



## Fair Work Ombudsman investigates Queensland farms

IR 14/13

The Fair Work Ombudsman (FWO) is paying special attention to the conditions of seasonal workers in Queensland. They are sending teams of inspectors to visit capsicum, tomato, banana and other fruit and vegetable farms around Bowen, Tully and Bundaberg. The purpose of these visits is to investigate allegations of underpayment, breaches of the award, National Employment Standards and other obligations in the Fair Work Act 2009.

The investigations form part of a crackdown on the exploitation of seasonal harvest workers, after an audit in Caboolture last year uncovered approximately \$133,000 in underpayments.

Are you in breach?

To ensure your business is not breaching any awards or regulations check that you are:

- paying the correct wages, entitlements and penalties
- keeping accurate employee records
- implementing the correct contract arrangements – inspectors are looking into independent contractor arrangement to ensure employees are paying the correct employee entitlements
- complying with general protections when employing and selecting staff. For example, not discriminating based on race

### **What are the consequences if caught?**

Depending on the severity of the breach, potential consequences include:

- serving the business with a letter of caution and/or enforceable undertaking
- ordering to back pay entitlements such as wages, loadings, penalties and annual leave
- issuing civil penalties of up to \$10,200 per contravention for individuals and up to \$51,000 for companies.

**Note:** the FWO is more likely to seek a civil penalty order in circumstances of discrimination, applying incorrect contracting arrangements, underpayments to vulnerable workers and/or where underpayments exceed \$5,000.

With the FWO targeting the industry, there is an increased possibility of a 'surprise' audit. All businesses should take the time to do some housekeeping in respect of their employment arrangements.

*Source: Holding Redlich, by Gella Rips, 17 July 2014*