

Queensland Fruit & Vegetable Growers'  
**submission**

**To  
The Commonwealth Parliament Senate  
Employment, Workplace Relations and  
Education References Committee**

**Comment on the Inquiry into Small  
Business**

**July 2002**



Queensland  
Fruit & Vegetable  
Growers

## **1. Introduction**

Queensland Fruit & Vegetable Growers (QFVG) is the industry representative body for horticulture in Queensland, representing a \$1.2 billion industry comprising 6,500 growers producing over 120 types of produce for domestic and international markets. QFVG welcomes the opportunity to provide comment to the Senate Employment, Workplace Relations and Education References Committee on Small Business Employment.

Farm labour is the most significant cost (approximately 40% of all inputs) and perhaps the most critical factor in ensuring the smooth running of field preparation, planting, maintenance, harvesting and packing activities on-farm. To maintain an efficient and highly productive workplace, farm owners and managers need flexibility in workplace arrangements, along with the ability to attract and retain appropriately skilled staff.

Combined with the influences of prevailing business conditions such as market prices, employment conditions etc and other factors eg environment and planning regimes, seasonal conditions and so on, any impacts on employment issues have significant ramifications on an enterprise's viability.

Although there is a need to introduce policies that overcome such problems as market distortions, an environment that encourages industry investment and growth is essential to small business, which comprises approximately 93% of enterprises in the Queensland horticulture industry.

## 2. About the Queensland Horticulture Industry

Horticulture contributes 16% towards the gross value of the State's primary industries and is Queensland's second largest primary industry behind cattle. The fruit and vegetable industry is growing, is presently worth more than \$1.2 billion and directly employs around 25,000 people.

Queensland's production accounts for 30 per cent of all fruit and vegetables grown in Australia, including 80 percent of Australia's tropical fruit, making it the nation's premier horticultural producing state. This is despite occupying less than three per cent of total land under crops in Queensland.

Horticulture's contribution to regional economies is significant both in economic and social terms. Queensland, the most decentralised State in Australia, has only 46% of its population living in the Brisbane Statistical Division. Nationwide, agriculture contributes more than half of total employment in 28 per cent of small non-coastal towns (ABARE, *Country Australia*, p38). A host of rural communities rely heavily on business created by local horticulture enterprises. But, wherever they live, people in these communities are reliant on incomes from jobs in:

- Primary industry input and service industries eg provision of fertilisers, chemicals, petroleum products, mechanical repairs and road transport.
- Processing industries eg fruit processing and canning.
- Human services industries eg hospitals, schools.
- Infrastructure development and services eg water supply, road and street maintenance.
- Port services eg specialist commodity loading facilities.

By expanding into "new" areas eg citrus growing near Emerald and tropical fruits in North Queensland, the horticulture industry is providing new inputs into regions and providing new opportunities for both business development and job creation. The horticulture industry also provides inputs into many urban-based value-adding activities, from service industries to logistics etc.

The industry is characterised by small businesses operating in a highly competitive market. Approximately 85 percent of Queensland horticultural farm businesses are owned by partnerships and sole proprietors. The majority of these farm businesses are likely to be family farms.

The economic base of the industry is diverse and ranges across geographic and climatic regions and crops – it is a diverse 'investment portfolio', employing large numbers of permanent and seasonal workers.

Horticulture is:

- A diverse industry utilizing a range of production methods in different locations and climates.
- A resource base for significant value adding throughout the food, transport, wholesale and retail industries.
- Labour intensive in areas where alternative employment and industry activity can be scarce.
- A high value and efficient user of water resources in terms of agricultural production.

- A primary and secondary source of income for many families in regional Queensland e.g. through seasonal work in packing sheds. Growers also employ participants in the Commonwealth Government's working holiday maker scheme, where over 3,000 working holiday makers from 12 countries (DEWRSB, 2002) work in the Queensland industry each year to fund their travels. Most stay for 12 months, and take up to three jobs, spending much of their income in the tourism sector.
- A major contributor to regional economies, and the mainstay of many regional communities.

### 3. Key Issues for Discussion

QFVG believes the key principles to sustain growth and employment in horticultural small businesses are:

- Economic stability.
- Minimising compliance costs.
- Reducing impediments to employment.

The areas discussed below include:

- Regulatory Impact Statements.
- Regulatory flexibility.
- Competition policy.
- Harvest trail declarations and illegal workers.
- Workplace relations.
- Workplace Health & Safety.
- Education and training.
- Regional development.
- Innovation.
- Stamp duty on crop insurance.
- GST inputs.
- Cost recovery and third party service provision.

#### ***Regulatory Impact Statements***

Regulatory Impact Statements (RIS) are prepared to identify the benefits and costs to the community of proposed legislation. 'Costs' include direct and indirect economic, environmental and social costs and also any burdens and disadvantages.

A RIS is prepared for legislation that is likely to impose costs on the community. It is prepared in accordance with specific legislative requirements and submitted to Cabinet.

(RISs) should include an assessment of the impacts of proposed regulation, and alternatives, on different groups and the community as a whole. When formulating Regulation Impact Statements (RISs), regulators should attempt to:

- Clearly define the objective and rationale of the regulation.
- Apply a rigorous cost/benefit analysis, including an analysis of alternative options.
- Seek greater community and business consultation.
- Engage in better monitoring and evaluation of the regulation.
- Embark upon an education and skills development program to improve RIS formulation.
- Reinforce the notion that RISs should not be used as a means to justify regulation, but as a means to validate the need for regulation.

#### ***Regulatory Flexibility***

QFVG favours flexibility in regulation, such as the use of industry Codes of Practice over prescriptive regulation. These mechanisms provide ownership of issues to stakeholders and allow industry to respond to concerns by the community and identify solutions to problems.

One such example of how Queensland growers are achieving this is through tools such as the *Farmcare Code of Practice for Sustainable Fruit and Vegetable Production in Queensland* which assists growers with:

- Efficient and careful uses of natural resources, particularly water and soils.
- Minimising environmental impacts caused by horticultural land use, particularly run-off of sediments, fertilisers and pesticides into waterways.
- Minimising waste and pollution from horticultural land use.
- Careful use of pesticides.
- Minimising impacts on biodiversity.

The Farmcare Code has been endorsed by the Queensland Government as an approved Code of Practice under Section 219 of the *Environmental Protection Act 1994*. The Code constitutes an industry standard giving growers guidance in meeting their “General Environmental Duty” under the Act.

Providing the flexibility to meet legislative requirements in this way provides businesses with a greater deal of ownership of issues, and helps engender innovative thinking and implementation of solutions. The use of mandatory Codes of Practice does not conflict with this view, as there is a need for Government to regulate sectors of the economy which have specific problems which cannot, or should not be addressed through generic legislation, but which require a high level of industry ownership to succeed.

### ***Competition Policy***

The fresh produce wholesale system now in place is the result of a process of deregulation where rules and regulations were removed (*notably the Farm Produce Marketing Act 1964* in Queensland and similar legislation in NSW and Victoria). New practices were developed by the trade to suit their own businesses, and a voluntary code of practice (applying only to the Brisbane Market) was later introduced to tighten up loose practices.

Many growers, who deal either through market agents or direct with the retail chains, have very good relationships with their customers and are satisfied with their trading arrangements. However, there are numerous examples where producers, in dealings with both wholesalers and retailers, have experienced situations unique to the fresh produce wholesale marketing system, including:

- A lack of clarity in the method of selling, with the wholesaler being able to operate as an agent (the grower’s ‘man in the market’), or a merchant (the grower’s customer in the transaction) at his/her discretion. In reality, wholesalers have the best of both worlds taking the merchant’s profit and carrying the agent’s risk (i.e. nil, as the risk remains with the grower).
- There is no transparency in transactions and no guarantee that the grower receives payment based on what his/her product actually sold for.
- There is no clear change of ownership of, or responsibility for, the product, even after it has been through several dealers.
- There are no prudential standards (or trusts for proceeds of produce sold on consignment) to protect growers’ money should a wholesaler’s business fail.
- Claims against the product always come back to the grower, even if the product had subsequently been “purchased” or conditioned/held by another party.
- There is a problem with retailers sometimes returning product for spurious quality reasons, when the real reason is that they over ordered.

- Wholesalers and growers being too afraid to complain about problems for fear of being cut out of dealing for a period – known as being ‘sent on holiday’.
- Having produce initially rejected on quality issues only to later see it on sale in another store.
- Buyers over ordering and sending produce back, only to later order it back at a lower price.
- Having produce sitting on a loading dock for hours and then sent back because it has begun to break down.

These problems persist in the system and relate to all horticulture, not just a few commodity groups. Growers believe that the wholesale marketing system requires further examination with the aim of introducing a greater level of transparency and openness in transactions between growers, wholesalers and retailers, in order to improve efficiencies and allow for better business decision-making. The experience of growers makes it clear that operating on trust alone does not provide adequate protection in a commercial market subject to great variability in supply and demand, increasing costs and changing consumer expectations.

QFVG would argue that rather than impeding employment growth, the establishment of stronger instruments for improving transparency in the supply chain would provide more scope for improving the processes in the chain and improving returns to growers, and hence the ability to provide greater employment opportunities in their regions.

### ***Harvest Trail Declarations & Illegal Workers***

QFVG and the National Farmers Federation (NFF) have been involved in the Australian Taxation Office/Department of Immigration and Multicultural and Indigenous Affairs (ATO/DIMIA) *Trial and Evaluation of a Revised Tax File Number Declaration Form for Use in the Harvest Industry*.

The report on the trial and evaluation of the Harvest Trail declaration confirmed the issues raised during the study by industry and in particular the growers who directly participated in the trial and evaluation. It also highlighted the difficulties faced by government agencies, notably the ATO and DIMIA in gathering all the information they require from employers and employees.

Growers have found the Commonwealth Government’s working holiday maker scheme useful in providing access to a large pool of seasonal workers. A recent study on working holiday makers in Australia conducted for the Department of Employment, Workplace Relations and Small Business found that of the approximately 80,000 working holiday makers coming to this country each year, a quarter work in Queensland, while about 16% of all visitors work picking fruit, the most popular job amongst backpackers. Most stay for 12 months, and take up to three jobs.

While these casual workers fulfil an important need for farm labour, the way in which that labour is organised, along with a large number and turnover of employees, can make it extremely difficult for employers to check documents at the time of employment.

As discussed in the report, employers in the horticulture industry do not want to employ illegal workers. However, several factors constrain employers’ ability to ensure that this does not occur inadvertently.

Firstly, it is recognised that many Harvest Trail workers do not carry documents such as visas and tax file numbers to their workplaces. Some may also be inclined to make false

statements about their status, to ensure being taxed at 13% rather than 29% eg by claiming they have applied for a tax file number or seeking the 13% differential tax rate for Australian residents.

This can make it difficult for employers in identifying the work rights of potential employers, and may expose employers to legal liability if employment details are incorrect.

In addition, employers find that checking information on tax or other forms, including Tax File Numbers, is logistically difficult as workers may be rarely near the office and with very short lead times involved in starting work. Also, completion of declarations off-farm means checking documents or visas is extremely difficult.

The highly competitive nature of the fruit and vegetable industry, with its rising production costs and reducing markets makes employing staff to deal with regulatory and administrative requirements unviable for small businesses. Many small growers complete paperwork 'after work' and it is doubtful that they account for the true cost of their own labour for production and administrative tasks. Working long hours also increases the risk of errors or incorrect details being overlooked when submitting forms.

It is noted that the Harvest Trail declaration has a number of positive aspects for employers, including:

- The changes to the declaration have significantly decreased the administrative burden on employers.
- Workers can complete the compulsory section of the form without seeking assistance from employers.
- Only one form rather than two is needed to supply the necessary information to government.

The main drawbacks of the declaration are structural, relating to the need to implement a simple, clear method of assessing eligibility to work, along with the introduction of the proposed legislation which would not penalise employers who checked documents in good faith.

Legal implications are the major issue for farmers in accepting their role in checking and recording work rights. If incorrect details are provided to employers, businesses who have taken appropriate measures to ensure their workers are not illegals should be protected, while the person supplying those details should bear the responsibility for the breach.

With 16% of overseas visitors working in fruit picking, there is a clear benefit to ATO, DIMIA and all small businesses, not just those in primary industries, hiring these workers in developing a more efficient means of identifying work rights.

Queensland Fruit & Vegetable Growers supports a system that increases growers' confidence in the information they are providing, along with an improved Harvest Trail declaration that does not place an undue regulatory burden upon businesses.

Employers and regulatory agencies require a system that suits the situation and does not act as a disincentive to compliance. During the trial and evaluation, the most consistent belief about the way in which checking work rights could be simplified lay in employers' call for a 'green card' approach. All employers in the trial supported the concept of a photo ID card which contained work rights information, and possibly Tax File Number information.



The use of identity papers, perhaps arranged when applying for visas, would produce a greater readiness and confidence amongst employers to complete forms.

A combination of a simplified work rights check eg the ‘green card’ system mooted by participants in the Harvest Trail declaration evaluation, along with some protection for employers who check documents that turn out to be incorrect should realise these benefits.

QFVG supports further investigation into the feasibility of ATO and DIMIA developing such a document, using the US Green Card as the model, as this combination of measures is more likely to provide DIMIA and ATO with the information they require.

### ***Workplace Relations***

QFVG has identified a number of priority areas for encouraging better workplace relations and human resources. They include:

- Having good staff with good training and flexible workplace arrangements.
- Wage arrangements that are based on the workplace, taking local conditions into account during negotiations over wages and other employment-related conditions.
- A simplified industrial relations system to increase the efficiency of farm businesses and reduce compliance costs.
- Improvements in productivity.
- Minimal/streamlined documentation for employment declarations.
- Flexible industrial awards.
- Reasonable WorkCover premiums.

### ***Workplace Health & Safety***

Governments with responsibility for Workplace Health and Safety (WH&S) regulation affecting small businesses should review their policies and programs with a view to ensuring that an open, accessible and educational approach to WH&S compliance is taken.

The following WH&S problems act as a deterrent to small business employment:

- Lack of expertise in implementing the technical aspects of WH&S legislation - resulting in risk and employment adverseness.
- Severe penalties for non-compliance in lieu of prevention strategies.

QFVG believes that the future removal of rural industry exemptions from certain WH&S legislation hastens the need for the development of communications and advice strategies by governments on WH&S issues.

### ***Education & Training***

The importance of an appropriately skilled and productive workforce of high importance to the horticulture industry. Industry is seeking input into the skills development framework as well a guarantee that the framework will remain flexible and rigorous.

Other issues of importance to the Queensland horticulture industry include:

- Availability and skills of the workforce matched to vocations.
- Education and training to meet industry needs.
- Recognition of Prior Learning (RPL) programs.
- Traineeships in horticulture.
- QA Accreditation.

- Attracting youth to careers in horticulture.
- Promoting and supporting programs such as AgAware.
- Providing a career path for employees.

### ***Regional Development***

The majority of regional communities depend on rural industries for survival, contributing to inputs, throughputs and outputs at every step of the supply chain, from farm gate to consumer. However, the vital role that regional communities play in ensuring the survival of rural industries across the country is commonly overlooked. The viability of one ensures the viability of the other. Unfortunately, regional development is being stifled through a lack of access to telecommunications, transport, health and education services.

Access to telecommunications has become a major issue for rural and regional communities in recent years. The delivery of information by governments has become more reliant upon mediums such as the Internet.

The withdrawal of essential services from the community has also meant that people are now required to carry out certain business activities on-line. Education has become more dependent upon telecommunications to deliver programs, as it is able to bridge the distance and isolation that is often faced by rural and regional communities. Without reliable Internet access, at minimum cost, regional communities are at a distinct disadvantage.

All members of the community, be that community urban or regional, are entitled to appropriate education services. The providers of the education services must also be encouraged to work and remain in rural and regional areas. A constant turnover of these people disrupts the learning cycle and is a distraction from education.

Just as in metropolitan areas, rural communities require doctors, nurses and a range of primary, emergency and ancillary health services. The withdrawal of health services from an area can have a dramatic impact upon community confidence and act as another barrier to attracting investment and people to regional communities.

Horticultural produce requires efficient and timely logistics in order to ensure that it reaches the market in good order. Low load capacity bridges impede the movement of both rural inputs and outputs. Sharp changes in climatic conditions often lead to a weakening in transport infrastructure, including roads, bridges and rail track. It is essential that any disruption to this infrastructure be minimised in order to ensure that rural and regional communities are not disadvantaged.

QFVG is seeking enhanced service delivery throughout rural and regional Queensland in order to improve regional development and the viability of rural communities.

### ***Innovation***

Queensland horticulture is a dynamic industry offering opportunities for growth and making essential contributions to the Australian economy. It is recognised that through primary industries research and development, steps are being taken to ensure that the sector continues to contribute to the nation's prosperity, whilst maintaining its commitment to sustainable agriculture.

The sector's growth during a time of increasingly difficult economic, environmental and social conditions is evidence of the effectiveness of primary industries research and development programs.

Ongoing innovation lies at the heart of these programs. However, it does not simply apply to innovative scientific research. Innovation in marketing, economics and business development is critical to industry development – enhancing the current level of capability and performance towards higher levels of capability and performance, through overseeing the initiation, management and delivery of programs, projects and services. Continued research and development support for the sector will ensure its future productivity and sustainability, which in turn will play a key role in securing the enduring prosperity of the nation.

### ***Stamp Duty on Crop Insurance***

Stamp duty on crop insurance is a charge that is causing considerable concern for the fruit and vegetable industry. It is acting as a disincentive for primary producers wishing to take out crop insurance. In certain cases, the stamp duty on particular policies is making them unaffordable. QFVG is concerned that as fewer policies are taken out or renewed, some insurance companies may decide not to offer certain policies. This would obviously be to the detriment of the industry concerned. The charge in Queensland of \$0.085 on each \$1 or part of the net premium adds thousands of dollars to the cost of insurance.

After several years of continuing representations to the Queensland Government on behalf of members, Queensland Farmers' Federation, of which QFVG is a member, were successful in having this duty removed in the May 1998 State budget. Unfortunately, however, the removal of stamp duty was deferred in the September 1998 budget following the State election.

It is understood that the Heads of Government decision that stamp duties be discontinued following the introduction of the GST no longer applies given subsequent compromises by the Commonwealth Government on the GST.

Stamp duty is an economically inefficient, anachronistic and distorting tax that has serious financial implications for those industries involved in crop production. It should be removed to free up funds for re-investment into businesses and to pay for inputs, notably labour.

### ***GST Inputs***

GST inputs are a constant source of frustration for many producers. While GST can be claimed back, from the ATO, many growers borrow against their expected income at the beginning of their season to pay for inputs such as cartons, labour etc. They are in effect paying interest on GST remitted to the ATO.

### ***Cost Recovery & Third Party Service Provision***

The trend of Government regulatory agencies charging business for the cost of regulation has become a significant financial burden on business, particularly small business. Governments have continued to introduce new charges on business for activities which they receive little of no benefit from. Governments should not be charging business for activities which are public goods.