

## Submission: Working Holiday Maker Visa Review

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Dear Sir or Madam,

I am an independent journalist and researcher with a particular interest in migration matters. I write in my capacity as the author of a new book that provides an in-depth investigation of temporary migration. (*Not Quite Australian: how temporary migration is changing the nation*, Text Publishing, 2016). For more background on the points made below, I refer you to Chapter 9 of my book "De Facto Labour Migration" and to the recommendations in the book's conclusion. I also refer you to the following article, reviewing the report of the recent inquiry of the Joint Standing Committee on Migration into the Seasonal Workers Programme ('Comparing apples and oranges', *Inside Story*, 5 July 2016, <http://insidestory.org.au/comparing-apples-and-oranges> )

I apologise for the brevity of this submission, but would be happy to provide oral evidence or further written documentation of the issues raised if that were helpful.

I address four issues relevant to the current review of the Working Holiday Maker Visa.

**1. Tax Rates.** The decision to apply the non-resident tax rate of 32.5% on the first dollar earned working holiday makers is counter productive and likely to produce perverse outcomes and unintended. Working holiday makers are already employed in industries such as hospitality, tourism and agriculture, where cash-in-hand payments and tax avoidance are widespread. Denying working holiday makers access to the tax free threshold that applies to residents is likely to encourage employers and employees to engage even more frequently in verbal agreements to pay untaxed cash wages at below award rates.

**2. How the second year WHM visa leads to abuse exploitation** The introduction in 2005 of a second 12-month working holiday visa for visa holders who engage in at least 88 days of specified work in horticulture in a regional area, and its subsequent expansion to other sections of the rural economy, perverts the original intention of a visa designed to encourage long-term tourism and cultural experience and terms it into a visa designed to meet labour market needs. What is more, the option of a second visa has created a 'choke point' at which working holiday makers become vulnerable to the depredations of unscrupulous employers and rouge hostel operators. [Extensive evidence](#) shows that working holiday-makers are vulnerable to abuse from employers who can exploit working holiday makers' desire to secure a

second year visa by demanding that they perform dangerous work, work for excessive hours, or work for sub-award wages. There are documented cases of employers failing to provide a safe workplace, refusing to take responsibility for workplace injuries and pressuring female workers to provide sexual favours in return for 'sign off' on their 88 days specified work. Rouge hostel operators promise work in return for backpacker accommodation, but travellers can arrive in remote locations having paid for their accommodation in advance, only to find that there is no work available, or that work is uncertain or that the available pay and hours are insufficient to cover living costs.

While many employers and accommodation operators do the right thing, the second visa option structural creates conditions in which such abuses are almost certain to occur.

**3. The interaction of the Working Holiday Visa second visa option and the Seasonal Workers Programme (SWP).** The Seasonal Workers Programme for seasonal migrant workers from Pacific Island nations and in East Timor has been seriously undermined by the second working holiday visa option. Farmers who want to engage working holiday-makers don't have to prove their credentials in any way, whereas "approved employers" under the SWP must demonstrate not only "good immigration practices and a history of compliance with immigration legislation" but also "a history of compliance with Australian workplace relations, work health and safety legislation, and other relevant laws." While only 58 employers were approved under the SWP in 2014–15, a majority of horticultural producers report employing working holiday-makers. An employer who wants to recruit backpackers doesn't have to test the local labour market at all, whereas approved SWP employers must advertise for a two-week period within the three months before they bring a seasonal worker to Australia.

A regulated scheme with a development focus will always entail higher costs for employers than an unregulated backpacker program, which is why the option of a second working-holiday visa should be gradually phased out and replaced with an expanded SWP. As long as the second WHM visa option exists, the Seasonal Worker Programme will continue to be stymied, because employers will find it cheaper and easier to hire backpackers. Yet while this may be in the short term interests of individual employers, it is not in the long term national interest or the interests of Australia's regional industries.

Under the working holiday maker scheme, most backpackers will only work in a recognized industry regional Australia for as long as necessary to acquire a second WHM visa. Reliance on an itinerant "backpacker" workforce has significant disadvantages.

The Victorian apple-growing firm Vernview, for example, told parliament's migration committee that the high turnover makes working holiday-makers unreliable because "backpackers tend to only want to be around for short periods before heading off to the next region as many have a pre-planned itinerary of exploring Australia." This

has often left the business “short of labour and caused issues on critical days of harvest and getting the crop picked in optimum condition.”

While Australia’s Seasonal Worker Programme for the Pacific Islands and East Timor imposes time limits—seasonal workers can only stay in Australia for part of the year (usually a maximum of six months)—it is anticipated that they will return again year after year. By encouraging migrants to return year after year, the SWP aims to provide employers with a secure source of increasingly skilled and experienced labour.

There is another consideration at work here: a primary purpose of the Seasonal Worker Programme is promoting development, so the idea is that workers take their savings home to invest in their own families and communities before returning for another stint of work the following season. The intent, too, is that seasonal workers still spend a significant chunk of each year with their families—that they keep their emotional roots in home soil,

The Seasonal Worker Programme has the added benefit of generating employment and increasing family incomes in small nations that are highly dependent on Australian aid. Ideally, a seasonal labour programme should also include training opportunities so that workers could take home useful skills (such as courses in first aid or safe pesticide handling). The cyclical nature of the Seasonal Worker Programme is better for productivity than the working-holidaymaker scheme: as the same workers return year on year they become increasingly proficient in the skills appropriate to the workplace, whereas each new batch of backpackers always starts from scratch. Experience in New Zealand and Canada shows that cyclical seasonal-labour schemes can be viable and beneficial. Despite its much smaller economy, New Zealand hosts [around 8000 seasonal workers](#) each year; Australia’s numbers are fewer than 3000.

If we need more fruit-pickers and other seasonal workers in rural and remote Australia, then the Seasonal Worker Programme for the Pacific and East Timor is a more appropriate way to meet this demand for labour, as long as it remains closely regulated. Recent allegations of labour-hire companies ripping off Pacific Island workers in [Queensland](#), [NSW](#) and [Victoria](#) are disturbing, but it is nevertheless easier to monitor the employment conditions of teams of workers deployed under a centrally organised Seasonal Worker Programme than it is to keep track of what happens to tens of thousands of working holidaymakers independently entering the rural labour market—particularly when, as outlined above, employers and accommodation providers can use the option of a second visa to exploit potentially vulnerable young travellers. In addition, as far as I am aware, all of the problems of abuse that have arisen in the Seasonal Workers Programme have been perpetrated by labour hire contractors rather than farmers; it appears therefore that the problem lies not with the design of the SWP per se, but rather with the extremely lax regulation of labour hire contractors in Australia. As the parliament’s joint migration committee reported, the Fair Work Ombudsman receives a “relatively low” number of complaints about employers in the SWP compared to other sectors and abuse in

the SWP could be further reduced if state and federal governments regulated the labour hire industry effectively. On this point the migration committee endorsed the earlier Senate education and employment committee recommendation that labour hire contractors be subject to a licensing regime. That committee's report on temporary work visas, [A National Disgrace](#), concluded that "certain parts of the labour hire industry... have been a breeding ground for the widespread and egregious exploitation of temporary visa workers."

One of the original intentions behind the Seasonal Worker Programme was that it would help build people-to-people links between Australia and the Pacific, with church groups and service clubs (like Lions and Rotary) engaging seasonal workers in local activities, or even fundraising for development projects in the workers' home villages. Embedding the programme in the community in this way would reduce the likelihood of workplace abuses occurring and increase the likelihood of them being reported.

**4. Potential expansion of the Seasonal Workers Programme** Parliament's migration committee report on the SWP also recommended that the program be expanded into new sectors suffering from labour shortages, notably aged care, childcare and disability care. This would certainly help achieve the committee's laudable aim of opening up the program to more women, but it is problematic in other ways. Unlike significant parts of the agriculture and tourism industries, there is nothing remotely seasonal about care work.

Bringing in low-skilled migrant workers on temporary visas to fill ongoing gaps in the labour market is a very different proposition from a seasonal scheme in which migrants come to Australia for a defined period each year, and it would open the door to a different range of problems. Assuming that these migrants would be working and paying tax in Australia for years at a time, what rights would they accrue to access welfare benefits? Would there be a pathway to permanent residency and citizenship, or would they, like many [New Zealanders](#), be trapped in permanent temporariness? If Australia needs low-skilled workers from the Pacific and East Timor to fill permanent jobs, then in my view, we must offer them permanent visas and allow them to settle with their families and become full members of the political community.