



*Australian Dairy Industry Council Inc.*

## **Australian Dairy Industry Council**

Response to the working holiday maker visa review

September 2016



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The Australian Dairy Industry Council is the national peak policy body for the Australian dairy industry and represents all sectors of the industry on issues of national and international importance.

Its constituent organisations – the Australian Dairy Farmers Limited (ADF) and the Australian Dairy Products Federation (ADPF) – represent the interests of dairy farmers, manufacturers, processors and traders across Australia.

## Introduction

The Australian dairy industry is a vibrant global industry contributing \$13 billion to the national economy, including almost \$3 billion from exports alone. The industry employs 43,000<sup>1</sup> people directly on farms and in dairy processing, and a further 100,000 Australians rely on dairy for their livelihoods. It is the lifeblood of many regional communities.

The dairy industry's labour shortage means that overseas workers, such as working holiday makers (WHMs) are relied upon to fill vital on-farm roles which cannot be filled locally. While our first choice is always to recruit local employees, there is currently not enough supply to meet demand.

The dairy industry has continued to state that the 32.5% tax rate which was nominated in the 2015 Federal Budget will mean backpackers will choose to travel to other countries and our industry will be unfairly disadvantaged. A 19% tax rate which we have previously nominated provides a suitable compromise.

We welcome the opportunity to provide input into this review and look forward to finding a solution to the backpacker tax.

### Key points:

- A 32.5% tax rate will discourage working holiday makers from travelling to Australia and working on Australian dairy farms.
- The period that a working holiday maker can work with one employer should be extended from six to 12 months.
- Policies should be implemented which are aimed at securing the industry's long-term labour needs.

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<sup>1</sup> Dairy Australia *Australian Dairy Industry In Focus 2014*

## Australia's competitive position in attracting seasonal and temporary foreign labour

Our industry, like many agricultural commodities, suffers from a labour shortage, therefore making us dependent on overseas workers to fill vital on-farm roles. Despite continued investment in attracting and training local employees<sup>2</sup>, the reality is that there aren't enough local employees to meet demand<sup>3</sup>. Along with 457 visa holders and other temporary migrants, we are reliant on backpackers choosing to travel to Australia and work in agriculture to ensure the necessary tasks on dairy farms are completed. Daily requirements such as milking, feeding calves and upkeep of the farm necessitate a constant supply of ready and willing workers on Australia's dairy farms.

The Government's proposal to tax backpackers at a rate of 32.5% for every dollar they earn will have detrimental impacts on our industry. Backpackers will choose to travel to other countries and without them, our existing labour shortage will be further exacerbated. A recent survey by Monash University's National Centre for Australian studies surveyed 335 international working holiday makers staying in hostels in Cairns, Port Douglas and Melbourne between May and June this year. It found that 60 per cent of them, would not have come to Australia if they were taxed at 32.5 per cent.<sup>4</sup>

A dairy farming family from Strathmerton, Victoria who milk 400 cows and have five years' experience of employing working holiday makers said that backpackers fill labour gaps and 'make their lives a little bit easier'. They report that backpackers bring cultural diversity to their small community, with some backpackers presenting at their children's school about their country and traditions.

The family states that if the backpacker tax was brought in at 32.5%, it would put them at unfair disadvantage to other countries, and backpackers would choose to go elsewhere. This would cause a shortage of workers on their farm, putting severe strain on their family. *"What will happen in our business, I (mum) will have to work on farm with my husband as well as in the office, run a home with four children at their beck and call, they will have to give up sport and any other out of school activities because I cannot run them to and from, because I will be on farm. We will have to replace two people in the dairy when we go on holidays and maybe a third person because not everyone can drive a tractor to feed the cows. Then we can only go on holidays at certain times of the year because there is calving, irrigation times and school holidays."*

Despite the tax not being brought in yet, the uncertainty surrounding its possible implementation is already contributing to a lack of supply. Dairy farmers are reporting they have already seen a significant decrease in backpackers wanting to work in Australia due to the uncertainty surrounding the tax. For example, a Tasmanian dairy farmer who regularly employs backpackers to fill short term

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<sup>2</sup> See Attachment 1

<sup>3</sup> Dairy Australia *The Power of People on Australian Dairy Farms*, September 2014. In a community assisted telephone interview 401 dairy farmers were surveyed and only 20% said they found it easy to recruit suitable applicants. Of the 66% of respondents who employed staff, only 25% said they found it easy to recruit suitable applicants. Furthermore, of the 32% of farmers who have recruited in the last 12 months, 44% of respondents answered 'no' when asked whether they were able to recruit staff with skills and education around farm business management.

Further information can also be found via:

Dairy Australia 2013 *Dairy People Factfinder*, p. 60 available at

<http://www.thepeopleindairy.org.au/projects/2013%20dairy%20people%20factfinder.pdf>

and AgriFood Skills– Australia Environmental Scan 2013, p. 39 available at

[http://c.ymcdn.com/sites/www.agrifoodskills.net.au/resource/resmgr/publications/2013\\_environmental\\_scan.pdf](http://c.ymcdn.com/sites/www.agrifoodskills.net.au/resource/resmgr/publications/2013_environmental_scan.pdf)

<sup>4</sup> <http://www.abc.net.au/news/2016-08-24/backpacker-tax-review-strawberry-employment-jobs/7779286> Accessed 24 August 2016

vacancies on his property has noted a substantial drop in applications for advertised positions. The dairy farmer said that in response to an advertisement on Gumtree he would usually receive 40 applications within three days. However, just recently, an advertisement he has had listed for three weeks has only attracted 18 applications. He believes this drop in interest is directly attributable to backpackers believing they will be unfairly taxed when they come to Australia.

It is fair that backpackers pay some tax while they are working in Australia, however, any tax rate which is imposed on backpackers should not put us at a comparative disadvantage to other nations which backpackers may be choosing to travel to. As the table below shows, a 19% tax rate leaves Australian backpackers at a comparative advantage to other countries such as Canada and New Zealand and therefore, provides a suitable compromise.

#### Comparable earnings – working holiday makers

Country	Australia (32.5%)	Australia (19%)	Canada	NZ
Min. hourly wage	\$17.70	\$17.70	\$11.07	\$15.25
Tax rate	32.5%	19%	15%	10.5%
Net hourly wage	\$11.95	\$14.34	\$9.41	\$13.65

### **Superannuation**

As part of this review into working holiday makers, superannuation payments made to temporary migrants should be revised. ADIC believes consideration should be made towards redirecting super payments made to working holiday makers to schemes to which would increase the supply of labour, both local and foreign.

Working Holiday Makers are not claiming their super, despite employers being mandated to pay it. As at 30 June 2015, there were 776,000 unclaimed super accounts held by temporary residents, totalling \$571 million. This is an extraordinary sum of money which has been paid by employers to backpackers which has been left unclaimed.

Furthermore, paying superannuation to WHM's undermines the objective of superannuation which is to provide income in retirement to substitute or supplement the Age Pension<sup>5</sup>.

ADIC, however, would have concerns with a scheme which involves paying superannuation directly to WHMs to offset the introduction of a 32.5% tax rate. Whilst many backpackers do not claim their super when they leave the country, they still have this option. Therefore, paying funds directly to WHMs would merely mean they receive the money earlier, instead of when they leave the country. Furthermore, backpackers and Australian employees working side by side would be receiving different pay rates.

### **Seasonal worker programme**

The ADIC believes there are opportunities to increase demand for the seasonal worker program. Since it has been expanded to dairy, uptake has been slow. Recent figures from the Department of

<sup>5</sup> <http://kmo.ministers.treasury.gov.au/media-release/050-2016/> Accessed 25 August 2016

Employment state that at the end of 15/16 FY there were 4400 seasonal workers employed in horticulture and only 15 employed in other agricultural industries.

The program needs promotion to potential employers. ADIC encourages the Department of Employment to consult with industry organisations on this program. It should also be noted that we see the SWP as another option to recruit overseas workers, not the only option. Due to the significant employer obligations associated with it and some of the regulatory barriers other industries are experiencing, it might not be the most appropriate labour solution for everyone.

## **Regulatory imposts on employers**

While there are few regulatory costs and barriers to working holiday makers and seasonal workers, there are significant regulations which are imposed on employers, inhibiting our ability to hire overseas workers.

### **Six month working limit**

The current six-month limit for being employed with one employer under working holiday visas undermines productivity due to high staff turnover and the need to continually source, employ and train new staff. This time limit should be extended from six to 12 months.

### **Full time payslips**

From 31 August 2015, the Immigration Department required all second Working Holiday visa applicants to provide pay slips as evidence of work completion.

Since this time, the dairy industry has learnt that the Department's internal Procedures Advice Manual, which provides guidance for officials on how to assess this requirement, now includes the following statements:

“...in calculating 88 days of specified work, only full days of work are counted”; and

“...the shortest period that may be counted towards the specified work requirement is one day of full time work (for that industry). It is not acceptable to add two half days to make one full day of work, or to count one double shift as two full days of work.”

In the dairy industry, it is not uncommon for a relief milker or milker to work across more than one farm. This inflexibility creates difficulty for working holiday makers who are employed on a casual or part-time basis.

The ADIC therefore seeks an alternative approach based on hourly equivalents so that all hours of work can count toward the 88-day requirement.

The fulltime payslip requirement is at odds with the intent of the second year visa: to help Australian regional employers by encouraging working holiday visa holders to seek short-term and casual work in specified industries in regional Australia. It should therefore be more flexible.

## **Exploitation of and protections for vulnerable workers**

The dairy industry does not condone or support the exploitation of employees, overseas or Australia. The dairy industry invests significant resources into equipping farmers with employment skills and knowledge.

The Employment Starter Kit initiative (ESKi) details all of the mandatory requirements for dairy businesses that employ staff, as well as ideas for improving the employment experience on-farm.

Over 2000 ESKi's are now in circulation. This is supplemented by the People in Dairy<sup>6</sup> website which contains up-to-date information for employers and employees. It includes webpages on 'hiring people from overseas' for employers and 'coming from overseas' for employees.

Dairy Australia has recently begun providing a Diploma of Human Resources. The Diploma of Human Resource Management (Dairy) provides a theoretical and practical foundation in dairy recruitment, analysis of roles and responsibilities, employment law and industrial relations, policies and procedures, management of working conditions, remuneration and employee benefits, induction processes, separation/termination procedures, training and development issues, succession planning and occupational health and safety.

Many State Dairy Farming Organisations (ADF members) also provide Workplace Relations advice to farmers.

### **Capacity to match employers with available workers**

The use of labour hire companies is not common in the dairy industry. Dairy farmers typically rely on previous backpacker referrals or advertising sites such as Gumtree to find working holiday makers to employ.

The dairy industry also has its own employment website. Employment Made Easy (eMe)<sup>7</sup> allows dairy farm employers to register available jobs on a dairy farming employment register. Through eMe both employers and job seekers can register their offers and skills, to help ensure suitable job and candidate matches.

### **Short-term and long-term agricultural labour needs**

The dairy industry is likely to experience a growing demand for employees in the medium to long-term. As farms get bigger and opportunities to increase production continue, there will be an increased need for more specialist skills on farm.

The number of farms has fallen by more than two-thirds over the last three decades from 19,380 in mid-1985 to 6,128 in mid-2015. At the same time, milk production has risen from 6 billion litres to 9.7 billion litres. Although there are fewer farms, the average farm size is larger and consequently there is an increase in the number of workers required on these farms. As a result, in 2009 approximately 70% of dairy farms employed people other than family members – an increase from just 30% in 2004.

This trend is expected to continue into the future. While the current financial situation the dairy industry is in may be leading farmers to reassess their staffing requirements, longer term projections point to increased demand. Recent modelling by Dairy Australia suggests that by 2022 we will need an additional 2000 people in the dairy industry<sup>8</sup>.

To meet this demand, it is imperative we have access to a supply of enthusiastic and motivated workforce to ensure our necessary tasks on farm are carried out.

The ADIC therefore sees merit in a dedicated agriculture visa which provides security for the supply of temporary migrants to work on Australian farms.

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<sup>6</sup> <http://www.thepeopleindairy.org.au/index.htm>

<sup>7</sup> [www.eme.org.au](http://www.eme.org.au)

<sup>8</sup> See attachment 2 - Workforce prediction for dairy farm employees by 2022

## **Policies to attract unemployed Australians, including young Australians, into work in agriculture**

The dairy industry's first choice is to employ Australians. We invest heavily in programs to attract people to our industry, as shown in attachment 1.

Those that do work in the industry find it a fulfilling and challenging career and it often attracts people who have an affinity with animals and an appreciation for working outdoors. It is a skilled industry with many positions both on-farm and in processing requiring significant on-the-job training and/or formal qualifications. On-farm, proficiency in animal husbandry and milk harvesting are basic prerequisites. In addition to formal qualifications, dairy employees require significant on-the-job training. This is largely attributed to the safety risks associated with working with technical equipment and operating machinery, as well as the responsibility for animal welfare, including rearing calves.

In 2012 - 2013 the dairy industry piloted a program titled *In2Dairy: Assistant Farmhand pilot program - Western Victoria* to explore how to maximise the chances of successful long-term employment relationships for entry-level employees. The pilot involved an extensive program of recruitment, orientation and work placements.

Whilst the program had some successful outcomes, the primary goal of recruiting a significant number of new entrants and placing them into employment and traineeships was not successful.

The final report stated that the program illustrated that the model can be effective in attracting potential new entrants who have already developed some interest in dairy, but it is not effective in attracting new entrants who have no prior interest.

## **Opportunities to expand supply of seasonal and temporary foreign workers for the agricultural sector**

Abandoning the proposed backpacker tax will increase the supply of working holiday makers to Australia.

There are also opportunities to increase the eligible age of for 417/462 visas from 30 to 45 and extending the period that a working holiday maker can work with one employer from 6 to 12 months.

## **Conclusion**

The focus of this review must both be on securing the long-term labour needs of the agricultural industry. Putting an end to the backpacker tax, reducing regulatory barriers for employers, increasing the eligible age of backpackers and the amount of time they can stay with one employer and promoting the seasonal worker program should be prioritised. Providing access to a ready and willing supply of skilled workers, both overseas and local, is crucial for our industry to prosper in the future.