

Submission of Mr B

1. Author of submission

The author is a farm worker, presently employed on a farm in the Ord River Irrigation District at Kunnunurra, Western Australia.

2. Main Arguments

Mr B has, in his submission, provided information concerning his own experiences:

- There is a large number of illegal workers in Mr B's area, who are being paid low wages, working long hours and in difficult conditions.
- Illegal workers provide false information about themselves; it is submitted that the farmers who hire them are aware of this.
- The Department's compliance activities are often predicted before the arrival of Immigration Officials.
- Australian workers are affected by the low pay and conditions of the illegal workers. It is submitted that due to the employers' access to a pool of illegal labour, Australian workers are unable to request improved pay or conditions.
- Some illegal workers are also collecting social security payments.

3. Recommendations

- That the seasonal areas continue to be targeted in the Department's compliance activities, but that the actions are done in a more discreet way, for instance by having under-cover investigation units.
- That greater penalties are imposed on illegal workers and those who employ them.
- That bonds are imposed on young travellers, to ensure that they do not breach their work restrictions.
- That the American-style "Green Card" system is introduced in Australia.

Submission of Mr C

1. Main Arguments

- It would place an unrealistic burden on employers to require them to check whether their employees have work rights.
- Few intending visitors would be able to access information about work rights. The information provided by DIMA is often unreliable and unable to be understood.
- Imposing a bond system may actually encourage people to work illegally, in order to help finance their bond.

2. Recommendations

2.1 *Relating to Illegal Employees*

- That the Department's measures are coordinated with those of other Departments and Agencies in an effort to encourage unemployed Australians to take up the jobs now being filled by illegal workers, for instance by making social security payments to Australian unemployed people more flexible, allowing them to take up seasonal work.
- That illegal workers and immigrants should not be able to obtain tax file numbers.
- That overseas information schemes are implemented, providing information, via ethnic organisations in Australia, to unlawful immigrants' countries of origin. This information should detail the problems encountered by unlawful immigrants and illegal workers, as well as give the numbers of the countries' nationals who have been located, detained and removed from Australia.
- That monetary thresholds are implemented in order to define what amounts to work which would breach visa conditions. For instance, a visitor could earn \$300 per month before any penalties would apply to them or their employers.

2.2 *Relating to Fees and Bonds*

- That visitors from the countries statistically most likely to overstay are charged a fee additional to standard visa fees, according to the extent of the nationality's contribution to compliance costs in the previous year.
- That due to the high cost of compliance activities, it is unrealistic to aim to achieve total compliance with immigration law.
- That if bonds are introduced, they should be restricted in number (for instance they should be applied to only 10% of the previous year's applications.)

2.3 *Relating to Employers*

- That employers should provide their employees' names and tax file numbers to the Australian Taxation Office and DIMA. They would then be informed whether their employees have work rights. If there are no work rights, the employees could be dismissed.
 - That "nominal incentives" rather than penalties be introduced to identify illegal workers, for instance that monetary rewards are granted for reporting an illegal worker. There should be no penalties for employers.
 - That a simpler system is implemented to allow employers to check whether the visitor has a right to work. It is suggested that everyone who enters Australia receives a stamp in their passport, indicating whether or not they have work rights. If there are no work rights, the employees could be dismissed.
 - That "nominal incentives" rather than penalties be introduced to identify illegal workers, for instance that monetary rewards are granted for reporting an illegal worker. There should be no penalties for employers.
 - That a simpler system is implemented to allow employers to check whether the visitor has a right to work. It is suggested that everyone who enters Australia receives a stamp in their passport, indicating whether or not they have work rights, and in which areas they can work.
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Submission of Mr D

1. **Author of submission**

The author is the owner/operator of a caravan park in the Lockyer Valley, a rural area of Queensland, where vegetable growing, packaging and marketing are the main industries. Many international tourists stay at Mr D's facility, seeking work.

2. **Main Arguments**

- DIMA's services to business appear to be aimed at the business sector. There is no sensitivity towards industries where short-term peaks of unskilled or semi-skilled labour occur, such as horticultural industries. This is reflected in these industries' inability to access labour.
- The horticultural industry should not be burdened with a reluctant, unhappy workforce when there is a pool of available, alternative labour.
- Some employers are benefiting from the employment of tourists, to the detriment of other employers. This should not be allowed to continue.

3. Recommendations

- That the holders of Tourist Visas get the opportunity to work in specific and restricted industries in rural regions where there is a need for unskilled labour. The money that these tourists spend in those areas will boost the local economies. However, these opportunities should only be offered to people from countries with high compliance rates that offer reciprocal opportunities to young Australians.
- This policy would also allow employers not to employ people who are working under pseudonyms (so they may continue to obtain unemployment benefits), which would decrease overall unemployment.
- This policy would also reduce the exploitation of tourists who fall into financial difficulties.
- Further, this policy would decrease the need of farmers to employ illegal workers, because their labour needs would be satisfied.
- Farmers should not be expected to check their employees' work rights, nor should they be prosecuted for employing illegal workers.
- That the bond system be subjected to economic analysis and further consultation. Overall, bonds should:
 - a. only apply to people from countries without an history of compliance, unless the application process identifies a greater than usual risk of non-compliance.
 - b. be substantial and strictly enforced.
 - c. be a tool to complement the process of intensive visa application assessment.
 - d. only be introduced if there is a benefit to the Australian society; not only for the purpose of increasing the size of the bureaucracy.
- That the sinister unlawful entrants should be summarily deported from Australia, saving detention and legal costs.

Submission of Mr E

1. Main Arguments

- Where employers hire illegal workers inadvertently, this usually happens because of their lack of information. What is required is an effective system to attract the employers' attention immediately that a person applies for work, without requiring a complicated process such as checking visas.
- Where employers hire illegal workers deliberately, they should face stringent compliance measures, such as hefty fines.

2. Recommendations

- That the Tax File Number system is amended so that foreign workers are differentiated from permanent residents (for instance by inserting a letter before the number to identify what type of visa the person has – “S” for student, “H” for working holiday, etc). Alternatively, a different number of digits could be used to identify residents from visitors.
- Employer sanctions ought to be adopted where employers deliberately employ illegal workers.
- That a bond system should be introduced to encourage compliance with visa conditions. It should reflect the seriousness of the Government's determination on the issue of illegal workers in Australia.

Submission of Mr F

Recommendations

1. That legislation is implemented to allow illegal workers to be located. The proposal is that:
 - Employers would be required to notify the Australian Taxation Office (ATO) within five days of employing a new employee.
 - The employee details would be sent, faxed or telephoned into the ATO, where they would be checked to see if the employee had work rights. While the information was being checked, the employee's tax would be deducted at the highest rate.
 - If any discrepancies were found by the ATO, they would be notified to DIMA, Centrelink or the police, who would take action.

This approach is preferable to placing the onus on the employer, because of the ease with which documents can be forged. An employer would not be able to overcome such problems.

Additional measures would have to be adopted where employees were paid cash in hand.

2. That Centrelink becomes stronger and directs Australian unemployed people to take up seasonal harvest work in rural areas. Initial transport (in the form of a one way ticket) ought to be provided to make the relocation easier. Centrelink policy ought to be amended to increase the area in which an unemployed person is forced to seek work.

Submission of Mr G

1. Main Arguments

- Mr G is disturbed at the large volume of unlawful non-citizens who come to Australia.
- He had recently travelled to China to help a friend process tourist visa applications, and was offered bribes for the visas. Mr G is concerned about the honesty of Immigration Officials who are faced with similar offers.
- Mr G is also concerned about the amount of Social Security, health care benefits and legal aid, that unlawful non-citizens are able to obtain.
- Mr G is also troubled that tax file numbers can be bought or borrowed, enabling illegal workers to go undetected, especially where their employers are after a source of cheap labour.

2. Recommendations

- That employers who are found to employ illegal workers face substantial sanctions, including:
 - a. Having their business confiscated;
 - b. Large monetary fines;
 - c. Lengthy jail sentences.
- That all tourists who come here are made to have return tickets before their visas are granted.

Submission of Mr H

1. Author of submission

The author is a former police officer of the South Australian Police Department, and currently a Taxation Officer employed at the Treasury Department.

2. Main Arguments

- Mr H submits that a problem exists with the provisions of the *Privacy Act*. The Act does not permit an ATO Officer to initiate disclosure to DIMA concerning an illegal worker.
- While DIMA may initiate a request from the ATO, the ATO cannot provide this information without a request. However, DIMA Officers will not be in a position to request information if they do not know it exists.

3. Recommendations

- That the *Privacy Act* is amended to ameliorate this situation.
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Submission of Mr I

1. Author of submission

Mr I was writing from his home address in Victoria.

2. Recommendations

- That there should be a survey of identity cards used in other democratic societies and an analysis of common features and uses that could be applicable to Australia.
- Consideration should be given to people being obliged to carrying identity cards [which would indicate their entitlement to work?].
- If we abide by the law carrying an identity card should not trouble us.

Submission of Mr J

1. Author of submission

The author is a farmer in Richmond, Tasmania.

2. Main Arguments

- Mr J submits that he objects to keeping records of his employees, not wanting the additional effort this amounts to.
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Submission of Mr K

1. Author of submission

Mr K writes from his home address in Victoria.

2. Main Arguments

- Since the 1970s, Australian society has progressively deteriorated (mainly through drugs, organised crime and increasing levels of street violence), which, in Mr K's opinion, has been brought about by excessive immigration and the introduction of multicultural policies.
- Mr K is particularly concerned with the environmental impact of immigration on Australia.

3. Recommendations

- That Australia's image in the world arena is changed, from that of "the chosen land", with a soft government that allows entry to anyone requiring a new home, to that of one whose future and environment are threatened by overpopulation.

In particular, the following steps should be taken:

- Penalties for those caught working illegally should be increased, including immediate removal from Australia.
- Coastal surveillance funding should be increased, and increase coastal communities' awareness about unlawful immigration.
- Boats of the unlawful immigrants should be immediately burned, followed by an immediate return back to their country of origin.
- Increased involvement by, and funding for, the military in areas where this issue arises.

Submission of Mr L

1. Main Arguments

- People seeking employment should have to provide evidence of their entitlement to work (eg a passport or other appropriate documents).
- The need for an Australia Card should be revisited and could include digitalised photographs and fingerprints to make forgery impossible. Such a comprehensive form of ID would replace a multitude of existing forms of ID and could be used for employment, taxation and social security purposes.
- Unlawful migration, particularly the increasing incidence of people smuggling by boat, is closely linked to organised crime and will increasingly pose a threat to working conditions, public health and quarantine.
- The introduction of a visitor bond may reduce the rate of unlawful migration as the amount of the bond may be less than that charged by people smugglers, however the bona fides of such people are questionable and they should probably not be allowed in at all. To avoid the bond being used as an alternative to smuggling, the amount of the bond should be set very high.
- Urgent measures need to be taken quickly to ensure the integrity of the fabric of the community and their faith in immigration control measures.

2. Recommendations

- All employers should be required to check an employee's eligibility to work.
 - Impose severe penalties on any employer who knowingly employs anyone who is not entitled to work in Australia.
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Submission of Mr M

1. Main Arguments

- People who are denied immigration to Australia are bypassing Australia's immigration control measures by migrating to New Zealand and after 18 months moving to Australia.
- Some illegal workers are claiming multiple unemployment benefits while also being paid to work for working.
- People arriving unlawfully by boat are trying to integrate into the community.
- Students from Asia are also working here.
- The costs of these indiscretions must be borne by the Australian taxpayer.

2. Recommendations

- We need to introduce an Australia Card so that there is one valid ID for workers, social security recipients and students. It should include a photograph and fingerprints and could replace other forms of ID such as driver's license, Medicare card, naturalisation certificate etc.
 - With such a card the onus could then be put on the employer to check if the person has permission to work. It would also help prevent taxation, social security fraud and voter fraud.
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Submission of Mr N

1. Author of submission

Has travelled extensively in Asia.

2. Main Arguments

- Some of the ethnic Chinese in Brisbane have been discussing a bond of \$3-5,000. Such an amount would be too low given that people smugglers charge about \$25,000 per person for unlawful entry. Some people have paid \$20,000 for a fraudulent passport with a visa for entry to Australia.
- If a bond were introduced there would a very large number of applications made to enter Australia, particularly if the amount of the bond was too low. To process these applications, the young unemployed should be trained to process visa applications, with some being offered permanent positions in DIMA.

3. Recommendations

- To eliminate jobs for illegal workers employers who give jobs to illegal workers should be fined \$25,000 or be sentenced to a long term in jail.
- ATO should be advised as soon as illegal workers are found, because employers do not deduct tax as required, and the employer should be fined \$5-10,000.

Anonymous Submission

1. Main Arguments

- It is unfair and unrealistic to place the burden of identifying unlawful immigrants on the employers.
- Asking all people to present documentation about their work status will violate their civil liberties; if only people of ethnic appearance are selected, it will encourage discrimination.

2. Recommendations

- That different categories of workers are imported into the country for specific contract periods, for instance domestic help, nannies, construction workers and factory workers. The rate of pay of these people would be individually agreed between the worker and their employer/ employment agency.
- A fixed visa fee would be charged for each worker. It would be payable either by employer or the worker. This will result in:
 - a. More income for the government;
 - b. More business opportunities for employment agencies;
 - c. Reduction in illegal workers;
 - d. Increased monitoring of foreign workers.

Submission of the Australian United Fresh Fruit and Vegetable Association Ltd (AUF).

1. Author of submission

Mr Rod Hall, of the National Secretariat, wrote on behalf of Mr Jeremy Gaylard, the Chairperson of the AUF. The AUF was formed in 1980 as a national umbrella organisation for the fresh produce industry, including growers, grower organisations and packagers.

2. Main Arguments

- Over the years the industry has become more reliant on overseas travellers (backpackers) to meet the need of growers for harvest labour as many unemployed Australian citizens and residents will not seek this type of work.
- Notwithstanding the introduction of schemes such as Project Contracting and those who come on working holiday visas, there is a great need for employers to quickly and easily find willing workers, particularly in remote areas.

- The AUF doesn't support the use of illegal workers. Employers already face administrative burdens, particularly where there is a high staff turnover.
- While DIMA's kit for employers is useful and the Employer Awareness Campaign must continue and any new literature should be aimed at saving time for employers. Greater use could be made of industry and trade publications, association newsletters. DIMA should devote more resources to the ongoing education of employers, including making a short educational video.
- There are, however, often problems accessing the department's home page on the Internet and the national telephone inquiry line (131 881) often goes unanswered. All of this is not much help to employers wanting to do the right thing.
- It should be responsibility of the visitor to show documentation of their right to work not the employer's responsibility to check it.

3. Recommendations

- The implementation of the National Harvest Trail labour scheme should be implemented as soon as possible as many growers face serious shortages of labour during the harvest season.
- The AIF supports the introduction of a system whereby an overseas visitor (without work rights) could apply for temporary work rights, for a period of one month with any one employer, after arrival in Australia. It should have age restrictions attached to it.

Submission of the Queensland Fruit and Vegetable Growers, forwarded by Ms Averil Scott, Communications Manager

1. Author of submission

The author is the Communications Manager of the Queensland Fruit and Vegetable Growers (QFVG), which represents some 7,000 fruit and vegetable growers in Queensland. The industry has undergone substantial growth in recent decades and during the period 1995-96 to 1987-88 the gross value of production doubled to \$900m. More than half of these growers depend on the availability of working holiday makers (WHM) to harvest their crops. Growers in the areas with a high use of WHM labour were consulted.

2. Main Arguments

- A thorough redesign of the administrative arrangements for the WHM scheme is required. A well designed, simple and easy to use scheme will minimise difficulties currently being experienced and should reduce the incidence of illegal workers.

- The QFVG supports an expansion of the WHM scheme and considers that this view is supported by statements made by the JSCM's 1997 report on WHMs and the 1995 Bureau of Immigration and Population Research report on WHMs. The BIPR report confirms the willingness of WHM to work in jobs that Australians refuse. Much of the work is strenuous and is done in hot and humid conditions.
- The magnitude of the problem is being overstated by DIMA, ie overstayers only amount to 0.15% of the Australian workforce.
- If the cap on the WHM subclass of visas was increased there would be less scope for illegal workers to get jobs and there would be sufficient labour to harvest crops quickly, before the produce deteriorates in quality and the price paid to growers falls. For an industry worth \$900m a 10% drop in price paid for produce is significant.
- Growers are adamant that they should not be responsible for checking if a person has the right to work and this task properly lies with immigration officials. Growers should not be penalised by sanctions when it is not their job to check a person's eligibility to work. Many growers are hesitant to ask personal questions on the basis that they may be invading a person's privacy or accused of harassment.
- Many growers are confused about what they are obliged to do and where they stand legally.
- Little use has been made by growers of the National Harvest Trail scheme, which is aimed at improving the supply of casual labour, during peak periods. Growers have indicated a lack of confidence in the commitment of Commonwealth agencies to address this problem. In addition, growers have little confidence that Australian residents and citizens will do the work required for the duration of the season. They have expressed a preference for WHM labour.
- The existing Employer Awareness Campaign has only created low levels of awareness in Queensland of the need to check visa labels. The visa labels are difficult to read and visas are complicated to understand, particularly with the many levels of work rights. Growers still do not normally asked to see a visa label. The information in the kits is too long and complicated and should be reduced to 1 or 2 pages. Backpacker hostels and caravan parks also need to be targeted in future campaigns.
- The QFVG has been concerned about the heavy-handed way DIMA has carried out "raids" on growers. The emphasis should be on educating growers, eg by a direct mail-out to growers.

3. Recommendations

- That DIMA issue work permit cards that clearly indicate a person's right to work and the period during which they can work. The card should be subject to on-line validation through a toll-free number or via the Internet. A photograph should be included to prevent misuse.
- Alternatively, use of a tax file number should be adequate proof of eligibility to work and there should be better coordination between DIMA and the ATO to achieve this. Again, on-line validation should be available.
- The tax rate for WHM should be the same for WHM as that for other casual workers (ie 15% not 42%).
- WHMs should be exempt from making superannuation contributions.
- A DIMA staff member should be made available during the harvest season in country areas to minimise the engagement of illegal workers.
- The WHM scheme be expanded to ensure sufficient labour is available for the harvest season. There needs to be better coordination between growers and government agencies to ensure that labour is in the right place at the right time. The Job Network could play a role in monitoring demand and matching the demand for labour with a supply of casual workers.
- QFVG would like to be represented on the Projecting Contracting and National Harvest Trail working groups prior to these initiatives being implemented.
- A whole of government approach be adopted by Commonwealth agencies such as DIMA, DEETYA and the ATO to provide a seamless service to employers.
- Field checks by DIMA should be kept to a minimum and be done sensitively.

Submission of Kimberley Produce

Written by Mr Lachlan Dobson

1. Author of submission

The author is a co-owner of Kimberley Produce, possibly a farm, in Kununurra, Western Australia.

2. Recommendations

Proposal 1

- That all holders of current visas be permitted to work on any farm anywhere in Australia.

Proposal 2

- That all holders of current visas should be able to apply for “Condition Work Certificates” to DIMA, or DIMA agents, if they provide the current visa, employer’s signature on the application to ensure that they have prospective work.
- These certificates would be valid for three months per region in Australia (for instance, they would be valid for three months in Kununurra; another 3 months in Griffith, etc.)
- The certificates would be granted on request by the visitor.

Proposal 3

- That until a system is in place (such as that proposed above) all lawful visitors should be allowed to work on farming properties throughout Australia.

Submission of Tourism Council Australia

Written by Mr Philip A Young

1. Author of submission

The author is the Managing Director of Tourism Council Australia, an organisation supporting tourism, based in Sydney.

2. Main Arguments

The tourism industry is not opposed to the introduction of a system of bonds, which would serve to facilitate the entry to Australia of visitors who would otherwise not be able to enter lawfully. There are, however, some caveats:

- A bond scheme should not replace the existing system of entry (for instance, a visitor should apply for entry via the bond system following a rejection under normal visitor visa).
- Rejection rates under the normal system should be closely monitored to ensure that applicants are not being rejected simply to force them into applying under the bond scheme.
- The increased level of funding for DIMA's compliance activities as a result of the imposition of bonds should be investigated. It is proposed that this funding might be used to offset visa application charges (for non ETA applicants).

3. Recommendations

- That the Department reconsiders the use of Form 48R which is costly to administer and harmful to Australia's reputation as a friendly and welcoming nation.
- That further research and study be undertaken in relation to:
 - a. The non-departure rates in countries which have a bond scheme;
 - b. The impact of visitor workers, in particular the Working Holiday Makers, on the labour market.
- That the level of security bonds should not be prohibitive, and should be constant (eg between \$5,000 and \$10,000).
- That the bond scheme be "trialed" in relation to 5 selected high risk countries, and its effect on non-departure rates be closely monitored.
- That Option C (from the Discussion Paper) is preferred.
- That there not be a special visa category introduced for the visitors affected by the bond scheme.
- That the resources of Immigration, Customs and the Australian Quarantine Inspection Service be combined to form one border control management body.

Submission of National Farmers' Federation

Written by Mr Richard Calver

1. Author of submission

The author is the Director of Industrial Relations in the Federation, which represents the interests of farmers around Australia.

2. Main Arguments

- The law should recognise a distinction between, eg, backpackers who work illegally in Australia for a limited period of time, and long term over-stayers who deliberately utilise short-stay permits to gain entry with the purpose of settling in Australia.
- Most farmers do not wish to check work rights. It causes undue administrative burdens, particularly in relation to short term casual labour.
- An error on the part of an employer in checking work rights should not incur sanctions, particularly where employers are required to handle a large influx of employees over short periods of time. The distinction between employing illegal workers knowingly and mistakenly ought to be maintained.
- The Employer Awareness Campaign should continue and “on ground”, appropriately briefed immigration officers should be available to assist farmers during harvest periods, eg one officer to each State-based harvest labour office.
- The issue of culpability of employing illegal workers becomes difficult where farmers engage harvest contractors who become the principal employers. It is the contractors who should face harsher penalties.
- Field compliance action by the Department leads to resentment on the part of the farmers. This resentment is exacerbated by comments relating to the nature of rural terms and conditions of employment. The difficulty farmers experience when trying to find labour is not caused by poor working conditions and pay, but by the inequality of labour supply and demand. The horticulture industry relies heavily on maintenance of the Working Holiday Maker scheme to supply sufficient labour.
- Working Holiday Makers work more productively in piece work operations than those who are provided with a social security net and who do not wish to work in physically difficult conditions.

3. Recommendations

- That the Harvest Trail Working Group coordinate its efforts with those of the Working Group established as a result of this review, to identify the labour demands of horticultural areas.
- That the different levels of culpability be differentiated in considering the application of penalties.