



**Australian Government**

**Joint Standing Committee on Migration  
Inquiry into the Seasonal Worker Programme**

**Submission of the  
Department of Employment  
Department of Immigration and Border Protection  
Department of Agriculture  
Fair Work Ombudsman**

## Table of Contents

1. Introduction .....	3
Rationale for the establishment of the Seasonal Worker Programme.....	3
Overview of the Seasonal Worker Programme .....	4
Benefits from participation in the Seasonal Worker Programme .....	6
Protections and support for seasonal workers .....	7
2. The role of seasonal workers in the horticulture industry .....	9
jobactive.....	9
Seasonal Worker Programme .....	10
The Working Holiday Maker visa programme .....	11
Second Working Holiday initiative .....	12
3. Expanding the Seasonal Worker Programme .....	13
Countries.....	13
Sectors.....	13
4. The current and projected future workforce requirements for sectors that may benefit from seasonal workers .....	13
5. The impact on the Australian labour force of the current and projected Seasonal Worker Programme .....	14
6. The merits and challenges of increased recruitment of overseas workers, in particular providing increased access for women and youth workers. ....	15
Women.....	15
Youth.....	17
7. The role of the Seasonal Worker Programme in supporting development assistance in the Pacific .....	18
8. Any legislative and other impediments to attracting seasonal workers .....	18
9. The visa regime for seasonal worker Programme including compliance and related issues .....	19
Visa Framework .....	19
Fair Work Ombudsman Compliance Activities .....	21
Superannuation.....	22
Attachment A.....	23
Attachment B .....	24
Attachment C .....	25
Attachment D.....	26
Attachment E .....	27
Attachment F .....	39

## 1. Introduction

- 1.1 The Departments of Employment, Immigration and Border Protection and Agriculture and the Fair Work Ombudsman welcome the opportunity to make a joint submission to the Joint Standing Committee on Migration inquiry into the Seasonal Worker Programme. The Department of Foreign Affairs and Trade will be making a separate submission to the inquiry.
- 1.2 The submission focuses on the Committee's terms of reference for the inquiry, the operation of the programme to date and changes that were recently announced by the Australian Government that will impact on the future of the programme.

### Rationale for the establishment of the Seasonal Worker Programme

- 1.3 The Seasonal Worker Programme commenced on 1 July 2012. It is a Pacific-focussed programme designed to provide small island countries with opportunities for economic development. The programme provides eligible citizens from eligible countries with the opportunity to undertake low and unskilled seasonal work in Australia.
- 1.4 The Seasonal Worker Programme was established because:
  - many Pacific island countries and Timor-Leste have limited economic opportunities; and
  - Australian employers in the horticulture sector have difficulties in filling seasonal vacancies with suitable local labour.
- 1.5 The Seasonal Worker Programme builds on the Pacific Seasonal Worker Pilot Scheme (Pilot), which concluded on 30 June 2012 after running for three and a half years. The programme provides seasonal labour mobility arrangements with nine Pacific island countries and Timor-Leste (a list of countries is at **Attachment A**).
- 1.6 The design of the programme is based on principles that are supported by the World Bank.<sup>1</sup> Similar principles support a seasonal worker scheme in New Zealand. The principles for the Seasonal Worker Programme are:
  - the opportunity for seasonal workers to benefit financially from their participation in the programme
  - meeting the needs of approved employers, who can demonstrate an unmet demand for labour and a commitment to employing Australian job seekers
  - mutual contribution by approved employers and seasonal workers, leading to a shared investment in positive outcomes for participants
  - circular migration to provide for the return of seasonal workers in subsequent seasons and to further develop productivity outcomes for participants; and
  - to provide protection, community and government support that maximises the potential benefits for seasonal workers and minimises the potential for exploitation of seasonal workers.

---

<sup>1</sup> Gibson, J & McKenzie, D, Australia's Pacific Seasonal Worker Pilot Scheme: Development Impacts, 2011

- 1.7 From 1 July 2015, the Government has announced changes to the Seasonal Worker Programme as part of the Northern Australia White Paper *Our North, Our Future: A Vision for Developing Northern Australia* package of reforms. The Government announced the following changes that impact on the delivery of the programme:
- expand to the broader agriculture sector across Australia and also the accommodation sector in eligible locations. The Northern Australia tourism industry will be invited to put forward proposals to trial seasonal labour mobility arrangements in the tourism sectors beyond accommodation
  - remove the annual cap on programme places while maintaining safeguards for the Australian labour market. This includes delegating discretion to the Minister for Employment 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 rates. As well, a review by the Department of Employment will be undertaken by mid 2017 into whether Australian job seekers are disadvantaged by the expansion of the programme
  - expand the programme to other Pacific island countries which are members of the Pacific Island Forum
  - reduce red tape associated with the programme. This includes removing the minimum stay requirement of fourteen weeks, simplifying cost sharing arrangements by combining the employer's contribution to the seasonal worker's international and domestic airfare to a total of \$500 and a commitment to review the training component for seasonal workers
  - allow citizens of Kiribati, Nauru and Tuvalu to be granted a longer-term visa enabling them to undertake seasonal work in Australia for up to nine months.

### Overview of the Seasonal Worker Programme

- 1.8 The Department of Employment leads the whole of government implementation of the Seasonal Worker Programme and is supported by the Department of Foreign Affairs and Trade, the Department of Immigration and Border Protection, the Department of Agriculture, Austrade and the Fair Work Ombudsman.
- 1.9 The Seasonal Worker Programme has until 1 July 2015 been a capped initiative. The annual caps allocated 80 per cent of places to the horticulture sector and 20 per cent to four trial sectors: aquaculture, cane, cotton and accommodation. The caps are outlined in **Table 1**. The sector caps were removed by the Minister for Employment on 20 February 2015 for the remainder of 2015–16. The horticulture and trial sector caps were merged so that approved employers could draw on places from one pool. This was to address increased demand from the horticulture sector.
- 1.10 A place is filled when a seasonal worker receives an employment offer and is granted a visa allowing the seasonal worker to travel to Australia to take-up the pre-arranged seasonal employment opportunity. An approved employer may only make an offer of employment if there is unmet demand for seasonal labour and the employer has first tried to recruit Australian jobseekers to fill this demand.

**Table 1:** Seasonal Worker Programme take up of places by year under the capped programme

	<b>2012–13</b>	<b>2013–14</b>	<b>2014–15*(as at 31 May 2015)</b>
<b>Horticulture</b>	1452 of 1600 capped places	1979 of 2000 capped places	2755 of 2600 capped places (noting places from the trial sector have been used)
<b>Trial sectors of aquaculture, cane, cotton and accommodation</b>	21 of 400 capped places	35 of 500 capped places	46 of 650 capped places
<b>Totals</b>	<b>1473</b>	<b>2014</b>	<b>2801 as at 31 May (as at 31 May 2015)</b>

\* Minister for Employment announcement on 20 February 2015 to merge horticulture and trial sector caps for the remainder of 2015–16.

**Table 2:** Seasonal Worker Programme places by year and country

<b>Citizenship Country</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15 to 31 May 2015</b>	<b>Total</b>
<b>Fiji</b>	0	0	< 5	< 5
<b>Kiribati</b>	34	14	11	59
<b>Nauru</b>	10	0	0	10
<b>Papua New Guinea</b>	26	26	35	87
<b>Samoa</b>	22	162	175	359
<b>Solomon Islands</b>	42	9	21	72
<b>Timor-Leste</b>	21	74	168	263
<b>Tonga</b>	1 199	1 497	1 883	4 579
<b>Tuvalu</b>	0	20	7	27
<b>Vanuatu</b>	119	212	497	828
<b>Total</b>	<b>1 473</b>	<b>2 014</b>	<b>2 801</b>	<b>6 288</b>

Source: Department of Immigration and Border Protection, 2015 (BE8421.01)

Note 1: Figures are subject to variation

Note 2: Fiji joined the Seasonal Worker Programme in April 2015

- 1.11 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. 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.
- 1.12 Participation in the Seasonal Worker Programme is voluntary:
  - countries invited to participate are not required to participate in the programme; and
  - employers in Australia and seasonal workers in participating countries choose to participate in the programme.

- 1.13 Under the Seasonal Worker Programme, invited countries enter into a Memorandum of Understanding with the Australian Government. The Memorandums of Understanding establish the labour sending and labour receiving arrangements for the Seasonal Worker Programme.
- 1.14 To become an 'approved employer' to recruit seasonal workers under the Seasonal Worker Programme, Australian employers complete an application form and lodge it with the Department of Employment. Employers that meet the programme's criteria (**Attachment B**) are offered a Deed of Agreement which comes into effect when the employer completes and receives Special Programme Sponsorship (Visa subclass 416) with the Department of Immigration and Border Protection. The Deed of Agreement sets out the employer's obligations under the Seasonal Worker Programme.
- 1.15 Before seeking access to seasonal workers, employers must first test the local labour market in Australia and offer vacant positions to any suitable local jobseekers. Positions must be advertised for a two week period and within three months of an employer seeking to bring seasonal workers into Australia.
- 1.16 Participating countries have different labour recruitment and selection models in place for participation in the Programme. For example, some countries use recruitment agents, while others may source prospective seasonal workers through direct recruitment by the approved employer or through a work ready pool by the department within the relevant country with oversight of labour sending arrangements. Some countries use a combination of recruitment mechanisms.
- 1.17 There are administrative costs for employers seeking to participate in the Seasonal Worker Programme. Employers that are approved to participate in the programme are responsible for organising flights, transport and accommodation for workers. Employers are responsible for the first AUD\$500 of international and domestic travel expenditure. The employer is able to recoup amounts over this contribution through deductions to the seasonal workers' pay. The Department of Employment is working with the Department of Foreign Affairs to support a study into the relative productivity of seasonal workers and the costs and benefits for employers participating in the programme.

### Benefits from participation in the Seasonal Worker Programme

- 1.18 There are demonstrated benefits for approved employers, seasonal workers and their families and Pacific island and Timor-Leste local economies from participation in the Seasonal Worker Programme. World Bank research in Vanuatu and Tonga in 2011–12 showed that there have been improvements from participation in the programme in relation to income, education investment, income through remittances and the ability to endure shocks to the economy.<sup>2</sup>
- 1.19 This research also outlined additional economic and social development impacts of seasonal workers travelling to Australia under the Pacific Seasonal Worker Pilot Scheme (the predecessor programme to the Seasonal Worker Programme):

---

<sup>2</sup> Gibson, J & McKenzie, D, *Australia's Pacific Seasonal Worker Pilot Scheme: Development Impacts*, 2011

- Many of the participating seasonal workers are poor by global standards, with 16 per cent living in households earning less than US\$1 per capita per day and 40 per cent in households earning less than US\$2 per day.
  - A typical seasonal worker earned AUD\$12,000-\$13,000 in Australia, of which approximately AUD\$5,000 was remitted. After taking account of opportunity costs and what seasonal workers would have contributed to household production in their home countries, seasonal workers had an average net gain of AUD\$2,600. On average workers spent six months working in Australia.
  - The seasonal workers who participated in the programme benefitted by reasonably large financial earnings, increasing annual incomes for their households by almost 40 per cent.
  - The seasonal workers were reasonably content with their experiences and all (surveyed) said they would recommend the programme to other workers from their villages.
  - It would be reasonable to expect broader positive impacts on household durable asset acquisition, subjective standard of living and secondary school attendance.<sup>3</sup>
- 1.20 An additional longer term evaluation of the development impacts of the Seasonal Worker Programme by the World Bank is underway through funding by the Department of Foreign Affairs and Trade (*Seasonal Worker Programme Development Impact Evaluation 2015–16*).
- 1.21 Employers using the Seasonal Worker Programme report efficiencies by having access to a temporary workforce with reduced absenteeism, staff turnover, supervision and training requirements, when compared to Working Holiday Makers.<sup>4</sup>
- 1.22 The programme also provides seasonal workers with the opportunity to access Add-On Skills Training. This is training funded by the Australian Government. Training may include English literacy and numeracy, information technology (computer) skills and First Aid training. Returning workers may receive an assessment for Recognition of Prior Learning towards a nationally accredited Certificate One or Two in the sector that they have been working in, for example horticulture or accommodation. The Government announced there will be a review of training for seasonal workers as part of the Northern Australia White Paper's package of reforms.

### Protections and support for seasonal workers

- 1.23 Workers invited to participate in the Seasonal Worker Programme are employed under a temporary special programme visa (subclass 416). Eligibility criteria for seasonal workers participation in the programme is at **Attachment C**.
- 1.24 There are protections and monitoring arrangements in place under the Seasonal Worker Programme, including guaranteeing a seasonal worker a minimum average of 30 hours of work per week and a net financial benefit from participation in the programme of at least \$1,000 for the period of employment.

---

<sup>3</sup> Gibson, J & McKenzie, D, *Australia's Pacific Seasonal Worker Pilot Scheme: Development Impacts*, 2011

<sup>4</sup> Leith, R and Davidson, A, "*Measuring the efficiency of horticultural labour: Case Study on seasonal workers and working holiday makers*", Australian Bureau of Agricultural and Resource Economics and Sciences, 2013

- 1.25 Seasonal workers under the Programme are employed under standard Australian workplace relations and work health and safety laws. They are subject to the same protections as Australian workers. Australian workplace laws (including awards, agreements, workers' compensation and work health and safety) apply to seasonal workers in the same manner as they do to Australian employees. Most seasonal workers employed in horticulture are paid piece rates under the relevant modern award for the industry in which they are employed. The Horticulture Award 2010 can be accessed at: [https://www.fwc.gov.au/documents/documents/modern\\_awards/award/ma000028/default.htm](https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000028/default.htm)
- 1.26 The Australian Government has Memoranda of Understanding with all participating countries. The implementation arrangements that come under the Memorandum of Understanding with each country set out the requirements for participating countries. For example, information is provided on labour market testing, accommodation, selection of suitable candidates, the visa application process, pre-departure briefings, being prepared for workers arrival, on-arrival briefings for seasonal workers and unexpected events and incidents.
- 1.27 The Department of Employment in partnership with other agencies monitors the employment of seasonal workers to make sure approved employers are meeting their obligations under the Seasonal Worker Programme and workers are employed in accordance with Australian work standards – this includes relevant industrial instruments, tax and superannuation requirements.
- 1.28 Approved employers under the programme must submit a recruitment plan to the Australian Government for recruitment of each tranche of seasonal workers, before approval to recruit workers is granted. The recruitment plan must detail work, accommodation, transport and pastoral care arrangements.
- 1.29 Seasonal workers participating in the Seasonal Worker Programme receive a pre-departure briefing delivered by the labour sending country and an on-arrival briefing delivered by their employer. The Australian Government provides information to partner countries and employers to assist them to deliver these briefings. These briefing covers topics related to living and working in Australia such as workplace laws, the Australian culture, the role of the Fair Work Ombudsman (FWO), the role of unions and taxation and superannuation arrangements.
- 1.30 The Department of Employment also conducts workplace visits from time to time, to support compliance with the programme and to provide seasonal workers with an opportunity to raise any concerns in person. For example, in financial year 2014–15 the Department of Employment conducted nine workplace visits.
- 1.31 Concerns with pay arrangements are referred to the FWO, which also has a dedicated inbox for the programme ([seasonalworkerprogram@fwo.gov.au](mailto:seasonalworkerprogram@fwo.gov.au)).
- 1.32 Seasonal workers are notified of the Seasonal Worker Hotline (02 6240 5234) while in Australia, should they require assistance.
- 1.33 In support of the programme, the FWO has been involved since its inception as the Pacific Seasonal Worker Pilot Scheme in 2008. The FWO contributes to the integrity of the programme by investigating complaints in relation to the payment of minimum wages and



employment conditions of seasonal workers contained in the *Fair Work Act 2009* and relevant industrial instruments. The FWO offers specialised services to programme participants including:

- tailored advice to employers and seasonal workers
- developing and maintaining relationships with new approved employers
- providing a single expert contact point and priority service channel to deliver advice quickly to approved employers
- providing relevant educational resources to approved employers to assist them to understand their obligations under Commonwealth workplace laws
- conducting face-to-face briefings for groups of new seasonal workers; and
- providing in-language factsheets and other educational resources to new seasonal workers.

## 2. The role of seasonal workers in the horticulture industry

- 2.1 Seasonal workers employed in the horticulture sector undertake a variety of roles. These include picking, packing, thinning and pruning citrus, apple, grapes, berries, nuts and a variety of vegetables. More detail on the type of work undertaken by seasonal workers is at **Attachment D**.
- 2.2 The horticulture industry faces dramatic but predictable seasonal peaks in demand for labour. During harvest the numbers of workers required by horticulture enterprises typically increases more than ten-fold, from a small base of permanent staff.
- 2.3 The peak in labour demand is often regionally concentrated, as the crops of a number of enterprises across a region will ripen and require harvesting at similar times. For example, the 2006 Senate report, *Perspectives of the future of the harvest labour force*, reported that growers in the Goulburn Valley needed around 2,000 pickers per week during an eight week period to harvest a pear crop of around 140,000 tones.
- 2.4 The temporary and acute nature of this demand means that it is often not possible for industry to develop permanent local labour pools, despite attempts to source both local job seekers and other Australian labour. Under the Seasonal Worker Programme, businesses are provided with an opportunity to organise a team of seasonal workers in advance of the season.
- 2.5 The Australian Government supports seasonal work in the horticulture industry through the following arrangements:
  - jobactive, including Harvest Labour Services and the National Harvest Labour Information Service
  - the Seasonal Worker Programme and
  - Working Holiday Makers.

### jobactive

- 2.6 On 1 July 2015, the new employment service arrangements, jobactive, commenced. jobactive replaces Job Services Australia. It provides five services:

- jobactive organisations assist job seekers to find and keep a job and ensure employers are receiving candidates that meet their business needs
  - Work for the Dole Coordinators source suitable Work for the Dole activities in not-for-profit organisations such as local councils, schools, community organisations and state and federal agencies to help prepare job seekers for the work environment
  - The New Enterprise Incentive Scheme helps eligible job seekers to start and run their own small business with support including accredited business training, business advice and mentoring for up to 52 weeks as well as allowance for up to 39 weeks; and
  - Harvest Labour Services and the National Harvest Labour Information Service.
- 2.7 Harvest Labour Services provides between 20,000–24,000 placements annually. Harvest Labour Services operate in specific harvest locations and place people legally able to work in Australia into harvest jobs. Workers are referred by Harvest Labour Service providers to a harvest position which could involve harvesting, cleaning or packing of horticultural products and operating harvest equipment. Harvest Labour Services help with ongoing advice and information about seasonal harvest work in regions across the country and screen job seekers to make sure they are able to work in Australia and are suitable for harvest employers.
- 2.8 The majority of Harvest Labour Service placements are not filled by unemployed Australians. Department of Employment records indicate that the majority of placements are backpackers on Working Holiday Maker visas (417 and 462).
- 2.9 A National Harvest Labour Information Service including a website and telephone service also operates to market and promote harvest labour opportunities to job seekers across Australia. The service provides comprehensive, up-to-date information about harvest work and works with stakeholders to promote harvest work opportunities.

### Seasonal Worker Programme

- 2.10 Interest in the Seasonal Worker Programme by the horticulture sector has been increasing over time. In 2013-14, 99 per cent of the 2,000 places available to the sector were filled through the Seasonal Worker Programme. This increased demand was a critical factor in the Government's decision to merge the caps under the horticulture and trial sectors in 2015–16. Increasing demand for seasonal workers under the programme by this sector is likely to remain into the future.
- 2.11 Increasing participation in the Seasonal Worker Programme by the horticulture sector is likely to be due to the industry's increasing awareness about the programme through tailored communication activities by the Department of Employment and past recruitment patterns by approved employers. For instance, employment patterns by approved employers demonstrate they will trial a small number of seasonal workers and increase recruitment in subsequent recruitment years, subject to satisfying the requirement to test the local labour market.
- 2.12 **Table 1** shows that the horticulture sector's demand for seasonal workers under the programme is increasing over time.
- 2.13 In the absence of sufficient local labour, Working Holiday Makers provide a large and fluid workforce, without the same business administrative costs when compared with the Seasonal Workers Programme. The key cost of employing Working Holiday Makers appears

to be the high turnover of these workers (including search costs, visa checks and induction). These workers' primary motivation for travelling to Australia is not to work<sup>5</sup>.

- 2.14 The Leith and Davidson study on the relative efficiency of Working Holiday Makers and workers hired under the Seasonal Worker Programme, found that seasonal workers were, on average, significantly more efficient than Working Holiday Makers.
- 2.15 Findings of the study suggest that fewer seasonal workers than Working Holiday Makers were required to harvest a crop. The findings showed that:
- seasonal workers were 22 per cent more efficient (harvesting fruit at a faster rate) than Working Holiday Makers and this difference was found to be statistically significant; and
  - returning seasonal workers were 12 per cent more efficient than new (first-time) seasonal workers, however, there was insufficient data to test the statistical significance of this difference.<sup>6</sup>
- 2.16 The study made no conclusions about profitability, which would require consideration of non-wage costs and their frequency, in order to determine whether the benefits of having a more efficient workforce hired under the Seasonal Worker Programme offset the additional administrative costs as outlined in 2.12.
- 2.17 There are also risks associated with Working Holiday Makers and seasonal workers that farmers need to balance. Until 1 July 2015, the Seasonal Worker Programme required employers to commit well in advance to providing 14 weeks of work (this requirement will be removed from 1 July 2015). Employers may incur higher costs from managing a larger team of Working Holiday Makers. Businesses that choose to employ large numbers of Working Holiday Makers at short notice during a harvest season risk being unable to find adequate labour within tight harvesting and marketing timeframes.
- 2.18 The number of seasonal workers is small compared to the number of Working Holiday Makers and people placed under other government initiatives.
- 2.19 While there has been no comprehensive study of productivity impacts of the Seasonal Worker Programme to date, there is a strong belief amongst approved employers and industry stakeholders that the programme delivers productivity benefits to participating employers. As referred in 1.17 there will soon be a study commencing on the relative productivity of seasonal workers being undertaken. Further research into how to make the best use of Australian job seekers, Working Holiday Makers and seasonal workers from a productivity perspective could be useful in being able to better understand regional and industry demand over future years.

### **The Working Holiday Maker visa programme**

- 2.20 Australia's Working Holiday Maker visa programme fosters tourism and cultural exchange by allowing participants from Australia and partner countries to travel to one another's country for an extended holiday, during which they may engage in short term work and study. The programme consists of two visa subclasses, the Working Holiday (subclass 417)

---

<sup>5</sup> Leith, R and Davidson, A, *"Measuring the efficiency of horticultural labour: Case Study on seasonal workers and working holiday makers"*, Australian Bureau of Agricultural and Resource Economics and Sciences, 2013

<sup>6</sup> Leith, R and Davidson, A, *"Measuring the efficiency of horticultural labour: Case Study on seasonal workers and working holiday makers"*, Australian Bureau of Agricultural and Resource Economics and Sciences, 2013

and the Work and Holiday (subclass 462) visa. In 2013-14, there were 239 592 Working Holiday Maker visas granted to participants.

- 2.21 Some Australian industries, particularly highly seasonal ones such as agriculture and tourism, rely heavily on Working Holiday Maker visa holders to meet their often rapidly changing short term labour needs. The second Working Holiday initiative was specifically established by the Government to assist the agriculture sector with such needs.

### Second Working Holiday initiative

- 2.22 In 2005, the Department of Immigration and Border Protection established the second Working Holiday (subclass 417) visa initiative as part of a wider government package of measures to address acute ongoing labour shortages in certain industries across regional Australia. Under the initiative, a participant can acquire eligibility for a second Working Holiday visa by undertaking three months of 'specified work' in regional Australia while on their first working holiday visa. The initiative thus creates an incentive to perform work in particular industries and regions, but does not obligate participants to do so, and participation in the initiative is voluntary.
- 2.23 'Specified work' currently includes employment activities in Agriculture, Mining and Construction industries. It was originally exclusive to the horticulture industry, but was expanded in 2006 to include agriculture more generally and to the mining and construction industries in 2008. Regional Australia is defined by a list of postcodes developed in 2004–05 in consultation with state and territory governments. These postcodes cover almost all of Australia, with the exception of greater Brisbane, Melbourne, Perth, Sydney, Newcastle, Wollongong and the Central Coast.
- 2.24 The primary beneficiary of the initiative since its inception has been the agriculture industry. Since 2005, the vast bulk of the work performed by participants each year under the initiative has been agricultural in nature, with around 90 per cent of participants engaging in such work. Around 8-9 per cent performed work in the Construction industry and around 1-2 per cent in the Mining industry. In 2013–14, there was 45,950 second Working Holiday visas granted under the initiative. **Table 3** below shows the number of Second Working Holiday visa grants and their growth rates.

**Table 3:** Second Working Holiday visa grants and growth rates

Year*	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
Visa grants	2,692	7,822	11,826	21,775	25,315	22,500	30,501	38,862	45,950
% Growth	n/a	+290.6	+51.3	+84.1	+16.3	-11.1	+35.6	+27.4	+18.2

\*A programme year runs from 1 July to 30 June

Further statistical information can be found on the Department of Immigration and Border Protection website at: <http://www.immi.gov.au/pub-res/Pages/statistics/visitor-programme-statistics.aspx>

### **3. Expanding the Seasonal Worker Programme**

#### **Countries**

- 3.1 The Department of Foreign Affairs and Trade has addressed expanding the Seasonal Worker Programme to other countries in its submission to the Inquiry.

#### **Sectors**

- 3.2 The parameters of the Seasonal Worker Programme are designed to support seasonal and regional placements in low skilled and unskilled occupations. These parameters ensure the programme is targeted to areas of the economy that cannot be met from Australian labour.
- 3.3 There are restrictions in terms of industries that would benefit from participation in the Seasonal Worker Programme. There has been interest by stakeholders in the construction, child care and aged care industries in participation in the Seasonal Worker Programme but these industries are not constrained by seasonal peaks and troughs which limit the supply of Australian labour.
- 3.4 The recently announced changes will see the Seasonal Worker Programme expand from horticulture to agriculture, the accommodation sector on an ongoing basis and the trial in northern Australia for tourism. The occupations that will be able to be taken up by seasonal workers in these sectors will be consistent with the principles of the programme in terms of their seasonality and skill level.
- 3.5 An additional measure announced in Northern Australia is a new pilot programme for workers from the Pacific microstates of Kiribati, Nauru and Tuvalu to help address unmet labour demands in northern Australia.
- 3.6 This new five year pilot programme led by the Department of Foreign Affairs and Trade will provide up to 250 citizens from the Pacific microstates access to a multi-year visa (that is up to two years) to work in lower skilled occupations in selected industries in the north. The programme will target non-seasonal industries where access to Australian workers is very difficult, in turn supporting northern Australia's economic development. The programme will strengthen Australian's foreign policy objectives in the Pacific, including by encouraging enduring links with the region. The programme will also support Pacific Microstates' interests in expanding employment opportunities for their citizens, and provide an opportunity for individuals to gain skills and experience not available in their home countries.

### **4. The current and projected future workforce requirements for sectors that may benefit from seasonal workers**

- 4.1 The future of the agriculture sector is closely linked to growth and consumer trends in overseas markets. Australia's geographical location allows for counter-seasonal productions for northern hemisphere markets and relatively low transportation costs for exporting to Asia. This places Australia in a good position to meet a share of the increased food demand from Asian countries with strong economic growth.
- 4.2 Australian Bureau of Agricultural and Resource Economics and Sciences predicts average growth of 1.3 per cent per year in the real value of global food demand from US\$2.9 trillion

in 2007 to US\$5 trillion by 2050 – an overall increase of 75 per cent, with much of the growth occurring in Asia.

- 4.3 An overview of labour market conditions by the Department of Employment in the industry sectors in scope for the Seasonal Worker Programme is at **Attachment E**.
- 4.4 While labour market data can be useful in understanding broad trends, they may not reflect the circumstances of individual employers. For example, even when conditions in an industry or in the labour market as a whole are soft, some employers will have difficulty filling positions with particular requirements or in particular locations. Accordingly, labour market data cannot be the only consideration in government policy decisions about which employers should be eligible for programmes which would assist them to source the labour they require.
- 4.5 There are recognised data gaps in measuring seasonal labour demand, recruitment difficulties and labour shortages in Australia. The Department's employer surveys do not collect data on seasonal labour and there are challenges in using the data available. For example:
- data collected in one seasonal peak period may not reflect the circumstances in subsequent years (particularly in uncertain economic and variable climatic conditions) and findings can lose their currency before the next peak season commences;
  - seasonal labour market conditions can vary considerably by location – data therefore needs to be regionally specific;
  - it can be difficult to assemble a sample of employers who use seasonal labour in many regions, which is sufficiently large to produce reliable results; and
  - employers in the Agriculture sector have proven difficult to contact because they work long hours outside their home.
- 4.6 These limitations should be kept in mind when considering the analysis at **Attachment E**.

## 5. The impact on the Australian labour force of the current and projected Seasonal Worker Programme

- 5.1 As noted in section 2.18, workers on the Seasonal Worker Programme represent a very small proportion of labour in the current predominant area of harvest work. Most, if not all, of these workers are unlikely to be counted in the ABS Labour Force statistics because most would not fulfil the requirement for being counted as part of the usual resident population (being resident in Australia for at least 12 out of the last 16 months).
- 5.2 Due to the seasonal and temporary nature of the work, workers on the Seasonal Worker Programme mainly compete with other temporary visa holders such as Working Holiday Makers (backpackers) rather than local job seekers for available jobs.
- 5.3 As shown in **Table 1** of this submission, there were 2014 places taken up on the Seasonal Worker Programme for 2013-14 (the final figure for 2014-15 is not yet available). This represents 0.02 per cent of the Australian labour force for that year.
- 5.4 However, it is arguable that the output by workers on the Seasonal Worker Programme has beneficial flow-on effects for job opportunities for local job seekers for example, by seasonal workers purchasing goods and services in the area they are working in.

- 5.5 Demand for a seasonal labour force is dependent on a range of factors including weather conditions and commodity prices. Agriculture has faced a series of challenges over the last 15 years. With the onset of the drought, employment in the sector fell by 70,300 (or 18.2 per cent) between November 2001 and November 2002. The level of employment in the sector remained relatively steady over the following decade, until the devastating floods in early 2011 which, combined with a high Australian dollar, saw employment fall by 51,500 (or 17.1 per cent) between November 2010 and May 2013. Since May 2013, however, employment in the sector has recovered somewhat, growing by 29,700 (or 11.9 per cent).<sup>7</sup>
- 5.6 The Department of Employment expects the expansion of the Seasonal Worker Programme to the broader agricultural sector across Australia and also the accommodation sector in eligible locations will have a very limited effect on the Australian labour force. This is because before seeking access to seasonal workers, employers must first test the local labour market and offer vacant positions to any suitable local jobseekers first for a minimum of two weeks. The job advertisement can be lodged for up to three months before the position's commencement date.
- 5.7 The Minister for Employment is also able 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 rates. A review will also be conducted by the Department of Employment by mid 2017 on whether Australian job seekers are disadvantaged by the expansion of the programme.

## **6. The merits and challenges of increased recruitment of overseas workers, in particular providing increased access for women and youth workers.**

### **Women**

- 6.1 An analysis of Seasonal Worker Programme data shows that participation by women in sectors outside of accommodation is between ten to twenty per cent of workers recruited under the programme per annum. Accommodation sector recruitment under the programme in 2014–15 shows that of the 46 workers, 22 were female.
- 6.2 Seasonal Worker Programme data at **Table 4** also show a different rate of participation by women depending on the participating country and this may suggest a gender bias by the sending country. As outlined in their separate submission the Department of Foreign Affairs and Trade will be conducting a pilot programme aimed at improving the participation of women.

---

<sup>7</sup> ABS, *Labour Force, Australia, Detailed, Quarterly*, cat. no. 6291.0.55.003, February 2015

**Table 4:** Seasonal Worker Programme places by country and gender

	2012-13			2013-14			2014-15 to 31/05/15		
Citizenship Country	Female	Male	Total	Female	Male	Total	Female	Male	Total
Fiji	0	0	0	0	0	0	0	< 5	< 5
Kiribati	10	24	34	0	14	14	0	11	11
Nauru	< 5	8	10	0	0	0	0	0	0
Papua New Guinea	7	19	26	6	20	26	8	27	35
Samoa	< 5	18	22	6	156	162	< 5	172	175
Solomon Islands	13	29	42	0	9	9	0	21	21
Timor-Leste	10	11	21	19	55	74	39	129	168
Tonga	138	1 061	1 199	175	1 322	1 497	240	1 643	1 883
Tuvalu	0	0	0	13	7	20	0	7	7
Vanuatu	30	89	119	32	180	212	86	411	497
<b>Total</b>	<b>214</b>	<b>1 259</b>	<b>1 473</b>	<b>251</b>	<b>1 763</b>	<b>2 014</b>	<b>376</b>	<b>2 425</b>	<b>2 801</b>

Source: Department of Immigration and Border Protection, 2015 (BE8421.02)

6.3 Data from the Australian Bureau of Statistics (ABS) illustrate that the **Agriculture, forestry and fishing** industry has a gender segregated workforce. Women represent 32 per cent of all employees in **Agriculture, forestry and fishing**, but the majority of part-time employees (60 per cent) in the industry are women<sup>8</sup>. **Table 5** shows male and female participation by selected industry sectors.

6.4 ABS data also shows that in 2014-15:

- When looking at just the '**Agriculture**' sector, women's share of employment increased to 34 per cent of all employees.
- Within the '**Fruit and tree nut growing**' subsector of agriculture around one in three (35 per cent) of all employees in Fruit and tree nut growing are women.

6.5 The **Accommodation and food services** industry gender pay gap is 2.3 per cent, indicating that female employees in the industry earn slightly less, on average, than male employees.<sup>9</sup>

- However, this is less than the Australia-wide gender pay gap of 12.1 per cent. This result may reflect the high rate of award-reliance in the **Accommodation and food services** industry, since award-reliant employees generally exhibit a smaller gender pay gap.

<sup>8</sup> Australian Bureau of Statistics. 2015. 6291.0.55.003 *Labour Force, Australia, Detailed, Quarterly, May 2015*.

<sup>9</sup> Australian Bureau of Statistics. 2015. 6306.0 *Employee Earnings and Hours, Australia, May 2014*



**Table 5:** Male and Female share of employment by Selected industry sectors

Shares of Employment by Selected industry sectors	Male share (per cent)	Female share (per cent)
<b>Agriculture, Forestry and Fishing</b>	67.8	32.2
Agriculture	66.2	33.8
Nursery and Horticulture Production	64.4	35.6
Mushroom and Vegetable Growing	54.1	45.9
Fruit and Tree Nut Growing	65.4	34.6
Sheep, Beef Cattle and Grain Farming	69.3	30.7
Other Crop Growing	74.1	25.9
Dairy Cattle Farming	61.9	38.1
Poultry Farming	56.7	43.3
Deer Farming	n/a	n/a
Other Livestock Farming	62.4	37.6
<b>Accommodation and Food Services</b>		
Accommodation	44.9	55.1
Food and Beverage Services	36.8	63.2
<b>All Industries</b>	54.1	45.1

Source: ABS Labour Force, Australia, *Detailed Quarterly*, cat. no. 6291.0.55.008 four quarter average of original data (August 2014 to May 2015)

## Youth

- 6.6 It is reported that young people account for the majority of unemployment in the Pacific region. On average 45% of the population is in the 15-24 age bracket<sup>10</sup>. The youth share of total unemployment figures ranges from 39 to 69 per cent. It has been reported that the rate of population growth creates difficulties finding employment 'for the growing number of young and relatively better educated people with aspirations beyond village-based and family-oriented agricultural and fishing activities.'<sup>11</sup>
- 6.7 In Australia, labour market conditions for youth (persons aged 15-24) deteriorated significantly at the onset of the Global Financial Crisis (GFC) and have struggled to recover ever since. For instance, the youth unemployment rate has risen from 8.8 per cent in September 2008 to 13.4 per cent in May 2015, more than double the rate for all persons (6.0 per cent).
- 6.8 In addition, the number of Australian youth in employment has fallen from 1,9,16,400 in September 2008 to 1,823,500 in May 2015, which has been due, entirely, to a substantial fall in full-time employment (down by 207,500 or 19.3 per cent), while part-time employment has risen (by 109,400 or 12.9 per cent).

<sup>10</sup> The World Bank, *Pacific Islands Labour Market Note*, 2011

<sup>11</sup> Senate Foreign Affairs, Defence and Trade Committees – Economic challenges facing Papua New Guinea and the island states of the southwest Pacific, 2009, 23 November 2011

- 6.9 On a positive note, the current soft labour market conditions have also been associated with an increase in youth participation in full-time education, up from 47.2 per cent in September 2008, to stand at 51.9 per cent in May 2015, the equal highest rate on record. That said, the deterioration in labour market conditions for youth since the GFC has occurred concurrently with a considerable weakening in employment outcomes from domestic graduates across tertiary sectors over the last five years.
- 6.10 As Australian employers must first test the local labour market before recruiting seasonal workers it is not likely that workers on the Seasonal Worker Programme displace local youth from available jobs.
- 6.11 Nevertheless, to participate in the Seasonal Worker Programme, workers must be at least 21 years of age. This helps to ensure that seasonal workers are not employed on youth wages which may jeopardise placement of young Australian jobseekers.

## **7. The role of the Seasonal Worker Programme in supporting development assistance in the Pacific**

- 7.1 The Department of Foreign Affairs and Trade leads Australian Government engagement in the Pacific region. The issue of the Seasonal Worker Programme's role in supporting development assistance in the Pacific is addressed in its submission to the inquiry.
- 7.2 The importance of labour mobility between Pacific island countries and Timor-Leste and Australia and New Zealand is an issue of great significance for the development of the Pacific. Numerous studies have shown labour mobility creates a sustained flow of remittances, and those island nations with access to major labour markets do much better than those without. Every Australian aid review since the Jackson Review of 1984 has recommended Australia increase opportunity for labour mobility in the Pacific.<sup>12</sup>

## **8. Any legislative and other impediments to attracting seasonal workers**

- 8.1 There is no evidence to suggest that there are legislative impediments in attracting seasonal workers from an Australian perspective, although there may be impediments within sending countries.
- 8.2 Immigration practices, workplace relations requirements and superannuation operate within established frameworks. A concessional income tax arrangement has been implemented for the Seasonal Worker Programme. Seasonal workers are subject to a non-resident income tax rate of 15 cents for every dollar earned. Superannuation is covered in more detail under section 9.

---

<sup>12</sup> AusAID Submission 65, for the Senate Foreign Affairs, Defence and Trade Committees – Economic challenges facing Papua New Guinea and the island states of the southwest Pacific, 2009

## 9. The visa regime for Seasonal Worker Programme including compliance and related issues

- 9.1 The Department of Immigration and Border Protection is responsible for processing the Special Programme (subclass 416) visa, monitoring visa compliance and providing assistance to train participating countries on Australia's visa requirements.

### Visa Framework

#### *Special Programme Agreement*

- 9.2 To become an approved employer, interested organisations must submit a request for Expression of Interest (application) to become an Australian Approved Employer for the Seasonal Worker Programme to the Department of Employment.
- 9.3 If approved by the Department of Employment, the organisation must enter into a Special Programme Agreement with the Department of Immigration and Border Protection. The agreement sets out the details of the Programme, terms and conditions, monitoring and reporting obligations, and provisions for programme re-approval or revocation.

#### *Sponsorship*

- 9.4 To be approved as a sponsor under the Seasonal Worker Programme, an organisation must be actively and lawfully operating within Australia and have an approved Special Programme agreement with the Department of Immigration and Border Protection.
- 9.5 Approved sponsors must comply with the following obligations:
- cooperate with inspectors;
  - tell Department of Immigration and Border Protection when certain events occur;
  - keep records;
  - provide records and information to the Minister;
  - not recover from, transfer or charge certain costs to another person; and
  - pay costs to locate and remove unlawful non-citizens.

#### *Visa requirements*

- 9.6 Seasonal workers are required to apply for a Special Programme visa (Subclass 416) which will enable them to work for the approved employer in Australia.
- 9.7 Applicants must be at least 21 years of age and meet the health and character requirements, have health insurance cover in Australia, intend to enter Australia temporarily for seasonal work and return to their home country once employment ceases. Additionally, applicants must have no outstanding debts to the Commonwealth.
- 9.8 Data on subclass 416 primary visas granted between 1 February 2009 and 31 May 2015 under the Pacific Seasonal Worker Pilot Scheme and the Seasonal Worker Programme for return visits is at **Table 6** below.

**Table 6:** Returning seasonal workers

Financial Year of Visa Grant	2nd visa granted	3rd visa granted	4th visa granted	5th visa granted	6th visa granted	7th visa granted	Total
2009-10	21						21
2010-11	34	16					50
2011-12	225	27	11				263
2012-13	414	142	19	7			582
2013-14	536	321	115	18	< 5		993
2014-15 to 31/05/15	582	392	233	80	19	< 5	1 089
<b>Total</b>	<b>1 812</b>	<b>898</b>	<b>378</b>	<b>105</b>	<b>22</b>	<b>&lt; 5</b>	<b>2 998</b>

Source: Department of Immigration and Border Protection, 2015 (BE8421.04)

Note 2: Includes visas granted under the subclass 416 Pacific Seasonal Workers pilot

### Visa conditions

9.9 Seasonal workers granted a visa (Subclass 416) must comply with specific visa conditions. Visa holders:

- must continue to be employed by their sponsor
- must only work in the specific industries eligible for the Seasonal Worker Programme
- cannot work for anyone other than their sponsor
- must maintain their health insurance whilst in Australia
- cannot bring their family members with them to Australia.

9.10 Additionally, visa holders are subject to a 'no further stay' condition meaning the seasonal worker is unable to apply for another visa (apart from a Protection visa) while in Australia.

### Processing of Seasonal Worker Programme visas

9.11 All seasonal worker visas are processed in the Specialist Temporary Entry Centre in Hobart. To facilitate processing, applications can be lodged via email, post or courier. Seasonal workers are given a high processing priority.

### Compliance

9.12 Seasonal workers may have their visa cancelled if they breach a visa condition. The most common breach occurs when the seasonal worker absconds from their employer, thereby breaching visa condition 8107 as they cease to be employed by the employer in relation to whom they were granted the visa. Approved employers are required under their Deed of Agreement to report absconders to the Department of Employment and to the Department of Immigration and Border Protection.

9.13 A number of seasonal workers have overstayed their visas and become unlawful. The Department of Immigration and Border Protection has assisted some seasonal workers to return home while others have made their own arrangements to depart Australia.

## Fair Work Ombudsman Compliance Activities

- 9.14 The Fair Work Ombudsman (FWO) works with the Department of Employment to identify and address non-compliance amongst approved employers.
- 9.15 Due to the significant public interest in the programme and the need for adequate integrity measures, the FWO prioritises complaints or concerns raised by seasonal workers, the community and other stakeholders regarding approved employers.
- 9.16 Intelligence regarding the programme is treated seriously and generates an immediate inquiry or investigation. The FWO considers compliance options in accordance with the agency's Compliance and Enforcement policy (available at [www.fairwork.gov.au](http://www.fairwork.gov.au)).
- 9.17 The FWO can also conduct targeted and random proactive audits of approved employers. Proactive audits are conducted in accordance with the FWO's Compliance and Enforcement Policy.
- 9.18 The FWO acknowledges there are challenges for achieving compliance, including the transient nature of visa holders; language barriers; visa holders' limited understanding of workplace entitlements; and their concerns about their visa status.
- 9.19 The FWO is active in industries that are part of the programme, including the horticulture industry. The FWO's compliance work in this sector creates an additional layer of protection for seasonal workers and support for approved employers.
- 9.20 In August 2013, the FWO commenced a three-year Inquiry into the horticulture industry that follows the Harvest Trail initiative. This Inquiry will also improve FWO's understanding of the drivers of non-compliance with workplace laws in this sector and examine labour hire arrangements, which are common in the horticulture industry.
- 9.21 The FWO also consults and works with key stakeholder groups including consulates, unions, community groups, employer organisations and local government to understand the underlying drivers of non-compliance in the horticulture industry.
- 9.22 As part of an investigation, the FWO will seek to gather and assess evidence to decide if there is a contravention of workplace laws. If a contravention is found, the FWO has a range of compliance and enforcement tools available to achieve compliance. In the first instance, the FWO works with both parties to find a solution, which could include using enforcement tools. These tell the party how to fix the contravention (if it can be fixed). If the party fixes the contravention the investigation is usually complete. Case studies demonstrating how the FWO approaches compliance in relation to the Seasonal Worker Programme can be found at **Attachment F**.
- 9.23 Between 8 August 2008 to December 2014, the FWO received 20 complaints related to approved employers in the programme. These matters came to the FWO's attention through a number of channels, including from individuals in the programme, intelligence from community members or referred by the Department of Employment. The majority of complaints related to wages and condition matters, piece rates and issues around the lawfulness of deductions from wages.

- 9.24 As at 31 December 2014, there were four ongoing matters associated with the Seasonal Worker Programme. Of the matters finalised since August 2008, all have been resolved without the need for formal enforcement outcomes such as an Enforceable Undertaking or litigation. Often the FWO is able to resolve matters by voluntary compliance or the provision of education and advice.
- 9.25 Between 1 January 2013 and 31 December 2014, the FWO issued two contravention letters (one was withdrawn following action by the approved employer) and a letter of caution. During this period, two investigations were finalised by voluntary compliance and in three investigations the allegations were not sustained.

## Superannuation

- 9.26 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 guarantee contribution rate is currently 9.5 per cent of an employee's ordinary time earnings.
- 9.27 On 26 November 2014, the Australian Government announced that it would remove the obligation on employers to offer temporary residents a choice of fund from 1 July 2015. However, employers will still be required to act on a temporary resident's choice of fund if the employee exercises choice and there are no other exemptions apply. Legislation to give effect to this change is currently before Parliament.
- 9.28 While Australian residents cannot access these funds until they retire, 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.
- 9.29 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.
- 9.30 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.
- 9.31 The Department of Employment is aware that due to internet difficulties residents from Kiribati and Tuvalu have difficulty claiming their superannuation entitlements once they have left Australia. An evaluation is being carried out by the World Bank for the Department of Foreign Affairs, the Seasonal Worker Programme Development Impact Evaluation 2015–16, will collect information about the amount of superannuation expected to be claimed by workers when they leave Australia. Some approved employers have raised with the Department of Employment their preference to make higher wage payments rather than contribute to superannuation for seasonal workers.

## Attachment A

### Participating countries

As at 10 July 2015 the following countries participate in the Seasonal Worker Programme:

- Republic of Fiji
- Republic of Kiribati
- Republic of Nauru
- Independent State of Papua New Guinea
- Independent State of Samoa
- Solomon Islands
- Democratic Republic of Timor-Leste
- Kingdom of Tonga
- Tuvalu
- Republic of Vanuatu

Further Pacific island countries who are members of the Pacific Island Forum may be invited to join the programme.

## Attachment B

### Approved employer eligibility criteria

To be considered as an approved employer under the Seasonal Worker Programme, an employer must demonstrate that it:

- is an entity incorporated in Australia with a valid Australian Business Number;
- is an 'organisation' for the purposes of the *Migration Regulations 1994*;
- is committed to employing Australian job seekers first;
- has good workplace relations and immigration practices; and
- has an understanding of an approved employer's obligations under the Seasonal Worker Programme.



## Attachment C

### **Seasonal worker eligibility criteria**

The following eligibility requirements apply to candidates seeking to participate in the Seasonal Worker Programme:

- candidates must be of good character
- be healthy and fit for the work specified
- be aged over 21 at time of visa application
- be citizens of the participating country and in the participating country (at the time of visa application); and
- have a genuine intention to enter Australia for seasonal work and return to the participating country after their employment ceases.

## Attachment D

Types of work seasonal workers can undertake:

<b>Horticulture</b>	<b>Cane</b>	<b>Cotton</b>	<b>Aquaculture</b>	<b>Accommodation in locations: WA, NT, tropical QLD and Kangaroo Island</b>
Picking Packing Thinning and Pruning	General farm work Tilling, sowing, planting, raising, irrigating, treating and testing of cane crops Cleaning and storing equipment Harvesting and haul out work Weeding, clearing, fencing and trenching, draining or otherwise preparing land, and pest and disease control	General farm work, ground preparation Planting, irrigating, harvesting and treating cotton and other crops Loading trucks Cleaning, storing, operating and maintaining equipment (including tractors) Weeding, fencing, draining or otherwise preparing land General farm maintenance Tractor operations	Feeding Attending mooring pens Washing and changing nets Moving materials and equipment Loading, unloading, moving, packing and construction of shellfish culture mediums Operating boats Harvesting and husbanding fish Recording data Operating mechanical equipment such as grading machines Preparing or products for market/transport (but not mechanical duties)	Bar attendants Baristas Food and beverage attendants Café workers Garden labourers Housekeepers Kitchen hands Public area cleaners

## Attachment E

### Labour market conditions

#### Limitations of labour market data

The ABS Labour Force Survey (LFS), the official source of employment statistics in Australia, understates the number of people employed in Agriculture and Tourism, particularly in relation to seasonal work. The LFS provides employment estimates for the *usually resident* population of Australia. People who intend to remain in Australia for less than 12 months are excluded from the scope of the survey. Accordingly, estimates from the LFS exclude Working Holiday Visa holders and other short-term visitors to Australia, who contribute substantially to employment in the Agriculture and Tourism industries.

In addition, data from the LFS are based on the industry of employment in a person's *main job*. The industries of Agriculture, Forestry and Fishing and Accommodation and Food Services each account for around 9 per cent of secondary jobs, which equates to approximately 60,000 additional workers each.<sup>13</sup>

Data from the ABS Census of Population and Housing are subject to the same limitations; employment by industry data relate only to Australian usual residents and to the industry of employment in a person's main job.

To illustrate the extent of undercounting, data from the ABS Economic Activity Survey (EAS) show that as many as 499,000 workers were employed in Agriculture, Forestry and Fishing at the end of June 2013, compared with an estimate of only 299,900 from the May 2013 LFS (in original terms).<sup>14</sup> The higher estimate is influenced by a range of factors, including differences in scope and methodology between the EAS and the LFS. The higher estimate of 499,000 workers likely takes better account of temporary entrants and secondary jobs, as both are conceptually in scope of the EAS.

Unfortunately, the EAS provides only estimates of total employment. No breakdown of employment characteristics is available. Accordingly, the following analysis primarily relies on LFS data, which can be disaggregated by a wide range of characteristics.

#### Agriculture, Forestry and Fishing Broad industry trends and characteristics

At February 2015, the Agriculture, Forestry and Fishing industry employed an estimated 321,300 people, or 2.8 per cent of the total workforce.<sup>15</sup> In employment terms, Agriculture, Forestry and Fishing ranked 14<sup>th</sup> amongst the 19 broad industry groups.

Employment in the industry fell to a record low of 291,600 in May 2013 (in trend terms), as the industry faced the challenge of a record high level of the Australian dollar and the impact of severe flooding in 2011. Assisted by a sustained fall in the Australian dollar, however, over the 21 months to February 2015 employment in the industry has increased by 29,700 persons (or 10.2 per cent).

---

<sup>13</sup> ABS, *Australian Social Trends*, article 'People with more than one job', September 2009, cat. no. 4102.0.

<sup>14</sup> ABS, *Australian Industry, 2012-13*, cat. no. 8155.0 and ABS, *Labour Force, Australia, Detailed, Quarterly*, cat. no. 6291.0.55.003.

<sup>15</sup> ABS, *Labour Force, Australia, Detailed, Quarterly*, cat. no. 6291.0.55.003, trend data.

The majority of workers in the industry work full time (72.1 per cent, compared with 69.3 per cent across all industries).

The industry has the oldest age profile of any of the 19 broad industry groups, with a median age of 49 years in 2014, compared with 40 years across all industries. However, the age profile varies by occupation, with Farmers tending to be older and Farm Workers tending to be younger. The median age of Crop Farm Workers (39 years) is a little lower than the median across all industries (40 years), while the median age of Livestock Farm Workers (30 years) and Mixed Crop and Livestock Farm Workers (31 years) is well below the median across all industries.

### Employment in Agricultural sectors

Agriculture is by far the largest employing sector within the broader Agriculture, Forestry and Fishing industry, accounting for 87.1 per cent of employment in the industry (or 280,000 workers). Within Agriculture, the largest employing sector is Sheep, Beef Cattle and Grain Farming, accounting for 127,900 workers or 59.5 per cent of Agriculture employment at February 2015. Fruit and Tree Nut Growing, the second largest sector, employed a further 22,500 workers (10.5 per cent), followed by Dairy Cattle Farming with 20,300 workers (9.5 per cent).

Within Agriculture, the rate of full time employment varies by sector from 60.5 per cent in Nursery and Floriculture Production to 87.4 per cent in Other Crop Growing.<sup>16</sup> The median age in all sectors was above the median of 40 years across all industries.

**Table 1: Employment characteristics, selected sectors of Agriculture**

Sector	Employment level February 2015 ('000)	Proportion employed full time February 2015 (%)	Median age 2014 (years)
Agriculture, Forestry and Fishing	321.3	72.1	49
Agriculture	280.0	70.7	50
Nursery and Floriculture Production	5.6	60.5	45
Mushroom and Vegetable Growing	11.0	76.8	43
Fruit and Tree Nut Growing	22.5	68.6	48
Sheep, Beef Cattle and Grain Farming	127.9	70.8	56
Other Crop Growing	3.3	87.4	48
Dairy Cattle Farming	20.3	70.0	44
Poultry Farming	6.0	63.3	44
Deer Farming	0.1	-	n/a
Other Livestock Farming	18.2	74.0	42

Source: ABS, *Labour Force, Australia, Detailed, Quarterly*, cat. no. 6291.0.55.003. Employment level is trend data, full time share is a four quarter average of original data, and median age is custom request data.

<sup>16</sup> Other Crop Growing includes sugar cane growing, cotton growing and other horticultural crops including animal fodder crops, ginger, lavender, mustard, peanuts and tobacco.

As previously mentioned at section 5.6 Agriculture has faced a series of challenges over the last 15 years. With the onset of the drought, employment in the sector fell by 70,300 (or 18.2 per cent) between November 2001 and November 2002. The level of employment in the sector remained relatively steady over the following decade, until the devastating floods in early 2011 which, combined with a high Australian dollar, saw employment fall by 51,500 (or 17.1 per cent) between November 2010 and May 2013. Since May 2013, however, employment in the sector has recovered somewhat, growing by 29,700 (or 11.9 per cent).<sup>17</sup>

Despite this recent increase, employment in Agriculture remains 28,500 (or 9.2 per cent) lower than five years ago. The largest fall in employment over this period was recorded in Sheep, Beef Cattle and Grain Farming (down by 12,500 or 8.9 per cent), followed by Mushroom and Vegetable Growing (11,300 or 50.8 per cent) and Other Crop Growing (10,000 or 75.2 per cent).

### **Lower skilled Agricultural occupations**

The largest lower skilled occupations in Agriculture are Livestock Farm Workers, Crop Farm Workers and Mixed Crop and Livestock Farm Workers.

Employment of Crop Farm Workers has declined by 70.1 per cent over the past 15 years to stand at 16,700 in February 2015 (see chart below).

Employment of Livestock Farm Workers fell markedly between 2000 and 2005 but has recovered strongly in recent years to stand at 41,700 in February 2015. The very strong rise in employment of Livestock Farm Workers over the past two years should be viewed with caution due to high volatility in the ABS survey data for occupations of this size.

Employment of Mixed Crop and Livestock Farm Workers has declined by 30.0 per cent over the past 15 years to stand at 4,900 in February 2015.

One reason for the decline in lower skilled Agricultural occupations is due to technological advances in the sector, for example the development of mechanical harvesting of wine grapes allows for broadacre style harvesting, pruning and spraying of vines yielding significant reductions in the cost of harvesting grapes.<sup>18</sup>

### **Vacancy trends**

The Department of Employment's Internet Vacancy Index counts the number of job advertisements newly lodged each month on three major job boards (SEEK, CareerOne and Australian Jobsearch, including Harvest Trail). Relatively few lower skilled seasonal jobs are advertised on the three job boards. This is probably because employers advertising for farm labour tend to use other recruitment methods, such as word of mouth, social media, signs in youth hostels or at bus and train stations, or websites aimed at backpackers.

The data show that the number of job advertisements for Farm Workers (Crop Farm Workers, Livestock Farm Workers and Mixed Crop and Livestock Farm Workers combined) has steadily fallen from 1,740 in February 2007 to 400 in May 2015. This suggests a marked fall in demand for seasonal farm labour.

---

<sup>17</sup> ABS, *Labour Force, Australia, Detailed, Quarterly*, cat. no. 6291.0.55.003, February 2015

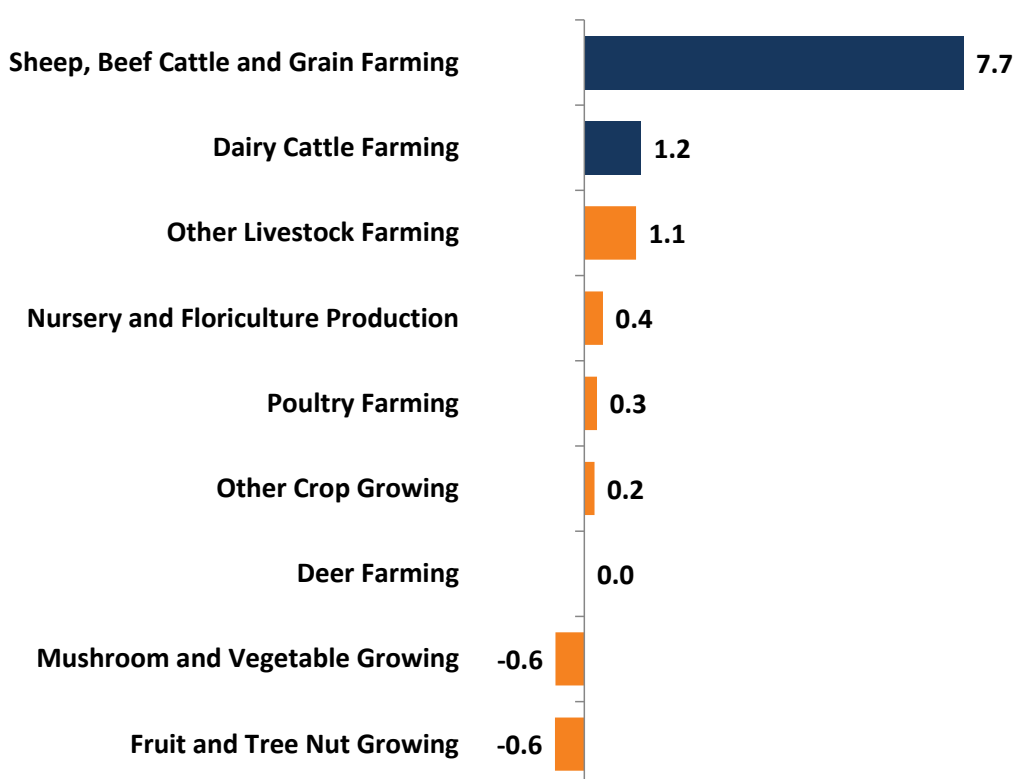
<sup>18</sup> Productivity Commission, *Research Paper Trends in Australian Agriculture*, June 2005

## Employment Projections

The Agriculture, Forestry and Fishing industry is projected to record a modest increase in employment over the five years to November 2019 of 12,000 or 3.7 per cent, notwithstanding continuation of the industry's long term trend of a declining employment share reflecting ongoing investment in labour-saving plant and equipment.<sup>19</sup> By comparison, the projected rate of employment growth across all industries is 10.0 per cent over the same period.

Employment in Agriculture is projected to increase by 11,700 or 4.1 per cent, with seven of the nine sectors within Agriculture expected to grow, albeit at slower rates of growth than the projected rate of employment growth across all industries.

**Figure 1: Projected employment growth ('000) by Agriculture sector - five years to November 2019**



Source: Department of Employment, *Employment Projections to November 2019*

Amongst the three larger lower skilled occupations within Agriculture, employment of Livestock Farm Workers (projected to increase by 1,900 or 4.9 per cent) and Mixed Crop and Livestock Farm Workers (up by 500 or 7.5 per cent) is expected to increase while employment of Crop Farm Workers is projected to decline (by 3,900 or 19.2 per cent) over the five years to November 2019.

<sup>19</sup> Department of Employment, *Employment projections to November 2019*

## **Cane and Cotton Growing**

Sugar Cane Growing and Cotton Growing form part of the Other Crop Growing sector. Employment data from the LFS are unavailable for such small employing segments. 2011 Census data however, indicate that Sugar Cane Growing employed 476 Crop Farm Workers, 26 Mixed Crop and Livestock Farm Workers and 5 Livestock Farm Workers, while Cotton Growing employed 301 Crop Farm Workers, 34 Mixed Crop and Livestock Farm Workers and 14 Livestock Farm Workers.

Both Sugar Cane and Cotton Growing have experienced substantial falls in total employment over the 10 years between the 2001 and 2011 Censuses. Employment in Sugar Cane Growing fell by 47.5 per cent, dropping in number from 9,900 in 2001 to 5,200 in 2011, while Cotton Growing halved over the same period, falling from 3,600 to 1,800.

## **Aquaculture**

Aquaculture is a very small sector, employing an estimated 6,800 people in February 2015. Its largest occupation by far is Aquaculture Farmers, employing 1,300 people at the 2011 Census, followed by Aquaculture Workers (350) and Seafood Process Workers (230).

Employment in the sector is predominantly full time (80.4 per cent) and the median age is 39 years (compared with 40 years across all industries).

ABS Labour Force Survey estimates are highly volatile for the sector, due to its small size. Over the past 15 years, employment estimates for the sector have ranged from a low of 2,200 in August 2012 to a high of 8,400 in August 2014.

Estimates from the ABS Economic Activity Survey show that Aquaculture employed 8,000 people in June 2008, falling to 6,000 people in June 2013.

Employment in Aquaculture is projected to grow slightly (up by 600 or 6.5 per cent) over the five years to November 2019.

## **Tourism**

### **Broad industry trends and characteristics**

The ABS Tourism Satellite Account provides estimates of Tourism employment based on the proportion of total value added of each industry which is related to Tourism. According to these estimates, Tourism employed 534,000 people in 2013-14, accounting for 4.6 per cent of total employment.<sup>20</sup> Over the 10 years to 2013-14, employment in the industry grew by 17.0 per cent, a slightly slower rate of growth than the 21.7 per cent recorded for employment as a whole.

A large proportion of employment in the industry is part time (45.6 per cent, compared with 30.0 per cent across all industries) and a higher proportion of employment in the industry is female (53.6 per cent, compared with 45.8 per cent across all industries).

---

<sup>20</sup> ABS, *Australian National Accounts: Tourism Satellite Account*, 2013-14, cat. no. 5249.0

## Tourism sectors

The largest sectors within Tourism are Cafés, Restaurants and Takeaway Food Services (employing 144,300 people), Retail Trade (101,500) and Accommodation (69,700).

Part time employment accounts for the majority of employment in Tourism sectors such as Cafés, Restaurants and Takeaway Food Services, Other Sports and Recreation Services<sup>21</sup>, and Clubs, Pubs, Taverns and Bars. By contrast, full time employment predominates in the transport sectors.

**Table 2: Employment level and full time share, Tourism sectors**

Sector	Employment level 2013-14 ('000)	Proportion employed full time (%)
Cafés, Restaurants and Takeaway Food Services	144.3	38.2
Retail Trade	101.5	51.0
Accommodation	69.7	56.5
Education and Training	37.8	61.6
Air, Water and Other Transport	36.2	75.1
Travel Agency and Tour Operator Services	32.2	75.8
Clubs, Pubs, Taverns and Bars	31.2	46.5
Other Sports and Recreation Services	20.7	43.5
Road Transport and Transport Equipment Rental	19.4	80.4
Cultural Services	10.0	61.0
Casinos and Other Gambling Services	4.0	72.5
Rail Transport	3.2	96.8
All Other Industries	23.8	76.2
<b>TOTAL TOURISM EMPLOYED PERSONS</b>	<b>534.0</b>	<b>54.4</b>

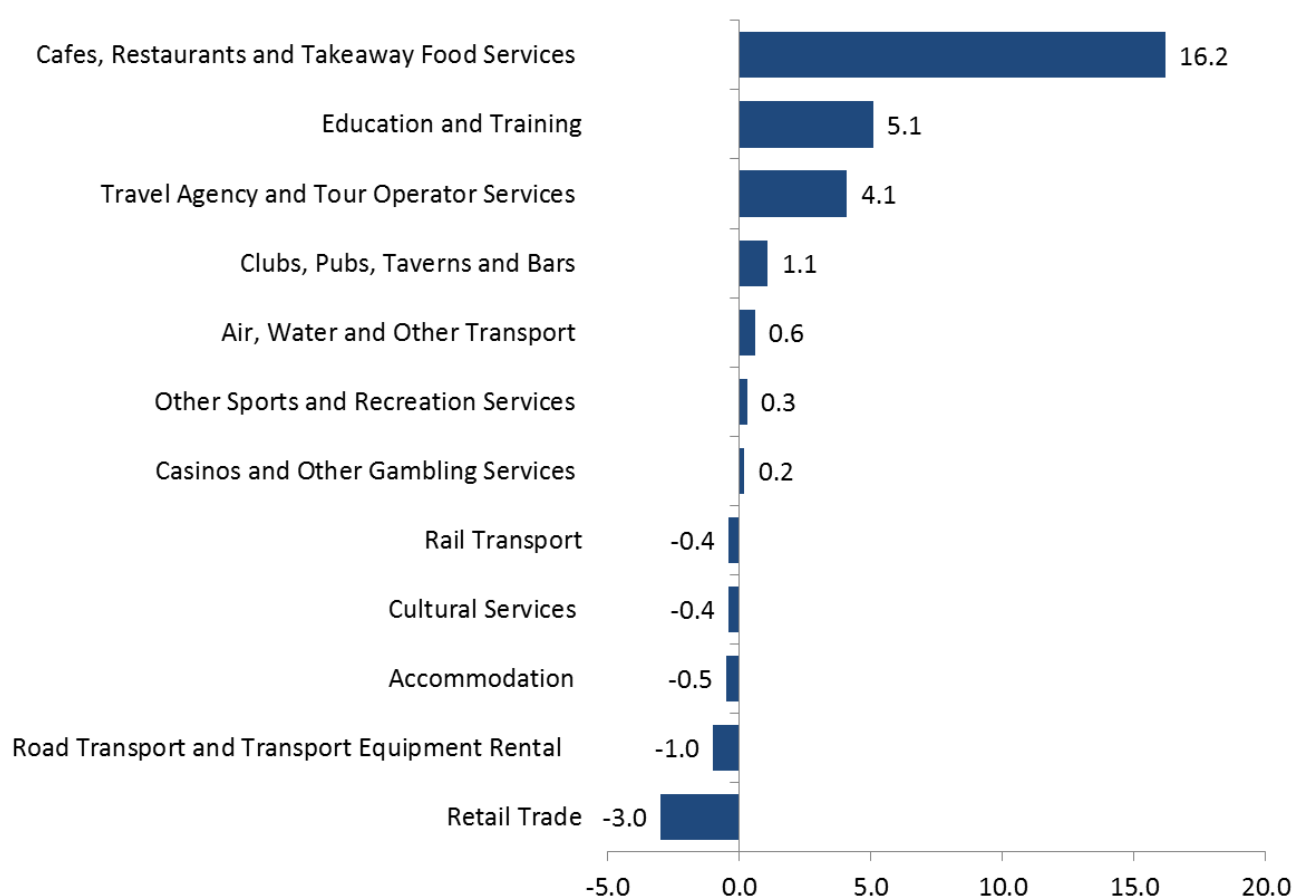
Source: ABS, Australian National Accounts: Tourism Satellite Account, 2013-14, cat. no. 5249.0

Over the five years to 2013-14, employment growth in Tourism has been concentrated in Cafés, Restaurants and Takeaway Food Services, which has increased by 16,200 (or 12.6 per cent). Education and Training (5,100 or 15.6 per cent) and Travel Agency and Tour Operator services (4,100 or 14.6 per cent) have also recorded strong employment growth. By contrast, Retail Trade (down by 3,000 or 2.9 per cent) and Road Transport and Transport Equipment Rental (down by 1,000 or 4.9 per cent) have recorded notable declines in employment.

<sup>21</sup> Includes sports and physical recreation activities, horse and dog racing activities, amusement parks and centres.



**Figure 2: Employment change over the five years to 2013-14, by Tourism sector ('000)**



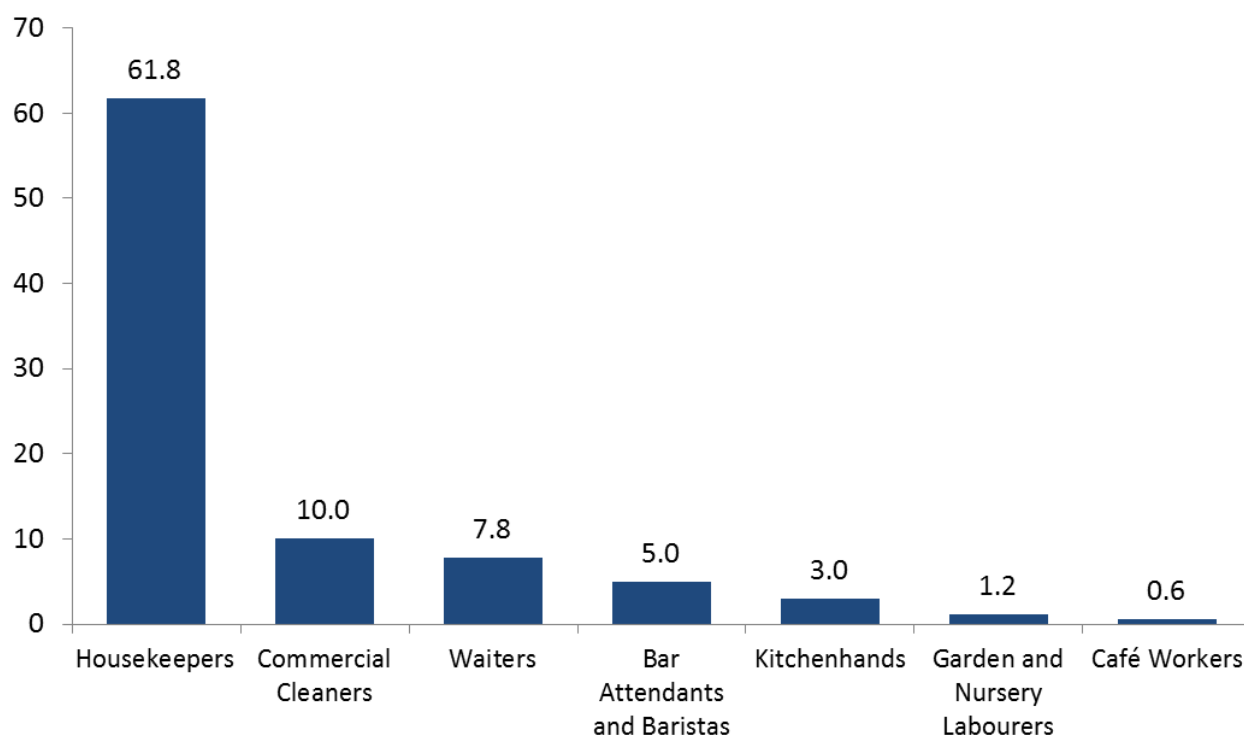
Source: ABS, Australian National Accounts: Tourism Satellite Account, 2013-14, cat. no.5249.0

### Tourism occupations

Low skilled occupations in the Accommodation sector which experience seasonal demand fluctuations and are thus the focus of the Seasonal Worker Programme include Bar Attendants and Baristas, Café Workers, Commercial Cleaners, Garden and Nursery Labourers, Housekeepers, Kitchenhands and Waiters.

Census data indicate that these occupations are often prevalent in industries and sectors other than Accommodation. Using data from the 2011 Census, the chart below shows the proportion of each occupation found in the Accommodation sector. Of the seven occupations, only Housekeepers are significantly represented in the Accommodation sector (61.8 per cent).

**Figure 3: Employment share (%) within Accommodation – selected occupations, Census 2011**



Source: ABS, 2011 Census of Population and Housing

Other key employing sectors for these occupations included Cafés, Restaurants and Takeaway Food Services (Café Workers and Waiters), Building Cleaning, Pest Control and Gardening Services (Commercial Cleaners and Garden and Nursery Labourers) and Pubs, Taverns and Bars (Bar Attendants and Baristas). The table below shows the top five employing sectors for each occupation.

**Table 3: Top five employing industries – selected occupations, Census 2011**

	<b>No. of people employed</b>
<b>Bar Attendants and Baristas</b>	
Pubs, Taverns and Bars	23,100
Cafés, Restaurants and Takeaway Food Services	21,200
Clubs (Hospitality)	11,800
Accommodation	3,400
Sports and Physical Recreation Activities	1,700
<b>Café Workers</b>	<b>No.</b>
Cafés, Restaurants and Takeaway Food Services	18,400
School Education	1,500
Specialised Food Retailing	1,000
Bakery Product Manufacturing	700
Food and Beverage Services, nfd	500
<b>Waiters</b>	<b>No.</b>
Cafés, Restaurants and Takeaway Food Services	64,800
Accommodation	7,300
Pubs, Taverns and Bars	5,900
Clubs (Hospitality)	4,700
Gambling Activities	1,400
<b>Commercial Cleaners</b>	<b>No.</b>
Building Cleaning, Pest Control and Gardening Services	44,300
Accommodation	11,400
School Education	9,300
Hospitals	7,300
Residential Care Services	4,400
<b>Housekeepers</b>	<b>No.</b>
Accommodation	14,200
Building Cleaning, Pest Control and Gardening Services	3,400
Hospitals	1,100
Residential Care Services	1,000
Gambling Activities	300
<b>Garden and Nursery Labourers</b>	<b>No.</b>
Building Cleaning, Pest Control and Gardening Services	9,800
Local Government Administration	2,800
Agricultural Product Wholesaling	2,500
Other Construction Services	1,600
Nursery and Floriculture Production	1,500
<b>Kitchenhands</b>	<b>No.</b>
Cafés, Restaurants and Takeaway Food Services	54,600
Residential Care Services	9,000
Hospitals	8,300
Accommodation	2,800
Pubs, Taverns and Bars	2,700

Source: ABS, 2011 Census of Population and Housing

More recent data from the ABS Labour Force Survey (LFS) are for occupations across all sectors, and not only within the Accommodation sector. The LFS also excludes Working Holiday Visa holders and other temporary entrants with work rights.

The table below shows key employment characteristics for the selected occupations (across all industry sectors). Notable amongst these are the relatively low proportions in full time employment (compared with the proportion across all occupations of 69.3 per cent) and the generally low median age for some of the occupations (compared to the median age for all occupations of 40 years). A very high proportion of female workers is evident in some occupations (Housekeepers, Café Workers and Waiters).

**Table 4: Employment trends and characteristics – selected occupations**

Occupation	Trend Data - Feb 2015 ('000)	5 Year Change ('000)	5 Year Change (%)	Projection to Nov 2019 ('000)	Projection to Nov 2019 (%)	Projected employment level at Nov 2019 ('000)	FT Share, year to Feb 2015 (%)	Median Age 2014	Female Share year to Feb 2015 (%)
Bar Attendants and Baristas	88.6	10.2	12.9	11.0	13.4	93.0	38.5	25	55.1
Café Workers	23.7	0.8	3.4	2.9	12.0	27.0	23.9	28	83.4
Commercial Cleaners	148.4	-17.6	-10.6	-2.4	-1.6	144.7	34.8	46	59.7
Garden and Nursery Labourers	33.6	1.3	4.0	0.9	2.7	32.8	58.9	43	11.1
Housekeepers	28.6	5.5	23.8	1.3	4.7	29.3	32.8	44	88.8
Kitchenhands	135.1	19.8	17.1	14.3	11.2	142.3	19.4	24	55.7
Waiters	127.0	16.4	14.8	18.6	15.3	139.9	22.8	22	77.0

Sources: ABS, *Labour Force, Australia, Detailed, Quarterly*, cat. no. 6291.0.55.003; Department of Employment, *Employment Projections, five years to November 2019*. Employment level and growth is Department of Employment trend data, full time and female shares are four quarter averages of original data, and median age is custom request data.

Nationally, one of the seven lower skilled occupations experienced a decline in employment over the five years to February 2015, with Commercial Cleaners falling by 17,600 (or 10.6 per cent). The largest increases were for Kitchenhands (19,800 or 17.1 per cent), Waiters (16,400 or 14.8 per cent) and Bar Attendants and Baristas (10,200 or 12.9 per cent).

Looking forward, employment of Waiters is projected to continue to experience robust growth over the five years to November 2019, increasing by 18,600 or 15.3 per cent – around the recent five year trend and significantly above the projected growth rate across all occupations of 10.0 per cent. Other occupations projected to record strong growth include Bar Attendants and Baristas (up by 11,000 or 13.4 per cent), Café Workers (up by 2,900 or 12.0 per cent) and Kitchenhands (up by 14,300 or 11.2 per cent).

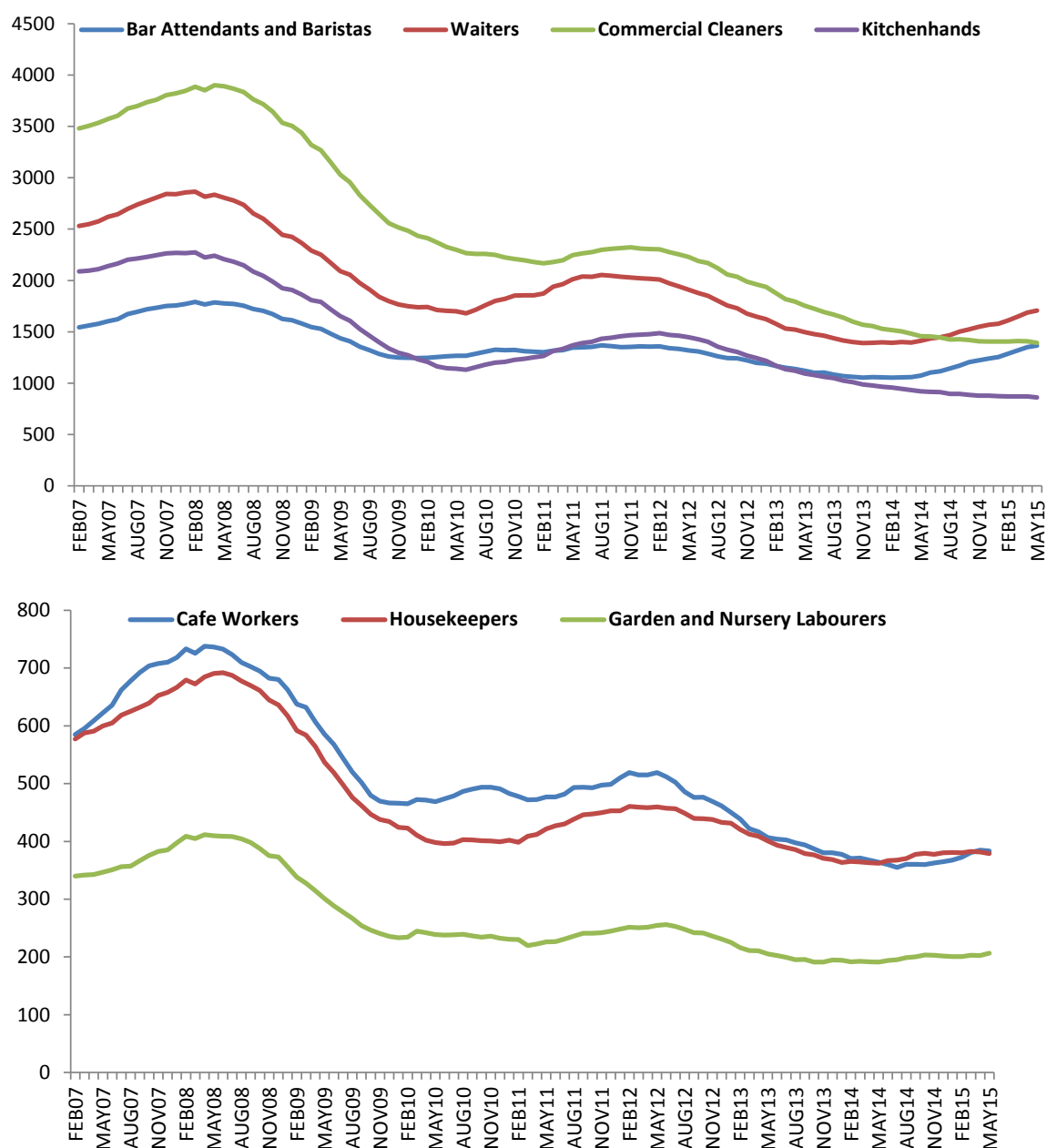
Commercial Cleaners (the largest of the seven occupations at 148,400) is projected to record a small decline of 2,400 (or 1.6 per cent) which nonetheless reflects a levelling out from the 10.6 per cent fall over the five years to February 2015.

### Vacancy trends

Internet Vacancy Index data suggest that demand for the selected occupations is relatively low (see charts below). This is in line with the fall in vacancies generally since early 2008.

However, there are signs that labour demand for some of these occupations may be increasing. A strong increase in vacancies over the year to May 2015 was recorded for Bar Attendants and Baristas (up by 27.2 per cent) and Waiters (up by 20.8 per cent). Smaller increases were recorded in vacancies for Garden and Nursery Labourers (8.2 per cent), Café Workers (5.5 per cent), and Housekeepers (4.6 per cent). Vacancies fell over the year for Kitchenhands (down by 6.4 per cent) and Commercial Cleaners (4.5 per cent).

**Figure 4: Job advertisements for selected Tourism occupations (no.)**



Source: Department of Employment, Internet Vacancy Index, May 2015, 12 month average of original data

### Skill shortage research

While the focus of the Department of Employment's skill shortage research is on higher skilled occupations, the Department conducted research into a small number of lower skilled occupations, including Waiters and Bar Attendants, in 2011. This showed that there was no shortage of workers looking for opportunities to enter these occupations, but employers had a clear preference for experienced workers who already held the necessary licences (such as Responsible Service of Alcohol) and few were prepared to employ inexperienced workers.

The Department is undertaking further research, which includes waiters and bar attendants. Although the study is incomplete, preliminary results support the earlier findings and indicate that there are generally relatively large numbers of applicants for vacancies in these occupations, but few

surveyed employers are willing to provide training for inexperienced workers outside of on the job training.

## Attachment F

### Fair Work Ombudsman Case Studies

Since August 2008 to 31 December 2014, the Fair Work Ombudsman (FWO) has investigated 20 complaints related to Approved Employers in the program. Some examples of the types of compliance actions that the FWO has undertaken involving employers in the Seasonal Worker Programme include:

1. The FWO received a referral from the Department of Employment with concerns that an approved employer was making unlawful deductions from employees' pay. The FWO investigated and found that some deductions were unlawful. The FWO issued a contravention letter to the company, requiring the employer to rectify the contraventions by repaying the amounts deducted. A contravention letter is a compliance tool (authorised by the Fair Work Regulations), which constitutes a written notification informing the employer of what provisions have been contravened and what specific action is required to rectify the contravention. The contravention letter also advises the employer of the potential consequences of failing to comply with the contravention letter. The employer complied voluntarily and the matter was closed.
2. The FWO received a referral from the Department of Employment on behalf of 31 employees who had concerns about whether their piece rates were appropriate. The FWO conducted an audit of the approved employer and found that the employer did not have a written piece rate agreement with each employee as required by the Horticulture award. As there was no written piecework agreement in place, the employees were entitled to be paid an hourly rate. The FWO provided education to the employer and issued a Letter of Caution. A Letter of Caution is a formal caution used where an Inspector has determined that there is sufficient evidence to commence litigation but that litigation is not in the public interest. A Letter of Caution is educative and designed to encourage voluntary compliance and ensure the activities of the employer are monitored in the event of subsequent non-compliance. The employer in this matter subsequently created written piecework agreements with each employee.
3. The FWO received a referral from the Department of Employment with concerns that an approved employer was making unlawful deductions from their wages. The FWO investigated and found that although some deductions had not been itemised in writing as is required, the employees had not suffered any financial detriment as other authorised deductions had not been made. The FWO provided education and information to the employer and the matter was resolved with no further action.