

**National Union of Workers Submission
to the Senate Inquiry into Working Holiday Maker Reform Package**

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Introduction

The National Union of Workers (NUW) is a large Australian trade union registered under the Fair Work (Registered Organisation) Act 2009 (Cth).

It represents both permanent and casual workers (and directly and indirectly engaged) in a range of industries including warehousing, logistics, food processing, horticulture, manufacturing, poultry, defence logistics, dairy, and market research.

The NUW appreciates the opportunity to make a submission to this working holiday maker reform package inquiry.

Concerns about Reform Package

While the federal government initially proposed a tax of 32.5% in every dollar earned by those holding a working holiday visa (the so called “backpacker tax”) more recently, the government has announced this will now be reduced to 19%.

However in an effort to claw back revenue, the superannuation of these workers will now be taxed at 95% when they depart Australia.

The NUW believes that as a matter of principle there should be equality in the income tax rates of non-resident visa holders with working rights and those of resident workers.

The NUW notes that the federal government’s “compromise” singles out backpackers for discriminatory treatment. Other workers engaged on temporary work visas are entitled to claim their superannuation benefit upon the expiry of their visa, subject to a portion being lost to taxation.

For example, Seasonal Worker Programme workers are entitled to claim their employer superannuation contributions upon the completion of their contracts, sacrificing just 15% of their employer contribution to the ATO when they do so.

In addition, the increased imposts on these workers would pose an unnecessary obstacle to ensuring legal employment and minimum workplace safety throughout the food supply chain.

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Backpackers are already treated as a subclass of workers in terms of the inferior treatment and exploitation they likely face. Introducing a 95% tax rate on superannuation effectively results in the abrogation of a condition enjoyed by other workers. Having different sets of taxation arrangements and working conditions will only implicitly condone further differential treatment of temporary visa holders by employers, and we are concerned this will lead to further exploitation.

For example, there already is an economic incentive for many 417 and 462 visa holders to accept “cash in hand” work in the order of \$16 to \$18 per hour from such labour hire contractors. This will only grow with the introduction of a new tax. In fact, in a survey of over 600 backpackers undertaken by the NUW, up to 95.8% of holiday maker respondents indicated that the federal government’s proposed tax changes would make “cash in hand jobs” more attractive to them.

There have been a number of high profile examples of underpayment of minimum wages and these examples of stolen wages have often been in workplaces where workers are paid cash in hand.

Indeed, the Fair Work Ombudsman recently found, after a two-year national inquiry, that 66 per cent of overseas workers who completed the 88-day regional work requirement felt employers took advantage of 417 visa holders by underpaying them. The Age also conducted an extensive study, which found that eighty percent of jobs advertised on foreign language websites were advertised at rates below the minimum wage.¹

At a time of such frequently reported instances of exploitation, the NUW is also deeply concerned that the government may have also scaled back its commitment of \$20 million² to \$10 million to the Fair Work Ombudsman to address compliance issues.

The NUW is very concerned that the introduction of any such financial imposts on these workers would see a marked ramping up of such illegal and unsafe activities within Australia’s food supply chain.

This would provide an unnecessary structural incentive to illegal and unsafe activity in the food supply chain would both undermine the ability of state and federal governments to collect revenue from workplaces in the food supply chain which extensively use dodgy labor hire companies that pay cash-in-hand, and do not forward PAYG or business tax to federal authorities; often ‘phoenixing’ when pursued for their obligations.

¹ <http://www.smh.com.au/national/investigations/black-jobs-rampant-exploitation-of-foreign-workers-in-australia-revealed-20150930-gjxz7q.html>

² The Coalition’s Policy to Protect Vulnerable Workers, May 2016.

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For this reason the NUW remains doubtful of the ability of the “backpacker tax” to contribute towards overall government revenue. The impost of the 95% tax on superannuation also relies on workers *actually making* a claim for their superannuation – however it is unlikely that many workers will make that claim if they are only to receive 5% of the outstanding amount. Therefore, the government is unlikely to receive revenue from this source.

The NUW supports the submissions of United WHY (United Working Holiday Youth) and urges the Inquiry to take into account the voice of those workers who would suffer as a consequence of the federal government’s proposed policy.

The NUW also notes that the submissions of Fruit Growers Tasmania call for the registration of labour hire providers and suggests there should be an onus on producers to ensure workers are being paid correctly by these labour hire providers.

The NUW is a strong advocate of a labour hire licensing system and notes that this proposal is the subject of state government inquiries in Victoria, Queensland and South Australia.

The NUW would welcome the opportunity to appear before the Committee.

Recommendations

Our key recommendations relating to this inquiry are:

- *Resident status for tax purposes be reinstated as it is now for working holiday makers*
- *Institute a national labour-hire licencing system* to ensure minimum legal standards are met for all workers, both directly and indirectly engaged.
- *Require employers to comply with stricter guidelines for alerting temporary work visa holders to their rights.* This may require making information on visa holders’ working rights available in languages other than English.