

Fair Farms

TRAINING & CERTIFICATION PROGRAM

Fostering fair employment practices
in the Australian horticulture industry



Australian Government
Fair Work
OMBUDSMAN



Session Overview

1. Why Fair Farms?
2. What does Fair Farms look like?
3. Benefits for Growers
4. Journey ahead

Challenges with Labour Standards

- ▶ Need for labour tend to be seasonal with periods of high demand
- ▶ Shortage of labour supply
- ▶ Reliance on workers from overseas - language barriers + **“undocumented” workers**
- ▶ Market pressure - **‘cheap food’**
- ▶ Employment regulation in Australia is amongst the most complex in the world



Despite admirable efforts of compliant growers (the majority), there is a considerable cohort of growers/businesses who cut corners and do not comply with the existing laws relating to employment.

Fair Work Ombudsman Inquiry

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A report on workplace arrangements
along the Harvest Trail

Harvest Trail Inquiry

2018

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FWO

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Growers audited

ranged from small family-run businesses, large scale family-run farms operating across multiple states, to big companies with significant market share



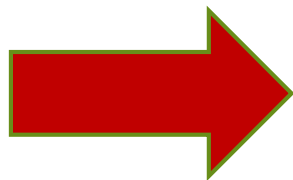
More than \$1 million in wages recovered for 2,500 workers

average recovery for harvest workers was \$409



638 businesses investigated with over half breaching workplace laws

breaches included underpayments of the hourly rate and non-payment for time worked, failure to keep records and payslips



150
Formal
Cautions



13
Compliance
Notices



132
Infringement
Notices



7
Enforceable
Undertakings

Finding 1 – Widespread non-compliance amongst investigated employers

Fair Work Inspectors investigated 638 employers as part of the Inquiry. This included 444 growers and 194 labour hire contractors. In total, these 638 employers were subject to 836 investigations.⁴¹

In more than half (465 or 55.6%) of these investigations, the FWO determined that there had been a failure to comply with Australian workplace laws. These breaches were as follows:

- 236 (or 28.2% of all investigations) monetary breaches – mainly in relation to underpayment of the hourly rate and not being paid for time worked
- 120 (or 14.4% of all investigations) non-monetary breaches – mainly a failure to keep records and payslips
- 109 (or 13.0% of all investigations) both monetary and non-monetary breaches.

Figure 5. Overall compliance rates



Media headlines ... a bad look for industry

- ▶ “Backpackers overworked, exploited and harassed while working on Aussie farms” (The Guardian)
- ▶ “Key farm scheme badly rorted, migrant workers paid \$8 an hour” (Sydney Morning Herald 2018)
- ▶ “Debt bondage for workers in Australian horticulture akin to slavery, inquiry hears” (ABC Rural Oct 2017)...
- ▶ “How labour hire villains make millions from Australia's 'modern slavery' market” (ABC Rural Nov 2017)
- ▶ “There is slave labour in this country. It's something we need to get rid of; that we **need to address it and we need to do it soon.**” (Keith Pitt, Mbr for Hinkleron ABC Four Corners, Slaving Away - **The dirty secrets behind Australia’s fresh food 2015**)
- ▶ These news sell! We can expect to see more in 2019!

On the radio this week ...



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Pressure to act

- ▶ Government has started introducing new regulation - e.g. labour hire licensing scheme in QLD
- ▶ Supermarkets have adopted ethical sourcing policies that demand third-**party audits. Attempt to monitor/‘regulate’** the supply chain. Driven by shareholders, unions and modern slavery legislation.
- ▶ What is INDUSTRY going to do about it?

Risks of doing nothing



Regulation imposed from the outside, by government and the supermarkets.



Regulation that is well-intended, but impractical: Fragmented by states, subject matter and by supermarket.



Regulation that is ineffective, stifling and costly to comply with.



Continuous bad publicity puts industry's reputation at risk.



Risk of losing access to markets at home and overseas.

Industry takes action



- ▶ **We can't sit on our hands and watch.** Industry must get on the front foot and do its share to clean up employment practices in the sector.
- ▶ We need an industry-driven solution to the problem.
- ▶ That is what Fair Farms Training and Certification is about.



Fair Farms objectives

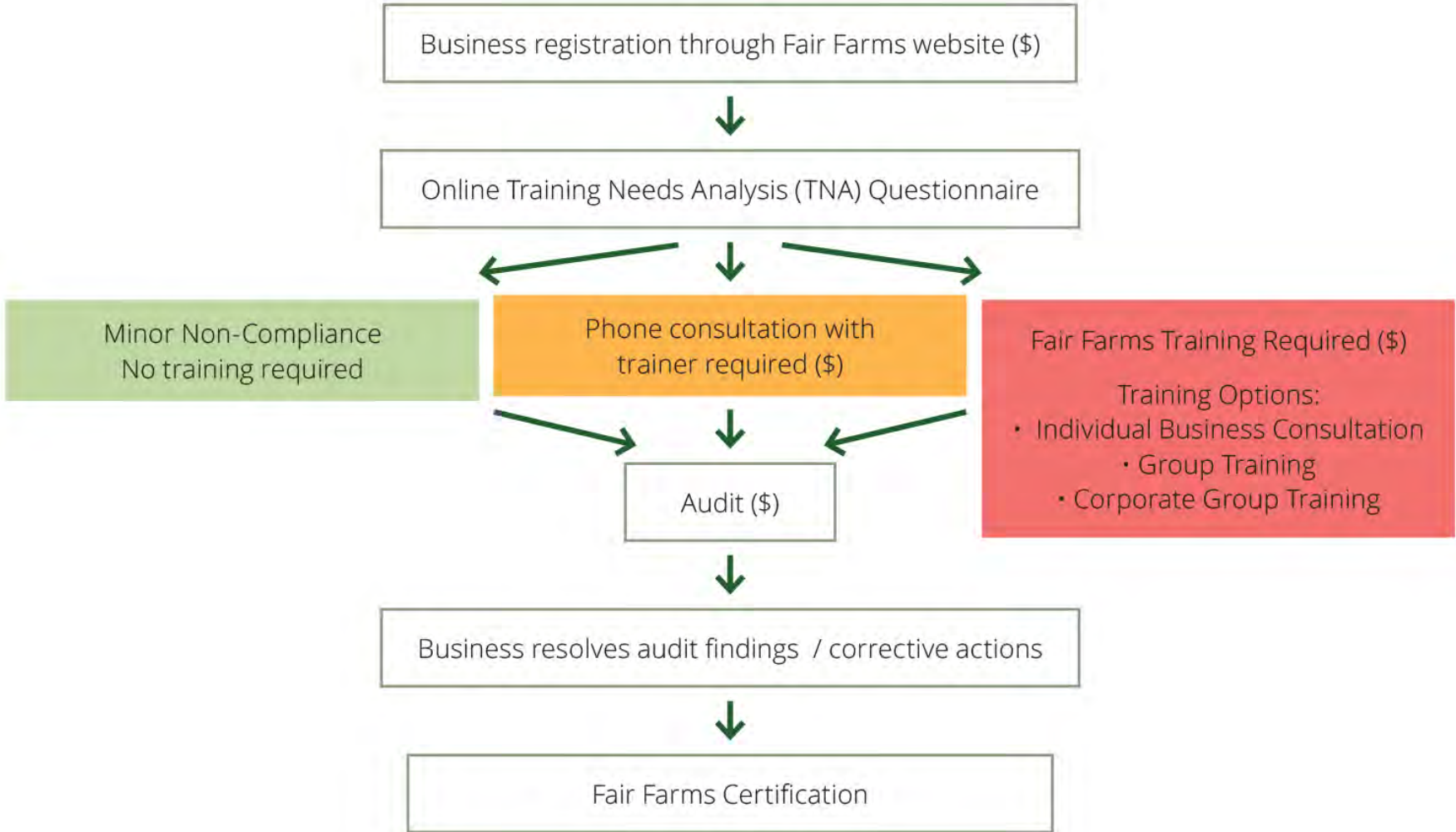
- ▶ Assist growers to be responsible employers who comply with Australian workplace laws (training)
- ▶ Provide a mechanism whereby growers can demonstrate their commitment to social & ethical employment to customers (certification)
- ▶ Over time, drive the shonky operators, those who are not willing to play by the rules, out of the horticulture industry.



Fair Farms Training and Certification



Pathway to Fair Farms Certification



Fair Farms Scheme Features



Self-assessment annually



Requirement to continuously upskill your managerial staff in employment practices



Risk-based approach to re-certification (depending on risk profile)



Complaints handling mechanism



Fair Farms register of certified businesses publicly available

In contrast to Sedex/SMETA, Fair Farms

...

- ✓ Is Australian- and industry- owned and developed
- ✓ Is specifically designed around Australian workplace laws
- ✓ Uses language and requirements that make sense in the context of horticulture / fresh food production in Australia
- ✓ Provides training that improves your business practices and prepares you for audit (value)
- ✓ Ensures that audit costs are transparent and predictable (audit against a clear standard)

01

Showcase your business to customers as a good and clean operator

02

Attract more and better workers in a tight labour market

03

Help to push out of the supply-chain those businesses that undercut you by short-changing workers

04

Gain confidence & peace of mind re Fair Work random inspections

Benefits for Growers

The road ahead for Fair Farms

- ▶ Complete the Proof of Concept (Pilot) Phase
- ▶ Consult with industry and retailers
- ▶ Finalise scheme design
- ▶ Build the new Fair Farms website and database
- ▶ Launch Fair Farms & start implementation (May/June)
- ▶ Get involved!



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Thank you !