

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2017 - 2018

Agency - Fair Work Ombudsman

Department of Employment Question No. EMSQ17-004152

Senator Rice asked on 06 June 2017 on proof Hansard page 51

Question

FWO - inquiries and investigations underway in the agriculture sector involving labour-hire

Senator RICE: Remind us what current inquiries or investigations you currently have underway on compliance of labour-hire firms in the agricultural and farming sector.

Ms James: We have our harvest trail inquiry underway. It is a long-term piece of work which has involved a number of phases of education and compliance on the harvest trail throughout the country. That is an ongoing inquiry under which there are a range of separate investigations. I would need to take on notice specifics of current matters involving labour hire. The fact that an employer is a labour-hire company is not always something that we record. Sometimes we are aware that they are, but when matters come to us we do not tick a box saying labour hire or not.

Senator RICE: Could you take that on notice along with what breaches you have found and break them down over the last three years? That would be good.

Ms James: Yes.

Answer

The Fair Work Ombudsman's (FWO) record keeping systems do not record a breakdown of matters involving labour-hire companies operating in the agriculture industry. However a number of enforcement outcomes have arisen out of our Harvest Trail Inquiry, including:

- issuing 92 infringement notices resulting in \$108,080 in penalties;
- entering into six Enforceable Undertakings;
- commencing seven litigations; and
- recovering over \$600,000 for employees.

In relation to contraventions, our preliminary findings reveal these primarily relate to:

- failing to make valid piecework agreements when engaging employees as pieceworkers;
- incorrectly paying casual employees; and
- unlawful deductions.

Some of these matters have involved labour hire contractors providing workers to companies in the horticulture sector. For example, on 30 September 2016 we commenced proceedings against Queensland labour-hire company, Seasonal Farm Services Pty Ltd, for allegedly underpaying over 100 employees.

On 24 March 2017 Queensland labour hire firm Maroochy Sunshine Pty Ltd and its sole director were penalised \$227,300 in a decision of the Federal Circuit Court following FWO legal action. In this matter, the court found that 22 workers were underpaid over \$75,000 over a period of seven weeks.

As at 9 June 2017, the FWO had 28 current investigations in the agriculture sector. 20 of these matters involve labour hire companies.