

Our Ref: 18C-022

19 September 2018

Vice President Hatcher  
Fair Work Commission  
By email: chambers.hatcher.vp@fwc.gov.au

Dear Vice President

**AM2014/197 - Overtime Penalty Rates For Casual Employees - Horticulture Award 2010**

We refer to the 9 August 2018 decision of the Full Bench in this matter ([2018] FWCFB 4695) (**the Decision**), which invited interested parties to make any further submissions regarding the draft determination in relation to *Horticulture Award 2010* (**the Award**) which was subsequently published on 30 August 2018 (**the Draft Determination**).

The NUW did not oppose the proposal referred to in paragraph 81 of the Decision (**the Proposal**) because the NUW acknowledged it was beneficial for the Award's provisions to be free from uncertainty and ambiguity; however, the NUW maintained its general position that casual employees should be treated the same as permanent employees in terms of their maximum number of ordinary hours, spread of hours and overtime rate under the Award and reserved its rights to prosecute this in the future.

The NUW notes that some employers are now seeking conditions for casual employees that are inferior to those in the Proposal. The NUW opposes this and if the Proposal is not adopted will press for casual employees to be treated the same as permanent employees in terms of their maximum number of ordinary hours, spread of hours and overtime rate under the Award.

To avoid any confusion arising from the renaming of current clause 24.2 pursuant to paragraph 3 of the Draft Determination, the terms of current clause 24.2(e) ("All employees required to work on a Sunday will be paid for a minimum of three hours") should also become part of new clause 22.2 to make it clear that casual employees continue to be entitled to be paid for a minimum of 3 hours if required to work on a Sunday.

Yours faithfully



**TIM KENNEDY**  
**GENERAL SECRETARY**

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