

Senate Education and Employment References Committee

Questions on Notice – 14 July

Adelaide, SA

Inquiry into the impact of Australia's temporary work visa program on the Australian labour market and on the temporary work visa holders

Question number	Hansard page number	Witness	Question asked by	Answered
1	4	South Australian Wine Industry Association	Lines	Yes
2	6	South Australian Wine Industry Association	O'Neill	Yes
3	7	South Australian Wine Industry Association	O'Neill	Yes
4	8	South Australian Wine Industry Association	O'Neill	Yes
5	9	South Australian Wine Industry Association	O'Neill	Yes
6	9 - 10	South Australian Wine Industry Association	O'Neill	Yes
1	27	Coles	Chair	Yes
2	31	Coles	Senator Rice	Yes
3	37	Coles	Senator McKenzie	Yes
4	38	Coles	Senator McKenzie	Yes
1	41	Fair Work Ombudsman	Chair	Yes
2	51	Fair Work Ombudsman	Senator McKenzie	Yes
3	55	Fair Work Ombudsman	Chair	Yes



SOUTH AUSTRALIAN WINE INDUSTRY
ASSOCIATION INCORPORATED

7 August 2015

Standing Committee on Education and Employment
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: eec.sen@aph.gov.au

To the Members of the Senate Education and Employment References Committee

**INQUIRY INTO THE IMPACT OF AUSTRALIA'S
TERMPORARY WORK VISA PROGRAM ON THE
AUSTRALIAN LABOUR MARKET AND ON THE TEMPORARY WORK VISA HOLDERS**

Re: Questions on Notice by the South Australian Wine Industry Association – 14 July, Adelaide

The Senate Education and Employment References Committee (the Committee)

The South Australian Wine Industry Association (SAWIA) is an industry association representing the interests of wine grape growers and wine producers throughout the state of South Australia. SAWIA membership represents approximately 96% of the grapes crushed in South Australia and about 36% of the land under viticulture.

SAWIA is a registered association of employers under the South Australian *Fair Work Act 1994* and is also a transitionally recognised association under the *Fair Work (Registered Organisations) Act 2009*.

With reference to each of the Questions on Notice (QON) we provide the following responses:

1. QON: (Hansard, Page 4)

It would be good if you could give us the names of the labour hire companies you are using?

SAWIA does not utilise labour hire companies in its operations and we are not in a position to advise what labour hire companies are available to the wine industry. Such information could be found via the Winetitles Wine Industry Directory publication.

2. QON: (Hansard, Page 6)

Do you have any data about employment in regional centres where the wine industry is based?

The South Australian Government's Department of State Development has a tool called "Workforce Wizard" which can access this type of information for regions. This tool relies heavily on Australian Bureau of Statistics information, including the Census of Population and Housing 2011. However we are not able to reproduce the material generated by the reports without written permission of the Minister. A user of the Workforce Wizard tool can access information along the lines of that sought by this question, however users are not in a position to reproduce that

South Australian Wine Industry Association Incorporated

ABN 43 807 200 928

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information without written permission and we are not in a position to do that as it would represent an unreasonable diversion of our resources.

One shortcoming of being able to report on or access official statistics for specific industries, for example the wine industry, is that the industry is grouped with other industries, namely 'Fruit and Tree Nut Growing' and 'Beverage Manufacturing'.

3. QON: (Hansard, Page 7)

Provide an indication, with a historical frame, of how temporary visas have been employed in this industry over, say the last 10 years?

We note that for the purposes of answering this question we have looked at temporary visa classes 485 (Temporary Graduate or 'student visa'), 457 (Temporary Work (Skilled)), 417 (Working Holiday) and 416 (Seasonal Worker Program) as the most relevant visas having application in parts of the wine industry.

It is our understanding that the Department of Immigration and Border Protection (DIBP) does not maintain statistics on the number of temporary visa holders employed in specific industries. In part the reason for this is that many temporary visas with work rights, such as Student visas (485), or Working Holiday visas (417), are not sponsored work visas and the holder is therefore not tied to employment with any specific employer or in any specific industry sector.

There is however a range of statistics available for class 457 visas, where much greater data is maintained on an applicant's employment. Yet even in this category, there is a limit to the ability of the data to be specific. The reports that are published include the number of primary 457 applications granted broken down by state and sponsor industry. However as alluded to above often the data does not go down to the level of individual industries such as the "wine industry", rather it reports on broader sectors, such as the "Agriculture, Forestry and Fishing Sector" and "Beverage Manufacturing". In any event this reporting is made publicly available on the DIBP's webpage at: <http://www.border.gov.au/about/reports-publications/research-statistics/statistics/work-in-australia>

In the case of data collected against particular skilled occupations (as opposed to particularly industries) we can easily identify as wine industry occupations grape grower and wine maker. However the wine industry employs a far greater range of occupations than just these two. Below are extracts from 457 visa grants (primary applicants only) across the main wine industry skilled occupations of grape grower and wine maker. As it demonstrates the grants of this class of visa is low across the wine industry, particularly in South Australia. In most cases the <5 will only represent one or two visa grants.

Grape Grower (ANZSCO 121215)

Nominated Position location (State)	2010-11	2011-12	2012-13	2013-14
Qld Total			<5	
SA Total			<5	
Vic Total		<5	<5	<5
WA Total	<5		<5	<5
Grand Total	<5	<5	6	<5

Wine Maker (ANZSCO 234213)

Nominated Position location (State)	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
NSW Total	<5	<5	<5			<5	<5	<5	<5
Qld Total		<5							
SA Total	5	<5	<5		<5		<5	8	<5
Tas Total				<5	<5		<5		
Vic Total	<5	<5		<5		<5	<5	<5	
WA Total		<5	<5	6	<5		5	8	<5
Grand Total	9	11	7	9	<5	<5	13	20	6

4. QON: (Hansard, Page 8)

Could you give us a rough indication on notice of the proportion of which of those visas is used throughout your industry that would be of some interest to me?

Please refer to the answer above as to why it is not possible to provide a breakdown of the proportion of temporary visa classes across the wine industry.

Could I also go back to your evidence around Fair Work and the discussion about pruning? What is the pruning season?

As a general indication the pruning season in South Australia occurs during the winter months. Pruning season is varied and is impacted on by the size of the vineyard, frost risk, and history of RSG (restricted spring growth which has a negative impact on flowering) as much as varietal. Generally whites are pruned before reds, areas of high frost risk or RSG are pruned later in the season.

Indicatively pruning can start in South Australia in the Langhorne Creek and McLaren Vale regions from the June long weekend through to late August in the Riverland and Coonawarra, as you can appreciate exact dates and durations are difficult to dictate.

5. QON: (Hansard, Page 9)

Provide details of the conversation [with the Fair Work Ombudsman], the way in which it happened and any documentation and provide that for the Committee please.

6. QON: How did you communicate to members that the Fair Work Ombudsman was interested in understanding what was going on in pruning for people that were involved in that pruning activity across the state? Was it an email, or was it a newsletter?

Point of Clarification by SAWIA in relation to Questions 5 and 6 – SAWIA never did speak directly with the Fair Work Ombudsman (FWO). On 6 May 2015 the FWO (Mount Gambier office) contacted a regional wine industry body, the Coonawarra Grape and Wine Incorporated, requesting to attend an association meeting. The purpose of the attendance was to provide information to participants on their employment responsibilities, where they can obtain assistance and legislative requirements. This session was a precursor to random spot compliance checks they would be conducting in the Limestone Coast region during the pruning season. This initial communication was via email a copy of which is attached.

The Coonawarra Grape and Wine Incorporated contacted SAWIA to consult on the request and were of the view that the information session would be proactive and they did not want contractors exploiting people and sullyng the industry and regional reputation. It was also decided at that time that SAWIA would attend to ensure a legal view could be verified. SAWIA would also be able to provide the added value of knowing and communicating to those present an employer's obligations under the Work Health and Safety Act 2013 (SA) and the Migration Act 1958 (CTH).

SAWIA did not have any direct contact or communication with the FWO until the day of the actual Coonawarra Association's meeting, held on Wednesday 3 June.

Please contact me should have any further queries.

Yours faithfully,

BRIAN SMEDLEY
Chief Executive

South Australian Wine Industry Association Incorporated

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Brian Smedley

From: Pete Balnaves <pete.balnaves@balnaves.com.au>
Sent: Wednesday, 6 May 2015 8:47 AM
To: Brian Smedley
Cc: Kirsty Balnaves; allen.jenkins@treasurywineestates.com
Subject: FW: Coonawarra Vignerons Association Meeting [DLM=Sensitive]

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Hi Brian , we have had a request from the fair work Ombudsman ,Allen and I were wanting your opinion as the best way to progress this .

Regards Pete

Hello,

Suzi Stephens and I are from the Fair Work Ombudsman and intend to conduct spot compliance checks throughout Limestone Coast vineyards during pruning this year to ensure that all employers are meeting their workplace obligations. We would really like to be able to attend a Vignerons Association meeting beforehand to let growers, employers and stakeholders know what their responsibilities are, where they can obtain assistance and what we will be looking for.

If someone from the Association could contact me we would really appreciate it.

Kind regards

Natalie Goldsworthy | Fair Work Inspector - Southern Region, Mount Gambier
Infoline, Dispute Resolution and Compliance Group
Fair Work Ombudsman

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We are always interested in your ideas as to how we can improve our services – please send any feedback to yourfeedback@fwo.gov.au

Fair Work Info Line: 13 13 94 www.fairwork.gov.au [subscribe to our eNewsletter](#)

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~Please consider the environment before printing this message

This email is sent by the Fair Work Ombudsman (ABN 43 884 188 232).

Question 1 -Hansard, Page 27

Ms Bon: We have met with the National Union of Workers. We have not met with any other unions.

CHAIR: Is there a document you can provide to the committee?

Ms Bon: I cannot provide a document today but I would be pleased to follow up.

CHAIR: That would be good. Is that a document that was sent to the NUW and the NFF?

Answer

Coles wrote to the National Farmers Federation on 14 May, 2015. A copy of the letter is attached.

Question 2 – Hansard, Page 31

Senator RICE: Who is undertaking each of those audits of the companies that you named?

Ms Currie: I would prefer not to go into the detail, just from the perspective that some of that information is confidential. I can provide it on notice confidentially, if you would like.

Senator RICE: That would be useful—thank you.

Answer

The audits are being conducted by Pricewaterhouse Coopers and AUS-MEAT Limited.

Question 3 – Hansard, Page 37

Senator McKENZIE: Seeing that we have our questions going, I will go back to some that I wanted to ask. You say you have your ethical sourcing policy. What was the date of your take-up and implementation of that policy? When did you adopt that policy?

Ms Currie: It has been in place since about 2005.

Senator McKENZIE: Has it been reviewed in that period?

Ms Currie: It has been reviewed twice in that period.

Senator McKENZIE: What were the years that that was reviewed?

Ms Currie: I would have to take that on notice. I cannot recall off the top of my head.

Senator McKENZIE: Has it been reviewed in the last year?

Ms Currie: I cannot be certain.

Answer

Coles' Ethical Sourcing Policy was reviewed in 2010 and 2013.

Question 4 – Hansard, Page 38

Senator McKENZIE: Do you undertake regular media monitoring about these issues?

Ms Bon: I would have to take that on notice.

Senator McKENZIE: Could you? And could you also look at the Weekly Times article of 27 June 2014? I would like to know if that was actually part of your media monitoring-gathering of that week

Answer

Coles undertakes regular media monitoring of the full range of issues relevant to the retail sector. The article of 27 June, 2014 was not part of Coles' media monitoring.

14 May, 2015

Mr Simon Talbot
Chief Executive Officer
National Farmers Federation
NFF House
14-16 Brisbane House
Barton ACT Australia 2600


Dear Mr Talbot,

I write in response to your letter of 6 May 2015 to Mr John Durkan, Managing Director of Coles.

Coles shares the concern of the National Farmers' Federation about allegations of mistreatment of migrant workers in the food industries, and welcomes the opportunity to convene with other stakeholders with the aim of co-ordinating a rapid and resolute industry response.

Coles is committed to sourcing our products in a responsible manner and in accordance with all relevant legal standards. We take very seriously allegations about improper or illicit employment practices in elements of the food supply chain. We are in contact with our own supply partners to reinforce the importance of compliance with Coles' ethical sourcing policy, which requires appropriate pay and conditions for all workers, in accordance with Australian workplace law.

In June last year, we wrote to all of our suppliers urging adherence to Government regulation on workers' rights. In light of the recent disturbing allegations on *Four Corners*, we are again in contact with our supply partners to ensure there is awareness and acceptance that employers using a labour hire company or contractors remain responsible for ensuring all workplace obligations are met – including minimum wages, piece rate payments, pay slips and record keeping.

Coles is eager to explore the NFF's proposal for a Best Practice Scheme for Agricultural Employment. We are ready to meet at the earliest opportunity to discuss how we can support this and any other practical proposals from growers, farm groups and relevant government agencies to help guard against any abuse of workers' rights in the food supply chain.

Yours sincerely

Iony Parkinson
Head of Public Affairs

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QUESTIONS ON NOTICE

14 July 2015

Agency: Fair Work Ombudsman

Senator Lines, Sue asked on 14 July, Hansard page 41

Question

FWO – Baiada Inquiry

Ms James: We had a quite prompt and positive response from Aldi, and we have met with representatives from Aldi. We are yet to receive a response from Woolworths or KFC, I think. I might just check that.

Mr O'Shea: That is correct.

CHAIR: Could you just give us a list of everyone that you wrote to and whose attention you drew to the report.

Ms James: Yes, I can.

ANSWER:

On 19 June 2015, the Fair Work Ombudsman, Ms Natalie James, wrote to the following companies (as major customers of Baiada Group) to provide them with a copy of the Statement of Findings from FWO's Inquiry into the Baiada Group and to invite them to meet with FWO to discuss how they might ensure integrity in their supply chains:

- ALDI Australia – Mr Stephen Kopp, Group Managing Director;
- Coles Supermarkets Australia Pty Ltd – Mr John Durkan, Managing Director;
- KFC Australia – Mr Tony Lowings, Managing Director; and
- Woolworths Limited – Mr Grant O'Brien, Chief Executive Director.

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QUESTIONS ON NOTICE

14 July 2015

Agency: Fair Work Ombudsman

Senator McKenzie, Bridget asked on 14 July, Hansard page 51

Question

FWO – Evidence of intimidation placed on growers

Ms James: I do not personally know of that. I am familiar with the fact that there can be pressure in these industries. These are industries where, it is fair to say, there are not a lot of discretionary costs. One of the things that concern us is that growers come under a lot of pressure to cut costs to meet their supplier obligations with the people they are supplying—end users, if you like. Sometimes that may make them vulnerable. They require workforces at very short notice—large workforces in regional locations—and that can place them at a disadvantage and can cause challenges. We have heard that. I am not sure if we have heard about intimidation. Mr Campbell, did you want to comment on that?

Senator McKENZIE: Maybe take that on notice.

Ms James: I would be happy to.

ANSWER:

The Fair Work Ombudsman is not aware of examples of intimidation of producers by labour hire companies.

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QUESTIONS ON NOTICE

14 July 2015

Agency: Fair Work Ombudsman

Senator Lines, Sue asked on 14 July, Hansard page 51

Question

FWO – Enforcement Outcomes

Ms James: I am not going to table my written notes. I am happy to continue to read from them. Thirty-seven out of 118—

Senator O'NEILL: Could I ask you to provide them on notice?

CHAIR: I have allowed the time to run over. That is my responsibility and I am trying to fix that because our next witness is here. So I would appreciate it if you gave those stats to us in another form, on notice.

Ms James: I am happy to take on notice the enforcement outcomes that we have obtained on behalf of visa holders in the last financial year.

CHAIR: Thank you.

ANSWER:

The Fair Work Ombudsman achieved the following compliance and enforcement outcomes for visa holders in 2014-15:

- Recovered over \$1.6 million in unpaid entitlements out of a total of over \$22.3 million;
- Issued 120 Letters of Caution out of a total of 692 issued;
- Issued 124 Infringement Notices out of a total of 348 issued;
- Issued 37 Compliance Notices out of a total of 118 issued;
- Executed 20 Enforceable Undertakings out of a total of 42 executed;
- Commenced 21 court proceedings out of a total of 50 commenced.