

**Submission
No 17**

**INQUIRY INTO MODERN SLAVERY RISKS FACED BY
TEMPORARY MIGRANT WORKERS IN RURAL AND
REGIONAL NEW SOUTH WALES**

Organisation: W.H.S. Guardian

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W.H.S. Guardian

Subject: Submission to the Inquiry into Modern Slavery Risks Faced by Temporary Migrant Workers in Rural and Regional NSW

Dear Committee Members,

My name is Daniel Patterson. I am the director of WHS Guardian. I am a medico-legal toxicologist and registered work health and safety officer with the Office of Industrial Relations. I write to you as the Director of a company regularly engaged by the legal profession, multinational corporations, individual persons, and social justice organisations to provide advisory and investigative services related to workplace incidents, rights, and compliance. Through our work, we have witnessed firsthand the impacts of modern slavery, particularly among temporary migrant workers subjected to unsafe and hostile conditions.

Modern slavery remains a pressing issue in Australia, with temporary migrant workers among the most vulnerable. These individuals often endure exploitative working conditions, including underpayment, excessive working hours, lack of workplace safety, and, in some cases, coercion and threats. Our investigations have revealed numerous cases where workers, particularly in the agriculture, horticulture, and meat processing industries, have suffered physical and psychological harm due to non-compliant and unethical employment practices. The worst places locally I have seen this is in Richmond Valley, NSW and the Byron Shire, NSW.

Key Issues Identified

1. Unsafe and Hostile Working Conditions

Many temporary migrant workers are employed in environments where workplace health and safety standards are either ignored or inadequately enforced. Workers report a lack of proper training, exposure to hazardous chemicals, and failure to provide personal protective equipment, leading to serious injuries and illnesses.

2. Wage Theft and Economic Exploitation

Wage underpayment is rampant, with many migrant workers receiving significantly less than the minimum wage. Cases of unpaid overtime, unlawful deductions, and deliberate misclassification of employment arrangements have been prevalent, leaving workers financially vulnerable and unable to support themselves or their families.

3. Threats and Intimidation

Many workers are reluctant to report abuses due to fear of retaliation, including threats of deportation or blacklisting. The lack of accessible legal support exacerbates their vulnerability, deterring them from seeking redress.

4. Labour Hire Exploitation

Labour hire firms often operate with minimal oversight, facilitating exploitative conditions by undercutting ethical employers and shielding primary employers from accountability. Unscrupulous labour hire practices allow modern slavery conditions to persist unchecked.

When individuals from other countries are subjected to abuse and exploitation, the penalties imposed are often nominal. Furthermore, the Judiciary has been known to accept that a defendant is a first-time offender, even when they have been convicted of similar offenses in other states or territories. A clear example of this can be seen in [SafeWork NSW v B & E Foods Pty Ltd & Ors \[2023\] NSWDC 569](#).

In this case, numerous mitigating factors were considered, including the absence of prior Work Health and Safety (WHS) convictions, the assertion that the defendants were unlikely to reoffend, and their perceived status as corporate citizens of good character. The defendants included:

- B & E Foods Pty Ltd (B&E), and
- Xu Chun Dong (Mr. Dong), and
- NL Workforce Solutions Pty Ltd, and
- E & J International Pty Ltd

However, prior to this case, in 2019, a joint investigation by the Queensland Government's Labour Hire Licensing Compliance Unit and Workplace Health and Safety Queensland (WHSQ) led to the prosecution and conviction of both Mr. Dong and a B&E subsidiary (*B&E Poultry (Qld) Pty Ltd*) in the Magistrates Court of Queensland (Beenleigh).

Further, in 2014, Mr. Dong—acting as director of another B&E subsidiary (*B&E Packaging*)—was convicted in the Magistrates Court of Queensland (Southport) for breaching biosecurity laws by illegally importing 1,500kg of prawns from Vietnam.

All of this information was **readily available** to both the prosecution and the bench through basic open-source intelligence (OSINT) methods or through Memoranda of Understanding (MOUs) with other state bodies. I uncovered all this information in 5 – 10 minutes using only OSINT methods available to any person with an internet connection. While none of these prior offences specifically constituted modern slavery, the conditions at B&E—particularly the practice of hiring non-English speaking workers while posting all safety signage exclusively in English—exemplify exploitative behaviours that should attract stronger penalties.

Recommendations for Reform

To effectively combat modern slavery risks and protect temporary migrant workers, I urge the committee to consider the following measures:

- **Strengthening Compliance and Enforcement:** Increase inspections and audits of workplaces employing temporary migrant workers, ensuring compliance with Fair Work and Workplace Health and Safety (WHS) regulations.
- **Regulating Labour Hire Firms:** Introduce stricter licensing and compliance measures for labour hire operators to prevent worker exploitation.
- **Access to Justice for Migrant Workers:** Establish independent and well-resourced support services, including legal aid, to assist victims in reporting abuses without fear of retaliation.
- **Whistleblower Protections:** Implement stronger protections and confidential reporting mechanisms for workers to safely report exploitative practices.

Special Recommendation - Visa protections/Establish an MOU with the Commonwealth

To reinforce existing protections for exploited migrant workers, a Memorandum of Understanding (MOU) with the Commonwealth should be established to extend and strengthen the Workplace Justice Visa framework. This MOU would ensure that any person who is an applicant, complainant, or key witness in an Industrial Relations or Criminal (including WHS) proceeding is explicitly protected from deportation or visa cancellation for the duration of their case.

While recent reforms, including the Workplace Justice Visa, have improved protections for migrant workers seeking legal recourse, prosecutions can take years to finalize—with some WHS/criminal cases initiated in 2020–2022 still ongoing in 2025. Without additional safeguards, key witnesses may be removed from the country before justice is served, undermining the effectiveness of enforcement mechanisms and deterring others from coming forward.

A formal MOU would solidify intergovernmental cooperation, ensuring that migrant workers who step forward to report exploitation can fully participate in legal proceedings without fear of removal. This is essential to maintaining the integrity of workplace rights enforcement and ensuring that those responsible for exploitative practices are held accountable.

Conclusion

The exploitation of temporary migrant workers is a significant issue that demands urgent attention. As a company committed to ethical practices and justice, we urge the committee to take decisive action to strengthen protections, enforce existing laws, and implement structural reforms to eradicate modern slavery in rural and regional New South Wales.

We appreciate the opportunity to contribute to this inquiry and welcome further discussions to provide additional insights or case studies from our work.

Yours sincerely,

Daniel Patterson MACTRA

Director, W.H.S. Guardian

Full Member, Australasian College of Toxicology and Risk Assessment

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