

**REGULATION IMPACT STATEMENT
CHANGES TO THE MIGRATION REGULATIONS: PROPOSAL TO
EXPAND THE WORKING HOLIDAY MAKERS PROGRAM**

Problem

In the 1997 Inquiry into Working Holiday Visas, the Joint Standing Committee on Migration received evidence from the horticultural industry about the shortage of harvest labour and the industry's reliance on overseas workers to make up the labour shortfall. In 1999 the Government established the National Harvest Trail Working Group to investigate the state of the harvest industry in Australia. The group was comprised of Members of Parliament and representatives from the horticultural industry. The group published a report in June 2000.

The report identified acute labour shortages in the harvest industry and the need for a national strategy. The report concluded that the continuing and growing demand for harvest workers is a result of:

- farmers coming out of other commodities, such as sugar cane or beef, into more labour intensive crops such as fruit, vegetables and cotton;
- increasing areas under cultivation to obtain returns from the efficiency of size;
- a growing export market in fruit and vegetables;
- greater emphasis on quality which requires more careful and consequently slower picking, especially in relation to export markets; and
- introduction of new crops and new varieties of traditional crops.

The reasons for ongoing labour shortages are complex and include a lack of awareness that opportunities existed and a perception that the wages and conditions offered to potential harvest workers were unattractive.

While the nature of the industry makes exact figures difficult to determine, the Department of Employment and Workplace Relations (DEWR) estimated that in 1999 between 55,000 and 65,000 full time jobs specifically in harvest areas across Australia were available each year. While more recent statistics are not available, feedback from industry representatives suggests that since this time the number of positions has been continually increasing.

As part of the strategy to address the labour shortfall, the Government, through DEWR, introduced a new employment service, Harvest Labour Services (HLS), to provide a service specialising in the harvest industry and located in areas that require large numbers of harvest workers. Since it began six years ago, over 95,000 job seekers have been placed in harvesting work under this scheme. This is in addition to many thousands of workers employed in harvest and other seasonal work through the Job Network.

In August 2000, the Government also established a nationally promoted National Harvest Trail, aimed at providing a work force for the horticultural industry and reducing unemployment among the young mobile unemployed. The scheme is designed to provide worthwhile and attractive employment opportunities for young Australians and encourage the movement of workers between regions as harvests commence and finish.

More recently, a pilot program designed to encourage unemployed indigenous people from Northern Queensland to take up harvest work in Victoria has proven successful. It is hoped that this program can be used as a basis for larger scale national initiatives.

Despite the introduction of these strategies, employers in regional Australia continue to face major difficulties in attracting sufficient labour to meet their seasonal harvest needs. While their first preference is to employ Australians or Working Holiday Makers (WHMs), they are often forced to resort to employing people who are unlawfully in Australia and others with no work rights because the alternative is to allow their crop to go to waste.

As indicated above, the reasons for continued labour shortages are complex. A combination of social trends, including a reduction in the unemployment rate, an increase in the number of part time and contract workers, migration of rural populations to urban areas, and an increase in the number and production of growers have all played a part in increasing demand for workers while reducing the number available. As well, the wages and conditions offered by growers have not remained competitive with those offered by urban based businesses requiring large numbers of unskilled casual workers. The lack of transportation to and from worksites, and inadequate accommodation for workers are also factors influencing potential labour supply.

Although it may be possible to take advantage of the large number of eligible visitors from overseas, such as WHMs, existing visa programs provide limited incentive for low-skilled workers to undertake this work. Many WHMs do not venture beyond the capital cities and tend to find employment in metropolitan areas. Those who do go further afield and undertake harvest work are highly valued by growers and regional businesses alike for the contribution they make while in regional areas.

Government and the industry need to make seasonal work in regional areas more attractive to the groups best suited to cater for this important market, including the young mobile unemployed and WHMs. While young Australians are being strongly targeted by the Harvest Trail initiatives, little has been done to likewise encourage more WHMs to undertake harvest work.

This proposal aims to take advantage of an existing trend by providing a strong incentive for WHMs to take the opportunity to holiday and work in regional areas.

The consequences of not implementing this proposal would be continued pressure on Government to provide alternatives to address labour shortages in regional Australia during harvest time, and the inability of farmers to maximise returns on their crops with flow on effects for local and national economies.

Objective

The objective of this proposal is to assist in addressing the continued demand for labour to meet seasonal harvest needs in regional Australia by creating a larger pool of reliable workers, without compromising or risking the integrity of Australian visa programs or undermining employment opportunities for Australian workers.

This supports the delivery of the Government's identified aim of addressing labour shortages in regional Australia.

Options

Option 1: Status Quo

Maintenance of the status quo would mean that the harvest industry would continue to attempt to fill its growing demand for labour by increased reliance on an unreliable supply of overseas workers with questionable legal status and greater competition between regions and growers for a dwindling number of Australian workers.

Option 2: Expansion of promotional activities

Under this option, industry groups and growers would accept a measure of responsibility for ensuring that the wages and conditions that they offer to itinerant workers are attractive and competitive with equivalent positions elsewhere.

Option 3: Expand the Working Holiday Makers Program

WHMs currently make a significant contribution to the harvest industry workforce. This option would provide a strong incentive for more WHMs to take up harvest work by allowing WHMs who have done 3 months of seasonal work in regional Australia the option of staying in Australia for an additional year as a WHM.

Option 4: Expand the Temporary Business visa program

The Temporary Business visa program allows employers to recruit skilled personnel from overseas for a stay of up to four years. The position being filled must meet minimum skill and salary thresholds.

The key objective of the temporary business entry program is to support Australian business in its endeavours to develop new markets and enhance both its domestic and international competitiveness through the entry of skilled employees. Temporary business entry arrangements aim to protect the employment and training interests of Australian citizens and permanent residents.

Option 5: Seasonal or Guest worker scheme

Establish a guest worker scheme which would enable low-skilled workers to enter Australia to work on a temporary basis. Under such a scheme, workers would primarily undertake seasonal work in agricultural sectors.

Option 6: Labour agreement

Under this option, employers in regional Australia could be offered the opportunity to negotiate a Labour Agreement to enable recruitment of low-skilled workers from overseas for seasonal harvest needs.

Impact Analysis

Option 1: Status Quo

Attracting and retaining a pool of unskilled workers to regional Australia has become a pressing issue for the horticultural sector and the communities they support. The inability of growers to harvest their crops has ramifications not only for the individual grower, but also for the secondary industries that rely on the viability and success of primary producers who are their major market. As well, those regional communities whose economic base is built on the agricultural and horticultural industries are particularly vulnerable to any failure or instability within this sector.

Traditionally, it was the 16 – 25 year old school leaver and university student who undertook seasonal harvest work. In the past the majority of this group were made up of local youth, or students returning home during university breaks. With the decline in the population base of regional centres, this source of labour has been considerably reduced.

More recently, WHMs from overseas have provided a significant contribution to the seasonal workforce. However, with continued labour shortages, growers have also become increasingly reliant on people who are unlawfully in Australia, or who do not have work rights attached to their visa. The Harvest Trail initiative through the HLS has sought to address many of these concerns by seeking to attract an alternative pool of workers to regional areas, however, Australian workers are still reluctant to take up these opportunities.

Option 2: Expansion of promotional activities

The introduction of the Harvest Trail initiative and the engagement of Harvest Labour Services have had considerable success in promoting harvest work opportunities to jobseekers. These programs could be expanded to include other groups, such as WHMs and tertiary students, and could be exported to WHM arrangement countries to attract potential visitors to Australia thus increasing the potential market for the HLS and so increase the likelihood of its continued success.

Harvest work opportunities could be given greater exposure through use of the media, backpacker and youth hostels, backpacker and student publications, targeting university, TAFE, and senior high school campuses, and promotional activities such as Harvest Festivals, Balls, food festivals, farm stays and package group tours to attract interest and increase awareness.

While such activities can be successful in promoting harvest work, there are a number of industry-related issues that could also be addressed. Dissatisfaction with wages and conditions, availability of accommodation and other infrastructure, remoteness of areas and lack of leisure activities have all been given by jobseekers and travellers as reasons for not pursuing job opportunities in the harvest industry. The success of any drive to promote these opportunities will be limited until these issues are addressed by growers and local councils.

Consultations with both DEWR and NFF suggest there is a reluctance on the part of growers to address concerns about wages and conditions for itinerant workers. Given the nature of the industry, it may be difficult to engage the co-operation of such a diverse and geographically isolated group.

To address these issues would require a comprehensive educational campaign to effect attitudinal change with heavy emphasis on the benefits for employers. Promotional activities would require considerable resources and co-operation between growers, local governments, community organisations, local businesses, and tourism authorities. The benefits of such activities would have limited impact in the short-term.

Option 3: Expand the Working Holiday Makers Program

A recent Victorian Government Economic Development Committee *Inquiry into the Economic Contribution of Victoria's Culturally Diverse Population* highlighted the significant reliance employers in regional Australia place on backpackers and WHMs. According to a report produced by the University of Melbourne for DIMIA in September 2002, approximately 15% of WHMs take up work in the harvest industry.

Under this option, this trend would be exploited and the WHM Program expanded to encourage more WHMs to do seasonal work in regional Australia.

The WHM Program has proved enormously successful. In the 2004-05 migration program year, 104,353 Working Holiday visas were granted. Research based on a figure of 80,000 WHMs has shown that WHMs create jobs, spending more than \$1.3 billion in Australia per annum.

Aged between 18 and 31 years of age, WHMs typically travel extensively. Many are well educated with good skills. Many find work on the Harvest Trail.

The WHM program allows WHMs to have an extended holiday in Australia by supplementing their travel funds through incidental employment and to experience closer contact with a local community. The program aims to enhance the cultural and social development of young people, promote mutual understanding between Australia and other nations and is an important part of the tourist industry.

Australia presently has 19 reciprocal WHM arrangements. Current Migration Regulations and policy limit WHMs to:

- a total stay in Australia of 12 months;
- working with each employer for a maximum of 3 months;
- making their application while they are outside Australia; and
- only one Working Holiday visa in a lifetime.

Expansion of the WHM Program can be achieved by offering the opportunity to apply for another WHM visa to WHMs who in aggregate work as seasonal labourers for a minimum of 3 months in regional Australia. At present, because an individual is allowed only one WHM visa in their lifetime, the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) receives frequent requests from WHMs for a further such visa. The opportunity to apply for a second WHM visa would be a strong incentive for many WHMs who may not otherwise have considered undertaking work outside of the metropolitan areas.

Projections for 2005-06, are that more than 105,000 WHMs will come to Australia. A modest 5 percent take-up rate of this initiative would provide 5,200 more workers to regional Australia. Strong promotion of the new arrangements is likely to provide a greater take-up rate.

The proposal will have significant benefit for regional Australia. As well as continuing the Government's objectives of assisting regional Australia by encouraging WHMs to spend some time in regional areas, especially during periods of peak demand (i.e. during the fruit picking season), it will help regional employers remain competitive and sustainable.

The cost of implementing the proposal is expected to be nominal. While additional resources would be required in the start-up period and for ongoing visa processing, the proposal is expected to be self funding in the out-years.

Option 4: Expand the Temporary Business visa program

This option would expand the Temporary Business visa program to provide opportunities for employers to recruit low-skilled workers from overseas to meet harvest labour shortages.

Where Australian employers seek to sponsor skilled temporary residents they must demonstrate that there is benefit to Australia, such as contributing to employment creation. They must also demonstrate a satisfactory training record or commitment, or use of new or improved technology or business skills.

By its nature, harvest work is unskilled and seasonal. To require employers of harvest labour to demonstrate a satisfactory training record or use of new or improved technology or business skills would create an unnecessary burden on employers in an industry where such commitments are not key to the conduct of their business.

Expansion of the Temporary Business visa program to include recruitment of foreign farm labourers would require significant amendment of Migration Regulations and would undermine the Government's commitment to providing a clear, contained and easily accessible avenue for the entry of skilled employees while protecting the interests of skilled Australian citizens and permanent residents.

Option 5: Seasonal or Guest worker scheme

The experience of other countries suggests that low-skill guest worker schemes fail to provide long-term benefits for either sending or receiving countries. While the temporary entry of unskilled guest workers may be seen to provide a short-term economic benefit by meeting labour needs during exceptional peaks in demand, long-term use may have undesirable consequences for receiving countries. Some of those issues include a structural dependence on foreign labour; removing incentives for rationalisation and technological change; and postponing improvements in education and training. Semi and unskilled guest workers are also open to exploitation and abuse.

Option 6: Labour agreement

A Labour Agreement is a formal arrangement negotiated between the Government - represented by DIMIA and DEWR - and an employer or an industry association. Labour Agreements enable Australian employers to recruit a specified number of workers from overseas in response to identified or emerging labour market (or skill) shortages in the Australian labour market. Employees may come to Australia on either a temporary or a permanent basis. Agreements are normally negotiated for a period of two to three years.

In 1998 a Labour Agreement was negotiated with a Western Australian rural recruitment agency specialising in positions across a range of skill levels in the agriculture sector, including positions in farm management, animal husbandry, crop chemical application, qualified mechanics or agricultural engineers, precision agricultural specialists and domestic farmhands. Under the agreement, the company also committed to introducing an employment register of Australians seeking employment in the industry, which would facilitate arrangements for the rotation of Australians to positions within the industry in Australia.

Although there is capacity for regional employers to negotiate a Labour Agreement, the unskilled nature of the positions, sponsorship obligations, training and monitoring requirements would possibly discourage many from entering into an agreement.

Consultations

The need to find a solution to the problem of seasonal labour shortages in regional Australia has been brought to DIMIA's attention through regular contact with regional employers and industry groups.

Consultations with tourism industry groups and regional employers indicate that this proposal has strong support.

Consultations with Tourism Australia and the NFF and Victorian Farmers Federation have also elicited a very positive response.

Consultations have also been held with DEWR, DITR, DOTARS and DAFF. They are supportive of the proposal and interested in promoting the expanded WHM visa arrangements through their regional networks.

Conclusion and recommended option

To be truly effective, any strategy to address seasonal labour shortages in regional Australia needs to be multi-faceted and all stakeholders must be engaged. The optimum solution would be a combination of options 2 and 3 with close co-operation between DEWR, DIMIA and employers through groups such as the NFF.

Option 3 provides a solution to seasonal labour shortages in regional Australia with positive benefits for business and industry, minimum impact on Government business and limited financial implications. Expanding the WHM program can be achieved with minimum legislative change and without compromising the integrity of other visa programs aimed at addressing skilled labour shortages in Australia.

Indirect benefits of option 3 would also be felt by regional businesses, particularly the hospitality, tourism and entertainment industries. An influx of young, mobile and motivated visitors with ready spending money, could inject energy and capital into regional communities and provide the impetus for development and growth. As well, growers who can maximise the returns on their investment, will be able to channel profits into local community businesses and infrastructure and into expansion.

While on its own option 2 is likely to have minimal effect, its implementation would greatly enhance the continued success of option 3. However, this would require a great commitment by employers and local communities, and the assistance of bodies such as DEWR, the NFF and Tourism Australia. This is also likely to be a more long-term solution and will not be able to address immediate needs.

Adopting any of options 4-6 would place an unnecessary burden on employers and the industry in meeting sponsorship obligations, such as financial support for visa holders, training requirements and introduction of improved technology. Harvest labourers tend to be employed for very short periods of time and undertake tasks that require little or no training. They tend to move from one grower and region to the next as opportunities present themselves. These patterns do not lend themselves to sponsorship. Implementation of options 4-6 could also impact significantly on access to employment of Australian citizens and permanent residents.

Implementation and review

Given implementation processes that include IT systems, regulation, training and informing the market, it is envisaged that option 3 could be implemented from 1 November 2005. The Immigration Portfolio would be responsible for the implementation and ongoing regulation, with appropriate input from other key stakeholders. All stakeholders will be given comprehensive advice and training about option 3 and their roles and responsibilities.

The scheme would be widely promoted in various mediums such as the internet, rural and backpacker publications, employment and tourism expos within Australia and the Working Holiday Program agreement countries. Information about option 3 would be readily available from a broad range of sources such as the DIMIA website and offices, through Harvest Labour Service Providers, the DEWR Harvest Trail website and the DIMIA Regional Outreach Officer network. Participation in promotional activities by other interested agencies and organisations would also be encouraged.

The take-up rate for option 3 will be monitored by DIMIA during the first year of operation. Its effectiveness in addressing seasonal labour shortages in regional Australia will be evaluated by DIMIA in the second year of operation. Reporting mechanisms will be built into the procedures and systems that will support the new proposal to ensure accurate monitoring of the success of the program.

Option 3 is estimated to be approximately budget neutral over 2005-06 and the forward years. There will be a net cost of about \$1.5m in 2005-06 (net of \$0.9m revenue and \$2.4m in capital and recurrent costs). In 2006-07 and each year thereafter the revenue is estimated at about \$2m and costs at about \$1.5m, resulting in a net positive to the budget of about \$0.5m a year. Over 2006-07, 2007-08 and 2008-09 the total positives will be about \$1.5m which will offset the negatives in 2005-06, making it budget neutral over 2005-06 and the three forward years. Beyond the three forward years the proposal will continue to return revenue of \$0.5m more than costs each year, hence being budget positive.