



SUBMISSION TO THE INQUIRY INTO WAGE THEFT IN SOUTH AUSTRALIA

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INTRODUCTION

Citrus Australia is the peak industry body for citrus, representing over 1,500 growers across the nation, over 350 of which are based in South Australia.

It is one of Australia's largest fresh produce exporters, with export volumes increasing from 158,000 tonnes in 2014 to 291,000 tonnes in 2019.

As a result, the Australian citrus industry contributed in excess of \$800 million to the GDP through farm gate sales in 2019, including \$520 million in citrus exports alone.

While the industry's size and output is significant in Australia, it comprises less than 3 per cent of global production and is one of the highest cost producers in the world, relying on its reputation for quality and safety to command premium prices in high paying export markets.

The Australian citrus industry is one of Australia's largest horticulture industries, with commercial production (27,000 hectares) in five states and one territory.

It is a major employer in regional and rural Australia, with an estimated 25,000 people employed in citrus production, and more employed in allied businesses.

The Riverina, centred on the towns of Griffith, NSW, and Leeton, NSW, is the largest citrus producing region, with 30 per cent of the nation's orchards.

The Riverland in South Australia, including Renmark and Loxton, and the Murray Valley, including Mildura and district on the Murray and Darling Rivers bordering Victoria and NSW; both comprise approximately 25 per cent of the nation's orchards.

Although smaller in size, Queensland, centred on the towns of Mundubbera and Gayndah, and Far North Queensland, is Australia's largest producer of mandarins, lemons and limes.

Citrus Australia facilitates market access for growers and export expansion by eradicating barriers to export markets, through government liaison; driving the Australian Citrus Quality Standards to maintain fruit quality; and developing more effective export promotion programs.

It also works with growers and Government departments to improve biosecurity, and coordinates industry research and development.

The information in this submission is based on feedback from grower liaison.

CITRUS AUSTRALIA'S POSITION ON WAGE THEFT

Citrus Australia appreciates the opportunity to provide a submission to the South Australian Government's *Inquiry into Wage Theft in South Australia*.

Citrus Australia does not condone wage theft in any form and promotes to its members and growers the importance of compliance with the relevant legal and regulatory frameworks in each state. Workers employed in the citrus industry have the right to a safe work environment and are entitled to a fair day's pay for a fair day's work.

It is Citrus Australia's recommendation to government to continue to adopt national strategies so as not to make regulation and compliance more expensive and confusing for growers, and to better enforce current legislation, rather than produce another layer of bureaucracy.

Agribusinesses including citrus conduct business across a number of states and territories.

Wage theft in horticulture has a detrimental effect on growers who are compliant with the law and ethical in their practices, by creating unfair competition, and building a negative reputation for both industry and regions where it may be prevalent.

Growers hold concern for workers who are efficient and reliable, and who may not be getting compensated for their hard work. They are also aware that some growers offer cash payments to workers, and that workers are willing to take these jobs at a lower pay grade so that both parties can avoid paying tax.

Further management of this is sought by growers; increased regulation creates extra cost and stress to compliant growers, who will likely wear the costs whilst others continue to search for loopholes.

Industry is aware that unethical contractors operating in cash often send their earnings to family located outside of the region, to the detriment of the local and national economy by avoidance of taxes, and a loss of business for the local community.

Similarly, if these growers are not paying legal workers a fair wage, the workers have less money to spend in the region, particularly Working Holiday Makers whose primary purpose is to travel and experience Australia.

Citrus Australia recognises challenges that growers face in managing their labour needs throughout Australia, which include, but are not limited to:

- the cost of labour in Australia, in comparison to international competitors
- access to seasonal labour in rural and remote areas
- changes to the Horticulture Award in 2019
- the introduction of the labour hire licencing law

The cost of labour in Australia, in comparison to international competitors

To be competitive on the international market, growers must be able to export produce at an attractive price. Australian citrus is sold at premium prices given its renowned reputation for food safety, quality, and sweet taste. However, if anything were to affect this, such as a biosecurity incursion, this reputation would be lost overnight as produce would no longer be accepted by most countries until the citrus growing region was declared safe.

For example, a fruit fly incursion in the Riverland district of South Australia last year saw export bans to major trading partners China, Korea and Japan. Loss of these key markets and subsequent loss of income left growers with huge financial losses, due to lost income.

The Australian Government Rural Industries Research and Development Corporation – *Assessing the competitiveness of Australian agriculture* – reported indicators of agri-specific factors used to assess international competitiveness.¹

The Gross Value Added (GVA) statistic is a measure of the net value of agricultural production. This is calculated through using the gross value of output, minus the value of production input. The more efficient a national agriculture sector is in generating GVA for each unit of labour, the more competitive farm businesses in that agriculture sector are likely to be, in comparison to farm businesses in other nations that do not have a similar level of efficiency.

Unfortunately, since 1962, the growth in Australia's *Agricultural Input Efficiency* indicator, as measured by the ratio of GVA to primary inputs (labour and working capital), has lagged that of other countries assessed in the Index. This highlights that little has been done to improve input efficiency in terms of labour in Australia's national agriculture sector over time. This can be seen in *Figure 1*.

1. *Assessing the competitiveness of Australian agriculture*, Australian Government Rural Industries Research and Development Corporation, 2015, pages 6, 50 & 69 <https://www.agrifutures.com.au/wp-content/uploads/publications/15-054.pdf>

Government continue to increase regulations, audits, wages and fees, but do not match this with encouraging opportunity for young Australians to pursue a career in agriculture.

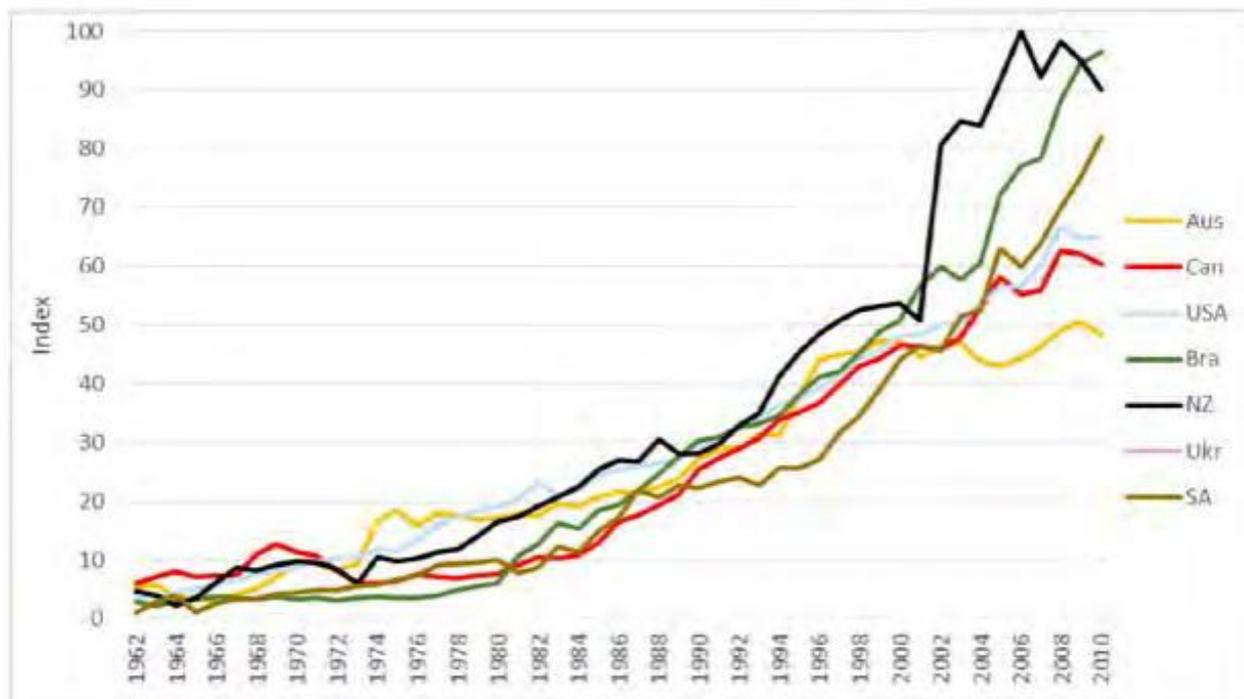


Figure 1: Annual results for the Agricultural Input Efficiency indicator

Access to seasonal labour in rural and remote areas

As per the Government of South Australia's Planning Portal, South Australia's share of the national population has decreased from 7.2 per cent in 2013 to 6.9 per cent in 2018. Of the six regions in the Balance of South Australia, four experienced population growth during this period with the 'Outback - North and East' region and 'Eyre Peninsula and South West' region experiencing small declines.²

South Australia's citrus growing region is based in the 'Outback – North and East' region, with growers experiencing more difficulty accessing seasonal workers than those based closer to Adelaide, where transport and accommodation is more accessible.

The average wage for a low skilled worker, that is affordable to a grower for the level of skill required, is not a huge incentive for a worker to relocate from a more populous region. They would require their own car as there are often no adequate public transport facilities, and affordable accommodation can be more difficult to come by. In South Australia as a whole, almost 15 per cent of households are deemed as in demand of a more affordable housing option.³

In other parts of Australia, growers have also indicated that being located close to mining sites causes a challenge, as growers cannot compete against the high wages offered by the mining industry.

As backpackers only work for short stints, the constant provision of new uniforms, tools, equipment and training can be costly and time consuming for growers. There is also a continued loss of acquired skills due to high employee turnover.

2. *Understanding South Australia's growing, changing population*, SA Planning Portal https://www.saplanningportal.sa.gov.au/data_and_research/population#population_regions

3. *Audit of South Australia's current housing assets and mapping of future demand*, Australian Housing and Urban Research Institute, 2019, Page 64 https://www.ahuri.edu.au/_data/assets/pdf_file/0027/44568/Audit-of-South-Australia-current-housing-assets-and-mapping-of-future-demand_pfr.pdf

Changes to the Horticulture Award in 2019

In April 2019, the Fair Work Commission handed down a decision to change the Horticulture Award for casual employees. The changes included:

- a limit on ordinary hours of work
- a new night loading
- overtime entitlements
- penalty rates for public holidays

Citrus Australia acknowledges that growers continue to face difficulties in adapting to these changes, and many try to limit rostering workers into overtime as they cannot afford to pay the overtime entitlements. Instead, they look at hiring additional workers to harvest fruit at peak periods, which results in much more administrative work and potentially requirements for accommodation depending on the worker and the location of the farm. Sixty per cent of growers surveyed in 2019 stated that casual employees have chosen to end their employment due to these changes.⁴ In turn, this results in further challenges for growers to find new workers who are satisfied with living in a rural area and working for a limited number of hours per day, and per eight-week block, as per the Horticulture Award.

In response, Citrus Australia has communicated to growers to provide feedback on how these changes have affected their business. Only with this data, can we continue to advocate to the Federal Government, to ensure that the Horticulture Award recognises the variability of horticultural workplaces and legislates an award that is beneficial to both parties. Citrus Australia most recently reminded growers of the survey being conducted on the Horticulture Award by Growcom, at the Citrus Australia Market Outlook Forum, our annual national forum held in Melbourne on 3-4 March 2020.

The introduction of the labour hire licensing law

The introduction of labour hire licensing in South Australia is welcomed by Citrus Australia and by growers, who have indicated in a recent Citrus Australia member survey their willingness to stamp out exploitation.

There has been some fear however regarding the ability to find workers when the harvest season begins this year around May (2020), as there will be more competition to source labour from the limited contractors who have been approved for their labour hire licence.

It is also likely that the additional costs to the contractor for the application and annual renewal fee of a labour hire licence will be passed on to the grower.

The majority of citrus growers are happy to pay a fair rate for a fair day's pay, and support the government's increased regulation of this by complying to changing laws, so it can be frustrating when growers must compete against those in their industry who are doing the wrong thing to increase their own profits.

Ethical and responsible growers face growing restrictions, costs and increased risks with new regulations and compliance such as the labour hire licensing scheme whilst the small percentage who may intentionally be non-compliant continue to find loopholes.

This is a higher risk for small growers who need to harvest their crop in the short period that fruit is optimal for picking. They are less likely to be able to secure a contractor due to the small amount of work required, and if they find their contractor has illegal workers during harvest, it's too late to find replacement workers to meet the demands of the packing shed.

4. *Horticulture workers denied freedom and choice*, David Thomson, CEO, Growcom, 29 January 2020
<https://www.growcom.com.au/2020/01/29/horticulture-workers-denied-freedom-and-choice/>

Whilst Citrus Australia welcomes the South Australian government's initiative in introducing this licence to protect workers, we would support the pursuit of a national labour hire licencing scheme. This would make compliance and costs more efficient and effective for growers who have orchards in more than one state. It would also avoid illegal workers and contractors based near state borders being able to move into neighbouring states to avoid compliance.

Citrus Australia has been working with the Federal Department of Education, Skills and Employment to provide guidance, and promote labour expos throughout Victoria and New South Wales, to assist growers in understanding their opportunities for sourcing legal labour, and to meet Departmental staff (including the Fair Work Ombudsman) face to face to ask questions. If these continue to be successful, it is hopeful that they will continue to roll into other states including South Australia.

ADVOCACY

Citrus Australia supports a uniform and efficient national labour hire contractor registration process and system, including no under payment and misuse of piece work agreements.

In 2019, Citrus Australia hired a Policy and Membership officer to engage with growers on topical matters including access to legal labour, to advocate for a fair system that provides a safe and efficient working environment for citrus growers and workers.

Since then, Citrus Australia has increased resources available to grower members, including a living document on how to access skilled and semi-skilled workers, how to ensure they are being paid correctly, and how to provide a safe working environment.

As managing membership is a component of this role, a grower engagement strategy is currently being drafted to document how to most efficiently and effectively engage with its growers, both members and non-members, nationwide.

A grower member survey was also recently conducted to gather feedback on how Citrus Australia should assist members with access to labour.

Citrus Australia will use this feedback when conducting future member consultation and advocacy, and to gauge interest from non-members.

The National Compliance Monitoring Campaign, conducted by the Fair Work Ombudsman in 2015, states that businesses that are members of an industry association have a higher compliance rate than businesses that are not members. Association member businesses have a compliance rate of 73 per cent compared with a compliance rate of 68 per cent for non-member businesses.⁵

This suggests the positive effect industry associations such as Citrus Australia have on compliance rates through communicating and educating their members on all information available to them and in remaining compliant with industry laws and regulation.

Further to this, Citrus Australia has a dedicated Communications Manager to ensure consistent nationwide messaging via a quarterly magazine, fortnightly e-news, social media, and regular alerts during topical matters such as the current impact to horticulture by COVID-19.

Citrus Australia will continue to grow its resources available online to growers through our website, as well as our relationship with state and federal government to address industry concerns.

5. *National Compliance Monitoring Campaign Report*, Fair Work Ombudsman <https://www.fairwork.gov.au/reports/national-compliance-monitoring-campaign-report-findings/association-membership-and-business-size>

MODERN SLAVERY ACT

Citrus Australia highlights the 2017 final report of the federal inquiry into establishing a Modern Slavery Act in Australia, at which Citrus Australia provided evidence, along with various other horticulture bodies including the Victorian Farmers Federation and the National Farmers Federation.

Since then, a number of the inquiring committee's recommendations have been adopted, including:

- The Seasonal Worker Programme being more heavily regulated, with the requirement of an Approved Employer application, and the needs of workers being strongly adhered to;
- The establishment of labour hire licencing laws in Queensland, South Australia and Victoria;
- An increase in the number of working visas that lead to permanent residency;
- The continuation of strict labour market testing (which was unable to be negotiated out of the Horticulture Industry Labour Agreement which commenced in 2020);
- Launching a call centre to report exploitation and citizenship fraud;
- A review of existing penalties for employers, with substantial fines and jail time for offenders of the labour hire licencing scheme.

To echo Citrus Australia's statements during this inquiry:

"..it is most important that the government recognises that the majority of our employers, especially in the farming sector, are doing the right thing."

"Farmers must not be singled out though and associated with the one bad egg who has abused the harvest workforce scheme and exploited workers. We have many laws and legislation in place already regarding workplace sites, as well as OH&S and our award wages. But despite however many more layers government might bring in, those individual people and companies who are already flouting the laws and breaking the rules will continue to find loopholes. Agricultural producers have always been price takers, so increasing audits and layers of bureaucracy, including more audits and more audits, will only hit at growers' pockets." ⁶

CONCLUSION

In conclusion, citrus growers in Australia already face an enormity of pressure to be across government standards and regulations in all areas of business, aside from labour – water, biosecurity, agrichemicals, domestic and export markets, food safety, climate adaptation, innovative growing practices, business and staff management – with the aim to remain competitive in a global market.

It is Citrus Australia's recommendation to continue to adopt national strategies so as not to make regulation and compliance more expensive and confusing for growers, and to better enforce current legislation, rather than produce another layer of bureaucracy.

6. *Hidden in Plain Sight* – Final Report, An inquiry into establishing a Modern Slavery Act in Australia, Joint Standing Committee on Foreign Affairs, Defence and Trade, December 2017, page 281
https://parlinfo.aph.gov.au/parlInfo/download/committees/reportjnt/024102/toc_pdf/HiddeninPlainSight.pdf;fileType=application%2Fpdf