

**4 yearly review of modern awards  
Award stage – Pastoral Award 2010**

**Matter No. AM2014/239**

**NATIONAL FARMERS’ FEDERATION  
SUBMISSION – LEARNER SHEARERS TERM**

Date: 2 September 2016

1. The National Farmers’ Federation (**NFF**) is the peak industry body representing Australian farmers and agribusiness across the supply chain, including all of Australia’s major agricultural commodity groups.
2. In accordance with the Statement made by the Fair Work Commission (**Commission**) in the above matter on 17 August 2016, this submission outlines the NFF’s response to the alternative wording proposed by Business SA for clause 44.4(b)(ii) of the Draft Determination issued on 8 July 2016 dealing with the ‘learner shearers term’.
3. Clause 44.4(b)(ii) currently states as follows:

“A learner who starts in a shed as a learner will continue to be regarded as a learner under clause 44.4 for a run of sheds, although they become a shearer, not a learner, before the run of sheds is completed.”
4. Business SA submit that proposed clause 44.4(b)(ii) may cause confusion because it does not clearly explain how a learner would become a shearer during the run of sheds. It proposes the following alternative form of words:

“A learner who starts a run of sheds as a learner shearer, as defined under clause 44.4 is deemed a learner shearer until that run of sheds is completed, regardless of whether the learner shearer definition ceases to apply during that run of sheds.”
5. The learner shearers term was agreed between the NFF and the AWU and filed in the Commission on 1 October 2015<sup>1</sup>. Agreement of the parties was subject to the

---

<sup>1</sup> See Attachment A to the NFF submission of 1 October 2015.

Commission being satisfied that the ‘one in four stands’ element of the term was about permitted matters, and therefore capable of inclusion in the modern award.<sup>2</sup>

6. The Commission heard the matter on 9 December 2015 and issued a Decision under section 156 of Part 2-3 of the *Fair Work Act 2009* (**FW Act**) on 8 July 2016.<sup>3</sup>
7. As the decision makes clear, the Full Bench was satisfied that a variation to the Pastoral Award 2010 to insert what it referred to as the “non-contentious” aspects of the learner shearer term was necessary to ensure that the modern award, together with the National Employment Standards, provides ‘a fair and relevant minimum safety net of terms and conditions’. However, the Full Bench was not satisfied that the inclusion of the ‘one in four stands’ terms was necessary to achieve the modern awards objective.<sup>4</sup> The decision of the Full Bench was expressed as follows:

“We will vary the *Pastoral Award 2010* to insert the learner shearers term, without the ‘one in four stands’ elements.”<sup>5</sup>

8. The Draft Determination largely reflects the form of words agreed between the NFF and the AWU with some minor modifications consistent with the ‘plain language’ review of modern awards.
9. The NFF considers that the proposed learner shearers term in the Draft Determination is clear and easy to understand. It uses industry-specific language which is unlikely to cause confusion in the industry. As the term has some history (having been first introduced in 1965) our preference is that the learner shearers terms reflect the form of words contained in the Draft Determination.

**Sarah McKinnon**  
**General Manager, Workplace Relations & Legal Affairs**  
**2 September 2016**

---

<sup>2</sup> NFF correspondence to FWC, 6 August 2015; NFF submission 1 October 2015

<sup>3</sup> 4 yearly review of modern awards – Pastoral Award 2010 [2016] FWCFB 4393.

<sup>4</sup> [2016] FWCFB 4393 at [69].

<sup>5</sup> [2016] FWCFB 4393 at [82].