



Australian Government
Department of Immigration and Citizenship

August 2007

Regulatory Burdens Review
Private Sector Productivity Commission
PO Box 80
Belconnen ACT 2616

Checking Work Entitlements of Non-Citizens

Thank you for providing this Department with the opportunity to respond to concerns raised by the Northern Territory Horticultural Association regarding existing processes for checking work entitlements.

This Department offers employers and labour suppliers two ways to check the work entitlements of job applicants who are not Australian citizens:

- **Entitlement Verification Online System:** This is an internet based system which allows online checking. The average turn-around time for checks conducted using this system is about 10 seconds. It is available for use 24 hours a day 7 days a week and has been shown to have very high levels of reliability and few outages.
- **Fax back checking service:** This service allows employers and labour suppliers to send a fax seeking information about a job applicant's right to work in Australia. This service is run by our Melbourne and Sydney Contact Centres and has a service standard of one-working-day turn-around, with availability from 9am to 5pm Monday to Friday AEST.

The Northern Territory Horticultural Association advises that:

“The restrictions on technology in regional and remote areas, and the reliance on internet, phone and facsimile systems to verify work eligibility results in verification taking up to 7 days.”

While I cannot comment on the particular circumstances experienced by the Association I can assure the Commission that verification is not taking up to seven days. The Department is not aware of any case where it has taken seven days to complete an online check. In fact the usual response time for the EVO service is between 3 and 10 seconds.

Earlier this year delays of several days were encountered by Fax back clients using our Melbourne Contact Centre. These delays occurred over a period of only a few weeks and have now been eliminated.

people our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone (02) 6264 1111 • Facsimile (02) 6225 6970 • Website: www.immi.gov.au

The Northern Territory Horticulture Association has also proposed that a “green card” or simple identifier needs to be introduced to allow growers to promptly identify eligible workers. That option is one that was considered in developing the *Migration Amendment (Employer Sanctions) Act 2007* which commences operation on 19 August 2007. This Act introduces criminal offences for employers and labour suppliers who knowingly or recklessly employ, or refer for employment, an illegal worker; that is, a non-citizen in Australia who works in contravention of their visa conditions or while not having a visa at all.

Introducing a green card was not seen to be a viable option. It could not effectively be implemented in the absence of a universal identifier for Australian citizens - for example, people without a green card could simply claim to their prospective employer to have work rights by virtue of being an Australian citizen. A further difficulty with the green card is that once issued, they could be used to obtain work even where the person's visa had subsequently been cancelled. This Department took the view that our internet-based EVO system was a much better method of advising employers and labour suppliers about the work entitlements of visa holders than the green card.

The Department has consulted extensively with industry in developing the Employer Sanctions legislation. Industry bodies such as the National Farmers Federation supported the legislation on the basis that the department has put in place a practical and effective means for checking work rights, as well as sufficient safeguards for employers. One such safeguard is the 48 hour grace period which applies where an employer does not have immediate access to the internet or fax to check a job applicant's work entitlements. The employer is able to access a grace period in which the employer can initiate a work rights check within 48 hours of the applicant starting work.

In summary, the Department is satisfied that our EVO and fax-back services, and the 48 hour grace period, provide an adequate response to the concerns raised by the Northern Territory Horticulture Association. The EVO service in particular is one which provides users with an instant response in plain English about a non-citizen's work entitlements, at no charge to the employer. The service also provides administrative efficiencies for business, as it keeps a record of all checks performed, so that employers themselves do not have to retain such records.

Further information for employers is available on the Department of Immigration and Citizenship's website at <http://www.immi.gov.au/employers/> .

Yours sincerely

Lyn O'Connell
First Assistant Secretary
Compliance & Case Management Division