

## QUESTIONS ON NOTICE

### Joint Standing Committee on Migration, Seasonal Worker Programme 13 November 2015

#### Department of Employment

1. **Mr CRAIG KELLY:** That is the number of approved employers, but I would imagine some of the labour hire companies would have larger numbers of people than would, say, a particular approved employer who runs a small business or a farm.

**Ms Roach:** Yes. I do not have that information on me.

**Mr Hay:** We can put that together.

**Mr CRAIG KELLY:** Are there any trends in those statistics? From some of the anecdotal evidence we have heard, it may be easier for a small employer to go through a subcontractor to take all the paperwork out or the red tape out than actually doing it themselves. That is what we have heard anecdotally. I do not know whether that is showing up in your statistics.

**Dr Morehead:** We can take that on notice. We can get back to you on that. (p. 56)

#### Answer

There are 48 growers and accommodation providers that have directly recruited 33 per cent of seasonal workers. The remaining 21 approved employers operate under either a labour hire or contractor model and have recruited 67 per cent of seasonal workers under the programme.

Due to the ongoing expansion of the programme, it is not possible to identify trends in recruitment practices by approved employers.

All approved employers are responsible for both the administrative, legal and pastoral care responsibilities associated with the Seasonal Worker Programme.

#### Additional questions on notice

##### Question 2

Can the Department please provide the definition of accommodation as set out in the Deed of Agreement between the Department of Employment and an approved employer?

#### Answer

It is a requirement under the programme that accommodation is offered to seasonal workers in accordance with the recruitment plan submitted by approved employers seeking to recruit seasonal workers. Accommodation provided to seasonal workers must

meet all state/territory and local government regulations regarding fire, health and safety. In addition, the Department stipulates other requirements such as being clean and well-maintained, adequate laundry facilities, separate bathrooms for men and women and an adequate ratio of guest to bathroom facilities.

### **Question 3**

What is the number and proportion of seasonal worker participants who claim superannuation on returning home? What are the source countries for the participants? What is the length of time it takes for seasonal worker participants to claim superannuation?

### **Answer**

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.

### **Question 4**

The Committee has heard anecdotally that some growers may allegedly abuse their workers by under quoting on the number of kilos cut, which means that the labour hire firms pay the seasonal workers less.

- How is the programme monitored to guarantee seasonal workers a minimum average of 30 hours work per week?
- How is the programme monitored to guarantee seasonal workers are remunerated correctly?
- What processes does the Department have in place to detect and manage fraudulent behaviour within the programme?
- How does the Department monitor compliance?

### **Answer**

Approved employers must provide the Department of Employment with data to demonstrate a minimum average of 30 hours per week for all seasonal workers employed.

The Department of Employment has a dedicated contract management team that provides advice and information to approved employers, seasonal workers and community members about the Seasonal Worker Programme. The role of this team is to ensure compliance by approved employers with the terms in the Deed of Agreement. The Department of Employment uses a range of tools to monitor approved employers including information sharing with other Australian government agencies and monitoring activities (such as site visits) and liaison with labour sending units in participating countries. Information is also received through the Seasonal Worker Programme information line and mailbox and any allegations or concerns are followed up by the Department.

Where concerns have been identified, the Department can issue approved employers with a notice to report and/or a notice to rectify. The Department may impose additional reporting requirements, suspend an employer's ability to recruit workers under the programme or terminate their Deed for serious violations.

Any concerns with the data provided by employers can be referred for further investigation to the Fair Work Ombudsman to determine compliance with Australian workplace pay and entitlements. Further information on the role of the Fair Work Ombudsman can be found at paragraph 9.22 of the joint submission.

#### **Question 5**

Prior to submitting an application to the Programme, seasonal workers must finance the costs of passports and visas, health checks and transportation. Do you have a view on whether these costs could affect the uptake?

#### **Answer**

The programme was heavily subscribed when it was capped and seasonal workers do not have to finance all these costs prior to submitting an application to participate. Under the programme the approved employer must pay the full return international airfare and domestic transfer costs upfront for seasonal workers from their port of departure in the participating country through to the location of employment and accommodation in Australia. In some cases the employer may also assist with other costs such as for passports and visas.

Approved employers must pay the first \$500 towards a seasonal worker's international and domestic transportation costs, recovering the remainder of the cost through deductions from a worker's pay over the placement. All deductions for costs are outlined in the letter of offer to the seasonal worker which they must sign before they commence. Please note that the Department cannot express an opinion as Senate Standing Order 73.1 (h) states that questions shall not ask "for an expression of opinion".

### **Question 6**

Has the Department considered or analysed the implications of expanding the programme (a) to other countries, such as in south east Asian region; and (b) other industry sectors, such as tourism, hospitality, aged care, disability care, and childcare? If so, what are the findings of the analysis?

#### **Answer**

No.

### **Question 7**

The Office of the Chief Trade Advisor suggested that waiving visa fees for Pacific Island Workers would reduce costs associated with the Programme and assist both employers and workers. Do you have a view on this suggestion?

#### **Answer**

This question has been referred to the Department of Immigration and Border Protection for response.

### **Question 8**

Submitters have suggested that the availability of backpacker labour to conduct picking or other farm work may be competing with the Seasonal Worker Programme. How could the seasonal worker and backpacker programmes be reformed to better ensure a more level playing field?

#### **Answer**

The Seasonal Worker Programme is not a substitute for, or in competition with, the subclass 462 and 417 visas or local Australian workers. Its objectives are to:

- contribute to the economic development of participating countries through the provision of employment experience, skills and knowledge transfer and workers being able to send money back to their home countries through remittances; and
- assist Australian producers and employers who are unable to source enough local Australia workers to meet their seasonal labour needs by providing access to a reliable workforce, able to return in future seasons.

### **Question 9**

Has the Department developed any strategies to encourage greater participation by Australian employers in the Seasonal Worker Programme? Are there examples you could provide? Do you have any views on why farmers may prefer to hire backpackers?

### **Answer**

The Department of Employment has a range of communication and promotion strategies and works with key industry organisations and attends industry conferences to promote the Seasonal Worker Programme to Australian employers. For example in November 2015 representatives from the Department of Employment attended and delivered a presentation at the Citrus Australia conference in Melbourne.

The Department does not survey farmers on their preferences in regard to recruitment for seasonal labour. Please note that the Department cannot express an opinion as Senate Standing Order 73.1 (h) states that questions shall not ask “for an expression of opinion”.

### **Question 10**

Does the Department have any research to show that Australian workers are not interested in seeking work within the horticulture or agriculture sectors on a seasonal basis?

### **Answer**

The labour market testing results under the programme demonstrates the demand for labour by approved employers in the agriculture and accommodation industries exceeds that available locally.

### **Question 11**

The Committee has received evidence from dairy farmers and a plant nursery manager who say that their industries have not been admitted into the Seasonal Worker Programme. Would the Department like to comment on why some industries may be excluded from the programme?

### **Answer**

The industries eligible to participate in the programme are determined by Government policy. Changes to the Seasonal Worker Programme were announced by Government on 18 June 2015.

### **Question 12**

The criteria to become an 'approved employer' for the Seasonal Worker Programme are outlined in attachment B of your submission. How much information does the Department require to satisfy these criteria? How long does the process generally take to complete? How often is the 'approved employer' status reviewed?

#### **Answer**

The application process to become an approved employer under the programme takes approximately three months. Prospective employers must complete the application form at: <https://docs.employment.gov.au/documents/seasonal-worker-programme-application-form>.

An approved employer's status is reviewed every three years in line with the terms of the Deed of Agreement signed by the employer and the Department of Employment on behalf of the Australian Government.

### **Question 13**

Has the Department considered whether there is scope to improve the process to become an 'approved employer'? If so, what options have been considered?

#### **Answer**

From 1 July 2015, the Department made a number of administrative changes to the programme to reduce red tape and streamline processes including a new application form, referee form and a new Deed of Agreement.

### **Question 14**

What strategies or mechanisms is the Department implementing to increase the number of women participating in the Seasonal Worker Programme?

#### **Answer**

This question has been referred to the Department of Foreign Affairs and Trade for response.