

Appendix 3

Recommendations contained in the *Report of the Migrant Workers' Taskforce*, March 2019.

Recommendation 1

It is recommended that the Government establish a whole of government mechanism to further the work of the Migrant Workers' Taskforce following its completion.

Recommendation 2

It is recommended that a whole of government approach to the information and education needs of migrant workers be developed. It is recommended that this approach be informed by findings of the research project, *The Information Needs of Vulnerable Temporary Migrant Workers about Workplace Laws*, with implementation of the following measures:

- a) improve the delivery and accessibility of personalised, relevant information to provide the right messages at the right time to migrant workers
- b) use behavioural approaches to encourage and advise migrant workers how to take action if they are not being paid correctly
- c) enhance the promotion of products and services already available from government agencies — particularly in-language information — through search engine optimisation, expanded use of social media channels, and cross-promotion of Fair Work Ombudsman material by other agencies
- d) improve messaging in government information products so they are translated, simple, clear and consistent
- e) work with industry and community stakeholders to educate employers and address misconceptions about the rights and entitlements of migrant workers in Australian workplaces.

Recommendation 3

It is recommended that legislation be amended to clarify that temporary migrant workers working in Australia are entitled at all times to workplace protections under the *Fair Work Act 2009*.

Recommendation 4

It is recommended that legislation be amended to prohibit persons from advertising jobs with pay rates that would breach the *Fair Work Act 2009*.

Recommendation 5

It is recommended that the general level of penalties for breaches of wage exploitation related provisions in the *Fair Work Act 2009* be increased to be more in line with those applicable in other business laws, especially consumer laws.

Recommendation 6

It is recommended that for the most serious forms of exploitative conduct, such as where that conduct is clear, deliberate and systemic, criminal sanctions be introduced in the most appropriate legislative vehicle.

Recommendation 7

It is recommended that the Government give the courts specific power to make additional enforcement orders, including adverse publicity orders and banning orders, against employers who underpay migrant workers.

Recommendation 8

It is recommended that the *Fair Work Act 2009* be amended by adoption of the model provisions relating to enforceable undertakings and injunctions contained in the *Regulatory Powers (Standard Provisions) Act 2014* (Cth).

Recommendation 9

It is recommended that the Fair Work Ombudsman be provided with the same information gathering powers as other business regulators such as the Australian Competition and Consumer Commission.

Recommendation 10

It is recommended that the Government consider whether the Fair Work Ombudsman requires further resourcing, tools and powers to undertake its functions under the *Fair Work Act 2009*, with specific reference to:

- whether vulnerable workers could be encouraged to approach the Fair Work Ombudsman more than at present for assistance
- the balance between the use of the Fair Work Ombudsman's enforcement and education functions
- whether the name of the Fair Work Ombudsman should be changed to reflect its regulatory role
- getting redress for exploited workers, including the use of compliance notices and whether they are fit for purpose
- opportunities for a wider application of infringement notices
- recent allocations of additional funding.

Recommendation 11

It is recommended that the Government consider additional avenues to hold individuals and businesses to account for their involvement in breaches of workplace laws, with specific reference to:

- a) extending accessorial liability provisions of the *Fair Work Act 2009* to also cover situations where businesses contract out services to persons, building on existing provisions relating to franchisors and holding companies; and

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- b) amending the *Fair Work Act 2009* to provide that the Fair Work Ombudsman can enter into compliance partnership deeds and that they are transparent to the public, subject to relevant considerations such as issues of commercial in confidence.

Recommendation 12

It is recommended that the Government commission a review of the *Fair Work Act 2009* small claims process to examine how it can become a more effective avenue for wage redress for migrant workers.

Recommendation 13

It is recommended that the Government extend access to the Fair Entitlements Guarantee program, it should be done following consultation regarding the benefits, costs and risks, and it should exclude people who have deliberately avoided their taxation obligations.

Recommendation 14

It is recommended that in relation to labour hire, the Government establish a National Labour Hire Registration Scheme with the following elements:

- a) focused on labour hire operators and hosts in four high risk industry sectors — horticulture, meat processing, cleaning and security — across Australia
- b) mandatory for labour hire operators in those sectors to register with the scheme
- c) a low regulatory burden on labour hire operators in those sectors to join the scheme, with the ability to have their registration cancelled if they contravene a relevant law
- d) host employers in four industry sectors are required to use registered labour hire operators.

Recommendation 15

It is recommended that education providers, including through their education agents, give information to international students on workplace rights prior to coming to Australia and periodically during their time studying in Australia.

Recommendation 16

It is recommended that education providers, through their overseas students support services, assist international students experiencing workplace issues, including referrals to external support services that are at minimal or no additional cost to the student and that specific reference to this obligation be made in the National Code of Practice for Providers of Education and Training to Overseas Students.

Recommendation 17

It is recommended that the Council for International Education develop and disseminate best practice guidelines for use by educational institutions.

Recommendation 18

It is recommended that the Minister write to the Prime Minister requesting that accommodation issues affecting temporary migrant workers be placed on the Council of Australian Governments (COAG) agenda. Through COAG, the Australian Government should work with state and territory governments to address accommodation issues affecting temporary migrant workers — particularly working holiday makers undertaking ‘specified work’ in regional Australia.

Recommendation 19

It is recommended that the Government consider developing legislation so that a person who knowingly unduly influences, pressures or coerces a temporary migrant worker to breach a condition of their visa is guilty of an offence.

Recommendation 20

It is recommended that the Government explore mechanisms to exclude employers who have been convicted by a court of underpaying temporary migrant workers from employing new temporary visa holders for a specific period.

Recommendation 21

It is recommended that the Fair Work Ombudsman and the Department of Home Affairs undertake a review of the Assurance Protocol within 12 months to assess its effectiveness and whether further changes are needed to encourage migrant workers to come forward with workplace complaints.

Recommendation 22

It is recommended that the Government give a greater priority to build an evidence base and focus its existing research capacity within the Department of Jobs and Small Business on areas affecting migrant workers. It should do this to better understand the extent, nature and causes of any underpayment and exploitation migrant workers may experience. The department should work across departments where appropriate. Separately, and in addition:

- a) the Department of Education and Training should work with the Council for International Education and peak organisations to help identify mechanisms for providers to collect data about student visa holders' experiences of working in Australia
- b) the Department of Education and Training should conduct regular surveys of overseas students that include workplace experience
- c) the Government should support work being undertaken by ABARES, the science and economics research division of the Department of Agriculture and Water Resources to increase data collection in relation to agricultural labour.