



## **National Farmers' Federation**

### **Submission to the Inquiry into the Labour Hire Licensing Bill 2017 (Qld)**

19 June 2017

## NFF Member Organisations



Australian Chicken Growers' Council Ltd



CANEGROWERS



CORPORATE AGRICULTURAL GROUP



*The Pastoralists' Association of West Darling*





The National Farmers' Federation (NFF) is the voice of Australian farmers.

The NFF was established in 1979 as the national peak body representing farmers and more broadly, agriculture across Australia. The NFF's membership comprises all of Australia's major agricultural commodities across the breadth and the length of the supply chain.

Operating under a federated structure, individual farmers join their respective state farm organisation and/or national commodity council. These organisations form the NFF.

The NFF represents Australian agriculture on national and foreign policy issues including workplace relations, trade and natural resource management. Our members complement this work through the delivery of direct 'grass roots' member services as well as state-based policy and commodity-specific interests.

# Statistics on Australian Agriculture

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Australian agriculture makes an important contribution to Australia's social, economic and environmental fabric.

## **Social >**

There are approximately 132,000 farm businesses in Australia, 99 per cent of which are Australian family owned and operated.

Each Australian farmer produces enough food to feed 600 people, 150 at home and 450 overseas. Australian farms produce around 93 per cent of the total volume of food consumed in Australia.

## **Economic >**

The agricultural sector, at farm-gate, contributes 2.4 per cent to Australia's total Gross Domestic Product (GDP). The gross value of Australian farm production in 2016-17 is forecast at 58.5 billion – a 12 per cent increase from the previous financial year.

Together with vital value-adding processes for food and fibre after it leaves the farm, along with the value of farm input activities, agriculture's contribution to GDP averages out at around 12 per cent (over \$155 billion).

## **Workplace >**

The agriculture, forestry and fishing sector employs approximately 323,000 employees, including owner managers (174,800) and non-managerial employees (148,300).

Seasonal conditions affect the sector's capacity to employ. Permanent employment is the main form of employment in the sector, but more than 40 per cent of the employed workforce is casual.

Approximately 60 per cent of farm businesses are small businesses. More than 50 per cent of farm businesses have no employees at all.

## **Environmental >**

Australian farmers are environmental stewards, owning, managing and caring for 52 per cent of Australia's land mass. Farmers are at the frontline of delivering environmental outcomes on behalf of the Australian community, with 94 per cent of Australian farmers actively undertaking natural resource management.

The NFF was a founding partner of the Landcare movement, which recently celebrated its 20<sup>th</sup> anniversary.

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## 1. Introduction

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The NFF's vision for Australian agriculture is to become a \$100 billion industry by 2030.

The sector is a source of strength in the Australian economy, positioned to capitalise on growing global demand for safe, high quality food and fibre over coming decades.

To achieve our vision, the sector needs public policy that fosters growth and productivity, innovation and ambition. Unnecessary or poorly targeted regulation poses a significant obstacle to that vision.

On 25 May 2017, the Minister for Employment and Industrial Relations, Minister for Racing and Minister for Multicultural Affairs (**the Minister**) introduced the Labour Hire Licensing Bill 2017 into the Queensland Parliament (**the Bill**).

The NFF does not consider that a state based licensing scheme is an appropriate mechanism through which the issue of exploitation in the labour hire industry should be addressed and proposes alternative measures. As such, the NFF does not support the Bill.

## 2. The Labour Hire Licensing Bill 2017

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The objectives of the Bill are to establish a licensing scheme (**the Scheme**) to regulate the provision of labour hire services and, notionally, to protect workers from exploitation and promote the integrity of the labour hire industry. To that end, the Bill creates a regime of licensing labour hire services (**Providers**). It also imposes penalties on Providers who fail to comply with the regime.

While the NFF shares community concerns about dishonest labour hire arrangements, the unscrupulous actions of a few disreputable Providers should not be taken as typical of the entire industry and should not be allowed to pressure the government into increasing the regulatory burden on all Providers.

In addition, while the NFF supports adopting appropriate measures to protect vulnerable workers and is actively working to combat exploitation in the industry, the Bill is not the answer. It fails the basic test of good regulation. It is neither: (1) targeted, in that it imposes a burden on all Providers and not merely those who mistreat workers; nor (2) proportionate, in that the regulatory burden it imposes on Providers is significant.

Indeed, it is not clear that the Scheme will accomplish anything of substance or have any effect on the practices it is intended to curb. It does not actually penalise Providers who take advantage of or mistreat workers. It merely creates red tape. Most unscrupulous Providers will simply avoid and ignore the Scheme and/or treat any penalties as a mere cost of doing business. Indeed, the Scheme could conceivably exacerbate the problem: dishonest Providers will remain dishonest,

and may even continue to provide labour hire workers via “black market” arrangements which are not open to any form of scrutiny.

Instead, the NFF is in favour of a national, industry led approach to addressing this issue. To that end, the NFF is working with the Recruitment & Consulting Services Association (**RCSA**) and the broader industry to develop a labour hire certification program which will operate nationwide. Providers will be subject to independent audits biennially of their labour hirer services, and a list of certified Providers will be made generally available. This will have benefits which a state based regulation will not have.

1. It will be an Australia-wide program which the Minister has acknowledged would be “the best outcome” because it would be cohesive and consistent across the nation.
2. It will frustrate attempts by ‘disreputable’ providers to avoid scrutiny by establishing and operating their business in unregulated jurisdictions (which, at the time of writing, was every jurisdiction except for Queensland).
3. It would avoid the unnecessary duplication of regulatory burden which Providers who operate across more than one jurisdiction would face if other states follow Queensland’s example and introduce their own regulatory schemes.
4. It would be financed by Providers and thereby avoid the inevitable drain on public revenue which Scheme would create (despite the government’s optimistic — and in the NFF’s view, inappropriate — forecast that the Scheme would be self-funded or may actually generate revenue).
5. While the program will have commercial consequences for any Providers who fail an audit and lose certification, it does not impose penalties for mere inadvertence or failing to comply with administrative or bureaucratic requirements which the Scheme creates.

Finally, the NFF notes that this nationwide program of self-regulation will proceed irrespective of the position which is ultimately taken by the Queensland government. Thus, if the Queensland parliament passes the Bill then Providers within the state will be obliged to comply with two schemes if they wish to compete nationally and/or with local Providers who join the program.

### **3. Content of the Bill**

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The NFF supports the submissions of NFF member, AgForce Queensland, in relation to the content and application of the Bill.

In addition, the NFF notes the following concerns:

- Section 7: the definition of provider and labour hire services is very broad and may capture agricultural contractors beyond the intention of the Bill.
- The reporting requirements are unduly onerous and extend beyond the purpose of the Bill.
- Section 93(2) enabling an interested person to apply for review of a decision to grant or suspend a licence or impose, vary or revoke a condition is highly unusual and concerning. Such a provision will enable

malicious and vexatious applications that will interfere with the legitimate activities of labour hire companies and require unnecessary resources in responding to an appeals process. A complaints process would be more appropriate.

#### **4. Conclusion**

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While NFF opposes unlawful labour hire practices and supports the Queensland government's objective of addressing exploitation in labour hire industry. It does not support the Bill and calls on the Queensland government to support the national, industry lead scheme which it is piloting with RCSA.