

Spring 2018

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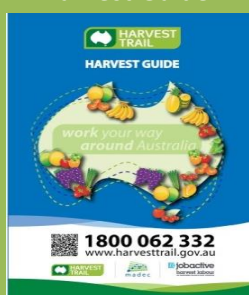
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Welcome to the Harvest Trail e-news, a quarterly newsletter to keep you informed with up to date information on employing harvest labour.

The newsletter is produced by the National Harvest Labour Information Service which is funded by the Commonwealth Government to ensure horticulture growers can find productive, hardworking seasonal workers.

We hope you find the information useful and welcome your feedback to

nhlis@madec.edu.au or 1800 062 332



Horticulture Award changes are on the way

The lengthy process to review the conditions of the Horticulture Award is getting closer to completion, with draft determinations recently released by the Fair Work Commission. The main areas likely to impact horticulture producers are the inclusion of overtime provisions for casuals and introduction of a minimum two hour engagement for casual workers. At this stage it is still unclear whether overtime provisions will apply to piece rate workers or when the new award conditions will be enacted.

Examples of altered pay rates if the new award provisions are implemented

For hours worked outside of ordinary span of hours (5.00am-8.30pm)

Base rate + 25% casual loading + 15% overtime loading
= 18.93 + 4.73 + 2.84 = \$26.50 OR 140% 18.93 = \$26.50

Hours worked in excess of 12 hours per day or 304 hours over an 8 week period

Base rate + 25% casual loading + 50% overtime loading
= 18.93 + 4.73 + 9.47 = \$33.13 OR 175% 18.93 = \$33.13

Public holiday

Base rate + base rate+ 25% casual loading
= 18.93 + 18.93 + 4.73 = \$42.59 OR 225% 18.93 = \$42.59

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Labour Hire Licensing Update

Labour hire licensing laws are in different stages of implementation in the three states that had indicated they were going to implement them. A brief summary for each state follows:

South Australia: The State Government has announced that it intends to repeal the *Labour Hire Licensing Act 2017*, following feedback raised by stakeholders. Legislation to repeal the *Labour Hire Licensing Act* is expected to be introduced into Parliament by the end of the year. Further information: <https://www.sa.gov.au/topics/business-and-trade/licensing/labour-hire/labour-hire-licence>

Queensland: Labour Hire providers had until the 15th of June to apply for a licence under the Queensland Government's new Labour Hire Licensing Scheme. If operators missed the deadline they cannot operate as a Labour Hire provider until they get a licence. If you use a Labour Hire provider you need to ensure they are licensed and this can be done by searching the register of licensed labour hire providers - <https://ols.oir.qld.gov.au/licence-register/>

Victoria: The consultation period on the exposure draft for the Labour Hire Licensing Regulations and Regulatory Impact Statement closed on the 5th of September and submissions made are being reviewed before final regulations are made. It needs to be noted that exposure draft Regulations do not contain a commencement date. The commencement date will be the day that the remaining provisions of the Act come into operation. This is anticipated to be around early to mid-2019. Further information: <https://economicdevelopment.vic.gov.au/what-we-do/industrial-relations/victorian-labour-hire-licensing-scheme>

New Pacific Labour Scheme

A new scheme to enable growers to bring workers from the Pacific to Australia commenced on the 8th of September. The Scheme enables citizens of select Pacific island countries (PICs) to take up low and semi-skilled work opportunities in rural and regional Australia for up to three years. Through these opportunities Pacific island workers will earn income and develop skills which will benefit their families and communities.

Workers from Kiribati, Nauru, Samoa, Solomon Islands, Tuvalu and Vanuatu can participate in the Scheme. Access will be extended to other Pacific island countries based on need. It needs to be noted that workers under this scheme cannot do seasonal work, but positions such as supervisors or jobs that operate year round would be suitable. Further information: <https://dfat.gov.au/geo/pacific/engagement/Documents/pacific-labour-scheme.pdf>

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Working Holiday Makers – are there more or less doing seasonal work?

Working Holiday Makers, or Backpackers, are critical to getting fruit and vegetables harvested in Australia and any reduction in the number or these workers available or changes to the countries they come from can have major implications for growers.

So where do backpackers come from, and how many of them come to Australia each year? The numbers fluctuate from year to year and are influenced by issues such as the strength of the economies in the countries of origin, the \$AU exchange rate and competition from countries such as New Zealand and Canada. While total backpacker numbers are important, the most relevant statistic for the horticulture industry is the numbers who do their “88 days” to gain a 12 month visa extension. While total backpacker numbers have declined since 2012/13 it is interesting to note that since the change in 2016/17 (allowing 462 visa holders to obtain an extension by doing specified work in northern Australia), over 3,000 of these workers are now gaining an extension. While total backpacker numbers are in steady decline since the peak which occurred in 2012/13, it is interesting to note that the TOTAL number of people getting a visa extension has INCREASED when compared to 2012/13 or last year (table 1).

	2012/13	2016/17	2017/18
TOTAL WHM VISA GRANTS – 417 Visa	210,369	157,858	152,622
TOTAL WORK & HOLIDAY VISA GRANTS- 462 Visa	9,017	34,097	32,828
COMBINED 417 & 462 VISA GRANTS	219,386	191,937	185,450
TOTAL 2ND YEAR 417 VISA GRANTS (horticulture)	33,421	31,701	30,807
TOTAL 2ND YEAR 462 VISA GRANTS	N/A*	409	3,339
COMBINED 417 & 462 2nd VISA GRANTS	33,421	32,110	34,146

Table 1 Information on visa grants for the peak year of 2012/13, compared to the previous and current financial years.

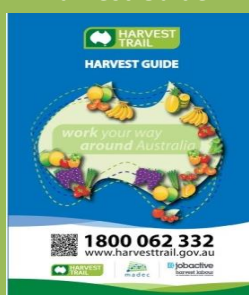
Analysis of the countries that 417 visa holders come from shows some interesting trends with the highest overall numbers of first and second year grants for the UK. However while there are large numbers of German first year visa grants, they do not appear in the top five countries for a second year extension.

When looking at the lower numbers of the relatively new 462 visa, it is clear that USA is the largest sending country; however the largest number of second year grants goes to Chinese workers, with 23% completing specified work, compared to only 6% of US visa holders (table 2 below). It is worth noting that 462 visa numbers are capped, limiting the growth of workers from countries where that cap has been reached, which includes China, Chile, Spain and Argentina, whereas the 417 visa is uncapped. Negotiations are currently underway to allow 462 visa holders to come to Australia from additional countries including Mexico, Brazil, India, Fiji, Solomon Islands, Andorra, Croatia, Lithuania, Latvia and the Philippines.

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	2012/13	2016/17	2017/18
TOP 5 COUNTRIES FOR 1ST YEAR 417 VISA GRANTS	UK (38,782) South Korea (29,614) Taiwan (28,599) Germany (26,687) France (22,539)	UK (32,517) Germany (23,996) France (19,546) South Korea (18,400) Taiwan (14,309)	UK (30,036) Germany (22,025) France (20,439) South Korea (18,145) Taiwan (14,659)
TOP 5 COUNTRIES FOR 2ND YEAR 417 VISA GRANTS	UK (7,349) Ireland (7,300) Taiwan (7,162) South Korea (5,606) France (2,249)	UK (7,811) Taiwan (7,330) South Korea (4,012) France (2,815) Japan (2,179)	UK (7,716) Taiwan (6,698) South Korea (3,992) France (2,778) Italy (2,221)
TOP 5 COUNTRIES FOR 1st YEAR 462 VISA GRANTS	N/A*	USA (7,745) China (5,000) Chile (1,500) Spain (1,000) Argentina (700)	USA (7,368) China (5,000) Chile (2,000) Spain (1,500) Argentina (1,400)
TOP 5 COUNTRIES FOR 2ND YEAR 462 VISA GRANTS	N/A*	China (189) Chile (62) USA (47) Argentina (16) Spain (12)	China (1,155) Indonesia (562) USA (469) Chile (448) Argentina (175)

Table 2 - Country of origin for 417 and 462 second year visa grants for 2012/13 and the previous and current financial years (462 Visa holders were not eligible for a 2nd year visa extension in 2012/13).

As at the 30th of June 2018, there were 118,524 Working Holiday visa holders in Australia (first and second visas). This is a 2.0 per cent reduction in the number of Working Holiday visa holders in Australia compared to the 30th of June 2017.

Another point to note is that although there were less backpackers in the country in 2016/17 compared to 2012/13, over that time the number of Seasonal Worker Program visas granted increased significantly, with over 6,600 seasonal worker visa grants made in 2016/17 and the expectation is that this number will grow to around 8,000 for 2017/18, more than compensating for the lower number of backpackers.

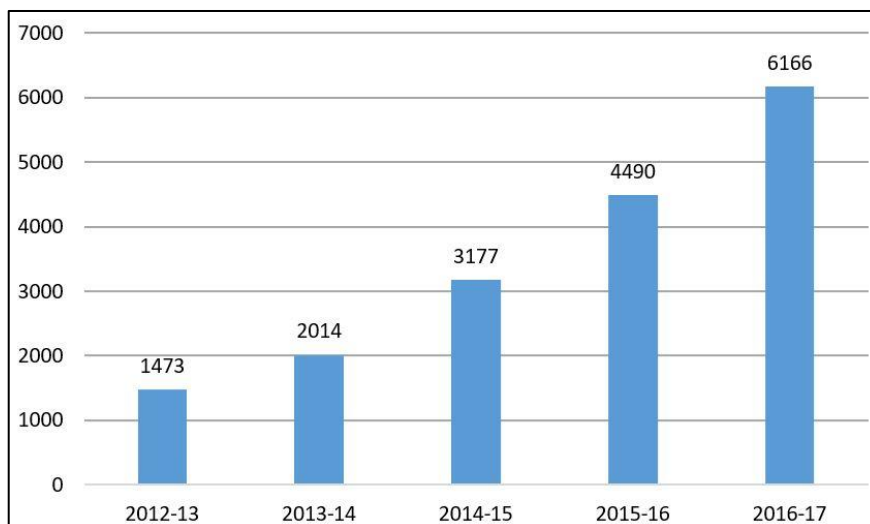


Figure 1 - Seasonal worker program visa grants for 2012/13 to 2016/17.

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When looking at the impact of seasonal workers on the horticulture labour market it is important to remember that most of these workers are more productive than backpackers and are employed for six months, compared to the three months most backpackers typically work. So they probably represent an increase in the workforce equivalent to an additional 12,000 backpackers performing work to secure a second year visa extension.

LOOKING FOR CASUAL WORKERS – CALL THE HARVEST TRAIL 1800 062 332

[Do the new labour hire laws affect you?](#)

New labour hire laws in three states, and increased scrutiny elsewhere, have some growers wondering whether using a contractor to source workers is the best option coming into the busy season.

Queensland, Victoria and South Australia have enacted legislation which aims to clean up an industry that has been fraught with adverse publicity in recent years. Illegal workers, wage theft, blackmail, even sexual assault; have created a negative story. The phrase 'modern day slavery' is now freely used. These stories reflect badly on Australian farmers, even though individual growers may have no knowledge of incidents on their property. However, when the story hits the media it is the grower's name that is up in lights, not the dodgy labour hire provider who will have gone to ground.

Each state has taken a different tack on labour hire laws and growers will need to ensure they are across the new obligations in their state. Industry representative bodies will be a good source of valuable information so farms know what to do to remain compliant, but the key obligation will be to check via a website that a contractor is licenced.

With some commodities there is only a short period of time to get their produce out of the field and into the marketplace, and many growers dread the circus of chasing workers, doing the employment paperwork, then train and supervise to ensure they are up to scratch. During that intense period when harvest is in full swing and the grower has a million other jobs to do, replacing workers that haven't turned up, getting rid of those that are wasting time, then training the new ones, are the last things an employer wants to be doing. Even for produce that is harvested year-round, the issues are similar but can happen at any time.

Using labour hire contractors to supply workers and sort out those problems during extremely busy periods is a solution many growers have found palatable. Paying somebody else to deal with the issues may be very worthwhile, leaving the farm business to get on with getting their product to their customers.

However, as some growers have found, ceding control of a labour force to someone else has serious implications. Even if that contractor has been used before, how can the grower check they pay their workers correctly and treat them fairly, whether workers on the property are legally allowed to work, or even be in Australia? What level of risk does the farm take that their workforce will be removed at this critical time? What is the level of risk that the farm enterprise may lose markets if the worst happens and it cannot comply with customers' ethical labour protocols?

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For those enterprises that can find sufficient work to access the Pacific Seasonal Worker Programme, labour hire employers that are approved under that scheme have to undergo tight scrutiny and are much more likely to be fully compliant.

For a farm that wants to remain in control of its workforce by employing directly, the Harvest Trail is an easy way to access workers. The service does not cost anything because it is funded by the taxpayer to support the horticulture industry. A quick phone call to one of the experienced operators in the national call centre on 1800 062 332, and a vacancy can be listed on the largest employment website in Australia. Although this is freely used by backpackers wanting to find work while travelling around the country, it is also used by students - both local and international, grey nomads and experienced Aussie fruit pickers. Most positions can be filled quickly, with many vacancies being filled within hours. The call centre is open Monday to Friday 8am-8pm eastern time on 1800 062 332, or can be accessed via email at nhlis@madec.edu.au.