38*, p. 30.

- 9.78 The SSGMP recommended examining the costs to seasonal workers in addition to establishing a re-entry tax for returning workers to develop a SWP workers bank to finance initial costs:

Examination of how costs to workers could be best offset to enable a greater pro-poor reach of the SWP to occur, so that workers do not need to borrow at usurious leading rates to enter the SWP. For example, a re-entry tax for returning workers could be used to develop a SWP workers bank from which poor remote workers could borrow to finance initial costs of obtaining SWP employment, such as: passport and visa costs, health checks and transportation costs.⁸²

- 9.79 The NUW asserted that the SWP reforms announced in the White Paper added a further cost burden onto seasonal workers, adding:

Shifting the administrative costs of the Programme onto workers undermines the Programme's development goals by further reducing workers' net earnings.⁸³

- 9.80 The NUW recommended maintaining the 'requirement for employers to pay \$500 towards workers' airfares.'⁸⁴

- 9.81 At a public hearing, the DoE commented on the aid and development objectives of the SWP and the impetus behind the cost-sharing arrangements:

As the program has aid and development objectives, we need to ensure that seasonal workers have the opportunity to financially benefit from their time in Australia. We have undertaken modelling that looks at the costs that are involved from a seasonal worker's perspective. Under the current arrangements – so not under the new arrangements, the northern Australia related announcements – we know that if seasonal workers were required to pay for the full cost of their airfare, that would then make it more difficult for employers to bring the seasonal workers out for short periods of time as it would impact on the worker's ability to earn a financial net benefit, therefore, we have retained the requirement for cost-sharing arrangements. This is also something that is in line with other seasonal worker programs around the world.⁸⁵

82 State, Society and Governance in Melanesia Program, *Submission 38*, p. 30.

83 National Union of Workers, *Submission 42*, p. 6.

84 National Union of Workers, *Submission 42*, p. 7.

85 Ms Smith, Department of Employment, *Transcript*, 24 June 2015, p. 3.

9.82 The DoE also believed that there were gains from returning reliable seasonal labour which outweighed the cost:

I suppose the view of the department is that, even though returning workers may have a net financial benefit from their original stay, there is an expectation that, in part, the seasonal workers would have tried to maximise their investments to their families and their communities back home, but also the department's view is that ultimately there are gains and efficiencies from returning reliable labour that reduces stress to employers about securing that labour each year. The productivity is worth that \$500 per worker out of pocket. So, yes, we understand that it is out of pocket, but we feel that the growers stand to gain more.⁸⁶

9.83 As noted above, the DoE pointed out that it was working with DFAT on a study 'into the relative productivity of seasonal workers and the costs and benefits for employers participating in the programme.'⁸⁷

Committee comment

9.84 It is clear that there are significant costs associated with the Seasonal Worker Programme on employers and participants alike. The challenge is obtaining the right balance to ensure that neither group is being impacted adversely.

9.85 That being said, the programme is primarily focussed on aid and development. It would disadvantage seasonal workers considerably to shift costs onto the participants.

9.86 The Committee notes the changes to the cost sharing arrangements in the White Paper and therefore does not believe that a further amendment to the current arrangements is required.

Other impediments

9.87 A few submitters to the inquiry were of the view that premiums for workers compensation and the cost of transferring remittances back home were acting as impediments.

86 Mr Hay, Department of Employment, *Transcript*, 13 November 2015, p. 58.

87 Department of Employment, Department of Immigration and Border Protection, Department of Agriculture, Fair Work Ombudsman, *Supplementary Submission 2.1*, p. 6.

Workers compensation

9.88 OPW asserted that the current rates used to determine premiums for workers compensation was inaccurate for SWP participants:

Workers Compensation actuarial tables are based on Australian residents who, if injured seriously may need to be supported with medical treatment and wages for 30 years at the cost of hundreds of thousands of dollars. Seasonal workers are only permitted to remain in Australia for 6 months but the rates applied to calculate premiums are based on them living here for the rest of their lives. Since this is impossible applying the same actuarial tables is grossly inaccurate. The rate for SWs [seasonal workers] should be one-twentieth the rate for a comparable Australian worker.⁸⁸

9.89 The NFF noted that premiums were based on a number of factors such as the amount of wages and the cost of any claims,⁸⁹ adding:

This may be an indication that the harmonisation of workers compensation arrangements across the Commonwealth, States and Territories is an important issue and should be revived as a priority. There may be some scope for a system that takes into account the individual needs of particular categories of workers.⁹⁰

9.90 The DoE stated that all SWP participants must 'be employed in accordance with Australian workplace laws including the Fair Work Act and relevant work health and safety and workers' compensation laws.'⁹¹

9.91 On workers compensation, the DoE pointed out that it was primarily a State/Territory responsibility underpinned by legislation in each jurisdiction 'that places obligations on employers to ensure the health and safety of workers and to provide rehabilitation and workers' compensation for injured workers.'⁹²

Money transfers

9.92 Golden Mile No.1 Pty Ltd observed that SWP participants use money transfers when sending remittances back home. Golden Mile held the view that this was a costly exercise for employees and suggested either subsidising the money transfers or establishing an alternative.⁹³

88 Owen Pacific Workforce, *Submission 1*, p. 4.

89 National Farmers' Federation, *Submission 21.1*, p. 1.

90 National Farmers' Federation, *Submission 21.1*, p. 1.

91 Department of Employment, *Supplementary Submission 2.2*, p. 17.

92 Department of Employment, *Supplementary Submission 2.2*, pp. 17-18.

93 Golden Mile No.1 Pty Ltd, *Submission 20*, p. 1.

9.93 The International Labour Organization (ILO) Office for Pacific Island Countries called for 'assistance in negotiating lower remittance transfer rates with banks.'⁹⁴

9.94 DFAT commented that the remittances costs globally are high:

Unfortunately, the cost of remittances around the world are very high and they may be even higher in the Pacific. The Australian government is working, where we can, to address the issues which have increased the cost of remittances globally. That includes work through the G20. Specifically in the Pacific, we have funded a website⁹⁵ that provides a comparison of remittance costs, with the aim that knowing the competition should help lower the cost of remittances.⁹⁶

9.95 DFAT added that the website:

allows you to profile different rates for different amounts of money to send – so \$100 or \$200, because we find that the seasonal workers typically remit small amounts at a time – and it shows you what the total fees, charges and foreign exchange rates might look like when you send that. It is really simple. It is a table that shows you quite clearly what sending \$100 is going to cost you – if you want \$100 back in Tonga it is going to cost you, say, \$130 to send it from Australia – and it shows you the different channels. It has also allowed us to monitor the costs over time. So we know that over time the cost of remittances has fallen by approximately 19 per cent since we introduced the website.⁹⁷

94 International Labour Organization, Office for Pacific Island Countries, *Submission 31*, p. 3.

95 sendmoneypacific.org: An Australian and New Zealand Government funded website to compare costs when you send money from Australia, New Zealand or the United States of America to Fiji, Kiribati, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu or Vanuatu.

96 Ms Cawte, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 9.

97 Dr Bowman, Department of Foreign Affairs and Trade, *Transcript*, 13 November 2015, p. 9.

Additional suggestions

- 9.96 There were a few additional suggestions mentioned very briefly by submitters:
- SSPTEP suggested reducing or eliminating the fifteen per cent taxation rate for seasonal workers.⁹⁸
 - Papua New Guinea's Department of Labour and Industrial Relations called for expansion of the Panel of Medical Doctors⁹⁹ into Regional Centres to address issues of visa application for seasonal workers, providing increased participation for employers/farmers/labour contractors and communities with cultural linkages to PNG, and allowing SWP participants from PNG greater access to additional industries.¹⁰⁰
 - The MFAET recommended providing adequate resourcing the DoE.¹⁰¹

Committee comment

- 9.97 The Committee thanks all of the submitters who took the time to provide their comprehensive views on possible impediments to the Seasonal Worker Programme.
- 9.98 The Committee notes that worker compensation requirements are primarily a State/Territory responsibility and that the Federal Government has already taken steps to assist with the costs of sending remittances to Pacific Island countries.
- 9.99 The Committee does not believe that any further amendments to the current arrangements are required.

98 Secretary of State for Professional Training and Employment Policy, Democratic Republic of Timor-Leste, *Submission 6*, p. 2.

99 Immigration panel physicians. A panel physician is a doctor or a radiologist who has been approved by the Australian Government as a member of the panel to perform medical examinations on visa applicants who have applied from outside Australia. Medical examinations conducted outside Australia are only acceptable if conducted by a member of the Australian panel.

100 Papua New Guinea's Department of Labour and Industrial Relations, *Submission 29*, pp. 5-6.

101 Solomon Islands' Ministry of Foreign Affairs and External Trade, *Submission 7*, p. 3.