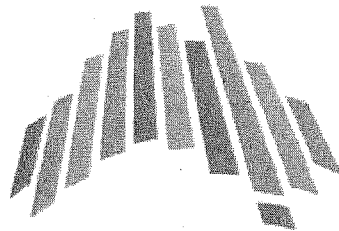


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**National Farmers'**  
FEDERATION

**NFF SUBMISSIONS TO THE JOINT STANDING COMMITTEE INQUIRY  
INTO ELIGIBILITY AND MONITORING, ENFORCEMENT AND REPORTING  
ARRANGEMENTS FOR TEMPORARY BUSINESS VISAS**

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## 1. Introduction

- 1.1. The NFF represents State farm organisations and commodity groups across Australia. State farm organisations represent the agricultural sector in their respective States, and commodity groups represent their commodity at a national level. The NFF is responsible for national issues affecting more than one State or commodity. NFF member organisations are as follows:

<b>State Organisations</b>	<b>Commodity Groups</b>
AgForce Queensland	Australian Cane Growers Council
New South Wales Farmers' Association	Australian Dairy Farmers Limited
Northern Territory Cattlemen's Association	Australian Dried Fruits Association
Pastoralists' and Graziers' Association of Western Australia	Cattle Council of Australia
South Australian Farmers' Federation	Cotton Australia Limited
Tasmanian Farmers' and Graziers' Association	Grains Council of Australia
Victorian Farmers' Federation	Ricegrowers' Association of Australia
	Sheepmeat Council of Australia
	Woolproducers

- 1.2. There are approximately 130,000 commercial farms in Australia utilising around 58 per cent of Australia's landmass. In 2004-05, the agricultural sector contributed 3 per cent of Australia's total Gross Domestic Product of \$854.9 billion. Including the value-added activities resulting from farming output beyond the farm-gate, agriculture has averaged a contribution of 12.1 per cent of GDP, or \$103 billion in the six years ending 2003-04.
- 1.3. In 2004-05 there were 312,000 people directly employed in Australian agriculture, down from 386,000 in 2001-02. Due largely to the detrimental effects of labour shortages, drought, and flow on effects such as the depletion of regional populations, should this trend continue, it is projected to fall to 305,000. Recent Australian Farm Institute figures indicate that for every million dollars of agricultural sector GDP, there are 22 jobs in that sector and a further 65 jobs in the rest of the value chain. However, the industry is experiencing extended labour shortages across all classification levels. Whilst shortages at ASCO Level 9 are a

significant issue, it is shortages across the ASCO Levels 5 – 7 that are particularly pertinent.

- 1.4. Since the appointment of an Immigration Advisor on secondment from the Department of Immigration and Multicultural Affairs (“DIMA”), NFF has educated its membership extensively on the 457 Visa and had started to receive increasing interest in utilising the visa particularly for ASCO levels 3 – 7. This is reflected in the DIMA State/Territory Summary Report for Visa Subclass 457 Business (Long Stay) 2005-06. The report sets out that the number of visa grants in Agriculture, Forestry and Fishing has increased by 156% from 2004-05 to 2005-06. This represents by far the most significant proportional increase out of all industry classifications.
- 1.5. DIMA introduced a Minimum Salary Level (“MSL”) of \$37,665 by Special Gazette S108 on 23 June 2006, whereas previously the requirement was compliance with minimum conditions within relevant industrial agreements. NFF submits that these changes will have a significant negative impact on the capacity for the regional migration program to assist regional employers.

## **2. Eligibility for the 457 Business Long Stay Visa**

- 2.1. The 457 Business Long Stay Visa is typically available for applicants seeking employment in professional, paraprofessional, managerial or skilled trade positions, which fall within the Australian Standard Classification of Occupations (“ASCO”) Levels 1 – 4. However, eligibility for the Visa in the agricultural sector is extended to ASCO Levels 5 – 7. The NFF supports this concession to agriculture, however is concerned that the regional (“MSL”) does not take into account that eligible workers in agriculture extend to considerably lower skill levels, that is, ASCO Levels 5 – 7, and that this should be reflected in the minimum salary level.

- 2.2. The NFF has identified the need to review and update the ASCO definitions to better reflect industry definitions and is concerned that the outdated definitions could result in problems in relation to eligibility for the Visa, amongst other things.

### 3. Wage levels for the 457 Business Long Stay Visa

- 3.1. DIMA has introduced an MSL of \$37,665 for the 457 visa for visa holders working in regional areas, for a 38 hour week. NFF opposes the introduction of this new standard. The NFF submits that the Australian Fair Pay and Conditions Standard introduced under WorkChoices should represent the minimum employment conditions for Australian and foreign workers alike. The NFF believes the MSL is inconsistent with the flexibilities, minimum conditions and spirit of the WorkChoices amendment to the *Workplace Relations Act*.
- 3.2. Many skilled positions in the agricultural industry between ASCO classifications 5 and 7 do not attract wages to the extent of \$37,665. The MSL represents an amount that not only exceeds award rates and the Australian Fair Pay and Conditions Standard, but also agricultural industry market rates across Australia for the relevant classification levels. The NFF is concerned that the calculation of the MSL relies significantly on data from the Australian Bureau of Statistics, which does not include agricultural statistics and is therefore not representative of the agricultural industry.
- 3.3. Contrary to the ABS data, the report entitled "FarmStaff 2006" by Holmes and Sackett & Associates, which particularly focuses on the industry, indicates that the average level is in the vicinity of \$30,000 per annum. The Holmes & Sackett report outlines the salary ranges across key agricultural occupations. The range of managers salaries is \$63,793 - \$91,155, and the range of assistant managers' salaries is \$44,643 - \$70,712. However, these amounts represent total salary packages, inclusive of overtime and non-monetary benefits. However, the range of salary for Jackaroos is \$28,043 - \$42,895, for Senior Stationhands is \$42,861 - \$51,150 and for Stationhands is \$28,668 - \$52,211, all inclusive of overtime.

Operational positions attract a total salary package range of \$29,943 - \$38,236, inclusive of overtime, and these positions are the equivalent of ASCO Levels 5 - 7. A significant majority of positions in the agricultural industry do not attract basic salaries of \$37,665 per annum.

- 3.4. A further issue arising from the MSL is the inability to recognise, in that amount, the non-monetary benefits employees enjoy in agricultural positions such as accommodation, meals and the use of vehicles. In most instances these non-monetary benefits contribute considerably to the total salary package. For example the Holmes & Sackett report indicates that on average, around 20% of total salary packing across all agricultural positions is made up of non-cash benefits. At the lower salary levels such as for Jackaroos, the proportion of non-cash benefits is higher, at 25%. The NFF considers that these benefits represent a significant and quantifiable gain to employees and ought to be considered as a component of the salary package, in the same way that they may be included in the salary package of Australian workers.
- 3.5. NFF does not consider there is a justification for inconsistency between Australian minimum wage levels and minimum wage levels applying to workers on a 457 visa. NFF instead supports the concept that the relevant industrial instruments should govern the employment of Australians and overseas workers alike, underpinned by the Australian Fair Pay and Conditions Standard established by WorkChoices.
- 3.6. The NFF rejects the assertion that any higher level of payment for overseas workers is necessary on the basis that they are more vulnerable and have less access to services. These factors are the result of broader government policy and outside the control of regional employers. For example, overseas workers continue to be taxed at 29%, which remains in excess of the general Australian rate of taxation. The fact that travellers receive a refund of taxation amounts only upon leaving Australia is further considered to disadvantage travellers, and also deny the Australian economy a significant injection of funds. The inability to access Medicare is another way in

which current Government policy render foreign workers somewhat more vulnerable in some cases. The necessity to pay overseas workers at a higher rate on the basis that they have less access to services and limited means is rejected altogether by NFF in view of these broader policy defects.

- 3.7. The amount of the MSL has further been attached to a 38 hour working week. The NFF strongly disagrees with the calculation of income by way of a proportionate increase of the minimum salary for hours worked in excess of 38 hours per week. Under the *Workplace Relations Act* as amended by WorkChoices, the requirements of the Australian Fair Pay and Conditions Standard should apply. The award or industrial instrument ordinarily specifies the rate of pay, if any, for additional hours. Employers of a 457 visa holder are already obligated to pay in accordance with Australian workplace relations laws, and the NFF submits that attaching wages to a 38 hour week is unnecessary, but further, contrary to the flexibility afforded under WorkChoices. This again only reflects the need for consistency between Australian and foreign workers to ensure certainty, fairness and to remove confusion for employers in otherwise having to comply with two different standards.

#### **4. Increased use of Labour Agreements**

- 4.1. The NFF has identified that Labour Agreements potentially enable a more flexible approach to introducing foreign skilled and semi-skilled labour into the Australian agricultural sector. However, the NFF submits that conditions within Labour Agreements should not introduce terms or conditions including but not limited to entitlements, benefits or employer obligations that are not commonplace in the industrial instruments which apply to Australian workers. The NFF is concerned that conditions in Labour Agreements may include conditions that are not in Australian Awards or Agreements that are onerous and will make them untenable for regional employers.

#### **5. Labour Market Testing**

5.1. The NFF does not support Labour Market Testing for positions relevant to the 457 Business Long Stay Visa. NFF further submits that there are difficulties with the notion of an approved list of 457 occupations as many positions within the agricultural industry are difficult to describe or overlap with one another.

**6. Training requirements**

6.1. The NFF does not support the introduction of stronger training requirements including English language tuition for 457 Business Long Stay Visas or within Labour Agreements, and the correlation between records of training and training commitment. It is submitted that agricultural employment frequently and necessarily involves training and skills development which is, however, often difficult to quantify.

7. The NFF submits that the MSL of \$37,665 applying to regional positions should be removed in favour of uniform working conditions as established in the Australian Fair Pay and Conditions Standard. That is, foreign workers should be employed under either the relevant award, or an agreement underpinned by the Australian Fair Pay and Conditions Standard. The NFF further submits that Labour Agreements should be prepared having regard to these minimum conditions.