

**Australasian Meat Industry Employees Union
Newcastle and Northern Branch**

Submission to the Senate Education and Employment Committees

**THE IMPACT OF AUSTRALIA'S TEMPORARY
WORK VISA PROGRAMS ON THE
AUSTRALIAN LABOUR MARKET AND ON THE
TEMPORARY WORK VISA HOLDERS**



April 2015

About AMIEU

The Australasian Meat Industry Employees Union (AMIEU) represents the interests of workers in the meat industry. This includes, but does not exclude, butchers, slaughterers, boners, poultry processing workers, and all other sectors as pertaining to the meat and meat by-product industry.

The AMIEU is part of the Australian union movement. Our aim is to serve, to protect, and represent the interests of workers in a number of ways – through its representative group, the Australian Council of Trade Unions (ACTU), and on an individual basis.

Introduction

The AMIEU herewith wish to make a submission to the Education and Employment References Committee regarding the impact of Australia's temporary work visa programs on the Australian labour market as a whole, and temporary work visa holders in particular.

The fundamental role of AMIEU is to represent and protect the rights and jobs of workers in the Australian meat industry. The increasing numbers of temporary visa holders in the Australian meat industry is a cause for concern. In recent years, the AMIEU has discovered an alarming amount of instances regarding the abuse and exploitation of temporary visa holders. These include the following visa types: Working Holiday visa (subclass 417 and 462), Student visa (subclass 572), Protection visa (subclass 866) and Temporary Work visa (Subclass 457).

The focus of the submission is the Working Holiday Maker visa programme (417 and 462 visas); these visas have lent themselves to serious abuse and exploitation in the Australian meat industry. The repercussions thereof affect the Australian labour market, local employment and certain economic areas, both directly and indirectly. This submission serves to provide evidence supporting this statement.

Temporary working visas and the Australian Meat Industry

There is wide spread exploitation of temporary international workers (417 & 462 visa holders, refugee visa and student visa holders). We have evidence that some workers are engaged in sham contracting and acceptance of lower wages for tax evasion purposes. There are also an alarming percentage of workers claiming to be students working as casuals and paid in cash.

In 2014 over 1 million underpaid claims were lodged by the AMIEU involving 7 labour hire companies engaging temporary international workers across 3 sites in Northern NSW.

In March 2009 the Department of Immigration raided several meat processing sites hiring workers from Auburn based Regional Labour Supply Pty Ltd. Approximately 100 illegal workers were involved. The case involved false passports, illegal foreign workers, and sham contracting.¹

The following appeared, four months later (July 2009), in the Sydney Morning Herald: ““Migration scammers still in businesses². Regional Labour Supply Pty Ltd still operates in the same manner within other meatworks around Australia at present. The overseas workers call this kind of company a ‘*black company*’ and call themselves ‘*black workers*’.”

‘*Black*’ is a term coined from Chinese workers. It refers to companies who avoid their legal obligations and exploit workers. We estimate that over 7500 such workers are employed in meat and poultry plants across Australia.

These workers are in the country on holiday visas (417 working holiday visa), student visas, and refugee visas. The majority have an extremely limited command of English.

Despite investigations and raids by the authorities, *black companies* continue expanding their business with the use of temporary overseas workers. Our evidence suggest that, at the beginning of 2013, a core percentage of meatworkers in follow on labouring tasks and working in regional Australia, were overseas workers employed by *black companies*. Please note that this does not include 457 visa holders working under existing legitimate labour agreements signed off on by the immigration department.

Black companies dealing in labour supply, it would seem, are given preference by certain business owners for their labour needs. These labour companies supply cheap labour, whereas other labour hire companies in the industry that pay EBA rates to Australian citizens and those who have permanent residency, are becoming distant players in the labour supply market.

The AMIEU has been collecting evidence from international workers employed in the Australian meat industry since 2012. Over the last three years, evidence has been collected as pertaining to the following key issues:

1. Underpayment regarding minimum wage
2. Penalty rate payments for work in excess of ordinary time
3. Tax evasion (through the use of sham contracting)

¹ “Immigration blitz nets nearly 100 meatworkers”, March 12, 2009 (<http://v^v.smh.com.au/national/migration-blitz-nets-nearly-100-meatworkers-20090311-8vaa.html>)
“Immigration compliance operation cracks fraud racket”, Tuesday, 11 March 2009 (<http://www.minister.immi.gov.au/media/media-releases/2009/ce09027.htm>)

² “Migration scammers still in business “. July 28, 2009. The Sydney Morning Herald. (<http://www.smh.com.au/national/migration-scammers-still-in-business-20090727-dyr8.html>)

4. Forcing workers to use ABN and paid flat rates: \$17.60 per hour, including GST.
5. Excessive and potentially dangerously long working hours. One of many Testimonials states: *'I worked a 22-hour shift. ... Original 13 hours but [boss] asked me to work another 5 hours [because] There was no [boss'] car to take us back to Jesmond' ~ Baiada worker, Beresfield.*
6. Using overt pressure, bullying and threats to coerce workers
7. Cash-in-hand payments, avoiding work cover, tax and superannuation payments

The table below indicates the wage difference between a legitimate labour hire company and a 'black company' at the Baiada Poultry Beresfield site – B&E Poultry.

Typical Labour Hire company (Chandler Macleod)	'Black company' (B&E Poultry)
Worked 5 months, ordinary hourly rate \$24.47	Worked 5 months on flat hourly rate \$12
Earned \$24,000 plus Super	Earned \$15,000 no Super
Paid \$4,800 in PAYG tax	Paid cash in hand and did not pay tax.

8. Not meeting compulsory superannuation obligations.
9. Forced into crowded living conditions and lack of privacy.
10. Denied the rights of Australian workplace core conditions such as: workers compensation, insurance, superannuation, training, and personal protective equipment.
11. Intimidation and threats to prevent workers talking to or joining a Union.
12. Lack of leave and entitlements, including sick leave and time off for workplace injury.
13. Undermining Australian jobs through a 'cheaper' alternative by avoiding minimum award terms and conditions.
14. Poor or non-existent quality assurance and WHS training at workplace inductions.
15. Cash in hand payments to workers
16. Lack of records, receipts, etc. - including superannuation records, purported GST registration, training records and service records.
17. Abusing the Working holiday visa (417) program. Approximately 417 visa and student visa workers worked for more than 40 hours every week over a one year period as a *black worker*.
18. The '*black companies*' sub-group controls a regular, large, weekly flow of untraceable and unaccountable cash initially paid by businesses as a fee for service contracts.

Original purpose of the 417 and 462 visas

The original purpose of the working holiday visa is to afford travellers the opportunity to undertake short terms employment to supplement their expenses. There is almost no limit as to

the type of employment they may be involved in, or as to who may apply for this type of visa (19 countries for the 417 visa and 12 countries for the 462 visa)³. The conditions that such a visa holder must adhere to are as follows:

- Work should be incidental to travel (the main purpose for your visit must be tourism).
- Must not work for the same employer for more than 6 months.
- Those applying for a second Australia Working Holiday Visa must have completed three months (88days) of specified work in regional Australia.

Since 2012, the AMIEU has discovered large numbers of 417 visa workers being abused and exploited, and instances where the visa condition and original purpose of the visa is ignored. A few examples of such instances follow:

417 visa - An Unlimited 2 years working visa (Case 1)

A meat plant in northern NSW that employs over a hundred 417 visa workers. 417 Visa workers, according to the terms of their visa, can work for one employer for a six month period. At the plant, there are cases of 417 visa workers who are employed between 12 and 24 months. The company is using a grey area that monitors visa holders' employers based on ABN. The 417 visa holder can work for the principle company for 6 months, switching employment to the labour hire company which is owned by the principle company. Once the second 417 visa is in place, the cycle can be repeated.

Specified work according to the 417 visa:

Possible reasons for 417 visa workers favouring the Australian meat industry include high pay and relatively stable working conditions and working environment. They can also easily meet the specified three months working requirement as stated in the visa. According to the Working Holiday Maker visa programme report⁴, in 2013 – 2014 there are 183,428 first- time visas granted whereas there are 48,059 second visa applications lodged (Total 145,194 visa holders in Australia by 31/06/14). In effect, this means that 20% of these visa holders applied for a second 417 visa.

According to the 417 visa features⁵, approved industries for specified work include:

- Plant and animal cultivation

³ “Fact Sheet 49—Working Holiday Visa Programme”. April 2015. The Department of Immigration and Border Protection. (<http://www.immi.gov.au/media/fact-sheets/49whm.htm#d>).

“Work and Holiday visa (subclass 462)”. April 2015. The Department of Immigration and Border Protection (<https://www.immi.gov.au/Visas/Pages/462.aspx>)

⁴ Page 11,22&32, “Working Holiday Maker visa program report”. 30 June 2014. The Department of Immigration and Border Protection. (<https://www.immi.gov.au/media/statistics/pdf/working-holiday-report-jun14.pdf>)

⁵ “Working Holiday visa (subclass 417)”. April, 2015. The Department of Immigration and Border Protection. (<http://www.immi.gov.au/Visas/Pages/417.aspx?tab=1&heading=regional-areas>).

- Fishing and pearling
- Tree farming and felling
- Mining
- Construction.

It is believed that the original purpose of this second visa requirement is aimed at contributing towards a positive effect on the Australian economy (mostly tourism) and to supply labour to specific industries in regional areas that lack an adequate local labour resource. However, this leads to many working holiday makers misusing it specifically to find jobs in regional areas. This, in our opinion, has a negative impact on not only local employment opportunities, but the local economy as well.

Impact on the Australian labour market: local unemployment (Case 2)

Thomas Foods International, Australia's third-largest meat processing company, uses a large number of 417 and 457 visa workers in their meat processing plant located in Murray Bridge SA. Over two thirds of the workforce are international workers: 150 Chinese 457 visa workers⁶ and more than 700 417 visa workers employed by 6 different labour hire companies.

Earning as little as \$16.65 per hour (investigated by AMIEU Oct 2014), and using Australian business number (ABN), the majority of the 417 visa workers receive a wage below the national award conditions. Some complaints received by the AMIEU from the 457 Chinese workers include:

1. No guaranteed working hours.
2. Racial discrimination.
3. Disrespect from supervisors.
4. Delayed work starting times which is unpaid.
5. Unfair Dismissal.
6. Machine's stop without the hours being calculated
7. Unstable speeds in machinery
8. Not allowed the use of gloves (packers) or to wear long-sleeved shirts

Taking the Murray Valley Standard⁷ into account, South Australia's unemployment rate is at its worst in 12 years, according to the Australian Bureau of Statistics. With a 17.3% youth unemployed and 8.71% local unemployment rate⁸, it is unreasonable for TFI Murray Bridge to

⁶ "Processor succeeds with risks, 457 visas". March 27, 2014. The Australian. (<http://www.theaustralian.com.au/business/in-depth/processor-succeeds-with-risks-457-visas/story-fni2wt8c-1226865746262>).

⁷ "SA's unemployment rate worst in 12 years ". April 10, 2014. The Murray Valley Standard. (<http://www.murrayvalleystandard.com.au/story/2211061/sas-unemployment-rate-worst-in-12-years>)

⁸ "Rural City of Murray Bridge Unemployment". April 2015. Economic profile lite. (<http://economy.id.com.au/murray-bridge/unemployment>)

employ so many foreign workers with a disregard for the local applicants. The Union's point of view is that such a company's aim in using temporary internationals is to reduce their operation costs.

Baiada Secure Jobs: Impact on the Australian Labour Market (Case 3)

The Baiada Secure Jobs campaign impacts both the Beresfield and Tamworth NSW sites. Based on AMIEU records, except for direct employees, most of the workers are from two labour hire agencies: APG and Chandler Macleod. However, due to the growth in both '*black contractors*' and temporary visa workers, permanent resident workers' hours have been cut from 38 hours a week to less than 20. Permanent workers are unhappy with this situation, as it impacts on their living conditions and standards. Some workers complain that they cannot feed their families with these low wages. Besides this, labour hire companies contact workers with a 24 hours' notice to begin work, making it difficult for them to apply for other part time jobs.

Temporary visa workers, however, indicate that their working hours are too long; anything between 12 hours (minimum) to 20 hours a shift. This contradicts Baiada's claim that they do not have jobs available for permanent Australian residents.

This example serves to show the impact that the temporary working visa program has on the Australian labour market as well as local employment. This is in contravention of the provisions made in the Migration Act of 1958⁹ regarding the protection of employment opportunities for Australian citizens and permanent residents.

Capital Outflow: Impact on local economy (Case 4)

Baiada Beresfield NSW is one of the largest poultry processing plants in the country, and employs over three hundred temporary international workers (mostly 417 visa holders) mainly through *black labour* hiring companies. Members of the local community claim many local businesses have shut down due to the international workers sending money out of the country and local residents not being employed. The Baiada meat plant is the largest employer in the town and the only party benefitting from the influx of cheap labour.

ABN Model - The Root of Sham Contracting (Case 5)

On 6th March 2014, the 7:30 Report¹⁰ on ABC revealed that a large number of international meat workers are using ABNs to avoid paying tax in Scone Abattoir (Upper Hunter NSW). The Majority of those international workers are 417 Visa holders from Asian countries.

⁹ "MIGRATION ACT 1958" (http://www.austlii.edu.au/au/legis/cth/consol_act/ma1958118)

¹⁰ "Taiwanese meatworkers in Scone underpaid, encouraged not to pay tax, says union". March 7, 2014. Australian Broadcasting Corporation. (<http://www.abc.net.au/news/2014-03-06/taiwanese-meatworkers-harassed-told-not-to-pay-tax-unions-say/5304258>)

In April 2014, the AMIEU received hundreds of inquiries from these workers and discovered payment discrepancies for 68 workers under three different labour hire companies. The workers claim that the majority of them were misled by the labour hire companies and encouraged to use ABN instead of TFN. They claim they were told to do so, as it would mean an increased pay packet and that they would not pay tax. This resulted in the following practises on the part of the labour hiring companies:

- Unfair Dismissal – workers could be suspended for any reason as they were ABN contractors and not TFN employees. Reasons for dismissal apparently include illness, injury, joined a Union, etc.
- Underpayment – workers are paid \$17.6/h without any of the normal entitlements. Many workers claim the company’s calculations are incorrect regarding hours worked, shift loading and penalty rates in order to underpay them.
- Superannuation – None of the workers receive their superannuation from their employer.
- Tax – None of the workers pay tax. Their employer instructed them not to.
- Agent fee – Each worker is required to pay or agree to have \$500 - \$600 deducted from their wages before getting a job/starting work.
- Work Cover – there is no worker compensation, meaning many have to leave the company’s employ when injured on site.

Liquidation: Loopholes for Sham Contractors (Case 6)

Overseas workers are supposed to be able to use the Australian legal system to report their employers when faced with sham contracting issues. The Australian law system, however, protects these same companies when there is a case involving liquidation.

The AMIEU has assisted its members when dealing with the issue of underpayment relating to sham contracting. In almost 50% of cases, it has resulted in the liquidation of the labour hire company and the Union’s and workers’ hands are tied. An example is New Bridge Trading Pty Ltd, one of the labour hire companies on the Scone site that underpaid \$123,222 to nineteen 417 visa workers.

Due to the timeframes and visa restrictions, the 417 workers are unable to become legitimate creditors. Their visas expired before the case could be settled and they had to return to their own countries. This allows these companies to continue with their operations, even changing their names for tax avoidance purposes.

Change in company name: 7 name changes in one year (Case 7)

Thomas Foods International is a lamb abattoir in Tamworth. Over a third of their work force is 417 visa holders. They have a reputation for ill-treatment of workers among 417 workers.

In Sep 2014, the AMIEU received complaints from forty 417 visa workers who worked at TFI Tamworth. The complaints were regarding mistreatment and underpayment by their labour hire company. After investigating the matter, it is found that the labour hire bosses changed their company's name seven times within a year.¹¹

Based on these seven labour hire companies' information, it was found that all seven companies were registered under the same address, with some of the directors being on the board of more than one of these "new" companies. It would seem that all seven companies belong to the same group. From the AMIEU's point of view, the only reason for such frequent name changes is to avoid tax and due to legal implications.

The complaints made by workers of the Thomas Foods workforce are as follows:

- Being required to work overtime without additional pay.
- Working in positions of greater responsibility without official promotion or raised salaries.
- Working overnight shifts, but being paid the (lower) agreed rate for afternoon work.
- Substituting in higher-level jobs without increased pay.
- Excessive workloads requiring a faster work tempo, leading to greater risk of injury.
- Insufficient time for meal breaks – some employees claim that they only have 12 minutes remaining after cleaning their boots (a mandatory activity during breaks).
- Restricted access to toilet facilities.
- Being required to live in cramped and uncomfortable shared accommodation.
- Discrimination and threatening behaviour when their performance failed to meet their employer's requirements.

The company has alleged that there are not enough local workers available to fill job vacancies, although Teys, another beef plant in Tamworth, succeeds in employing a much higher percentage of Australian staff. It appears that in a number of cases, temporary overseas workers are being employed in favour of local applicants so as to afford companies greater control over working hours, working conditions and salaries, without the risk of complaints or negative consequences.

Underpayment (Case 8)

In 16/10/2013, a Lateline investigation¹² exposed the illegal underpayment of foreign labour by a contractor at one of Australia's biggest chicken producers. Former and current employees at the Baiada processing plant near Newcastle say they have been paid half the legal minimum wage while at times having to work up to 16 hours a day.

¹¹ Page 1, Appendix.

¹² "NSW chicken contractor underpaid its workers". October 16, 2013. Australian Broadcasting Corporation. (<http://www.abc.net.au/lateline/content/2013/s3870790.htm>)

AMIEU investigated four different labour hire contracting companies, and discovered serious exploitation and mistreatment on site.

Baiada, Beresfield (Poultry)

In 2014, a labour hire company, Pham Poultry, were discovered to have been subjecting their workforce (comprised mainly on 417 visa holders from Taiwan and Hong Kong) to unfair treatment. Allegations included:

- Underpaying workers (as little as \$11.50 per hour), and failing to provide award conditions at the time of employment.
- Subjecting workers to excessive workloads, allegedly including 36 hour shifts without breaks.
- Supplying workers with compulsory accommodation, often overcrowded, with as many as 30 people living in one house, each being charged \$100 for the use of a mattress.
- Prohibiting employees from making contact with Australian and Union officials, including threats of suspension and withheld pay.
- Not allowing staff to contact police following robberies and assault.
- Charging hundreds of dollars as a compulsory agent's fee before allowing employees to start work.
- Paying employees in cash while not including tax or superannuation.

Local workers in the Beresfield area claim many local residents have had their job applications ignored by Baiada, who opt to hire temporary overseas workers. Attempts by employees to complain regarding working conditions have been met with resistance by Baiada, who continue employing foreign workers carrying 417 and 457 visas.

List of exploitation issues in relation to the temporary working visa programme:

- Discrimination
- Agent fees
- Accommodation
- Sexual harassment¹³
- Injury (Safety)
- Working hours and overtime penalties

¹³ "Working holiday visa workers being ripped off and harassed ". March 6, 2014. Australian Broadcasting Corporation. (<http://www.abc.net.au/7.30/content/2014/s3958527.htm>)

- Tax
- Superannuation
- Insurance
- Allowance
- Shift loading
- Sick Leave
- Public Holidays
- Classification

International Labour Hire Cooperation is a Nightmare for the Australian Labour Market and Temporary Visa Holders (Case 9)

In Oct 2014, AMIEU discovered an international labour corporation that supplies jobs to 417 visa holders in TFI Murray Bridge SA. This company, already reported on by ABC¹⁴ in March 2014, and located in Auburn, Sydney, is Scottwell International. The company owner, Scott Shi, runs labour hire businesses across 5 states, including QLD, NSW, VIC, SA and WA. Mr. Shi's company supplies labour to more than 20 abattoirs, including Green Mountain (BNE), Scone (NSW), Singleton (NSW), Wingham (NSW), Cootamundra (NSW), Warrnambool (VIC) and Pakenham (VIC), to name but a few. Mr. Shi's company's mistreatment and exploitation of temporary visa workers can be traced for over 6 years.¹⁵ Not only is he still in business, but his operations have extended internationally.

Evidence gathered by the AMIEU indicates that more than a thousand 417 visa workers, mostly from Taiwan, Hong Kong and Korea, are employed by this labour hire cooperation. The company uses different sub-contracting companies to supply labour to the meat factories. The document presented by TFI Murray Bridge worker that the labour hire company has a separate site in Taiwan from which it recruits 417 visa backpackers from Taiwan to Australia every month. Taiwanese butchers are employed to provide training to the 417 visa backpackers (about 40 people per week).

According to the agreement/contract signed between the 417 visa workers and the labour hire company in Taiwan, the workers need to pay over \$3000 AUD to the agent before getting work in Australia. Except for the \$3000 agent fee, the workers also need to pay \$600 AUD as bond, Q fever costs, and accommodation (rent) before they may work, for which they often have to wait up to three months after their arrival before starting. This means, in effect, that they have to pay at least \$6000 - \$8000 AUD before they are employed. Indications are that many of these victims never actually land a job before their visa expires and they have to return to their own country. This kind of labour company can, in effect, earn up to \$15,000 in illegal revenue from 417 visa workers within a six month working period. This is money that does not, apparently, pass through the Australian tax system.

¹⁴ "Working holiday visa workers being ripped off and harassed". March 6, 2014. Australian Broadcasting Corporation. (<http://www.abc.net.au/7.30/content/2014/s3958527.htm>)

¹⁵ "Migration scammers still in business". July 28, 2009. The Sydney Morning Herald. (<http://www.smh.com.au/national/migration-scammers-still-in-business-20090727-dyr8.html>)

AWX Pty Ltd runs a similar labour business, but, unlike Scottwell International that controls workers passport, visas, sim cards or flight information, AWX usually advertise employment opportunities in Taiwan through means of social media and invite workers to join their training camp which is an abattoir in western Sydney. Workers get \$200 weekly as a living allowance and receive training for 4 weeks before officially starting work on site.

In April 2015, AMIEU received hundreds of inquiries and dozens of case reports by AWX workers, all of them 417 visa holders. Workers reported that the training site is, in fact, a real abattoir and work as normal workers. They work 38 hours per week and are paid \$200. They feel that they are being cheated. Workers who have been trained by this company are employed at ACC in Brisbane (QLD), Teys in Tamworth (NSW) and Wagga Wagga (NSW), Manildra Meat in Cootamundra (NSW), KR-DON in Castlemaine (VIC), O'Connor in Pakenham (VIC), Linley Valley in Perth (WA), etc. Keeping track of them all is extremely difficult.

Complaints against this company include wage issues, compulsory body checks and housing issues, to name but a few.

Visa Transformation: A Chaotic System with a misuse of its intended purpose (Case 10)

Except for problems pertaining to 417 visa workers, which have taken up the bulk of this submission so far, student and refugee visas are also of concern. Since 2012, the AMIEU has found that numerous 417 visa workers try to use different means to stay in Australia in order to earn more money and send it back home, such as “Third” and “Fourth” working holiday visas.

Many 417 visa holders, due to the two years limitation, leave the country after their visas have expired, but have found a loophole whereby they can enter the country again. They do an official name change in their country of origin, thereby affording them the opportunity to re-enter Australia once more with a new passport and repeating the cycle.

This is in violation of the original purpose of the visa and the visa structure itself.

In 2014, the AMIEU found that a huge number of Asian workers (such as Malaysian), apply for the refugee visa. The agent requires workers to pay up to \$7000 AUD in order to arrange flight ticket and travel visas for these workers. Upon arrival in Australia, the agent, through lawyers, aids the workers to apply for a Protection Visa (886) in order to gain the right to stay and work in Australia. These applications are usually rejected, but the system for appeal in effect means they get to stay and work in the country for up to three years.

417 visa workers have also started filing for these visas in a bid to stay and work in Australia for a longer period. Many 417 visa workers, in a bid to stay in Australia, also apply for student visas.

Our investigations have found that over 50% of 417 visa workers would like to stay longer, the majority of them seeing a student visa as first option, even though they would be working during this time.

Most of those “students” will work at the “*black companies*” and be paid in cash to work as full time employees. These activities contravene the stipulations stated in the student visa.¹⁶

The Temporary Work (Skilled) Visa (subclass 457) (Case 11)

Many employees within the Australian meat industry hold 457 visas, entitling skilled foreign workers to spend up to four years in Australia, so long as they are sponsored by an approved employer. This visa is intended for use when corporations are unable to find suitable local workers, and has been used within the meat industry for many years. In accordance with visa requirements, workers on 457 visas should only be employed after local applicants have been considered, and are required to have relevant experience and a basic command of English. It has come to light, however, that many of these workers are being employed without meeting the visa criteria, and are often mistreated and exploited by their employers.

In Scone NSW, the Hunter Valley Quality Meats Company employed more than 40 Vietnamese workers last month (February 2015), all holding 457 visas. The company helped their new employees to apply for these visas while they were still living in Vietnam, and routinely offers employment to several members of the same family, encouraging them to travel to Australia together. One major allegation levelled at Hunter Valley, as well as a number of other companies, is that they are employing workers despite the fact that they do not have the required levels of experience, capitalizing on their desire to immigrate to Australia, and charge very high fees for visas.

Reports from local Australian workers at Hunter Valley Quality Meats seem to support this claim, with many observing that the temporary workers lack the experience and English-speaking skills usually required to secure a job on a 457 visa. They also claim that local applicants are being ignored in favour of foreign workers, with dozens of skilled and experienced Australian workers receiving no response to their applications.

Exploitation of 457 Visa Holders

Besides claims that companies are abusing visa laws to hire unskilled foreign workers, there are also accusations that foreign employees with relevant experience and English skills are being exploited by some Australian abattoirs. After 2 to 4 years, workers on 457 visas are entitled to request an application for permanent residency (PR) from their employers, affording

¹⁶“Surge in fake foreign students”. January 21, 2015. The Australian. (<http://www.theaustralian.com.au/national-affairs/education/surge-in-fake-foreign-students/story-fn59nlz9-1227191419657>)

them the opportunity to stay in the country long term. However, there are allegations that companies, including Hunter Valley Quality Meat and Thomas Foods International, have refused these applications, keeping foreign staff on 457 visas for as long as 11 years.

Many explanations regarding this behaviour have been offered – primary among them the idea that denying PR applications is an attempt to prevent workers from leaving their jobs. This is possible, as employees with permanent residency may leave their positions at some point in the future, while on 457 visas they would have to leave Australia if they left their current positions.

Concerns of foreign governments and relevant organisations

In April 2015, HKCUT, one of the biggest unions in Hong Kong, contacted the AMIEU and presented their concerns regarding the unfair treatment and exploitation of their citizens. In March 2014 the Taipei Economic and Cultural Office made a comment on ABC 730,¹⁷ where they raised their concerns regarding the matter.

Recommendations

The following recommendations are submitted after considering the information contained in this document:

General

1. Transparency and accountability - '*Black companies*' are able to exploit workers because there is a lack of records or appropriate systems in place to track worker activity.
 - a. Businesses engaging labour hire Companies should maintain accessible time-sheets, pay slips, receipts and incident records for every contract worker that worked a shift, signed by the worker.
 - b. This should include rosters, where possible, allowing investigators to verify their identity.
 - c. Use swipe or barcode photo ID cards or other forms of identification for all workers.
 - d. Records should be filed in escrow with a third party (e.g. FWO), and be accessible to authorised third parties and worker representatives. (This could be as simple as sending an email: offsite and safe from tampering or loss).
2. OH&S and health authorities must monitor conditions such as extra hours, extended shifts and insufficient breaks. Present working conditions can lead to industrial accidents as well as food contamination and chronic health problems in workers.

¹⁷ "Working holiday visa workers being ripped off and harassed". March 6 2014. Australian Broadcasting Corporation. (<http://www.abc.net.au/7.30/content/2014/s3958527.htm>)

- a. Intimidation and invasive pressure can lead to stress related, mental and emotional health problems for workers.
3. The Equal Opportunity Ombudsman and Human Rights Ombudsman needs to look into the meat industry, as well as others, regarding the systematic exploitation of workers.
4. Managers, employers and factories need to step-up. If these companies do not adhere to the law, they will be seen to be either incompetent, lazy or in collusion with a '*black company*'.
 - a. Action can replace typical responses such as: "not our problem", "show evidence", etc.
 - b. Factories can be tasked to ensure a '*black company*' becomes a '*white company*' by following the award or EBA rates and conditions.
 - c. Penalties should apply to managers and supervisors. A good model is the tobacco & alcohol industry where there are mandatory company fines and mandatory personal fines per incident.
5. Australia has to strengthen its compliance - Students and working holiday visa holders see conditions in a first world culture sustained by third world guest worker conditions out of the 19th Century. We need to change our current image. .

Immigration and Visas

6. Reassess 417 and 462 visa program.
7. Prevent working holiday visa (417) and international student visa holders from registering an ABN to work in Australia.
8. Re-asses legislation regarding 417 visas regarding "short-term employment to supplement the cost of the holiday".
9. Add regulations for working conditions on temporary visa (417 and 462) holders and international student visas.
 - a. 417 and 462 visa and student visa holders should be directly employed by businesses and not through labour hire companies (similar to 457 visa holders.)
10. Worker rights - Ensure working holiday and student visa holders get the correct information in their own language. The information should be provided during the visa application process and before they board a plane.

Fair Work Ombudsman

It is suggested that the FWO be tasked to encourage and guide a '*black company*' during its transformation process. Their task, it is suggested, would be to recommend methods and provide guidelines regarding systems with governance to prevent and monitor exploitation. Possible examples:

- a. Keep accurate records of hours worked per worker and gross pay.
- b. Worker records are accessible to FWO and workers' representatives (Union or their lawyer).
- c. Contractors maintain up to date records of all visa holders.

Taxation and Other Areas

The ATO needs to be tasked to pay attention to 'black companies'. Millions of dollars probably go unreported as operating profits. A business with large amounts of unaudited cash flow is an attractive opportunity for money laundering or similar undesirable activities.

Because of how the industry is structured, it might be necessary for the primary employer (the factory site or plant) to store and file records pertaining to contractors and subcontractors. Contractors that operate a fair business and pay the correct wages could, in effect, be defrauded by subcontractors who pay a flat rate. It would thus be in such a company's best interest to monitor their on-site contractors and subcontractors' human resources policies.

The labour hire contractor should pay any additional costs to fund any changes, e.g. submission of records to escrow which could be paid for by a nominal fee for each filing so as to cover costs.

Summary

It is possible to reduce and, over time, eliminate abuse and exploitation among the casual and international workforce. The issues identified in this correspondence and other documents are pervasive in industries using casual and overseas workers, not only the meat processing and poultry processing industries.

The AMIEU leans toward mechanisms to improve the practices of labour hire companies and their treatment of workers as our first priority. It is more cost effective to prevent exploitation than to spend money after the fact in a bid to rectify existing conditions. Cost effectiveness is critical, but abuse will continue while instances are investigated and court appearances consume money that should go towards improving the industry. The industry should encourage and support honest brokers dealing with international workers and which have established independent record keeping, transparent processes and accountable systems such as joint employment legislation similar to U.S. and fast track mechanism for temporary international workers. Furthermore, the fair work Commission should have extended power to expedite inquiries for temporary

international workers. The motivation is to promote growth and expand the meat industry into emerging export markets with a growing preference for meat and the western preparation of thereof¹⁸. Whereas the suggestions given encourage higher initial costs, a more balanced use of more workers at legal rates with less overtime will save money, lift the morale in the industry, and a provide a positive image for the Australian Meat industry at large.

We are willing to provide the evidence collected to date to assist the Senate Committee in stamping out illegal activities in the meat processing industry.

¹⁸ “What's in store for China if 2013?” , Gordon Off, McKinsey Quarterly, January 2013, (https://www.mckinseyquarterly.com/Whats_in_store_for_China_In_2012_2925)